



AGENDA DOCUMENT NO. 16-64-A

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, SEPTEMBER 29, 2016

PRESENT: Matthew S. Petersen, Chairman, presiding
Steven T. Walther, Vice Chairman
Lee E. Goodman, Commissioner
Caroline C. Hunter, Commissioner
Ann M. Ravel, Commissioner
Ellen L. Weintraub, Commissioner
Alec Palmer, Staff Director
Lisa Stevenson, Acting General Counsel
Shelley E. Garr, Deputy Secretary

Chairman Matthew S. Petersen called the Federal Election Commission to order in an open meeting at 11:22 A.M. on Thursday, September 29, 2016 with a quorum present.

Chairman Petersen recognized Vice Chairman Walther who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider the late submission of the following documents: Agenda Document No. 16-45-B (Draft B of Advisory Opinion 2016-10), Agenda Document No. 16-50-A (Internet Communication Disclaimers (Draft A)), Agenda Document No. 16-48-A (Proposal to Attack Spam PACS), Agenda Document No. 16-49-A (Revised Proposal to Launch Rulemaking to Ensure That U.S. Political Spending is Free from Foreign Influence), Agenda Document No. 16-43-B (Technological Modernization NPRM), and Agenda Document No. 16-43-C (Proposed Amendment to Technological Modernization NPRM).

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

Chairman Petersen introduced Ms. Lisa Stevenson of the General Counsel's Office, who will now be serving as the Commission's Acting General Counsel. He expressed his appreciation for her leadership and thanked her for her willingness to serve in this capacity.

Chairman Petersen noted that the Commission will discuss Item I (Caroline Goodson Parker) later in the meeting, while the Commission awaits the circulation of a new draft.

II. REG 2013-01: DRAFT NOTICE OF PROPOSED RULEMAKING ON TECHNOLOGICAL MODERNIZATION

Agenda Document No. 15-54-C

Agenda Document No. 16-43-A (Draft B)

Agenda Document No. 16-43-B (Draft C)
(Submitted Late)

Memorandum from Commissioner Lee E. Goodman
dated September 29, 2016, 2016

Agenda Document No. 16-43-C
(Submitted Late)

(Held over from the September 15, 2016 meeting)

Chairman Petersen recognized Ms. Jessica Selinkoff of the General Counsel's Office who presented the matter. Discussion followed.

Chairman Petersen recognized Commissioner Hunter who

MOVED to approve Agenda Document No. 16-43-B (Draft C).

Discussion continued.

Chairman Petersen recognized Commissioner Goodman who stated his intention to offer an amendment, which was included in an earlier draft of this

NPRM, to the motion currently on the Table. Although it did not make the final cut, Commissioner Goodman noted its importance, particularly because of the impact of new technologies that have a profound impact on the press and media and the ways in which they publish and disseminate news and commentary. Commissioner Goodman stated that his motion attempts to clarify existing law by addressing these technological updates. Therefore, Commissioner Goodman

MOVED to amend Agenda Document No. 16-43-B (Draft C) as set forth in Agenda Document No. 16-43-C.

Discussion resumed.

The motion failed by a vote of 3-3 with Commissioners Goodman, Hunter, and Petersen voting affirmatively for the motion. Commissioners Ravel, Walther, and Weintraub dissented.

Chairman Petersen called for a vote on the main motion to approve Agenda Document No. 16-43-B (Draft C).

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

III. REG 2011-02: INTERNET COMMUNICATION DISCLAIMERS

Agenda Document No. 16-50-A
(Submitted Late)

Chairman Petersen recognized Ms. Selinkoff of the General Counsel's Office who presented the matter.

Chairman Petersen noted that this NPRM is an effort to reopen the comment period and to hold a hearing on the updating of internet disclaimer requirements to obtain more information—both from the campaign world for its experience and legal analysis on how Commission regulations interact with new and evolving technologies and from the high tech sector. This information, he explained, will assist in determining what is available to meet the requirements of the Act's disclaimer requirements while allowing the online environment to flourish as a means of political fundraising, communications, and gathering of information.

Mr. Adav Noti of the General Counsel's Office also participated in the discussion that followed.

Chairman Petersen recognized Commissioner Hunter who

MOVED to approve Agenda Document No. 16-50-A.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

IV. PROPOSED AMENDMENTS TO DIRECTIVE 52

(To be circulated)

Chairman Petersen stated that Item IV will be held over to the next meeting.

V. PROMOTING VOLUNTARY COMPLIANCE

Memorandum from Commissioner Caroline C. Hunter
dated September 14, 2016

Agenda Document No. 16-42-A

(Held over from the September 15, 2016 meeting)

Chairman Petersen introduced the matter.

Chairman Petersen recognized Commissioner Hunter who provided an update on the matter. Commissioner Hunter stated that she received suggested edits from colleagues and comments from the General Counsel's Office. She stated that she hopes to finalize it within the next day or two and submit it as an op-ed to a national newspaper.

VI. PRESIDENTIAL PUBLIC FINANCING LEGISLATIVE
RECOMMENDATIONS

Memorandum from Commissioner Ann M. Ravel
dated September 22, 2016

Agenda Document No. 16-46-A

Chairman Petersen recognized Commissioner Ravel who presented the matter. Commissioner Ravel stated that at this time, this recommendation is for discussion purposes only. She expressed her concern that the program of public financing of presidential elections is outdated and that no major candidate has utilized it during this election cycle. She explained that this memorandum proposes legislative recommendations to modernize the program, since the last

time it occurred was in 2005. Commissioner Ravel noted that the important purposes of the voluntary public financing program remain by encouraging people to participate in the political process and by providing incentives for candidates to reach to a broader base of donors. Finally, she stated that she welcomed any suggestions from her colleagues.

Discussion followed.

Chairman Petersen recognized Vice Chairman Walther who

MOVED to consider Agenda Document No. 16-45-C as a late-submitted document.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

I. DRAFT ADVISORY OPINION 2016-10

Caroline Goodson Parker

Agenda Document No. 16-45-A (Draft A)

Agenda Document No. 16-45-B (Draft B)
(Submitted Late)

Agenda Document No. 16-45-C (Draft C)
(Submitted Late)

Chairman Petersen recognized Ms. Esther Gyory of the General Counsel's Office who presented the draft advisory opinion concerning the application of

the Federal Election Campaign Act of 1971, as amended, and the Commission regulations to the request. Ms. Parker, a United States citizen currently living in Canada, asks questions regarding whether she may solicit contributions or donations, by email or text message, for state and local party committees. Ms. Gyory summarized the three Drafts.

Discussion followed.

Chairman Petersen recognized Vice Chairman Walther who

MOVED to approve Advisory Opinion 2016-10 (Draft A).

Chairman Petersen recognized Commissioner Weintraub who asked, and Commissioner Petersen agreed, that the questions be separated out. Vice Chairman Walther concurred.

Therefore, Chairman Petersen recognized Commissioner Weintraub who

MOVED to approve Draft A in Advisory Opinion 2016-10 with respect to the answers to questions 1, 2, and 4.

The motion failed by a vote of 3-3 with Commissioners Ravel, Walther, and Weintraub voting affirmatively for the motion. Commissioners Goodman, Hunter, and Petersen dissented.

Chairman Petersen recognized Commissioner Hunter who

MOVED to approve Agenda Document No. 16-45-B, Draft B.

The motion failed by a vote of 3-3 with Commissioners Goodman, Hunter, and Petersen voting affirmatively for the motion. Commissioners Ravel, Walther, and Weintraub dissented.

Chairman Petersen recognized Commissioner Weintraub who

MOVED to approve answers 1, 2, and 4 in Draft C with respect to Advisory Opinion 2016-10.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

Chairman Petersen recognized Commissioner Hunter who

MOVED to approve question 3 in Agenda Document No. 16-45-C.

The motion carried by a vote of 4-2 with Commissioners Goodman, Hunter, Petersen, and Ravel voting affirmatively for the decision. Commissioners Walther, and Weintraub dissented.

VII. PROPOSAL TO ATTACK SCAM PACS

Memorandum from Commissioners Ellen L. Weintraub and Ann M. Ravel dated September 26, 2016

Agenda Document No. 16-48-A
(Submitted Late)

Chairman Petersen recognized Commissioner Weintraub who expressed her concern about the growing number of PACs that solicit contributions using candidates' names, suggest they will spend money on behalf of the candidates but, instead of spending the proceeds on political activity benefitting that

candidate, the funds often end up in the pocket of vendors who are associated with the PAC operators. She noted that many of those solicited are small donors who may not have the resources and time to determine if these are legitimate operations. She stated that when the Commission makes its annual legislative recommendations to Congress, it should also go beyond urging that anti-fraud provisions of the Act be expanded, and it should broaden personal use and anti-self-dealing provisions. Additionally, she noted that the Commission should provide better disclosure to the public of the information it currently collects and improve the disclosure and disclaimer requirements. Commissioner Weintraub noted that she and Commission Ravel have developed a list of proposed recommendations to deal with these issues and welcomed suggestions from her colleagues.

Chairman Petersen recognized Commissioner Ravel who echoed Commissioner Weintraub's comments and noted her concern that there are no adequate mechanisms to inform and protect the public, and that these recommendations to provide greater information on the website and greater disclosure will be an incredible service on behalf of the public.

Discussion followed.

Chairman Petersen agreed with Commissioner Weintraub's suggestion to

put together a working group composed of Policy, Commissioner, and IT staffs to review these issues and resume consideration of this matter at a future meeting.

VIII. REVISED PROPOSAL TO LAUNCH RULEMAKING TO ENSURE THAT U.S. POLITICAL SPENDING IS FREE FROM FOREIGN INFLUENCE

Memorandum from Commissioner Ellen L. Weintraub
dated September 28, 2016

Agenda Document No. 16-49-A
(Submitted Late)

Chairman Petersen recognized Commissioner Weintraub who introduced a revised proposal to continue the discussion on opening a rulemaking to insure the absence of foreign influence in U.S. political spending. This revised proposal, she noted, no longer includes a provision regarding donations to SSFs, nor any provision related to media entities; it does, however, include four rulemaking proposals and a series of questions regarding percentage of foreign ownership, board membership of corporations, foreign government ownership, type of corporation, and implementation measures. She explained that she proposes requesting that Counsel draft a rulemaking around these questions and proposals.

Discussion followed.

No Commission action was taken.

IX. PROPOSED FINAL AUDIT REPORT ON FREEDOMWORKS FOR AMERICA (A13-18)

Memorandum from the Audit Division dated
September 2, 2016

Agenda Document No. 16-47-A

(Paula Nurthen/Marty Favin of the Audit Division)

Item IX was resolved prior to the meeting.

X. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission,
the meeting adjourned at 12:58 P.M.

Signed:

Matthew S. Petersen
Chairman of the Commission

Attest:

Shawn Woodhead Werth
Secretary and Clerk of the Commission

Shelley E. Garr
Deputy Secretary