



TEXAS ETHICS COMMISSION MEETING MINUTES

Public Meeting Minutes

March 12, 2021, 9:10 a.m.

Via Teleconference



COMMISSIONERS PRESENT: Chad M. Craycraft, Chair; Mary K. “Katie” Kennedy, Vice Chair; Randall H. Erben, Chris Flood, Patrick W. Mizell, Richard S. Schmidt, Joseph O. Slovacek, and Steven D. Wolens

COMMISSIONERS NOT PRESENT: All Present

STAFF PRESENT: Joe Brocato, Sonya Caldwell, Margie Castellanos, Nick Espinosa, Betty Gallegos, Jessie Haug, Cristina Hernández, Jordan Hunn, J.R. Johnson, Haksoon Andrea Low, Natalie McDermon, Amy Padilla, Anne Temple Peters, Lindsay Powers, Margaret Sanchez, Patti Shannon, Jim Tinley, and Preston Tom.

MINUTES

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 Craycraft. Anne Temple Peters, Executive Director, called the roll. All Commissioner were present.

Agenda Item 2: Executive session pursuant to Section 551.071, Government Code, Consultation with Attorneys, and Section 551.074, Government Code, Personnel Matters; Closed Meeting.

- A. Discussion of pending litigation to seek legal advice relating to the following:
- i. Cause No. D-1-GN-17-001878: *Texas Ethics Commission v. Michael Quinn Sullivan*, in the 250th Judicial District Court in Travis County, Texas; Cause No.03-17-00392-CV: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Third Court of Appeals

- at Austin, Texas; and Cause No. 18-0580: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Supreme Court of Texas.
- ii. Cause No. D-1-GN-15-004455: *Texas Ethics Commission v. Empower Texans, Inc. and Michael Quinn Sullivan*, in the 345th Judicial District Court of Travis County, Texas; and related case, Cause No. 03-16-00872-CV: *Empower Texans, Inc., and Michael Quinn Sullivan v. Texas Ethics Commission*, in the Third Court of Appeals, Austin, Texas.
- B. Discussion of personnel matters.
- C. Reconvene in open session and Public meeting at 9:53am.

Agenda Item 3: Discussion regarding dates for next quarterly Commission meeting.

Chair Craycraft briefed the Commission on this agenda. Chair Craycraft, Vice Chair Kennedy, Commissioners Flood, Mizell Schmidt, Slovacek, Wolens and J.R. Johnson, General Counsel, responded with questions and comments. Tentative dates for the next Commission meeting, subject to change, are June 15-16, 2021.

Agenda Item 4: Approve minutes for the following meetings:

- **Public Meeting – December 2 , 2020; and**
- **Public Meeting – December 18, 2020.**

Chair Craycraft briefed the Commission on this agenda item. Motion by Commissioner Slovacek to adopt the minutes in Agenda Item 4; second by Commissioner Mizell. **Motion passed unanimously.**

Agenda Item 5: Discussion and possible action on appeals of determinations made under Ethics Commission on Rules §§ 18.25 and 18.26 relating to administrative waiver or reduction of a fine for the following filers:

- 1. Thomas Adair, Candidate (00083917)**
- 2. Danny E. Wood, Jr., Candidate (00083816)**
- 3. Jim Sharp, Candidate (00054854)**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Thomas Adair addressed the Commission. Motion by Commissioner Mizell to waive the fine on Agenda Item 5, number 1; second by Commissioner Slovacek. **Motion passed unanimously.** Motion by Commissioner Slovacek to waive the fine on Agenda Item 5, number 2; second by Commissioner Flood. **Motion passed unanimously.** Motion by Commissioner Mizell to waive the fine on Agenda Item 5, number 3; second by Commissioner Erben. **Motion passed unanimously.**

Agenda Item 6: **Draft Advisory Opinion No. AOR-638: Whether an officer of a political subdivision may use public funds to print and affix graphic designs to bicycle-sharing stations, hats, t-shirts, and water bottles that identify the public official by name, office, and include the following statement: “Funding for this Station Provided by [the requestor].”**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Chair Craycraft, Vice Chair Kennedy, Commissioners Erben, Flood, Schmidt, and Wolens and Mr. Johnson responded with questions and comments. Motion by Commissioner Erben to adopt Agenda Item 6; second by Commissioner Flood. **Motion passed by a vote of five ayes.**

Agenda Item 7: **Draft Advisory Opinion No. AOR-641: Whether certain written communications, created by a political subdivision and related to the political subdivision’s upcoming elections, constitute political advertisements for purposes of the Election Code’s prohibition against using public funds for political advertising.**

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Flood to adopt Agenda Item 7; second by Commissioner Slovacek. **Motion passed unanimously.**

Agenda Item 8: **Draft Advisory Opinion No. AOR640-CI: Whether an officer or employee of a political subdivision may display a political advertisement – example, by wearing a facemask or other visible article of clothing with a campaign logo or slogan printed on it – during a public meeting that is streamed or posted on the internet.**

J.R. Johnson, General Counsel briefed the Commission on this agenda item. Chair Craycraft and Commissioner Flood responded with questions and comments. **No action taken.**

Agenda Item 9: **Draft Advisory Opinion No. AOR-639: May a judicial officer take – or coordinate the taking of – photographs of his courtroom for use in political advertisements? Does it make a difference if the photographs are taken from the gallery, the area in front of the bench, or behind the bench? May a judicial officer use, for political advertisements, photographs that are created without his cooperation or coordination and published in the public domain, even if they show the judge behind the bench?**

J.R. Johnson, General Counsel briefed the Commission on this agenda item. Judge Alex Kim addressed the Commission. Chair Craycraft, Vice Chair Kennedy, Commissioners Erben, Flood, Mizell, Schmidt, and Wolens, Anne Temple Peters, Executive Director, and Mr. Johnson responded with question and comments. **No action taken.**

Agenda Item 10: Discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to 1 Tex. Admin. Code §§ 20.434 (Alternate Reporting Requirements for General-Purpose Committees) to correct errors in cross-references to other rules.

Agenda Item 11: Discussion possible action on the adoption or proposal and publication in the Texas Register of amendments to 1 Tex. Admin. Code § 18.15 (Additional Fine), regarding procedures for increasing fines.

Chair Craycraft briefed the Commission on these agenda items. Motion by Commissioner Erben to adopt Agenda Items 10 and 11; second by Commissioner Flood. **Motion passed unanimously.**

Agenda Item 12: Discussion and possible action on the proposal and publication in the Texas Register of amendments to 1 Tex Admin. Code §§ 18.23 through 18.26, regarding changes to administrative waiver rules.

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Slovacek to publish Agenda Item 12; second by Vice Chair Kennedy. **Motion passed unanimously.**

Agenda Item 13: Discussion on possible rule amendment addressing whether certain text messages are considered political advertising.

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Chair Craycraft, Vice Chair Kennedy, Commissioners Erben and Mizell, and Mr. Johnson responded with questions and comments. Motion by Commissioner Erben to publish Agenda Item 13; second by Vice Chair Kennedy. Motion passed unanimously.

Agenda Item 14: Briefing and discussion of ethics legislation in the 2021 legislative session, including status of Ethics Commission legislative recommendations.

J.R. Johnson, General Counsel, briefed the Commission on this agenda item. Commissioners Erben and Wolens, Mr. Johnson and Anne Temple Peters, Executive Director, responded with questions and comments. **No action taken.**

Agenda Item 15: Discussion and possible appointment of a Nominating Committee of Commissioners for the positions of Chair and vice Chair of the Texas Ethics Commission.

Chair Craycraft, briefed the Commission on this agenda item. Commissioners Mizell and Wolens were appointed to the Nominating Committee of Commissioners for the positions of Chair and Vice Chair of the Commission.

Agenda Item 16: Adjourn.

Motion by Chair Craycraft to adjourn. **Commission meeting adjourned by unanimous consent.**

Meeting adjourned at 11:28 am.