



TEXAS ETHICS COMMISSION MEETING MINUTES

Public Agenda

December 8, 2016, 10:58 a.m.
Capitol Extension, Room E1.014
Austin, Texas 78701



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

COMMISSIONERS NOT PRESENT: None.

STAFF PRESENT: Anitra Abdullah-Levy, Allicia 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 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 except Commissioner Delco.

From this point forward, the minutes represent the order in which the agenda items were considered by the Commission during the meeting.

Commissioner Delco arrived during this agenda item.

Agenda Item 5: Presentation of Outstanding Performance of Duty Certificates to Paul Hobby, Tom Harrison, and Natalia Luna Ashley.

Chair Untermeyer presented an Outstanding Performance of Duty certificate to Paul Hobby. Mr. Hobby addressed the Commission.

Agenda Item 2: Comments by the Executive Director.

Natalia Luna Ashley, Executive Director, addressed the Commission. Ms. Ashley thanked Mr. Hobby for his service. Ms. Ashley thanked Commission staff. Ms. Ashley announced that she

will be retiring at the end of the year. The Commission is planning half-day training sessions in January 2017, two in Austin and one in Corpus Christi contingent on the number of registrants. The Commission is tracking legislation already filed for the 2017 legislative session; bills affecting the Commission are posted on the website. Commission staff is designing a new look for the website, which will be revealed sometime in the near future. Chair Untermeyer thanked Ms. Ashley for her service.

Agenda Item 3: Comments by the Commissioners.

None.

Agenda Item 4: Approve minutes for the following meetings:

- Executive Session (discussion of pending litigation) – October 13, 2016;
- Pre-Hearing Conference – October 13, 2016;
- Executive Session (discussion of pending litigation) – October 14, 2016;
- Public Meeting – October 14, 2016; and
- Pre-Hearing Conference – October 14, 2016.

Motion by Vice Chair Wolens to approve the meeting minutes listed under Agenda Item 4; second by Commissioner Delco. **Motions passed by a vote of eight ayes.**

Chair Untermeyer was off the dais briefly during this agenda item.

Agenda Item 6: Discussion about the Commission Presentation at the House General Investigating and Ethics Committee Hearing.

Commissioner Clancy gave a PowerPoint presentation to the Commission on this agenda item. Chair Untermeyer and Vice Chair Wolens responded with comments. No action was taken.

Agenda Item 7: Discussion about the Commission's responsibilities under Article III, Section 24a of the Texas Constitution, including possible action on the adoption or 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 by the Commission.

Chair Untermeyer briefed the Commission on this agenda item and read a December 6, 2016, letter from Lt. Gov. Patrick, Speaker Straus, Senator Hancock and Representative Geren, in its entirety. Vice Chair Wolens responded with questions and comments. Motion by Vice Chair Wolens to leave the legislative per diem at \$190 and make no changes to Texas Ethics Commission Rules § 50.1; second by Commissioner Craycraft. **Motion to leave the legislative**

per diem at \$190 and make no changes to Texas Ethics Commission Rules § 50.1 passed by a vote of seven ayes (Commissioner Delco voted no).

Agenda Item 8: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of new Ethics Commission Rules § 46.4, 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.

Chair Untermeyer and Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Ian Steusloff, General Counsel, discussed two public comments received. Motion by Commissioner Clancy to adopt new Ethics Commission Rules § 46.4; second by Vice Chair Wolens. **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 § 20.50 (Total Political Contributions Maintained), regarding the requirement that a campaign finance report include the total amount of political contributions maintained at the end of the reporting period.

Chair Untermeyer briefed the Commission on this agenda item. Motion by Vice Chair Wolens to adopt an amendment to Ethics Commission Rules § 20.50; second by Commissioner Clancy. **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 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.

Chair Untermeyer briefed the Commission on this agenda item. Motion by Commissioner Clancy to adopt an amendment to Ethics Commission Rules § 26.1; second by Commissioner Ramsay. **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 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.

Chair Untermeyer briefed the Commission on this agenda item. Commissioner Clancy, Natalia Luna Ashley, Executive Director, and Ian Steusloff, General Counsel, responded with questions and comments. Motion by Commissioner Clancy to adopt an amendment to Ethics Commission Rules § 34.43; second by Commissioner Delco. **Motion passed by a vote of eight ayes.**

Agenda Item 12: Discussion of Advisory Opinion Request No. 616: Whether certain newsletters published by a city officer or employee would constitute political advertising for purposes of section 255.003 of the Election Code.

Ian Steusloff, General Counsel, stated that AOR-616 was withdrawn by the requestor. No action was taken.

Vice Chair Wolens was off the dais briefly during this agenda item.

Agenda Item 13: Discussion of Advisory Opinion Request No. 617: Whether a television program produced with city resources, broadcast on a city-owned cable channel, and hosted by a city council member constitutes political advertising.

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. An alternative draft of the opinion was distributed. Chair Untermeyer, Vice Chair Wolens, Commissioner Delco and Mr. Steusloff responded with questions and comments. No action was taken.

Agenda Item 14: Discussion of Advisory Opinion Request No. 618: Application of section 255.003 of the Election Code to the use of political subdivision facilities for a debate forum and for distributing campaign materials.

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

Commissioner Akin was off the dais briefly during this agenda item.

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 individuals and political committees:

**32. Terence J. 'Terry' Breen (80450)
Candidate, District Attorney**

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

Penalty: \$10,000

Recommendation based on Commission Guidelines: Reduction to \$500.

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Vice Chair Wolens, Commissioner Craycraft and Ms. Barden responded with questions and comments. Mr. Breen addressed the Commission. Motion by Commissioner Craycraft to waive the penalty on Agenda Item 15, number 32; second by Commissioner Akin. **Motion to waive the penalty on Agenda Item 15, number 32, passed by a vote of eight ayes.**

**1. Julie Countiss (80055)
Candidate, District Judge**

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

Penalty: \$500

Recommendation based on Commission Guidelines: Substantial Compliance.

**2. Jaime Esparza (21145)
District Attorney**

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

Penalty: \$500

Recommendation based on Commission Guidelines: Substantial Compliance.

**3. Raymond G. 'Ray' Wheless (23298)
District Judge**

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

Penalty: \$500

Recommendation based on Commission Guidelines: Substantial Compliance.

**4. John N. Raney (67602)
State Representative**

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

Penalty: \$600

Recommendation based on Commission Guidelines: Substantial Compliance.

5. Cecilia Wallace (59760)
Treasurer, 'TDA-PAC' Texas Deer Association Political Action Committee

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

Penalty: \$600

Recommendation based on Commission Guidelines: Substantial Compliance.

6. David L. Watts, Jr. (69332)
Candidate, State Representative

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

Penalty: \$600

Recommendation based on Commission Guidelines: Substantial Compliance.

7. John H. Best (80132)
District Attorney

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

Penalty: \$600

Recommendation based on Commission Guidelines: Substantial Compliance.

8. Joshua A. Estes (80407)
Candidate, District Judge

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

Penalty: \$800

Recommendation based on Commission Guidelines: Substantial Compliance.

9. Susan R. Davis (66458)
Treasurer, West Pearland Republican Women

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

Penalty: \$900

Recommendation based on Commission Guidelines: Substantial Compliance.

10. Richard A. 'Rick' Green, Jr. (36491)
Candidate, Supreme Court Justice

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

Penalty: \$900

Recommendation based on Commission Guidelines: Substantial Compliance.

11. D. Wayne Garrett (68205)
Treasurer, 'CINC' Citizens To Improve Navarro County

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

Penalty: \$1,000

Recommendation based on Commission Guidelines: Substantial Compliance.

12. Kenneth L. 'Ken' Vaughn (80611)**Treasurer, 'MCTP PAC' Montgomery County Tea Party PAC**

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

Penalty: \$1,000

Recommendation based on Commission Guidelines: Substantial Compliance.

13. Carol Miller (33911)**Treasurer, 'LCARW PAC' Lake Conroe Area Republican Women PAC**

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

Penalty: \$1,100

Recommendation based on Commission Guidelines: Substantial Compliance.

14. Mary Colchin Johndroe (80500)**Candidate, Court of Appeals Justice**

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

Penalty: \$1,500

Recommendation based on Commission Guidelines: Substantial Compliance.

15. Byron E. Miller (38405)**Candidate, State Representative**

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

Penalty: \$2,600

Recommendation based on Commission Guidelines: Substantial Compliance.

16. Snapper Carr (66520)**Treasurer, 'FA PAC' Focused Advocacy Political Action Committee (PAC)**

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

Penalty: \$4,700

Recommendation based on Commission Guidelines: Substantial Compliance.

17. Ana R. Boisselier (16999)**Treasurer, El Paso Electric Company Employee PAC**

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

Penalty: \$5,600

Recommendation based on Commission Guidelines: Substantial Compliance.

18. Charles R. Kimbrough (80396)**Candidate, District Judge**

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

Penalty: \$6,600

Recommendation based on Commission Guidelines: Substantial Compliance.

19. Christopher S. 'Chris' Shields (16365)
Treasurer, Ag Air PAC

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

Penalty: \$8,300

Recommendation based on Commission Guidelines: Substantial Compliance.

20. Sandra Blankenship (80129)
Candidate, State Representative

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

Penalty: \$10,000

Recommendation based on Commission Guidelines: Substantial Compliance.

21. Hugh D. Shine (26513)
Candidate, State Representative

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

Penalty: \$10,000

Recommendation based on Commission Guidelines: Substantial Compliance.

22. David Schenck (62484)
Court of Appeals Justice

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

Penalty: \$10,000

Recommendation based on Commission Guidelines: Substantial Compliance.

23. Erin Hill (59791)
Treasurer, ActBlue Texas

Report: 8-day pre-election report due April 29, 2016

Penalty: \$1,500

Recommendation based on Commission Guidelines: Substantial Compliance.

24. Laura Reyes (80729)
Treasurer, AFSCME Texas Correctional Officers PAC

Report: 8-day pre-election report due April 29, 2016

Penalty: \$2,300

Recommendation based on Commission Guidelines: Substantial Compliance.

25. Citizen Super PAC (80702)
Entity Filing Direct Campaign Expenditure (DCE) Reports

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

Penalty: \$500

Recommendation based on Commission Guidelines: Waiver.

26. Jasmine L. Jenkins (80559)
Candidate, State Board of Education

Report: 8-day pre-election report due February 22, 2016 (original filed late; paid \$500 fine)

Penalty: \$300

Recommendation based on Commission Guidelines: Waiver.

27. Elizabeth A. Gray (70062)
Treasurer, 'LAD' Liberal Austin Democrats

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

Penalty: \$10,000

Recommendation based on Commission Guidelines: Waiver.

28. Mary E. Tucker (16899)
Treasurer, Kirby Corporation Political Action Committee

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

Penalty: \$10,000

Recommendation based on Commission Guidelines: Waiver.

29. Mary K. Ruyle (16500)
Treasurer, Texas Thoroughbred Breeders' Association PAC

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

Penalty: \$8,300

Recommendation based on Commission Guidelines: Waiver.

30. Marilyn J. Schultz (53163)
Treasurer, Grimes County Republican Party (CEC)

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

Penalty: \$10,000

Recommendation based on Commission Guidelines: Waiver.

31. Tom Spilman (80359)
Treasurer, 'STATE PAC' The Texas State University System PAC

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

Penalty: \$2,700

Recommendation based on Commission Guidelines: Reduction to \$500.

33. Angie L. Highland (64041)
Treasurer, NCHA's Texas Events PAC

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

Penalty: \$4,700

Recommendation based on Commission Guidelines: Reduction to \$1,000.

34. D. Wayne Klotz (70834)
Treasurer, Klotz Associates Inc. PAC

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

Penalty: \$4,800

Recommendation based on Commission Guidelines: Reduction to \$1,000.

Motion by Commissioner Delco to accept staff recommendations on Agenda Item 15, numbers 1 through 18; second by Commissioner Akin. **Motion to accept staff recommendations on Agenda Item 15, numbers 1 through 18, passed by a vote of eight ayes.** Motion by Commissioner Delco to accept staff recommendation on Agenda Item 15, number 19; second by Commissioner Akin. **Motion to accept staff recommendations on Agenda Item 15, number 19, passed by a vote of seven ayes (Chair Untermeyer recused himself).** Motion by Commissioner Delco to accept staff recommendations on Agenda Item 15, numbers 20 through 31 and 33; second by Commissioner Akin. **Motion to accept staff recommendations on Agenda Item 15, numbers 20 through 31 and 33, passed by a vote of eight ayes.** Motion by Commissioner Delco to accept staff recommendation on Agenda Item 15, number 34; second by Commissioner Akin. **Motion to accept staff recommendations on Agenda Item 15, number 34, passed by a vote of seven ayes (Chair Untermeyer recused himself).**

Agenda Item 16: Discussion and possible action on the approval of a format for electronic filing of campaign finance reports, as proposed by Dallas County.

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Motion by Commissioner Kennedy to approve the format for electronic filing of campaign finance reports, as proposed by Dallas County; second by Commissioner Delco. **Motion passed by a vote of eight ayes.**

Agenda Item 17: Discussion and possible action regarding recommendations for statutory changes to the 85th Legislature, as required by section 571.073 of the Government Code.

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Chair Untermeyer, Vice Chair Wolens, Commissioners Clancy and Craycraft, Ms. Ashley, and Jessie Haug, Director of Computer Services, responded with questions and comments. Motion by Vice Chair Wolens to adopt the recommendations for statutory changes, as amended; second by Commissioner Akin. **Motion passed by a vote of eight ayes.**

Agenda Item 18: Report by Nominating Committee of Commissioners regarding the positions of Chair and Vice Chair of the Texas Ethics Commission.

Commissioner Akin briefed the Commission on this agenda item. Motion by Commissioner Akin to elect Chase Untermeyer as Chair of the Texas Ethics Commission, and Steven Wolens as Vice Chair of the Texas Ethics Commission; second by Commissioner Delco. **Motion to elect Chase Untermeyer as Chair of the Texas Ethics Commission and Steven D. Wolens as Vice Chair of the Texas Ethics Commission passed by a vote of eight ayes.**

Agenda Item 19: Discussion on the 2017 Texas Ethics Commission meeting schedule.

Chair Untermeyer briefed the Commission on this agenda item. Discussion ensued among the Commissioners and Natalia Luna Ashley, Executive Director, regarding any potential conflicts for Commission meetings to be held on the suggested dates. Motion by Commissioner Craycraft to set the following tentative dates for Texas Ethics Commission meetings in 2017; second by Commissioner Akin:

February 15-16, 2017;
March 30, 2017;
May 18, 2017;
July 13, 2017;
September 28, 2017; and
November 9, 2017.

Motion passed by a vote of eight ayes.

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

Donna Garcia Davidson, representing Brandon Palmer, addressed the Commission. Joseph M. Nixon, representing himself, addressed the Commission.

Agenda Item 19: Discussion on the 2017 Texas Ethics Commission meeting schedule.

Commissioner Kennedy commented on the schedule. Motion by Commissioner Craycraft to set the following tentative dates for Texas Ethics Commission meetings in 2017; second by Commissioner Kennedy:

February 15-16, 2017;
March 30, 2017;
May 17, 2017;
July 13, 2017;
September 28, 2017; and

November 9, 2017.

Motion passed by a vote of eight ayes.

Agenda Item 21: Adjourn.

The meeting was adjourned by unanimous consent.

Meeting adjourned at 1:15 p.m.