



**AGENDA DOCUMENT NO. 06-65**

**MINUTES OF AN OPEN MEETING  
OF THE  
FEDERAL ELECTION COMMISSION  
WEDNESDAY, OCTOBER 4, 2006**

**PRESENT:**

**Michael E. Toner, Chairman, presiding**

**Robert D. Lenhard, Vice Chairman**

**David M. Mason, Commissioner**

**Hans A. von Spakovsky, Commissioner**

**Steven T. Walther, Commissioner**

**Ellen L. Weintraub, Commissioner**

**Patrina M. Clark, Staff Director**

**Lawrence H. Norton, General Counsel**

**Mary W. Dove, Secretary**

**Chairman Michael E. Toner called the Federal Election Commission to order in an open meeting at 10:05 A.M. on Wednesday, October 4, 2006, with a quorum present.**

**I. CORRECTION AND APPROVAL OF MINUTES**

**Minutes for September 14, 2006  
Agenda Document No. 06-61**

**Chairman Toner recognized Vice Chairman Lenhard, who**

**MOVED to approve the minutes for the Open Meeting of September 14, 2006, as submitted in Agenda Document No. 06-61.**

**The motion carried on the vote of 6-0 with Commissioners Lenhard, Mason, Toner, von Spakovsky, Walther, and Weintraub voting affirmatively.**

**II. ADVISORY OPINIONS**

**A. Advisory Opinion 2006-24  
National Republican Senatorial Committee by General Counsel William J. McGinley; Democratic Senatorial Campaign Committee by counsel, Marc Elias; Republican State Committee of Pennsylvania by General Counsel Lawrence J. Tabas**

**Agenda Document No. 06-63 (Submitted late)**

**Chairman Toner recognized Vice Chairman Lenhard, who**

**II. ADVISORY OPINIONS (continued)**

**A. Advisory Opinion 2006-24 (continued)**

**MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 06-63.**

**The motion carried on the vote of 6-0.**

**Chairman Toner recognized Ms. Margaret Perl of the General Counsel's Office who presented two proposed alternative drafts of Advisory Opinion 2006-24, concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the establishment and administration of funds by Federal candidates' principal campaign committees and the State Party to pay recount and election contest expenses resulting from the upcoming Federal elections on November 7, 2006, and the role that the National Republican Senatorial Committee ("NRSC") and the Democratic Senatorial Campaign Committee ("DSCC") may play in the administration of such recount funds.**

**A discussion followed.**

**Chairman Toner recognized Commissioner Weintraub, who**

**MOVED to approve Draft A of Advisory Opinion 2006-24, as set forth in Agenda Document No. 06-63.**

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**II. ADVISORY OPINIONS (continued)**

**A. Advisory Opinion 2006-24 (continued)**

**The motion failed by a vote of 3-3 with Commissioners Lenhard, Walther, and Weintraub voting affirmatively. Commissioners Mason, Toner, and von Spakovsky dissented.**

**Chairman Toner recognized Commissioner von Spakovsky, who**

**MOVED to approve Draft B of Advisory Opinion 2006-24, as set forth in Agenda Document No. 06-63.**

**The motion failed by a vote of 3-3 with Commissioners Mason, Toner, and von Spakovsky voting affirmatively. Commissioners Lenhard, Walther, and Weintraub dissented.**

**Chairman Toner recognized Commissioner Weintraub who offered proposed amendments to Draft A of Advisory Opinion 2006-24.**

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**The meeting recessed at 11:10 A.M. and reconvened at 11:20 A.M. with a quorum present.**

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II. ADVISORY OPINIONS (continued)

A. Advisory Opinion 2006-24 (continued)

Chairman Toner recognized Commissioner Weintraub, who

MOVED to approve Draft A of Advisory Opinion 2006-24, as set forth in Agenda Document No. 06-63, subject to the following amendments:

1) Page 13, Line 13, insert the following language: "The limitations on coordinated spending by the State Party for a particular candidate are not applicable to a State Party's recount fund. These limitations, found at 2 U.S.C. 441a(d)(3), are applicable only 'in connection with the general election campaign of a candidate for Federal office.' Recount funds are subject to the limitations, prohibitions, and reporting requirements of the Act, but they are not in connection with the general election *campaign* of the Federal candidate because the campaign has ended and because such funds are not otherwise permitted to be used for campaign activity. Therefore, the State Party's use of Federal funds to support the recount effort are not subject to the coordinated spending limitations."

2) Delete the paragraph which begins on Page 13, Line 14, through Page 14, Line 4 through the word "However," capitalize the next word "the" to begin the remaining sentence at Line 4, Page 14. Delete Footnote 8 at the end of Page 13.

3) Page 14, Line 12, delete the words "coordinated recount activity" and insert the words "permissible when made with Recount Funds subject to the limitations, prohibitions, and reporting requirements of the Act."

4) Page 14, Line 13, insert the word "not" after the word "would."

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**II. ADVISORY OPINIONS (continued)**

**A. Advisory Opinion 2006-24 (continued)**

**Following discussion, the Chairman called the question.**

**The motion carried on the vote of 4-2 with Commissioners**

**Lenhard, Mason, Walther, and Weintraub voting affirmatively.**

**Commissioners Toner and von Spakovsky dissented.**

**B. Advisory Opinion 2006-20  
**Unity 08 by counsel, John J. Duffy****

**Agenda Document No. 06-64 (Submitted late)**

**Chairman Toner recognized Vice Chairman Lenhard, who**

**MOVED to suspend the rules on the timely  
submission of agenda documents in order  
to consider Agenda Document No. 06-64.**

**The motion carried on the vote of 6-0.**

**Chairman Toner recognized Ms. Esa Sferra of the General  
Counsel's Office who presented draft Advisory Opinion 2006-20,  
concerning the application of the Federal Election Campaign Act  
of 1971, as amended (the "Act"), and Commission regulations to  
Unity 08's status as a political committee.**

**A discussion followed.**

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II. **ADVISORY OPINIONS** (continued)

B. **Advisory Opinion 2006-20** (continued)

Chairman Toner recognized Commissioner Mason, who

**MOVED to approve draft Advisory Opinion 2006-20, as set forth in Agenda Document No. 06-64, subject to the deletion of the contribution analysis.**

**The motion carried on the vote of 5-1 with Commissioners**

**Lenhard, Mason, Toner, Walther, and Weintraub voting affirmatively.**

**Commissioner von Spakovsky dissented.**

III. **REPORT OF THE AUDIT DIVISION ON DANIEL MONGIARDO FOR U.S. SENATE**

**Agenda Document No. 06-62**

**Agenda Document No. 06-62-A** (Submitted late)

**(Placed on the agenda pursuant to the filing of objections by Commissioners Lenhard and Toner following circulation on a 72-hour tally vote.)**

Chairman Toner recognized Vice Chairman Lenhard, who

**MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 06-62-A.**

**The motion carried on the vote of 6-0.**

**III. REPORT OF THE AUDIT DIVISION ON DANIEL MONGIARDO  
FOR U.S. SENATE**

**(continued)**

**The Chairman recognized Vice Chairman Lenhard who reviewed his proposed amendment, as contained in Agenda Document No. 06-62-A. Mr. Martin Favin of the Audit Division and Mr. Lorenzo Holloway of the General Counsel's Office concurred that the facts in the amendment were correct and the proposed language would be an appropriate substitute.**

**Chairman Toner recognized Vice Chairman Lenhard, who**

**MOVED to approve the Report of the Audit Division on Daniel Mongiardo for U.S. Senate, as set forth in Agenda Document No. 06-62, as amended by Agenda Document No. 06-62-A.**

**The motion carried on the vote of 5-0 with Commissioners Lenhard, Mason, Toner, von Spakovsky, and Weintraub voting affirmatively.**



**IV. MANAGEMENT AND ADMINISTRATIVE MATTERS**

**Chairman Toner recognized Staff Director Patrina Clark who announced the next due date for the filing of quarterly reports is October 15, and to assist filers with questions, agency staff will be available by telephone on the observed Columbus Day Holiday, October 9, 2006.**

**The meeting adjourned at 12:15 P.M.**

**Signed:**

**Michael E. Toner  
Chairman of the Commission**

**Attest:**

**Mary W. Dove  
Secretary of the Commission**

