



TEXAS ETHICS COMMISSION MEETING

Morning Meeting Minutes

December 2, 2014, 10:30 a.m.
Capitol Extension, Room E2.010
Austin, Texas 78701



COMMISSIONERS PRESENT: Paul W. Hobby, Chair; Chase Untermeyer, Vice Chair; Hugh C. Akin, Jim Clancy, Wilhelmina Delco, Tom Harrison, Bob Long, and Tom Ramsay.

COMMISSIONERS NOT PRESENT: None.

STAFF PRESENT: Anitra Abdullah-Levy, Natalia Luna Ashley, Amy Barden, Margie Castellanos, Robbie Douglas, Nick Espinosa, Michelle Griffin, Jessie Haug, Jessica Hurtado, Becky Levy, Bobby Mannas, Mike McElhaney, John Moore, Ian M. Steusloff, and Jim Tinley.

MINUTES

This meeting was 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 recordings on file at the Commission's office.

Agenda Item 1: Call to order; roll call.

The meeting was called to order by Chair Hobby. Natalia Luna Ashley, Executive Director, called the roll. All Commissioners were present. The audio/visual equipment needed to be set up, so Chair Hobby called for a five minute recess. Meeting reconvened at 10:35 a.m. Chair Hobby reported on the progress of the electric filing software project and thanked the public for their input.

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

Joseph M. Nixon, Attorney, representing Empower Texans, Inc. spoke before the Commission.

Agenda Item 3: Approve minutes for the following meetings:

- Workshop on New Electronic Filing System – October 29, 2014;
- Executive Session (Discussion of pending lawsuits) – October 29, 2014;
- AM public meeting – October 29, 2014; and
- PM public meeting – October 29, 2014.

Commissioner Clancy moved that the minutes for agenda item 5 from the AM public meeting reflect the same thing that agenda item 4 stated, i.e., Ian M. Steusloff, Assistant General Counsel, briefed the Commission on this agenda item. Commissioner Clancy and Chair Hobby responded with questions and comments; second by Commissioner Ramsay. Motion passed by a vote of eight ayes. Motion by Commissioner Delco to approve the meeting minutes listed under agenda item 3 as amended; second by Commissioner Akin. **Motion passed by a vote of eight ayes.**

Agenda Item 4: Discussion of recommendations for statutory changes to the 84th Legislature as required by § 571.073 of the Government Code.

Chair Hobby briefed the Commission on the proposed recommendations. Vice Chair Untermeyer had questions on Recommendation No. 4 with regard to groundless complaints. Natalia Luna Ashley, Executive Director, responded to his questions. Motion by Vice Chair Untermeyer to strike the word “groundless;” second by Commissioner Long. **Motion passed by a vote of eight ayes.** Chair Hobby commented on the new Recommendation No. 23 regarding Chapter 36 of the Penal Code with regard to using video/audio from the House in political ads. Ms. Ashley briefed the Commission on Recommendation Nos. 11 through 24. Commissioner Harrison stated that he thought language should be added to former Recommendation No. 23 stating that a quorum of Commissioners must be present in order for the Commission to participate in meetings remotely by telephone conference instead of requiring their physical presence at a specific location. Ms. Ashley responded to various questions regarding the proposed recommendations. Commissioner Delco moved to adopt the proposed recommendations; second by Commissioner Harrison. Motion passed by a vote of eight ayes. **2015 recommendations for statutory changes are adopted.**

Agenda Item 5: Discussion of Opinion Request AOR-589: Whether a specific-purpose committee that is established by and for the purpose of supporting and assisting a person as both a candidate and an officeholder may use political contributions to purchase tickets to entertainment events for the person and the person’s spouse and dependent children to attend and engage in campaign or officeholder activities.

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Vice Chair Untermeyer, chair of the subcommittee of Commissioners appointed to review the question laid out the opinion draft and briefed the Commission on the subcommittee’s review of the question. Motion by Commissioner Akin to adopt AOR-589; second by Commissioner Long. Motion passed by a vote of seven ayes (Commissioner Ramsay was off the dias.) **AOR-589 is adopted.**

Agenda Item 6: Discussion of Opinion Request AOR-590: Whether an employee of a member of the Texas Legislature may, at the direction of the member and as a regular part of the employee’s job duties, drive the member between the member’s Austin residence and the Capitol and drive the member for personal appointments and errands.

Chair Hobby had questions on this agenda item. Natalia Luna Ashley, Executive Director, responded to his questions and briefed the Commission on this agenda item. (Commissioner Ramsay returned to the dias.) Vice Chair Untermeyer responded with a question regarding constitutional limitations. He also suggested moving the sentence “The use of legislative employee’s work time for purely personal activities would not further a state purpose and would constitute a misuse.” to the summary in between the two existing sentences. Commissioner

Long made a motion to adopt AOR-591 with Vice Chair Untermeyer's suggestion; second by Commissioner Ramsay. Motion passed by eight ayes. **AOR-590 is adopted.**

Agenda Item 7: Discussion of Opinion Request AOR-591: Whether a former employee of a state regulatory agency who participated in the selection of a consultant to perform a feasibility study related to a bridge replacement project may receive compensation from a private employer for services related to managing the construction quality of the project.

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Motion by Vice Chair Untermeyer to adopt AOR-591; second by Commissioner Harrison. Motion passed by a vote of eight ayes. **AOR-591 is adopted.**

Agenda Item 8: Public discussion and possible action on the definition of campaign expenditure for purposes of Section 251.001(7) of the Election Code.

Commissioner Clancy briefed the Commission on this agenda item. He moved that section 6.5 of the Ethics Commission Rules be repealed, and that this item be added to the next meeting's agenda so that the Commission can vote to propose the repeal and publish it in the Texas Register for comment; second by Commissioner Ramsay. Motion passed by a vote of eight ayes. **The motion to propose the repeal of section 6.5 of the Ethics Commission Rules at the next Commission meeting and publish in the Texas Register for comment is adopted.**

Agenda Item 9: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 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 Luna Ashley, Executive Director, briefed the Commission on this agenda item. She informed the Commission of a letter signed by Lieutenant Governor Dewhurst and Speaker Straus asking the Commission to set the 2015 Legislative per diem at an amount not to exceed \$190. Commissioner Ramsay moved to republish for public comment Ethics Commission Rules section 50.1 to amend the previously proposed per diem rate of \$210 for the 2015 legislative session to \$190; second by Commissioner Delco. **Motion passed by a vote of eight ayes.**

Agenda Item 10: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 6.1 (Definitions) to add a definition of the phrase "first responder."

Agenda Item 11: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 18.23 (Administrative Waiver of Fine).

Agenda Item 12: Public discussion and possible action on the proposal and publication in the Texas Register of new Texas Ethics Commission Rules §§ 18.24 (General Guidelines for Other Administrative Waiver or Reduction of Fine), 18.25 (Administrative Waiver or Reduction of Fine: Report Type I), and 18.26 (Administrative Waiver or Reduction of Fine: Report Type II).

Chair Hobby and Natalia Luna Ashley, Executive Director, addressed Agenda Items 10, 11, and 12, and explained that these items were proposed in the Texas Register for public comment and would be considered for adoption at the February 2015 meeting.

Agenda Item 13: Discussion on the 2015 Texas Ethics Commission meeting schedule.

Chair Hobby briefed the Commission on this agenda item. Discussion ensued among the Commissioners and Natalia Luna Ashley, Executive Director, regarding any potential conflicts for Commission meetings to be held on the suggested dates. Chair Hobby directed Ms. Ashley to revise and republish the 2015 meeting dates calendar based on the decisions made by the Commissioners.

Agenda Item 14: Comments by the Executive Director.

Natalia Luna Ashley, Executive Director, introduced new attorney Anitra Abdullah-Levy.

Ms. Ashley informed the Commissioners that staff has started tracking legislation that may affect the Texas Ethics Commission, and currently there are five filed bills that are being tracked.

Ms. Ashley stated that the new symposium date is January 23, 2015, and it will be held in San Antonio. She said that currently there were 230 people registered, and the capacity is 250. She stated that Vice Chair Untermeyer would be attending the symposium and that all the Commissioners are welcome to attend if they are available.

Finally, Ms. Ashley reminded the Commission that the legislative moratorium on contributions starts soon and the last day to accept contributions before the 2015 legislative session is December 13, 2014.

Agenda Item 15: Comments by the Commissioners.

Vice Chair Untermeyer informed the Commission that he recently had an uplifting experience in Tunisia as an international observer of their presidential election. He said that it was very inspiring to see all of the people waiting in line to vote and to get their fingers dipped in ink and proudly displaying them to everyone.

Commissioner Harrison asked about the Select Committee on Ethics and whether it was true that they were meeting on December 3, 2014. Commissioner Clancy informed the Commission that the committee was indeed meeting on December 3, 2014, at 9:30 a.m. and that he would be attending. Commissioner Clancy said that they had a short agenda. He stated that Senator Huffman and Representative Davis are the co-chairs of the committee. Natalia Luna Ashley, Executive Director, informed the Commission that she would be attending the meeting as a resource witness.

Agenda Item 16: Adjourn.

Motion by Commissioner Delco to adjourn; second by Commissioner Harrison. **Motion passed by unanimous consent.**