



TEXAS ETHICS COMMISSION MEETING MINUTES

Public Agenda

October 14, 2016, 9:30 a.m.
Capitol Extension, Room E1.014
Austin, Texas 78701



COMMISSIONERS PRESENT: Chase Untermeyer, Chair; Hugh C. Akin, Jim Clancy, Chad M. Craycraft, Wilhelmina Delco, Mary K. “Katie” Kennedy, Tom Ramsay, and Steven D. Wolens.

COMMISSIONERS NOT PRESENT: None.

STAFF PRESENT: Anitra Abdullah-Levy, Alicia Anderson, Natalia Luna Ashley, Amy Barden, Margie Castellanos, Robbie Douglas, Nick Espinosa, Betty Gallegos, Jessie Haug, Ferjie Hontanosas, Jessica Hurtado, Cristina Hernandez, Joseph Keeney, 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.

Agenda Item 2: Comments by the Executive Director.

Natalia Luna Ashley, Executive Director, addressed the Commission. Filing schedules for 2017 will be posted soon. There have been several filing deadlines this month. Currently, the Commission has approximately 49,000 individuals who can file reports with the Commission; these filers generate approximately 91,000 reports annually, 98 – 99% of which are filed electronically. The Commission needs a wide Internet bandwidth to handle this amount of reports. The Commission’s bandwidth was recently doubled from 100 mbps to 200 mbps, and it is constantly being monitored to determine if this will be enough. 99% of the 30-day pre-election reports were filed on time, thanks to the contacts the Commission’s Computer Services Division made with filers who had not yet filed. During the upcoming legislative session, the Commission will track any bills under the Commission’s jurisdiction and will post links to those bills on the website. At its hearing on September 21, 2016, the House Committee on Elections discussed compliance of the campaign finance law at the local level. The Commission completed a survey earlier which indicated that compliance at the local level was lower than the Commission would like, and the Commission is considering options in dealing with this. Ms. Ashley also thanked the staff for all of their hard work.

Agenda Item 3: Comments by the Commissioners.

Chair Untermeyer welcomed the three new Commissioners to the Commission.

Agenda Item 4: Approve minutes for the following meetings:

- Executive Session (discussion of pending litigation) – August 15, 2016; and
- Public Meeting – August 15, 2016.

Motions by Commissioner Delco to approve the meeting minutes listed under Agenda Item 4; seconds by Commissioner Akin. **Motions passed by a vote of seven ayes, with Commissioner Wolens abstaining.**

Agenda Item 5: 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.

Chair Untermeyer briefed the Commission on this agenda item. Chair Untermeyer, Commissioners Delco and Wolens, and Natalia Luna Ashley, Executive Director, responded with questions and comments. Motion by Commissioner Delco to publish an amendment to Ethics Commission Rules § 50.1, as amended, in the Texas Register for public comment; second by Commissioner Wolens. **Motion passed by a vote of eight ayes.**

Agenda Item 6: Public discussion and possible action on the proposal and publication in the Texas Register of a rule to address when a change to a contract is subject to the disclosure requirements of Government Code § 2252.908, which was added by House Bill 1295, 84th Legislative Session.

Commissioner Clancy briefed the Commission on this agenda item. Commissioners Clancy and Wolens responded with questions and comments. Thomas Bohuslav, with AGC of Texas, addressed the Commission and gave a handout. Chair Untermeyer, Commissioners Clancy, Kennedy and Wolens responded with questions and comments. Motion by Commissioner Clancy to publish new Ethics Commission Rules § 46.4 in the Texas Register for public comment; second by Commissioner Kennedy. **Motion passed by a vote of seven ayes, with Commissioner Wolens voting no.**

Agenda Item 7: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 20.50, regarding the requirement that a campaign finance report include the total amount of political contributions maintained at the end of the reporting period.

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Clancy to publish an amendment to Ethics Commission Rules § 20.50 in the Texas Register for public comment; second by Commissioner Delco. **Motion passed by a vote of eight ayes.**

Agenda Item 8: **Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 34.43 (Compensation and Reimbursement Threshold), regarding the lobby registration requirement for compensation if no more than 5% of a person's compensated time during a calendar quarter is spent engaging in lobby activity.**

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Untermeyer, Commissioners Clancy, Kennedy, Ramsay and Wolens, Natalia Luna Ashley, Executive Director, and Mr. Steusloff responded with questions and comments. Motion by Commissioner Clancy to publish an amendment to Ethics Commission Rules § 34.43, as amended, in the Texas Register for public comment; second by Commissioner Akin. **Motion passed by a vote of eight ayes.**

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 § 26.1 (Disclosure Statement), to clarify how a political advertising disclosure statement must be included in political advertising in audio form, including broadcasts by radio.**

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Untermeyer, Commissioners Clancy and Wolens, Natalia Luna Ashley, Executive Director, and Mr. Steusloff responded with questions and comments. Trey Trainor addressed the Commission. Chair Untermeyer, Commissioners Craycraft and Wolens, Mr. Steusloff and Mr. Trainor responded with questions and comments. Joe Pojman, Executive Director of Texas Alliance for Life, addressed the Commission. Chair Untermeyer, Commissioners Clancy and Wolens, Ms. Ashley and Mr. Steusloff responded with questions and comments. Motion by Commissioner Clancy to republish an amendment to Ethics Commission Rules § 26.1, as amended, in the Texas Register for public comment; second by Commissioner Wolens. **Motion passed by a vote of eight ayes.**

Agenda Item 10: **Public discussion and possible action on the adoption or proposal and publication in the Texas Register of a new Ethics Commission Rules § 20.60 (Reporting Political Expenditures for Processing Fees), regarding the disclosure of multiple payments in a reporting period to a single person for fees to process political contributions.**

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Clancy to adopt new Ethics Commission Rules § 20.60; second by Commissioner Akin. **Motion passed by a vote of eight ayes.**

Agenda Item 11: **Public discussion and possible action on the adoption or proposal and publication in the Texas Register of a new Ethics Commission Rules § 20.56 (Expenditures Involving Consultants) and an amendment to Ethics Commission Rules § 20.61 (Purpose of Expenditure), regarding the disclosure of political expenditures made to consultants.**

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Untermeyer responded with comments. Gardner Pate addressed the Commission. Chair Untermeyer, Commissioners Clancy, Craycraft, Kennedy and Wolens responded with questions and comments. Donna García Davidson addressed the Commission. Chair Untermeyer, Commissioners Ramsay and Wolens and Mr. Steusloff responded with questions and comments. Commissioner Wolens requested that Mr. Pate distribute his suggestions. No action was taken.

Commissioner Ramsay was absent from the dais during part of the next agenda item.

Agenda Item 12: Discussion of Advisory Opinion Request No. 614: Whether a communication relating to a measure election complies with section 255.003 of the Election Code.

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Untermeyer, Commissioners Clancy, Craycraft, Ramsay and Wolens, and Mr. Steusloff responded with questions and comments. Motion by Commissioner Kennedy to adopt AOR-614 without changes; second by Commissioner Delco. **Motion failed to pass by a vote of 4 – 4 (Commissioners Akin, Clancy, Ramsay and Wolens voted no).**

Commissioner Clancy left the dais briefly during the next agenda item.

Agenda Item 13: Briefing, discussion, and possible action to waive or reduce certain penalties assessed for campaign finance reports and personal financial statements filed late due to issues with the new electronic filing application for the following individuals:

Campaign Finance Reports

1. **Juan Magallanes (00022775)
District Judge**

Report: semiannual report due July 15, 2015
Penalty: \$500
Recommendation: Waiver

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

Personal Financial Statements**2. Daniel S. 'Shawn' Council (00080436)
Candidate, District Judge**

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

**3. Connor P. Flanagan (00080358)
Candidate, State Representative**

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

**4. Martha H. Jamison (00027107)
Court of Appeals Justice**

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

**5. Thomas F. Lee (00020138)
Senior Judge**

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

**6. Clyde Frederick 'Fred' Shannon, Jr. (00043506)
Senior Judge**

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

**7. Russel D. 'Rusty' Boles (00080310)
Member, Brazos River Authority**

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

8. **Claude Siems (00070901)**
Member, Texas Private Security Board

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

9. **Susan Simpson Hull (00070225)**
Member, Texas Private Security Board

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

10. **Kenneth Ross (00063549)**
Member, Automobile Burglary and Theft Prevention Authority

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

11. **Mark Skurka (00042116)**
Candidate, District Attorney

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

12. **Rabeea Sultan Collier (00080198)**
Candidate, District Judge

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

13. **James D. Morrison (00080120)**
Candidate, State Representative

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

14. **Erika Beltran (00069788)**
Member, State Board of Education

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

15. **Brian J. Haley (00069018)**
Member, Prepaid Higher Education Tuition Board

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

16. **Brandon H. Bouma (00067746)**
Member, Texas Animal Health Commission

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

17. **Guy Brady (00068940)**
Member, Texas Grain Producer Indemnity Board

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

18. **Andy M. Chatham (00058203)**
Senior Judge

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

19. **Sarah D. Monty-Aroni (00069203)**
Member, Texas Southern University Board of Regents

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

20. **Yahara L. Gutierrez (00061785)**
District Judge

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

21. **Sara Kate Billingsley (00070991)**
District Judge

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

22. **Dibrell W. 'Dib' Waldrip (00036505)**
District Judge

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

23. **Irene Armendariz (00062293)**
Member, Texas Commission on Jail Standards

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

24. **Richard H. 'Rick' Magnis (00057941)**
District Judge

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

25. **Harold Ashley Ledger, DPM (00065969)**
Member, Texas State Board of Podiatric Medical Examiners

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

26. **Gwyn C. Shea (00020997)**
Member, University of North Texas System Board of Regents

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

27. **Nizam Peerwani, M.D. (00066181)**
Member, Texas Forensic Science Commission

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

28. **Richard R. 'Dick' Scott (00065382)**
Member, Texas Parks and Wildlife Department

Report: personal financial statement due May 2, 2016
Penalty: \$500
Recommendation: Waiver

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Chair Untermeyer, Ms. Barden and Natalia Luna Ashley, Executive Director responded with questions and comments. Motion by Commissioner Wolens to accept staff's recommendation and waive the penalties on Agenda Item 13, numbers 1 through 3; second by Commissioner Delco. **Motion to accept staff's recommendations and waive the penalties on Agenda Item 13, numbers 1 through 3, passed by a vote of eight ayes.** Motion by Commissioner Wolens to accept staff's recommendation and waive the penalties on Agenda Item 13, number 4; second by Commissioner Delco. **Motion to accept staff's recommendation and waive the penalty on Agenda Item 13, number 4, passed by a vote of six ayes (Chair Untermeyer and Commissioner Kennedy recused themselves).** Motion by Commissioner Wolens to accept staff's recommendation and waive the penalties on Agenda Item 13, numbers 5 through 10; second by Commissioner Delco. **Motion to accept staff's recommendation and waive the penalties on Agenda Item 13, numbers 5 through 10, passed by a vote of eight ayes.** Motion by Commissioner Wolens to accept staff's recommendation and waive the penalties on Agenda Item 13, numbers 11 through 19; second by Commissioner Akin. **Motion to accept staff's recommendation and waive the penalties on Agenda Item 13, numbers 11 through 19, passed by a vote of eight ayes.** Motion by Commissioner Delco to accept staff's recommendation and waive the penalties on Agenda Item 13, numbers 20 through 28; second by Commissioner Ramsay. **Motion to accept staff's recommendations and waive the penalties on Agenda Item 13, numbers 20 through 28, passed by a vote of eight ayes.**

Agenda Item 14: Briefing, discussion, and possible action on appeals of determinations made under Ethics Commission Rules §§ 18.25 and 18.26 relating to administrative waiver or reduction of a fine, for the following individuals:

1. **Jacqueline R. Verastigui (00080618)**
Candidate, State Representative

Report: personal financial statement due February 12, 2016
 Penalty: \$500 – reduction to \$150
 Recommendation: None
 Appeal Received: August 22, 2016

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Commissioners Clancy, Craycraft, Kennedy and Ramsay, Natalia Luna Ashley, Executive Director and Ms. Barden responded with questions and comments. Motion by Commissioner Wolens to reaffirm the penalty on Agenda Item 14, number 1, but allow Ms. Verastigui a certain amount of time to pay it out; second by Commissioner Kennedy. **Motion to reaffirm the penalty on Agenda Item 14, number 1, but allow Ms. Verastigui a certain amount of time to pay it out, passed by a vote of eight ayes.**

2. **Paul Greco (00080579)**
Candidate, State Representative

Report: 8-day pre-election report due February 22, 2016
 Penalty: \$500 – reduction to \$400
 Recommendation: Waiver (based on additional information)
 Appeal Received: August 18, 2016

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Commissioner Wolens and Ms. Barden responded with questions and comments. Motion by Commissioner Ramsay to waive the penalty on Agenda Item 14, number 2; second by Commissioner Akin. **Motion to waive the penalty on Agenda Item 14, number 2, passed by a vote of eight ayes.**

3. **Fredericka M. Phillips (00066411)**
Candidate, District Judge

Report: 30-day pre-election report due February 1, 2016
Penalty: \$500 – reduction to \$400
Recommendation: None
Appeal Received: August 25, 2016

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Commissioner Wolens and Ms. Barden responded with questions and comments. Motion by Commissioner Clancy to reduce the penalty to \$150 on Agenda Item 14, number 3; second by Commissioner Akin. **Motion to reduce the penalty to \$150 on Agenda Item 14, number 3, passed by a vote of eight ayes.**

4. **James R. Dickey, Sr. (00069834)**
Candidate, County Party Chair

Report: 8-day pre-election report due February 22, 2016
Penalty: \$500 – reduction to \$300
Recommendation: None
Appeal Received: September 20, 2016

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Mr. Dickey addressed the Commission. Commissioner Wolens responded with questions and comments. Motion by Commissioner Clancy to waive the penalty on Agenda Item 14, number 4; second by Commissioner Wolens. **Motion to waive the penalty on Agenda Item 14, number 4, passed by a vote of eight ayes.**

Agenda Item 15: 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 individual and political committees:

1. **Frank J. Castro (00080420)**
Candidate, District Judge

Report: 8-day pre-election report due February 22, 2016
Penalty: \$500
Recommendation Based on Commission Guidelines: Substantial Compliance

2. **Tiffany B. Latta (00067217)**
Treasurer, 'LTP' Llano Tea Party

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

Penalty: \$8,800

Recommendation Based on Commission Guidelines: Substantial Compliance

3. **William J. 'Bill' O'Sullivan, Jr. (00066799)**
Treasurer, 'TTPP' Texas Patriots State PAC

(Mr. O'Sullivan filed three corrections to the report at issue.)

Report: 8-day pre-election report due October 26, 2015

Penalty: \$10,000

Recommendation Based on Commission Guidelines: Substantial Compliance for the first two corrections and Waiver for the third correction.

Chair Untermeyer briefed the Commission on this agenda item. Motion by Commissioner Wolens to accept staff recommendation and waive the penalties on Agenda Item 15, numbers 1 through 3; second by Commissioner Delco. **Motion to waive the penalties on Agenda Item 15, numbers 1 through 3, passed by a vote of eight ayes.**

Commissioner Craycraft left the dais briefly during the next agenda item.

Agenda Item 16: Report by subcommittee of Commissioners regarding recommendations for statutory changes to the 85th Legislature as required by section 571.073 of the Government Code and discussion about other recommendations Commissioners may want to consider.

Chair Untermeyer and Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Chair Untermeyer, Commissioners Akin, Clancy, Craycraft, Delco, Kennedy, and Wolens, Ms. Ashley and Ian Steusloff, General Counsel, responded with questions and comments. No vote was taken.

Commissioner Akins left the dais briefly during the next agenda item.
Commissioner Wolens left the dais during the next agenda item.

Agenda Item 17: Report 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, Commissioner Craycraft and Ms. Ashley responded with questions and comments. No vote was taken.

Agenda Item 18: Election of Vice Chair of the Texas Ethics Commission.

Motion by Commissioner Ramsay to elect Steven D. Wolens as Vice Chair of the Texas Ethics Commission. **Motion to elect Steven D. Wolens as Vice Chair passed by unanimous consent (Commissioner Wolens was absent).**

Agenda Item 19: Appointment of a Nominating Committee of Commissioners for the positions of Chair and Vice Chair of the Texas Ethics Commission.

Chair Untermeyer appointed Commissioners Akin and Ramsay to the Nominating Committee of Commissioners for the positions of Chair and Vice Chair.

Vice Chair Wolens returned to the dais during this agenda item.

Agenda Item 20: Communication to the Commission from the public.

Trey Trainor addressed the Commission. Joseph M. Nixon, representing Empower Texans, Inc., addressed the Commission.

Agenda Item 21: Adjourn.

Chair Untermeyer spoke briefly on setting dates for Commission meetings in 2017. Motion by Commissioner Delco to adjourn; second by Commissioner Kennedy. **Motion passed by unanimous consent.**

Meeting adjourned at 1:13 p.m.