



## TEXAS ETHICS COMMISSION MEETING MINUTES

### Public Meeting Minutes

November 30, 2015, 10:06 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, Bob Long, and Tom Ramsay.

**COMMISSIONERS NOT PRESENT:** Tom Harrison.

**STAFF PRESENT:** Anitra Abdullah-Levy, Natalia Luna Ashley, Amy Barden, Margie Castellanos, Robbie Douglas, Katie Drummond, Nick Espinosa, Jessie Haug, Cristina Hernandez, Jessica Hurtado, Cristina Hernandez, Bobby Mannas, Mike McElhaney, 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.

**Commissioner Clancy was momentarily off the dais.**

**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 except Commissioners Clancy and Harrison.

**Commissioner Clancy returned to the dais.**

**Agenda Item 2: Comments by the Commissioners.**

Commissioner Clancy commended the Office of the Attorney General for the quality and professionalism in representing the Commission in this period of extensive litigation.

**Agenda Item 3: Approve minutes for the following meetings:**

- Executive session (discussion of pending lawsuits) – October 5, 2015; and
- AM Public Meeting – October 5, 2015.

Motion by Commissioner Long to approve the meeting minutes listed under Agenda Item 3; second by Commissioner Delco. **Motion passed by a vote of seven ayes.**

**Agenda Item 4: Briefing, discussion, and possible action on the new Electronic Filing Applications and discussion on the electronic filing application for the implementation of House Bill 1295.**

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. The new Electronic Filing Application continues to run smoothly. The Commission is close to being able to share the code with other political subdivisions. The Commission is working closely with Department of Information Services (DIR). Ms. Ashley asked the Commissioners whether they wished her to move forward with contracts with political subdivisions, or whether the Commissioners wished to give approval to each contract. Chair Hobby responded that the Commissioners did not need to vote on each contract, that there should be no charge to the political subdivision, and that the Commission should give only the code to each political subdivision.

Ms. Ashley stated that, although every effort was made to make the notice clear regarding the release of the lobby filing application, some lobbyists were confused over whether they would have a grace period to file their first monthly lobby activities report using the new application. Motion by Vice Chair Untermeyer to grant a one-month grace period to lobbyists filing their monthly report due September 10, 2015 similar to the grace period granted to monthly general-purpose committees; second by Commissioner Long. **Motion passed by a vote of seven ayes.**

Ms. Ashley also stated that the release of the Electronic Filing Application for lobbyists has had a bumpy start, mainly due to correcting reports that were filed using the old system. Ms. Ashley recommended that no penalty be given to lobbyists whose Lobby Registration corrections or amendments were due between September 13, 2015 and November 10, 2015, so long as those documents were filed by December 10, 2015. Motion by Commissioner Delco to accept Ms. Ashley's recommendation; second by Vice Chair Untermeyer. **Motion passed by a vote of seven ayes.**

Ms. Ashley also stated that the Electronic Filing Application for personal financial statement reporting was released in September, 2015, and the Commission has received a number of successful filings since that time; the majority of personal financial statements will be filed next year in connection with the 2016 filing deadlines.

Finally, Ms. Ashley stated that the Commission has entered into a new contract with RFD and Associates to create a new filing application for Form 1295. The Commission anticipates releasing this filing application by the January 1, 2016, deadline. No action was taken.

**Agenda Item 5: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of the rules and form required to be adopted by the Commission in accordance with House Bill 1295, 84th Legislative Session, 2015.**

Chair Hobby and Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Jennifer Scholl from Armbrust & Brown, PLLC, addressed the Commission; Ms. Scholl gave the Commissioners a letter that had been previously provided. Carol Birch from Public Citizen addressed the Commission. A representative from Representative Capriglione's office gave the Commission a letter from Representatives Capriglione and Fallon; Vice Chair Untermeyer read the letter into the record. Chair Hobby, Vice Chair Untermeyer, Commissioner Clancy, Natalia Luna Ashley, Executive Director, and Ian M. Steusloff, General Counsel, responded with questions and comments. Motion by Vice Chair Untermeyer to adopt Texas Ethics Commission Rules § 46.1; second by Commissioner Clancy. **Motion passed by a vote of seven ayes.** Motion by Vice Chair Untermeyer to adopt Texas Ethics Commission Rules § 46.3; second by Commissioner Clancy. **Motion passed by a vote of six ayes (Chair Hobby voted no).** Motion by Vice Chair Untermeyer to

adopt Texas Ethics Commission Rules § 46.5; second by Commissioner Clancy. **Motion passed by a vote of seven ayes.**

**Agenda Item 6: 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 Commissioner Ramsay to adopt the amendments to Forms CIS and CIQ; second by Commissioner Long. **Motion passed by a vote of seven ayes.**

**Commissioner Ramsay was off the dais during agenda items 7, 8 and 9.**

**Agenda Item 7: 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.**

Ian M. Steusloff, General Counsel, briefed the Commission on this agenda item. James E. “Trey” Trainor addressed the Commission. Chair Hobby and Commissioner Clancy responded with comments. Motion by Commissioner Clancy to adopt the amendment to Texas Ethics Commission Rule § 20.1(20); second by Commissioner Akin. **Motion passed by a vote of six ayes.**

**Agenda Item 8: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 20.409(d), relating to the name of a general-purpose committee.**

Chair Hobby briefed the Commission on this agenda item. Natalia Luna Ashley, Executive Director, responded with a comment. Motion by Commissioner Delco to adopt the amendment to Texas Ethics Commission Rules § 20.409(d); second by Vice Chair Untermeyer. **Motion passed by a vote of six 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 § 34.91, relating to exemptions for the electronic filing of lobby reports.**

Chair Hobby briefed the Commission on this agenda item. Motion by Vice Chair Untermeyer to adopt an amendment to Texas Ethics Commission Rules § 34.91; second by Commissioner Long. **Motion passed by a vote of six ayes.**

**Commissioner Ramsay returned to the dais during agenda item 10. Vice Chair Untermeyer left the dais briefly during agenda item 10.**

**Agenda Item 10: 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.**

Ian M. Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Hobby, Commissioner Clancy and Ian M. Steusloff, General Counsel, responded with questions and comments. Motion by Vice Chair Untermeyer to adopt AOR-603 without changes; second by Chair Hobby. **Motion passed by a vote of five ayes (Commissioners Clancy and Delco voted no).**

**Chair Hobby left the dais briefly during agenda item 11.**

**Agenda Item 11: Discussion of Advisory Opinion Request No. AOR-605: Regarding whether a public servant may accept a benefit from a potential donor in certain circumstances.**

Andrew Wheat, research director with Texans for Public Justice, addressed the Commission. Chair Hobby responded with questions and comments. Ian M. Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Hobby, Vice Chair Untermeyer, Commissioners Akin, Clancy, Delco and Ramsay, Natalia Luna Ashley, Executive Director, and Ian M. Steusloff, General Counsel, responded with questions and comments. A subcommittee of Vice Chair Untermeyer and Commissioner Akin was appointed. No action was taken.

**Agenda Item 12: 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:**

**1. Leigh Christine Bailey (00069494)  
Candidate, State Representative**

Report: semiannual report due January 15, 2015  
Penalty: \$10,000 – reduction to \$3,400  
Recommendation: None  
Appeal Received: September 23, 2015

Ms. Bailey addressed the Commission. Chair Hobby and Vice Chair Untermeyer responded with questions and comments. Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Motion by Vice Chair Untermeyer to reduce the fine to \$1,500 on Agenda Item 12, number 1; second by Commissioner Akin. **Motion to reduce the fine to \$1,500 on Agenda Item 12, number 1 passed by a vote of seven ayes.**

**2. Texas Moore (00023668)  
Chair, Atascosa County Republican Party (P)**

Report: 8-day pre-election political party report due February 24, 2014  
Penalty: \$10,000 – reduction to \$100; reverted to \$10,000  
Recommendation: Reduction to \$50 (based on further review)  
Appeal Received: September 3, 2015

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Commissioner Ramsay responded with a question; Natalia Luna Ashley, Executive Director, responded. Motion by Commissioner Long to accept staff's recommendation on Agenda Item 12, number 2; second by Commissioner Delco. **Motion to approve staff's recommendation on Agenda Item 12, number 2 passed by a vote of seven ayes.**

**Agenda Item 13: 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 individual:**

**Joel K. Oldham, IV (00016482)  
Treasurer, Apartment Association of Greater Dallas Political Action Committee**

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. Chair Hobby responded with a comment. Motion by Vice Chair Untermeyer to accept staff's recommendation on Agenda Item 13; second by Commissioner Long. **Motion to accept staff's recommendation on Agenda Item 13 passed by a vote of seven ayes.**

**Agenda Item 14: Discussion and possible action regarding the termination of a campaign treasurer appointment of the following inactive political committees:**

**1. Coastal Bend Young Democrats (00066193)  
Samuel R. Caceres, II, Treasurer**

Last report filed: January 14, 2014  
Treasurer appointment filed: July 15, 2013

**2. Harris County Auto Recyclers Assn. PAC (00040240)  
John Carter Frank, Treasurer**

Last report filed: January 15, 2014  
Treasurer appointment filed: March 16, 1999

**3. Port Arthur Firefighters PAC (00062125)  
Richard C. Bodin, Jr., Treasurer**

Last report filed: May 8, 2014  
Treasurer appointment filed: August 20, 2007

Motion by Vice Chair Untermeyer to adopt recommendations to terminate the campaign treasurer appointments on Agenda Item 14, numbers 1 through 3; second by Commissioner Ramsay. Motion passed by a vote of seven ayes. **Recommendations to terminate the campaign treasurer appointments are adopted on Agenda Item 14, numbers 1 through 3.**

**Lunch break.**

**Commissioner Akin was off the dais at the beginning of agenda item 15. Commissioner Clancy left the dais briefly during agenda item 15.**

**Agenda Item 15: Discussion and possible action regarding the meaning of “fact finding trip” for purposes of the lobby law.**

Chair Hobby briefed the Commission on this agenda item. Chair Hobby, Vice Chair Untermeyer, Commissioners Delco and Ramsay, Natalia Luna Ashley, Executive Director, and Ian M. Steusloff, General Counsel, responded with questions and comments. No action was taken.

**Commissioner Ramsay was off the dais during agenda items 16 and 17.**

**Agenda Item 16: 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, Delco, and Natalia Luna Ashley, Executive Director, responded with comments. No action was taken.

**Agenda Item 17: Report from the Nominating Committee and Election of Chair and Vice Chair.**

Commissioner Long briefed the Commission on this agenda item. The subcommittee recommended that Chair Hobby and Vice Chair Untermeyer continue serving in their current position through the April 2016 commission meeting, and that Vice Chair Untermeyer serve as Chair and Commissioner Harrison serve as Vice Chair starting after the April 2016 commission meeting. Natalia Luna Ashley, Executive Director, responded with a comment. Motion by Commissioner Long to accept the subcommittee’s recommendations; second by Commissioner Delco. **Motion passed by a vote of six ayes.**

**Commissioner Ramsay returned to the dais during agenda item 18.**

**Agenda Item 18: Discussion on the 2016 Texas Ethics Commission meeting schedule.**

Chair Hobby 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. Tentative dates for Texas Ethics Commission meetings in 2016 are as follows:

February 1, 2016;  
April 7-8, 2016;  
June 1, 2016;  
August 15, 2016;  
October 14, 2016; and  
December 8, 2016.

**Agenda Item 19: Comments by the Executive Director.**

Natalia Luna Ashley, Executive Director, addressed the Commission. The Commission will be holding an Ethics Training Symposium in San Antonio on January 29, 2016; it will be free and open to 300 attendees. The Texas Ranger in charge of the new Public Integrity Unit will be one of the presenters. Other speaking engagements by Commission staff are also planned. Filing Schedules for 2016 have been prepared and distributed. Major filing deadlines are approaching, including lobby registrations for 2016, and a number of campaign finance and lobby reports that are required to be filed in January. Ms. Ashley thanked Michael McElhaney, Chief Financial Officer and Director of Administration, and Terence Williams, Disclosure Filings Division, for their service; both will be retiring this month.

**Agenda Item 20: Comments to the Commission by the public.**

Joseph Nixon addressed the Commission. Chair Hobby directed Commission staff to provide Mr. Nixon with a formal response to his Advisory Opinion Request.

**Agenda Item 21: Adjourn.**

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

Meeting adjourned at 1:40 p.m.