

THE STATE OF TEXAS

COUNTY OF CAMERON

BE IT REMEMBERED on the 5th day of MAY, 1998, there was conducted a SPECIAL Public Meeting of the Honorable Cameron County Elections Commission of Cameron County, Texas, at the Courthouse thereof, in the City of Brownsville, Texas, for the purpose of transacting any and all business that may lawfully be brought before the same.

THE COMMISSION MET AT:

1:30 P.M.

PRESENT:

GILBERTO HINOJOSA
CHAIRPERSON

TONY YZAGUIRRE
TAX ASSESSOR-COLLECTOR

MANNY VELA
DEMOCRATIC CHAIRPERSON

RICHARD HOFFMAN
REPUBLICAN CHAIRPERSON

JOE G. RIVERA
COUNTY CLERK

Hilda V. Treviño Deputy
COUNTY CLERK

ABSENT:

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The meeting was called to order by Judge Gilberto Hinojosa.

The Commission considered the following matters as posted and filed for Record in the Office of the County Clerk, on May 1, 1998, at 2:35 P.M.:

(NOT ON AGENDA)

**AT THIS TIME, MR. LARRY WARNER, ATTORNEY AT LAW, SUBMITTED THE
FOLLOWING MOTIONS TO BE FILED IN THE COUNTY CLERK-S OFFICE:**

(1) APPROVAL OF MINUTES FOR APRIL 28, 1998

Commissioner Rivera moved that the Minutes of the Special Meeting held April 28, 1998, at 1:30 P.M., be approved.

The motion was seconded by Commissioner Yzaguirre and carried unanimously.



(1) EXECUTIVE SESSION

At this time, the following Executive Session Items were to be conducted in Open Session subsequent to the Executive Session, upon request by Mr. Larry Warner, Attorney at Law, and Ms. Amalia Cano Acevedo, Elections Administrator:

- a) Deliberation regarding the complaints made against the Cameron County Elections Administrator; pursuant to Vernon Texas Code Annotated (V.T.C.A.), Government Code, Section 551.074 (2); and
- b) Deliberation regarding the possible dismissal of the Cameron County Elections Administrator; pursuant to Vernon Texas Code Annotated (V.T.C.A.), Government Code, Section 551.074 (1).

Upon motion by Commissioner Vela, seconded by Commissioner Yzaguirre and carried unanimously, the Commission met in Executive Session at 1:52 P.M. to discuss the following matters:

- c) Consultation with the Attorney concerning the dismissal procedure for the Elections Administrator on matters in which the duty of the Attorney to the governmental body, under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, clearly conflicts with the Open Meetings Act; pursuant to Vernon Texas Code Annotated (V.T.C.A.), Government Code, Section 551.071(2).

Upon motion by Commissioner Rivera, seconded by Commissioner Yzaguirre and carried unanimously, the Court reconvened in Regular Session at 2:12 P.M.



(2) ACTION RELATIVE TO EXECUTIVE SESSION

- c) In the matter of the consultation with the Attorney concerning the dismissal procedure for the Elections Administrator, on matters in which the duty of the Attorney to the governmental body, under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, clearly conflicts with the Open Meetings Act. **(NO ACTION TAKEN)**



At this time, the following Executive Session Items were conducted in Open Session at the request of Mr. Larry Warner, Attorney at Law, and Ms. Amalia Cano Acevedo, Elections Administrator:

- a) Deliberation regarding the complaints made against the Cameron County Elections Administrator; and
- b) Deliberation regarding the possible dismissal of the Cameron County Elections Administrator.

At this time, Judge Hinojosa read the motions submitted by Mr. Warner into the record and clarified that based on the procedures under the Texas Law, any items dealing with Personnel matters would be handled in Executive Session, unless the employee requested that the item be held in Open Session. He stated that Mr. Warner had requested that the matter be held in open session, but also requested that all items be restricted to the matters contained in the Elections Commission's letter to the Elections Administrator, dated April 28, 1998.

Mr. Warner requested that the matter not be discussed beyond the bounds of the statements of concerns and complaints and stated that they were prepared to respond only to the concerns and complaints listed in the above mentioned letter dated April 28, 1998.

Judge Hinojosa questioned whether Mr. Warner was restricting or allowing public comment and noted that based on Texas Law, public comment would not be allowed if the matter was conducted in Executive Session, unless requested by the Commission.

Mr. Warner requested that the hearing be restricted to the responses to the list of concerns and complaints and that the motions submitted to the Court be considered.

Judge Hinojosa stated that the motions filed by Mr. Warner would be considered as concerns that fell within the requirements of the Texas Open Meetings Law, regarding the request for an Open Meeting and the request to limit the discussion to the items contained in the April 28, 1998, letter. He stated that the issues raised and the documents filed would be addressed in the context of the Items listed on the Agenda. Judge Hinojosa asked Mr. Warner to review the following letter, in order to confirm that the document was correct before making it a part of the record and Mr. Warner replied affirmatively:

At this time, Judge Hinojosa informed Mr. Warner that under Texas Law, he was entitled to have the list of concerns and complaints and the responses retained in Executive Session, as opposed to being revealed to the public, under the Open Meetings Act, noting that the issue was a personnel matter.

Mr. Warner requested that the documents become public and noted that the documents had been officially filed in the County Clerks= Office and the appropriate filing fees had been paid.

Upon motion by Commissioner Vela, seconded by Commissioner Rivera and carried unanimously, the April 28, 1998, letter listing the concerns and complaints and the responses provided by Mr. Warner, on behalf of Ms. Acevedo, were made a part of the record.

The Letter and Responses are as follow:

At this time, Judge Hinojosa requested that two (2) documents, that being a letter from Mr. Dan Reyna, relating to the Elections Commission letter to Ms. Acevedo and the Cameron County Agenda Request Form relating to Response Item No. 10, as to the Democratic Primary Election of March 10, 1998, be made part of the record.

Upon motion by Commissioner Vela, seconded by Commissioner Yzaguirre and carried unanimously, the letter from Mr. Dan Reyna was made a part of the record.

The Letter is as follows:

Upon motion by Commissioner Yzaguirre, seconded by Commissioner Vela and carried unanimously, the Agenda and the Agenda Item Request Form was made part of the record.

The Agenda and the Form are as follow:

At this time, Mr. Warner requested a response as to the motions filed and Judge Hinojosa responded that the matter would be addressed in the contexts of the Executive Session Items No. 2 Aa@ and Ab@.

Mr. Warner requested that the Motion to Rescue be accepted or denied by the Commission.

Mr. Doug Wright, Commissioners= Court Legal Counsel, clarified that the issues being addressed were employer/employee pre-termination situation, as opposed to a Judicial Proceeding and added that the purpose of the Meeting was to allow the Elections Administrator a fair process.

At this time, Mr. Warner read the following responses as to the concerns and complaints noted in the April 28, 1998, statement:

At this time, Mr. Warner submitted the following list including the fifteen (15) Elections held since the appointment of Ms. Acevedo and highlighted the Elections which had no significant problems:

Mr. Warner stated that Ms. Acevedo had anticipated problems which might have occurred, but noted that the problems that did not occur were not reflected on the list.

Judge Hinojosa referred to the matter as reflected on the Election held August 12, 1995, and questioned whether the Elections Administrator's Office was at fault and added that the matter had been corrected after the lawsuit.

Ms. Amalia Cano Acevedo, Elections Administrator, stated that the voter registration lists were not provided, due to the lack of the street indexing.

At this time, Mr. Warner stated that the Elections Administrator had solved the problems as best as she could considering the budget and personnel she was assigned and added that the County had a significant investment in her experience and the ability to perform the job. He requested that the County should work with the Elections Administrator by informing her of the precise concerns, as opposed to focusing on the problems which had occurred. Mr. Warner suggested that a Management Plan be implemented, including the responsibilities and concerns, in order for the Elections Administrator to address the issues.

At this time, Commissioner Vela requested to make a statement before stating his motion.

Commissioner Vela stated AI would like to make sure that everybody understands that, in particular Ms. Acevedo, what a difficult situation and decision making process this is. Primarily because as you work with somebody, you develop a friendship with that individual and I consider Ms. Acevedo my friend. And basically, the decision is even somewhat more difficult than it might otherwise be, and quite frankly, I hope that nobody else in this room ever has to be placed in this position. To a certain extent, I wish that all the Commissioners who had been here previously and hired Ms. Acevedo, were here to make this decision, because it is a gut wrenching decision, to be honest with you. However, in analyzing this situation, this is a Apersonnel@ matter. This does not become a Apersonal@ matter. And, if you let it become a personal matter, then we can not meet our responsibilities. And it is quite simply our responsibility, quite simply to the residents of Cameron County versus your friend, or a friendship that might have developed. With that in mind, based on all the information that we have gathered, Judge, I feel that I have no alternative but to move that we recommend to the County Commissioners= Court that the Elections Administrator be terminated.@"

Judge Hinojosa stated AThere is a motion. Is there a second to that motion?@"

Commissioner Yzaguirre responded AI=I second that motion .@"

Commissioner Vela moved that the termination of the Elections Administrator be recommended to the Commissioners= Court.

The motion was seconded by Commissioner Yzaguirre.

At this time, Mr. Warner reiterated that the County had invested three (3) years of time in Ms. Acevedo and added that the Commission should consider the large number of Precincts in Cameron County. He stated that Ms. Acevedo should be placed on probation, noting that Ms. Acevedo was attempting to resolve the concerns. Mr. Warner suggested that Ms. Acevedo be placed on probation until the next Election and reiterated that many of the fifteen (15) elections were held without incident.

Judge Hinojosa stated "One thing that I do want to point out, Mr. Warner and Ms. Acevedo is that, I want to reiterate what I have mentioned last time around about your statement that well, most of the elections went alright. And I have a real significant problem with that statement. I think the very essence of what we are all about is the democracy. And the very basis of a democracy is having every individual having the right to vote whether he or she chooses to vote in the manner that is allowed by the constitution and by the laws of the jurisdiction that the person is voting in. There is no exception to that rule. There is not some elections that are more important than other elections. Every single election is important to ensure that this democracy that we live in continues. And so I can not accept you taking light some elections, I can not accept the proposition that is alright to make a mistake sometimes, when most of the time you don't make a mistake. This is how we operate as a democracy in America and how we, I hope we continue to operate till God decides that he doesn't want America to exist any longer. And that is that every single election for every single voter, is of utmost importance and we have to do everything possible to ensure that those voters and those citizens are able to free their exercise to vote and their right to vote is not hampered in any way, or not questioned in any way. And I think that a large part of the discussion that has occurred and the problems that we have had, hits at the very basis of that and has caused the concerns that I have with respect to Ms. Cano-Acevedo's operation of this department to come forward. I mean, I was the one that was here trying to explain to everyone for a long period of time that things were going to change, that things were going to change and that things were going to change. And they never did. And I think that the concern that I have, is that they didn't and that they were very, very serious. Any further discussion?"

At this time, Commissioner Hoffman stated "I am not particularly happy that people applaud a motion like this and I agree with Manny that it is very difficult. I think on the good side of Ms. Acevedo, she has been very friendly, she has been very helpful and she has done particularly a non-partisan. Unfortunately, I think there have been fundamental problems, and I think, unfortunately, it's our job to try to address those as best as we can. And I know that not only the confidence of the some of the voters has been diminished, but certainly the confidence of some of the candidates. And because of that, I think we need to take some action."

Mr. Warner suggested that the Elections Administrator be placed on probation, as opposed to being terminated and requested that the motion be amended.

Mr. Wright stated that the Elections Commission did not have the authority to take disciplinary action and that the Commission had the option to recommend termination.

Upon motion duly made by Commissioner Vela, seconded by Commissioner Yzaguirre and carried unanimously, the Elections Commission's recommendation to Commissioners-Court to terminate the employment of the Elections Administrator was approved.

There being no further business to come before the Commission, upon motion by Commissioner Yzaguirre, seconded by Commissioner Rivera and carried unanimously, the meeting was **ADJOURNED**.

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APPROVED this **12th** day of **May, 1998**.

ELECTIONS COMMISSION CHAIRPERSON

ATTEST:

**TAX ASSESSOR-COLLECTOR AND SECRETARY
OF THE ELECTIONS COMMISSION OF
CAMERON COUNTY, TEXAS.**