

# EL PASO COUNTY COMMISSIONERS COURT



## Executive Session Policy

**Adopted Date:** March 19, 2018

**Revised Date:** September 10, 2018

### Purpose

The Texas Open Meetings Act allows a Commissioners Court to meet in executive session to discuss certain matters in private. Only members of the Commissioners Court have the right<sup>1</sup>, when authorized under the Texas Open Meetings Act, to convene in executive session.

Routinely, the Commissioners Court convenes in executive discussion to:

- deliberate certain personnel matters involving officers and employees; Tex. Gov't Code § 551.074;
- consult with its attorney on legal matters; Tex. Gov't Code § 551.071<sup>2</sup>;
- deliberate the purchase, exchange, lease, or value of real property; Tex. Gov't Code § 551.072;
- deliberate business and financial issues relating to a contract being negotiated; Tex. Gov't Code § 551.0725;
- deliberate about security devices or security audits; Tex. Gov't Code § 551.076;
- deliberate a negotiated contract for a prospective gift or donation; Tex. Gov't Code § 551.073; and,
- deliberate regarding economic development matters; Tex. Gov't Code § 551.087.

At the discretion of the Commissioners Court certain County officers and employees may attend executive session and only upon a finding that the (1) individual's interests are not adverse to the County; (2) the individual's participation is necessary; and (3) the presence of the individual will not waive the attorney-client privilege. Only after such a finding by the Commissioners Court will the following County officers and employees be permitted to regularly attend executive session:

- the County Attorney and/or the County Attorney's representative;

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<sup>1</sup> In certain circumstances a member of a Commissioners Court may be considered an adversary as a result of litigation and would not be permitted to attend executive session. See Tex. Att'y Gen. Op. No. M-126.

<sup>2</sup> In order to have a closed session meeting under the legal advice exception the Court's legal advisor must also be present.

- the County's Chief Administrator;
- the court recorder.

Commissioners Court may have one member of their personal staff attend executive session for items related to Chapter 381 agreements under Tex Gov't Code § 551.087.

All other County officers and employees will be notified by the Court to attend executive session if the Court finds that their participation is necessary to aid in discussion of a specific executive session agenda item.