



## TEXAS ETHICS COMMISSION MEETING MINUTES

### Public Meeting Minutes

February 1, 2016, 9:31 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, Tom Harrison, Bob Long, and Tom Ramsay.

**COMMISSIONERS NOT PRESENT:** Wilhelmina Delco.

**STAFF PRESENT:** Anitra Abdullah-Levy, Allicia Anderson, Natalia Luna Ashley, Amy Barden, Margie Castellanos, Robbie Douglas, Nick Espinosa, Betty Gallegos, Lauren Gregorcyk, Jessie Haug, Cristina Hernandez, Jessica Hurtado, Becky Levy, Bobby Mannas, John Moore, Patti Shannon, Ian M. Steusloff, Jim Tinley, and Patty Williams.

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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 except Commissioner Delco.

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

Commissioner Clancy stated that the Commission has worked for years to make the filing system simpler and more transparent. He wants to make search terms more clear between initial and corrected reports. Commissioner Harrison applauded Commission staff on the symposium that was held in San Antonio last Friday, January 29, 2016; he received many compliments. Chair Hobby commented on the new open carry law; he stated that, while handguns are permitted in the Capitol building, they are not permitted in these open meetings. Chair Hobby read the sign that will be posted outside the doors.

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

- Executive session (discussion of pending litigation) – November 30, 2015; and
- Public Meeting – November 30, 2015.

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

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

Chair Hobby and Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. As of this morning, 2,160 Form 1295's had been filed with the Commission. The filing application is working as anticipated and has some search capabilities. No action was taken.

**Agenda Item 5: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rules § 46.3 (Definitions), defining interested party for purposes of the House Bill 1295 to clarify that an interested party is a person with a controlling interest or a person who is an intermediary.**

Chair Hobby commented on a letter provided by Representative Capriglione pertaining to this agenda item. Leslie Norwood, with the Securities Industry and Financial Markets Association, spoke before the Commission and provided a written statement. Chair Hobby and Commissioners Clancy, Harrison and Long responded with questions and comments. Chair Hobby suggested an inter-agency working group be formed to recommend some changes to the legislature for next session. Commissioner Harrison stated that Representative Capriglione mentioned formed such a group in his letter; Chair Hobby wants to let Representative Capriglione know that Commission staff are interested in participating in that working group. Ian M. Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Hobby, Commissioners Clancy, Harrison and Long, and Natalia Luna Ashley, Executive Director, responded with questions and comments. Motion by Commissioner Clancy to publish the amendment to Ethics Commission Rules § 46.3 in the Texas Register for public comment; second by Vice Chair Untermeyer. **Motion passed by a vote of seven ayes.**

**Agenda Item 6: Public discussion and possible action on the proposal and publication in the Texas Register of the rules defining the meaning of "fact-finding trip" for purposes of the lobby law.**

Chair Hobby and Ian M. Steusloff, General Counsel, briefed the Commission on this agenda item. Chair Hobby, Vice Chair Untermeyer and Natalia Luna Ashley, Executive Director, responded with questions and comments. Motion by Chair Hobby to publish the proposed new Ethics Commission Rule § 34.14 in the Texas Register for public comment, with changes; second by Commissioner Ramsay. **Motion passed by a vote of seven ayes.**

**Agenda Item 7: Public discussion and possible action on the proposal and publication in the Texas Register of amendments to the following Ethics Commission Rules impacted by House Bill 1114, 84th Legislative Session, Regular Session: Ethics Commission Rules §§ 20.3 (Reports Filed with the Commission), 20.7 (Reports Filed with other Local Filing Authorities), and 20.315 (Termination of Campaign Treasurer Appointment).**

Ian M. Steusloff, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Harrison to publish the proposed amendments to Ethics Commission Rules §§ 20.3, 20.7 and 20.315 in the Texas Register for public comment; second by Commissioner Akin. **Motion passed by a vote of seven ayes.**

**Agenda Item 8:** Public discussion and possible action on the proposal and publication in the Texas Register of amendments to the following Ethics Commission Rules impacted by House Bill 3517, 84th Legislative Session, Regular Session: Ethics Commission Rules §§ 34.1(5) (Definition of Independent Contractor): 34.46 (Registration under Section 305.0041 of the Government Code) and 34.73 (Reporting by Independent Contractor).

Chair Hobby briefed the Commission on this agenda item. Motion by Commissioner Ramsay to publish the proposed amendments to Ethics Commission Rules §§ 34.1, 34.46 and 34.73 in the Texas Register for public comment; second by Commissioner Akin. **Motion passed by a vote of seven ayes.**

**Agenda Item 9:** Discussion of Advisory Opinion Request Nos. AOR-596 and AOR-597: Application of Chapter 305 of the Government Code to an attorney's activities in response to certain invitations from members of the legislative branch to discuss pending legislation on behalf of the attorney's clients.

Joseph M. Nixon addressed the Commission. Trey Trainor addressed the Commission. Jack Gullahorn, with Jack W. Gullahorn, P.C., addressed the Commission. Chair Hobby, Vice Chair Untermeyer, Commissioner Ramsay, and Ian M. Steusloff, General Counsel, responded with questions and comments. No action was taken.

**Commissioner Akin left the dais briefly during Agenda Item 10.**

**Agenda Item 10:** Discussion of Advisory Opinion Request No. AOR-605: Regarding whether a public servant may accept a benefit from a potential donor in certain circumstances.

Ian M. Steusloff, General Counsel, briefed the Commission on this agenda item. Craig McDonald, with Texans for Public Justice, addressed the Commission and provided two written statements, one from himself and one from David E. Jones, from the Law Offices of David E. Jones. Chair Hobby, Vice Chair Untermeyer, Commissioners Akin, Clancy, Harrison, Long and Ramsay, and Ian M. Steusloff, General Counsel, responded with questions and comments. Motion by Commissioner Akin to adopt AOR-605 without changes; second by Vice Chair Untermeyer. **Motion failed to pass by a vote of 4 – 3 (Commissioners Clancy, Long and Ramsay voted no).**

**Commissioner Harrison left the dais during Agenda Item 11.**

**Agenda Item 11:** Discussion of Advisory Opinion Request No. AOR-606: Regarding whether an employee of a state agency may accept from persons regulated by the agency subscription fees for operating a website that compiles publicly available information.

Chair Hobby briefed the Commission on this agenda item. Motion by Vice Chair Untermeyer to adopt AOR-606 without changes; second by Commissioner Long. Motion passed by a vote of six ayes. **AOR-606 is adopted.**

**Agenda Item 12: Discussion of Advisory Opinion Request No. AOR-607: Regarding whether a former officeholder who is provided housing by the state as a benefit of holding that office may use political contributions to pay the expenses for moving personal household items out of the housing and into storage and to the former officeholder's new personal residence.**

Agenda Item 12 was withdrawn by the requestor by letter hand delivered on February 1, 2016.

**Commissioner Harrison returned to the dais during Agenda Item 13. Vice Chair Untermeyer left the dais during Agenda Item 13.**

**For the remaining Agenda Items 13 through 24, the following represents the actions taken by the Commission in the order they occurred during the meeting.**

**Agenda Item 13: Discussion and possible action on the Commission's authority to conduct random facial compliance reviews and full audits.**

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Chair Hobby responded with questions and comments. Natalia Luna Ashley, Executive Director, introduced Betty Gallegos, Texas Ethics Commission's new auditor. No action was taken.

**Agenda Item 14: Discussion on the Commission's authority to initiate complaints and discussion and possible action on an amendment to Ethics Commission Rules § 12.53 (Commission Initiated Complaint) to clarify that process.**

Chair Hobby briefed the Commission on this agenda item.

**Agenda Item 13: Discussion and possible action on the Commission's authority to conduct random facial compliance reviews and full audits.**

The Commission returned to this agenda item. Chair Hobby, Commissioners Clancy and Ramsay, Natalia Luna Ashley, Executive Director, and Jessie Haug, Director of Computer Services, responded with questions and comments. No action was taken.

**Agenda Item 14: Discussion on the Commission's authority to initiate complaints and discussion and possible action on an amendment to Ethics Commission Rules § 12.53 (Commission Initiated Complaint) to clarify that process.**

Motion by Commissioner Harrison to publish the proposed amendment to Ethics Commission Rules § 12.53 in the Texas Register for comment; second by Commissioner Clancy. **Motion passed by a vote of six ayes.**

**Agenda Item 15:** Discussion and possible action on the use of new resources to analyze filings data to ensure that the statutes enforced by the Commission are being complied with by those who are required to submit the filings.

This agenda item was tabled.

**Vice Chair Untermeyer returned to the dais during Agenda Item 16.**

**Agenda Item 16:** Discussion and possible action on the level of disclosure of political expenditures made to political consultants.

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

**The Commission recessed for a lunch break at 12:29 p.m. Reconvened at 1:00 p.m.**

**Agenda Item 17:** Briefing, discussion, and possible action to waive or reduce certain penalties assessed for campaign finance reports, lobby reports and personal financial statements filed late due to issues with the new electronic filing application for the following individuals and political committees:

1. **Jose Roberto Rodriguez (00066091)**  
**State Senator**

Report: semiannual report due July 15, 2015

Penalty: \$500

Recommendation: Waiver

2. **John Halloran Romanow (00016232)**  
**Treasurer, 'TAS-PAC' Texas Assn. of Staffing PAC**

Report: semiannual report due July 15, 2015

Penalty: \$500

Recommendation: Waiver

3. **David Rozzell (00069528)**  
**Treasurer, Conservative Republicans of Katy PAC**

Report: semiannual report due July 15, 2015

Penalty: \$500

Recommendation: Waiver

4. **David Rozzell (00069531)**  
**Treasurer, Katy Area Republican PAC**

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

Chair Hobby briefed the Commission on these agenda items. Motion by Vice Chair Untermeyer to accept staff's recommendation of waiver on Agenda Item 17, numbers 1 through 4; second by Commissioner Long. **Motion to accept staff's recommendations and waive the fine on Agenda Item 17, numbers 1 through 4, passed by a vote of seven ayes.**

5. **Tomas Uresti (00080143)**  
**Candidate, State Representative**

Report: personal financial statement due October 29, 2015  
Penalty: \$500  
Recommendation: Waiver

6. **John Lujan, III (00058435)**  
**Candidate, State Representative**

Report: personal financial statement due October 29, 2015  
Penalty: \$500  
Recommendation: Waiver

7. **Robert A. Casias (00068091)**  
**Candidate, State Representative**

Report: personal financial statement due October 29, 2015  
Penalty: \$500  
Recommendation: Waiver

Chair Hobby briefed the Commission on these agenda items. Motion by Commissioner Long to accept staff's recommendation of waiver on Agenda Item 17, numbers 5 through 7; second by Commissioner Harrison. **Motion to accept staff's recommendations and waive the fine on Agenda Item 17, numbers 5 through 7, passed by a vote of seven ayes.**

8. **Steve G. Holzheuser (00020370)**  
**Lobbyist**

Report: monthly lobby activities report due October 13, 2015  
Penalty: \$500  
Recommendation: Waiver

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

Report: monthly lobby activities report due October 13, 2015  
Penalty: \$500  
Recommendation: Waiver

10. **Pamela McPeters (00070863)**  
**Lobbyist**

Report: monthly lobby activities report due November 10, 2015  
Penalty: \$500  
Recommendation: Waiver

Chair Hobby briefed the Commission on these agenda items. Motion by Vice Chair Untermeyer to accept staff's recommendation of waiver on Agenda Item 17, numbers 8 through 10; second by Commissioner Ramsay. **Motion to accept staff's recommendations and waive the fine on Agenda Item 17, numbers 8 through 10, passed by a vote of seven ayes.**

**Agenda Item 18: 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. **Michael A. Franks (00037080)**  
**Candidate, State Representative**

Report: semiannual report due July 15, 2015  
Penalty: \$500 – no waiver  
Recommendation: None  
Appeal Received: December 1, 2015

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Chair Hobby, Commissioner Long, and Natalia Luna Ashley, Executive Director, responded with comments. Motion by Commissioner Akin to accept the determination made under administrative rules and leave the fine at \$500 for Agenda Item 18, number 1; second by Commissioner Harrison. **Motion to accept the determination made under administrative rules and leave the fine at \$500 passed by a vote of seven ayes on Agenda Item 18, number 1.**

2. **Paul Reyes (00067908)**  
**Treasurer, 'Associa PAC' Associations, Inc. PAC**

Report: 8-day pre-election report due May 1, 2015  
Penalty: \$7,900 – reduction to \$1,300  
Recommendation: None  
Appeal Received: January 5, 2016

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Chair Hobby responded with a comment. Motion by Commissioner Harrison to reduce the fine to \$500 on Agenda Item 18, number 2; second by Commissioner Ramsay. **Motion to reduce the fine to \$500 passed by a vote of seven ayes on Agenda Item 18, number 2.**

**Agenda Item 19: 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:**

**Deneile L. Fourrier (00080235)  
Treasurer, Back the Bulldog Bond PAC**

Report: 8-day pre-election report due October 26, 2015  
Penalty: \$4,700  
Recommendation Based on Commission Guidelines: substantial compliance

Chair Hobby briefed the Commission on this agenda item. Motion by Commissioner Long to accept staff's recommendation of substantial compliance on Agenda Item 19; second by Commissioner Akin. **Motion to accept staff's recommendation of substantial compliance on Agenda Item 19 passed by a vote of seven ayes.**

**Agenda Item 20: Discussion and possible action regarding the termination of a campaign treasurer appointment of the following inactive political committees:**

**1. Central Texas Republican Women (00054439)  
Larry C. Howell, Treasurer**

Last report filed: October 27, 2014  
Treasurer appointment filed: January 6, 2014

**2. RAB Law - PAC (00065791)  
Ricardo A. Baca, Treasurer**

Last report filed: July 30, 2014  
Treasurer appointment filed: June 15, 2009

**3. Moving Texas Forward (00066546)  
LaShonda M. Johnson, Treasurer**

Last report filed: October 27, 2014  
Treasurer appointment filed: June 28, 2013



**4. Coalition for Financial Freedom (00068754)**  
**Mike Bush, Treasurer**

Last report filed: Has never filed a report  
Treasurer appointment filed: October 3, 2014

**5. Southeast Texas Stonewall Democrats (00069423)**  
**Lawrence D. Gilstrap, Treasurer**

Last report filed: August 4, 2014  
Treasurer appointment filed: July 30, 2013

**6. Texans For Truth PAC (00070009)**  
**Anthony A. Holm, Treasurer**

Last report filed: Has never filed a report  
Treasurer appointment filed: February 10, 2014

Chair Hobby briefed the Commission on this agenda item. Motion by Commissioner Ramsay to adopt recommendations to terminate the campaign treasurer appointments on Agenda Item 20, numbers 1 through 6; second by Commissioner Akin. Motion passed by a vote of seven ayes. **Recommendations to terminate the campaign treasurer appointments are adopted on Agenda Item 20, numbers 1 through 6.**

**Agenda Item 21: Discussion and possible action regarding a form letter for political subdivisions with which campaign finance reports are filed to distribute to their filers.**

Chair Hobby and Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Chair Hobby, Vice Chair Untermeyer, Natalia Luna Ashley, Executive Director, and Jessie Haug, Director of Computer Services, responded with questions and comments. Chair Hobby requested that Commission staff work on establishing a social media presence. No action was taken.

**Agenda Item 22: Comments by the Executive Director.**

Natalia Luna Ashley, Executive Director, addressed the Commission. The Ethics Training Symposium held last Friday, January 29, 2016, in San Antonio went well. The next training symposium will be in the late summer in the Dallas area. Several major filing deadlines just passed; the 30 days before a primary election report is due today. The Commission will be posting the public packet for meetings and a link to the live-stream of meetings on the website. Ms. Ashley introduced new Commission staff members Betty Gallegos, Auditor, Allicia Anderson, Investigator, and Lauren Gregorcyk, attorney.

**Agenda Item 23: Comments to the Commission by the public.**

Joseph Nixon addressed the Commission and gave the Commission a letter. Chair Hobby responded with questions and comments.

**Agenda Item 24: Adjourn.**

Motion by Commissioner Long to adjourn; second by Commissioner Akin. **Motion passed by unanimous consent.**

Meeting adjourned at 1:45 p.m.