



TEXAS ETHICS COMMISSION MEETING MINUTES

December 11, 2007, 8:30 a.m.

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



COMMISSIONERS PRESENT: Raymond R. "Tripp" Davenport, III, Chair; Tom Harrison, Vice Chair; Ross Fischer; Cullen R. Looney; Paula M. Mendoza; David Montagne; and Nicholas C. Taylor.

COMMISSIONERS ABSENT: Jim Graham.

STAFF PRESENT: Natalia L. Ashley, Amy Barden, Margie Castellanos, Homer Diaz, Robbie Douglas, Sharon Finley, Brad Johnson, Bobby Mannas, Mike McElhaney, Sandy Mitchell, David A. Reisman, Tim Sorrells, Ian 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 Chair Davenport. David A. Reisman, Executive Director, called the roll. All commissioners were present, except Commissioner Graham and Commissioner Fischer who arrived later.

Agenda Item 2: Communication to the commission from the public.

None.

Agenda Item 3: Comments by the commissioners.

Commissioner Harrison briefed the commission regarding a letter to the editor of the American Statesman from a citizen from Dripping Springs. Chair Davenport announced this will be his last meeting as chair and introduced his family who were in attendance. Chair Davenport established a subcommittee consisting of David A. Reisman, Executive Director, Vice Chair Harrison, and Commissioners Fischer and Mendoza related to a request from some larger cities that want to work with the Ethics Commission on campaign finance electronic filing software for local filing authorities.

Agenda Item 4: Comments by the executive director.

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

1. Mr. Reisman introduced Brad Johnson who filled the Attorney I position.
2. Mr. Reisman briefed the commission on the status of the motion to quash. On November 13, 2007, following the executive session of the commission, the commission in open session voted unanimously to file a motion to quash the subpoena duces tecum served on commission staff to release confidential sworn complaint documents. While the court directed that the details of the subpoena duces tecum be kept confidential, Mr. Reisman stated that the motion to quash filed by commission staff was granted.
3. Mr. Reisman reported that he, Natalia L. Ashley, Tim Sorrells, and Ian Steusloff have conducted statewide presentations and meetings to educate various interest groups and the public. Some of the conferences and presentations that staff have participated in include the PAAT Conference; Government, Law, and Liability Conference; Houston Community College; Texas Election and Campaign Law Institute Conference; and the Louisiana Advisory Board and Ethics Reform, which is undergoing a major ethics reform.
4. Included in the commissioners' packets was the quarterly report that summarizes some of the FTE's, the budget reporting, and performance data over this last quarter. The Director of Finance and Administration will be giving a presentation later on the agenda and will discuss our budget and operations information in more detail.
5. This calendar year, a total of 233 sworn complaints have been received. Eighteen sworn complaints have been received since the October 26, 2007, commission meeting.
6. Mr. Reisman thanked Chair Davenport for his services both as Vice Chair and Chair of the commission, his support of staff, his interest, and his communications with the commission. Election of the new chair will be voted on later on the agenda.

Agenda Item 5: Approve minutes of the October 26, 2007, meeting and the November 13, 2007, meeting.

Motion by Commissioner Taylor to adopt the October 26, 2007, amended meeting minutes and the November 13, 2007, meeting minutes; second by Commissioner Mendoza. Motion passed by a vote of six ayes.

Agenda Item 6: Discussion and possible action regarding the Standards of Conduct Policy of the Texas Ethics Commission; David A. Reisman, Executive Director.

David A. Reisman, Executive Director, briefed the commission on this agenda item. Motion by Commissioner Looney to adopt the Standards of Conduct Policy of the Texas Ethics Commission; second by Commissioner Mendoza. Motion passed by a vote of six ayes.

Agenda Item 7: Presentation and discussion regarding the budget and financial operations of the Texas Ethics Commission; Mike McElhaney, Director of Finance and Administration.

Mike McElhaney, Director of Finance and Administration, and David A. Reisman, Executive Director, briefed the commission on this agenda item.

For Agenda Items 8 and 9, the following represents the actions taken by the Ethics Commission in the order they occurred during the meeting.

Agenda Item 8: 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.

17. Jeffrey Joseph 'Jeff' Daiell, Candidate, Governor (00021104)
Report (a): 30-day pre-election report due October 7, 2002
Penalty: \$100
- Report (b): semiannual report due January 15, 2003 (combined report)
Penalty: \$100
- Report (c): semiannual report due July 15, 2003 (combined report)
Penalty: \$100
- Report (d): semiannual report due January 15, 2004 (combined report)
Penalty: \$500
- Report (e): semiannual report due July 15, 2004 (combined report)
Penalty: \$500
- Report (f): semiannual report due January 18, 2005 (combined report)
Penalty: \$500
- Report (g): semiannual report due July 15, 2005 (combined report)
Penalty: \$500
- Reconsideration: October 2007 meeting, the commission voted not to waive the late-filing penalties
- Total penalties: \$2,300

Jeffrey Joseph 'Jeff' Daiell spoke before the commission. Motion by Vice Chair Harrison to reduce the \$2,300 late-filing penalties to \$500 total on Agenda Item 8, number 17; second by Commissioner Montagne. Motion passed by a vote of six ayes. **Reduction of the late-filing penalties to \$500 total is adopted on Agenda Item 8, number 17.**

1. Michael Bastian, Treasurer, CH2MHill Texas PAC (00057462)
Report: 30-day pre-election report due October 9, 2007
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty
2. Tom A. Bergstrom, Treasurer, 'TMVA PAC' Texas Merchandise Vending Assn. PAC (00016235)
Report: monthly report due October 5, 2007
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

3. William Daugherty, Executive Agency Head, Texas School for the Blind and Visually Impaired (00062133)
Report: personal financial statement due October 8, 2007
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty
4. John T. Hubert, District Attorney (00054870)
Report: personal financial statement due October 9, 2007
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

Motion by Commissioner Taylor to adopt staff's recommendations on Agenda Item 8, numbers 1 through 4; second by Commissioner Mendoza. Motion passed by a vote of six ayes. **Staff's recommendations are adopted on Agenda Item 8, numbers 1 through 4.**

5. Nancy Natinsky, Treasurer, Northwood Republican Women's Club (00017267)
Report: 30-day pre-election report due October 9, 2007
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

Motion by Commissioner Mendoza to adopt staff's recommendation on Agenda Item 8, number 5; second by Commissioner Looney. Motion passed by a vote of six ayes. **Staff's recommendation is adopted on Agenda Item 8, number 5.**

6. Jerry Nevlud, Treasurer, Houston Associated General Contractors PAC (00015573)
Report: 30-day pre-election report due October 9, 2007
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty
7. Gretchen M. Vaden, Treasurer, Central Austin Democrats (00018755)
Report: semiannual report due July 16, 2007
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

Motion by Commissioner Taylor to adopt staff's recommendations on Agenda Item 8, numbers 6 and 7; second by Commissioner Mendoza. Motion passed by a vote of six ayes. **Staff's recommendations are adopted on Agenda Item 8, numbers 6 and 7.**

8. Luke Bellsnyder, Lobbyist (00053527)
Report: lobby activities report due September 10, 2007
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
9. Juan J. Maldonado, County Party Chair (00055110)
Report (a): semiannual report due July 17, 2006
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Report (b): semiannual report due January 16, 2007
 Penalty: \$500
 Staff recommendation: no waiver of the late-filing penalty

Total penalties: \$1,000

11. John W. Riddle, Member, Texas Commission On Fire Protection (00060139)
 Report: personal financial statement due April 30, 2007
 Penalty: \$500
 Staff recommendation: no waiver of the late-filing penalty

12. Carl J. Stephens, Treasurer, Fort Bend Business Alliance PAC (00016229)
 Report: monthly report due July 5, 2007
 Penalty: \$500
 Staff recommendation: no waiver of the late-filing penalty

Motion by Vice Chair Harrison to adopt staff's recommendations on Agenda Item 8, numbers 8, 9, 11, and 12; second by Commissioner Mendoza. Motion passed by a vote of six ayes. **Staff's recommendations are adopted on Agenda Item 8, numbers 8, 9, 11, and 12.**

13. Karen J. Estes, Treasurer, Dallas Gay and Lesbian Alliance PAC (00037802)
 Report (a): semiannual report due July 17, 2006
 Penalty: \$500
 Staff recommendation: reduction of the late-filing penalty to \$100

Report (b): semiannual report due January 16, 2007
 Penalty: \$500
 Staff recommendation: reduction of the late-filing penalty to \$100

Report (c): semiannual report due July 16, 2007
 Penalty: \$500
 Staff recommendation: reduction of the late-filing penalty to \$100

Total penalties: \$1,500 Recommended penalties: \$300

14. James Parnell, Treasurer, Dallas Police Officer's PAC (00016133)
 Report: monthly report due October 5, 2007
 Penalty: \$500
 Staff recommendation: reduction of the late-filing penalty to \$250

15. David Ramos, Treasurer, McAllen Police Officers Union – Political Action Committee (00050846)
 Report: semiannual report due July 16, 2007
 Penalty: \$500
 Staff recommendation: reduction of the late-filing penalty to \$250

16. Chance A. Randel, Treasurer, The Spring Democratic Club (00057407)
Report: semiannual report due July 16, 2007
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$100

Motion by Commissioner Montagne to adopt staff's recommendations on Agenda Item 8, numbers 13 through 16; second by Vice Chair Harrison. Motion passed by a vote of six ayes. **Staff's recommendations are adopted on Agenda Item 8, numbers 13 through 16.**

Agenda Item 9: 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.

4. Richard J. Noriega, State Representative (00020687)
Report: semiannual report due July 17, 2006
Penalty: \$10,000
Staff recommendation: reduction of the late-filing penalty to \$1,000

Richard J. Noriega, State Representative, spoke before the commission. Motion by Commissioner Montagne to adopt staff's recommendation on Agenda Item 9, number 4; second by Commissioner Taylor. Motion passed by a vote of five ayes. Commissioner Mendoza abstained. **Staff's recommendation is adopted on Agenda Item 9, number 4.**

1. Chris Cronn, Treasurer, Yes on 15 (00062270)
Report: 8-day pre-election report due October 29, 2007
Penalty: \$600
Staff recommendation: that the original report substantially complied with the applicable law
2. Laurance Yahia, Treasurer, Liberty Mutual Insurance Company PAC – Texas (00016481)
Report: 8-day pre-election report due October 29, 2007
Penalty: \$1,500
Staff recommendation: that the original report substantially complied with the applicable law

Motion by Vice Chair Harrison to adopt staff's recommendation on Agenda Item 9, numbers 1 and 2; second by Vice Chair Davenport. Motion passed by a vote of six ayes. **Staff's recommendations are adopted on Agenda Item 9, numbers 1 and 2.**

3. Steve Mathews, Treasurer, 'KBR, Inc. PAC' KBR Inc. Political Action Committee (00061533)
Report (a): monthly report due May 7, 2007
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty
- Report (b): monthly report due June 5, 2007
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$100

Report (c): monthly report due July 5, 2007
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$100

Report (d): monthly report due August 6, 2007
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$100

Total penalties: \$2,000 Total recommended penalties: \$300

Motion by Commissioner Montagne to adopt staff's recommendations on Agenda Item 9, number 3; second by Vice Chair Harrison. Motion passed by a vote of six ayes. **Staff's recommendations are adopted on Agenda Item 9, number 3.**

Agenda Item 10: Public discussion and possible action on the adoption and publication in the Texas Register of Ethics Commission Rule § 26.2 (Public Officer of a Political Subdivision Newsletters), relating to a newsletter of an officer of a political subdivision.

Bennett Sandlin, Attorney with the Texas Municipal League, spoke before the commission. Natalia L. Ashley, General Counsel, briefed the commission on this agenda item. Motion by Commissioner Looney to adopt and publish in the Texas Register Ethics Commission Rule § 26.2; second by Vice Chair Harrison. Motion passed by a vote of six ayes. **Ethics Commission Rule § 26.2 is adopted.**

Agenda Item 11: Public discussion and possible action on the adoption and publication in the Texas Register of the following Ethics Commission Rules: (1) an amendment to Ethics Commission Rule § 34.43 (Compensation and Reimbursement Threshold), relating to lobby registration requirements; (2) the repeal of Ethics Commission Rule § 34.19 (Conflicts of Interest), relating to a lobbyist representation of lobby clients; and (3) the repeal of Ethics Commission Rules §§ 34.61 (Registration Fee) and 34.62 (Temporary Increase in Registration Fees), relating to lobby registration fees.

Natalia L. Ashley, General Counsel, briefed the commission on this agenda item. Motion by Commissioner Looney to adopt and publish in the Texas Register Ethics Commission Rules §§ 34.43, 34.19, 34.61, and 34.62; second by Commissioner Montagne. Motion passed by a vote of six ayes. **Ethics Commission Rules §§ 34.43, 34.19, 34.61, and 34.62 are adopted.**

Agenda Item 13: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rule § 20.13(d) (Out-of-State Committees), relating to filing requirements for out-of-state committees and Ethics Commission Rule § 20.29(c) (Information About Out-of-State Committees), relating to acceptance of political contributions from an out-of-state committee.

Natalia L. Ashley, General Counsel, briefed the commission on this agenda item. Motion by Commissioner Taylor to publish for public comment in the Texas Register Ethics Commission Rules §§ 20.13(d) and 20.29(c); second by Commissioner Looney. Motion passed by a vote of six ayes. **Ethics Commission Rules §§ 20.13(d) and 20.29(c) to be published in the Texas Register for comments.**

The Texas Ethics Commission Public Meeting recessed from 9:31 a.m. to 9:49 a.m. to wait for Commissioner Fischer's arrival. Commissioner Fischer arrived at 9:45 a.m.

Agenda Item 14: Public discussion and possible action on the proposal and publication in the Texas Register of rules implementing conflict of interest provisions of H.B. 3560, 80th Legislature, Regular Session, that relate to the Texas Facilities Commission.

David A. Reisman, Executive Director, briefed the commission on this agenda item. Mr. Reisman introduced Kay Molina, General Counsel of the Texas Facilities Commission. Martin A. Hubert, Deputy Comptroller with the Texas Comptroller of Public Accounts, spoke before the commission. Motion by Commissioner Taylor to publish for public comment in the Texas Register rules implementing conflict of interest provisions of H.B. 3560, 80th Legislature, Regular Session, that relate to the Texas Facilities Commission; second by Commissioner Fischer. Motion passed by a vote of seven ayes. **Rules implementing conflict of interest provisions of H.B. 3560, 80th Legislature, Regular Session, that relate to the Texas Facilities Commission to be published in the Texas Register for comments.**

Agenda Item 15: Public discussion and possible action on the proposal and publication in the Texas Register of rules implementing conflict of interest provisions of H.B. 3560, 80th Legislature, Regular Session, that would require the Comptroller to disclose to the Texas Ethics Commission a contribution from a vendor.

Agenda Item 16: Public discussion and possible action on the proposal and publication in the Texas Register of rules implementing conflict of interest provisions of H.B. 3560, 80th Legislature, Regular Session, that relate to conflict of interest requirements for the chief clerk or any other employee of the Comptroller.

David Swinford, State Representative, District 87, Martin A. Hubert, Deputy Comptroller with the Texas Comptroller of Public Accounts, and Ed Shack, Attorney representing Friends of Susan Combs/Susan Combs, spoke before the commission. Natalia L. Ashley, General Counsel, and David A. Reisman, Executive Director, briefed the commission on this agenda item. Motion by Commissioner Looney to publish for public comment in the Texas Register the staff proposed rules on Agenda Items 15 and 16; second by Commissioner Mendoza. Motion passed by a vote of seven ayes. **Staff proposed rules on Agenda Items 15 and 16 to be published in the Texas Register for comments.**

Agenda Item 12: Public discussion and possible action on the adoption and publication in the Texas Register of an amendment to Ethics Commission Rule § 50.1 (Legislative Per Diem), relating to the legislative per diem 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 adopt and publish in the Texas Register Ethics Commission Rule § 50.1; second by Commissioner Mendoza. Motion passed by a vote of six ayes. Chair Davenport voted no. **Ethics Commission Rule § 50.1 is adopted.**

Return to Agenda Item 8.

10. Jeff Moseley, Lobbyist (00040495)
Report: lobby activities report due September 10, 2007
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Motion by Commissioner Looney to adopt staff's recommendation on Agenda Item 8, number 10; second by Vice Chair Harrison. Motion passed by a vote of five ayes. Chair Davenport and Commissioner Mendoza abstained. **Staff's recommendation is adopted on Agenda Item 8, number 10.**

Agenda Item 17: Presentation of the Nominating Committee report regarding the positions of Chair and Vice Chair of the Texas Ethics Commission. Election of Chair and Vice Chair of the Texas Ethics Commission.

Motion by Commissioner Montagne to appoint Vice Chair Harrison as Chair and Commissioner Fischer as Vice Chair; second by Commissioner Mendoza. Motion passed by a vote of seven ayes. **Vice Chair Harrison is the new Chair and Commissioner Fischer is the new Vice Chair.**

The next Ethics Commission meeting is scheduled for February 11 and 12, 2008.

Agenda Item 18: Adjourn.

Commission meeting adjourned by unanimous consent.