

THE STATE OF TEXAS §
COUNTY OF CAMERON §

BE IT REMEMBERED on the 12th day of April 2018, there was conducted a Special Meeting of the Cameron County Regional Mobility Authority, at the CCRMA Administrative Office, 3470 Carmen Avenue, Suite 5 thereof, in Rancho Viejo, Texas, for the purpose of transacting any and all business that may lawfully be brought before the same.

THE BOARD MET AT:
11:00 A.M.

- PRESENT:
- FRANK PARKER, JR.
CHAIRPERSON
- _____
- DIRECTOR
- HORACIO BARRERA
DIRECTOR
- _____
- DIRECTOR
- MARK ESPARZA
DIRECTOR
- NAT LOPEZ
DIRECTOR
- _____
- DIRECTOR
- RUBEN GALLEGOS, JR.
ABSENT
- MICHEAL F. SCAIEF
ABSENT
- DR. MARIA VILLEGAS
ABSENT



The Meeting was called to order by Chairman Frank Parker, Jr., at 11:05 A.M. At this time, the Board considered the following matters as per CCRMA Agenda posted and filed for Record in the Office of the County Clerk on this 9th day of April, 2018 at 9:54 A.M.



1 **PUBLIC COMMENTS**

None were presented.

2 **Board Chairman and Directors Ethics Training provided by Rentfro, Irwin & Irwin, P.L.L.C.**

Mr. David F. Irwin with Rentfro, Irwin & Irwin, PLLC provided the Board with a Board Ethics Training. Attached is the Presentation for the Training.

Director Lopez moved to acknowledge the Board Ethics Training provided by Rentfro, Irwin & Irwin, P.L.L.C. The motion was seconded by Director Esparza and carried unanimously.

The Presentation is as follows:

ADJOURNMENT

There being no further business to come before the Board and upon motion by Director Lopez and seconded by Director Esparza and carried unanimously the meeting was **ADJOURNED** at 11:49 A.M.

APPROVED this 10th day of May 2018.


CHAIRMAN FRANK PARKER, JR.

ATTESTED: 
HORACIO BARRERA, SECRETARY



AGENDA

Special Meeting of the Board of Directors
of the
Cameron County Regional Mobility Authority

3470 Carmen Avenue, Suite 5
Rancho Viejo, Texas 78575

April 12, 2018

11:00 A.M.

1. Public Comments.
2. Board Chairman and Directors Ethics Training provided by Renfro, Irwin & Irwin, P.L.L.C.

ADJOURNMENT:

Signed this 09th day of April 2018.

Frank Parker, Jr.
Chairman

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS
On: Apr 09, 2018 at 09:54A
Document Number: 00000157
Sylvia Garza-Perez
County Clerk
By
Amanda Barbosa, Deputy
Cameron County

NOTE:

Participation by Telephone Conference Call – One or more members of the CCRMA Board of Directors may participate in this meeting through a telephone conference call, as authorized by Sec. 370.262, Texas Transportation Code. Each part of the telephone conference call meeting that by law must be open to the public shall be audible to the public at the meeting location and will be recorded. On conclusion of the meeting, the recording will be made available to the public.

BOARD ETHICS TRAINING

By: Rentfro, Irwin, & Irwin, PLLC

CAMERON COUNTY REGIONAL MOBILITY AUTHORITY

- Arm of the State Government under Chapter 370, TEX. TRANSP. CODE
- Purpose of the CCRMA
 - Administer transportation projects for the benefit of both the people in Cameron County, Texas and the people in this State
- Board of Directors
 - Role in carrying out the purpose of the CCRMA
- Applicable Laws
 - Overarching principles are to ensure transparency and that each Director's judgment remains independent and focused exclusively on the public interest

OPEN MEETINGS ACT

CHAPTER 551, TEX. GOV'T CODE

- The Open Meetings Act was adopted to make governmental decision-making open to the public. It generally requires that meetings of the CCRMA be open to the public except for authorized Executive Sessions, and to be preceded by public notice of the time, place, and subject matter of the meeting.
- In order for the CCRMA to exercise its powers, it must hold a meeting.
- General rule: The Open Meetings Act applies to a gathering of a quorum of a governmental body's members if public business is deliberated or discussed.

WHAT CONSTITUTES A MEETING?

A meeting occurs when:

1. A quorum of the CCRMA gathers;
2. the public business that the CCRMA has authority to supervise or oversee is discussed; and
3. either:
 - a. a member of the CCRMA participates in the discussion; or
 - b. the CCRMA(a) called the meeting and (b) conducts or is responsible for the meeting.

The Open Meetings Act does not apply to social functions or regional, state, or national workshops if the CCRMA's public business is not discussed. Examples: formal meeting, social situations, "staff briefings", "walking quorum", circulating an invoice or letter for signature outside of a meeting, e-mail. Develop a habit of asking yourself, "is this a meeting?"

PROCEDURES FOR OPEN MEETINGS

- The Open Meetings Act requires written notice of the date, hour, place, and subject of each meeting – both open meetings and executive sessions
- Specificity: The notice must be sufficient to apprise the general public of the subject matter to be discussed – legal sufficiency depends on and can vary based on the facts:
 - Listings like “personnel” or “new business/old business” generally insufficient
 - More important the issue is to the public, the more specific the notice should be
 - “Public forum” or “public comment” is sufficient to hear from the public

PROCEDURES FOR OPEN MEETINGS

- A meeting may not be convened unless a quorum is present in the meeting room
- The Americans with Disabilities Act requires a meeting to be held in a room that is physically accessible to those with disabilities
- Members of the public (including the media) have a right to record the meeting by audio or video tape or other comparable means
- The CCRMA may adopt reasonable rules to maintain order in a meeting, including those relating to the location of recording equipment

PROCEDURES FOR OPEN MEETINGS

- The Open Meetings Act does not give members of the public the right to speak at open meetings. However, the Board can allow public comment.
- If the CCRMA allows public comment, it may set reasonable rules regarding the number, frequency, and length of presentations, but it should not discriminate against speakers
- If a member of the public asks a question about an item that is not on the agenda, the Board may not deliberate the item, and is limited to:
 - A statement of fact regarding the issue
 - A statement of policy regarding the issue
 - A proposal to place the item on a future agenda for deliberation

NOTICE REQUIREMENTS

- Individual notice is not required
- Accessibility: The CCRMA must post its notice in a place that is "readily accessible to the general public for all times for at least 72 hours" before the meeting is scheduled to start.
- Internet posting: When the CCRMA posts notice on its website, the physical notice has to be readily accessible to general public only during normal business hours instead of at "all times".

NOTICE REQUIREMENTS

- Emergency meeting or supplemental posting: Where there is an imminent threat to public health and safety or a reasonably unforeseeable situation, a meeting on an emergency matter may be held after only two hours notice
 - The notice must describe the emergency
 - What if we “forgot to post” an item? Not an emergency
- Recess: May recess to following business day if the action is taken in good faith and not to circumvent the Open Meetings Act’s requirements

RECORDKEEPING

- The CCRMA must prepare and keep minutes of a meeting or a tape recording of each open meeting.
- The minutes must:
 - State the subject of each deliberation
 - Indicate each vote, order, decision, or other action taken
- A brief summary is all that is required - A verbatim transcript is not necessary
- The minutes or tape recording are public records.

PROCEDURES AND REQUIREMENTS EXECUTIVE SESSIONS

- The CCRMA may hold a closed meeting only when a statute expressly authorizes it to do so
- To conduct an executive session, the CCRMA must:
 1. have a quorum;
 2. properly convene in an open meeting;
 3. announce that a closed meeting will be held;
 4. identify in the open meeting the section of the law that allows the closed meeting; and
 5. keep a certified agenda or a tape recording of the closed meeting:
 - a. The certified agenda must include a statement of the subject of each deliberation and a record of any further action taken
 - b. The certified agenda or tape recording is confidential and may not be released absent court action
 - c. A sitting member of the CCRMA Board may review the certified agenda or tape recording.

PROCEDURES AND REQUIREMENTS EXECUTIVE SESSIONS

- Who may attend an executive session?

Only the CCRMA's members have a right to attend a closed meeting. Although the CCRMA may include others, such as the Executive Director or other officer or staff member, in a closed meeting if necessary to the matter under consideration. However, it may not admit a person whose presence is against the interests of the CCRMA that the closed meeting is designed to protect.

PROCEDURES AND REQUIREMENTS COMMON EXECUTIVE SESSIONS

- Real Property Deliberations
 - to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the CCRMA in negotiations with a third person. The third person may not participate in executive session.
- Personnel Matters
 - to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee
 - to hear a complaint or charge against an officer or employee
 - Must be conducted in open session if the officer or employee requests a public hearing

PROCEDURES AND REQUIREMENTS COMMON EXECUTIVE SESSIONS

- Economic Development
 - to discuss or deliberate regarding commercial or financial information that the CCRMA has received from a business prospect that the CCRMA seeks to have locate, stay, or expand in or near the territory of the CCRMA and with which the CCRMA is conducting economic development negotiations
 - to deliberate the offer of a financial or other incentive to a business prospect that meets the above requirements
- Consultation with Attorney
 - to seek advice about legal matters, pending or contemplated litigation, or settlement offers
 - CCRMA's attorney must be present if employee (may be present by conference call, videoconference, or Internet communications if a contract attorney)
 - General discussion of policy not permitted

VIOLATIONS – CIVIL PENALTIES

- An action taken in violation of the Open Meetings Act is voidable
- An voidable action may be redone at a later meeting, but that action will not be given retroactive effect
- Civil actions
 - Any interested person may bring a civil lawsuit to force officials to comply with the Open Meetings Act, to enjoin officials from acting, or to void actions taken in an illegal meeting
 - A person injured by the unlawful disclosure of a certified agenda or tape recording of a lawfully closed meeting may sue for damages, attorney fees, and exemplary damages

VIOLATIONS – CRIMINAL PENALTIES

- Participating in a closed meeting “knowing that a certified agenda . . . or . . . a tape recording . . . is not being made”
- In general, knowingly disclosing a certified agenda or tape recording of a closed meeting to a member of the public
 - Not a crime to discuss what went on in executive session, but may subject you to a civil lawsuit

VIOLATIONS – CRIMINAL PENALTIES

- Knowingly conspiring to circumvent the Open Meetings Act “by meeting in numbers less than a quorum for the purpose of secret deliberations”
 - Knowingly: reasonably certain that the action would violate the law
 - Walking quorum: where a quorum is not present in one place at the same time and secretly discusses public business with the goal of avoiding a public meeting – may subject members to criminal and civil liability
- Knowingly calling, aiding in calling, organizing, or participating in an unlawful closed meeting
 - Affirmative defense: member acted in reasonable reliance on a court order, attorney general opinion, or the written opinion of the CCRMA’s attorney

ETHICS LAWS

- In general, you cannot do the following 5 things:
 1. You cannot accept or solicit any gift, favor, or service that might reasonably tend to influence you in the discharge of your duties as a public servant, or that you know or should know is being offered with the intent to influence those duties.
 - Example: If prior to my contract with the Board being considered for renewal, I offer each of you tickets to a pro football game, you would not be able to accept those tickets.
 2. You cannot accept other employment or engage in a business activity that you might reasonably expect would require or induce you to disclose confidential information acquired by reason of your position on the Board.
 - Example: If an engineering firm specializing in transportation projects in Cameron County offered you employment, you would not be able to take that position.

ETHICS LAWS

3. You cannot accept other employment or compensation that could reasonably be expected to impair your independence of judgment in the performance of your duties.
 - Example: Accepting a position with a contractor seeking to work on one of the CCRMA's transportation projects.
4. You cannot make personal investments that could reasonably be expected to create a substantial conflict between your private interest and the public interest.
 - Example: You cannot make a personal investment that would be directly impacted by a transportation project of the CCRMA.

ETHICS LAWS

5. You cannot intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised your duties in favor of another.
 - Example: If you vote in favor of awarding a contract to a certain firm, you cannot then receive a benefit in exchange for your vote.

WAYS TO PROTECT YOURSELF

- Before accepting a benefit, consult with the CCRMA's legal counsel to make sure that the CCRMA's policy permits the benefit and also consider whether the benefit raises the appearance of impropriety.
- If you want to accept a benefit, but are unable to determine if you can, the conservative approach is to request an advisory opinion from the Ethics Commission.
- If the advisory opinion authorizes you to receive the gift, then you can rely on this opinion to protect you from civil penalties or criminal prosecutions.
- If you receive an unsolicited benefit that you are prohibited from accepting, then you may donate the benefit to a governmental entity with the authority to accept the gift, or to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

WHAT CAN YOU ACCEPT?

1. You may accept non-cash items that are distributed generally as a normal means of advertising and do not exceed an estimated value of \$25 (TxDOT requirement).
 - i. \$50 is the threshold for criminal liability.
2. You may accept benefits in the form of food, lodging, transportation, or entertainment in any amount if you accept them as a "guest" and report them if there is an applicable reporting requirement. In order to accept something as a "guest", the donor must be present.
3. You may accept a benefit from a person such as a friend, relative, or business associate with whom you have a relationship independent of your official status. The benefit must be given on account of that relationship rather than your official status.
4. You may accept a payment for which you give legitimate consideration (the payment you receive must reflect the actual value of the goods or services you provide in exchange for the payment).

CONFLICT OF INTEREST

CHAPTER 171, TEX. LOCAL GOV'T CODE

If a CCRMA Board member has a substantial interest in a business entity or in real property, then that Board member must file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

- (1) In the case of a substantial interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or,
- (2) In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the real property, distinguishable from its effect on the public.

The affidavit must be filed with the official record keeper of the CCRMA.

CONFLICT OF INTEREST

CHAPTER 171, TEX. LOCAL GOV'T CODE

A substantial interest in a business entity occurs when:

- (1) The person owns 10% or more of the voting stock or shares of the business entity or owns either 10% or more or \$15,000 or more of the fair market value of the business entity; or,
- (2) Funds received by the person from the business entity exceed 10% of the person's gross income for the previous year.

A substantial interest in real property occurs when:

- (1) The interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

A CCRMA Board member is considered to have a substantial interest if a person related to the Board member in the first degree of consanguinity (parent and child) or affinity (husband and wife) has a substantial interest.

CONFLICT OF INTEREST

CHAPTER 176, TEX. LOCAL GOV'T CODE

A CCRMA Board member shall file a conflicts disclosure statement with respect to a vendor if:

- (1) The vendor enters into a contract with the CCRMA or the CCRMA is considering entering into a contract with the vendor; and,
- (2) The vendor:
 - A. Has an employment or other business relationship with the CCRMA Board member or a family member (first degree) of that Board member that results in the Board member or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the Board member becomes aware that:
 1. A contract between the CCRMA and vendor has been executed; or,
 2. The CCRMA is considering entering into a contract with the vendor.
 - B. Has given to the CCRMA Board member or a family member of the CCRMA Board member one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the CCRMA Board member becomes aware that
 - (1) A contract between the CCRMA and vendor has been executed; or,
 - (2) The CCRMA is considering entering into a contract with the vendor.
 - C. Has a family relationship (third degree consanguinity/second degree affinity) with the CCRMA Board member.

The conflicts disclosure statement must be filed with the records administrator of the CCRMA not later than 5 p.m. on the seventh business day after the CCRMA Board member becomes aware of the facts that require the filing.

NEPOTISM

CHAPTER 573, TEX. GOV'T CODE

A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

- (1) The individual is related to the public official within the third degree by consanguinity or within the second degree by affinity.
- (2) The public official holds the appointment or confirmation authority as a member of a state or local board, the legislature, or a court and the individual is related to another member of that board, legislature, or court within the third degree by consanguinity or within the second degree by affinity.

NEPOTISM

CHAPTER 573, TEX. GOV'T CODE

Determination of Consanguinity: Two individuals are related to each other by consanguinity if:

- (1) One is a descendant of the other; or,
- (2) They share a common ancestor.

If an individual and an individual's relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding:

- (1) The number of generations between the individual and the nearest common ancestor of the individual and the individual's relative; and,
- (2) The number of generations between the relative and the nearest common ancestor.

NEPOTISM

CHAPTER 573, TEX. GOV'T CODE

The degree of relationship by consanguinity between an individual and the individual's descendant is determined by the number of generations that separate them. An individual's relatives within the third degree by consanguinity are the individual's:

- (1) Parent or child (relatives in the first degree);
- (2) Brother, sister, grandparent, or grandchild (relatives in the second degree); and,
- (3) Great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).

NEPOTISM

Determination of Affinity: Two individuals are related to each other by affinity if:

- (1) They are married to each other; or,
- (2) The spouse of one of the individuals is related by consanguinity to the other individual.

A husband and wife are related to each other in the first degree by affinity. For other relationships by affinity, the degree of relationship is the same as the degree of the underlying relationship by consanguinity. For example: if two individuals are related to each other in the second degree by consanguinity, the spouse of one of the individuals is related to the other individual in the second degree by affinity.

An individual's relatives within the third degree by affinity are:

- (1) Anyone related within the third degree by consanguinity to the individual's spouse; and,
- (2) The spouse of anyone related to the individual within the third degree by consanguinity.

NEPOTISM

An individual is related within the second degree by affinity to the following people:

- (1) Spouse, Father-in-law, Mother-in-law, Son-in-law, Daughter-in-law (first degree); and,
- (2) Spouse's Grandparents, Spouse's Grandchildren, Spouse's Siblings, Siblings' Spouses (second degree)

NEPOTISM

CHAPTER 573, TEX. GOV'T CODE

Exception:

A nepotism prohibition does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:

- (1) The individual is employed in the position immediately before the election or appointment of the public official to whom the individual is related in a prohibited degree; and,
- (2) That prior employment of the individual is continuous for at least 30 days, if the public official is appointed.

QUESTIONS