



## TEXAS ETHICS COMMISSION MEETING MINUTES

### Public Meeting Minutes

June 17, 2021, 9:05 a.m.

Capitol Extension, Room E1.014

Austin, Texas 78701



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

**COMMISSIONERS NOT PRESENT:** All Present

**STAFF PRESENT:** Joe Brocato, Margie Castellanos, Nick Espinosa, Betty Gallegos, Jessie Haug, Cristina Hernández, Jordan Hunn, J.R. Johnson, Haksoon Andrea Low, Demetria Manning, Natalie McDermon, Amy Padilla, Anne Temple Peters, Lindsay Powers, Frances Ramirez, Brennan Salzo, Margaret Sanchez, Patti Shannon, Scarlett Scalzo, Jim Tinley, and Preston Tom.

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## 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 Craycraft. Anne Temple Peters, Executive Director, called the roll. All Commissioner were present.

### **Agenda Item 2: Executive session pursuant to Section 551.071, Government Code, Consultation with Attorneys, and Section 551.074, Government Code, Personnel Matters; Closed Meeting.**

- A. Discussion of pending litigation to seek legal advice relating to the following:
- i. Cause No. D-1-GN-17-001878: *Texas Ethics Commission v. Michael Quinn Sullivan*, in the 250th Judicial District Court in Travis County, Texas; Cause No.03-17-00392-CV: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Third Court of Appeals

at Austin, Texas; and Cause No. 18-0580: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Supreme Court of Texas.

- ii. Cause No. D-1-GN-15-004455: *Texas Ethics Commission v. Empower Texans, Inc. and Michael Quinn Sullivan*, in the 345<sup>th</sup> Judicial District Court of Travis County, Texas; and related case, Cause No. 03-16-00872-CV: *Empower Texans, Inc., and Michael Quinn Sullivan v. Texas Ethics Commission*, in the Third Court of Appeals, Austin, Texas.

B. Discussion of personnel matters.

C. Reconvene in open session and Public meeting at 9:23 am.

**Agenda Item 3: Election of Chair and Vice Chair of the Commission.**

Chair Craycraft and Commissioner Wolens addressed the Commission on this agenda. Motion by Commissioner Wolens to elect Vice Chair Kennedy as Chair of the Texas Ethics Commission, beginning at the September meeting; seconded by Commissioner Mizell. **Motion passed by a vote of seven ayes and one present, abstaining.** Motion by Commissioner Wolens to elect Commissioner Erben as Vice Chair of the Texas Ethics Commission; second by Commissioner Mizell. **Motion passed by a vote of seven ayes and one present, abstaining.**

**Agenda Item 4: Discussion regarding dates for next quarterly Commission meeting.**

Chair Craycraft briefed the Commission on this agenda. Chair Craycraft, Vice Chair Kennedy, Commissioners Flood, Mizell, Slovacek and Wolens responded with questions and comments. Tentative dates for the next commission meeting, subject to change, are August 31, 2021 and September 1, 2021.

**Agenda Item 5: Approve minutes for the following meetings:**

- **Public Meeting – March 12, 2021.**

Chair Craycraft briefed the Commission on this agenda item. Motion by Vice Chair Kennedy to adopt the minutes in Agenda Item 4; second by Commissioner Schmidt. **Motion passed unanimously.**

**Agenda Item 6: Discussion and possible action on appeals of determinations made under Ethics Commission on Rules §§ 18.25 and 18.26 relating to administrative waiver or reduction of a fine for the following filers:**

1. **Wayne S. Vaugh, Chair, Atascosa County Republican Party (00023668)**
2. **Southlake Families PAC, treasurer Kristine Kemp (00084934)**
3. **Cambio Texas PAC, treasurer Parthkumar Naik (00082985)**

4. **Kimberly Newcomer-Fitzpatrick, incumbent candidate, Judicial District 342 (00082242)**
5. **Rocio Gosewehr Hernandez, candidate, State Representative District 67 (00083919)**
6. **High Plains Republican Women PAC, treasurer Angie Parker (00054835)**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Mizell to waive the fine on Agenda Item 6, number 1; second by Commissioner Wolens. **Motion passed unanimously.** Timothy Davis addressed the Commission on behalf of Kristine Kemp on Item 2. Motion by Commissioner Slovacek to waive the fine on Agenda Item 6, number 2; second by Commissioner Flood. **Motion passed unanimously.** Abel Prado addressed the Commission on behalf of Parthkumar Naik on Item 3. Motion by Commissioner Mizell to waive the fine on Agenda Item 6, number 3; second by Commissioner Schmidt. **Motion passed unanimously.** Motion by Commissioner Mizell to waive the fine on Agenda Item 6, number 4; second by Commissioner Schmidt. **Motion passed unanimously.** Rocio Gosewehr Hernandez addressed the Commission on Item 5. Motion by Commissioner Slovacek to waive the fine on Agenda Item 6, number 5; second by Commissioner Schmidt. **Motion passed unanimously.** Motion by Vice Chair Kennedy to reduce the fine to \$200 on Agenda Item 6, number 6; second by Commissioner Erben. **Motion passed unanimously.**

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

1. **Matthew Taylor Flores (00082422)**
2. **Angela K. Hayes (00081544)**
3. **Van Q. Huynh (00083817)**
4. **Finnigan Jones (00082076)**
5. **Casey W. Littlejohn (00081865)**
6. **John Lujan III (00054835)**
7. **Larry McKinzie (00084539)**
8. **Dennis A. Miller II (00082191)**
9. **Deondre Moore (00084457)**
10. **James L. Murphy III (00084686)**
11. **Anna L. Nunez(00084010)**
12. **Osbert G. Rodriquez III (00080354)**
13. **Colin D. Ross (00084274)**
14. **Jason D. Rowe (00084443)**
15. **Sam N. Smith (00084293)**
16. **Aubrey R. Thoede (00041082)**
17. **Ruben Villarreal (00082278)**
18. **Joseph R. Willie II (00082407)**

**Political Committee**

19. **Better Bond for Midland, Brandon W. Hodges, Treasurer(00084208)**
20. **Building Better Communities Political Action Committee, Eustacio Mireles,**

- Treasurer (00083774)**
- 21. Dark Money PAC, Philip A. Harris, Treasurer (00080815)**
  - 22. Empower PAC, Dallas S. Jones, Treasurer(00080264)**
  - 23. Harris County African-American Deputy's Union PAC, J.M. Phillips, Jr., Treasurer (00067346)**
  - 24. Pathfinders Republican Women's Club, Janice L. Burkholder, Treasurer (00017208)**
  - 25. Red Wave Texas – Galveston County, Phillip A. Webb, Jr., Treasurer (00084035)**
  - 26. Robin J. Anderson, Angela G. Johnson, Treasurer (00083079)**
  - 27. Texas Combat Veterans, Joshua S. Finkenbinder, Treasurer (00080106)**
  - 28. Texas Industries, Inc. Political Action Committee, Amanda M. Miller, Treasurer (00034656)**
  - 29. Texas Liberty Law, Charles Blain, Treasurer (00082172)**
  - 30. The Texas PAC, Eric Knustrom, Treasurer (00080816)**

J.R. Johnson, General Counsel, briefed the Commission on this agenda items. Chair Craycraft, Vice Chair Kennedy, Mr. Johnson, and Assistant General Counsel Preston Tom responded with questions and comments. Motion by Commissioner Flood to adopt staff recommendation on Agenda Item 7 numbers 1 through 28, omitting numbers 19 and 26; second by Commissioner Slovacek. **Motion passed unanimously.** Motion by Vice Chair Kennedy to reconsider prior vote; second by Commissioner Schmidt. **Motion passed unanimously.** Motion by Commissioner Flood to adopt staff recommendation on Agenda Item 7 numbers 1 through 30, omitting numbers 19 and 26; second by Commissioner Slovacek. **Motion passed unanimously.**

**Agenda Item 8: Draft Advisory Opinion No. AOR-639: Regarding a judicial officeholder's use of his courtroom for political advertising.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Chair Craycraft, Vice Chair Kennedy, Commissioners Erben, Mizell, Schmidt, Wolens, and Mr. Johnson responded with questions and comments. Motion by Vice Chair Kennedy to adopt Agenda Item 8; second by Commissioner Erben. **Motion passed by a vote of five ayes.**

**Agenda Item 9: Draft Advisory Opinion No. AOR-645: Regarding registered lobbyists' expenditures on social media advertising.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Chair Craycraft, Vice Chair Kennedy, Commissioner Wolens, and Mr. Johnson responded with question and comments. Motion by Commissioner Erben to adopt Agenda Item 9; second by Commissioner Schmidt. **Motion passed unanimously.**

**Agenda Item 10: Draft Advisory Opinion No. AOR-639: Regarding a judicial officeholder's use of political contributions to seek a federal appointment.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Vice Chair Kennedy recuses herself from Agenda Item 10. Chair Craycraft, Commissioners Flood, Mizell, and Wolens responded with question and comments. **No action taken.**

**Agenda Item 11: Discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to 1 Tex. Admin. Code §§ 18.23 through 18.26 regarding changes to administrative waiver rules.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Erben to adopt Agenda Items 11; second by Commissioner Flood. **Motion passed unanimously.**

**Agenda Item 12: Discussion possible action on the adoption or proposal and publication in the Texas Register of amendments to 1 Tex. Admin. Code § 20.1 (11), regarding the definition of political advertising.**

J.R. Johnson, General Counsel briefed the Commission on this agenda item. . Vice Chair Kennedy, Commissioner Erben, and Mr. Johnson responded with question and comments. Motion by Commissioner Erben to adopt Agenda Items 12; second by Vice Chair Kennedy. **Motion passed unanimously.**

**Agenda Item 13: Discussion and possible action on the proposal and publication in the Texas Register of new 1 Tex. Admin. Code § 34.82 regarding modified reporting thresholds for lobbyists.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Vice Chair Kennedy, Commissioner Wolens, Mr. Johnson and Jessie Haug, Director of Computer Services and Director of Disclosure Filings, responded with questions and comments. Motion by Commissioner Mizell to publish Agenda Item 13; second by Commission Slovacek. **Motion passed unanimously.**

**Agenda Item 14: Discussion and possible action on the proposal and publication in the Texas Register of amended 1 Tex. Admin Code § 18.17, regarding deceased or incapacitated filers.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Commissioners Schmidt and Mr. Johnson responded with question and comments. Motion by Commissioner Schmidt to publish Agenda Item 11; second by Commissioner Erben. **Motion passed unanimously.**

**Agenda Item 15: Briefing and discussion of ethics legislation in the 2021 legislative session, including status of Ethics Commission legislative recommendations.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. **No action taken.**

**Agenda Item 17: Formal hearing notice pursuant to Sections 551.002 and 571.139(b), Government Code, Open Meetings Requirement, and Section 12.117, Ethics Commission Rules.** Contested Case Proceeding; In the Matter of Stephen Pennington, Respondent. Sworn Complaint No. SC-32008160 alleges a violation of section 254.063(b) of the Election Code.

Preston Tom, Assistant General Counsel, addressed the Commission. Respondent was not present. Chair Craycraft and Vice Chair Kennedy responded with questions and comments. The Commissioners went into Executive Session to deliberate at 11:00 a.m., and reconvened at 11:11 a.m. Chair Craycraft announced a finding of a violation of Tex. Elec. Code § 254.063, and a fine of \$5,000.

**Meeting recessed until 1:00 p.m.**

**Agenda Item 16: Formal hearing notice pursuant to Sections 551.002 and 571.139(b), Government Code, Open Meetings Requirement, and Section 12.117, Ethics Commission Rules.** Contested Case Proceeding; In the Matter of Robert L. “Bob” Hall, III, Respondent. Sworn Complaint No. SC-3180254 alleges violations of sections 254.031(a)(1) and (a)(6) of the Election Code.

Meeting reconvened in open session at 1:06 p.m.

Chair Craycraft addressed the Commission. Exhibits had been pre-admitted. Mr. Tony McDonald, attorney for Respondent, Robert L. “Bob” Hall, III, responded to questions from Chair Craycraft. Mr. McDonald invoked the rule. Mr. James Tinley, Assistant Director of Enforcement, gave his opening statement. Mr. McDonald gave his opening statement. Mr. Tinley moved for admission of the transcript of the advertisement; Mr. McDonald objected. Chair Craycraft overruled the objection and the transcript was admitted. Mr. Tinley called Respondent as a witness; Mr. McDonald objected but Respondent requested to testify. Mr. Tinley questioned Respondent. Mr. McDonald questioned Respondent. Chair Craycraft, Vice Chair Kennedy and Commissioners Flood, Schmidt, Slovacek and Wolens responded with questions and comments. Mr. Tinley rested. Mr. McDonald called Jennifer Vidler as a witness. Mr. McDonald questioned Ms. Vidler. Mr. Tinley questioned Ms. Vidler. Chair Craycraft, Vice Chair Kennedy and Commissioners Flood, Schmidt, Slovacek and Wolens responded with questions and comments. Mr. McDonald called Emily Cook as representative of Texas Right to Life, Inc. and the Texas Right to Life Political Action Committee. Mr. McDonald questioned Ms. Cook. Mr. Tinley questioned Ms. Cook. Chair Craycraft, Vice Chair Kennedy and Commissioners Schmidt and Slovacek responded with questions and comments. Mr. McDonald rested.

Brief recess at 3:07 p.m. Reconvened at 3:17 p.m.

Mr. Tinley gave his closing arguments. Mr. McDonald gave his closing arguments. Mr. Tinley gave his rebuttal.

The Commissioners went into Executive Session to deliberate at 3:43 p.m., and reconvened at 4:37 p.m. Chair Craycraft announced findings of violations of Tex. Elec. Code 254.0319(a)(1) and (6), and a fine of \$5,000. Respondent addressed the Commission.

**Agenda Item 18: Adjourn.**

Motion by Chair Craycraft to adjourn. **Commission meeting adjourned by unanimous consent.**

Meeting adjourned at 4:38 pm.