



AGENDA DOCUMENT NO. 11-44

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, JUNE 30, 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

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 10:03 A.M. on Thursday, June 30, 2011 with a quorum present.

Chair Bauerly welcomed all the visitors to the Commission, told them that the Commission holds open meetings regularly, and welcomed them to attend future meetings.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for June 15, 2011
Agenda Document No. 11-39**

Chair Bauerly recognized Commissioner Weintraub who

MOVED to approve Agenda Document No. 11-39, minutes for the Open Session held on June 15, 2011 with the correction of the spelling of Mr. Kobes' name on page 8.

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

Bauerly, Hunter, McGahn, Petersen, Walther, and Weintraub voting affirmatively for the decision.

II. DRAFT ADVISORY OPINION 2011-11

Mr. Stephen Colbert by Trevor Potter, Esq., Joseph Birkenstock, Esq., and Matthew T. Sanderson, Esq.

Agenda Document No. 11-38 (Drafts A and B)

**Agenda Document No. 11-38-A (Alternative Draft C)
(Submitted Late)**

Memorandum from Chair Bauerly, Vice Chair Hunter, and Commissioners Petersen, Walther and Weintraub dated June 29, 2011

**Agenda Document No. 11-38-B
(Submitted Late)**

Chair Bauerly summarized the advisory opinion process. She explained that a procedure, adopted in 2009, allows requestors to appear before the Commission to answer any questions Commissioners may have about the request.

Chair Bauerly recognized the requestor and his counsel and invited them to the table to answer Commissioners' questions.

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. 11-38-A and 11-38-B.

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

Chair Bauerly recognized Mr. David Adkins 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 Commission regulations to Mr. Colbert's plans to establish and operate a political committee (the Colbert

Super PAC), and whether that PAC would be in receipt of reportable in-kind contributions from Viacom if the Viacom show, the Colbert Show, covers and provides to the PAC advertisements and administrative support. Mr. Adkins summarized the issues in each of the three drafts which reach the same conclusions and the issues which reach different conclusions.

Chair Bauerly noted that this request presents the relatively novel issue of how the press exemption applies to coverage of a political committee that will provide an on-air premise for discussing campaign finance rules and other aspects of American politics.

Mr. Trevor Potter, the requestor's counsel, and Mr. Colbert, the requestor, participated in the discussion which followed.

Chair Bauerly recognized Commissioner McGahn who

MOVED to approve, with respect to Draft A as set forth in Agenda Document No. 11-38, question 1 as set forth on pages 6-7 and question 3, as set forth on page 15.

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

Chair Bauerly recognized Vice Chair Hunter who

MOVED to approve Agenda Document No. 11-38, which is revised Draft A, as amended by Agenda Document No. 11-38-B with technical and conforming changes.

The motion carried on a vote of 5-1 with Commissioners

Bauerly, Hunter, Petersen, Walther, and Weintraub voting

affirmatively for the decision. Commissioner McGahn dissented.

The meeting recessed at 10:36 a.m. and reconvened at 10:52 a.m.

III. DRAFT ADVISORY OPINION 2011-12

Majority PAC and House Majority PAC by Marc E. Elias, Esq., Ezra W. Reese, Esq., and Jonathan S. Berkon, Esq.

Agenda Document No. 11-37

**Agenda Document No. 11-37-A (Draft B)
(Submitted Late)**

**Agenda Document No. 11-37-B (Revised Draft A)
(Submitted Late)**

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. 11-37-A and 11-37-B.

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

Bauerly, Hunter, McGahn, Petersen, Walther, and Weintraub voting affirmatively for the decision.

Chair Bauerly recognized Mr. Theodore Lutz 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 Commission regulations to the Committees' plan to ask Federal officeholders and candidates, and national party officers, to solicit unlimited individual, corporate, and labor organization contributions on behalf of the Committees. Mr. Lutz summarized the conclusions reached in each of the three drafts. Discussion followed.

Chair Bauerly recognized Vice Chair Hunter who

MOVED to approve Agenda Document No. 11-37-B, which is revised Draft A.

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

Bauerly, Hunter, McGahn, Petersen, Walther and Weintraub voting affirmatively for the decision.

Chair Bauerly took a moment of personal privilege to thank Commission staff, including Shawn Woodhead Werth, India Robinson,

and Judy Ingram, who worked so hard to make today's meeting go as smoothly as possible given its unusual circumstances.

Chair Bauerly thanked Mr. Brad Lipton, who has served with the Chair and Commissioners Walther and Weintraub, for incredible contributions to the agency and wished him good luck with his future endeavors. Commissioner Weintraub thanked Mr. Lipton for being a tremendous asset to her office as well as for the enthusiasm that he brought to his work. Commissioner Walther said it has been a pleasure to work with Mr. Lipton who always did a highly professional job.

IV. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 11:06 A.M.

Signed:

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

Attest:

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