



TEXAS ETHICS COMMISSION MEETING MINUTES

Public Meeting Minutes

September 29, 2022, 1:30 p.m.
10th Floor, Sam Houston State Building
Austin, Texas 78701



COMMISSIONERS PRESENT:

Mary K. “Katie” Kennedy, Chair; Randall H. Erben, Vice Chair; Chad M. Craycraft, Chris Flood, Patrick W. Mizell, Richard S. Schmidt, and Steven D. Wolens.

COMMISSIONERS NOT PRESENT:

Joseph Slovacek.

STAFF PRESENT:

Brandon Barrett, Margie Castellanos, Carmen Dalpiaz, Betty Gallegos, Jessie Haug, Cristina Hernández, Jordan Hunn, J.R. Johnson, Natalie McDermon, Amy Padilla, Patti Shannon, Jim Tinley and Bill Wilson.

MINUTES

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 Kennedy. J.R. Johnson, Executive Director, called the roll. All Commissioners were present except Commissioner Slovacek, who was out of the country.

Agenda Item 2: Discussion of, and possible action on, any unfinished business from the Executive Session or Public Meeting held on September 28, 2022.

Chair Kennedy led the discussion on the next Commission meeting dates. Commissioners Craycraft, Mizell and Wolens responded with questions and comments. The tentative dates for the next Commission meetings are December 13 and 14, 2022. No action was taken.

Agenda Item 3: Recognition of Tom Ramsay.

Chair Kennedy and Commissioner Wolens spoke about the contributions from Chair Ramsay made to the State of Texas and specifically to the Texas Ethics Commission. Commissioner

Wolens also read from a statement by former Chair Chase Untermeyer. No action was taken. Commissioner Schmidt left the dais for one minutes.

Agenda Item 4: Discussion and possible action regarding election of Chair and Vice Chair of the Texas Ethics Commission.

Chair Kennedy briefed the Commission on this agenda item. Motion by Commissioner Craycraft to elect Chair Kennedy as Chair and Vice Chair Erben as Vice Chair for a second year; second by Commissioner Schmidt. **Motion passed by a vote of seven ayes.**

Agenda Item 5: Discussion regarding dates for next quarterly Commission meeting.

See discussion under Agenda Item 2.

Agenda Item 6: Approve minutes for the following meetings:

- Public Meeting on May 12, 2022; and
- Public Meeting on August 17, 2022.

Chair Kennedy briefed the Commission on this agenda item. Chair Kennedy requested one addition. Motion by Vice Chair Erben to approve the minutes in Agenda Item 6, as amended; second by Commissioner Schmidt. **Motion passed by a vote of seven ayes.**

Agenda Item 7: Discussion and possible action regarding the termination of a campaign treasurer appointment for the following inactive individuals and political committees:

INDIVIDUALS:

1. Larry McKinzie (00084539)
2. Marcus A. Nervis (00085544)
3. Billy E. Pierce (00085687)

POLITICAL COMMITTEES:

4. San Antonio Young Democrats, Rafael Alcoser III, Treasurer (00081448)
5. Balch Springs Fire Fighters Political Action Committee, Lindsay Jack Branton, Treasurer (00062490)
6. Texas Senate District 11, Travis A. Bryan I, Treasurer (00070095)
7. Move Tarrant Forward, Angela Darden, Treasurer (00085002)
8. Republican National Hispanic Assembly – Texas Chapter, Elizabeth Castro Gray, Treasurer (00085160)
9. Black Equity PAC, Eddie Johnson III, Treasurer (00084860)
10. Family and Economic Prosperity PAC, Matthew H. Logan II, Treasurer (00070400)

11. **Better Together Project (MPAC), Sally A. McFeron, Treasurer (00084878)**
12. **Bowie County Patriots (MPAC), Steve Oglesby, Treasurer (00085061)**
13. **The Redacted Caucus, Caige M. Sutton, Treasurer (00085502)**
14. **LPCounties, Anastasia Wilford, Treasurer (00081870)**
15. **Change Texas PAC, Julian Wilson, Treasurer (00085509)**

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Number 1 was removed. Motion by Vice Chair Erben to adopt staff recommendation on Agenda Item 7, numbers 2 through 15; second by Commissioner Schmidt. **Motion passed by a vote of seven ayes.**

Agenda Item 8: Discussion and possible action on appeals of determinations made under Ethics Commission Rules §§ 18.11, 18.25 and 18.26 relating to administrative waiver or reduction of a fine, for the following filers:

1. **Ramsey E. Cantu (00084315)**
2. **Angie Parker (00054835)**
3. **Vanessa F. Hicks-Calloway (00084152)**
4. **Todd J. Rathner (00070798)**
5. **Chioma Okoro (00082662)**

Natalie McDermon, Assistant General Counsel, briefed the Commission on Agenda Item 8, number 5. Motion by Commissioner Schmidt to waive the penalty on Agenda Item 8, number 5; second by Commissioner Flood. **Motion passed by a vote of seven ayes.** Ms. McDermon briefed the Commission on Agenda Item 8, number 3. Ms. Hicks-Calloway appeared in person and addressed the Commission. Chair Kennedy and Commissioner Wolens responded with questions and comments. Motion by Commissioner Flood to reduce the penalty to \$500 on Agenda Item 8, number 3; second by Commissioner Mizell. **Motion passed by a vote of seven ayes.** Ms. McDermon briefed the Commission on Agenda Item 8, number 2. Ms. Parker appeared virtually and addressed the Commission. Chair Kennedy responded with questions and comments. Motion by Commissioner Mizell to reduce the penalty to \$500 on Agenda Item 8, number 2; second by Commissioner Flood. **Motion passed by a vote of seven ayes.** Ms. McDermon briefed the Commission on Agenda Item 8, number 1. Mr. Cantu appeared virtually and addressed the Commission. Motion by Commissioner Wolens to reject the request for waiver and accept staff recommendation on Agenda Item 8, number 1; second by Commissioner Flood. **Motion passed by a vote of seven ayes.** Ms. McDermon briefed the Commission on Agenda Item 8, number 4. Mr. Rathner appeared virtually and addressed the Commission. Motion by Commissioner Schmidt to accept staff recommendation and waive the penalty on Agenda Item 8, number 4; second by Commissioner Flood. **Motion passed by a vote of seven ayes.**

Agenda Item 9: Discussion and possible action on the adoption or proposal and publication in the Texas Register of amended 1 Tex. Admin. Code § 8.11, regarding withdrawals of advisory opinion requests.

J.R. Johnson, Executive Director, briefed the Commission on this agenda item. Andrew Cates addressed the Commission in support of this amendment. Chair Kennedy, Vice Chair Erben, Commissioners Craycraft, Mizell, Schmidt, and Wolens, Mr. Johnson, and Jim Tinley, General

Counsel, responded with questions and comments. Motion by Vice Chair Erben to adopt Agenda Item 9; second by Commissioner Wolens. **Motion passed by a vote of seven ayes.**

Agenda Item 10: Discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to 1 Tex. Admin. Code § 18.31, regarding the adjustments of reporting thresholds, and Ethics Commission Rules that are affected by the adoption of an amendment to 1 Tex. Admin. Code § 18.31, including §§ 20.62, 20.65, 20.217, 20.219, 20.220, 20.221, 20.275, 20.279, 20.301, 20.303, 20.313, 20.329, 20.331, 20.333, 20.401, 20.405, 20.431, 20.433, 20.434, 20.435, 20.553, 20.555, 22.1, 22.6, 22.7, 34.41, and 34.43.

Chair Kennedy briefed the Commission on this agenda item. Motion by Commissioner Schmidt to adopt Agenda Item 10; second by Chair Kennedy. **Motion passed by a vote of seven ayes.**

Agenda Item 11: Discussion and possible action on the proposal and publication in the Texas Register of an amendment to 1 Tex. Admin. Code § 50.1 (Legislative Per Diem) relating to the legislative per diem required to be set under Article III, Section 24a, of the Texas Constitution.

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Schmidt to publish Agenda Item 11 for public comment; second by Commissioner Craycraft. **Motion passed by a vote of seven ayes.**

Agenda Item 12: Draft Advisory Opinion No. AOR-660: Whether a corporation subject to section 253.094 of the Texas Election Code may provide pro bono legal services to candidates or political committees in Texas for the purpose of challenging in court the interpretation or constitutionality of a Texas law or regulation subject to the jurisdiction of the Texas Ethics Commission.

J.R. Johnson, Executive Director, briefed the Commission on this agenda item. David Keating with the Institute for Free Speech appeared virtually and addressed the Commission. Chair Kennedy, Vice Chair Erben, Commissioners Craycraft, Flood and Wolens, Mr. Johnson, and Jim Tinley, General Counsel, responded with questions and comments. Motion by Commissioner Mizell to postpone action on Agenda Item 12; second by Commissioner Flood. **Motion passed by a vote of seven ayes.**

A break was taken at 10:45; the meeting resumed at 11:03. The following agenda items are listed in the order they occurred during the meeting. J.R. Johnson, Executive Director, called the roll. All Commissioners were present except Commissioner Slovacek.

Agenda Item 16: Draft Advisory Opinion No. AOR-667: Whether candidates for party precinct chair are subject to the campaign treasurer and campaign finance filing requirements of Title 15 of the Texas Election Code.

J.R. Johnson, Executive Director, briefed the Commission on this agenda item. Thomas Edward Klein appeared virtually and addressed the Commission. Chair Kennedy and Mr. Johnson responded with questions and comments. Motion by Vice Chair Erben to adopt Agenda Item 16; second by Commissioner Wolens. **Motion passed by a vote of seven ayes. AOR-667 is adopted.**

Agenda Item 13: Draft Advisory Opinion No. AOR-665: Whether an employee of a university system participates in a procurement or contract negotiation for the purposes of Section 572.069 of the Government Code when the employee informally recommends an attorney to provide outside legal services to the university system decision makers, but has no involvement in the formal selection process or negotiating the terms of the contract.

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Motion by Vice Chair Erben to adopt Agenda Item 13; second by Commissioner Schmidt. **Motion passed by a vote of seven ayes. AOR-665 is adopted.**

Agenda Item 14: Draft Advisory Opinion No. AOR-668: Whether a government employee's direct communications with a potential contracting partner over the terms of a prospective deal constitutes participating in a procurement or contract negotiation under Section 572.069 of the Government Code. Whether Section 572.069 of the Government Code prohibits a former employee of a state agency from accepting employment from an affiliate of a person that was involved in procurements or contract negotiations in which the employee participated during his state service.

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Schmidt to adopt Agenda Item 14; second by Commissioner Flood. **Motion passed by a vote of seven ayes. AOR-668 is adopted.**

Agenda Item 15: Draft Advisory Opinion No. AOR-670: Whether any of the State's revolving door provisions prohibit a former state employee from accepting certain employment.

J.R. Johnson, Executive Director, briefed the Commission on this agenda item. Motion by Commissioner Schmidt to adopt Agenda Item 15; second by Commissioner Craycraft. **Motion passed by a vote of seven ayes. AOR-670 is adopted.**

Agenda Item 17: Discussion and possible action, including the appointment of a committee of commissioners, regarding recommendations for statutory changes to the 88th Legislature as required by section 571.073 of the Government Code.

Chair Kennedy briefed the Commission on this agenda item and appointed the following Commissioners to this subcommittee: Chair Kennedy, Vice Chair Erben, Commissioner Craycraft and Commissioner Wolens. Chair Kennedy and Commissioner Wolens responded with comments.

Agenda Item 18: Adjourn.

Commission meeting adjourned by unanimous consent.

Meeting adjourned at 11:25 am.