



TEXAS ETHICS COMMISSION MEETING MINUTES

Morning Meeting Minutes

October 30, 2013, 11:00 a.m.

Capitol Extension, Room E1.010

Austin, Texas 78701



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

COMMISSIONERS ABSENT: Paula M. Mendoza

STAFF PRESENT: Natalia L. Ashley, Margie Castellanos, Jessie Haug, Melissa Ramos, David A. Reisman, and Tim Sorrells.

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 Clancy. David A. Reisman, Executive Director, called the roll. All Commissioners were present, except for Commissioner Mendoza.

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

None.

Agenda Item 3: Approve minutes for the following meetings: Formal hearing – May 29, 2013; Workshop on sworn complaint procedures and orders – August 7, 2013; Executive session (Sharon Keller v. Texas Ethics Commission) – August 8, 2013; Executive session (personnel matters) – August 8, 2013; AM public meeting – August 8, 2013; PM public meeting – August 8, 2013; Public meeting – October 11, 2013; and Executive session (Empower Texans, Inc. and Michael Quinn Sullivan v. Texas Ethics Commission) – October 11, 2013.

Motion by Commissioner Long to approve the meeting minutes listed under Agenda Item 3; second by Commissioner Untermeyer. **Motion passed by a vote of seven ayes.**

Agenda Item 4: Discussion and possible action on Campaign Practices and Abuses: a. Ethics Complaints filed 30 days before the election; b. Use of Texas Ethics Commission Orders or Sworn Complaints in Campaign Advertising; and c. Compensation and reimbursement of campaign workers.

Natalia Luna Ashley, Special Counsel, briefed the Commission on this agenda item. Chair Clancy directs staff to draft a proposed letter as a response of disapproval to individuals that file ethics complaints 30 days before an election as a campaign tactic. No vote was taken on this agenda item.

Agenda Item 5: Report of Subcommittee on Texas Ethics Commission Order formats.

As Chair of this subcommittee, Vice Chair Hobby briefed the Commission on this agenda item. Motion by Chair Clancy to exclude the respondent's address and the list of alleged allegations from the Notice of Reporting Error (NORE); second by Commissioner Long. **Motion passed by a vote of seven ayes.**

Motion by Commissioner Harrison to adopt NORE Draft – Option 1 with amendments; second by Commissioner Ramsay. **Motion passed by a vote of seven ayes.**

Agenda Item 6: Consideration of moratorium on enforcement of statutory violations currently being litigated in Texans for Free Enterprise v. Texas Ethics Commission.

A resolution was adopted at the October 30, 2013, executive session related to Texans for Free Enterprise v. Texas Ethics Commission.

Agenda Item 7: Public discussion and possible action on proposal and publication of a rule requiring the separate reporting of office-holder expenses for living in Austin, Texas.

Commissioner Untermeyer briefed the Commission on this agenda item. Chair Clancy tabled this agenda item until the next Commission meeting.

Agenda Item 8: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of Texas Ethics Commission Rule § 20.18 relating to political record keeping requirements.

Natalia Luna Ashley, Special Counsel, briefed the Commission on this agenda item. Motion by Commissioner Akin to adopt Texas Ethics Commission Rule § 20.18 as shown in Exhibit A(1); second by Commissioner Long. **Motion passed by a vote of seven ayes.**

Motion by Vice Chair Hobby to adopt Texas Ethics Commission Rule § 20.18 as shown in Exhibit A(1) as amended; second by Commissioner Untermeyer. Motion passed by a vote of seven ayes. **Texas Ethics Commission Rule § 20.18 is adopted.**

Agenda Item 9: Public discussion and possible action on the adoption or proposal of new campaign finance disclosure forms.

Agenda Item 10: Public discussion and possible action on changing the campaign finance form Cover Sheet, pages 1 and 2, depending on the type of filer.

Chair Clancy briefed the Commission on these agenda items. Tom Lynch, Client Engagement Manager, and Erik Dietz, Project Manager, with RFD & Associates, Inc., spoke before the Commission. They are a part of the team that is creating the new electronic filing software system for the Commission. Chair Clancy directed the forms subcommittee to provide copies of the 16 forms currently used to file campaign finance reports plus the proposed single form, including all of the schedules, at the December public meeting. This agenda item was tabled until the next Commission meeting.

Agenda Item 11: Public discussion and possible action on the adoption of repeal in the Texas Register of Texas Ethics Commission Rule § 20.17 repealing the rule relating to political record keeping requirements.

Motion by Commissioner Untermeyer to adopt the repeal of Texas Ethics Commission Rule § 20.17; second by Commissioner 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 Texas Ethics Commission Rule § 20.54 relating to reporting a pledge of a contribution.

Motion by Commissioner Untermeyer to adopt Texas Ethics Commission Rule § 20.54; second by Commissioner Ramsay. **Motion passed by a vote of seven ayes.**

Agenda Item 13: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of Texas Ethics Commission Rule § 20.58 relating to the disclosure of a political expenditure that is not paid in the reporting period in which it is incurred.

Motion by Commissioner Untermeyer to adopt new Texas Ethics Commission Rule § 20.58; second by Commissioner Harrison. **Motion passed by a vote of seven ayes.**

Agenda Item 14: Public discussion and possible action on a petition for rulemaking relating to the issuance of a subpoena under § 571.137 of the Government Code.

Chair Clancy tabled this Agenda Item.

Agenda Item 15: Consideration of Draft Opinion AOR-580: Applicable reporting requirements in a situation in which a candidate incurs processing fees when accepting political contributions by credit card. This opinion construes section 254.031 of the Election Code.

Natalia Luna Ashley, Special Counsel, briefed the Commission on this agenda item. Motion by Commissioner Untermeyer to adopt AOR-580; second by Commissioner Long. **Motion passed by a vote of seven ayes. AOR-580 is adopted.**

Agenda Item 16: Discussion of Opinion Request AOR-581: Questions regarding the reporting requirements for a registered lobbyist under section 305.005(m) of the Government Code.

Chair Clancy tabled this Agenda Item.

Agenda Item 17: Discussion of Opinion Request AOR-582: Questions regarding the reporting requirements for a registered lobbyist under section 305.005(m) of the Government Code.

Chair Clancy tabled this Agenda Item.

Agenda Item 18: Consideration of Draft Opinion AOR-583: Applicable reporting in a situation where an individual candidate files the campaign treasurer appointment required of candidates and also files form STA to create a specific-purpose committee to support the individual's candidacy. This opinion construes Title 15 of the Election Code.

Chair Clancy tabled this Agenda Item.

Agenda Item 19: Public discussion and possible action on a proposed training pamphlet on common campaign finance mistakes.

Chair Clancy tabled this Agenda Item.

Motion by Vice Chair Hobby to remove the table and take up Agenda Item 19; second by Commissioner Harrison. **Motion passed by a vote of seven ayes.**

Motion by Commissioner Ramsay to adopt the training pamphlet on common campaign finance mistakes; second by Commissioner Akin. **Motion passed by a vote of seven ayes.**

Agenda Item 20: Comments by the Executive Director.

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

1. Mr. Reisman announced the Commission's first ethics training symposium in El Paso, Texas, on November 14, 2013.
2. Mr. Reisman mentioned the current job posting for Director of Enforcement.
3. Mr. Reisman announced the retirement of the Commission's General Counsel, Tim Sorrells.

Agenda Item 21: Comments by the Commissioners.

Chair Clancy presented Tim Sorrells with a proclamation honoring his retirement.

Vice Chair Hobby commented on Mr. Sorrells's retirement.

Agenda Item 22: Appointment of a Nominating Committee for the positions of Chair and Vice Chair of the Texas Ethics Commission.

Chair Clancy appointed Commissioners Akin, Ramsay, Long, and Harrison to the nominating committee.

Agenda Item 23: Adjourn.

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