



TEXAS ETHICS COMMISSION MEETING MINUTES
Public Agenda
February 15, 2017, 1:01 p.m.
Texas Workforce Commission, Room 244, 101 E. 15th Street
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, Amy Barden, Margie Castellanos, Robbie Douglas, Nick Espinosa, Betty Gallegos, Jessie Haug, Ferjie Hontanosas, Jessica Hurtado, Cristina Hernandez, Joseph Keeney, Becky Levy, John Moore, Patti Shannon, Ian Steusloff, Jim Tinley, Patty Williams and Seana Willing.

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. Seana Willing, Executive Director, called the roll. All Commissioners were present except Commissioners Delco, Kennedy and Ramsay. Chair Untermeyer and Vice Chair Wolens addressed the Commission.

Agenda Item 2: Comments by the Executive Director.

Seana Willing, Executive Director, addressed the Commission. She thanked Ian Steusloff, General Counsel, for his work as Interim Executive Director. Ms. Willing attended the Senate Finance Hearing on February 6, 2017, with Commissioner Clancy. The Ethics Commission is scheduled before House Appropriations on February 22, 2017. There will be follow-up questions by the Legislative Budget Board on exceptional items. Vice Chair Wolens asked Chair Untermeyer if he would be attending the February 22, 2017, hearing; Chair Untermeyer said that he planned to attend. Commissioner Clancy addressed the Commission on the current version of the budget and the Commission’s exceptional items.

Agenda Item 3: Comments by the Commissioners.

Commissioner Clancy addressed the Commission on lobby disclosures and the recent passage in the Senate of SB 14.

Agenda Item 4: Approve minutes for the following meetings:

- Executive Session (personnel) – December 7, 2016;
- Executive Session (personnel) – December 8, 2016;
- Executive Session (discussion of pending litigation) – December 8, 2016;
- Public Meeting – December 8, 2016; and
- Executive Session (personnel) – December 20, 2016.

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

Commissioners Delco, Kennedy and Ramsay arrived during this agenda item.

Agenda Item 5: Briefing and discussion of ethics legislation in the 2017 legislative session, including status of Ethics Commission legislative recommendations.

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Untermeyer and Vice Chair Wolens responded with questions and comments. No action was taken.

Agenda Item 6: Discussion and possible action on the Commission's authority to conduct random facial compliance reviews and full audits.

Jim Tinley, Assistant General Counsel, briefed the Commission on this agenda item, and provided a PowerPoint presentation. Chair Untermeyer, Vice Chair Wolens, Commissioners Clancy and Kennedy, and Ian Steusloff, General Counsel, responded with questions and comments. No action was taken.

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

Agenda Item 11: Briefing, discussion, and possible action on appeals of determinations made under Ethics Commission Rules §§ 18.25 and 18.26 relating to administrative waiver or reduction of a fine, for the following individuals:**2. Manufacturing Caucus (00068983)
Legislative Caucus**

- 1) Report: semiannual legislative caucus report due July 15, 2015
Penalty: \$500 – reduction to \$300
- 2) Report: semiannual legislative caucus report due January 15, 2016
Penalty: \$500 – reduction to \$300
- 3) Report: semiannual legislative caucus report due July 15, 2016
Penalty: \$500 – reduction to \$300

Recommendation: None
Appeal Received: December 2, 2016

State Representative Murphy, representing the Texas House Manufacturing Caucus, spoke before the Commission. Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Chair Untermeyer, Vice Chair Wolens, Commissioners Clancy and Ramsay responded with questions and comments.

Commissioner Ramsay left the dais during this agenda item.

Agenda Item 7: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of a new Ethics Commission Rules § 20.56 (Expenditures Involving Consultants) and an amendment to Ethics Commission Rules § 20.61 (Purpose of Expenditure), regarding the disclosure of political expenditures made to consultants.

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Untermeyer, Vice Chair Wolens, Commissioners Akin, Craycraft and Kennedy responded with questions and comments. Chair Untermeyer appointed a subcommittee of Commissioners Craycraft (Chair) and Commissioners Akin and Kennedy, to discuss this agenda item and report back to the Commission.

Agenda Item 8: Public discussion and possible action on the authority of Ethics Commission staff to negotiate the resolution of a sworn complaint, including Ethics Commission Rules § 12.81 (Technical, Clerical, or De Minimis Violations), relating to the procedures for investigating and resolving technical and clerical violations of laws within the Commission's jurisdiction as provided by section 571.0631 of the Government Code.

Ian Steusloff, General Counsel, and John Moore, Director of Enforcement, briefed the Commission on this agenda item. Vice Chair Wolens responded with questions and comments. No action was taken.

Commissioner Ramsay returned to the dais during this agenda item.

Agenda Item 9: 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 and Commissioner Ramsay responded with questions and comments. No action was taken.

Agenda Item 10: Discussion of Advisory Opinion Request No. 619: Whether a gift card to an online retailer is considered to be cash or a negotiable instrument for purposes of section 36.10(a)(6) of the Penal Code, and related questions.

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Untermeyer, Vice Chair Wolens, Commissioners Craycraft, Kennedy and Ramsay, and Ian Steusloff, General Counsel, responded with questions and comments. Motion by Vice Chair Wolens to adopt AOR-619, as amended; second by Commissioner Ramsay. **Motion passed by a vote of eight ayes.**

Agenda Item 11: Briefing, discussion, and possible action on appeals of determinations made under Ethics Commission Rules §§ 18.25 and 18.26 relating to administrative waiver or reduction of a fine, for the following individuals:

1. **Martha K. Landwehr (00069447)**
Lobbyist

Report: monthly lobby activities report due April 11, 2016
Penalty: \$500 – reduction to \$100; reverted to \$500 due to lack of response
Recommendation: Reduction back to \$100 (based on additional information)
Appeal Received: December 5, 2016

2. **Manufacturing Caucus (00068983)**
Legislative Caucus

- 1) Report: semiannual legislative caucus report due July 15, 2015
Penalty: \$500 – reduction to \$300
- 2) Report: semiannual legislative caucus report due January 15, 2016
Penalty: \$500 – reduction to \$300
- 3) Report: semiannual legislative caucus report due July 15, 2016
Penalty: \$500 – reduction to \$300

Recommendation: None
Appeal Received: December 2, 2016

3. **Sherrie Welfel (00055452)**
Treasurer, 'WCRW' Wilson County Republican Women

Report: semiannual report due July 15, 2016
Penalty: \$500 – no waiver
Recommendation: None
Appeal Received: November 28, 2016

4. **Glenda Clausell (00080860)**
Member, Texas Board of Physical Therapy Examiners

Report: personal financial statement due July 1, 2016
Penalty: \$500 – no waiver
Recommendation: None
Appeal Received: November 23, 2016

5. **James D. Morrison (00080120)**
Candidate, State Representative

Report: 30-day pre-election report due February 1, 2016
Penalty: \$500 – reduction to \$150; reverted to \$500 due to lack of response
Recommendation: Reduction back to \$150 (based on additional information)
Appeal Received: December 8, 2016

6. **Amy B. Easley (00080801)**
Treasurer, Vote FOR Our Kids PAC

- 1) Report: 30-day pre-election report due April 7, 2016
Penalty: \$500 – reduction to \$200
- 2) Report: 8-day pre-election report due April 29, 2016
Penalty: \$10,000 – reduction to \$200

Recommendation: None.
Appeal Received: January 12, 2017

7. **Milton I. Fagin (00041564)**
Candidate, District Judge

Report: semiannual report due July 15, 2016
Penalty: \$700 – reduction to \$600
Recommendation: None
Appeal Received: November 29, 2016

8. **James R. Dickey, Sr. (00069834)**
Candidate, County Party Chair

Report: semiannual report due July 15, 2016
Penalty: \$500 – reduction to \$300
Recommendation: None
Appeal Received: December 29, 2016

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Chair Untermeyer, Vice Chair Wolens, Commissioners Clancy, Craycraft, Kennedy and Ramsay, Ian Steusloff, General Counsel, Jessie Haug, Director of Computer Services, and Ms. Barden responded with questions and comments.

Milton I. Fagin, representing himself, appeared before the Commission on Agenda Item 11, number 7. Vice Chair Wolens, Commissioners Clancy, Craycraft and Ramsay, Mr. Steusloff, Ms. Barden responded with questions and comments. Motion by Commissioner Clancy to reduce the penalty to \$300 on Agenda Item 11, number 7; second by Commissioner Akin. **Motion to reduce the penalty on Agenda Item 11, number 7 to \$300 passed by a vote of eight ayes.**

James R. Dickey, Sr., representing himself, appeared before the Commission on Agenda Item 11, number 8. Chair Untermeyer, Vice Chair Wolens, Commissioners Clancy, Kennedy and Ramsay, and Ms. Barden responded with questions and comments. Motion by Commissioner Clancy to accept staff's recommendation on Agenda Item 11, number 8 and reduce the penalty to \$300; second by Vice Chair Wolens. **Motion to accept staff's recommendation on Agenda Item 11, number 8 passed by a vote of eight ayes.**

Ms. Barden briefed the Commission on Agenda Item 11, numbers 1 through 6. Vice Chair Wolens, Commissioners Clancy, Craycraft and Kennedy, and Ms. Barden responded with questions and comments. Motion by Vice Chair Wolens to accept staff's recommendation to affirm the original determination under the Ethics Commission rules on Agenda Item 11, numbers 1 through 6; second by Commissioner Akin. **Motion to accept staff's recommendation on Agenda Item 11, numbers 1 through 6 passed by a vote of eight ayes.**

Commissioners Craycraft and Ramsay were off the dais briefly during this agenda item.

Agenda Item 12: 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:

1. **Blake G. Powell (57682)**
Treasurer, Texas Parent PAC

Report: 8-day pre-election report due February 22, 2016
Penalty: \$10,000
Recommendation Based on Commission Guidelines: substantial compliance.

2. **Angelica I. Jimenez (80056)**
District Judge

Report: 8-day pre-election report due October 31, 2016
Penalty: \$500
Recommendation Based on Commission Guidelines: substantial compliance.

3. **Ray A. Nelson (69482)**
Treasurer, Jefferson County Democratic Party (CEC)

Report: 8-day pre-election report due October 31, 2016
Penalty: \$500
Recommendation Based on Commission Guidelines: substantial compliance.

4. **Jonathan S. Stickland (67904)**
State Representative

Report: 8-day pre-election report due October 31, 2016
Penalty: \$500
Recommendation Based on Commission Guidelines: substantial compliance.

5. **Dana F. 'Rick' Miller (62278)**
State Representative

Report: 8-day pre-election report due October 31, 2016
Penalty: \$700
Recommendation Based on Commission Guidelines: substantial compliance.

6. **Daryl L. Moore (69631)**
District Judge

Report: 8-day pre-election report due October 31, 2016
Penalty: \$800
Recommendation Based on Commission Guidelines: substantial compliance.

7. **Juan Jose Pena, Jr. (80977)**
Treasurer, New Identity Political Action Committee

Report: 8-day pre-election report due October 31, 2016
Penalty: \$1,500
Recommendation Based on Commission Guidelines: substantial compliance.

8. **Norma Gonzales (65728)**
District Judge

Report: 8-day pre-election report due October 31, 2016
Penalty: \$1,800
Recommendation Based on Commission Guidelines: substantial compliance.

9. **David Mason (16106)**
Treasurer, Houston Pilots PAC Fund

Report: 8-day pre-election report due October 31, 2016
Penalty: \$2,000
Recommendation Based on Commission Guidelines: substantial compliance.

10. **Micheline Hutson (58757)****Treasurer, 'CFRW' Cy-Fair Republican Women PAC**

Report: 8-day pre-election report due October 31, 2016

Penalty: \$2,100

Recommendation Based on Commission Guidelines: substantial compliance.

11. **Robert G. Button (54753)****Treasurer, 'DPCC' Democratic Party of Collin County (CEC)**

Report: 8-day pre-election report due October 31, 2016

Penalty: \$2,700

Recommendation Based on Commission Guidelines: substantial compliance.

12. **Dawn C. Buckingham (69001)****State Senator**

Report: 8-day pre-election report due October 31, 2016

Penalty: \$3,200

Recommendation Based on Commission Guidelines: substantial compliance.

13. **Justin A. Holland (80066)****State Representative**

Report: 8-day pre-election report due October 31, 2016

Penalty: \$5,300

Recommendation Based on Commission Guidelines: substantial compliance.

14. **Jack Kirfman (80247)****Treasurer, 'VOTE PAC' Volunteers Organized To promote Equity**

Report: 8-day pre-election report due October 31, 2016

Penalty: \$8,200

Recommendation Based on Commission Guidelines: substantial compliance.

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Chair Untermeyer, Vice Chair Wolens, Commissioner Clancy and Ms. Barden responded with questions and comments. Motion by Commissioner Delco to accept staff's recommendation on Agenda Item 12, numbers 1 through 5; second by Commissioner Clancy. **Motion to accept staff's recommendations on Agenda Item 12, numbers 1 through 5 passed by a vote of eight ayes.** Motion by Commissioner Delco to accept staff's recommendation on Agenda Item 12, number 6; second by Commissioner Clancy. **Motion to accept staff's recommendation on Agenda Item 12, number 6 passed by a vote of seven ayes (Commissioner Kennedy recused herself on Agenda Item 12, number 6).** Motion by Commissioner Delco to accept staff's recommendation on Agenda Item 12, numbers 7 through 14; second by Commissioner Clancy. **Motion to accept staff's recommendations on Agenda Item 12, numbers 7 through 14 passed by a vote of eight ayes.**

15. **Cindy G. Burkett (65930)**
State Representative

Report: 8-day pre-election report due October 31, 2016
Penalty: \$3,300
Recommendation Based on Commission Guidelines: waiver.

Motion by Commissioner Clancy to waive the penalty on Agenda Item 12, number 15; second by Commissioner Akin. **Motion to waive the penalty on Agenda Item 12, number 15 passed by a vote of eight ayes.**

16. **David Mason (16106)**
Treasurer, Houston Pilots PAC Fund

Report: 8-day pre-election report due February 22, 2016
Penalty: \$1,500
Recommendation Based on Commission Guidelines: reduction to \$1,000.

17. **Jesus 'Jesse' Contreras (62099)**
Candidate, District Judge

Report: 8-day pre-election report due February 22, 2016
Penalty: \$8,300
Recommendation Based on Commission Guidelines: reduction to \$1,000.

18. **Leann K. Rafferty (80287)**
District Judge

Report: 8-day pre-election report due February 22, 2016
Penalty: \$10,000
Recommendation Based on Commission Guidelines: reduction to \$1,000.

Ms. Barden stated that the filer in Agenda Item 12, number 18 requested postponement. Motion by Vice Chair Wolens to accept staff's recommendations on Agenda Item 12, numbers 16 and 17; second by Commissioner Clancy. **Motion to accept staff's recommendations on Agenda Item 12, numbers 16 and 17 passed by a vote of eight ayes. Agenda Item 12, number 18 was postponed at the filer's request.**

19. **Gary W. Gates, Jr. (51418)**
Candidate, Railroad Commissioner

Report: 8-day pre-election report due February 22, 2016
Penalty: \$9,000
No Recommendation Based on Previous Commission Decisions: The Commission has not considered this type of correction.

Motion by Vice Chair Wolens to not waive the penalty on Agenda Item 12, number 19; second by Commissioner Kennedy. **Motion to not waive the penalty on Agenda Item 12, number 19 passed by a vote of seven ayes (Commissioner Ramsay was absent).**

20. **Justin A. Holland (80066)**
State Representative

Report: 8-day pre-election report due February 22, 2016 (two corrections)

Penalty: \$9,900

No Recommendation Based on Previous Commission Decisions: The Commission has not considered this type of correction.

Recommendation Based on Commission Guidelines: substantial compliance for the December 19th correction.

Motion by Commissioner Craycraft to waive the penalty on Agenda Item 12, number 20; second by Commissioner Clancy. **Motion to waive the penalty on Agenda Item 12, number 20, passed by a vote of eight ayes.**

Break at 3:50 p.m. Return at 4:00 p.m. Chair Untermeyer was absent from the dais from the beginning of this agenda item.

Agenda Item 13: Discussion and possible action regarding the termination of a campaign treasurer appointment for the following inactive individual and political committee:

Candidate

1. **Louie Minor, Jr. (00080024)**

Last report filed: July 15, 2015

Treasurer appointment filed: May 19, 2015

Office sought: State Representative, District 55

Political Committee

2. **Associated General Contractors of El Paso PAC (00041885)**
Adam Pacheco, Treasurer

Last report filed: Report has never been filed

Treasurer appointment filed: October 9, 2015

Vice Chair Wolens briefed the Commission on this agenda item. Motion by Commissioner Clancy to adopt staff recommendations to terminate the campaign treasurer appointments on Agenda Item 13, numbers 1 and 2; second by Commissioner Akin. Motion passed by a vote of seven ayes. **Recommendations to terminate the campaign treasurer appointments are adopted on Agenda Item 13, numbers 1 and 2.**

Agenda Item 14: Reports more than 30 days late: Discussion and possible action regarding the imposition of an additional fine on the following filers:

Candidates/Officeholders

1. Marisela Saldana (00058570)

Political Committees

2. John R. Wennerstrom, Jr., Treasurer, Friends of ACC Bond (00080859)

Lobbyists

3. Jeffrey Brooks (00070573)
4. Robin Chandler (00070814)
5. Kristine Donatello (00064024)
6. Geoffrey M. Gay (00053659)
7. Matthew Haertner (00070567)
8. Julie Marie Nahrgang (00070736)

Vice Chair Wolens, Commissioners Clancy and Kennedy, and Ian Steusloff, General Counsel, discussed this agenda item. Motion by Commissioner Clancy to increase the penalty to \$1,000 on Agenda Item 14, numbers 1 through 8; second by Commissioner Ramsay. **Motion to increase the penalty to \$1,000 on Agenda Item 14, numbers 1 through 8 passed by a vote of seven ayes.**

Agenda Item 15: Discussion and possible action on the approval of a format for electronic filing of campaign finance reports, as proposed by Denton County.

Ian Steusloff, General Counsel, briefed the Commission on this agenda item. Vice Chair Wolens and Mr. Steusloff responded with questions and comments. Motion by Commissioner Clancy to approve the format for electronic filing of campaign finance reports, as proposed by Denton County; second by Commissioner Ramsay. **Motion passed by a vote of seven ayes.**

Agenda Item 16: Communication to the Commission from the public.

There were no communications to the Commission from the public.

Agenda Item 17: Adjourn.

Motion by Commissioner Delco to adjourn; second by Commissioner Ramsay. **Motion to adjourn passed by a vote of seven ayes.**

Meeting adjourned at 4:08 p.m.