

AGENDA DOCUMENT NO. 02-42
APPROVED JUNE 19, 2002

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION

THURSDAY, MAY 9, 2002

PRESENT: David M. Mason, Chairman, presiding
Karl J. Sandstrom, Vice Chairman
Danny L. McDonald, Commissioner
Bradley A. Smith, Commissioner
Scott E. Thomas, Commissioner
Michael E. Toner, Commissioner
James A. Pehrkon, Staff Director
Lawrence H. Norton, General Counsel
Mary W. Dove, Secretary

Chairman David M. Mason called the Federal Election Commission to order in an open meeting at 10:05 A.M. on Thursday, May 9, 2002, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

Minutes for April 25, 2002

Agenda Document No. 02-33

Chairman Mason recognized Vice Chairman Sandstrom, who

MOVED to approve the Minutes for the open meeting of Thursday, April 25, 2002, as submitted in Agenda Document No. 02-33.

The motion carried on the vote of 6-0 with Commissioners Mason, McDonald, Sandstrom, Smith, Thomas, and Toner voting affirmatively.

II. DRAFT ADVISORY OPINION 2002-05

Ann Hutchinson, Mayor of Bettendorf,
Iowa by Gregory S. Jager, City Attorney

Agenda Documents No. 02-35
and No. 02-35-A

Chairman Mason recognized Vice Chairman
Sandstrom, who

MOVED to suspend the rules on
the timely submission of agenda
documents in order to consider
Agenda Document No. 02-35-A.

The motion carried on the vote of 6-0.

Chairman Mason recognized Mr. Michael Marinelli
of the General Counsel's Office who presented draft
Advisory Opinion 2002-05, as submitted in Agenda Document
No. 02-35, concerning the application of the Federal
Election Campaign Act of 1971, as amended ("the Act"),
and Commission regulations to the spending and reporting
of funds for Federal election campaign travel by Ann
Hutchinson, the Mayor of Bettendorf, Iowa.

II. DRAFT ADVISORY OPINION 2002-05
(continued)

The Chairman recognized Commissioner Thomas who presented an overview of his alternative draft, as set forth in Agenda Document No. 02-35-A.

A discussion followed.

Chairman Mason recognized Commissioner Smith, who

MOVED to approve draft Advisory Opinion 2002-05, as submitted in Agenda Document No. 02-35 by the Office of General Counsel.

The motion carried on the vote of 4-2 with Commissioners Mason, Sandstrom, Smith, and Toner voting affirmatively. Commissioners McDonald and Thomas dissented.

III. NOTICE OF PROPOSED RULEMAKING ON SOFT MONEY

Agenda Documents No. 02-36, No. 02-36-A,
No. 02-36-B, and No. 02-36-C

Chairman Mason recognized Vice Chairman
Sandstrom, who

MOVED to suspend the rules on
the timely submission of agenda
documents in order to consider
Agenda Documents No. 02-36,
No. 02-36-A, No. 02-36-B, and
No. 02-36-C.

The motion carried on the vote of 6-0.

The Chairman recognized Ms. Rosemary Smith,
Ms. Anne Weissenborn, Ms. Ruth Heilizer, Mr. Jonathan
Levin, Ms. Dawn Odrowski, Ms. Rita Reimer, and Mr. John
Vergelli of the General Counsel's staff who worked on
the different provisions of the document and were
present to answer questions. Ms. Smith presented an
overview of the draft Notice of Proposed Rulemaking,
which was followed by discussion.

III. NOTICE OF PROPOSED RULEMAKING ON SOFT MONEY
(continued)

Chairman Mason recognized Commissioner Thomas who addressed one of his concerns of the draft NPRM, as outlined by his memorandum to the Commission in Agenda Document No. 02-36-B. Discussion followed. The Chairman recognized Commissioner Thomas, who

MOVED to insert the following sentence at the end of Footnote 1, Page 5:

"Nonetheless, the Commission seeks comment on whether use of the term 'soft money' would in some instances be a better approach."

The motion carried on the vote of 6-0.

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The meeting recessed at 11:25 A.M. and reconvened at 11:40 A.M. with a quorum present.

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III. NOTICE OF PROPOSED RULEMAKING ON SOFT MONEY
(continued)

The discussion resumed concerning proposed language changes by Commissioner Thomas. The Chairman recognized Commissioner Thomas, who

MOVED to modify Page 10, Line 5, of Agenda Document No. 02-36 by inserting the words "or in connection with" after the word "to."

The motion carried on the vote of 6-0.

Chairman Mason recognized Commissioner Thomas, who

MOVED to insert the following sentences on Page 13, Line 12, of Agenda Document No. 02-36, after "purposes."

"In some States, most non-Federal elections are held in odd-numbered years. Should the Commission only exempt from 'Federal election activity' that voter identification, GOTV, and generic campaign activity that occurs in such states in odd-numbered years?"

The motion carried on the vote of 6-0.

III. NOTICE OF PROPOSED RULEMAKING ON SOFT MONEY
(continued)

Chairman Mason recognized Commissioner Thomas,
who

MOVED to revise Page 25, Lines 14
and 15, of Agenda Document No.
02-36, pursuant to the meeting
discussion.

The motion carried on the vote of 6-0.

There was further discussion.

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The meeting recessed at 12:50 P.M. and
reconvened at 2:35 P.M. with a quorum present.

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III. NOTICE OF PROPOSED RULEMAKING ON SOFT MONEY
(continued)

Chairman Mason recognized Vice Chairman

Sandstrom, who

MOVED to insert the following sentence
on Page 24, at the end of Line 4, of
Agenda Document No. 02-36:

"For example, are there particular
activities that have been recognized
through the Commission's advisory
opinion process as exempt from the
definition of 'contribution' (e.g.,
funds given to a candidate's legal
defense fund) that should be exempted
from the definition of 'donation' as
well?"

A discussion followed.

The motion carried on the vote of 5-0 with

Commissioners Mason, McDonald, Sandstrom, Smith, and Toner
voting affirmatively.

III. NOTICE OF PROPOSED RULEMAKING ON SOFT MONEY
(continued)

Chairman Mason recognized Ms. Rosemary Smith of the General Counsel's Office who presented further revisions to the subject document. Following discussion, the Chairman recognized Vice Chairman Sandstrom, who

MOVED to delete on Page 14, Lines 10 and 11 the words "do not promote, support, attack, or oppose any candidate for Federal Office" and substitute the following in lieu thereof:

"are not voter registration activity, voter identification, generic campaign activity, or get-out-the-vote activity, as those terms are defined in proposed 11 CFR 100.24(a). This exception does not apply, for example, to a telephone bank on the day before an election where there is a federal candidate on the ballot and where GOTV phone calls are made to over 500 voters where the calls only refer to a state or local candidate." And,

III. NOTICE OF PROPOSED RULEMAKING ON SOFT MONEY
(continued)

FURTHER MOVED to delete Lines 15, 16,
and 17 on Page 88, and substitute the
following in lieu thereof:

- "(1) A public communication that refers solely to one or more clearly identified candidates for State and local office. This exception does not apply to a public communication that is voter registration activity, voter identification, generic campaign activity, or get-out-the-vote activity under paragraphs (a)(1) or (a)(2) of this section."

The motion carried on the vote of 5-0 with
Commissioners Mason, McDonald, Sandstrom, Smith, and Toner
voting affirmatively.

The discussion resumed.

III. NOTICE OF PROPOSED RULEMAKING ON SOFT MONEY
(continued)

Chairman Mason recognized Commissioner Toner,

who

MOVED to insert the following paragraph
on Page 45 after Line 3:

"The proposed rules interpret
the BCRA as requiring that
local party organizations that
do not qualify as political
committees are nonetheless subject
to the requirement to use Federal
funds for Federal election activity.
(See also proposed 11 CFR 300.36(a)
regarding recordkeeping for such
local party organizations). The
Commission seeks comment on this
interpretation and whether,
alternatively, use of the term
"committee" in 2 USC 431i(b)(1)
should be read to exclude local
party organizations which do not
otherwise qualify as political
committees under 2 USC 431(4). And,

FURTHER MOVED to delete the word "committee"
the first time it appears on Page 70, Line 8,
and substitute the word "organization" in
lieu thereof. And,

III. NOTICE OF PROPOSED RULEMAKING ON SOFT MONEY
(continued)

FURTHER MOVED to insert the following sentence on Page 70, Line 9, after "100.5.":

"The Commission seeks comment on this interpretation and whether, alternatively, disbursements for Federal election activity that do not otherwise qualify as 'expenditures' or 'exempt activities' should be excluded from the threshold for determining political committee status."

The motion carried on the vote of 5-0 with Commissioners Mason, McDonald, Sandstrom, Smith, and Toner voting affirmatively.

At the conclusion of the discussion, Chairman Mason recognized Vice Chairman Sandstrom, who

III. NOTICE OF PROPOSED RULEMAKING ON SOFT MONEY
(continued)

MOVED to take the following actions in
the above-captioned matter:

1. Approve the Notice of Proposed Rulemaking for publication in the *Federal Register*, as set forth in Agenda Document No. 02-36, incorporating the amendments in Agenda Document No. 02-36-C, the amendments adopted at the table, and any other necessary technical and conforming changes.
2. Schedule the public hearing on this NPRM for June 4 and 5, 2002.

The motion carried on the vote of 5-0 with
Commissioners Mason, McDonald, Sandstrom, Smith, and Toner
voting affirmatively.

IV. DRAFT LEGISLATIVE RECOMMENDATIONS 2002

Agenda Document No. 02-34

Chairman Mason recognized Mr. George Smaragdis of the Information Division who presented an overview of the subject document and the following amendments were offered:

1. Page 2, delete Lines 14 and 15.
2. Page 2, delete Lines 36 and 37, and substitute the following in lieu thereof:

"pertaining only to Senate elections to be forwarded to the Commission within 24 hours of receipt and to be made accessible to the public on the Internet, if."

IV. DRAFT LEGISLATIVE RECOMMENDATIONS 2002
(continued)

3. Delete the sentence with begins on Page 6, Line 38, and ends on Page 7, Line 2, and substitute the following in lieu thereof:

"For example, the FEC and the Secretary of the Senate have worked together to have Senate digitized images on the FEC web site. The FEC has also proposed assisting the Secretary in developing the capacity of the Secretary's office to accept electronically filed reports."

4. Page 11, delete Lines 4 through 8.

Chairman Mason recognized Commissioner Smith, who

MOVED to approve the draft
Legislative Recommendations for
2002, as submitted in Agenda
Document No. 02-34, subject to
the amendments outlined above.

The motion carried on the vote of 5-0 with
Commissioners Mason, McDonald, Sandstrom, Smith, and Toner
voting affirmatively.

V. ROUTINE ADMINISTRATIVE MATTERS

There were no routine administrative matters
to come before the Commission.

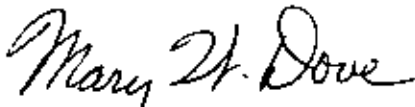
The meeting adjourned at 3:30 P.M.

Signed:



David M. Mason
Chairman of the Commission

Attest:



Mary W. Dove
Secretary of the Commission

