



**AGENDA DOCUMENT NO. 11-63**

**MINUTES OF AN OPEN MEETING  
OF THE  
FEDERAL ELECTION COMMISSION  
THURSDAY, OCTOBER 6, 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**

**Alec Palmer, Staff Director**

**Anthony Herman, General Counsel**

**Shawn Woodhead Werth, Secretary and Clerk**

**Chair Cynthia L. Bauerly called the Federal Election Commission to order in an open meeting at 10:14 A.M. on Thursday, October 6, 2011 with a quorum present.**

**Chair Bauerly congratulated Commissioner McGahn on the birth of his son.**

**I. CORRECTION AND APPROVAL OF MINUTES**

**Amended Minutes for September 1, 2011  
Agenda Document No. 11-60**

**Minutes for September 22, 2011  
Agenda Document No. 11-61**

**Chair Bauerly recognized Vice Chair Hunter who moved that the Commission:**

- 1. Rescind its action of September 22, 2011 approving the minutes of the open meeting of September 1, 2011, and approve instead corrected minutes for the open meeting of September 1, 2011 as set forth in Agenda Document No. 11-60.**
- 2. Approve the minutes for September 22, 2011 in Agenda Document No. 11-61.**

**The motion carried on a vote of 5-0 with Commissioners Bauerly, Hunter, McGahn, Petersen, and Walther voting affirmatively for the decision. Commissioner Weintraub was not present and did not vote.**

---

**II. AGENCY PROCEDURE FOLLOWING THE SUBMISSION OF  
PROBABLE CAUSE TO BELIEVE BRIEFS BY THE OFFICE  
OF GENERAL COUNSEL**

**Memorandum from Commissioner Steven T. Walther  
dated September 6, 2011**

**Agenda Document No. 11-53  
(Held over from the meeting of September 22, 2011)**

**Memorandum from Commissioner Steven T. Walther  
dated October 5, 2011**

**Agenda Document No. 11-53-A  
(Submitted Late)**

**Chair Bauerly recognized Commissioner Walther who presented his memoranda which address a latter-stage probable cause process not covered in the statute or Commission regulations. At the conclusion of a probable cause hearing, if the Office of General Counsel wants to proceed with its recommendation and provides new facts or makes new arguments in its memorandum that were not previously covered, the respondent has an opportunity to ask the Commission to provide its own response with respect to those new factual or legal arguments. The Commission will then decide if it wants to grant that request.**

**Chair Bauerly recognized Vice Chair Hunter who**

**MOVED to suspend the rules for the timely submission of agenda documents in order to consider Agenda Document Nos. 11-53-A and 11-58-A.**

**The motion carried on a vote of 5-0 with Commissioners Bauerly, Hunter, McGahn, Petersen, and Walther voting affirmatively for the decision. Commissioner Weintraub was not present and did not vote.**

**Chair Bauerly recognized Commissioner Walther who**

**MOVED to approve Agenda Document No. 11-53-A  
subject to any technical and conforming changes  
that may be proper by the Office of General Counsel.**

**Chair Bauerly thanked Commissioner Walther for his efforts in working the Commissioners and the General Counsel's Office to refine and complete this procedures.**

**The motion carried on a vote of 5-0 with Commissioners Bauerly, Hunter, McGahn, Petersen, and Walther voting affirmatively for the decision. Commissioner Weintraub was not present and did not vote.**

**III. DRAFT ADVANCE NOTICE OF PROPOSED RULEMAKING FOR INTERNET COMMUNICATION DISCLAIMERS**

**Agenda Document No. 11-58  
(Held over from the meeting of September 22, 2011)**

**Agenda Document No. 11-58-A  
(Submitted Late)**

**Chair Bauerly recognized Ms. Amy Rothstein of the General Counsel's Office who summarized the Draft Notices.**

---

**Chair Bauerly described the Notice which seeks comments on whether and how the Commission should revise its disclaimer rules as applied to advertisements taking place on-line.**

**Chair Bauerly recognized Vice Chair Hunter and Commissioner Walther both of whom thanked the Chair for her leadership on this issue and for making this a priority during her tenure.**

**Chair Bauerly recognized Commissioner Walther who**

**MOVED to approve the Draft Advance Notice of Proposed Rulemaking for Internet Communication Disclaimers as set forth in Agenda Document No. 11-58-A and to authorize the Office of General Counsel to make any necessary technical and conforming changes.**

**Chair Bauerly recognized Commissioner Petersen who also thanked the Chair for her leadership on this issue and expressed his concern that the regulated community needs greater clarity in this area.**

**The motion carried on a vote of 5-0 with Commissioners Bauerly, Hunter, McGahn, Petersen, and Walther voting affirmatively for the decision. Commissioner Weintraub was not present and did not vote.**

**IV. DRAFT ADVISORY OPINION 2011-18**

**Western Representation PAC by Dan Backer, Esq.**

**Agenda Document No. 11-59 (Drafts A and B)  
(Submitted Late)**

**(Anthony Buckley/Robert Knop of the Office of  
General Counsel)**

**Chair Bauerly stated that this item will be held over to a future meeting.**

**\*\*\*\*\***

**Chair Bauerly noted that the Commission issued guidance yesterday for committees that intend to establish separate accounts for independent political expenditures pursuant to the decision in *Carey v. FEC*. The Commission is working on a comprehensive rulemaking and, as part of that process, will consider amendments to its reporting forms. She thanked her colleagues and the following staff for their work on this guidance: Ms. Debbie Chacona, Mr. Greg Scott, Mr. Jeff Chumley, Ms. Judy Ingram, Mr. Neven Stipanovic, and Mr. David Adkins.**

**V. MANAGEMENT AND ADMINISTRATIVE MATTERS**

**There being no further business to come before the Commission, the meeting adjourned at 10:32 A.M.**

**Signed:**

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

**Attest:**

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