

# EL PASO COUNTY COMMISSIONERS COURT



## Executive Session Policy

**Adopted Date:** March 19, 2018

**Revised Date:** January 21, 2021

### 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, or designee;
- the court recorder;
- Audio/video staff when necessary.

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.

Staff who attend executive session either regularly or occasionally are required to attend training from the County Attorney's Office regarding the Open Meetings Act and other rules governing Executive Session discussions at least every two years.