



## TEXAS ETHICS COMMISSION MEETING MINUTES

February 11, 2010, 9:11 a.m.

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



**COMMISSIONERS PRESENT:** Paula M. Mendoza, Chair; Wilhelmina Delco, Ross Fischer, Tom Harrison, George H. "Trey" Henderson, III, and Chase Untermeyer.

**COMMISSIONERS ABSENT:** Jim Graham and David Montagne.

**STAFF PRESENT:** Natalie Adelaja, Natalia L. Ashley, Amy Barden, Margie Castellanos, Homer Diaz, Robbie Douglas, Susana Esparza, Ginger Hunter, Brad Johnson, Becky Levy, Bobby Mannas, Mike McElhaney, David A. Reisman, Nadina Rose, Veronica Scott, Tim Sorrells, Ian Steusloff, and Mary Young.

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### 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 Mendoza. David A. Reisman, Executive Director, called the roll. All Commissioners were present except for Commissioners Graham and Montagne.

**Agenda Item 2: Communication to the Commission from the public.**

None.

**Agenda Item 3: Comments by the Commissioners.**

Chair Mendoza welcomed Commissioner Chase Untermeyer. Chair Mendoza also thanked Commissioner Nicholas Taylor for his contribution to the Ethics Commission.

**Agenda Item 4: Comments by the executive director.**

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

1. Mr. Reisman discussed the quarterly report. He gave a brief summary of expenditures, performance measures, and sworn complaint data.
2. Mr. Reisman discussed the five percent budget reduction plan. He stated that operating funds have decreased since 2002. There would be a reduction in leasing options, supplies and software maintenance contracts, furniture and equipment, travel to training and conferences, staff training, postage, travel for commissioners, capital budget items, and a hiring freeze.

3. Mr. Reisman discussed campaign finance, lobby, and personal financial statement filings. The volume of telephone calls has increased. New to the Ethics Commission website is the ability to download the database of campaign finance and lobby activities reports.

**Agenda Item 5: Approve minutes of the December 2, 2009, commission meeting.**

Motion by Commissioner Delco to adopt the December 2, 2009, commission meeting minutes; second by Commissioner Fischer. Motion passed by a vote of six ayes.

**For Agenda Item 6, the following represents the actions taken by the Ethics Commission in the order they occurred during the meeting.**

**Agenda Item 6: 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.**

**8. John Marshall (00017302)  
Treasurer, 'ABC GHPAC' Associated Builders & Contractors of Greater Houston PAC**

Report: 8-day pre-election report due October 26, 2009  
Penalty: \$2,600  
Staff recommendation: no waiver of the late-filing penalty

John Marshall and Russell Hamley spoke before the Commission. Motion by Commissioner Harrison to reduce the late-filing penalty to \$1,000 on Agenda Item 6, number 8; second by Commissioner Henderson. Motion passed by a vote of six ayes on Agenda Item 6, number 8. **The reduction of the late-filing penalty to \$1,000 is adopted on Agenda Item 6, number 8.**

**1. Elizabeth A. 'Liz' Lara-Carreno (00063827)  
Treasurer, Carreno Group PAC**

Report: runoff report due December 4, 2009  
Penalty: \$500  
Staff recommendation: waiver of the late-filing penalty

Motion by Commissioner Fischer to adopt staff's recommendation on Agenda Item 6, number 1; second by Commissioner Harrison. Motion passed by a vote of six ayes on Agenda Item 6, number 1. **Staff's recommendation is adopted on Agenda Item 6, number 1.**

**2. Kristin Carlisle (00065275)  
Lobbyist**

Report: lobby activities report due January 11, 2010  
Penalty: \$500  
Staff recommendation: waiver of the late-filing penalty

**3. Lance D. Lively (00032032)  
Lobbyist**

Report: lobby activities report due December 10, 2009  
Penalty: \$500  
Staff recommendation: waiver of the late-filing penalty

Motion by Commissioner Henderson to adopt staff's recommendation on Agenda Item 6, numbers 2 and 3; second by Commissioner Fischer. Motion passed by a vote of six ayes on Agenda Item 6, numbers 2 and 3. **Staff's recommendation is adopted on Agenda Item 6, numbers 2 and 3.**

**5. Susan Hays (00055176)  
Lobbyist**

Report: lobby activities report due November 10, 2009  
Penalty: \$500  
Staff recommendation: no waiver of the late-filing penalty

Motion by Commissioner Harrison to reduce the late-filing penalty to \$250 on Agenda Item 6, number 5; second by Commissioner Fischer. Motion passed by a vote of six ayes to reduce the late-filing penalty to \$250 on Agenda Item 6, number 5. **The reduction of the late-filing penalty to \$250 is adopted on Agenda Item 6, number 5.**

**7. Angus Kelly McGinty (00051528)  
Candidate, District Judge**

- (a.) Report: semiannual report due July 15, 2002  
Penalty: \$100
- (b.) Report: semiannual report due January 15, 2003  
Penalty: \$100
- (c.) Report: semiannual report due July 15, 2003  
Penalty: \$100
- (d.) Report: semiannual report due January 15, 2004  
Penalty: \$500
- (e.) Report: semiannual report due July 15, 2004  
Penalty: \$500
- (f.) Report: semiannual report due January 18, 2005  
Penalty: \$500
- (g.) Report: semiannual report due July 15, 2005  
Penalty: \$500

Staff recommendation: no waiver of the late-filing penalties

Total penalties: \$2,300

Motion by Commissioner Harrison to reduce the late-filing penalties to \$700 on Agenda Item 6, number 7; second by Commissioner Delco. Motion passed by a vote of six ayes to reduce the late-filing penalties to \$700 on Agenda Item 6, number 7. **The reduction of the late-filing penalties to \$700 is adopted on Agenda Item 6, number 7.**

**4. Jack Drake (00061256)**  
**Treasurer, Move Houston State PAC**

Report: 30-day pre-election report due October 5, 2009

Penalty: \$500

Staff recommendation: no waiver of the late-filing penalty

**6. Tom A. Jones (00014950)**  
**Lobbyist**

Report: lobby activities report due December 10, 2009

Penalty: \$500

Staff recommendation: no waiver of the late-filing penalty

**9. Jesse Romero (00054551)**  
**Lobbyist**

Report: lobby activities report due January 11, 2010

Penalty: \$500

Staff recommendation: no waiver of the late-filing penalty

**10. Gary K. Underwood, Jr. (00053522)**  
**Lobbyist**

Report: lobby activities report due October 13, 2009

Penalty: \$500

Staff recommendation: no waiver of the late-filing penalty

Motion by Commissioner Henderson to adopt staff's recommendation on Agenda Item 6, numbers 4, 6, and 9 through 10; second by Commissioner Harrison. Motion passed by a vote of six ayes on Agenda Item 6, numbers 4, 6, and 9 through 10. **Staff's recommendation is adopted on Agenda Item 6, numbers 4, 6, and 9 through 10.**

**11. David Dunn (00037709)**  
**Lobbyist**

Report: lobby activities report due September 10, 2009

Penalty: \$500

Staff recommendation: reduction of the late-filing penalty to \$250

**12. Hobart M. Hukill (00065857)**  
**Treasurer, 'DFPE' Dallas Friends of Public Education (AFT/ATPE/NEA)**

Report: 8-day pre-election report due October 26, 2009  
Penalty: \$500  
Staff recommendation: reduction of the late-filing penalty to \$250

**13. Amanda Thomas (00065320)**  
**Lobbyist**

Report: lobby activities report due September 10, 2009  
Penalty: \$500  
Staff recommendation: reduction of the late-filing penalty to \$250

Motion by Commissioner Henderson to adopt staff's recommendation on Agenda Item 6, numbers 11 through 13; second by Commissioner Harrison. Motion passed by a vote of six ayes on Agenda Item 6, numbers 11 through 13. **Staff's recommendation is adopted on Agenda Item 6, numbers 11 through 13.**

**14. William Michael Wachel (00055929)**  
**Member, Department of Information Resources**

Report: personal financial statement due June 29, 2009  
Penalty: \$500  
Staff recommendation: reduction of the late-filing penalty to \$250

Motion by Commissioner Fischer to reconsider Agenda Item 6, number 14; second by Commissioner Harrison. Motion by Commissioner Harrison to reduce the late-filing penalty to \$100 on Agenda Item 6, number 14; second by Commissioner Fischer. Motion failed by a vote of four ayes and two nays on Agenda Item 6, number 14. Commissioners Delco and Henderson voted nay. Motion by Commissioner Delco to adopt staff's recommendation on Agenda Item 6, number 14; second by Commissioner Henderson. Motion passed by a vote of six ayes on Agenda Item 6, number 14. **Staff's recommendation is adopted on Agenda Item 6, numbers 14.**

**Agenda Item 7: 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. Leslie L. Ward (00014952)**  
**Lobbyist**

- (a.) Report: lobby activities report due July 10, 2009  
Penalty: \$500
- (b.) Report: lobby activities report due August 10, 2009  
Penalty: \$500

Staff recommendation: waiver of the late-filing penalties

Total penalties: \$1,000

Motion by Commissioner Harrison to adopt staff's recommendation on Agenda Item 7, number 1; second by Commissioner Henderson. Motion passed by a vote of six ayes on Agenda Item 7, number 1. **Staff's recommendation is adopted on Agenda Item 7, number 1.**

**2. Clifford A. Schulman (00065093)  
Treasurer, Greenberg Traurig, LLP Texas PAC**

Report: 8-day pre-election report due October 26, 2009

Penalty: \$8,200

Staff recommendation: that the original report substantially complied with the applicable law.

Motion by Commissioner Harrison to adopt staff's recommendation on Agenda Item 7, number 2; second by Commissioner Delco. Motion passed by a vote of six ayes on Agenda Item 7, number 2. **Staff's recommendation is adopted on Agenda Item 7, number 2.**

**Agenda Item 8: Public discussion and possible action on the proposal and publication in the Texas Register of section 12.81 of Ethics Commission Rules (Technical, Clerical or *De Minimis* Violations), relating to the procedures for investigating and resolving technical and clerical violations of laws within the Commission's jurisdiction as provided by section 571.0631 of the Government Code.**

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Fischer to table Agenda Item 8 and send back to staff for redrafting; second by Commissioner Harrison. Motion passed by a vote of six ayes on Agenda Item 8. **Motion to table rule and send it back to staff for redrafting is adopted on Agenda Item 8.**

**Agenda Item 9: Public discussion and possible action on the proposal and publication in the Texas Register of section 20.61 of Ethics Commission Rules (Description of Expenditure), relating to the description of the purpose of an expenditure under section 254.031 of the Election Code.**

**Agenda Item 10: SP-11: Examples of acceptable ways to report certain expenditures under section 254.031 of the Election Code and section 20.61 of the Ethics Commission Rules.**

Natalia L. Ashley, General Counsel, briefed the Commission on Agenda Items 9 and 10. Motion by Commissioner Fischer to publish Agenda Item 9 as amended for public comment in the Texas Register; second by Commissioner Delco. Motion passed by a vote of six ayes. **Proposed Ethics Commission Rule § 20.61 to be published in the Texas Register for comment.** No action was taken regarding Agenda Item 10.

**Agenda Item 11: AOR-552: The Texas Ethics Commission has been asked whether a communication relating to a measure that a city is considering including with a city newsletter that is paid for with public funds complies with section 255.003 of the Election Code.**

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Fischer to adopt AOR-552; second by Commissioner Henderson. Motion passed by a vote of six ayes. **AOR-552 is adopted.**

**Agenda Item 12: SP-10: Whether in light of the United States Supreme Court ruling in *Citizens United v. Federal Election Commission*, the Texas Ethics Commission can enforce the prohibition on direct campaign expenditures made by corporations and labor organizations, and whether the Texas Ethics Commission can enforce the requirements to include certain disclosures on political advertising.**

Agenda Item 12 was withdrawn.

**Agenda Item 13. Creation of a subcommittee of commissioners to consider the reporting of direct campaign expenditures in light of *Citizens United v. Federal Election Commission*.**

A subcommittee of commissioners was created. The subcommittee members are Chair Mendoza, and Commissioners Fischer, Graham, and Harrison. Jack Gullahorn, President, Professional Advocacy Association of Texas, spoke before the Commission.

**Agenda Item 14. Presentation of the Nominating Committee report regarding the position of Vice Chair of the Texas Ethics Commission. Election of Vice Chair of the Texas Ethics Commission.**

Commissioner Harrison nominated Commissioner Jim Graham for Vice Chair. Motion by Commissioner Harrison to appoint Commissioner Graham as Vice Chair; second by Commissioner Delco. Motion passed by a vote of six ayes.

**The next Ethics Commission meetings are tentatively scheduled for April 22, 2010, and June 9, 2010.**

**Agenda Item 15: Adjourn.**

Commission meeting adjourned by unanimous consent.