

THE STATE OF TEXAS

COUNTY OF CAMERON

BE IT REMEMBERED on the 22nd day of APRIL, 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:

9:00 A.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:

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
April 17, 1998, at 5:04 P.M.:

(1)EXECUTIVE SESSION

Upon motion by Commissioner Yzaguirre, seconded by Commissioner Rivera and carried unanimously, the Commission met in Executive Session at 10:00 A.M. to discuss the following matters:

a)Deliberation regarding the issues and complaints raised during the City of South Padre Island and the Point Isabel Independent School District Elections 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 discipline and/or 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 Rivera, seconded by Commissioner Hoffman and carried unanimously, the Court reconvened in Regular Session at 10:15 A.M.

At this time, Mr. Larry Warner, Attorney at Law, submitted five (5) Motions to be filed in the County Clerk's Office.

The Motions are as follow:

(2) ACTION RELATIVE TO EXECUTIVE

SESSION

At this time, Judge Hinojosa noted that Mr. Larry Warner, Attorney at Law, requested that the Meeting be recessed until 10:30 A.M.

Upon motion by Commissioner Hoffman, seconded by Commissioner Rivera and carried unanimously, the Elections Commission Meeting was recessed until 10:30 A.M.

At this time, the Commission reconvened and was called to order by Judge Hinojosa.

Judge Hinojosa informed the public of the procedures to be complied with as per the Law, with respect to the individuals involved in the following matters.

a) Deliberation regarding the issues and complaints raised during the City of South Padre Island and the Point Isabel Independent School District Elections against the Cameron County Elections Administrator; and

b) Deliberation regarding the discipline and/or dismissal of the Cameron County Elections Administrator.

Judge Hinojosa stated that both matters were personnel issues which, under Texas Law, could be discussed in Executive Session or in Open Session at the insistence of the employee. He asked Mr. Warner for the request and Mr. Warner replied that the matter be discussed in Open Session.

At this time, Judge Hinojosa informed the audience of their right to make a public comment and that they follow the basic rules of the quorum in a professional manner.

Mr. Warner noted that a Motion for Continuance had been filed and requested that the Commission Meeting be postponed for one (1) or two (2) days, in order to prepare for the matter. He noted that Ms. Amalia Cano Acevedo, Elections Administrator, had retained his services one (1) day prior to said Meeting and added that the additional time was necessary for preparation by the Attorney.

Judge Hinojosa stated that said Meeting of April 22, 1998, would engage in discussions regarding the complaints raised against the Elections Administrator and added that if a decision was made to recommend termination or discipline after said Meeting, the information would be forwarded to Ms. Acevedo or the Attorney in a form of a list of grounds for recommendation. He stated the issue, as to whether there were grounds for termination based upon the allegations, would be determined at a subsequent meeting and that Ms. Acevedo would be allowed the opportunity to respond to the allegations, noting that the Elections Administrator would also be given notice as to the intent of the Commission to recommend termination.

At this time, Mr. Doug Wright, Commissioners=Court Legal Counsel, recommended that the Commissioners not make a vote at this Meeting and that the recommendation and list of complaints be presented to Ms. Acevedo and her Attorney, in order to allow Ms. Acevedo to respond to the allegations.

Judge Hinojosa stated that the Commission had the option of not making a decision today, should the allegations not be sufficient to proceed any further, in the proceeding today, or that the Commission could instruct the County Attorney to prepare a list of the allegations to be presented to Ms. Acevedo for a response. He noted that a decision would not be made at this Meeting as to whether Ms. Acevedo would remain as the Elections Administrator or if any discipline would be taken.

Mr. Warner stated that the charge against his client was AWell, she is not doing a good job,@ and reiterated that additional time was necessary to prepare a response to the allegations. He clarified that Ms. Acevedo was at fault, as to retaining Counsel the day before the Meeting, and requested that the matter be recessed until tomorrow.

Mr. Joe G. Rivera, County Clerk, stated that it was his understanding was that there would be a written notice given to Mr. Warner and Ms. Acevedo before an actual hearing was scheduled in seven (7) to (10) days, which was ample time to respond.

Mr. Warner requested that he be granted a motion to question the witnesses and Judge Hinojosa replied that the opportunity to question the individuals would be given once the recommendation was made by the Commission.

Judge Hinojosa clarified that the purpose of said Meeting was to accept complaints and make a decision to place Ms. Acevedo on Notice. He informed the audience that the procedures being followed were mandated by State Law regarding the personnel matter involving the Elections Administrator. Judge Hinojosa recommended that the records of the Meetings held March 17, 1998, and March 24, 1998, be a part of the Minutes concerning the proceedings.

Commissioner Vela moved that the records of the Meetings held March 17, 1998, and March 24, 1998, be made a part of the Minutes of April 22, 1998.

The motion was seconded by Commissioner Yzaguirre.

Mr. Warner objected to the motion stating that Ms. Acevedo did not have representation at the time of said Meetings and that the Minutes had not be transcribed or approved for review.

Judge Hinojosa clarified that the motion involved the record of the discussions held at said Meetings, as opposed to the Minutes.

Mr. Doug Wright, Commissioners= Court Legal Counsel, clarified that the Elections Commission Meeting was not a Court Proceeding and added that the purpose of the meeting was merely to gather information to make a decision on how to proceed and what action to take.

Upon motion duly made, Commissioner Vela moved that the Records of the Meetings held March 17, 1998, and March 24, 1998, be made a part of the Minutes of April 22, 1998.

The motion was seconded by Commissioner Yzaguirre and carried as follows:

AYE: Commissioners Yzaguirre, Rivera and Vela

NAY:None

ABSTAINED: Commissioner Hoffman.

At this time, Judge Hinojosa read letters from Mr. Martin Peña, Jr., Point Isabel Independent School District Superintendent, dated April 15, 1998, and Mr. G. Wallace Jackson, Brownsville Independent School District Superintendent, dated April 21, 1998, and the fax from Ms. Joyce Adams, South Padre Island City Secretary, dated April 22, 1998. Judge Hinojosa reported that a phone call was received on the first day of Early Voting from Mayor Ed Cyganiewicz, South Padre Island, informing him that the Ballots had not arrived at City Hall until 9:00 A.M., on the first day of Early Voting and that the Mayor's name had not been included on the ballot, noting that voters were turned away due to the lack of ballots. He further reported that Mr. Martin Peña, Jr., Superintendent of Schools, had phoned the County Judge on the following day regarding the consolidated vote in the Laguna Madre Area, which included the School District Elections, the City Elections and the Water District Elections and that the Elections Officials running the vote in the Port Isabel Area were unaware of how to handle the procedure.

Commissioner Rivera moved that the three (3) documents be recorded as part of the Minutes.

The motion was seconded by Commissioner Vela and carried unanimously.

The Documents are as follow:

At this time, Ms. Nella Jo Jennings, Brownsville resident, stated that ballots including the Los Fresnos Independent School District were not available upon request at the Courthouse Elections Office during Early Voting and added that a ballot had been presented to her and her spouse, Mr. Norman Jennings, with the Brownsville Independent School District. She stated that they informed the Clerks that they were not eligible to vote on said ballot and added that the Brownsville ISD was simply marked out by the Clerk.

Mr. Francisco Sifuentes, Brownsville resident, stated that he was not eligible to vote for the Brownsville Independent School District but reported that he was given a ballot with the Brownsville ISD, noting that the Clerk confirmed that he could still vote on said ballot. He added that the registered voters at the Brownsville Navigation District were being asked if they paid taxes and were prohibited from voting. Mr. Sifuentes stated that the hiring procedure should be reviewed, in order to avoid future problems and added that the Commission should address the matter of reinstating the two (2) employees terminated by the Elections Administrator.

Ms. Ruth Howell, Brownsville resident, expressed her support for the ballot voting process as opposed to the voting machines and added that Ms. Acevedo had an excellent idea in certifying the election workers. She noted that Ms. Acevedo had inherited an imperfect system and requested that the factors presented be considered.

Ms. Irma Gillman, Brownsville resident, expressed concern as to the mishandling of the corrected ballots and reported that the ballots were not received at the Brownsville Independent School District until the late afternoon.

Mr. Manuel Hernandez, Brownsville resident, stated that the process in the Run Off Election had run Asmoother® as a result of training and added that the system of the different districts was difficult to handle by the volunteer election workers. He stated that there was only three (3) permanent employees in the Elections Administration and added that there was insufficient time between the elections to review the problems and find solutions. He expressed concerns as to the Primary Elections regarding the privacy of the voting booths, training of the election workers, the security of the ballots including locks for the voting boxes, the early ballots mailed out which were not registered, the use of pens and pencils on the ballots and the securing of the ballots after the March Primaries two (2) days later, noting that the ballot boxes were properly secured in the Run Off Election.

Mr. Clark Owen, Cameron County resident, expressed concern as to the two (2) employees which were terminated by the Elections Administrator and as to the credibility of the County and the System. He noted that individuals who were involved during the hiring of Ms. Acevedo should share the responsibility, due to the manner in which the position was filled and noted that at the time of the hiring process, objections and discussions had been held as to the qualified individuals being overlooked.

Mr. Verino San Miguel, Brownsville resident, expressed his concern regarding said matter and stated that errors were committed by everyone, noting that not just one (1) person should be penalized.

Ms. Angelita Villanueva, Brownsville resident, reported that the disabled voters were not being assisted properly and that courtesy should be practiced during the elections concerning the disabled voters.

At this time, Mr. Warner reiterated several of the comments made by the public regarding said matter and noted that the problems had been corrected. He stated that Ms. Acevedo loved her job, that she did not want to lose it and that the Commission should retain an open mind and noted that there were not any major problems in the thirteen (13) elections that Ms. Acevedo ran during her tenure as Elections Administration.

Judge Hinojosa reported that in the November 1996 General Election the ballot had been set up in a way that when the individuals voted straight Democrat ticket, they automatically voted against the Road Consolidation Referendum and the straight Republican ticket voters automatically voted for the Road Consolidation Referendum. He stated that there were significant problems in the General Election which resulted in a lawsuit against the County and added that it was not correct to say that there were not any significant problems within the last thirteen (13) elections.

Mr. Warner highlighted the comments made by the public which should be considered in the process of determining the discipline or termination of Ms. Acevedo. He suggested that her conduct since her appointment be reviewed and noted that the Commissioners-Court had awarded the Elections Administrator a raise, in the amount of \$5,000.00, based on her performance. Mr. Warner requested that the Commission consider the number of elections, the immediate actions taken to correct the problems and job performance and added that the County should assist and provided the necessary budget and staff, in order to run an efficient administration.

Judge Hinojosa stated that a final decision would not be determined until two (2) or three (3) weeks and that the following elections would be handled in the normal process. He stated that no one believed that all Elections should be run correctly, but noted that every single election was viably important to the citizens of the County. He noted that the principle of only a percentage of elections containing significant problems was not appropriate and added that the Elections Commission and the Commissioners-Court had the obligation to evaluate the performance of the position, regardless of the original decision. Judge Hinojosa stated that the determination needed to be made whether or not the vital interests that are involved are being protected for the benefit of the Cameron County citizens and added that the Commission had the obligation to take action based on the best interest of the County. He noted that some voters might have lost their right to voice their opinions which was a constitutional right.

Judge Hinojosa recommended that County Counsel prepare a list of the allegations being made, based upon the record which were a part of the proceedings, including the statements made, the documents submitted into the record and the records from the previous two (2) Election Commission Meetings and that the notice of the concerns be submitted to the Elections

Commission for approval at the following Meeting scheduled on April 28, 1998, at 1:30 P.M., at which time Ms. Acevedo would be asked to respond to the allegations.

Mr. Wright noted that Ms. Acevedo would need to be given the opportunity to respond once the notice was forwarded to her.

Judge Hinojosa stated that the list of allegations and concerns be approved by the Commission before forwarding the notice to Ms. Acevedo and added that the appropriate procedure to follow, included instructing County Counsel to draft the proposed notice and to submit the notice to the Commission before the Meeting, in order to determine issues to be forwarded to Ms. Acevedo.

Commissioner Vela moved that County Counsel be instructed to draft and submit a list of the allegations and concerns to the Elections Commission, in order to determine the appropriate issues to notify Ms. Acevedo.

The motion was seconded by Commissioner Yzaguirre and carried unanimously.

Judge Hinojosa expressed concern whether the procedure required the notice to include the personnel action that the Commission takes along with the allegations and added that there were issues as to the Legal advise given by County Counsel in open court.

Mr. Wright stated that County Counsel had an obligation to retain certain issues confidential and that an Item should be placed on the Agenda for the following Meeting regarding the conflict with the Open Meetings Act and the obligation of County Counsel. He stated that the list should also identify the parties making the complaints that the personnel action to be taken would also be included, as recommended by the County Judge.

Judge Hinojosa clarified that County Counsel be directed to include the proposed action to be taken by the Elections Commission, based on the allegations in the notice and added that an Agenda Item be placed, in order to allow the Legal issues to be discussed in Executive Session.

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



APPROVED this **28th** day of **April, 1998**.

ELECTIONS COMMISSION CHAIRPERSON

ATTEST:

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