



AGENDA DOCUMENT NO. 16-37-A
APPROVED SEPTEMBER 15, 2016

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
TUESDAY, AUGUST 16, 2016

PRESENT:

Matthew S. Petersen, Chairman, presiding

Steven T. Walther, Vice Chairman

Lee E. Goodman, Commissioner

Caroline C. Hunter, Commissioner

Ann M. Ravel, Commissioner

Ellen L. Weintraub, Commissioner

Alec Palmer, Staff Director¹

Daniel Petalas, Acting General Counsel

Shawn Woodhead Werth, Secretary and Clerk

¹ Ms. Patricia Orrock, Chief Compliance Officer, represented Staff Director Palmer.

Chairman Matthew S. Petersen called the Federal Election Commission to order in an open meeting at 10:10 A.M. on Tuesday, August 16, 2016 with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for June 30, 2016
Agenda Document No. 16-31-A**

Chairman Petersen recognized Vice Chairman Walther who

**MOVED to approve the minutes of the meeting of
June 30, 2016 in Agenda Document No. 16-31-A.**

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

Chairman Petersen recognized Vice Chairman Walther who

**MOVED to add to the agenda consideration of the Motion
to Set Priorities and Scheduling on Pending Enforcement
Matters Awaiting Reason-to-Believe Consideration and that
the Commission determine, pursuant to 11 C.F.R. § 2.7(b),
that business so requires and no earlier public announcement
was possible; and**

**to suspend the rules on the timely submission of agenda
documents in order to consider the late submission of the
following documents: Agenda Document No. 16-30-B, Draft B
for Advisory Opinion 2016-08; Agenda Document No. 16-34-A,
REGULATION 2014-10: Implementing the Consolidated and Further
Continuing Appropriations Act, 2015; Agenda Document No. 16-35-A,
REGULATION 2016-03: Political Party Rules; and Agenda Document
No. 16-33-A, Motion to Set Priorities and Scheduling on Pending
Enforcement Matters Awaiting Reason-to-Believe Consideration.**

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

Chairman Petersen said the Commission will not consider Items III (Draft Notice of Proposed Rulemaking on Technological Modernization), IV (Implementing the Consolidated and Further Continuing Appropriations Act, 2015), V (Political Party Rules), and VI (Proposal to Rescind Advisory Opinion 2006-15: TransCanada) at today's meeting. He explained that some documents are available for the public to review and comment on should they wish to do so and that these Items will be discussed at the September meeting.

II. DRAFT ADVISORY OPINION 2016-08

**eBundler.com, LLC by Ronald M. Jacobs, Esq.
and William A. Powers, Esq.**

Agenda Document No. 16-30-A (Draft A)

**Agenda Document No. 16-30-B (Draft B)
(Submitted Late)**

Chairman Petersen recognized Mr. Jacobs and Mr. Powers, requestor's counsel, who were available to answer Commissioners' questions.

Chairman Petersen recognized Ms. Esther Gyory 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 the Commission

regulations to eBundler.com, LLC's request. The requestor is a non-partisan, for-profit, limited liability company that provides certain fundraising services to political committees through a web-based platform called *eBundler*. The requestor has developed a second online platform, *Donorship*, to process individual donations and contributions and to allow an individual to solicit his or her online contacts for contributions to political committees and organizations. The requestor asks several questions regarding its proposed provision of services to political committees and to individuals who make contributions.

Mr. Jacobs participated in the discussion that followed.

Chairman Petersen recognized Commissioner Hunter who

MOVED to approve Agenda Document No. 16-30-B, also known as Draft B.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

III. REG 2013-01: DRAFT NOTICE OF PROPOSED RULEMAKING ON TECHNOLOGICAL MODERNIZATION

(To be circulated)

(Held over from the July 14, 2016 meeting)

Item III was held over to a future meeting.

IV. REG 2014-10: IMPLEMENTING THE CONSOLIDATED AND FURTHER CONTINUING APPROPRIATIONS ACT, 2015

**Agenda Document No. 16-34-A
(Submitted Late)**

Item IV was held over to a future meeting.

V. REG 2016-03: POLITICAL PARTY RULES

**Agenda Document No. 16-35-A
(Submitted Late)**

Item V was held over to a future meeting.

VI. PROPOSAL TO RESCIND ADVISORY OPINION 2006-15 (TRANSCANADA)

**Memorandum from Commissioner Ann M. Ravel
dated August 9, 2016**

Agenda Document No. 16-32-A

Item V was held over to a future meeting.

VII. MOTION TO SET PRIORITIES AND SCHEDULING ON PENDING ENFORCEMENT MATTERS AWAITING REASON-TO-BELIEVE CONSIDERATION

**Memorandum from Vice Chairman Steven T. Walther
dated August 12, 2016**

**Agenda Document No. 16-33-A
(Submitted Late)**

Chairman Petersen recognized Vice Chairman Walther who explained that this motion is a follow-up to motions he filed last year to bring attention to the Commission's progress in handling enforcement matters. Vice Chairman Walther said that, compared to his July 2015 report, there has been a substantial

reduction in the number of cases currently pending before it. Although he believes that the Commission has been quite productive and will probably be able to extinguish some pending matters shortly, he said that he will still move approval of his current motion (which is consistent with his prior motions).

Secretary and Clerk Shawn Woodhead Werth participated in the discussion that followed.

Chairman Petersen recognized Vice Chairman Walther who

MOVED to adopt the following policy with respect to matters pending exclusively before the Commission for more than one year as of July 31, 2016:

- 1. That the two (2) matters identified in the attached chart as numbers one (1) and two (2), all of which have been awaiting Commission action for over two years but less than three years *since the date OGC circulated its recommendations as of July 31, 2016*, be subject to a *substantive* vote at the September 13, 2016 executive session of the Commission;**
- 2. That the seven (7) matters identified in the attached chart as numbers three (3) through nine (9), all of which have been awaiting Commission action for at least one year, but less than two years, *since the date OGC circulated its recommendations as of July 31, 2016*, be placed on the September 13, 2016 executive session of the Commission and every consecutive session thereafter until substantive action has been taken on each of them;**

- 3. That the eight (8) matters following number nine (9) in the attached chart that have been awaiting Commission action for more than one year *since the date of receipt of the complaint or referral*, be placed before the Commission by having the same placed on the agenda for the September 13, 2016 executive session (to trail immediately following the actions in paragraphs 1-2) and every consecutive session thereafter until substantive action has been taken on each one of them;**
- 4. That the Chair call, and the Chair elect or the Commissioners agree to call, a number of executive sessions sufficient to complete substantive action by formal vote on all matters based upon the priority set forth in the attached chart;**
- 5. That for the 30 days following September 13, 2016, there shall be one executive session per week consisting of two meetings each week; following these executive sessions the Commissioners will set additional executive sessions to complete substantive action on all enforcement matters that have been pending one year or more;**
- 6. That all matters identified in paragraphs 1-3, once placed on the agenda, shall remain without change in priority, unless and until, as to any such matter or matters, the procedure set forth in Directive 10, Section E.7(e) [see footnote below] is followed;**

[Directive 10, Section E.7(e), which discusses motions “to lay a matter over,” states

Any such motion shall require a majority vote of at least three members of the Commission; at least three votes will be required for any subsequent motion to take any such matter from the table. Any such motion shall be undebatable. Any such matter which is laid on the table pursuant to these rules shall be taken from the table pursuant to these rules at the next subsequent meeting or the matter dies....”]

- 7. That all remaining matters identified in the attached chart be considered immediately after the Commission takes substantive action on each of the matters identified in paragraphs 1-3, to be voted on with substantive action taken as of November 15, 2016;**

- 8. That all matters identified in paragraph 1, 2, 3, and 7, if being held in abeyance at the time of the substantive vote or subject to an informal hold by one or more Commissioners or by the Office of General Counsel, be voted on at the next executive session following the expiration of the period of abatement or the lifting of the informal hold; and**

- 9. That any statute-of-limitations imperiled matters shall be substantively acted on in a timely manner with all due speed, pursuant to Directive 68, [see footnote below] and may interrupt at any time the order otherwise sought in this motion.**

[Directive 68, which provides for the processing of statute-of-limitations sensitive enforcement matters, is attached to Priorities Motion I, which is appended to this document.]

Discussion continued.

The motion failed by a vote of 3-3 with Commissioners Ravel, Walther, and Weintraub voting affirmatively for the motion. Commissioners Goodman, Hunter, and Petersen dissented.

VIII. MANAGEMENT AND ADMINISTRATIVE MATTERS

**There being no further business to come before the Commission,
the meeting adjourned at 10:24 A.M.**

Signed:



**Matthew S. Petersen
Chairman of the Commission**

Attest:



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