



COUNTY OF EL PASO
OFFICE OF THE COUNTY AUDITOR

EDWARD A. DION, CPA
COUNTY AUDITOR
edion@epcounty.com
www.epcounty.com/auditor

County Administrative Offices
800 East Overland Street, Rm. 406
El Paso, Texas 79901-2407
(915) 546-2040
(915) 546-8172 FAX

02-01

February 1, 2023

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 and requirements of the Texas Constitution.

We reviewed 61 meetings within the scope of October 2021 to September 2022 and concluded control weakness reported in previous evaluation reports relating to timeliness affecting compliance with County Administration policy were addressed and resolved with the issuance of County Attorney Opinion 22-0263 in March 2022. 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 Sergio Coronado, County Commissioner, Precinct 4
Ms. Delia Briones, County Clerk



**Review of Commissioners Court
Meeting Minutes Approval Process
October 2021 – September 2022**



EVALUATION REPORT

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 term. 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."**

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.

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.

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. Initially, these minutes were then to be approved at a subsequent meeting within two weeks (10 business days) from each meeting date per County Administration policy. However, a policy revision dated February 7, 2022, changed the minutes approval time frame to 30 business days. 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



**Review of Commissioners Court
Meeting Minutes Approval Process
October 2021 – September 2022**



EVALUATION REPORT

auditor to examine and investigate the correctness of the orders of the commissioners court relating to county finances.

County Attorney (CA) opinion (OP-22-0263) was issued on March 25, 2022, providing a legal review of LGC 81.003 to clarify the meaning in subsection (c) the phrase “between terms” and statutory compliance in the use of software to assist in the preparation of said minutes. The opinion concluded “between terms” refers to the time between scheduled term meetings and for regular term meetings, the minutes from a Monday term meeting must be prepared by County Clerk before the next Monday term meeting. Further, the opinion stated no specific format on how to prepare the minutes. The County Clerk meets their statutory duty of recorder to the Commissioners Court if all the following are met: 1) the County Clerk or Deputy Clerk takes minutes of all actions; 2) minutes must reflect each vote, order, decision, or other action taken; 3) index the minutes; 4) record minutes between terms; 5) attest to the accuracy of the record; 6) produce the record in paper or electronic format; 7) the minutes must be retained subject to inspection and copying. If the forementioned criteria is met, the County Clerk could use electronic minutes via video with automatic transcription and be compliant with their statutory duties.

In an email from the County Chief Administrator dated November 30, 2022, it was noted the previously mentioned policy had been removed from the administration office due to the County Attorney opinion mentioned above. Further, an updated policy had not been implemented by the Administration Office nor the County Clerk Office. A new automated review system is to be implemented within the next six months and new/updated policies and procedures will be determined at that time.

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 March 4, 2022.

SCOPE

The review of minutes’ approval covered meetings from October 2021 thru September 2022.

EVALUATED RESULTS

Commissioners Court meeting minutes were reviewed to ensure minutes were uploaded and approved in compliance with County Administration policy and CA Opinion OP-22-0263. A total of 61 meeting minutes were reviewed. As noted above, a policy revision took effect February 7, 2022, increasing the approval time frame from 10 business days to 30 business days. A County Attorney opinion was issued on March 25, 2022, clarifying the approval time frame to be from term to term meaning meeting to meeting. This opinion revised the approval time frame to seven days or from one meeting to the next consecutive meeting date. Due to fluctuations in the approval time frames, the testing results for this review have been divided into relevant time frames for the scope of this review. Therefore, a total of 17 meetings held between October 1, 2021, and January 31, 2022, are analyzed in Table 1; 9 meetings held between February 7, 2022, and March 23, 2022, are analyzed in Table 2; and a total of 35 meetings held after March 28, 2022, are analyzed in Table 3, noted below.



**Review of Commissioners Court
Meeting Minutes Approval Process
October 2021 – September 2022**



EVALUATION REPORT

**Table 1
(October 1, 2021 – January 31, 2022)
(10 Business Day Policy Enforcement)**

Approval Due Date	Number of Meetings	Percentage	Minutes Signed	Percentage
Compliance	6	35%	17	100%
Non-Compliance	11	65%	0	0%
Totals	17	100%	17	100%

**Table 2
(February 7, 2022 – March 23, 2022)
(30 Business Day Policy Enforcement)**

Approval Due Date	Number of Meetings	Percentage	Minutes Signed	Percentage
Compliance	9	100%	9	100%
Non-Compliance	0	0%	0	0%
Totals	9	100%	9	100%

**Table 3
(March 28, 2022 – September 29, 2022)
(CA Opinion 7 Day Term to Term Enforcement)**

Approval Due Date	Number of Meetings	Percentage	Minutes Signed	Percentage
Compliance	35	100%	35	100%
Non-Compliance	0	0%	0	0%
Totals	35	100%	35	100%

Further, as noted in the operational background above, lack of an approval policy may lead to a lack of direction for staff members and an increase in statutory non-compliance.

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) and the County Clerk has deputized two staff to perform this function. The results of this evaluation show initial statutory non-compliance as set forth in the statutes governing the documentation of meeting proceedings, however, results also show a great improvement in compliance during the second quarter of the fiscal year under review for the timeliness of the minutes.

The increase in approval compliance after February 25, 2022, shows a mass improvement and 100% compliance for timeliness. Although attestation of minutes is being performed; their storage location limits access to certain employees. It is therefore recommended all attested minutes be uploaded onto the County’s website for public view to promote increased transparency. In regard to the lack of approval



**Review of Commissioners Court
Meeting Minutes Approval Process
October 2021 – September 2022**



EVALUATION REPORT

policy, we recommend both the County Clerk and County Administration Department work together in creating a temporary approval policy based on CA opinion OP-22-0263 until a new automated review system is implemented and policy details can be revisited.

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 the County Clerk and the County Administration Department continue in assuring all minutes are approved in statutory compliance and properly documented.