



AGENDA DOCUMENT NO. 11-27

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, MAY 5, 2011**

PRESENT:

Cynthia L. Bauerly, Chair, presiding

Caroline C. Hunter, Vice Chair

Donald F. McGahn II, Commissioner

Matthew S. Petersen, Commissioner

Steven T. Walther, Commissioner

Ellen L. Weintraub, Commissioner

**Patricia Carmona, Deputy Staff Director/Chief
Compliance Officer, representing Alec
Palmer, Acting Staff Director**

Christopher Hughey, Acting General Counsel

Shawn Woodhead Werth, Secretary and Clerk

Chair Cynthia L. Bauerly called the Federal Election Commission to order in an open meeting at 10:05 A.M. on Thursday, May 5, 2011 with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for April 7, 2011
Agenda Document No. 11-21**

Chair Bauerly recognized Vice Chair Hunter who

**MOVED to approve Agenda Document No. 11-21,
minutes for the Open Session held on April 7, 2011.**

The motion carried on a vote of 6-0 with Commissioners

Bauerly, Hunter, McGahn, Petersen, Walther, and Weintraub voting affirmatively.

II. PROPOSED FINAL AUDIT REPORT ON THE SERVICE EMPLOYEES INTERNATIONAL UNION COMMITTEE ON POLITICAL EDUCATION (SEIU COPE) (A09-28)

**Audit Division Memorandum dated April 6, 2011
Agenda Document No. 11-20**

Chair Bauerly recognized Mr. Jeffrey Spilizewski of the Audit Division who presented the Audit Report. Mr. Lawrence Calvert of the General Counsel's Office and Mr. Joseph Stoltz of the Audit Division participated in the discussion which followed.

Chair Bauerly recognized Commissioner McGahn who

MOVED to adopt the Audit Report, striking the limitations language, and make any technical and

conforming changes to remove such language throughout the audit.

The motion failed on a vote of 3-3 with Commissioners

Hunter, McGahn, and Petersen voting affirmatively for the motion.

Commissioners Bauerly, Walther and Weintraub dissented.

Chair Bauerly recognized Commissioner Weintraub who

MOVED to return this matter to the Audit Division to draft a proposed finding that would reflect that:

- 1. Audit staff identified 38 disbursements totaling \$14,427,267 from SEIU COPE to SEIU which were then disbursed by SEIU on behalf of SEIU COPE to numerous entities for independent expenditures.**
- 2. SEIU COPE did not adequately itemize and report the recipient individuals and/or entities that received payments for the independent expenditures from the account of SEIU, SEIU COPE's connected organization.**
- 3. Due to the lack of itemization of these independent expenditures, Audit was unable to verify the dates of the public dissemination for the independent expenditures and the timeliness of any 24-hour or 48-hour notices filed, or the use of proper disclaimers for any public communications contained in those expenditures.**
- 4. SEIU COPE should amend its reports to correct its reporting.**

Discussion resumed. Chair Bauerly noted that representatives from SEIU and SEIU COPE were present at the meeting. Because the Commission does not have a procedure

similar to that for the Advisory Opinion process whereby the Commission could ask representatives of the interested party to sit at the table, Chair Bauerly asked if it would be in order to allow Audit Division staff to consult with the representatives about issues raised during the discussion. Mr. Calvert said it would be in order.

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The meeting recessed at 10:46 A.M. and reconvened at 10:57 A.M. with a quorum present.

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Chair Bauerly recognized Mr. Thomas Hintermister of the Audit Division who summarized the comments provided to Audit staff by the representatives of SEIU and SEIU COPE during the recess.

Chair Bauerly noted that Commissioner Weintraub's motion was on the table and called for the vote. The motion failed on a vote of 3-3 with Commissioners Bauerly, Walther and Weintraub voting affirmatively for the motion. Commissioners Hunter, McGahn and Petersen dissented.

Discussion resumed.

Chair Bauerly recognized Commissioner Weintraub who

**MOVED to reject the finding in the Audit Report of SEIU
COPE.**

The motion failed on a vote of 3-3 with Commissioners

Bauerly, Walther and Weintraub voting affirmatively for the motion.

Commissioners Hunter, McGahn and Petersen dissented.

**Chair Bauerly noted that the Proposed Final Audit Report
would go back to the Audit Division for further drafting.**

**III. AUDIT DIVISION RECOMMENDATION MEMORANDUM ON
FREEDOM'S DEFENSE FUND (fdf) (A09-21)**

**Audit Division Memorandum dated April 8, 2011
Agenda Document No. 11-22**

**Chair Bauerly recognized Mr. Alex Bonewicz of the Audit
Division who presented the Memorandum. A discussion followed.**

Chair Bauerly recognized Commissioner McGahn, who

MOVED to adopt Agenda Document No. 11-22.

**The motion carried on a vote of 6-0 with Commissioners
Bauerly, Hunter, McGahn, Petersen, Walther and Weintraub voting
affirmatively for the decision.**

IV. POLICY REGARDING DISCLOSURE OF DOCUMENTS AND INFORMATION IN THE ENFORCEMENT PROCESS

**Agency Procedure for Disclosure of Documents and Information in the Enforcement Process – Memorandum from Commissioner Walther dated May 4, 2011
Agenda Document No. 11-23
(Submitted Late)**

**Agency Procedure for Disclosure of Exculpatory Evidence in the Enforcement Process - Memorandum from Chair Bauerly and Commissioner Weintraub dated May 4, 2011
Agenda Document No. 11-23-A
(Submitted Late)**

**Comments re: Disclosure and Exculpatory Evidence Procedures - Memorandum from the General Counsel dated May 5, 2011
Agenda Document No. 11-23-B
(Submitted Late)
(Kathleen Guith of the Office of General Counsel)**

Chair Bauerly recognized Vice Chair Hunter who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider the late submission of Agenda Document Nos. 11-23, 11-23-A, and 11-23-B.

The motion carried on a vote of 6-0 with Commissioners

Bauerly, Hunter, McGahn, Petersen, Walther, and Weintraub voting affirmatively.

Chair Bauerly noted that this item was placed on the agenda at the request of Vice Chair Hunter and is a procedure that the Commission has been discussing for some time.

Chair Bauerly recognized Commissioner Walther who presented his draft procedures, set forth in Agenda Document No. 11-23, for a written policy that addresses the disclosure of documents and information in the enforcement process.

Chair Bauerly recognized Commissioner Weintraub who thanked Commissioner Walther for his leadership on this issue. Commissioner Weintraub presented the draft policy, set forth in Agenda Document No. 11-23-A, that she and Chair Bauerly propose to disclose exculpatory evidence in the enforcement process.

A discussion followed.

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The meeting recessed at 11:51 A.M. and reconvened at 12:04 P.M. with a quorum present. Chair Bauerly noted that the Commission will recess for lunch. The meeting recessed at 12:04 P.M. and reconvened at 1:36 P.M.

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IV. POLICY REGARDING DISCLOSURE OF DOCUMENTS AND INFORMATION IN THE ENFORCEMENT PROCESS *(continued)*

Discussion resumed. Acting General Counsel Hughey and Ms. Kathleen Guith of the General Counsel's Office participated in this discussion.

Chair Bauerly noted that the Commission will look forward to public comment on these policy documents which will be held over to the next public meeting.

V. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 2:11 P.M.

Signed:

**Cynthia L. Bauerly
Chair of the Commission**

Attest:

**Shawn Woodhead Werth
Secretary and Clerk of the Commission**