

TEXAS ETHICS COMMISSION MEETING MINUTES

January 13, 2006, 9:02 a.m.

Capitol Extension, Room E1.010, Austin, Texas 78701

COMMISSIONERS PRESENT: Cullen R. Looney, Interim Chair and Vice Chair; Raymond R. "Tripp" Davenport, III; Ross Fischer; Tom Harrison; Francisco Hernandez; Wales H. Madden, III; David Montagne; and Nicholas C. Taylor.

COMMISSIONERS ABSENT: None.

STAFF PRESENT: Natalia L. Ashley, Margie Castellanos, Jeanine Hudson, Jason King, Becky Levy, Bobby Mannas, David A. Reisman, Theresa Schwindt, Amy Simms, Tim Sorrells, Ian M. Steusloff, and Mary Young.

MINUTES

This meeting was tape recorded. These minutes are a summary record of the Commission's actions at the meeting. For a detailed record of discussions and statements made by persons speaking at the meeting, please consult the audio tapes on file at the Commission's office.

Agenda Item 1: Call to order; roll call.

The meeting was called to order by Interim Chair and Vice Chair Looney. David A. Reisman, Executive Director, called the roll. All Commissioners were present.

Agenda Item 2: Comments by the commissioners.

Commissioner Hernandez welcomed Nicholas C. Taylor, appointed to the Texas Ethics Commission by Speaker Tom Craddick. Commissioner Taylor introduced himself.

Agenda Item 3: Election of chair and vice chair of the Texas Ethics Commission.

Commissioner Montagne nominated Interim Chair and Vice Chair Looney for Chair and Commissioner Davenport for Vice Chair. Motion by Commissioner Madden to appoint Interim Chair and Vice Chair Looney as Chair and Commissioner Davenport as Vice Chair; second by Commissioner Harrison. Motion passed by a vote of eight ayes.

Agenda Item 4: Comments from Chair of Task Force, Commissioner Ross Fischer.

Commissioner Fischer briefed the commission on this agenda item.

Agenda Item 5: Comments by the executive director.

David A. Reisman, Executive Director, made the following comments:

1. The commissioners received a copy of the open government/open records training video and instructions that was required by the attorney general in a recent statute passed this last legislative session. The commissioners' completed certificates will be kept on file at the Ethics Commission.
2. The January semiannual filing deadline is Tuesday, January 17, 2006. The commission is also receiving lobby registrations for this calendar year 2006. Electronic filing software for both filings is performing well.
3. Staff is currently updating campaign finance software that is anticipated to be released prior to the July 2006 semiannual filing.
4. The Ethics Commission terminated the maintenance agreement on the document imaging system and is currently transitioning the document imaging to another method that utilizes the current database management system.
5. In 2005, the commission received 251 complaints. The chart provided to the commissioners indicates the number of complaints received in the last five years. We anticipate the number of complaints will continue to exceed in the course of the next biennium. The numbers go up and down depending on whether it is an election year. In 2006, with a general election and a governor's race, staff anticipates more complaints. Since the last commission meeting, the commission has received 67 complaints.
6. A replacement for Jennifer Ahrens, the Governor's Office liaison to the Ethics Commission, has not been announced.
7. Over 97 percent of the 26,000 documents received by the Ethics Commission are made ready by staff to meet the performance measures requirement of processing and having the reports viewable to the public within two working days.
8. The operating budget for the current fiscal year has been submitted to the Legislative Budget Board, the Governor's Office, and the leadership offices.

Agenda Item 6: Communication to the commission from the public.

None.

Agenda Item 7: Approve minutes of the November 2, 2005, meeting.

Motion by Commissioner Harrison to adopt the November 2, 2005, meeting minutes; second by Commissioner Madden. Motion passed by a vote of eight ayes.

Agenda Item 8: Discussion and possible action regarding an amendment to local government form "Conflict of Interest Questionnaire" (Form CIQ). The form was created as required by H.B. 914, 79th Legislature, Regular Session.

David A. Reisman, Executive Director, briefed the commission on this agenda item. Natalia L. Ashley, General Counsel, provided additional comments. Motion by Commissioner Harrison to adopt staff's recommendation of Form CIQ; second by Commissioner Taylor. Motion passed by a vote of eight ayes. **Form CIQ is adopted.**

Agenda Item 9: Discussion and possible action on the approval of a format for electronic filing, including signature requirements of Form CIQ, as proposed by the City of College Station, Texas.

David A. Reisman, Executive Director, briefed the commission on this agenda item. Motion by Commissioner Harrison to adopt staff's recommendation for the approval of a format for electronic filing and signature requirements of Form CIQ; second by Commissioner Montagne. Motion passed by a vote of eight ayes. **Approval for the electronic filing format by the City of College Station, Texas is adopted.**

For Agenda Items 10 and 11, the following represents the actions taken by the Ethics Commission in the order they occurred during the meeting.

Agenda Item 10: Briefing, discussion, and possible action to waive or reduce certain penalties assessed for late filing of campaign finance reports, lobby reports, or personal financial statements.

1. Beverly S. Ahlstrom, Treasurer, Bentwood Republican Women PAC (00016081)
Report: semiannual report due July 15, 2005
Penalty: \$500
2. Debra F. Bradford, Treasurer, Bell Helicopter Textron Political Committee (00017279)
Report: monthly report due October 5, 2005
Penalty: \$500
3. Carl A. Parker, Lobbyist (00019421)
Report: lobby activities report due October 11, 2005
Penalty: \$500
4. C. Wayne Smith, Texas Property & Casualty Insurance Guaranty Association Board of Directors (00035696)
Report: personal financial statement due May 2, 2005
Penalty: \$500
5. William L. Vela, Treasurer, Outdoor PAC (00016414)
Report: 30-day pre-election report due October 11, 2005
Penalty: \$500

Motion by Commissioner Madden to accept staff's recommendation to waive the late-filing penalties for Agenda Item 10, numbers 1 through 5; second by Vice Chair Davenport. Motion passed by a vote of seven ayes. Commissioner Taylor abstained. **Staff's recommendation to waive the late-filing penalties is adopted for Agenda Item 10, numbers 1 through 5.**

6. Robert J. Franklin, Treasurer, Lancaster Firefighters' Association Committee for Responsible Government (00055735)
Report: semiannual report due July 15, 2005
Penalty: \$500

7. Namon Hollis, Jr., Treasurer, Eagle Political Action Committee (00056760)
Report: 8-day pre-election report due October 31, 2005
Penalty: \$600
8. Daniel Martinez, Treasurer, G. M. P. Local Union 283 PAC Fund (00055549)
Report: monthly report due November 7, 2005
Penalty: \$500
9. Peyton McKnight, Lobbyist (00030498)
Report: lobby activities report due September 12, 2005
Penalty: \$500
10. Robin L. Moore, Candidate, State Representative (00051767)
Report: semiannual report due July 15, 2005
Penalty: \$500
11. Chris J. Sawyer, Treasurer, Regions Financial Corporation PAC (00041185)
Report: semiannual report due July 15, 2005
Penalty: \$500

Motion by Commissioner Montagne to accept staff's recommendation to waive the late-filing penalties for Agenda Item 10, numbers 6 through 11; second by Commissioner Harrison. Motion passed by a vote of seven ayes. Commissioner Taylor abstained. **Staff's recommendation to waive the late-filing penalties is adopted for Agenda Item 10, numbers 6 through 11.**

12. M. Steve Bender, Treasurer, Halliburton Energy Services Inc., PAC (00015523)
Report: monthly report due October 5, 2005
Penalty: \$500
13. Patrick Boone, District Judge (00037227)
Report: semiannual report due July 15, 2005
Penalty: \$500
14. Miryam Bujanda, Lobbyist (00039946)
Report: lobby activities report due October 11, 2005
Penalty: \$500
15. Kosse Maykus, On-Site Wastewater Treatment Research Council (00052965)
Report: personal financial statement due April 30, 2003
Penalty: \$100

Report: personal financial statement due May 2, 2005
Penalty: \$500

16. Christopher Moss, Treasurer, Texans United (00057528)
Report: 8-day pre-election report due October 31, 2005
Penalty: \$500
17. Ashlea J. Quinonez, Treasurer, McKinney Area Republican Women (00054554)
Report: 30-day pre-election report due October 11, 2005
Penalty: \$500
18. Eduardo Rodriguez, State Representative (00041097)
Report: special session report due September 19, 2005
Penalty: \$500
19. Yvonne T. Rodriguez, Candidate, District Judge (00054628)
Reports: semiannual reports due January 15, 2004, July 15, 2004, January 18, 2005, and July 15, 2005
Penalty: \$500 (each)
20. Lenora Sorola-Pohlman, Treasurer, Harris County Tejano Democrats (00054190)
Report: 8-day pre-election report due October 31, 2005
Penalty: \$600
21. Michael Q. Sullivan, Lobbyist (00051558)
Report; lobby activities report due November 10, 2005
Penalty: \$500
22. Ginger Vuich, Treasurer, Texas Marriage Alliance (00057444)
Report: 30-day pre-election report due October 11, 2005
Penalty: \$500
23. Gerald E. Wilson, Texas Southern University Board of Regents (00043423)
Report: personal financial statement due May 2, 2005
Penalty: \$500

Motion by Commissioner Fischer to accept staff's recommendation not to waive the late-filing penalties for Agenda Item 10, numbers 12 through 23; second by Commissioner Harrison. Motion passed by a vote of seven ayes. Commissioner Taylor abstained. **Staff recommendation not to waive the late-filing penalties is adopted on Agenda Item 10, numbers 12 through 23.**

24. Margaret Doescher, Treasurer, Kingwood Area Republican Women's Club (00015511)
Report: 8-day pre-election report due October 31, 2005
Penalty: \$3,000
Staff recommendation: reduction of the late-filing penalty to \$500
25. Darwin Lau, Treasurer, Texas Commercial Energy Political Action Committee (00053280)
Report: semiannual report due July 15, 2005
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$100

26. Connie Roberts, Lobbyist (00056950)
Reports: lobby activities reports due March 10, 2005, April 11, 2005, May 10, 2005, June 10, 2005, July 11, 2005, August 10, 2005, and September 12, 2005
Penalty: \$500 (each)
Staff recommendation: reduction of the late-filing penalties in connection with the reports due March 10, 2005, and April 11, 2005, to \$100 each; and, waiver of the late-filing penalties in connection with the reports due May through September 2005.

Motion by Commissioner Montagne to accept staff's recommendation to waive or reduce the late-filing penalties on Agenda Item 10, numbers 24 through 26; second by Commissioner Hernandez. Motion passed by a vote of seven ayes. Commissioner Taylor abstained. **Staff's recommendation to waive or reduce the late-filing penalties is adopted on Agenda Item 10, numbers 24 through 26.**

Agenda Item 11: Briefing, discussion, and possible action to waive or reduce late-filing penalties in connection with certain corrected reports or to determine whether certain corrected reports as originally filed substantially complied with the applicable law.

1. Tom A. Jones, Lobbyist (00014950)
Report: lobby activities report due August 10, 2005
Penalty: \$500

Motion by Commissioner Harrison to adopt staff's recommendation on Agenda Item 11, number 1; second by Commissioner Madden. Motion passed by a vote of seven ayes. Commissioner Taylor abstained. **Staff's recommendation is adopted on Agenda Item 11, number 1, that the original report substantially complied with the applicable law.**

2. J. Keet Lewis, Treasurer, Heritage Alliance PAC (00016508)
Report: 30-day pre-election report due October 11, 2005
Penalty: \$500
3. J. Hoke Peacock, II, Treasurer, ORBETUCK PAC (00016303)
Report: monthly report due October 5, 2005
Penalty: \$500

Motion by Commissioner Hernandez to adopt staff's recommendation on Agenda Item 11, numbers 2 and 3; second by Commissioner Harrison. Motion passed by a vote of seven ayes. Commissioner Taylor abstained. **Staff's recommendation to waive the late-filing penalties is adopted on Agenda Item 11, numbers 2 and 3.**

4. M. Steven Bender, Treasurer, Halliburton Company PAC (00015523)
Reports: monthly reports due July 5, 2005, August 5, 2005, and September 6, 2005
Penalty: \$500 (each)
5. Ana E. Hernandez, Candidate, State Representative (00057411)
Report: runoff report due December 2, 2005
Penalty: \$500

6. Glen Maxey, Treasurer, No Nonsense in November (00057683)
Report: 30-day pre-election report due October 11, 2005
Penalty: \$500
7. Karen L. McCarter, Treasurer, Fort Bend Republican Women's Club PAC (00015561)
Report: 30-day pre-election report due October 11, 2005
Penalty: \$500

Motion by Commissioner Fischer to accept staff's recommendation not to waive the late-filing penalties for Agenda Item 11, numbers 4 through 7; second by Vice Chair Davenport. Motion passed by a vote of seven ayes. Commissioner Taylor abstained. **Staff recommendation not to waive the late-filing penalties is adopted on Agenda Item 11, numbers 4 through 7.**

Agenda Item 12: Discussion and possible action regarding the termination of campaign treasurer appointments of an inactive candidate and an inactive political committee.

1. Andrew M. Pacetti (00051645)
2. South Denton County PAC, Pat Stevens (00016910)

Natalia L. Ashley, General Counsel, briefed the commission on this agenda item. Motion by Commissioner Madden to adopt staff's recommendation on Agenda Item 12, numbers 1 and 2; second by Commissioner Harrison. Motion passed by a vote of eight ayes. **Staff's recommendation is adopted on Agenda Item 12, numbers 1 and 2, to terminate the campaign treasurer appointments of an inactive candidate and an inactive political committee.**

Agenda Item 13: AOR 530: Whether certain corporate expenditures for a lobbyist to attend a political fundraiser golf tournament are permissible.

Natalia L. Ashley, General Counsel, briefed the commission on this agenda item. Ed Shack, attorney, and Jack Gullahorn, Professional Advocacy Association of Texas, spoke before the commission on Agenda Item 13. Motion by Vice Chair Davenport to adopt staff's recommendation with proposed changes to the summary; second by Commissioner Madden. Motion passed by a vote of eight ayes. **Amended AOR 530 is adopted as Ethics Advisory Opinion No. 467.**

Agenda Item 14: AOR 529: Application of the laws under the Ethics Commission's jurisdiction to a situation in which a legislator solicits contributions to a corporation that has the same public policy position on particular state fiscal solutions as the legislator and in which the corporation makes expenditures related to the solicitation on behalf of the legislator.

AOR 529 is postponed at the requestor's request.

Agenda Item 15: AOR 531: Whether corporate expenditures "for minimal time spent by a corporate employee to deliver a committee check in person at a local campaign event held in the same locale as the employee lives and during normal working hours" are permissible.

Natalia L. Ashley, General Counsel, briefed the commission on this agenda item. Ed Shack, attorney, and Jack Gullahorn, Professional Advocacy Association of Texas, spoke before the commission on Agenda Item 15. Motion by Vice Chair Davenport to redraft the advisory opinion; second by Commissioner Montagne. Motion passed by a vote of eight ayes. **AOR 531 is tabled until the next commission meeting.**

Meeting recessed at 10:20 a.m. and reconvened at 10:30 a.m.

Agenda Item 16: Public discussion and possible action on the adoption and publication in the Texas Register of an amendment to Ethics Commission Rule § 6.5 (Authority to Adopt Rules).

Natalia L. Ashley, General Counsel, briefed the commission on this agenda item. Jack Gullahorn, Professional Advocacy Association of Texas, spoke before the commission on Agenda Item 16. Motion by Vice Chair Davenport to adopt Ethics Commission Rule § 6.5; second by Commissioner Harrison. Motion passed by a vote of seven ayes. Vice Chair Looney voted no. **Ethics Commission Rule § 6.5 is adopted.**

Agenda Item 17: Public discussion and possible action on the adoption and publication in the Texas Register of an amendment to Ethics Commission Rule § 18.23 (Administrative Waiver of Fine). The amendment would extend the reasons for which the executive director may administratively waive a late fine assessed in connection with a personal financial statement.

Natalia L. Ashley, General Counsel, briefed the commission on this agenda item. Motion by Commissioner Montagne to adopt Ethics Commission Rule § 18.23 as amended; second by Commissioner Fischer. Motion passed by a vote of eight ayes. **Ethics Commission Rule § 18.23 is adopted as amended.**

Agenda Item 18: Public discussion and possible action on the adoption and publication in the Texas Register of a rule and amendments to Ethics Commission Rules §§ 20.434 (Alternate Reporting Requirements for General-Purpose Committees), 20.417 (Termination Report), 20.431 (Monthly Reporting), and 20.441 (Contents of Dissolution Report). The rule and the amendments clarify the alternative reporting requirement for general-purpose political committees set out in H.B. 1664, 79th Leg., Regular Session.

Natalia L. Ashley, General Counsel, briefed the commission on this agenda item. Motion by Commissioner Harrison to adopt Ethics Commission Rules §§ 20.434 and, 20.417, 20.431, and 20.441, as amended; second by Commissioner Madden. Motion passed by a vote of seven ayes. Vice Chair Davenport was off the dais. **Ethics Commission Rules §§ 20.434 and, 20.417, 20.431, and 20.441, as amended, are adopted.**

Agenda Item 19: Public discussion and possible action on the adoption and publication in the Texas Register of amendments to Ethics Commission Rules §§ 20.553 (County Executive Committee Accepting Contributions or Making Expenditures Totaling \$5,000 or Less) and 20.555 (County Executive Committee Accepting Contributions or Making Expenditures That Exceed \$5,000) relating to the thresholds triggering county executive committees to file a campaign treasurer appointment and campaign finance reports. The rules reflect changes pursuant to H.B. 1647, 79th Leg., Regular Session.

Natalia L. Ashley, General Counsel, briefed the commission on this agenda item. Motion by Commissioner Madden to adopt Ethics Commission Rules §§ 20.553 and 20.555 as amended; second by Commissioner Harrison. Motion passed by a vote of eight ayes. **Ethics Commission Rules §§ 20.553 and 20.555, as amended, are adopted.**

Agenda Item 20: Public discussion and possible action on the adoption and publication in the Texas Register of the repeal of Ethics Commission Rule § 22.25 (Maintenance of Political Contributions in Bank Accounts) relating to the maintenance of political contributions in bank accounts.

Natalia L. Ashley, General Counsel, briefed the commission on this agenda item. Motion by Commissioner Taylor for final adoption of staff's recommendation for the repeal of Ethics Commission Rule § 22.25; second by Vice Chair Davenport. Motion passed by a vote of eight ayes. **Ethics Commission Rule § 22.25 is repealed.**

Agenda Item 21: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rule § 50.1 (Legislative Per Diem) relating to the legislative per diem required to be set under Article III, Section 24a, of the Texas Constitution.

Natalia L. Ashley, General Counsel, briefed the commission on this agenda item. Motion by Commissioner Taylor to publish in the Texas Register an amendment to Ethics Commission Rule § 50.1; second by Commissioner Fischer. Motion passed by a vote of seven ayes. Vice Chair Davenport voted no. **Ethics Commission Rule § 50.1 as amended to be published in the Texas Register for comments.**

Agenda Item 22: Public discussion and possible action on the proposal and publication in the Texas Register of the amendments to twenty-three Ethics Commission rules reflecting the name change of reports, that are required to be filed within nine days of an election, from telegram reports to special pre-election reports. H.B. 350, 79th Legislature, Regular Session.

Agenda Item 22 is postponed at staff's recommendation until the next commission meeting.

Agenda Item 23: Public discussion and possible action on the proposal and publication in the Texas Register of the repeal of Ethics Commission Rule § 24.13(d) (Expenditures for a General-Purpose Committee), that excludes from reporting certain corporate expenditures. H.B. 1606, 78th Legislature, Regular Session.

Natalia L. Ashley, General Counsel, briefed the commission on this agenda item. Motion by Commissioner Taylor to publish in the Texas Register the intent to repeal Ethics Commission Rule § 24.13(d); second by Commissioner Madden. Motion passed by a vote of seven ayes. Commissioner Hernandez was off the dais. **Repeal of Ethics Commission Rule § 24.13(d) to be published in the Texas Register for comments.**

Agenda Item 24: Public discussion and possible action on the proposal and publication in the Texas Register of the repeal of Ethics Commission Rule § 18.9(c) (Corrected Reports), which relates to corrected reports.

Agenda Item 25: Public discussion and possible action on the proposal and publication in the Texas Register of the repeal of Ethics Commission Rule § 18.11 (Substantial Compliance), that defines substantial compliance regarding corrected reports.

Natalia L. Ashley, General Counsel, briefed the commission on this agenda item. Motion by Commissioner Madden to publish in the Texas Register the intent to repeal Ethics Commission Rules §§ 18.9(c) and 18.11; second by Commissioner Harrison. Motion passed by a vote of eight ayes. **Repeal of Ethics Commission Rules §§ 18.9(c) and 18.11 to be published in the Texas Register for comments.**

The next Ethics Commission meeting is scheduled for March 23 and 24, 2006.

Agenda Item 26: Adjourn.

Ethics Commission Meeting adjourned by unanimous consent.