



TEXAS ETHICS COMMISSION MEETING

Morning Meeting Minutes

August 21, 2014, 10:19 a.m.
Capitol Extension, Room E1.014
Austin, Texas 78701



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

COMMISSIONERS NOT PRESENT: None.

STAFF PRESENT: Natalia L. Ashley, Amy Barden, Margie Castellanos, Homer Diaz, Robbie Douglas, Nick Espinosa, Michelle Griffin, Jessie Haug, Jessica Hurtado, Becky Levy, Bobby Mannas, Mike McElhaney, John Moore, Brooke Perkins, Ian M. Steusloff, and Jim Tinley.

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. He made a brief announcement stating that Agenda Items 4, 5, and 6 will be considered after the first morning break. Natalia Luna Ashley, Executive Director, called the roll. All Commissioners were present.

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

None.

Agenda Item 3: Approve minutes for the following meetings:

- Executive session (Cause No. D-1-GN-14-001252; Empower Texans, Inc. and Michael Quinn Sullivan v. Natalia Luna Ashley) – May 28, 2014;
- Prehearing conference (SC-3120485, SC-3120486, SC-3120487, and SC-3120488 - May 28, 2014;
- Executive session (Personnel Matters: Executive Director) – May 29, 2014;

- AM public meeting – May 29, 2014;
- PM public meeting – May 29, 2014;
- Executive session (Cause No. D-1-GN-14-001252; Empower Texans, Inc. and Michael Quinn Sullivan v. Natalia Luna Ashley) – June 25, 2014; and
- Formal hearing (SC-3120487 and SC-3120488) – June 25, 2014.

Motion by Commissioner Long to approve the meeting minutes listed under agenda item 3; second by Commissioner Delco. **Motion passed by a vote of eight ayes.**

For the remaining Agenda Items 4 through 19, the following represents the actions taken by the Ethics Commission in the order they occurred during the meeting.

Agenda Item 8: Discussion of Opinion Request AOR-587: Question regarding whether a candidate may accept an in-kind political contribution from an out-of-state political committee.

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Motion by Vice Chair Hobby to adopt AOR-587; second by Commissioner Untermeyer. **Motion passed by a vote of eight ayes. AOR-587 is adopted.**

Agenda Item 9: Discussion of Opinion Request AOR-588: Question regarding whether an elected member of a board of a state agency in the executive branch may accept tuition, food, transportation, and lodging provided in connection with a seminar that is relevant to the member's official duties and for which the member does not provide any services.

Chair Clancy stated that this opinion requires more discussion; therefore, he was inclined to appoint a subcommittee to finalize the language of the advisory opinion. He asked Natalia Luna Ashley, Executive Director, to brief the Commission on this agenda item. Chair Clancy, Vice Chair Hobby, and Commissioners Long and Untermeyer responded with questions. Chair Clancy appointed a subcommittee of Commissioner Untermeyer as Chair, and Commissioners Harrison and Delco. He stated that a draft that answers the question should be ready for approval on the October meeting agenda.

Agenda Item 10: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Ethics Commission Rules §§ 18.7 (Timely Reports and Complete Reports) and 20.20 (Timeliness of Action by Electronic Filing) to expressly state that the filing deadline for reports filed electronically with the Commission is midnight Central Time Zone.

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Motion by Commissioner Long to adopt the amendment of sections 18.7 and 20.20 of the Ethics Commission Rules; second by Commissioner Harrison. **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 new Texas Ethics Commission Rule § 20.64 regarding reporting the forgiveness of a loan.

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Vice Chair Hobby responded with comments. Motion by Vice Chair Hobby to adopt new section 20.64 of the Ethics Commission Rules; second by Commissioner Delco. **Motion passed by a vote of eight ayes.**

Agenda Item 12: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rules §§ 20.327 and 20.427 relating to runoff reports filed by political committees.

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Motion by Commissioner Untermeyer to publish for public comment the amendment to Ethics Commission Rules sections 20.327 and 20.427; second by Commissioner Akin. **Motion passed by a vote of eight ayes.**

Agenda Item 13: Discussion and possible action on the Texas Ethics Commission Strategic Plan for Fiscal Years 2015 – 2019.

Chair Clancy discussed this agenda item. Vice Chair Hobby, Commissioner Untermeyer, and Chair Clancy responded with comments. Natalia Luna Ashley, Executive Director, and Mike McElhaney, Chief Financial Officer and Director of Administration, responded. The Chair entertained a motion that the Executive Director make the discussed changes to audits and training in the Strategic Plan and then submit it as required. Motion by Commissioner Harrison; second by Commissioner Akin. **Motion passed by a vote of eight ayes.**

Agenda Item 14: Discussion and possible action on the Texas Ethics Commission Legislative Appropriation Request for Fiscal Years 2016 and 2017.

Vice Chair Hobby and Commissioner Harrison had comments. Natalia Luna Ashley, Executive Director, responded. Motion by Commissioner Delco to approve the Legislative Appropriation Request for fiscal years 2016 and 2017; second by Commissioner Harrison. **Motion passed by a vote of eight ayes.**

Agenda Item 15: Appointment of Committee of Commissioners to consider recommendations for statutory changes to the 84th Legislature as required by section 571.073 of the Government Code.

Chair Clancy appointed a subcommittee of Commissioners to consider recommendations for statutory changes to the 84th Legislature. He appointed Vice Chair Hobby (Chair), and Commissioners Untermeyer, Harrison, and Akin. He instructed the subcommittee to have their suggested changes submitted so they can be on the agenda not later than the December meeting.

Agenda Item 16: Appointment of Nominating Committee of Commissioners for the positions of Chair and Vice Chair of the Texas Ethics Commission.

Chair Clancy appointed a committee of Commissioners to nominate the Chair and Vice Chair for 2015. Appointed were Commissioners Akin (Chair), Harrison, Long, and Ramsay. Chair Clancy instructed them to be prepared to report at the next Commission meeting.

Recessed at 11:15 a.m. Reconvened at 11:32 a.m.

Agenda Item 4: Comments by the Commissioners.

Chair Clancy read the statement adopted by the Commission on August 20, 2014, regarding the recent U.S. Fifth Circuit Court of Appeals ruling in Catholic Leadership Coalition of Texas, ET AL. Chair Clancy, Vice Chair Hobby, and Commissioner Harrison commented on the issue of transparency and disclosure.

Agenda Item 5: Discussion of Opinion Request AOR-586: Whether a nonprofit organization that plans to make direct campaign expenditures from its general treasury funds to expressly advocate for the election or defeat of clearly identified candidates for state and local offices in Texas is required to appoint a campaign treasurer as a political committee.

Ian Steusloff, Assistant General Counsel, briefed the Commission on this agenda item. Chair Clancy and Commissioners Untermeyer and Ramsay had comments. Motion by Commissioner Akin to adopt AOR-586; second by Commissioner Ramsay. **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 construing the definition of political committee so that grass roots participants that do not have as a principal purpose accepting political contributions or making political expenditures are not subject to disclosure requirements.

Chair Clancy, Vice Chair Hobby, and Commissioners Untermeyer, Ramsay, Akin, and Harrison had comments. Natalia Luna Ashley, Executive Director, and Ian Steusloff, Assistant General Counsel, briefed the Commission on this agenda item. The Commissioners' comments were incorporated into the draft of the proposed rule. Motion by Commissioner Harrison to publish for public comment Texas Ethics Commission rule § 20.1(19); second by Commissioner Akin. **Motion passed by a vote of eight ayes.**

Agenda Item 7: Public discussion and possible action on the proposal and publication in the Texas Register of a rule defining the phrase “acting in concert” for purposes of Election Code § 254.261 (Direct Campaign Expenditure Exceeding \$100).

Chair Clancy and Commissioners Akin, Untermeyer, Long, and Delco had comments. The Commissioners’ comments were incorporated into the draft of the proposed rule. Motion by Commissioner Akin to publish for public comment Texas Ethics Commission Rule § 22.6; second by Commissioner Delco. **Motion passed by a vote of eight ayes.**

Agenda Item 17: Comments by Executive Director.

Natalia Luna Ashley, Executive Director, thanked Mike McElhaney and Jessie Haug for all their hard work on the Legislative Appropriation Request and the Strategic Plan.

Ms. Ashley introduced two new staff members – Brooke Perkins, legal assistant, and Michelle Griffin, attorney.

Ms. Ashley stated that staff recently sent the Customer Service Survey by email to approximately 5,000 Ethics Commission filers. She stated that 705 responses were received, which is a higher percentage of responses than in the past. She stated that having the email addresses of the filers has made corresponding and communicating with them much easier. She added that overall the responses were very positive across all service areas with 79% of the participants scoring the assistance that staff provides as either “above average” or “excellent.” Useful feedback on the website was received, so those comments will be incorporated into the website in the future. Comments were also received regarding the filing of the personal financial statement, and staff thinks that the electronic filing software will address some of those issues. The results of the survey were submitted as required to the Legislative Budget Board and others. She stated that if any of the Commissioners wanted a copy, she could email one to them.

Ms. Ashley addressed the educational and outreach programs, stating that a symposium is scheduled for November 14, 2014, in Denton, Texas. She invited any Commissioners who were available to attend the symposium. Administrators with North Texas State University will be helping with the symposium. The agenda for the symposium should be created within the next couple of weeks, and as soon as it is, she will reach out to the Commissioners to see if they have any input into the agenda.

Ms. Ashley noted that staff will participate in the Texas Municipal League conference and other conferences in the fall, in addition to the symposium in Denton.

Ms. Ashley stated that the lawyers have been brainstorming regarding the most commonly asked questions received from the filers and areas in which callers are having the most problems at a given time, and recently a “Frequently Asked Questions for New Filers” section was created and posted on our website under the “Hot Topics” section. There is also a frequently asked questions section for filers who are trying to end their filing obligations once they are done with a campaign. Staff has received positive feedback on these areas and will continue to look at it based on the type of calls received.

Agenda Item 18: Comments by the Commissioners.

Chair Clancy commented on the *NCAAP v. Alabama* case and stated that it is not a campaign finance case. He stated that if disclosure is in fact the Commission's goal, he feels that the Commission has made great strides in that today, and he appreciates the service of each of the other Commissioners in accomplishing that very important goal.

Commissioner Ramsay commented that he is very impressed with Chair Clancy over the two years he has been Chair, and with Vice Chair Hobby and Commissioner Harrison, and all of the other Commissioners. He stated that he looked forward to Chair Clancy's ideal being completed this year and that he is happy to be part of the process.

Agenda Item 19: Adjourn.

Motion by Commissioner Delco to adjourn; second by Commissioner Akin. **Motion passed by unanimous consent.**