



TEXAS ETHICS COMMISSION MEETING MINUTES

Public Meeting Minutes

December 14, 2022, 9:04 a.m.
10th Floor, Sam Houston State Building
Austin, Texas 78701



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

COMMISSIONERS NOT PRESENT: None.

STAFF PRESENT: Brandon Barrett, Joe Brocato, Margie Castellanos, Carmen Dalpiaz, Betty Gallegos, David Guilianelli, Jessie Haug, Cristina Hernandez, Jordan Hunn, J.R. Johnson, Marilyn Langston, Natalie McDermon, Amy Padilla, Mark Pillsbury, Patti Shannon, Michelle Smith, Seth Smith, Jim Tinley, Omar Villarreal, and Bill Wilson.

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 Kennedy. J.R. Johnson, Executive Director, called the roll. All Commissioners were present.

Agenda Item 2: Discussion of, and possible action on, any unfinished business from the Executive Session or Public Meeting held on December 13, 2022.

Mr. Johnson, Executive Director, introduced new employees Mark Guilianelli and Aidan Shaughnessy, and retiring employee Marilyn Langston.

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

Chair Kennedy led the discussion on the next Commission meeting dates. Vice Chair Erben and Commissioners Flood and Wolens responded with questions and comments. The tentative dates for the next Commission meetings are February 15 and 16, 2023. No action was taken.

Agenda Item 4: Approve minutes for the following meetings:

- Executive Session on September 28, 2022; and
- Public Meeting on September 29, 2022.

Chair Kennedy briefed the Commission on this agenda item. Motion by Vice Chair Erben to approve the minutes in Agenda Item 4; second by Commissioner Flood. **Motion passed unanimously.**

Agenda Item 5: Discussion and possible action on the adoption or proposal and publication in the Texas Register of new 1 Tex. Admin. Code § 22.37, regarding virtual currency contributions.

J.R. Johnson, Executive Director, briefed the Commission on this agenda item. Chair Kennedy, Vice Chair Erben, Commissioners Schmidt and Wolens, Mr. Johnson and Jim Tinley, General Counsel, responded with questions and comments. No action was taken.

Agenda Item 6: Discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to 1 Tex. Admin. Code § 50.1 (Legislative Per Diem) relating to the legislative per diem required to be set under Article III, Section 24a, of the Texas Constitution.

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Chair Kennedy, Commissioner Wolens and Mr. Tinley responded with questions and comments. Motion by Commissioner Wolens to not adopt the amendment to 1 Tex. Admin. Code § 50.1; second by Vice Chair Erben. **Motion passed unanimously.**

Agenda Item 7: Discussion and possible action regarding rules related to the administrative waiver or reduction of civil penalties for late filing, including the proposal and publication in the Texas Register of the repeal and amendments to 1 Tex. Admin. Code §§ 18.21, 18.23, 18.24, 18.25 and 18.26.

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Chair Kennedy and Mr. Tinley responded with questions and comments. Motion by Commissioner Flood to publish Agenda Item 7 for public comment; second by Commissioner Schmidt. **Motion passed unanimously.**

Agenda Item 8: Discussion and possible action on the proposal and publication in the Texas Register of an amendment to 1 Tex. Admin. Code § 40.3 regarding the definition of “home address” as it relates to personal financial disclosures.

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Chair Kennedy, Vice Chair Erben, Commissioners Craycraft, Flood, Mizell, Schmidt and Wolens, J.R. Johnson, Executive Director, and Mr. Tinley responded with questions and comments. No action was taken.

Agenda Item 9: Draft Advisory Opinion No. AOR-660: Whether a corporation subject to section 253.094 of the Texas Election Code may provide pro bono legal services to candidates or political committees in Texas for the purpose of challenging in court the interpretation or constitutionality of a Texas law or regulation subject to the jurisdiction of the Texas Ethics Commission.

J.R. Johnson, Executive Director, briefed the Commission on this agenda item. David Keating with the Institute for Free Speech and Ashley Harris with the American Civil Liberties Union of Texas appeared virtually and addressed the Commission. Chair Kennedy, Commissioner Wolens and Mr. Johnson responded with questions and comments. Motion by Vice Chair Erben to adopt AOR-660; second by Commissioner Craycraft. **Motion passed by a vote of five ayes (Chair Kennedy and Commissioners Flood and Schmidt voted no); AOR-660 is adopted.**

Agenda Item 10: Draft Advisory Opinion No. AOR-671: Whether a political committee may accept political contributions through a web portal shared with an incorporated association that established and administers the political committee.

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Motion by Vice Chair Erben to adopt AOR-671; second by Commissioner Craycraft. **Motion passed unanimously. AOR-671 is adopted.**

Agenda Item 11: Draft Advisory Opinion No. AOR-672: Whether a written communication, created by a political subdivision and related to a measure, constitutes political advertising for purposes of the Election Code’s prohibition against using public funds for political advertising.

J.R. Johnson, Executive Director, briefed the Commission on this agenda item. Chair Kennedy responded with comments. Motion by Commissioner Craycraft to adopt AOR-672; second by Vice Chair Erben. **Motion passed unanimously. AOR-672 is adopted.**

Agenda Item 12: **Draft Advisory Opinion No. AOR-673: Whether, under the Judicial Campaign Fairness Act, a general-purpose committee may make a maximum “campaign contribution” (up to \$25,000) to a state-wide judicial candidate and a maximum “officeholder contribution” (up to an additional \$25,000) before a general election.**

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Motion by Vice Chair Erben to adopt AOR-673; second by Commissioner Schmidt. **Motion passed unanimously. AOR-673 is adopted.**

Agenda Item 13: **Draft Advisory Opinion No. AOR-677: Whether expenditures made by a candidate to encourage donations to a local food bank are campaign expenditures when publicized by the candidate on a social media page that is also used for his campaign.**

J.R. Johnson, Executive Director, briefed the Commission on this agenda item. Motion by Vice Chair Erben to adopt AOR-677; second by Commissioner Flood. **Motion passed unanimously. AOR-677 is adopted.**

Agenda Item 14: **Discussion and possible action on appeals of determinations made under Ethics Commission Rules §§ 18.11, 18.25 and 18.26 relating to administrative waiver or reduction of a fine, for the following filers:**

1. **Residents for Accountability and Transparency, Marshall W. Sprigg treasurer (00081705).**
2. **San Antonio Chapter Associated General Contractors Political Action Committee, Doug McMurry treasurer (00024566). Lauren Mandel appeared in person.**

Natalie McDermon, Assistant General Counsel, briefed the Commission on Agenda Item 14, number 1. Marshall Sprigg appeared virtually and addressed the Commission. Motion by Commissioner Slovacek to waive the fine on Agenda Item 14, number 1; second by Mizell. **Motion passed unanimously.** Natalie McDermon, Assistant General Counsel, briefed the Commission on Agenda Item 14, number 2. Lauren Mandel appeared virtually and addressed the Commission. Chair Kennedy, Commissioner Wolens and Ms. McDermon responded with questions and comments. Motion by Commissioner Slovacek to waive the fine on Agenda Item 14, number 2; second by Commissioner Flood. **Motion passed unanimously.**

Agenda Item 15: **Discussion and possible action regarding recommendations for statutory changes to the 88th Legislature as required by section 571.073 of the Government Code.**

Chair Kennedy and J.R. Johnson, Executive Director, briefed the Commission on this agenda item. Vice Chair Erben, Commissioner Wolens and Jim Tinley, General Counsel, responded with questions and comments. Motion by Commissioner Wolens to adopt the recommendations for statutory change; second by Vice Chair Erben. **Motion passed unanimously.**

Agenda Item 16: Discussion and possible action regarding the termination of a campaign treasurer appointment for the following inactive political committee:

The Committee to Elect Gena Slaughter and Dorotha Ocker, District Judge Gena N. Slaughter, Acting Treasurer (00069231)

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Flood to adopt staff recommendation on Agenda Item 16; second by Chair Kennedy. **Motion passed unanimously.**

Agenda Item 17: Adjourn.

Commission meeting adjourned by unanimous consent.

Meeting adjourned at 10:26 am.