



COUNTY OF EL PASO
OFFICE OF THE COUNTY AUDITOR

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03-02

March 3, 2022

Ms. Betsy C. Keller, CM
County Chief Administrator
El Paso County Administration Office
500 E. San Antonio, Room 302A
El Paso, Texas 79901

Dear Ms. Keller:

The County Auditor's Internal Audit division performed an evaluation of the El Paso County Commissioners Court meeting minutes review and approval process in accordance with *Local Government Code 115.001(2)* to determine if minutes were uploaded and approved in compliance with County Administration policy.

We reviewed 67 meetings within the scope of October 2020 to September 2021 and concluded control weakness relating to timeliness affecting compliance with County Administration policy and with *Local Government Code, 115.001(2)* which requires the county auditor to review the correctness of the commissioners court minutes, still exist. The evaluation report is attached.

Because of certain statutory duties required of the County Auditor, this office is not independent in regard to your office, as defined by AICPA professional standards. However, our review was performed with objectivity and due professional care.

Respectfully,

Edward A. Dion
County Auditor

EAD:JO:ya

cc: Honorable Judge Ricardo A. Samaniego, El Paso County Judge
Honorable Carlos Leon, County Commissioner, Precinct 1
Honorable David Stout, County Commissioner, Precinct 2
Honorable Iliana Holguin, County Commissioner, Precinct 3
Honorable Carl L. Robinson, County Commissioner, Precinct
The Honorable Delia Briones, County Clerk



**Review of Commissioners Court
Meeting Minutes Approval Process
October 2020 – September 2021**



EVALUATION REPORT

OPERATIONAL BACKGROUND

The El Paso County Commissioners Court has set the “Term” for its meetings as every Monday at 9:30 am on the third floor of the El Paso County Courthouse, unless the Monday falls on an observed County holiday or if the necessary quorum requirement cannot be met. Further, special and budget session meetings may take place on days other than Monday, in the County Judge’s conference room located at the El Paso County Courthouse or other predesignated locations.

However, due to the COVID19 pandemic and the County Judge’s issuance of a stay-at-home order effective March 17, 2020, all meetings, under the scope of this review, were held in a virtual environment. The Commissioners Court functions as the County’s primary legislative and policy-making body and is comprised of the County Judge, who serves as the County’s chief executive officer, and four commissioners. The minutes recounting the actions and approvals occurring during the Commissioners Court meetings are prepared by a member of County Administration deputized by the El Paso County Clerk. These minutes are then to be approved at a subsequent meeting within two weeks (10 business days) from each meeting date per County Administration policy, revised January 13, 2020. Further, per policy all minutes must be signed and certified by the deputized court reporter and then uploaded into the County’s website for future reference. Local Government Code (LGC) 115.001(2) requires the county auditor to examine and investigate the correctness of the orders of the commissioners court relating to county finances. The timeliness of properly preparing and approving minutes is crucial to Commissioners Court and County Auditor’s Office review to ensure accuracy. This review was performed by James O’Neal, internal audit manager, senior. Previous report was issued on December 30, 2020.

STATUTORY BACKGROUND

Statutorily, the county clerk is the clerk of the commissioners court, see TEX. CONST. art. V, § 20. Section 81.003 (a). See excerpt from Attorney General opinion GA-0277:

Article V, section 20 of the Texas Constitution provides that the duties of a county clerk "**shall** be prescribed by the Legislature." TEX. CONST. art. V, § 20. Section 81.003 of the Local Government Code prescribes those duties with regard to meetings of a commissioners court. That provision states, in relevant part:

- (a) The county clerk is the clerk of the commissioners court.
The clerk **shall**:
 - (1) serve the court during each of its terms;
 - (2) keep the court's books, papers, records, and effects; and
 - (3) issue the notices, writs, and process necessary for the proper execution of the court's powers and duties.
- (b) The court **shall** require the clerk to record the proceedings of each term of the court. This record may be in paper or electronic format. After each term the clerk **shall** attest to the accuracy of this record.
- (c) The clerk **shall** record the court's authorized proceedings between terms. This record may be in paper or electronic format. The clerk **shall** attest to the accuracy of the record.

Section 81.003 of the Local Government Code, as we have observed, **requires a county clerk to "keep the court's books, papers, records, and effects."**



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Furthermore, clarification is provided in Attorney General Opinion, GS-6423, which states "Commissioners' courts are courts of record, and they must authenticate all official acts, if such authentication is required, by a seal pre-scribed by statute." and furthermore, it has been held that the provisions of the statutes referred to above indicate making it the duty of the county clerk who therefore has been copied on this audit report.

SCOPE

The review of minutes' approval covered meetings from October 2020 thru September 2021.

EVALUATED RESULTS

Commissioners Court meeting minutes were reviewed to ensure minutes were uploaded and approved in compliance with County Administration policy and LGC 115.001(2). A total of 67 meeting minutes were reviewed. As noted above, the previous memorandum dictating the 10 business day approval time frame policy was issued December 30, 2020, which overlaps the current scope (October 2020 – September 2021) of this review. Therefore, a total of 12 meetings held between October 2020 and December 2020 are analyzed in Table 1 and a total of 55 meetings held after December 2020 are analyzed in Table 2, noted below.

**Table 1
(October 2020 – December 2020)**

Approval Due Date	Number of Meetings	Percentage
Compliance	0	0%
7 Days or Less Overdue	0	0%
8 - 14 Days Overdue	4	33%
15+ Days Overdue	8	67%
Minute Approval Not Found	0	0%
Totals	12	100%

**Table 2
(January 2021 – September 2021)**

Approval Due Date	Number of Meetings	Percentage
Compliance	28	51%
7 Days or Less Overdue	15	27%
8 - 14 Days Overdue	3	5%
15+ Days Overdue	9	16%
Minute Approval Not Found	0	0%
Totals	55	100%



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As noted in the tables above, once non-compliance issues with County Administration policy were addressed in the December 2020 audit report; there was a 51% increase in the number of meetings achieving compliance with the County Administration 10 business day policy. Although improved, County Administration should strive to achieve 100% policy compliance.

Per County Administration policy, once the court has approved the minutes, the deputized court recorder will sign the minutes as a form of certification and upload the signed minutes into the County's website. Of the 67 uploaded meeting minutes reviewed, none were signed by the deputized court recorder. All minutes should be properly documented and signed by the court recorder to ensure policy and statutory compliance.

Pursuant to Local Government Code, Section 81.003(b) The court shall require the clerk to record the proceedings of each term of the court. Non-compliance was discussed with the County Administrator who is of the position that no statutory deadlines for production the minutes of the commissioners court exist.

CONCLUSION

It is the County Auditor's understanding that the County Clerk has delegated this function to the Commissioners Court, County Administration Department, (date of transition unknown). Furthermore, the County Clerk has deputized two staff to perform this function. The results of this evaluation show the timeliness of the commissioners court written minutes approval is not within statutory compliance as set forth in the statutes governing the documentation of meeting proceedings. This matter has been discussed with the County administrator and copied to the County Clerk in the past, yet non-compliance with the statutory mandates continues.

The 51% increase in policy compliance shows an upward trend towards achieving 100% policy compliance. We recommend the County Administration continue this upward trend in policy compliance and strive to ensure 100% adherence. Further, we recommend all uploaded minutes be signed and properly documented to ensure statutory certification and policy compliance. This can be achieved by communicating the importance of each task to both certified court reporters and any other staff deemed necessary.

In an email dated February 7, 2022, the County Chief Administrator revised the current Commissioners Court Meeting Minutes Policy increasing the previously agreed upon 10 business day preparation and approval time frame to 30 business days to accommodate both COVID and non-COVID related staffing shortages. The County Chief Administrator is also in the process of researching procurement of a new system that will implement a digitized video minute process which will eliminate the need for the current approval process.

The County Auditor's Office will request an opinion from the County Attorney to offer further clarity and guidance regarding the timeliness of preparing written minutes and whether a digitized video may be considered in meeting this statutory requirement of preparing the official minutes for each term (meeting)



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EVALUATION REPORT

of the Commissioners Court. Once this opinion is issued it will be shared with both departments for further review and compliance.

The timeliness and proper certification of Commissioners Court minutes is crucial for review, by both the Court and the Auditor's office to ensure accuracy. Further, the timely posting of information contained within the minutes is important for other departments who use these minutes as points of reference. Untimely preparing, posting and approval of the Court meeting minutes increases the risk of non-compliance with Local Government Code 115.001 (2) and the possibility of inaccurate information being documented. We recommended this matter be addressed by the County Clerk who is ultimately responsible for the deputized employees, and documentation and record keeping of the commissioners court minutes of its meetings.