



COUNTY OF EL PASO
OFFICE OF THE COUNTY AUDITOR

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12-21

December 28, 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 67 meetings within the scope of October 2022 to September 2023 and concluded all minutes were documented, approved and issued in compliance with County Attorney Opinion 22-0263 issued 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,

Barbara Parker
County Auditor

BAP: JO:EA

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

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."**

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.

An updated County Administration Policy issued February 7, 2022, documented a minute approval time frame of up to 30 business days. However, County Attorney (CA) opinion OP-22-0263 dated March 25, 2022, provided a legal review of LGC 81.003 to clarify the meaning in subsection (c) the phrase "between terms". 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.

In light of the CA opinion, the County Chief Administrator removed the above-mentioned policy from the administration office on November 30, 2022, and agreed to adhere to the approval terms documented within the CA opinion.

Further, all minutes must be signed and certified by the deputized court reporter and then uploaded into the County's website for transparency and future reference purposes. 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 February 1, 2023.

SCOPE

Meetings from October 2022 thru September 2023.

EVALUATED RESULTS

As noted above, the issuance of CA opinion 22-0263 has taken precedence in the minute approval process. This opinion revised the approval time frame to seven days or from one meeting to the next consecutive meeting date. Therefore, Commissioners Court meeting minutes were reviewed to ensure minutes were uploaded and approved in compliance with said opinion. A total of 67 meeting minutes were reviewed and evaluated. 100% of evaluated meeting minutes were in compliance with CA opinion 22-0263.

CONCLUSION

The results of this evaluation show statutory compliance as set forth in the statutes governing the documentation of meeting proceedings. Further, as previously recommended, all attested minutes uploaded onto the County's website for public view have documented approval signatures by both preparer and county judge. In regard to the lack of approval 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.