



TEXAS ETHICS COMMISSION MEETING MINUTES
Public Meeting Minutes
June 1, 2016, 10:20 a.m.
Capitol Extension, Room E1.014
Austin, Texas 78701



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

COMMISSIONERS NOT PRESENT: Paul W. Hobby.

STAFF PRESENT: Anitra Abdullah-Levy, Alicia Anderson, Natalia Luna Ashley, Amy Barden, Margie Castellanos, Robbie Douglas, Nick Espinosa, Betty Gallegos, Lauren Gregorcyk, Jessie Haug, Cristina Hernandez, Joseph Keeney, Becky Levy, Bobby Mannas, John Moore, Patti Shannon, Ian M. Steusloff, Jim Tinley, and Patty Williams.

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 Untermeyer. Natalia Luna Ashley, Executive Director, called the roll. All Commissioners were present except Commissioner Hobby.

Agenda Item 2: Comments by the Commissioners.

Chair Untermeyer commented that this was his first meeting as Chair of the Commission. He is still in awe of his predecessors, especially Commissioners Clancy and Hobby.

Agenda Item 3: Comments by the Executive Director.

Natalia Luna Ashley, Executive Director, addressed the Commission. The Commission is finalizing plans for the July 8, 2016, symposium in Lewisville, Texas. At least two Commissioners will be in attendance. Two FBI agents will be speaking on public corruption. Registration will start sometime next week. The Commission is close to being ready to license political subdivisions to use the Commission's filing application for campaign finance and lobby reports. A Request for Offer (RFO) was posted for a vendor to provide maintenance and assistance to political subdivisions. The Commission is negotiating with RFD & Associates, Inc. The Texas Department of Information Resources (DIR) has been very helpful

during this process. The Commission should be ready to extend the licensing option to political subdivisions by mid to late June 2016. Since the last meeting, there have been several big filings, including the Personal Financial Statement (PFS) for state officials due in April, 2016. This was the first time the PFS was required to be filed electronically. The Commission has received great feedback from those who have used the PFS filing application, such as that it was easy to use but had some technical issues and suggestions of ways to improve it. The Commission has been busy with Form 1295 forms and calls. The Commission has been averaging 800 calls per month related to Form 1295, including both the technical and legal departments. On some days, the Commission has received 500 Form 1295 filings. We estimate that we will receive 85,000 such filings per year. This is more than was initially anticipated. As a reminder, if you requested an extension to file your Personal Financial Statement, it is due July 1, 2016. There is also a major filing deadline on July 15, 2016, for Campaign Finance Reports; there is no extension for that deadline.

Agenda Item 4: Communication to the Commission by the public.

Chair Untermeyer stated that he would enforce a five minute limit for each person, unless there are questions by the Commissioners. Joseph M. Nixon, representing Empower Texans, Inc., addressed the Commission. Trey Trainor addressed the Commission.

Agenda Item 5: Approve minutes for the following meetings:

- Executive Session (discussion of pending litigation) – April 8, 2016; and
- Public Meeting – April 8, 2016.

Motion by Commissioner Ramsay to approve the meeting minutes listed under Agenda Item 5; second by Commissioner Delco. **Motion passed by unanimous consent.**

Agenda Item 6: Discussion and possible action on the approval of a format for electronic filing of campaign finance reports, as proposed by Tarrant County.

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Chair Untermeyer, Commissioner Long and Ms. Ashley responded with questions and comments. Motion by Commissioner Long to approve the format for electronic filing of campaign finance reports as proposed by Tarrant County; second by Vice Chair Harrison. **Motion passed by a vote of seven ayes.**

The following agenda items were discussed as a group:

Agenda Item 7: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 46.3 (Definitions), adding a definition for “value” of a contract.

Agenda Item 8: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Ethics Commission

Rules § 46.3 (Definitions), amending the definitions of “contract,” “controlling interest,” and “intermediary,” and adding a definition for “signed.”

Agenda Item 9: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 46.5 (Disclosure of Interested Parties Form), to clarify that a description of a contract includes property that does not constitute a service or goods and to amend the timing of notification to the Commission of receipt of a completed disclosure form and certification of filing.

Commissioner Clancy briefed the Commission on these agenda items. The Commission received several written comments from the public, including whether the rules should require a contract to be written; Commissioner Clancy stated that the Commission as a body may not be able to exclude oral contracts. The Texas Municipal League commented that the Commission’s rules may have violated the statute’s requirement for the timing of filing the form. The Commission took the comment into consideration and changed the rule to mirror the statutory language.

Motion by Commissioner Clancy to adopt the amendments to Ethics Commission Rules §§ 46.3 and 46.5, as listed in Agenda Items 7 through 9; second by Commissioner Akin. **Motion passed by a vote of seven ayes.**

Agenda Item 10: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 8.7 (Request for An Advisory Opinion), adding that Advisory Opinion Requests must include the name of the person making the request and the name of the person on whose behalf the request is made, if applicable.

Chair Untermeyer briefed the Commission on this agenda item. Trey Trainor addressed the Commission. Chair Untermeyer, Natalia Luna Ashley, Executive Director, and Ian Steusloff, General Counsel, responded with questions and comments. Motion by Commissioner Akin to adopt the amendment to Ethics Commission Rules § 8.7; second by Commissioner Long. **Motion passed by a vote of seven ayes.**

Agenda Item 11: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 20.1 (Definitions), adding a definition for “school district.”

Chair Untermeyer briefed the Commission on this agenda item. Motion by Commissioner Delco to adopt the amendment to Ethics Commission Rules § 20.1; second by Vice Chair Harrison. **Motion passed by a vote of seven ayes.**

Agenda Item 12: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of new Ethics Commission Rules § 34.14 (Expenditures for Fact-Finding Trips), defining the meaning of “fact finding trip” for purposes of the lobby law.

Jack Gullahorn, representing himself and Jack W. Gullahorn, P.C., addressed the Commission. Chair Untermeyer, Commissioner Delco, and Natalia Luna Ashley, Executive Director, responded with questions and comments. Motion by Commissioner Delco to adopt new Ethics Commission Rules § 34.14, with the addition of “reasonably” between “cannot” and “obtain” in § 34.14(a)(2); second by Vice Chair Harrison. **Motion passed by a vote of seven ayes.**

Commissioner Ramsay left the dais during Agenda Item 13.

Agenda Item 13: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 34.5 (Certain Compensation Excluded), regarding the exclusion of certain compensation from the calculation to determine whether a person has exceeded the threshold that requires lobby registration.

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Untermeyer, Natalia Luna Ashley, Executive Director, and Mr. Steusloff responded with questions and comments. Motion by Vice Chair Harrison to adopt the amendment to Ethics Commission Rules § 34.5; second by Commissioner Delco. **Motion passed by a vote of six ayes.**

Agenda Item 14: Public discussion and possible action on the proposal and publication in the Texas Register of a new Ethics Commission Rules § 40.11 (Publicly Traded Corporation as Source of Income over \$500), regarding the identification on a personal financial statement of a publicly traded corporation from which income in excess of \$500 is derived.

Chair Untermeyer briefed the Commission on this agenda item. Motion by Commissioner Akin to publish new Ethics Commission Rules § 40.11 in the Texas Register for public comment; second by Vice Chair Harrison. **Motion passed by a vote of six ayes.**

Agenda Item 15: Discussion of Advisory Opinion Request No. AOR-611: Whether the revolving door law prohibits a former employee of the Texas Commission on Environmental Quality from performing certain services related to the remediation of leaking underground storage tanks.

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Untermeyer and Mr. Steusloff responded with questions and comments. Motion by Commissioner Long to adopt AOR-611 without changes; second by Commissioner Akin. Motion passed by a vote of six ayes. **AOR-611 is adopted.**

Agenda Item 16: Discussion of Advisory Opinion Request No. AOR-612: Whether the contingent fee prohibition, as amended by House Bill 3517 adopted during the regular session of the 84th Legislature, prohibits a certain lobby agreement that was effective before September 1, 2015.

Natalia Luna Ashley, Executive Director, stated that the requestor has temporarily withdrawn this request, in order to provide more facts to the Commission. Trey Trainor addressed the Commission on this agenda item. No vote was taken.

The Commission took a break at 11:25 a.m. and returned at 11:35 a.m.

Commissioner Ramsay returned to the dais before Agenda Item 17.

Agenda Item 17: Briefing, discussion, and possible action to waive or reduce certain penalties assessed for campaign finance reports, lobby reports and personal financial statements filed late due to issues with the new electronic filing application for the following individuals and political committees:

1. **Anthony T. Adkins (00080156)**
Candidate, State Representative

Report: semiannual report due January 15, 2016
Penalty: \$500
Recommendation: Waiver

2. **Barbara J. Gardner (00067819)**
Candidate, Court of Appeals Justice

Report: semiannual report due January 15, 2016
Penalty: \$500
Recommendation: Waiver

3. **Jeffrey D. Clark (00039113)**
Lobbyist

Report: annual lobby activities report due January 11, 2016
Penalty: \$500
Recommendation: Waiver

4. **Celia Cole (00041888)**
Lobbyist

Report: annual lobby activities report due January 11, 2016
Penalty: \$500
Recommendation: Waiver

5. **Roberto R. Alonzo (00019681)**
State Representative

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

6. **Chika A. Anyiam (00080031)**
Candidate, Criminal District Court Judge

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

7. **Patricia Baca Bennett (00080109)**
Candidate, District Judge

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

8. **Sergio Contreras (00080481)**
Candidate, State Representative

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

9. **Frances V. Dunham (00070817)**
Candidate, District Judge

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

10. **Devin D. Gabriel (00080146)**
Candidate, District Judge

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

11. **William S. Marks (00080336)**
Candidate, State Representative

Report: personal financial statement due February 12, 2016
Penalty: \$500
Recommendation: Waiver

12. **Eric B. Moquin (00080605)**
Candidate, State Representative

Report: personal financial statement due February 12, 2016
 Penalty: \$500
 Recommendation: Waiver

13. **Andrew Piel (00080194)**
Candidate, State Representative

Report: personal financial statement due February 12, 2016
 Penalty: \$500
 Recommendation: Waiver

14. **Toni N. Rose (00067987)**
State Representative

Report: personal financial statement due February 12, 2016
 Penalty: \$500
 Recommendation: Waiver

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Chair Untermeyer, Commissioner Akin and Natalia Luna Ashley, Executive Director, responded with questions and comments. Motion by Commissioner Long to accept staff's recommendation and waive the penalties on Agenda Item 17, numbers 1 through 14; second by Commissioner Delco. **Motion to accept staff's recommendations and waive the penalties on Agenda Item 17, numbers 1 through 14, passed by a vote of seven ayes.**

Agenda Item 18: Briefing, discussion, and possible action on appeals to determinations made under Ethics Commission Rules §§ 18.25 and 18.26 relating to administrative waiver or reduction of a fine, for the following individual and political committee:

1. **Sergio Muñoz, Jr. (00065967)**
State Representative

Report: personal financial statement due February 12, 2016
 Penalty: \$500 – reduction to \$400
 Recommendation: None
 Appeal Received: May 6, 2016

2. **Rebecca Hardy (00080099)**
Treasurer, 'TFVC PAC' Texans for Vaccine Choice PAC

Report: 30-day pre-election report due February 1, 2016
 Penalty: \$500 – reduction to \$300
 Recommendation: None
 Appeal Received: April 12, 2016

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. The Commission granted a postponement on Agenda Item 18, number 1, at the filer's request so that he can appear before the Commission at its next meeting. James E. "Trey" Trainor addressed the Commission on Agenda Item 18, number 2, and stated that they had decided just to pay the fine; it was paid this morning. No vote was taken.

Agenda Item 19: Briefing, discussion, and possible action to waive or reduce the late-filing penalty in connection with a corrected report or to determine whether the corrected report as originally filed substantially complied with the applicable law for the following political committee:

1. **Leslie Midgley (00016375)
Treasurer, Texas Land Title Assn. PAC**

Report: 8-day pre-election report due February 22, 2016

Penalty: \$4,100

Recommendation Based on Commission Guidelines: reduction to \$1,100

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Chair Untermeyer, Vice Chair Harrison and Natalia Luna Ashley, Executive Director, responded with questions and comments. Motion by Vice Chair Harrison to reduce the penalty on Agenda Item 19, number 1, to \$2,000; second by Commissioner Akin. **Motion to reduce the penalty on Agenda Item 19, number 1, to \$2,000 passed by a vote of seven ayes.**

Agenda Item 20: Discussion and possible action on the Texas Ethics Commission Strategic Plan for Fiscal Years 2017 – 2021.

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Chair Untermeyer, Vice Chair Harrison, Commissioner Clancy and Ms. Ashley responded with questions and comments. Motion by Vice Chair Harrison to approve the Texas Ethics Commission Strategic Plan for Fiscal Years 2017 – 2021, subject to change as discussed; second by Commissioner Akin. **Motion passed by a vote of seven ayes.**

Agenda Item 21: Discussion and possible action on the Texas Ethics Commission Legislative Appropriation Request for Fiscal Years 2018 and 2019.

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Chair Untermeyer, Commissioners Clancy and Long, and Ms. Ashley responded with questions and comments. Motion by Commissioner Clancy to approve the Texas Ethics Commission Legislative Appropriation Request for Fiscal Years 2018 – 2019, subject to change as discussed; second by Commissioner Delco. **Motion passed by a vote of seven ayes.**

Agenda Item 22: Appointment of Committee of Commissioners to consider recommendations for statutory changes to the 85th Legislature as required by section 571.073 of the Government Code.

Trey Trainor addressed the Commission. Commissioner Ramsay responded with questions. Joseph Nixon addressed the Commission. Chair Untermeyer and Commissioners Akin, Clancy and Ramsay responded with questions and comments. Chair Untermeyer appointed himself and Commissioners Akin and Clancy to the committee to consider recommendations for statutory changes to the 85th Legislature. No vote was taken.

Agenda Item 23: Adjourn.

Motion by Commissioner Ramsay to adjourn; second by Commissioner Long. **Motion passed by unanimous consent.**

Meeting adjourned at 12:47 p.m.