



TEXAS ETHICS COMMISSION MEETING MINUTES

December 2, 2009, 2:00 p.m.

Capitol Extension, Room E1.010, Austin, Texas 78701



COMMISSIONERS PRESENT: Ross Fischer, Chair; Paula M. Mendoza, Vice Chair; Wilhelmina Delco, Jim Graham, Tom Harrison, George H. "Trey" Henderson, III; and Nicholas C. Taylor.

COMMISSIONERS ABSENT: David Montagne.

STAFF PRESENT: Natalie Adelaja, Natalia L. Ashley, Amy Barden, Margie Castellanos, Homer Diaz, Robbie Douglas, Susana Esparza, Ginger Hunter, Brad Johnson, Becky Levy, Bobby Mannas, Mike McElhaney, Trang Nguyen, David A. Reisman, Nadina Rose, Veronica Scott, Tim Sorrells, Ian Steusloff, Patty Williams, and Mary Young.

MINUTES

This meeting was tape 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 tapes on file at the Commission's office.

Agenda Item 1: Call to order; roll call.

The meeting was called to order by Chair Fischer. David A. Reisman, Executive Director, called the roll. All Commissioners were present except for Commissioner Montagne.

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

None.

Agenda Item 3: Comments by the Commissioners.

Commissioner Taylor stated that he spoke to the Comptroller of Public Accounts who is working on uniform accounting procedures. David A. Reisman, Executive Director, stated that he will watch for that information from the Comptroller.

Agenda Item 4: Comments by the executive director.

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

1. Mr. Reisman discussed personnel issues. He introduced the new programmers, Patricia Williams and Trang Nguyen. Mr. Reisman also introduced the new attorney, Natalie Adelaja.
2. Mr. Reisman stated that the lobby registration notices to file would be mailed tomorrow. The January semiannual report notices to file would be going out December 15, 2009. Filers who subscribed to receive notices to file by e-mail will be receiving them by this method.

3. Mr. Reisman discussed the operating budget which was submitted yesterday and is available on the Ethics Commission's website.

Agenda Item 5: Approve minutes of the October 15, 2009, commission meeting, and the October 15, 2009, executive session.

Motion by Commissioner Taylor to adopt the October 15, 2009, commission meeting minutes; second by Commissioner Henderson. Motion passed by a vote of seven ayes.

Agenda Item 11: Public discussion and possible action on the proposal or adoption and publication in the Texas Register of Ethics Commission Rule § 12.57 (Contents of a Complaint), relating to information required to be included in a complaint filed with the Texas Ethics Commission.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Harrison to adopt Agenda Item 11; second by Vice Chair Mendoza. Motion passed by a vote of seven ayes. **The repeal of Ethics Commission Rule § 12.57 is adopted.**

Agenda Item 12: Public discussion and possible action on the proposal or adoption and publication in the Texas Register of Ethics Commission Rules §§ 34.1 (Definitions), 34.5 (Certain Compensation Excluded), 34.46 (Registration under Section 305.0041 of the Government Code), 34.73 (Reporting by Independent Contractor), and 34.75 (Reporting by Commission or Fee Paid by State Agency), relating to lobbyist registration and authorized activities.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Delco to adopt Agenda Item 12; second by Vice Chair Mendoza. Motion passed by a vote of seven ayes. **Ethics Commission Rules §§ 34.1, 34.5, 34.46, 34.73, and 34.75 are adopted.**

Agenda Item 13: Public discussion and possible action on the proposal or adoption and publication in the Texas Register of Ethics Commission Rule § 34.21 (Contingent Fees for Influencing Purchasing Decisions), relating to contingent fees for influencing purchasing decisions.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Henderson to adopt Agenda Item 13; second by Commissioner Graham. Motion passed by a vote of seven ayes. **The repeal of Ethics Commission Rule § 34.21 is adopted.**

Agenda Item 14: Public discussion and possible action on the proposal or adoption and publication in the Texas Register of Ethics Commission Rule § 20.61 (Description of Expenditure), relating to the description of the purpose of an expenditure under Section 254.031 of the Election Code.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Henderson to adopt Agenda Item 14 without subsection (d); second by Vice Chair Mendoza. Motion passed by a vote of seven ayes. **Ethics Commission Rule § 20.61 is adopted without subsection (d).**

Agenda Item 9: AOR-550: The Texas Ethics Commission has been asked whether the contingency fee restrictions in Section 305.022 of the Government Code as amended by House Bill No. 3445 adopted during the regular session of the 81st Legislature are to be applied retroactively.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Delco to adopt AOR-550; second by Commissioner Henderson. Motion passed by a vote of seven ayes. **AOR-550 is adopted.**

Agenda Item 10: AOR-551: The Texas Ethics Commission has been asked whether a communication that a city is considering placing on its website complies with section 255.003 of the Election Code.

Natalia L. Ashley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Harrison to adopt AOR-551; second by Commissioner Graham. Motion passed by a vote of seven ayes. **AOR-551 is adopted.**

Commissioner Wilhelmina Delco left the meeting at 2:31 pm.

For Agenda Item 6, the following represents the actions taken by the Ethics Commission in the order they occurred during the meeting.

Agenda Item 6: Briefing, discussion, and possible action to waive or reduce certain penalties assessed for late filing of campaign finance reports, lobby reports, or personal financial statements.

**2. Carol V. Batterton (00060699)
Lobbyist**

Report: lobby activities report due August 10, 2009
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

Carol V. Batterton spoke before the Commission. Motion by Commissioner Harrison to reduce the late-filing penalty to \$200 on Agenda Item 6, number 2; second by Commissioner Graham. Motion passed by a vote of six ayes on Agenda Item 6, number 2. **The reduction of the late-filing penalty to \$200 is adopted on Agenda Item 6, number 2.**

**9. Andrea Sparks (00065029)
Lobbyist**

Report: lobby activities report due September 10, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Andrea Sparks spoke before the Commission. Motion by Commissioner Graham to reduce the late-filing penalty to \$200 on Agenda Item 6, number 9; second by Commissioner Taylor. Motion passed by a vote of six ayes on Agenda Item 6, number 9. **The reduction of the late-filing penalty to \$200 is adopted on Agenda Item 6, number 9.**

**1. Claudia Russell (00060122)
Lobbyist**

Report: lobby activities report due September 10, 2009
Penalty: \$500
Staff recommendation: waiver of the late-filing penalty

Motion by Commissioner Henderson to adopt staff's recommendation on Agenda Item 6, number 1; second by Vice Chair Mendoza. Motion passed by a vote of six ayes on Agenda Item 6, number 1. **Staff's recommendation is adopted on Agenda Item 6, number 1.**

- 3. Bill Broderick (00023825)**
Chair, Rockwall County Republican Party (P)
- (a.) Report: semiannual political party report due January 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- (b.) Report: semiannual political party report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- Total penalties: \$1,000
- 4. Marcia M. Gilbert (00056027)**
Treasurer, 'ROCKGPAC' Rockwall Republican Executive Committee General Purpose PAC (CEC)
- (a.) Report: semiannual report due January 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- (b.) Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- Total penalties: \$1,000
- 5. Alex J. Cresswell (00063159)**
Candidate, State Representative
- Report: personal financial statement due February 11, 2008
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- 6. Jarvis V. Hollingsworth (00052638)**
Member, University of Houston System Board of Regents
- Report: personal financial statement due September 30, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty
- 7. Ginger K. Martin (00016366)**
Treasurer, Heart of Texas Apartment Assn. PAC
- Report: semiannual report due July 15, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

**8. Alexandra Smoots-Hogan (00061839)
District Judge**

Report: personal financial statement due June 29, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

**10. Virginia 'V.A.' Stephens (00053695)
Lobbyist**

Report: lobby activities report due July 10, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

**11. Samuel D. Wesley (00065246)
Treasurer, KEY PAC**

Report: 30-day pre-election report due October 5, 2009
Penalty: \$500
Staff recommendation: no waiver of the late-filing penalty

Motion by Commissioner Henderson to adopt staff's recommendations on Agenda Item 6, numbers 3 through 8, 10, and 11; second by Vice Chair Mendoza. Motion passed by a vote of six ayes on Agenda Item 6, numbers 3 through 8, 10, and 11. **Staff's recommendations are adopted on Agenda Item 6, numbers 3 through 8, 10, and 11.**

**12. Martin L. 'Marty' Allday, III (00040314)
Lobbyist**

Report: lobby activities report due October 13, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

**13. Michael G. Daniel (00065468)
Treasurer, HR Green PAC**

Report: monthly report due October 5, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

**14. William H. Flores (00055404)
Member, Texas Real Estate Commission**

Report: personal financial statement due June 29, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

15. Chris Newton (00034574)
Lobbyist

Report: lobby activities report due September 10, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

16. Rolando B. Pablos (00057415)
Member, Texas Racing Commission

Report: personal financial statement due June 29, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

17. Claudia Flores Rodas (00056554)
Lobbyist

Report: lobby activities report due September 10, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

18. Frank R. Santos (00057706)
Treasurer, Santos Alliances Political Action Committee

Report: monthly report due September 8, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

19. William Michael Wachel (00055929)
Member, Department of Information Resources

Report: personal financial statement due June 29, 2009
Penalty: \$500
Staff recommendation: reduction of the late-filing penalty to \$250

Agenda Item 6, number 19, is postponed at the filer's request.

Motion by Commissioner Taylor to adopt staff's recommendations on Agenda Item 6, numbers 12 through 18; second by Commissioner Graham. Motion passed by a vote of six ayes on Agenda Item 6, numbers 12 through 18. **Staff's recommendations are adopted on Agenda Item 6, numbers 12 through 18.**

20. Mark A. Smith (00053635)
Lobbyist

Report: lobby activities report due August 10, 2009
Penalty: \$500
Staff recommendation: At the October 2009 meeting, the commission voted to reduce to \$250 the \$500 late-filing penalty.

The reduced late-filing penalty on Agenda Item 6, number 20, stands due to lack of a motion.

Agenda Item 7: Briefing, discussion, and possible action to waive or reduce late-filing penalties in connection with certain corrected reports or to determine whether certain corrected reports as originally filed substantially complied with the applicable law.

**1. David C. Guaderrama (00027108)
Candidate, Court of Appeals Justice**

Report: 8-day pre-election report due February 25, 2008
Penalty: \$10,000
Staff recommendation: that the original report substantially complied with the applicable law

**2. Glenn A. Hegar, Jr. (00051286)
State Senator**

(a.) Report: semiannual report due January 15, 2004
Penalty: \$500
Staff recommendation: that the original report substantially complied with the applicable law

(b.) Report: 30-day pre-election report due February 9, 2004
Penalty: \$250
Staff recommendation: that the original report substantially complied with the applicable law

(c.) Report: 8-day pre-election report due March 1, 2004
Penalty: \$10,000
Staff recommendation: that the original report substantially complied with the applicable law

(d.) Report: semiannual report due July 15, 2004
Penalty: \$10,000
Staff recommendation: that the original report substantially complied with the applicable law

(e.) Report: 30-day pre-election report due October 4, 2004
Penalty: \$500
Staff recommendation: that the original report substantially complied with the applicable law

(f.) Report: 30-day pre-election report due February 6, 2006
Penalty: \$500
Staff recommendation: that the original report substantially complied with the applicable law

(g.) Report: 8-day pre-election report due February 27, 2006
Penalty: \$10,000
Staff recommendation: that the original report substantially complied with the applicable law

(h.) Report: semiannual report due July 17, 2006
Penalty: \$10,000
Staff recommendation: that the original report substantially complied with the applicable law

- (i.) Report: 30-day pre-election report due October 10, 2006
Penalty: \$500
Staff recommendation: that the original report substantially complied with the applicable law
- (j.) Report: semiannual report due January 16, 2007
Penalty: \$10,000
Staff recommendation: that the original report substantially complied with the applicable law
- (k.) Report: semiannual report due July 16, 2007
Penalty: \$500
Staff recommendation: that the original report substantially complied with the applicable law

**3. Zane Teutsch (00057333)
Treasurer, 'SAFFAPAC' San Angelo Firefighters Committee for Responsible Government**

- Report: 8-day pre-election report due October 26, 2009
Penalty: \$500
Staff recommendation: that the original report substantially complied with the applicable law

Motion by Commissioner Taylor to adopt staff's recommendations on Agenda Item 7, numbers 1 through 3; second by Commissioner Henderson. Motion passed by a vote of six ayes on Agenda Item 7, numbers 1 through 3. **Staff's recommendations are adopted on Agenda Item 7, numbers 1 through 3.**

Agenda Item 8. Discussion and possible action regarding the termination of a campaign treasurer appointment for inactive candidates.

Motion by Commissioner Taylor to adopt staff's recommendations on Agenda Item 8; second by Commissioner Harrison. Motion passed by a vote of six ayes on Agenda Item 8. **Staff's recommendations are adopted on Agenda Item 8.**

Agenda Item 15. Presentation of the Nominating Committee report regarding the positions of Chair and Vice Chair of the Texas Ethics Commission. Election of Chair and Vice Chair of the Texas Ethics Commission.

Commissioner Graham nominated Vice Chair Paula M. Mendoza for Chair and Commissioner Nicholas C. Taylor for Vice Chair. Motion by Commissioner Graham to appoint Vice Chair Mendoza as Chair and Commissioner Taylor as Vice Chair; second by Commissioner Henderson. Motion passed by a vote of six ayes.

The next Ethics Commission meeting is tentatively scheduled for February 11, 2010.

Agenda Item 16: Adjourn.

Commission meeting adjourned by unanimous consent.