



Travis County Commissioners Court Voting Session Agenda Request

Meeting Date: October 12, 2017

Agenda Language:

Consider and take appropriate action on changes to the Uniform Appointment Process.

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Elected/Appointed Official or Department Head: Deece Eckstein, IGR Officer, 854-9754

Commissioners Court Sponsor(s): Judge Eckhardt

Background/Summary of Request and Attachments:

The Travis County Commissioners Court created the Uniform Appointment Process (UAP) in March, 2012. It is codified in Section 1.017(b)(1) of the County Code. The Intergovernmental Relations Office manages the UAP on behalf of the Court.

Currently the UAP applies to 13 boards and commissions. The Court makes 52 appointments to those boards and commissions, for terms ranging from two to four years. As administered by IGR, the Uniform Appointment Process contains four phases: Recruitment, Screening, Interview and Appointment.

As part of its charge, the Ethics Policy Workgroup studied the UAP and made the following recommendation in its Interim Report on October 11, 2016:

The Commissioners Court should adopt policies to enhance transparency and strengthen conflict of interest provisions in the appointments process and strengthen accountability by the appointees to the 13 boards and commissions covered by the Uniform Appointment Process.

AGENDA REQUEST & BACKUP MATERIALS DEADLINE: Agenda requests and backup materials must be submitted in PDF format via email to agenda@traviscountytx.gov by **12 noon on Tuesday** in order to be considered for inclusion in the following week's voting session.

The EPWG's discussion of the UAP is attached. The IGR Office has been studying the EPWG's report and has prepared four recommendations for consideration and possible action by the Court.

Staff Recommendations:

- Appointees should be required to update their conflict of interest statements when they are considered for reappointment or when they re-apply to a board or commission.
- Direct IGR to examine the use of Personal Financial Statements as a tool to promote transparency and accountability among UAP appointees and make recommendations to the Court.
- The Commissioners Court should meet annually with its appointees to UAP agencies for a briefing about their activities at the agency and the contributions they make as representatives of the interests of Travis County.
- IGR should report to the Court annually on the demographic and geographic profile of UAP appointees.

Issues and Opportunities:

The EPWG evaluated the UAP and identified three areas for specific study: conflicts of interest reporting, the Court's removal authority, and term limits for UAP appointees. The IGR Office prepared the analyses below.

Conflicts of Interest

Eight of the thirteen UAP agencies have conflicts of interest requirements, derived from either statute or agency rules. (See Attachment C.) Since the inception of the UAP, candidates for those boards have been required to complete a conflicts affidavit as part of the application process. In the spring of 2016, the Court required applicants to the other five boards to complete a "Chapter 171" affidavit, based on [LOCAL GOVT. CODE Chapter 171](#). A copy of the affidavit is attached.

Once an individual has been appointed, however, there is no requirement that s/he update the information on the affidavit unless and until they re-apply to serve on that board or commission (usually, after six years and at

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least one reappointment). We recommend that appointees be required to update their conflict of interest statements when they are considered for reappointment as well.

Also, new appointees to the Central Health Board of Managers are required to complete and submit a [Personal Financial Statement](#) (PFS) before they can assume their position. This document is filed with IGR but never examined or utilized. IGR recommends retaining this requirement for the time being, and also recommends further study of how the PFS should be used by the County to promote transparency and accountability among its UAP appointees.

Removal

Only three of the 13 UAP agencies do not have a provision allowing the Court to remove an appointee. Most of the others, however, limit the Court's discretion to specified grounds, e.g., failure to attend meetings. (See Attachment E.) Overall, the Court's discretion to remove its appointees from the boards or commissions to which they've been appointed is somewhat circumscribed.

It has not been the Court's practice to remove appointees. IGR makes no recommendation at this time.

Term Limits

Only two UAP agencies have term limits provisions for their appointees: the Sobriety Center (eight years) and the Austin-Travis County EMS Advisory Board (nine years).

However, the Court has adopted a policy that an appointee who has served for six years or more must re-apply at the end of that term.

One of the by-products of that policy has been that the Court has been able to consider an appointee's length of service when they re-apply. An analysis by IGR shows that *over three-fourths of our appointees have served for three years or less.*

IGR recommends that no action be taken on the issue of imposing term limits on UAP appointees.

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Other Issues

The EPWG recommended that the Court's appointees to each UAP agency should meet with it annually to discuss the agency's mission, goals, and activities. There are obvious challenges to this, not the least of which is scheduling such meetings into an already-crowded Court calendar. Nevertheless, the idea has merit. We recommend that the IGR Office explore ways to help the Court provide meaningful guidance to their appointees to UAP board and commissions and report back to the Court.

The EPWG also recommended that the IGR Office report annually to the Court on the demographic and geographic profile of the UAP appointees. IGR supports this recommendation. A sample of such a report, as of 10/3/17, is included as Attachment F.

Fiscal Impact and Source of Funding: N/A.

Required Authorizations: None.

ATTACHMENTS:

- A. Travis County Code, Section 1.017, updated through January 3, 2017.
- B. Ethics Policy Workgroup, Interim Report, Recommendation 7, October 11, 2016.
- C. IGR, Summary of Conflicts of Interest Requirements for UAP Agencies, September 29, 2017.
- D. IGR, "Chapter 171" Conflicts of Interest Affidavit,
- E. IGR, Summary of Removal Authority Provisions for UAP Agencies, September 29, 2017.
- F. IGR, Demographic and Geographic Profile of UAP Appointees as of October 3, 2017, October 4, 2017.

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Travis County Code, Article 1¹

1.017 Commissioners Court Appointments to Committees and Boards

(a) Procedure for Appointing Court Members to Entities

...

(b) Procedure for Appointing Member of the Public to Entities

(1) Uniform Appointment Process

(A) The Uniform Appointment Process (UAP) will be used for the following Boards and Committees:

- (i) Capital Metro Board of Directors
- (ii) Central Texas Regional Mobility Authority Board of Directors
- (iii) Integral Care Board of Directors
- (iv) Central Health Board of Managers
- (v) Travis Central Appraisal District Board of Directors
- (vi) Travis County Housing Authority.
- (vii) Austin-Travis County Emergency Medical Services Advisory Board.
- (viii) Capital Area Metropolitan Planning Organization – Travis County Appointee
- (ix) Children’s Protective Services Board (Child Welfare Board)
- (x) Civil Service Commission
- (xi) Strategic Housing Finance Corporation Board of Directors
- (xii) Austin/Travis County Sobriety Center
- (xiii) City of Austin Animal Advisory Commission

(B) Reappointments. Before expiration of a term, or upon a vacancy arising for an organization subject to this UAP, the County Judge will schedule a Commissioners Court Agenda Item for a Call for Applications as described below in (C), or in the case of an existing organization member, that by the end of their term will not have served six years, instruct the Coordinator for Intergovernmental Relations (IGR) to determine if the member desires to continue for an additional term, and contact the organization to determine if the member has a good attendance of meetings and is a good contributor to the organization. Should the Coordinator for IGR submit an acceptable report to

¹ Chapter 1 – amendments added through 01/03/2017 (Item 32)

the County Judge, the County Judge will schedule for Commissioners Court the consideration of the re-appointment.

- (C) Call for Application.
 - (i) In all other cases other than the process set out in subsection (B) the Commissioners Court will order a Call for Applications.
 - (ii) Should the Commissioners Court order a Call, Administrators of the County's website will advertise on the County website the position offered, the position criteria required by statute, regulation or contract; the Standard Application; a description of this UAP; and any preferred qualification or skill sets desired by the Court. The position will be advertised for a period of one (1) month unless the Commissioners Court directs a different time period. Administrators of the County's website may biannually request the Commissioners Court to update the Standard Application and criteria for each position.
 - (iii) Administrators of the County's website will forward all applications received to IGR for processing.
 - (iv) IGR will coordinate with any County Executive(s) the Commissioners Court directs for an appointment.
 - (v) IGR and the County Executive(s) will verify the applicants meet the criteria and the deadlines; then short list the Applicants to a number of candidates for interview by the Commissioners Court; and forward the names to the County Judge.
 - (vi) The County Judge will schedule a Commissioners Court Agenda Item to determine a date(s) for interviews for the candidates which the Commissioners Court chooses to interview.
 - (vii) After interviews, the Commissioners Court may appoint an interviewee to the organization, or make another Call for Applications.
 - (viii) The Commissioners Courts motion to appoint or reappoint the member will include the beginning and ending dates of the term to which they are appointed.
- (2) All Other Appointments
 - (A) The County Judge's office, with the assistance of the Commissioner's offices, will maintain a mailing list of all community, neighborhood, civic organizations, etc., whose memberships may be interested in serving on Travis County committees. This list will be used to notify interested persons of the Travis county committees, their purpose and current or

upcoming vacancies, and to provide them with a contact for additional information. In addition to the mailing list, utilization of the county's media department, as well as featured media stories, would be made to further advertise committee information and vacancies.

- (B) Application for appointment will be collected by any member of the Commissioners Court, with the original being provided to the County Judge's office for central record keeping purposes.
- (C) Items regarding committee appointments will be routinely placed on the Commissioners Court agenda for action. Appropriate applications will be provided as back-up material prior to court action. The deadline for placing items on the Commissioners Court agenda will apply to the committee appointments as well.
- (D) Procedure for Commissioners Court Appointments
 - (i) When the Court has five (or multiples of 5) appointments to make, each member of the Court will nominate one, or for multiples, an equal number.
 - (ii) When the Court has four (or eight) each Commissioner will nominate one (or equal number).
 - (iii) When the Court has three (six or nine) appointments to make, the County Judge will nominate one (two or three) the Commissioners from Precincts 1 and 4 will jointly nominate one (two or three), and the Commissioners from Precincts 2 and 3 will jointly nominate one (two or three).
 - (iv) When the Court has two appointments to make, the Commissioners from Precincts 1 and 4 will jointly nominate one, and the commissioners from Precincts 2 and 3 will jointly nominate one.
 - (v) When the Court has one appointment to make, any member of the Court may nominate someone. To assist in this appointment, the County Judge's office will send a notice one month in advance of the expiration of such an appointee's term to the County Commissioners, indicating the name, position, and date the term expires. No sooner than two weeks after such notice is sent, but preferably prior to the expiration of the term, the County Judge will sponsor a generically worded item on the Commissioners Court agenda indicating the name of the board or commission on which there is a vacancy. During the Commissioners Court meeting on this agenda item, any member of the Commissioners Court can nominate someone for the appointment, which will then be voted upon by the Commissioners Court.

- (vi) Regardless of who makes a nomination, all Court members will use their appointments to insure fair and appropriate representation of the community on boards and commissions.

RECOMMENDATION 7

The Commissioners Court should adopt policies to enhance transparency and strengthen conflict of interest provisions in the appointments process and strengthen accountability by the appointees to the 13 boards and commissions covered by the Uniform Appointment Process.

Background

Members of the Commissioners Court make appointments to over 60 boards and commissions. Of these, 13 are subject to the Uniform Appointment Process ([Sec. 1.017\(b\), Travis County Code](#)). The Intergovernmental Relations Office manages the appointments process for these agencies.

Findings

1. Once chosen, appointees are expected to conform to the standards and practices of the board or commission to which they were appointed. The Commissioners Court generally exercises little oversight over these appointees.
2. There are no conflict of interest standards for appointees to five of the 13 UAP boards and commissions. Beginning this spring, the Commissioners Court requires applicants to these boards to sign an affidavit based on [LOCAL GOVT. CODE Chapter 171](#), unless the board and commission requires even stronger conflict of interest affirmations.
3. Although the Court has authority to remove appointees from seven of the 13 UAP boards, it has not historically exercised it.
4. The Court does not set term limits for its UAP appointees. However, an appointee who has served for six years or more must re-apply at the end of that term.

Issues

Among their duties, Commissioners should remain informed about the actions of their appointees, as failure to do so could result in inappropriate behavior by those appointees. Such behavior reflects poorly on both the agency and the Commissioners Court. At the same time, members of the Court have only limited time and resources to monitor their appointees, including the UAP cohort.

Implementation

The Workgroup recommends that:

- The Court's appointments to boards and commissions, and especially to the UAP boards and commissions, should reflect the demographic and geographic profile of the county.
- The Conflict of Interest Affidavit the Court asks some UAP applicants to sign should be modified to require the affiant to inform the Court if there is any change in the circumstances of his or her affidavit during the period of their appointment.

Ethics Policy Workgroup Interim Report

- When appropriate, the Court should seek legal advice about the extent and significance of a prospective appointee's conflicts of interest.
- As a condition of appointments to any agency covered by the UAP, the Court should reserve the right to remove an appointee for good cause.
- The Commissioners Court should meet annually with its appointees, or at least those for the UAP agencies, for a briefing about their activities at the agency and the contributions they make as representatives of Travis County.

Travis County Commissioners Court
**Conflicts of Interest Policies for
Boards and Commissions Subject to the UAP**
October 10, 2017

	Subject to LGC Chapter 171?	Statutory Conflict of Interest Provision?	Agency Conflict of Interest Policy Applicable to Board Members?
(City of) Austin Animal Advisory Commission	No	No	Yes. See By-Laws, Article 3, Section F.
Austin-Travis County EMS Advisory Board	N/A		N/A
Austin-Travis County Sobriety Center Board	N/A	N/A	
Austin-Travis County Integral Care	Yes. Health & Safety Code Sec. 534.0065(d)	Yes. Health & Safety Code Sec. 534.0065(b), (e)	
Capital Area Metropolitan Planning Organization (CAMPO)	N/A	N/A	CAMPO By-Laws, Section VII
Capital Metropolitan Transportation Authority	Yes. Transportation Code § 451.510(4)	No.	

	Subject to LGC Chapter 171?	Statutory Conflict of Interest Provision?	Agency Conflict of Interest Policy Applicable to Board Members?
Central Texas Regional Mobility Authority	Yes. Transportation Code §370.2522	Yes. Transportation Code §370.252	
Child Protective Services Board	N/A	Authorizing: Family Code §264.005.	No mention of conflict of interest standards.
Civil Service Commission (Sheriff's Office)	N/A	Authorizing: Local Government Code §158.034	No mention of conflict of interest standards.
Housing Authority of Travis County	Yes.	<u>Conflicts:</u> Local Government Code §392.042	
Strategic Housing Finance Corporation (SHFC)	N/A	Authorizing: Local Government Code §394.021	No mention of conflict of interest standards.
Travis Central Appraisal District	Yes	Tax Code §§6.035 – 6.036	
Travis County Healthcare District dba Central Health	Yes.	Health & Safety Code §281.021(d), §281.022(c) <i>et seq.</i>	Amended and Restated Bylaws, Article V (effective February 24, 2016)

**AFFIDAVIT OF ELIGIBILITY FOR APPOINTMENT TO
BOARDS OR COMMISSIONS BY THE
TRAVIS COUNTY COMMISSIONERS COURT**

STATE OF TEXAS

§

§

COUNTY OF TRAVIS

§

On this day _____ appeared before me, the undersigned notary public, and after I administered an oath, upon his/her oath, said:

“My name is _____. I am capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct. I am making this affidavit to establish that I meet all eligibility requirements established by the Travis County Commissioners Court for appointment to the board or commission of the

(NAME OF AGENCY/AGENCIES) _____

Accordingly, I hereby affirm that all of the following statements are true:

1. I am a resident of Travis County.
2. Neither I, nor my spouse or minor children, own 10 percent or more of the voting stock of a corporation, partnership, or other business association that transacts business with the AGENCY.
3. Neither I, nor my spouse or minor children, owns either 10 percent or \$15,000 or more of the fair market value of a corporation, partnership, or other business association that transacts business with the AGENCY.
4. Neither I, nor my spouse or minor children, received more than 10 percent of our gross personal income last year from a corporation, partnership, or other business association that transacts business with the AGENCY.

Name:

SWORN TO and SUBSCRIBED before me by _____ on _____, 201__.

Notary Public in and for
the State of Texas

Travis County Commissioners Court
Removal Power for Boards and Commissions Subject to the UAP
 October 10, 2017

Agency	Statute/Regulation	County's Board Removal Power
(City Of) Austin Animal Advisory Commission	<u>By-Laws</u>	"A member serves at the pleasure of the city council," but presumably should be construed (in the case of the Court's appointees) to vest that power in the Court.
Austin-Travis County EMS Advisory Board	EMS Advisory Board General Provisions	A board member may be removed at any time by an affirmative vote of the majority of the governing body that appointed that board member. Must receive training, comply with state/federal regulations, and meet attendance standards. NOTE1: Appointees are subject to a nine-year term limit.
Austin-Travis County Sobriety Center Board	Local Government Corporation Articles of Incorporation	May be removed for dereliction of duty, i.e., missing four or more meetings in a year, or for breach of fiduciary duty as set forth in TEX. BUSINESS ORGANIZATIONS CODE §7.001. NOTE1: Requires majority vote of BOTH Commissioners Court and City Council. "A Director may be removed from the Board by a resolution approved by a majority vote of the City Council and the Commissioners Court finding that the Director has ... NOTE2: Appointees are subject to an eight-year time limit.
Austin-Travis County Integral Care (ATCIC)	Couldn't find anything specific to the county organization in the statutes but the removal power is addressed in Articles of Organization found: http://www.austintexas.gov/edims/document.cfm?id=146906 Also see H&S Code Sec.	Removal. Trustees shall be subject to removal in accordance with the following: Any Trustee deemed to be derelict in his or her duties, as defined herein below in this Section 5.6, shall be removed by the Governing Agency by which he or she was appointed. For purposes of this provision, an absence from three (3) consecutive, regularly scheduled meetings of the Board within a twelve (12) month period or four (4) regularly scheduled meetings of the Board within a twelve (12) month period shall be deemed a dereliction of duty unless the Trustee can show good cause for the absence or absences. Regular meetings shall be held no less frequently than once a month, except as otherwise determined by the Board for good cause. A Trustee shall also be removed by the Governing Agency by which he or she was appointed for good cause as may be determined by such Governing Agency including, but not limited to, disqualification under Federal or State funding requirements.

Agency	Statute/Regulation	County's Board Removal Power
Capital Area Metropolitan Planning Organization (CAMPO)	534.004(a)(4)	<p>Can be removed for absences. See Section III, G of the By-Laws:</p> <p>Attendance. If a member of the Transportation Policy Board misses more than half of the Board meetings scheduled during a calendar year, the Chairperson may contact the member's appointing body to request a replacement appointee to the Transportation Policy Board.</p>
Capital Metropolitan Transportation Authority	Transportation Code §§ 451.508-.511	<p>Can be removed by a majority vote of the other board members, or by a majority vote of the Commissioners Court, if a ground exists under §451.510. The member must be given notice and an opportunity for a hearing before s/he can be removed. Grounds include: "not having at the time of appointment or not maintaining during service on the board the qualifications for office described by Section <u>451.507</u>."</p>
Central Texas Regional Mobility Authority	Transportation Code Chapter 370	<p>The statute addresses why a board member can be removed but does not clearly address who can remove the board member. By implication, it appears that the Commissioners Court could remove its appointees; <i>see</i> Section 370.254: "The presiding officer [of the RMA] shall then notify the person that appointed the director that a potential ground for removal exists."</p> <p>(a) It is a ground for removal of a director from the board if the director:</p> <ul style="list-style-type: none"> (1) did not have at the time of appointment the qualifications required by Section 370.251; (2) at the time of appointment or at any time during the director's term, is ineligible under Section 370.251 or 370.252 to serve as a director; (3) cannot discharge the director's duties for a substantial part of the term for which the director is appointed because of illness or disability; or (4) is absent from more than half of the regularly scheduled board meetings that the director is eligible to attend during a calendar year.
Child Protective Services Board	CPS Bylaws	<p>Board members serve at the pleasure of the Commissioners Court and may be removed by the Commissioners Court for just cause which shall include but shall not be limited to failure to carry out the responsibilities of a Board member as outlined in these Bylaws, applicable state laws, and any contract in place between DPRS and the County.</p>

Agency	Statute/Regulation	County's Board Removal Power
Civil Service Commission (Sheriff's Office)	Local Government Code §158.034	Terms are for two years. Commissioners courts may fill a vacancy caused by an unexpired term of its appointee. No mention of term limits or removal provisions.
Housing Authority of Travis County (HATC)	Local Government Code §392.041	(b) The commissioners court may remove a commissioner of a county housing authority for inefficiency, neglect of duty, or misconduct in office.
Strategic Housing Finance Corporation (SHFC)	Local Government Code §394.021(c)	(c) Each director shall hold office for the term for which the director is elected or appointed and until the director's successor is elected or appointed and has qualified. A director may be removed from office under any removal procedure provided by the articles of incorporation or the bylaws. The governing body shall fill any vacancy in the board of directors by appointment in the manner provided by the articles of incorporation or the bylaws. SHFC By-Laws §2.4: Removal of Directors. A Director may be removed by the County for inefficiency, neglect of duty, or misconduct, but not without cause.
Travis Central Appraisal District (TCAD)	Tax Code §6.033	(a) The governing body of a taxing unit may call for the recall of a member of the board of directors of an appraisal district appointed under Section 6.03 of this code for whom the unit cast any of its votes in the appointment of the board. The call must be in the form of a resolution, be filed with the chief appraiser of the appraisal district, and state that the unit is calling for the recall of the member. If a resolution calling for the recall of a board member is filed under this subsection, the chief appraiser, not later than the 10th day after the date of filing, shall deliver a written notice of the filing of the resolution and the date of its filing to the presiding officer of the governing body of each taxing unit entitled to vote in the appointment of board members.
Travis County Healthcare District dba Central Health	Health and Safety Code Chapter 281	Can't find a way for the county to remove a board member. There is a statute specifically addressing removal for El Paso's Hospital District, but not one that covers board members generally.

Travis County
Commissioners Court

Demographic Analysis

UAP Boards and
Commissions

Board/ Commission	Total # of Appointees	PRECINCT				GENDER		ETHNICITY				AGE					
		1	2	3	4	Female	Male	Anglo	Hispanic	African- American	Asian- American	0- 34	35- 49	50- 64	65+		
Austin Animal Advisory Commission	2	1		1		1	1	2							1		
Austin/Travis County EMS Advisory Board	4	1	1	1	1		4	4							2	1	
Austin-Travis County Intergral Care	3			3			3	1		2					1	2	
Austin/Travis County Sobriety Center	5	1	2	1	1	2	3	3	1	1					2	2	
CAMPO	1	1					1			1							
Capital Metropolitan Transportation Authority	1	1				1				1						1	
Central Health	5		3	1	1	3	2	3	2					1	3	1	
Central Texas Regional Mobility Authority	3		1	2		1	2	2		1				1		2	
Children's Protective Services	15		5	7	3	13	2	8	3	1				4	7	1	2
Civil Service Commission	1	1				1				1						1	
Housing Authority of Travis County	5	1		4		2	3	3	1	1					3	2	
Strategic Housing Finance Corporation	5	1		4		2	3	3	1	1					3	2	
Travis Central Appraisal District	2			1	1		2	1	1					1		1	
TOTAL	52	8	12	25	7	26	26	30	9	10	0	6	11	18	12		