



## TEXAS ETHICS COMMISSION MEETING MINUTES

### Public Meeting Minutes

October 5, 2015, 9:30 a.m.

Capitol Extension, Room E1.014

Austin, Texas 78701



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

**COMMISSIONERS NOT PRESENT:** None.

**STAFF PRESENT:** Anitra Abdullah-Levy, Natalia Luna Ashley, Amy Barden, Margie Castellanos, Robbie Douglas, Katie Drummond, Nick Espinosa, Jessie Haug, Jessica Hurtado, Becky Levy, Bobby Mannas, Mike McElhaney, John Moore, Patti Shannon, Ian M. Steusloff, and Jim Tinley.

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## 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 Hobby. Natalia Luna Ashley, Executive Director, called the roll. All Commissioners were present.

**For the remaining Agenda Items 2 through 26, the following represents the actions taken by the Commission in the order they occurred during the meeting.**

### **Agenda Item 4: Approve minutes for the following meetings:**

- Executive session (personnel) – August 7, 2015;
- Executive session (discussion of pending lawsuits) – August 7, 2015; and
- AM Public Meeting – August 7, 2015.

Motion by Commissioner Ramsay to approve the meeting minutes listed under Agenda Item 4; second by Commissioner Harrison. **Motion passed by a vote of eight ayes.**

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

Joe Nixon, representing Empower Texans, Inc., and Trey Trainor spoke before the Commission. Mr. Nixon gave the Commission a handout.

**Agenda Item 3: Comments by Commissioners.**

Chair Hobby and Commissioner Clancy addressed the Commission.

**Agenda Item 5: Briefing, discussion, and possible action on the new Electronic Filing Application, including status of Lobby and Personal Financial Statement applications and making the new electronic filing codes available to Texas political subdivisions.**

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. The new Electronic Filing Application for lobby activity and personal financial statement reporting became available on September 14, 2015. Training for lobbyists was given by commission personnel at a Professional Advocacy Association of Texas (PAAT) conference and two other training sessions. Two more training sessions for lobbyists are scheduled for later in the week. Ms. Ashley also described the draft of the Interlocal Cooperation Contract. Chair Hobby and Commissioner Harrison responded with questions and comments. No action was taken.

**Agenda Item 6: Discussion and possible action on the approval of a format for electronic filing of campaign finance reports, as proposed by Travis County.**

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Ron Morgan, Chief Deputy with the Travis County Clerk's office, appeared as a resource witness. Chair Hobby and Commissioner Harrison responded with questions and comments. Motion by Commissioner Delco to approve the "Proposed Travis County Campaign Finance Report Electronic Uploading" system; second by Commissioner Long. **Motion passed by a vote of eight ayes.**

**Chair Hobby was off the dais briefly during Agenda Item 7. Commissioner Ramsay left the dais during Agenda Item 7.**

**Agenda Item 7: Public discussion and possible action on rules and form required to be adopted by the Commission in accordance with House Bill 1295, 84th Legislative Session, 2015.**

Commissioner Clancy briefed the Commission on this agenda item. Chair Hobby, Vice Chair Untermeyer, and Commissioners Delco and Harrison responded with questions and comments. Motion by Commissioner Clancy to post the proposed new Texas Ethics Commission Rules, Chapter 46, in the Texas Register for public comment; second by Commissioner Harrison. **Motion passed by a vote of seven ayes.** Motion by Commissioner Clancy to adopt Form 1295 (Certificates of Interested Parties); second by Commissioner Long. **Motion passed by a vote of seven ayes.**

**Commissioner Ramsay returned to the dais during Agenda Item 8.**

**Agenda Item 8: Public discussion and possible action on an amendment to forms adopted by the Commission in accordance with House Bill 23, 84th Legislative Session, 2015.**

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Motion by Vice Chair Untermeyer to post the updated Forms CIQ and CIS on the Commission's website for public comment; second by Commissioner Delco. **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 Texas Ethics Commission Rules § 34.5, relating to lobby registration requirements.**

Ian M. Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Hobby responded with comments. Motion by Commissioner Ramsay to adopt the amendment to Texas Ethics Commission Rule § 34.5; second by Vice Chair Untermeyer. **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 an amendment to Texas Ethics Commission Rules § 20.1 (Definitions), adding a definition for “In Connection with a Campaign”, for purposes of Election Code § 251.001(7), relating to the definition of campaign expenditure.**

Ian M. Steusloff, General Counsel, briefed the Commission on this agenda item. Mr. Steusloff discussed the written comments received by Texas Right to Life and the Center for Competitive Politics. Chair Hobby responded with questions and comments. Motion by Commissioner Clancy to adopt the amendment to Texas Ethics Commission Rules § 20.1, to add a definition for “In Connection with a Campaign;” second by Vice Chair Untermeyer. **Motion passed by a vote of eight ayes.**

**Chair Hobby and Commissioner Ramsay were off the dais briefly during Agenda Item 11.**

**Agenda Item 11: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 20.1(20), amending the definition of “principal purpose,” for purposes of Title 15 of the Election Code.**

Commissioner Clancy briefed the Commission on this agenda item. Andrew Grossman, representing the Texas Home School Coalition Association, Joe Nixon, representing Empower Texans, Inc., and Trey Trainor spoke before the Commission. Mr. Grossman and Mr. Nixon each gave the Commission a handout. Chair Hobby, Vice Chair Untermeyer, Commissioner Clancy and Ian M. Steusloff, General Counsel, responded with questions and comments. Motion by Commissioner Clancy to re-post an amendment to Texas Ethics Commission Rules § 20.1(20), as amended, in the Texas Register for public comment; second by Commission Delco. **Motion passed by a vote of eight ayes.**

**Agenda Item 12: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 20.1 (Definitions), adding a definition for “discount,” and new Texas Ethics Commission Rules § 20.66, related to Reporting a Discount, for purposes of Title 15 of the Election Code.**

Chair Hobby and Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Two different options, Texas Ethics Commission Rules §§ 20.1(22) and 20.66, were presented to the Commission. Vice Chair Untermeyer responded with a question. Motion by Commissioner Akin to adopt both Texas Ethics Commission Rules §§ 20.1(22) and 20.66; second by Commissioner Harrison. **Motion passed by a vote of eight ayes.**

**Agenda Item 13: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 20.409(d), relating to the name of a general-purpose committee.**

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Motion by Commissioner Long to post an amendment to Texas Ethics Commission Rules § 20.409(d) in the Texas Register for public comment; second by Commissioner Akin. **Motion passed by a vote of eight ayes.**

**Agenda Item 14: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 34.91, relating to exemptions for the electronic filing of lobby reports.**

Chair Hobby briefed the Commission on this agenda item. Natalia Luna Ashley, Executive Director, responded to a question by Chair Hobby. Motion by Vice Chair Untermeyer to post an amendment to Texas Ethics Commission Rules § 34.91 in the Texas Register for public comment; second by Commissioner Harrison. **Motion passed by a vote of eight ayes.**

**Commissioner Long left the dais during Agenda Item 15.**

**Agenda Item 15: Discussion of Advisory Opinion Request No. AOR-601: Regarding whether a public servant commits an offense if she accepts a benefit from a person who the public servant has no reason to believe is subject to regulation, inspection, or investigation by the public servant or her agency and who informs the public servant that the person is not subject to the regulation, inspection, or investigation of the public servant or her agency.**

Chair Hobby and Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Motion by Chair Hobby to table this agenda item until the next Commission meeting, to give the requestor time to submit additional information; second by Commissioner Delco. **Motion passed by a vote of seven ayes.**

**Agenda Item 16: Discussion of Advisory Opinion Request No. AOR-603: Regarding whether a judicial candidate or officeholder may receive free legal services from an attorney to defend a defamation lawsuit arising from the candidate's or officeholder's activities as a candidate, and whether a judicial candidate may be represented by an attorney on a contingent fee basis to prosecute and pursue a defamation lawsuit arising from the candidate's activities as a candidate.**

Chair Hobby tabled this agenda item without a motion.

**Commissioner Long returned to the dais during Agenda Item 17.**

**Agenda Item 17: Discussion of Advisory Opinion Request No. AOR-602: Regarding whether a city officeholder may distribute political advertising on certain letterhead that contains a logo and a slogan that were designed in part with the city's public funds.**

Chair Hobby briefed the Commission on this agenda item. Vice Chair Untermeyer, Natalia Luna Ashley, Executive Director, and Ian M. Steusloff, General Counsel, responded with comments. Motion by Commissioner Akin to adopt AOR-602 without changes; second by Commissioner Long. Motion passed by a vote of eight ayes. **AOR-602 is adopted.**

**Agenda Item 18: Discussion of Advisory Opinion Request No. AOR-604: Regarding whether a communication relating to a measure election complies with Section 255.003 of the Election Code.**

Chair Hobby briefed the Commission on this agenda item. Natalia Luna Ashley, Executive Director, responded to a question by Chair Hobby. Motion by Commissioner Delco to adopt AOR-604 without changes; second by Commissioner Harrison. Motion passed by a vote of eight ayes. **AOR-604 is adopted.**

**Lunch break, at 12:01 p.m.; reconvened at 12:50 p.m.**

**Agenda Item 19: Briefing, discussion, and possible action to waive or reduce certain penalties assessed for campaign finance reports filed late due to issues with the new electronic filing application for the following individuals:**

**1. Javier Olguin (00068813)  
Treasurer, 'SDPAC' Southeast Dallas Political Action Committee**

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

**2. Rolando Gutierrez (00062485)  
State Representative**

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

**3. Brian Houston (00025141)  
Treasurer, El Paso Sheriff's Officers Assn., Inc.**

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

Chair Hobby and Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Motion by Commissioner Long to accept staff's recommendations to waive the late-filing penalty on Agenda Item 19, numbers 1 through 3; second by Vice Chair Untermeyer. **Motion to waive the late-filing penalty on Agenda Item 19, numbers 1 through 3 passed by a vote of eight ayes.**

**Agenda Item 20: Briefing, discussion, and possible action on appeals to determinations made under Texas Ethics Commission Rules §§ 18.25 and 18.26 relating to administrative waiver or reduction of a fine, for the following individuals:**

**Items under Agenda Item 20 are listed in the order they were heard.****3. Leticia M. Caballero (00052906)  
Lobbyist**

Report:lobby activities report due November 10, 2014

Penalty: \$500 – reduction to \$100; reverted to \$500

Recommendation: **Reduction back to \$100 (based on additional information)**

Appeal Received: September 2, 2015

**4. Marc H. Burns (00022157)  
Lobbyist**

Report:lobby activities report due October 10, 2014

Penalty: \$500 – reduction to \$100; reverted to \$500

Recommendation: **Reduction back to \$100 (based on additional information)**

Appeal Received: July 30, 2015

**7. Richard N. 'Dick' Abrams (00057553)  
Treasurer, Tarrant County Stonewall Democrats – PAC**

Report:8-day pre-election report due October 27, 2014

Penalty: \$2,100 – reduction to \$300

Recommendation: **Waiver (based on additional information)**

Appeal Received: August 4, 2015

Amy Barden, Senior Legal Assistant, briefed the Commission on these agenda items. Motion by Commissioner Akin to accept staff's recommendation on Agenda Item 20, numbers 3, 4, and 7; second by Commissioner Clancy. **Motion to approve staff's recommendation on Agenda Item 20, numbers 3, 4, and 7 passed by a vote of eight ayes.**

**9. Fidencio M. Guerra, Jr. (00020289)  
Candidate, District Judge**

a) Report: 30-day pre-election report due February 3, 2014

Penalty: \$500

b) Report: 8-day pre-election report due February 24, 2014

Penalty: \$800

c) Report: runoff report due May 19, 2014

Penalty: \$500 (no waiver at the August 2014 meeting)

d) Report: semiannual report due July 15, 2014

Penalty: \$4,700 (no waiver at the December 2014 meeting)

Penalty Total: \$6,500 total – no waiver

Recommendation: None

Appeal Received: August 17, 2015

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Judge Guerra addressed the Commission. Motion by Commissioner Delco to waive the penalties on Agenda Item 20, number 9; second by Commissioner Clancy. **Motion to waive all penalties on Agenda Item 20, number 9 passed by a vote of eight ayes.**

**1. Melvin K. 'Kent' Sims (00021043)**  
**Senior Judge**

Report:personal financial statement due April 30, 2015

Penalty: \$500 – reduction to \$300

Recommendation: None

Appeal Received: July 31, 2015

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Motion by Commissioner Akin to waive the penalty on Agenda Item 20, number 1; second by Commissioner Harrison. **Motion to waive the penalty on Agenda Item 20, number 1 passed by a vote of eight ayes.**

**2. Mark H. Benavides (00069681)**  
**Candidate, District Judge**

Report:semiannual report due January 15, 2015

Penalty: \$500 – no waiver

Recommendation: None

Appeal Received: September 2, 2015

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Commissioner Harrison responded with a question and comments. Motion by Commissioner Long to reduce the penalty to \$250 on Agenda Item 20, number 2; second by Vice Chair Untermeyer. **Motion to reduce the penalty to \$250 on Agenda Item 20, number 2 passed by a vote of seven ayes (Commissioner Harrison voted no).**

**5. Cole H. Ballweg (00069717)**  
**Candidate, State Representative**

Report:semiannual report due January 15, 2015

Penalty: \$1,500 – reduction to \$1,150 (rules determination affirmed by the Commission upon appeal at August 2015 meeting)

Recommendation: None

Appeal Received: August 20, 2015

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Motion by Vice Chair Untermeyer to reduce the penalty to \$250 on Agenda Item 20, number 5; second by Commissioner Long. **Motion to reduce the penalty to \$250 on Agenda Item 20, number 5 passed by a vote of five ayes (Commissioners Akin, Harrison and Ramsay voted no).**

**6. Christopher 'Chris' Carmona (00069682)  
Candidate, State Representative**

Report: semiannual report due January 15, 2015  
Penalty: \$10,000 – reduction to \$3,150  
Recommendation: None  
Appeal Received: September 3, 2015

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Commissioner Harrison responded with a question. Motion by Chair Hobby to reduce the penalty to \$500 if paid within 30 days, and if not, the reduced penalty will increase to \$3,150 on Agenda Item 20, number 6; second by Commissioner Long. **Motion to reduce the penalty to \$500 if paid within 30 days, and if not, the reduced penalty will increase to \$3,150 on Agenda Item 20, number 6 passed by a vote of eight ayes.**

**8. Marquis C. Williams (00059802)  
Treasurer, 'BCDP' Bexar County Democratic Party (CEC)**

Report: daily special pre-election report of contributions due October 28, 2014  
Penalty: \$500 – reduction to \$400  
Recommendation: None  
Appeal Received: August 25, 2015

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Mr. Williams addressed the Commission. Commissioner Harrison and Natalia Luna Ashley, Executive Director, responded with questions and comments. Motion by Commissioner Harrison to waive the penalty on Agenda Item 20, number 8; second by Commissioner Delco. **Motion to waive the penalty on Agenda Item 20, number 8 passed by a vote of eight ayes.**

**Agenda Item 21: 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 for the following persons:**

**Items under Agenda Item 21 are listed in the order they were heard.**

**4. Stephanie N. Mitchell (00068781)  
District Judge**

Report: 8-day pre-election report due October 27, 2014  
Penalty: \$10,000  
Recommendation: Reduction to \$1,000

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Judge Mitchell addressed the Commission. Commissioners Harrison and Ramsay responded with questions. Motion by Commissioner Harrison to waive the penalty on Agenda Item 21, number 4; second by Commissioner Ramsay. **Motion to waive the penalty on Agenda Item 21, number 4 passed by a vote of eight ayes.**



**5. Carolyn Cerny Bilski (00070518)  
Candidate, State Representative**

Report: 8-day pre-election report due January 5, 2015  
Penalty: \$2,800  
Recommendation: Reduction to \$1,000

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Ms. Bilski addressed the Commission. Motion by Chair Hobby to waive the penalty on Agenda Item 21, number 5; second by Commissioner Harrison. **Motion to waive the penalty on Agenda Item 21, number 5 passed by a vote of eight ayes.**

**Commissioner Clancy commented on the Texas Ethics Commission sentencing guidelines. Chair Hobby responded with comments.**

**2. Mark Rubalcava (00065580)  
Treasurer, 'TOPP' Texans Opposed to Professional Politicians**

Report: daily special pre-election report of direct expenditures due June 12, 2015  
Penalty: \$500  
Recommendation: Reduction to \$500

**3. Alexander A. McLean, III (00053592)  
Treasurer, 'WACPAC' World Acceptance Corporation Political Action Committee**

Report: 8-day pre-election report due October 27, 2014  
Penalty: \$8,400  
Recommendation: Reduction to \$500

**6. Hubert Vo (00054795)  
State Representative**

Report: 8-day pre-election report due October 27, 2014  
Penalty: \$8,400  
Recommendation: Reduction to \$1,100

**7. Meredith Leshner (00069660)  
Treasurer, 'Concho PAC' Concho Resources Inc PAC**

Report: 8-day pre-election report due October 27, 2014  
Penalty: \$9,700  
Recommendation: Reduction to \$1,100

**8. Randy Cain (00056637)  
Treasurer, Texans for Joe Straus**

Report: daily special pre-election report of contributions due October 28, 2014  
Penalty: \$500  
Recommendation: No waiver

Amy Barden, Senior Legal Assistant, briefed the Commission on these agenda items. Motion by Commissioner Akin to accept staff recommendations on Agenda Item 21, number 2, 3, 6, 7, and 8; second by Commissioner Long. **Motion to accept staff recommendations on Agenda Item 21, numbers 2, 3, 6, and 7 passed by a vote of eight ayes. Motion to accept staff recommendations on Agenda Item 21, number 8 passed by a vote of seven ayes (Vice Chair Untermeyer recused himself).**

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

Report: 8-day pre-election report due May 1, 2015  
Penalty: \$900  
Recommendation: Reduction to \$500

Chair Hobby and Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Vice Chair Untermeyer and Commissioner Long responded with comments. Motion by Vice Chair Untermeyer to reduce the penalty to \$500 on Agenda Item 21, number 1; second by Commissioner Clancy. **Motion to reduce the penalty to \$500 on Agenda Item 21, number 1 passed by a vote of eight ayes.**

**Agenda Item 22: Reports more than 30 days late: Discussion and possible action regarding the imposition of an additional fine on the following individuals:**

**Candidates/Officeholders**

Judy W. LeUnes (00067645)  
Dexter Smith (00067878)  
Shawn D. Stevens (00065809)

**Political Committees**

Mike W. Bush, Treasurer, Coalition for Financial Freedom (00068754)  
R.E. Price, Treasurer, Texas Alliance for Good Government (PAC) (00066889)  
Emran Gazi, Treasurer, Bangladeshi American Political Action Committee (00070331)  
Kathy C. Flores, Treasurer, Lubbock Tejano Democrats (00070369)

**Personal Financial Statements**

Neissa Brown-Springman (00070405)  
Hope L. Knight (00070580)  
Etienne H. Nguyen (00067416)

Chair Hobby briefed the Commission on this agenda item. Natalia Luna Ashley, Executive Director, responded to a question by Commissioner Harrison. Motion by Vice Chair Untermeyer to accept staff recommendations on Agenda Item 22, which would increase the penalty in all cases to \$1,500; second by Commissioner Akin. **Motion to accept staff recommendations on Agenda Item 22, which would increase the penalty in all cases to \$1,500, passed by a vote of eight ayes.**

**Commissioner Ramsay left the dais during Agenda Item 24.**

**Agenda Item 24: Discussion and possible action on a survey regarding campaign finance disclosure sent to independent school districts that held an election in May 2015.**

Chair Hobby briefed the Commission on this agenda item. Chair Hobby, Vice Chair Untermeyer, Commissioners Clancy and Harrison, and Natalia Luna Ashley, Executive Director, responded with questions and comments. No action taken.

**Agenda Item 23: Appointment of a Nominating Committee of Commissioners for the positions of Chair and Vice Chair of the Texas Ethics Commission.**

Chair Hobby briefed the Commission on this agenda item. Vice Chair Untermeyer, Commissioner Long, and Natalia Luna Ashley, Executive Director, responded with comments. A nominating committee of Commissioners Delco, Long and Ramsay was appointed.

**Commissioner Ramsay returned to the dais during Agenda Item 25.**

**Agenda Item 25: Comments by the Executive Director.**

Natalia Luna Ashley, Executive Director, addressed the Commission. The Commission's mission to educate continues. Several Commission staff have made presentations throughout the Austin area recently, which will continue in the fall. Future conventions are planned by the Commission in 2016 throughout the state. Current expectations are to hold a symposium in San Antonio in January and an additional symposium mid-year at a different location. The Commission's Electronic Filing System Application will be showcased at the annual Council on Governmental Ethics Laws (COGEL) conference. Visitors from Colombia also came recently to learn about the system and will be reporting back to their country. The system is not ready for sharing with other political subdivisions yet. Michael McElhaney, Chief Financial Officer and Director of Administration, will be retiring effective November 30, 2015.

**Agenda Item 26: Adjourn.**

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

**Meeting adjourned at 2:08 p.m.**