



COMES NOW, Defendants Galveston County, Texas, Mark Henry, in his capacity as Galveston County Judge, and Dwight D. Sullivan, in his official capacity as the Galveston County Clerk, (“Defendants”) and file this MOTION TO DISMISS (“Motion”) pursuant to Federal Rules of Civil Procedure 12(b)(1) and (6). Defendants ask this Court to grant their Motion to Dismiss for the following reasons:

*First*, the County NAACP Plaintiffs and LULAC Council 151 lack organizational standing. They have not alleged sufficient facts to demonstrate a real and perceptible injury to their organizations. They have also failed to allege sufficient facts to satisfy the diversion of resources theory of organizational standing.

*Second*, LULAC Council 151 lacks associational standing because its allegations of associational standing are conclusory.

*Third*, this Court lacks jurisdiction because the case is now moot. On May 18, 2022, County Judge Mark Henry appointed Dr. Robin Armstrong to serve as Commissioner for the Commissioners Court Precinct 4. Dr. Armstrong is himself African American. Now, the five-member Commissioners Court has two African American members. If Plaintiffs contend that only Democrats are the candidates of choice for African American and Latino voters, then this Court should dismiss for lack of jurisdiction as a non-justiciable political question. If Plaintiffs contend that only African Americans can represent the views of minority voters, then Plaintiffs’ case is now moot because there are two minority Commissioners on the five-member Commissioners Court. Minority representation on the Commissioners Court is now greater than the proportion of African American and Latino voters in Galveston County. Plaintiffs no longer have a live controversy.

*Fourth*, this Court lacks jurisdiction to adjudicate Plaintiffs' racial gerrymandering claim. Racial gerrymandering claims are district-specific. Jurisdiction-wide claims are prohibited. Plaintiffs fail to identify which precinct is racially gerrymandered. This is fatal because, among other reasons, Plaintiffs do not have a plaintiff in Precinct 3. Without identifying which precinct is a racial gerrymander, this Court cannot assure itself that it has jurisdiction. Additionally, Plaintiffs fail to allege sufficient facts to sustain a racial gerrymandering claim.

*Five*, Plaintiffs also fail to allege sufficient facts showing that the Defendants enacted the Commissioners Precinct plan with illicit intent. This Court should therefore dismiss Plaintiffs' intentional vote dilution claims.

*Sixth*, Plaintiffs have failed to allege sufficient facts to state a claim under Section 2 of the Voting Rights Act. Plaintiffs have failed to allege that race and not political considerations are the reasons why Anglo voters allegedly vote for candidates who are not the candidates of choice for Black and Latino voters.

Accordingly, this Court should dismiss Plaintiffs' Complaint with prejudice.

## **INTRODUCTION**

Redistricting is always a complex endeavor. In addition to requiring strict adherence to sometimes conflicting constitutional and statutory requirements, redistricting also involves balancing political judgments and grouping voters in sensible ways that minimize the risk of confusion for administrators of elections.<sup>1</sup> Adding to the complexity of the

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<sup>1</sup> See *Abbott v. Perez*, 138 S. Ct. 2305, 2315 (2018) (observing that “[s]ince the Equal Protection Clause restricts consideration of race and the VRA demands consideration of

redistricting process for this decade was the fact that the 2020 Census was conducted in the midst of a pandemic. Despite these obstacles, and Plaintiffs’ unsupported legal conclusions couched as factual allegations to the contrary, Galveston County was able to timely enact a new precinct map for its County Commissioners Court (the “Commission”) that clearly passes constitutional and statutory muster. Unfortunately for Plaintiffs, failing to obtain their desired map does not provide them with legal means to enact through the courts what they were unsuccessful in enacting through political means. Such is not the role of federal courts. After all, redistricting “inevitably has and is intended to have substantial political consequences”—such is the case with the Commission. *See Rucho v. Common Cause*, 139 S. Ct. 2484, 2497 (2019) (quoting *Gaffney*, 412 U.S. at 753).

### **FACTUAL BACKGROUND**

Congress mandates that the Census Bureau release redistricting data by April 1, 2021. *See* 13 U.S.C. § 141(c). Because of the pandemic, the Census Bureau was unable to release to the states the data necessary to conduct redistricting until August 12, 2021, and even then did not release the data in an easier-to-use format until September 16, 2021.<sup>2</sup> *See*

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race, a legislature attempting to produce a lawful districting plan is vulnerable to ‘competing hazards of liability[,]’ and describing redistricting as a “legal obstacle course”(citations omitted); *see also Gaffney v. Cummings*, 412 U.S. 735, 753 (1973) (observing that the substantial political consequences of redistricting are intentional and inevitable); *Miller v. Johnson*, 515 U.S. 900, 915 (1995) (“Electoral districting is a most difficult subject for legislatures, and so the States must have discretion to exercise the political judgment necessary to balance competing interests.”).

<sup>2</sup> *See* U.S. Census Bureau, *Census Bureau Delivers 2020 Census Redistricting Data in Easier-to-Use Format*, U.S. Census Bureau (Sept. 16, 2021), <https://www.census.gov/newsroom/press-releases/2021/2020-census-redistricting-data-easier-to-use-format.html#:~:text=SEPTEMBER%2016%2C%202021->

*Alabama v. U.S. Dep't of Com.*, 546 F. Supp. 3d 1057, 1065-66 (M.D. Ala. 2021) (three-judge court). Compounding the already complex and now compressed process, the Census Bureau added a new wrinkle to the redistricting calculus: differential privacy. *See id.* at 1066. Differential privacy is a disclosure avoidance method that “injects a calibrated amount of noise into the raw census data to control the privacy risk of any calculation or statistic.” *Id.* at 1064. As the Census Bureau itself explains, the very goal of differential privacy “is to obscure the presence or absence of any individual (in a database) . . . .”<sup>3</sup> Although differential privacy protects confidentiality, “it also makes the data less accurate.” *Id.* Thus, the already complex process of redistricting was made even more complicated because the Census Bureau released less accurate data five months later than was statutorily required.

The five-month delay compressed the time the Commission had to analyze the data as well as craft and draft new precinct districts. Texas’s Constitution requires that counties be divided into four Commissioner Court precincts. Tex. Const. art. V, § 18(b). Texas law does not establish a deadline to complete redistricting of commissioners court districts but the U.S. Constitution requires that they be substantially equal in population. *See Avery v. Midland Cty.*, 390 U.S. 474, 484-85 (1968). As the Texas Secretary of State made clear, for those candidates wishing to compete in Texas’s 2022 elections, the candidate qualifying

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[,Census%20Bureau%20Delivers%202020%20Census,in%20Easier%2Dto%2DUse%20Format&text=SEPT.,on%20data.census.gov](#) (last visited June 8, 2022).

<sup>3</sup> *See* U.S. Census Bureau, *Disclosure Avoidance for the 2020 Census : An Introduction* 6, U.S. Government Publishing Office (Nov. 2021) <https://www2.census.gov/library/publications/decennial/2020/2020-census-disclosure-avoidance-handbook.pdf> (last visited June 8, 2022).

period began on November 13, 2021. *See* Tex. Elec. Code § 172.023; *see also* Keith Ingram, Director of Elections, Election Advisory No. 2021-14 (Nov. 1, 2021).<sup>4</sup> Accordingly, the Secretary of State established November 13, 2021, as the deadline for Commissioner Court precinct districts to submit their new district lines. Galveston County was therefore required to conduct its redistricting in less than two months. Generally, the good faith of the legislature is presumed, but under these circumstances, the good faith of the Commission in redistricting its precincts should be presumed. *See Miller*, 515 U.S. at 915. Even when Plaintiffs allege a history of discrimination, this Court still presumes that the Commissioners Court acted in good faith. *Abbott*, 138 S. Ct. at 2324.

During these two months, any member of the Commission had the authority to place redistricting on the Commission's agenda at any of its regularly scheduled meetings. *See* Tex. Att'y Gen. Op. No. DM-228 at 3 (1993) (concluding that "a county commissioner may place a matter on the agenda for a meeting"). In fact, Texas law prohibits enacting procedures that would "preclude a member of the court from placing an item on an agenda so that it may be discussed publicly." *Id.* Texas law further prohibits any procedure that would preclude a representative on the Commission "from at a minimum providing a public forum for discussion of any particular issue." *Id.*<sup>5</sup>

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<sup>4</sup> Available at <https://www.sos.texas.gov/elections/laws/advisory2021-14.shtml> (last visited May 4, 2022).

<sup>5</sup> The Fifth Circuit has observed that "[t]he Texas Constitution authorizes the Attorney General to issue legal advice in the form of opinions to government entities and officials. . . . These opinions clarify the legal obligations and liabilities of state officials." *Freedom from Religion Found., Inc. v. Mack*, 4 F.4th 306, 309 n.2 (5th Cir. 2021). Those government officials who rely on the Attorney General's opinions in their public duties may use the opinion as a shield against personal liability. *See id.*

Furthermore, from May 28, 2021, to December 31, 2021, the Commission held twenty-one public meetings. *See* Ex. A. All regular biweekly meetings of the Commission took place at 722 Moody in Galveston, Texas in accordance with Texas law requiring the Court to conduct its regular meetings at the County seat. All other “special” meetings of the Commission took place at 174 Calder Dr. in League City, Texas. *See id.*; Tex. Local Gov’t Code § 81.005 (b), (c). All of the meetings began during normal business hours with the majority starting at 9:30 a.m. As previously mentioned, *any* Commissioner could have placed redistricting on the agenda of *any* one of these meetings, but none did. *See* Tex. Att’y Gen. Op. No. DM-228 at 3.

After September 16, 2021, Galveston County attorneys met with the Commissioners, including Commissioner Holmes, to understand what their desires were for districts. *See* Pls.’ First Am. Compl. ¶ 50, ECF No. 38 (hereinafter “FAC”). Then, on approximately October 29, 2021—two weeks before the public meeting on the maps—Galveston County posted alternative redistricting plans, Map 1 and Map 2, on the County website. *See id.* ¶ 52. The website permitted the public to submit comments concerning the two redistricting plans.<sup>6</sup> Then, on November 9, 2021, Galveston County posted a public notice about a special meeting on redistricting to be held on November 12, 2021. Ex. A. Consistent with all its other public meetings in 2021, the meeting was held during normal business hours. *Id.* Consistent with every other special meeting called in 2021, the meeting

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<sup>6</sup> *See* County of Galveston, Texas, *Galveston County Commissioners Proposed Precincts*, available at <https://www.galvestoncountytexas.gov/our-county/county-judge/redistricting> (last visited June 8, 2022).

was held at the Calder Meeting location in League City, Texas. *Id.* And, after receiving public comment, the Galveston County Commissioners' Court approved Map 2. It is within this context that Plaintiffs sued.

The Dickinson Bay Area Branch NAACP, Galveston Branch NAACP, Mainland Branch NAACP (collectively "County NAACP Organizations"), LULAC Council 151, Ms. Edna Courville, Mr. Joe A. Compian, and Mr. Leon Philips (collectively "Plaintiffs") filed the FAC on May 25, 2022. ECF No. 38. Individual Plaintiffs are all citizens and registered voters in Galveston County. FAC ¶¶ 17-19. These individual Plaintiffs, and individual members of the County NAACP Organizations and LULAC, allege that the enacted Commission plan enacted in 2021 ("Enacted Plan") deprives the individual Plaintiffs and members of an equal opportunity to elect their candidate of choice. *See id.* ¶¶ 8, 17-19. Two of the individual Plaintiffs are African American, *id.* ¶¶ 18-19, and one is Latino. *Id.* ¶ 17. Under the Enacted Plan, individual Plaintiffs and organizational members reside in Precincts 1, 2, and 4. *Id.* ¶ 8, 17-19. No Plaintiff resides in Precinct 3.

Plaintiffs claim that the Enacted Plan as a whole is the result of intentional racial discrimination in violation of the Fourteenth and Fifteenth Amendments (Claim 1). Plaintiffs also claim that the Enacted Plan, as a whole, without identifying any specific precinct, constitutes an unconstitutional racial gerrymander in violation of the Fourteenth Amendment. (Claim 2). Finally, Plaintiffs claim that the plan as a whole violates Section 2 of the Voting Rights Act. (Claim 3).

As the Court will see below, this Court should grant Defendants' Motion to Dismiss and dismiss Plaintiffs' claims in their entirety.



### STANDARD OF REVIEW

Federal Rule of Civil Procedure 8(a)(2) requires a plaintiff to plead “‘a short and plain statement of the claim showing that the pleader is entitled to relief,’ in order to ‘give the defendant fair notice of what the . . . claim is and the ground upon which it rests.’” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). A “formulaic recitation of the elements of a cause of action will not do,” and courts are “‘not bound to accept as true a legal conclusion couched as a factual allegation.’” *Id.* (quoting *Papasan v. Allain*, 478 U.S. 265, 286 (1986)). Although Rule 8 does not require “detailed factual allegations” at the pleading stage, it still “demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 555). “[C]onclusory allegations, unwarranted factual inferences, or legal conclusions” will not be accepted. *Plotkin v. IP Aress Inc.*, 407 F.3d 690, 696 (5th Cir. 2005) (citation omitted).

It is not enough for a complaint to contain some factual evidence, however, if the facts pleaded do not add up to a plausible claim. “To survive a motion to dismiss, a complaint must contain sufficient factual matter which, when taken as true, states ‘a claim to relief that is *plausible on its face*.’” *Innova Hosp. San Antonio, Ltd. P’ship v. Blue Cross & Blue Shield of Ga., Inc.*, 892 F.3d 719, 726 (5th Cir. 2018) (quoting *Twombly*, 550 U.S. at 570) (emphasis added). A complaint is facially plausible “‘when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.’” *Cicalese v. Univ. of Tex. Med. Branch*, 924 F.3d 762, 765 (5th Cir. 2019) (quoting *Iqbal*, 556 U.S. at 678). A plaintiff who alleges only facts that,

even when taken as true, fail to “nudge [] their claim[] across the line from conceivable to plausible” and has not adequately stated a claim upon which relief can be granted. *Twombly*, 550 U.S. at 570.

Moreover, when deciding a motion to dismiss for failure to state a claim, this Court may consider publicly-available documents that were generated by a governmental body. *See Funk v. Stryker Corp.*, 631 F.3d 777, 783 (5th Cir. 2011). Accordingly, Defendants respectfully request that this Court take judicial notice of (1) Exhibit A, which is a collection of all 2021 public meeting notices for the Galveston County Commissioners Court; (2) the information from the U.S. Census Bureau’s website, [www.census.gov](http://www.census.gov); and (3) the information contained on the website <https://www.galvestoncountytexas.gov/our-county/county-judge/redistricting>. These publicly available documents are capable of accurate and ready determination by resort to “sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2); *see Funk*, 631 F.3d at 783 (holding that district court took appropriate judicial notice of government-generated documents that were matters of public record and directly relevant to the issues); *Norris v. Hearst Tr.*, 500 F.3d 454, 461 n.9 (5th Cir. 2007) (“[I]t is clearly proper in deciding a 12(b)(6) motion to take judicial notice of matters of public record.”).

Additionally, when faced with a motion to dismiss for lack of subject matter jurisdiction under 12(b)(1), Plaintiffs bear the burden of proving that this Court has jurisdiction. *Southern Recycling, L.L.C. v. Aguilar*, 982 F.3d 374, 379 (5th Cir. 2020).

Lastly, it should be remembered that when analyzing Plaintiffs' allegations, and even when Plaintiffs allege a history of discrimination, this Court must still presume that the Commission acted in good faith. *Abbott*, 138 S. Ct. at 2324.

## ARGUMENT

### **I. ORGANIZATIONAL PLAINTIFFS LACKS STANDING.**

The jurisdiction of federal courts is limited to legal questions of actual cases and controversies. *See* U.S. Const., Art. III, § 2; *Alvarez v. Smith*, 558 U.S. 87, 92 (2009). Because Article III of the U.S. Constitution limits this Court's jurisdiction to "cases" and "controversies" this requires each plaintiff to prove that they have suffered an invasion of a legally protected interest, that is concrete and particularized to the plaintiff. *Lujan*, 504 U.S. at 560. Generalized grievances about governmental actions are insufficient to achieve standing. *Lance v. Coffman*, 549 U.S. 437, 439 (2007). The requirement that a plaintiff show a particularized injury "ensures that we act as *judges*, and do not engage in policymaking properly left to elected representatives." *Gill v. Whitford*, 138 S. Ct. 1916, 1923 (2018) (internal quotation marks omitted). Plaintiffs are also required to show that their harm is traceable to the defendants' actions and that it is likely that this Court can redress their injury with a favorable decision. *Lujan*, 504 U.S. at 560-61. It is Plaintiffs' burden to prove that this Court has jurisdiction. *See id.* at 561.

Organizational Plaintiffs can establish standing by showing that Commissioners' Court precincts have injured the organization itself. *LULAC v. Abbott*, No. 3:21-CV-259 2022 U.S. Dist. LEXIS 91761, \*16 (W.D. Tex. May 23, 2022) (three-judge court) (hereinafter "*LULAC IP*") (citing *NAACP v. City of Kyle*, 626 F.3d 233, 238 (5th Cir.

2010)). Plaintiff LULAC may also establish standing through its members, more commonly referred to as associational standing. *Id.* at \* 17 (citing *OCA-Greater Hous. v. Texas*, 867 F.3d 604, 610 (5th Cir. 2020)).

To establish organizational standing, Organizational Plaintiffs “must show that the [Defendants’] conduct significantly and perceptibly impaired [their] activities.” *Id.* at \*16 (quoting *NAACP*, 626 F.3d at 238). Additionally, simply alleging that Defendants’ conduct is a setback to their mission or that they have incurred costs related to litigation is insufficient to establish organizational standing. *See id.* at \*17 (quoting *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982)).

As for associational standing, Organizational Plaintiffs “may assert the standing of its members, insofar as their interests in the suit are germane to the organization’s purpose.” *See id.* at \*17 (*OCA-Greater Hous.* 867 F.3d at 610). Additionally, Organizational Plaintiffs “must identify a specific member to assert standing on his behalf.” *Id.* This is necessary because for associational standing, “the members must independently meet the Article III standing requirements.” *NAACP*, 626 F.3d at 237; *see also Summers v. Earth Island Inst.*, 555 U.S. 488, 499 (2009) (stating that plaintiffs asserting associational standing must identify members who have suffered cognizable injuries).

**A. LULAC Lacks Associational Standing.**

Galveston LULAC Council 151 “is an independent unit of the national organization League of United Latin American Citizens.” FAC ¶ 11. LULAC asserts that it has associational standing because:

[I]ts members would otherwise have standing to sue in their own right; the

interests of fair and equal representation that it seeks to protect are germane to the organization's purpose; and . . . neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.

FAC ¶ 14.

This is nothing more than a threadbare recital of the elements of associational standing. *See Tex. Democratic Party v. Benkiser*, 459 F.3d 582, 587 (5th Cir. 2006) (stating the elements of associational standing). Threadbare recitals of the elements of a cause of action do not suffice to state a claim. *See Iqbal*, 556 U.S. at 678-79. This is especially true here because LULAC bears the burden to prove standing. *Southern Recycling, L.L.C.*, 982 F.3d at 379. Accordingly, this Court should dismiss LULAC Council 151 for lack of associational standing.

**B. Both LULAC And NAACP Lack Organizational Standing.**

In *LULAC II*, the three-judge court of the Western District of Texas held that assertions such as the enacted redistricting plan “frustrates and impedes” an organization’s “core mission” are too abstract. *LULAC II*, 2022 U.S. Dist. LEXIS 91761, \*17 (citing *NAACP*, 626 F.3d at 238-39). Also, assertions that the Enacted Plan “frustrates” the organization’s ability to “promote civil participation” and “educate on voting rights issues” are too abstract, especially without a specific explanation of how the enacted redistricting plan causes these harms. *Id.* at \*18. What LULAC must allege is how the Enacted Plan “significantly and perceptibly impaired” LULAC’s actual activities, “not just their abstract interests in civic participation, voting rights and the like.” *See id.*

Also insufficient to establish organizational standing are those allegations that an

organization “will have to commit significant time and resources to combating the effects” of the Enacted Plan. *See id.* at \*18-19. This is not a specific factual allegation that this Court can credit. *See id.* at \*19.

The mere assertion that an organization must divert its resources to combat the alleged effects of an enacted redistricting plan is similarly deficient. “Mere redirection of resources in response” to the Enacted Plan “does not supply standing.” *See id.* at \*19. This is because “there is no legally protected interest in *not* expending resources on behalf of individuals for whom” LULAC advocates. *See id.* (quoting *Ass. ’n for Retarded Citizens of Dall. v. Dall Cty. Mental Health & Mental Retardation Ctr. Bd. of Trs.*, 19 F.3d 241, 244 (5th Cir. 1994)).

LULAC makes the same abstract allegations of organizational harm. LULAC asserts that it organizes voter registration events and addresses complaints concerning racial discrimination. FAC ¶ 13. LULAC asserts that it “regularly engages in efforts to promote civic engagement” including encouraging its members to vote. FAC ¶ 15.

LULAC asserts it has organizational standing because the Enacted Plan “has impaired and will continue to impair [LULAC’s] ability to promote the political influence of Latinos in Galveston County.” FAC ¶ 15. Further, the Enacted Plan allegedly frustrates LULAC’s mission of civic engagement. FAC ¶ 15. But these injuries are “too abstract to sustain organizational standing.” *LULAC II*, No. 3:21-CV-259, 2022 U.S. Dist. LEXIS 91761, \*18 (holding that allegations that Defendant’s conduct frustrated organization’s ability to promote civic participation, organize volunteers, educate on voting rights issues were too abstract to establish standing).

Similarly, the County NAACP Organizations allege that they have standing because the Enacted Plan impairs their ability “to promote electoral participation and eliminate [racial] discrimination . . .” FAC ¶ 9. The County NAACP Organizations allegedly accomplish this through voter registration efforts and encouraging African Americans to vote. *Id.* The County NAACP Organizations allege that the Enacted Plan frustrates these goals. *Id.* However, the County NAACP Organizations’ alleged frustration of their goals amount to a mere setback, *LULAC II*, 2022 U.S. Dist. LEXIS 91761, \*18, and are “too abstract to sustain organizational standing.” *Id.* at \*17. Plaintiffs fail to allege how the Enacted Plan “significantly and perceptibly impaired” their actual activities. *See id.* at \*16. Rather, these allegations list the County NAACP Organizations’ abstract interests in activities such as voter participation and voting rights. This is insufficient to establish organizational standing. *See id.* at \*18.

Organizational Plaintiffs also fail to assert standing under a diversion of resources theory of standing. *LULAC* alleges that because of the enacted plan, it must divert resources toward education and other efforts to advance the political influence of Latinos in Galveston and counteract the alleged diluted voting power of Latinos in Galveston. FAC ¶ 15. The County NAACP Organizations also allege that the Enacted Plan will require them to divert resources “towards education, outreach, and other activities” to further its mission. FAC ¶ 9. The County NAACP Organizations also allege that they will have to spend more money to advocate for Black and Latino residents to counter the alleged violations of the enacted plan. FAC ¶ 10.

But these allegations of diversion of resources are insufficient to establish organizational standing because mere redirection of resources to advocating for organizational members is not a harm. *LULAC II*, 2022 U.S. Dist. LEXIS 91761, \*19. Instead, Plaintiffs must allege with specificity what programs are losing funds and where those funds are being diverted to. *See, e.g., Havens Realty Corp.*, 455 U.S. at 379 (holding plaintiff established organizational standing where plaintiff alleged that, because of the defendants' racial housing practices, plaintiffs had to divert money set aside for counseling and referral services to identify and counteract the racial practices). Furthermore, LULAC's allegations that they must divert resources to, among other things, promote the political influence of Latinos, FAC ¶ 15, and the County NAACP's allegations that they must divert resources to promote political equality for Black and Latino voters, FAC ¶¶ 9-10, are not allegations that they are diverting resources *from* LULAC's and NAACP's mission. Promoting the political equality and influence of Black and Latino voters *is* LULAC's and County NAACP's mission. *Compare* FAC ¶ 11 (listing the advancement of the economic condition, educational attainment, political influence, housing, health and civil rights of Latinos as LULAC Council 115's mission); and FAC ¶ 4 (listing the NAACP's mission as ensuring the political equality of rights of all persons); *with* FAC ¶ 15 (alleging that the enacted plan will cause LULAC to divert resources towards "education, and outreach" to advance LULAC's mission); FAC ¶ 9 (alleging that the enacted plan will require the NAACP to spend money to promote the political equality of Black and Latino voters). This is insufficient to establish standing. *See Havens Realty Corp.*, 455 U.S. at 379; *Shelby Advocates for Valid Elections v. Hargett*, 947 F.3d 977,



982 (6th Cir. 2020) (holding that plaintiff did not establish organizational standing under a diversion of resources theory because the plaintiff alleged that the activities it would spend money on was not a diversion from the organization’s mission, but in fact, the organization’s mission). Accordingly, Organizational Plaintiffs lack organizational standing and their claims must be dismissed.

**II. THIS CASE IS MOOT BECAUSE THERE ARE NOW TWO AFRICAN-AMERICANS SERVING AS COMMISSIONERS.**

The jurisdiction of federal courts is limited to legal questions of actual cases and controversies. *See* U.S. Const., Art. III, § 2; *Alvarez*, 558 U.S. at 92. For federal courts to have the power to adjudicate a dispute, an “actual controversy must be extant at all stages of review, not merely at the time the complaint is filed.” *Id.* (internal quotation marks omitted). This is because in our constitutional structure “courts have no business deciding legal disputes or expounding on law in the absence of such a case or controversy.” *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 90 (2013) (citation omitted). Federal courts lose jurisdiction, therefore, “when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.” *Id.* at 91. Stated differently, a case becomes moot, and this Court loses jurisdiction, “if the dispute is no longer embedded in any actual controversy about the plaintiffs’ particular legal rights.” *Id.* (internal quotation marks omitted).; *see also Church of Scientology of Cal. v. United States*, 506 U.S. 9, 12 (1992) (stating that a case is moot when after the complaint is filed an event occurs “that makes it impossible for the court to grant “any effectual relief whatever” to a prevailing party.”). It is Plaintiffs’ burden to prove that this Court has jurisdiction. *See Lujan*, 504 U.S. at 561.

Plaintiffs allege that Commissioner Holmes, who is African American, is the only commissioner “to vote in line with the wishes of a majority of the African American and Latino communities . . . .” FAC ¶¶ 83, 135. But on May 18, 2022, County Judge Henry appointed Dr. Robin Armstrong, who is African American, to the Commission to serve as the Commissioner for Precinct 4. Of the five members on the Commission, two are African American. 40% of the Commission members are African American. Black and Latino residents in Galveston County account for 37.6% of the total population. FAC ¶ 42. Thus African American representation on the Commission is greater than the proportion of Black and Latino residents in Galveston County.

This case is now moot. Although the Voting Rights Act does not create a right to proportional representation, the lack of proportional representation is evidence of a Section 2 violation. *Thornburg v. Gingles*, 478 U.S. 30, 46 (1986). Since the African American representation on the Commission is greater than the African American and Latino population in the County, FAC ¶ 42, there is no evidence of vote dilution, unless Plaintiffs’ real injury is that there are insufficient Democrats on the Commission, which is a non-justiciable political question. *Rucho*, 139 S. Ct. at 2508.

Plaintiffs therefore lack a personal interest in the result of this litigation. *Dailey v. Vought Aircraft Co.*, 141 F.3d 224, 227 (5th Cir. 1998).

**III. PLAINTIFFS’ FAIL TO STATE A CLAIM THAT THE ENACTED PLAN IS AN UNCONSTITUTIONAL RACIAL GERRYMANDER.**

To succeed on a racial gerrymandering claim, Plaintiffs must plead and prove that “the legislature subordinated traditional race-neutral districting principles . . . to racial

considerations.” *Bethune-Hill v. Va. State Bd. of Elections*, 137 S. Ct. 788, 797 (2017). A plaintiff can attempt to show this through alleging that the district’s shape deviates from traditional redistricting principles such as compactness, or more direct evidence going to legislative purpose. *See id.* at 798. As for evidence of legislative purpose, in past cases, plaintiffs have successfully proven that race predominated in the drawing of districts through pleading and proving that the legislature established population percentage targets for the minority population. *See id.* at 799; *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 267 (2015) (“That Alabama expressly adopted and applied a policy of prioritizing mechanical racial targets above all other districting criteria (save one-person, one-vote) provides evidence that race motivated the drawing of particular lines in multiple districts in the State.”); *see LULAC II*, 2022 U.S. Dist. LEXIS 91761, at \*82 (observing that had pleaded sufficient facts to survive a motion to dismiss where the plaintiffs alleged that the “House committee chairman’s statements stressing the number of majority-minority districts, the legislature’s apparent desire to keep various racial groups above 50% of certain districts, *and the irregular shapes of CD 6 and 33.*”) (emphasis added).

**A. Plaintiffs Fail To Identify Which Commissioners Precinct Constitutes A Racial Gerrymander.**

Racial gerrymandering claims are district specific and therefore apply “to the boundaries of individual districts.” *Ala. Legis. Black Caucus*, 575 U.S. at 262. By contrast, racial gerrymandering claims do not apply to the map as an undifferentiated whole. *See id.* The harm in a racial gerrymandering claim is personal and includes being “personally . . . subjected to [a] racial classification...as well as being represented by a legislator who

believes his primary obligation is to represent only the members of a particular racial group.” *Id.* at 263 (internal quotation marks and citations omitted, alterations in the original). Thus, racial gerrymanders “directly threaten a voter who lives in the *district* attacked[.]” and not those who live elsewhere. *See id.*

Plaintiffs’ FAC does not identify which precinct is the result of a racial gerrymander. Furthermore, there is a Plaintiff in Commission Precincts 1, 2, and 4, but not in 3. Thus, because Plaintiffs have not identified which particular district is the result of a racial gerrymander, this Court cannot assure itself that it has jurisdiction since Plaintiffs lack standing to challenge districts where they do not live. *United States v. Hays*, 515 U.S. 737, 739 (1995). None of the allegations identify which district line was the result of a racial gerrymander. This is insufficient and therefore Plaintiffs have failed to state a racial gerrymander claim. *See LULAC II*, 2022 U.S. Dist. LEXIS 91761, at \*81-82.

**B. Plaintiffs Fail To Allege That Any Commissioners’ Precinct Line Subordinates Traditional Redistricting Principles To Race.**

Additionally, the FAC contains no allegations that any particular precinct line in the Enacted Plan violates traditional redistricting principles. *See generally* FAC. There are no allegations that any precinct is not compact, divides communities of interest, is not contiguous, or does not respect political subdivision lines. *Ala. Legis. Black Caucus*, 575 U.S. at 272 (listing traditional redistricting criteria). Plaintiffs must plead that the Defendants subordinated all other redistricting criteria—*e.g.*, compactness, avoiding contests between incumbents, maintaining communities of interest, partisanship—to race. *Miller*, 515 U.S. at 916. And, although not a necessary element to a racial gerrymandering

claim, the United States Supreme Court has not “affirmed a predominance finding, or remanded a case for a determination of predominance, without evidence that some district lines deviated from traditional [redistricting] principles.” *Bethune-Hill*, 137 S. Ct. at 799. In fact, “classic racial-gerrymandering cases often included vivid descriptions of the specific districts at issue.” *LULAC II*, 2022 U.S. Dist. LEXIS 91761, at \*81 (citing *Shaw v. Reno*, 509 U.S. 630, 635-36 (1993)) (describing North Carolina Congressional District 1 as looking like a “Rorschach ink-blot test” or a “bug splattered on a windshield); *see also* *Bush v. Vera*, 517 U.S. 952, 973-74 (1996) (describing Texas Congressional District 29 as resembling a “sacred Mayan bird”). But Plaintiffs’ FAC contains no description that a district’s shape is bizarre or otherwise violates traditional redistricting principles. Thus, the Supreme Court has concluded that often, without evidence that a legislature violated traditional redistricting principles in drawing district lines, plaintiffs “will be unable to prove” a racial gerrymander because it will be “difficult for challengers to find other evidence sufficient to show that” race predominated over traditional redistricting principles in the drawing of district lines. *See Bethune-Hill*, 137 S. Ct. at 799.

To be sure, the FAC alleges that race predominated the drawing of the precinct lines, “subordinating other redistricting criteria to race, without a compelling justification.” FAC ¶ 150. But this allegation is a threadbare recital of the elements of a racial gerrymandering claim. Even if coupled with the conclusory statements that the Commission’s goal was to crack minority groups, FAC ¶ 148, this is conclusory and insufficient to unlock the doors of discovery. *See Iqbal*, 556 U.S. at 678-79. Compounding the problem is that there are no allegations that any particular Commissioners Precinct constitutes a racial gerrymander.

The FAC contains no allegations that make the assertion that race predominated over traditional redistricting principles rise above the possible to the plausible. *See id.* at 678.

Accordingly, this Court should dismiss Plaintiffs' racial gerrymandering claims for lack of jurisdiction because Plaintiffs failed to identify which Plaintiff was injured by the alleged racial gerrymander and in which precinct such injury occurred. This Court should also dismiss Plaintiffs' racial gerrymandering claim for failure to state a claim because there are no allegations that traditional redistricting criteria were subordinated to race.

**IV. PLAINTIFFS FAIL TO STATE A CLAIM UNDER SECTION 2 OF THE VOTING RIGHTS ACT.**

To successfully plead a Section 2 violation, Plaintiffs must allege, and include sufficient supporting factual content, that they “have less opportunity than other members of the electorate to participate in the political process and elect representatives of their choice.” 52 U.S.C. § 10301(b); *see Magnolia Bar Ass’n, Inc. v. Lee*, 994 F.2d 1143, 1146 (5th Cir. 1993); *see Twombly*, 550 U.S. at 570. Plaintiffs must also plead that the minority group is sufficiently large and geographically compact to constitute a majority in a precinct; that the minority group is politically cohesive; and that Anglo voters vote sufficiently as a bloc to defeat the minority’s candidate of choice. *See Gingles*, 478 U.S. at 50-51.

“Each of these preconditions must be shown on a district-by-district basis.” *LULAC II*, 2022 U.S. Dist. LEXIS 91761, at \*47-48. Meeting these three pre-conditions creates a rebuttable presumption that the Commission precincts harm minority voters. *See Lopez v. Abbott*, 339 F. Supp. 3d 589, 602 (S.D. Tex. 2018). Plaintiffs must also plead that minority voters are harmed under the totality of the circumstances. *See id.* One factor that can rebut

the preconditions is whether bloc voting is explained not on racial grounds, but on partisan grounds. *See id.* at 603. This distinction is important because if partisanship explains the bloc voting then “a vote dilution claim is a mere euphemism for political defeat at the polls.” *Id.* (quoting in part *LULAC v. Clements*, 999 F.2d 831, 854 (5th Cir. 1993) (*en banc*)). In fact, in *LULAC v. Clements*, the Fifth Circuit faulted the plaintiffs for not attempting “to establish proof of racial bloc voting by demonstrating that “race,” not, as defendants contend, partisan affiliation, is the predominant determinant of political preference.” *LULAC*, 999 F.2d at 855. The Fifth Circuit concluded that the evidence submitted “in most instances” demonstrated that the divergent voting patterns between Anglo voters and minority voters “are best explained by partisan affiliation . . .” *Id.* at 861. Accordingly, the Fifth Circuit ruled in favor of the defendants in most counties. *Id.*

This of course does not mean that courts should summarily dismiss vote dilution claims under Section 2 where “racially divergent voting patterns correspond with partisan affiliation . . .” *Id.* at 860-61. However, here, Plaintiffs have not pleaded sufficient facts to make it plausible that race and not politics explains the racial divergence in voting patterns.

Here, under the totality of the circumstances prong, Plaintiffs go to great lengths to plead facts about the history of racial discrimination in the vicinity of Galveston County. FAC ¶¶ 96-146.<sup>7</sup> But Plaintiffs do not allege that the alleged inability of the Black and

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<sup>7</sup> Plaintiffs make several allegations concerning recent alleged examples of racist actions. Several of these allegations, however, do not involve Galveston County, which is a specific governmental body, not simply a geographical location. For example, the allegations against the League City Police Department, FAC ¶141, involve a separate incorporated city and not Galveston County. *See also* FAC ¶139 (allegations against the police departments of the *cities* of Galveston, League City, Texas City, La Marque, and Hitchcock). Similarly,

Latino voters of Galveston County to elect candidates of their choice is due to racial reasons rather than partisan reasons. There is nothing in the FAC that, if taken as true, demonstrates that Plaintiffs FAC is more than a mere euphuism for political defeat at the polls. *LULAC*, 999 F.2d at 854. There are no allegations—such as results from primary elections—that attempt to show that race predominates and not that partisanship controls in voting decisions in Galveston County. *Id.* at 855.<sup>8</sup>

V. **THIS COURT SHOULD DISMISS PLAINTIFFS INTENTIONAL VOE DILUTION.**

In an intentional vote dilution claim under the Fourteenth and Fifteenth Amendments, a plaintiff must plead that the challenged redistricting plan was enacted with a discriminatory purpose and has discriminatory effects. *See Harding v. Cty. of Dall.*, 948 F.3d 302, 312 (5th Cir. 2020). The gravamen of Plaintiffs’ intentional vote dilution claim is that the Commission enacted “a particular voting scheme as a purposeful device to minimize or cancel out the voting potential of racial or ethnic minorities.” *Perez v. Abbott*, 253 F. Supp. 3d 864, 932 (W.D. Tex. 2017) (internal quotation marks omitted). These

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the allegations against the Galveston Police Department, involved the City of Galveston Police Department, not the County. FAC ¶ 140. The same holds true for the allegations concerning the racial tensions surrounding public housing in the City of Galveston. FAC ¶¶ 119-25. Although these alleged examples are recent, their probative value concerning the Commission’s liability under Section 2 of the Voting Rights Act is limited. *Cf. Veasey v. Abbott*, 830 F.3d 216, 232 (5th Cir. 2016) (stating that evidence of racial animus in individual Texas counties is not probative of racial animus in the state legislature).

<sup>8</sup> Although Plaintiffs here do not plead that Black and Latino voters support Democratic candidates in Galveston while Anglo voters support Republicans, the Petteway Plaintiffs in this now consolidated case, do so plead. Second Amended Complaint ¶¶ 124, 126-27 (ECF 42). Accordingly, this case too is about politics and vindicating partisan interests. At the appropriate time, Defendants reserve the right to file a motion to dismiss because Plaintiffs’ case is a non-justiciable political question.



claims are “infrequently” asserted. *Harding*, 948 F.3d at 313. This is so because intentional vote dilution claims “are more difficult to prove than are effects-only Section 2 claims. *LULAC v. Abbot*, No. 21-00259, slip op. at 18 (W.D. Tex. May 4, 2022) (three-judge court) (ECF 258) (herein after “*LULAC I*”) (citing *Harding*, 948 F.3d at 313 n.47).

Initially, this Court should dismiss Plaintiffs claim under the Fifteenth Amendment. Under Fifth Circuit precedent, there is no cause of action for intentional vote dilution under the Fifteenth Amendment. *See Prejean v. Foster*, 227 F.3d 504, 519 (5th Cir. 2000). This makes sense because the U.S. Supreme Court has never held that vote dilution claims are cognizable under the Fifteenth Amendment. *See Voinovich v. Quilter*, 507 U.S. 146, 159 (1993). Instead, intentional vote dilution cases are resolved under the Fourteenth Amendment’s Equal Protection Clause. *See LULAC I*, 2022 U.S. Dist. LEXIS 80659, at \*25 (citing *Reno*, 520 U.S. at 481-82).

For a Fourteenth Amendment claim, Plaintiffs must plead that Defendants “acted at least in part ‘because of,’ not merely ‘in spite of,’ its adverse effects upon an identifiable group.” *Id.* at \*26 (quoting *Pers. Adm’r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979)). Courts use factors from *Village of Arlington Heights v. Metropolitan Housing Development Corp.* to determine if the decisionmakers acted with illicit intent. *Id.* at \*26-27.

**A. Plaintiffs Fail To Allege Any Legally Cognizable Indicia Of Illicit Intent.**

Any allegations of evidence of an illicit racial purpose in the FAC are thin at best. The intentional discrimination claim arises from Plaintiffs’ allegation that the Commission did not adopt redistricting criteria, held only one meeting to discuss the proposed redistricting plans, and that Commissioner Holmes was allegedly not included in the

redistricting process. FAC ¶¶ 48-49, 69.

Plaintiffs' legal authority for the proposition that these allegations constitute illicit intent rests almost exclusively on a 2012 letter from the Department of Justice concerning whether the map then presented to the Department for preclearance satisfied Section 5 of the Voting Rights Act. *See* Exhibit B. But the Department of Justice's determination in 2012 that the Commission map did not satisfy Section 5 does not bind this Court to find that the Enacted Plan intentionally dilutes votes and is therefore violates the Fourteenth Amendment.

More fundamentally, however, is that when conducting constitutional adjudication, a Department of Justice preclearance memorandum is not authoritative. This Court retains “an independent obligation in adjudicating consequent equal protection challenges.” *Miller*, 515 U.S. at 922. It is the duty of this Court, and not the Department of Justice, to say what the law is. *Id.* (citing *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803)). Additionally, the Department of Justice's “legal conclusion[s] [are] still [] legal conclusion[s]—i.e. something that the Court can't consider when evaluating whether [Plaintiffs] have stated a claim.” *LULAC II*, 2022 U.S. Dist. LEXIS 91761 at \*68 (citing *Iqbal*, 556 U.S. at 678). Accordingly, when engaging in constitutional scrutiny, courts do not give deference to the Department of Justice's interpretation of the Voting Rights Act. *See id.* at 923. That the Department of Justice thought that the 2012 Commission map was the product of intentional racial discrimination is of no moment for this Court's analysis of whether intentional discrimination drove part of the drawing of the boundaries of the Enacted Plan.

And, as it is, this Court should not give “deference” to the Department of Justice letter from nearly a decade ago that the Plaintiffs assert is relevant.

*First*, in the 2012 redistricting process, the fact that Galveston County did not adopt procedures to guide redistricting was not a problem in and of itself. Instead, the Department alleged that procedures were not established because the county wanted to “avoid being held to a procedural or substantive standard of conduct . . . .” Ex. B at 2. By contrast, Plaintiffs here do not make a similar allegation that the decision not to enact redistricting criteria in 2021 was to cloak the Commission’s true motive. *See* FAC ¶ 48. Instead, Plaintiffs merely inform the Court what the Department of Justice concluded in 2012. Additionally, as a matter of law, the Commission is not required to adopt redistricting criteria in addition to what federal and state law already require.<sup>9</sup>

*Second*, Plaintiffs assert that the redistricting maps evidence illicit intent because only one meeting was held to discuss redistricting and that meeting was held in the afternoon during working hours. FAC ¶¶ 67-69. But all of the public meetings that the Commission held in 2021 were also during normal business hours. *See* Ex. A.<sup>10</sup> There is nothing unusual about the timing of the meetings. In fact, the date and time of the regularly scheduled meetings are established a year in advance. Tex. Local Gov’t Code § 81.005(a).

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<sup>9</sup> Arkansas, Illinois, Indiana, Maryland, Massachusetts, New Hampshire, New Jersey, Tennessee, and Wisconsin do not adopt redistricting criteria for its congressional districts. *See* Nat’l Conf. of State Legislatures, *Redistricting Criteria* (July 16, 2021) available at <https://www.ncsl.org/research/redistricting/redistricting-criteria.aspx>.

<sup>10</sup> This Court may consider publicly available documents that were generated by a governmental body. *See Funk*, 631 F.3d at 783.

And the date and time of the redistricting meeting held on November 12, 2021, was announced with the requisite 72-hour public notice required for such meetings. Tex. Gov't Code § 551.043. Furthermore, the proposed Commission precinct maps were posted online on the County website for at least two weeks for people to review and submit public comments.<sup>11</sup> When posting online, while not required to do so by Texas law, the Commission provided ample public notice that it would “be discussing and voting to redistrict county commissioner’s precincts in the next few weeks.” FAC ¶ 52. Therefore, the allegation that Galveston County residents were somehow caught completely off-guard is simply disingenuous. Additionally, that the redistricting meeting held on November 12 was during business hours is consistent with the Commission’s normal and usual practice. To have held the meeting later would have been a departure from standard practice. Finally, there is no requirement that the Commission holds more than one public meeting prior to enacting any redistricting lines.

Plaintiffs make much of the Commission’s alleged departure from normal practice regarding how it held meetings regarding the adoption of new precinct maps. But there was nothing normal about this redistricting cycle. Even the U.S. Census Bureau was required to depart from its normal practices because of the COVID-19 pandemic. *See Alabama*, 546 F. Supp. 3d at 1065-66. In the compressed timeframe the Commission was dealt, it provided the maps to its constituents two weeks in advance of its meeting and allowed the public to submit comments comment online. It held a special meeting for people to voice

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<sup>11</sup> *See Galveston County Commissioners Proposed Precincts*, *supra* note 6.

their concerns and then held a public vote. Plaintiffs' allegations of illicit intent due to alleged departures from past practices are insufficient when the whole world departed from its normal routines and past practices due to COVID-19.

*Third*, Commissioner Holmes was not prevented from participating in the redistricting process nor was Commissioner Holmes prevented from providing input. *But see* FAC ¶ 49. As a duly elected Commissioner, Commissioner Holmes himself had the legal authority to place redistricting on the agenda at any of the regularly scheduled meetings from September 16 to November 12. *See* Tex. Att'y Gen. Op. No. DM-228 at 3. Commissioner Holmes also had the authority to suggest a timeline for redistricting if he thought it appropriate. *See* FAC ¶ 48. Commissioner Holmes was not prohibited from participating in the redistricting process. Rather, Commissioner Holmes simply chose not to exercise his statutory authority as a duly elected Commissioner to place redistricting on the agenda at any of the six regularly scheduled meetings between September and November.

Furthermore, as the FAC itself notes, Commissioner Holmes met with the Galveston County attorney on one occasion regarding the drawing of the redistricting maps prior to the November public hearing. *Id.* ¶ 50. Importantly, the FAC does not allege that in the compressed time that redistricting maps were to be drawn, the county attorney met with other Commission members about redistricting more than once.

As a matter of law, the allegations of illicit intent on the part of the Commission are not legally cognizable. The timing of the meeting was normal, its location was common for special meetings, and Commissioner Holmes had the legal authority to introduce his

redistricting maps and hold redistricting meetings at will, subject to the notice and meeting requirements under Texas law. He also met with the county attorney about districts. Furthermore, nothing about the timing of the meetings, the location of the meetings, or Commissioner Holmes's involvement, or lack thereof, in the redistricting process evidences that racial intent predominated all other traditional redistricting principles. Accordingly, this Court should dismiss Plaintiffs' Racial Gerrymandering claim. The reality of the matter is the Commissioner Holmes is the only member of the Democratic Party on a five-member commission. The fact that he is on the losing end of every vote contested upon party lines was not due to his race—but his political party. After all, redistricting “inevitably has and is intended to have substantial political consequences.” *See Rucho*, 139 S. Ct. at 2497.

There are no allegations that rise to the level of showing that the Commission “selected or reaffirmed a particular course of action at least in part ‘because of,’ not merely ‘in spite of,’ its adverse effects.” *Miller*, 515 U.S. at 916 (favorably quoting *Personnel Administrator of Mass. v. Feeney*, 442 U.S. 256, 279 (1979)). Defendants held their redistricting meeting at their secondary, albeit regular, meeting location, during normal business hours, like all other meetings in 2021, Defendants were not required to adopt criteria, and Commissioner Holmes had the legal authority to demand whatever action he wanted to take on redistricting. This Court should dismiss Plaintiffs' intentional discrimination claims.

## CONCLUSION

For the foregoing reasons, this Court should grant Defendants' Motion to Dismiss and dismiss Plaintiffs' First Amended Complaint with Prejudice.<sup>12</sup>

Date: June 8, 2022

Respectfully submitted,

/s/ Dallin B. Holt

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*\*Pro hac vice pending*

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<sup>12</sup> Courts in the Fifth Circuit regularly dismiss complaints with prejudice for failure to properly state a claim in an amended pleading. *See, e.g., Smith v. Houston Indep. Sch. Dist.*, 229 F. Supp. 3d 571, 582 (S.D. Tex. 2017) (“Because further opportunities to replead would be futile, the third amended complaint is dismissed with prejudice.”); *Schiller v. Physicians Res. Grp.*, 342 F.3d 563, 567 (5th Cir. 2003) (“[A]t some point a court must decide that a plaintiff has had a fair opportunity to make his case; if, after that time, a cause of action has not been established, the court should finally dismiss the suit.” (citation omitted)). In addition to already having filed an amended complaint, many Plaintiffs, and Plaintiffs’ counsel, are also involved in the matter of *LULAC v. Abbott*, which is currently pending in the Western District of Texas; where that court, just weeks ago, laid out in great detail how a plaintiff might avoid the same deficiencies Plaintiffs make here. *See*, 2022 U.S. Dist. LEXIS 91761 (W.D. Tex. 2022).

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 8, 2022, the foregoing document was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Dallin B. Holt  
Counsel for Defendants

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**EXHIBIT A**

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# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**January 11, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **REGULARLY SCHEDULED MEETING**

#### **Call to Order**

#### **Invocation and Pledge of Allegiance**

#### **Public Comment**

#### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 1/4/2021 and 1/11/2021
  - b. Order for payroll period ending 1/6/2021 bi-weekly #1
  - c. Order for supplemental payroll period ending 1/6/2021 bi-weekly #1
  - d. Indemnification request from the Tax Office
  - e. Internal audit report of The Children's Center for period of 8/1/2019 - 9/30/2020 with response letter from Brent Hartzell, Chief Financial Officer, dated 12/30/2020
  - f. Internal audit report of the agreement between Galveston County and Friends for Life for period of 10/1/2019 - 9/30/2020 with response letter from Brent Hartzell, Chief Financial Officer, dated 12/29/2020
  - g. Internal audit report of the close out for Constable Jerry Fisher, Precinct 4



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**January 25, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **REGULARLY SCHEDULED MEETING**

#### **Call to Order**

#### **Invocation and Pledge of Allegiance**

#### **Public Comment**

#### **Consent Agenda**

- \*1. Submitted by the County Auditor's Office:
  - a. Approval of the accounts payable checks dated 1/15/2021 and 1/25/2021
  - b. Order for payroll period ending 1/20/2021 bi-weekly #2
  - c. Order for supplemental payroll period ending 1/20/2021 bi-weekly #2
  - d. Internal audit report of the Sheriff's Office Commissary and Inmate Property accounts for period of 10/1/2019 - 9/30/2020 with response letter from Sheriff Henry Trochesset
  - e. Monthly financial report for period ending 12/31/2020
  - f. Internal audit report of the Mosquito Control chemical and fuel inventory for period of 10/29 - 12/3/2020 with response letter from John Marshall, Director of Mosquito Control
  - g. Internal audit quarterly report for Constable, Precinct 1 for period of October - December 2020



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

**CALDER MEETING LOCATION**  
**174 Calder Rd., Rm 117**  
**League City, Texas 77573**

**SPECIAL MEETING-AGENDA**  
**January 29, 2021 – 2:30 PM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **Call to Order**

## **Public Comment**

## **Consent Agenda**

- \*1. Consideration of *approval of extension of Declaration of Local Disaster related to COVID-19* submitted by the County Judge

## **Adjourn**

## **Appearances before Commissioners Court**

A speaker whose subject matter as submitted relates to an identifiable item of business on this agenda will be requested by the County Judge or other presiding court members to come to the podium where they will be limited to three minutes (3). A speaker whose subject matter as submitted does not relate to an identifiable item of business on this agenda will be limited to three minutes (3) and will be allowed to speak before the meeting is adjourned. Please arrive prior to the meeting and sign in with the County Clerk.



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**February 8, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **REGULARLY SCHEDULED MEETING**

#### **Call to Order**

#### **Invocation and Pledge of Allegiance**

#### **Public Comment**

#### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 2/1/2021 and 2/8/2021
  - b. Order for payroll period ending 2/3/2021 bi-weekly #3
  - c. Order for supplemental payroll period ending 2/3/2021 bi-weekly #3
  - d. Internal quarterly audit report for the Juvenile Justice Department for period of October - December 2020
  - e. Internal quarterly audit report for Justice of the Peace, Precinct 1 for period of October - December 2020
  - f. Internal quarterly audit report for Justice of the Peace, Precinct 2 for period of October - December 2020
  - g. Internal quarterly audit report for Justice of the Peace, Precinct 3 for period of October - December 2020



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

**CALDER MEETING LOCATION**  
**174 Calder Rd., Rm 117**  
**League City, Texas 77573**

**SPECIAL MEETING-AGENDA**  
**February 22, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **Call to Order**

## **Public Comment**

## **Consent Agenda**

- \*1. Submitted by the Auditor's office:
  - a. Approval of the accounts payable checks dated 2/12/21 and 2/22/21
  - b. Order for payroll period ending 2/17/21 bi-weekly #4
  - c. Order for supplemental payroll period ending 2/17/21 bi-weekly #4
  - d. Early check release for check dated 2/8/2021 to Galveston Insurance Association
  - e. Indemnification request from the Tax Office dated 2/1/2021
  - f. Internal audit report of the District Clerk's fee audit for period of 1/1-12/31/2020 with response letter from Honorable John D. Kinard dated 2/8/2021
  - g. Monthly financial report for period ending 1/31/2021
  
- \*2. Receive and file *restitution check list from Odyssey* submitted by Collections Improvement Program



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**March 8, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **REGULARLY SCHEDULED MEETING**

#### **Call to Order**

#### **Invocation and Pledge of Allegiance**

#### **Public Comment**

#### **Consent Agenda**

- \*1. Submitted by the Auditor's office:
  - a. Approval of the accounts payable checks dated 3/1/21 and 3/8/21
  - b. Order for payroll period ending 3/3/21 bi-weekly #5
  - c. Order for supplemental payroll period ending 3/3/21 bi-weekly #5
  - d. Internal audit quarterly audit report of the continuous monitoring activities for period of 10/1/2020 - 12/31/2020
  - e. Pro-Rata Tobacco Settlement Distribution County Expenditure Statement 2021
  - f. Monthly financial report for period ending 2/28/2021
- \*2. Receive and file *restitution check list from Odyssey* submitted by Collections Improvement Program
- \*3. Receive and file *refund check list from Odyssey* submitted by the County Clerk





# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**March 22, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **REGULARLY SCHEDULED MEETING**

#### **Call to Order**

#### **Invocation and Pledge of Allegiance**

#### **Public Comment**

#### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 3/15/21 and 3/22/21
  - b. Order for payroll period ending 3/17/21 bi-weekly #6
  - c. Order for supplemental payroll period ending 3/17/21 bi-weekly #6
  - d. Internal audit report of the County Treasurer's office for period of 11/1/2019 - 10/31/2020 with response letter from County Treasurer, Kevin Walsh dated 2/26/2021
- \*2. Receive and file *restitution check list from Odyssey* submitted by Collections Improvement Program
- \*3. Receive and file *refund check list from Odyssey* submitted by the County Clerk
- \*4. Receive and file *refund check list from Odyssey* submitted by the District Clerk



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA April 5, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **REGULARLY SCHEDULED MEETING**

#### **Call to Order**

#### **Invocation and Pledge of Allegiance**

#### **Public Comment**

#### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 3/29/21 and 4/5/21
  - b. Order for payroll period ending 3/31/21 bi-weekly #7
  - c. Order for supplemental payroll period ending 3/31/21 bi-weekly #7
  - d. Pursuant to Local Government Code 111.0106 certification of funds from Guardian Insurance
  - e. Receive and file Rosenberg Library - 2021 Budget - 2020 Audit
  - f. Internal audit report of the Justice of the Peace, Precinct 1 for period of 1/1-12/31/2020 with response letter from Honorable Gregory Rikard, dated 3/25/2021
  - g. Internal audit report of the District Clerk's Registry and Trust Audit for period of 1/1-12/31/2020 with response letter from Honorable John D. Kinard, dated 3/22/2021



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA April 19, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **REGULARLY SCHEDULED MEETING**

#### **Call to Order**

#### **Invocation and Pledge of Allegiance**

#### **Public Comment**

#### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 4/12/21 and 4/19/21
  - b. Order for payroll period ending 4/14/21 bi-weekly #8
  - c. Order for supplemental payroll period ending 4/14/21 bi-weekly #8
  - d. Internal audit report of the inventory of fixed assets of the Fleet Department for period of 3/12-23/2021 with response letter from Walter Chargois, Fleet Administrative Manager dated 3/31/2021
  - e. Monthly financial report for period ending 3/31/2021
  - f. Quarterly audit report of payroll audit for period of 1/1-3/31/2021
  - g. Request the increase of cash change fund for Bolivar Beach Sticker Program
- \*2. Receive and file *restitution check list from Odyssey* submitted by Collections Improvement Program



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA May 3, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **REGULARLY SCHEDULED MEETING**

#### **Call to Order**

#### **Invocation and Pledge of Allegiance**

#### **Public Comment**

#### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 4/26/21 and 5/3/21
  - b. Order for payroll period ending 4/28/21 bi-weekly #9
  - c. Order for supplemental payroll period ending 4/28/21 bi-weekly #9
  - d. Internal audit quarterly report for the Court Collections Office for period of Jan - March 2021
  - e. Internal audit quarterly report for Justice of the Peace, Precinct 1 for the period of Jan - March 2021
  - f. Internal audit Quarterly report for Justice of the Peace, Precinct 2 for the period of Jan - March 2021
  - g. Internal audit Quarterly report for Justice of the Peace, Precinct 3 for the period of Jan - March 2021



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA May 17, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **REGULARLY SCHEDULED MEETING**

#### **Call to Order**

#### **Invocation and Pledge of Allegiance**

#### **Public Comment**

#### **Consent Agenda**

- \*1. Submitted by the County Auditor's office:
  - a. Approval of the accounts payable checks dated 5/10/21 and 5/17/21
  - b. Order for payroll period ending 5/12/21 bi-weekly #10
  - c. Order for supplemental payroll period ending 5/12/21 bi-weekly #10
  - d. Internal audit report of Justice of the Peace, Precinct 3 for period of 2/1/2020 - 1/31/2021 with response letter from Honorable Billy A. Williams dated 4/23/2021
  - e. Internal audit report of Court Collections for period of 3/1/2020 - 2/28/2021 with response letter from Director of Personal Bonds & Collections, Aaron Johnson dated 5/4/2021
  - f. Monthly financial report for period ended 4/30/2021
  - g. Comprehensive Annual Financial Report for the fiscal year ended 9/30/2020



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

**CALDER MEETING LOCATION**  
**174 Calder Rd., Rm 117**  
**League City, Texas 77573**

**SPECIAL MEETING-AGENDA**  
**May 28, 2021 – 1:00 PM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **Call to Order**

## **Public Comment**

## **Consent Agenda**

- \*1. Submitted by the County Auditor's office:
  - a. Approval of the accounts payable checks dated 5/24/21 and 5/28/21
  - b. Order for payroll period ending 5/26/21 bi-weekly #11
  - c. Order for supplemental payroll period ending 5/26/21 bi-weekly #11
  - d. Internal audit report of the Juvenile Justice Department for period of 2/1/20 - 1/31/21 with response letter from Glen Watson, Director of Juvenile Justice, dated 5/12/21
  - e. Internal audit report of Justice of the Peace, Precinct 4 for period of 3/1/20 - 2/28/21 with response letter from Honorable Kathleen McCumber dated 5/17/21
  - f. Internal audit report of Justice of the Peace, Precinct 2 for period of 2/1/20 - 1/31/21 with response letter from Honorable Michael Nelson dated 5/19/21
  - g. Pursuant to Local Government Code 130.902 change fund request for the Law Library



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Appfel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA June 14, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **REGULARLY SCHEDULED MEETING**

#### **Call to Order**

#### **Invocation and Pledge of Allegiance**

#### **Public Comment**

#### **Consent Agenda**

- \*1. Submitted by the County Auditor's office:
  - a. Approval of the accounts payable checks dated 6/7/21 and 6/14/21
  - b. Order for payroll period ending 6/9/21 bi-weekly #12
  - c. Order for supplemental payroll period ending 6/9/21 bi-weekly #12
  - d. Pursuant to Local Government Code 130.902 change fund request for District Clerk's office
  - e. Internal audit report of the Sheriff's Office Bond Division for period of 4/1/20-3/31/21 with response letter from Honorable Sheriff, Henry Trochesset dated 5/19/21
  - f. Internal audit report of the Countywide Fuel Usage Audit for period of 3/1/20 - 2/28/21 with response letter from Lee Crowder, Road Administrator, dated 6/4/21
  - g. Monthly financial report for period ending 5/31/2021



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA June 28, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **REGULARLY SCHEDULED MEETING**

#### **Call to Order**

#### **Invocation and Pledge of Allegiance**

#### **Public Comment**

#### **Consent Agenda**

- \*1. Submitted by the County Auditor's office:
  - a. Approval of the accounts payable checks dated 6/21/21 and 6/28/21
  - b. Order for payroll period ending 6/23/21 bi-weekly #13
  - c. Order for supplemental payroll period ending 6/23/21 bi-weekly #13
  - d. Internal audit report of the Personal Bond Office for period of 5/1/20 - 4/30/21 with response letter from Mr. Aaron Johnson dated 6/15/21
  - e. Internal audit report of fixed assets of the Road and Bridge Department with response letter from Mr. Lee Crowder, Director of Road and Bridge dated 6/21/21
  - f. Patient-Centered Outcomes Research Institute ("PCORI") reporting fee calculations for 2020 benefit plan year and IRS Form 720 for signature and dating





# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA July 12, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **REGULARLY SCHEDULED MEETING**

#### **Call to Order**

#### **Invocation and Pledge of Allegiance**

#### **Public Comment**

#### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 7/2/21 and 7/12/21
  - b. Order for payroll period ending 7/7/21 bi-weekly #14
  - c. Order for supplemental payroll period ending 7/7/21 bi-weekly #14
  - d. Indemnification request from the Tax Office dated 6/28/21
  - e. Pursuant to Local Government Code 111.0106 certification of first tranche of the American Rescue Plan transfer from U.S. Treasury
  - f. Pursuant to Local Government Code 111.0106 certification of receipt for 40% of Emergency Rental Assistance from U.S. Treasury
  - g. Monthly financial report for period ending 6/30/21
- \*2. Receive and file *refund check list from Odyssey* submitted by the County Clerk



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

**CALDER MEETING LOCATION**  
**174 Calder Rd., Rm 117**  
**League City, Texas 77573**

**SPECIAL MEETING-AGENDA**  
**July 19, 2021 – 11:00 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **Call to Order**

## **Public Comment**

## **Consent Agenda**

- \*1. Submitted by the County Auditor's office:
  - a. Execution of IRS forms 8038-CP, Return for Credit Payments to Issuers of Qualified Bonds

## **Action Agenda**

- 2. Purchasing
  - a. Consideration of approval of a contract with Cotton under the Omnia Cooperative Purchasing agreement to perform remediation and construction rebuild of the Justice Center due to fire-water damage submitted by Purchasing on behalf of Facilities
- 3. Professional Services
  - a. Consideration of approval of the following budget amendment:



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

**CALDER MEETING LOCATION**  
**174 Calder Rd., Rm 117**  
**League City, Texas 77573**

**SPECIAL MEETING-AGENDA**  
**July 23, 2021 – 1:00 PM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **Call to Order**

## **Public Comment**

## **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 7/19/21 and 7/23/21
  - b. Order for payroll period ending 7/21/21 bi-weekly #15
  - c. Order for supplemental payroll period ending 7/21/21 bi-weekly #15

## **Adjourn**

## **WORKSHOP AGENDA**

- 1 Budget workshop discussion



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **SPECIAL MEETING-AGENDA July 27, 2021 – 1:30 PM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **Call to Order**

### **Invocation and Pledge of Allegiance**

### **Public Comment**

### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
- a. Pursuant to Local Government Code 111.0106 certification of reimbursement of costs related to implementing new insurance plan
  - b. Pursuant to Local Government Code 111.0106 certification of funds sale of Capital Assets through GovDeals Auction
  - c. Pursuant to Local Government Code 111.0106 certification of funds sale of Capital Assets through GovDeals Auction
  - d. Pursuant to Local Government Code 111.0106 certification of funds sale of Capital Assets through GovDeals Auction
  - e. Internal audit report of the County Engineering Department for period of 6/1/20 - 5/31/21 with response letter from Michael Shannon, County Engineer, dated 7/6/21
  - f. Quarterly audit report of the payroll audit for period of 4/1-6/30/21
- \*2. Receive and file *restitution check List from Odyssey* submitted by Collections Improvement Program



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**August 9, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **REGULARLY SCHEDULED MEETING**

### **Call to Order**

### **Invocation and Pledge of Allegiance**

### **Public Comment**

### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
- a. Approval of accounts payable checks dated 8/2/21 and 8/9/21
  - b. Order for payroll period ending 8/4/21 bi-weekly #16
  - c. Order for supplemental payroll period ending 8/4/21 bi-weekly #16
  - d. FY20 Galveston County financial trend analysis
  - e. Quarterly audit report for Constable, Precinct 1 for period of April - June 2021
  - f. Quarterly audit report for Constable, Precinct 2 for period of April - June 2021
  - g. Quarterly audit report for Constable, Precinct 3 for period of April - June 2021
  - h. Quarterly audit report for Constable, Precinct 4 for period of April - June 2021
  - i. Quarterly audit report for Court Collections Office for period of April - June 2021



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**August 23, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **REGULARLY SCHEDULED MEETING**

### **Call to Order**

### **Invocation and Pledge of Allegiance**

### **Public Comment**

### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 8/16/21 and 8/23/21
  - b. Order for payroll period ending 8/18/21 bi-weekly #17
  - c. Order for supplemental payroll period ending 8/18/21 bi-weekly #17
  - d. Internal audit report of the inventory of the assets of Department of Parks and Cultural Services with response letter from Julie Diaz, Director of Parks and Cultural Services dated 8/11/2021
  - e. Internal audit report of the cash count and inventory of Constable, Precinct 1
  - f. Internal audit report of the cash count and inventory of Constable, Precinct 2
  - g. Internal audit report of the cash count and inventory of Constable, Precinct 3
  
- \*2. Receive and file *restitution check list from Odyssey* submitted by Collections Improvement Program



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

**CALDER MEETING LOCATION**  
**174 Calder Rd., Rm 117**  
**League City, Texas 77573**

## **SPECIAL MEETING-AGENDA** **September 3, 2021 – 1:30 PM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **Call to Order**

### **Public Comment**

### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 8/30/21 and 9/3/21
  - b. Order for payroll period ending 9/1/21 bi-weekly #18
  - c. Order for supplemental payroll period ending 9/1/21 bi-weekly #18

### **Action Agenda**

- 2. General Counsel
  - a. **Break into Executive Session:**
  - b. **Executive Session:** Texas Government Code Section 551.074, Personnel Matters: the Commissioners Court will enter into executive session as permitted under the Open Meetings Act, Chapter 551 of the Texas Government Code, pursuant to Section 551.074 of the Texas Government Code, Personnel Matters: to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, respectively:



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **SPECIAL MEETING-AGENDA September 7, 2021 – 10:00 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **Call to Order**

### **Invocation and Pledge of Allegiance**

### **Public Comment**

### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Pursuant to Local Government Code 111.0106 certification of funds from Great American Insurance initial payment for fire and water damage
  - b. Internal audit report of the District Attorney's office change fund with response letter from Honorable Jack Roady dated 8/24/2021
- \*2. Receive and file *July 2021 collections and personal bond report* submitted by Personal Bond/Collections Office
- \*3. Receive and file *refund check list from Odyssey* submitted by the County Clerk
- \*4. Receive and file *refund check list from Odyssey* submitted by the District Clerk
- \*5. Receive and file *summary of bi-weekly personnel movements pay period #17, August 5 - 18, 2021* submitted by Human Resources
- \*6. Consideration of *adoption of updates to HR Policy Manual (Policy HR011-Leaves of Absence: Paid Quarantine Leave)* submitted by Human Resources





# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**September 20, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **REGULARLY SCHEDULED MEETING**

### **Call to Order**

### **Invocation and Pledge of Allegiance**

### **Public Comment**

### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 9/13/21 and 9/20/21
  - b. Order for payroll period ending 9/15/21 bi-weekly #19
  - c. Order for supplemental payroll period ending 9/15/21 bi-weekly #19
  - d. Pursuant to Local Government Code 111.0106 certification of funds from City of Kemah
  - e. Monthly financial report for period ending 8/31/2021
  - f. Contract agreement with DebtBook for debt and lease management software to track debt and leases in compliance with GASB requirements
  - g. Consideration of approval of addition of a grant-funded accountant for ARP and related grant activity



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**October 4, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

### **REGULARLY SCHEDULED MEETING**

#### **Call to Order**

#### **Invocation and Pledge of Allegiance**

#### **Public Comment**

#### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 9/27/21 and 10/4/21
  - b. Order for payroll period ending 9/29/21 bi-weekly #20
  - c. Order for supplemental payroll period ending 9/29/21 bi-weekly #20
  - d. Early check release dated 9/20/2021 check no. AP00446498 Texas Division of Emergency Management
  - e. Early check release dated 9/20/2021 check no AP00446497 GIA Insurance Agency, LLC
  - f. Early check release dated 9/28/2021 check no.AP00446644 DMP BPO PBA Burke Asset
  - g. Internal audit report of the cash count of the Galveston County Senior Services Division on behalf of the Department of Parks & Cultural Services



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**October 18, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **REGULARLY SCHEDULED MEETING**

### **Call to Order**

### **Invocation and Pledge of Allegiance**

### **Public Comment**

### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 10/11/21 and 10/18/21
  - b. Order for payroll period ending 10/13/21 bi-weekly #21
  - c. Order for supplemental payroll period ending 10/13/21 bi-weekly #21
- \*2. Receive and file *restitution check list from Odyssey* submitted by Collections Improvement Program
- \*3. Receive and file *refund check list from Odyssey* submitted by the District Clerk
- \*4. Receive and file *summary of bi-weekly personnel movements pay period #20, September 16-29, 2021* submitted by Human Resources
- \*5. Consideration of *execution of service agreement with CPS HR Consulting for the recruitment and hiring of a new Chief Financial Officer* submitted by Human Resources



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**November 1, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **REGULARLY SCHEDULED MEETING**

### **Call to Order**

### **Invocation and Pledge of Allegiance**

### **Public Comment**

### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
- a. Approval of the accounts payable checks dated 10/25/21 and 11/1/21
  - b. Order for payroll period ending 10/27/21 bi-weekly #22
  - c. Order for supplemental payroll period ending 10/27/21 bi-weekly #22
  - d. Early check release to GIA Insurance Agency check number AP00447392
  - e. Internal audit report of the Department of Parks and Cultural Services for period of 9/1/20-8/31/21 with response letter from Director Julie Diaz dated 10/25/21
  - f. Internal audit report of Galveston County Child Welfare for period of 7/1/20 - 6/30/21 with response letter from Jim Gentile, Director of Grants Administration dated 10/22/21
  - g. Quarterly audit report for Constable, Precinct 1 for period of 7/21-9/21
  - h. Quarterly audit report for Constable, Precinct 2 for period of 7/21-9/21



# GALVESTON COUNTY, TEXAS

COMMISSIONERS COURT 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

**CALDER MEETING LOCATION**  
**174 Calder Rd., Rm 117**  
**League City, Texas 77573**

**SPECIAL MEETING-AGENDA**  
**November 12, 2021 – 1:30 PM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## Call to Order

## Public Comment

## Consent Agenda

- \*1. Consideration of *approval of cloud-based budget book and capital budgeting services with ClearGov* submitted by the County's Office
- \*2. Consideration of *approval of the following budget amendment* submitted by the Auditor's Office:
  - a. 22-038-1109-A  
**Professional Services** - Request increase to Professional Services Cloud Subscription Services for ClearGov subscription funded by General Fund interest revenue received through the American Rescue Plan Stimulus funding. The interest earned on the ARP funds can be used at the County's discretion.

## Action Agenda

- 3. County Judge
  - a. Consideration of an order establishing new commissioners precinct boundaries

## Adjourn



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**November 15, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **REGULARLY SCHEDULED MEETING**

### **Call to Order**

### **Invocation and Pledge of Allegiance**

### **Public Comment**

### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
- a. Approval of the accounts payable checks dated 11/8/21 and 11/15/21
  - b. Order for payroll period ending 11/10/21 bi-weekly #23
  - c. Order for supplemental payroll period ending 11/10/21 bi-weekly #23
  - d. Pursuant to Local Government Code 111.0106 certification of Great American Insurance advanced payment on building and business personal property damage claim A00374923
  - e. Internal audit report of the FY2021 property tax refunds review for period of 10/1/20 - 9/30/21 with response letter from Honorable Cheryl E. Johnson dated 11/4/2021
  - f. Consideration of approval of a contract with Patillo, Brown Hill, LLP. for annual auditing services



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**November 29, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **REGULARLY SCHEDULED MEETING**

### **Call to Order**

### **Invocation and Pledge of Allegiance**

### **Public Comment**

### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 11/22/21 and 11/29/21
  - b. Order for payroll period ending 11/24/21 bi-weekly #24
  - c. Order for supplemental payroll period ending 11/24/21 bi-weekly #24
  - d. Internal audit report of the Alternative Dispute Resolution Fund for period of 9/1/20 - 8/31/21 with response letter from Thayer Evans dated 11/12/21
  - e. Monthly financial report for period ending 10/31/2021
  - f. Execution of IRS form 8038-CP, Return for Credit Payments to Issuers of Qualified Bonds
  - g. Internal audit report of the Sheriff's Office Petty Cash Fund for period of 10/1/20 - 9/30/21 with response letter from Honorable Henry Trochesset dated 11/18/21
  
- \*2. Receive and file *refund check list from Odyssey* submitted by the District Clerk



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**December 13, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **REGULARLY SCHEDULED MEETING**

### **Call to Order**

### **Invocation and Pledge of Allegiance**

### **Public Comment**

### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 12/6/21 and 12/13/21
  - b. Order for payroll period ending 12/8/21 bi-weekly #25
  - c. Order for supplemental payroll period ending 12/8/21 bi-weekly #25
  - d. Internal audit report of the Community Supervision and Corrections Department for period of 10/1/20 - 9/30/21 with response letter from Willie Lacy, Director, dated 11/22/21
  - e. Internal audit report for the Mosquito Control office for the period of 10/1/20 - 9/30/21 with response letter from John Marshall, Director of Mosquito Control, dated 12/3/21
  - f. FY 2021 Chapter 59 Asset Forfeiture report for Constable, Precinct 3 for period of 10/1/20 - 9/30/21





# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

**CALDER MEETING LOCATION**  
**174 Calder Rd., Rm 117**  
**League City, Texas 77573**

**SPECIAL MEETING-AGENDA**  
**December 14, 2021 – 9:00 AM**

*CONSENT AGENDA:* ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **Call to Order**

## **Public Comment**

## **Action Agenda**

1. County Judge
  - a. Consideration of adopting new voting precincts only to conform to Commissioner precincts previously adopted

## **Adjourn**

## **Appearances before Commissioners Court**

A speaker whose subject matter as submitted relates to an identifiable item of business on this agenda will be requested by the County Judge or other presiding court members to come to the podium where they will be limited to three minutes (3). A speaker whose subject matter as submitted does not relate to an identifiable item of business on this agenda will be limited to three minutes (3) and will be allowed to speak before the meeting is adjourned. Please arrive prior to the meeting and sign in with the County Clerk.



# **GALVESTON COUNTY, TEXAS**

**COMMISSIONERS COURT** 722 Moody, County Courthouse, Galveston, TX 77550 (409) 766-2244

Mark Henry County Judge      Darrell Apffel Commissioner, Precinct 1      Joe Giusti Commissioner, Precinct 2      Stephen Holmes Commissioner, Precinct 3      Ken Clark Commissioner, Precinct 4

## **AGENDA**

**December 27, 2021 – 9:30 AM**

**CONSENT AGENDA:** ALL ITEMS MARKED WITH A SINGLE ASTERISK (\*) ARE PART OF THE CONSENT AGENDA AND REQUIRE NO DELIBERATION BY THE COMMISSIONERS COURT. ANY COMMISSIONERS COURT MEMBER MAY REMOVE AN ITEM FROM THIS AGENDA TO BE CONSIDERED SEPARATELY.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding contact the County Judge's office at 722 Moody, Galveston, Texas 77550 (409) 766-2244.

## **REGULARLY SCHEDULED MEETING**

### **Call to Order**

### **Invocation and Pledge of Allegiance**

### **Public Comment**

### **Consent Agenda**

- \*1. Submitted by the Auditor's Office:
  - a. Approval of the accounts payable checks dated 12/20/21 and 12/27/21
  - b. Order for payroll period ending 12/22/21 bi-weekly #26
  - c. Order for supplemental payroll period ending 12/22/21 bi-weekly #26
  - d. Monthly financial report for period ending 11/30/2021
  - e. Pursuant to Local Government Code 111.0106 certification of funds Galveston County Community Action Council
  
- \*2. Receive and file *restitution check list from Odyssey* submitted by Personal Bond/Collections
  
- \*3. Receive and file *summary of bi-weekly personnel movements pay period #25, November 25 - December 8, 2021* submitted by Human Resources

**EXHIBIT B**

RETRIEVED FROM DEMOCRACYDOCKET.COM



**U.S. Department of Justice**

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 05 2012

James E. Trainor III, Esq.  
Beirne, Maynard & Parsons  
401 West 15th Street, Suite 845  
Austin, Texas 78701

Dear Mr. Trainor:

This refers to the 2011 redistricting plan for the commissioners court, the reduction in the number of justices of the peace from nine to five and the number of constables from eight to five, and the 2011 redistricting plan for the justices of the peace/constable precincts for Galveston County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your response to our December 19, 2011, request for additional information on January 4, 2012; additional information was received on February 6, 2012.

We have carefully considered the information you have provided, as well as census data, comments and information from other interested parties, and other information, including the county's previous submissions. Under Section 5, the Attorney General must determine whether the submitting authority has met its burden of showing that the proposed changes have neither the purpose nor the effect of denying or abridging the right to vote on account of race or color or membership in a language minority group. *Georgia v. United States*, 411 U.S. 526 (1973); *Procedures for the Administration of Section 5 of the Voting Rights Act of 1965*, 28 C.F.R. 51.52(c). For the reasons discussed below, I cannot conclude that the county's burden under Section 5 has been sustained as to the submitted changes. Therefore, on behalf of the Attorney General, I must object to the changes currently pending before the Department.

According to the 2010 Census, Galveston County has a total population of 291,309 persons, of whom 40,332 (13.8%) are African American and 65,270 (22.4%) are Hispanic. Of the 217,142 persons who are of voting age, 28,716 (13.2%) are black persons and 42,649 (19.6%) are Hispanic. The five-year American Community Survey (2006-2010) estimates that African Americans are 14.3 percent of the citizen voting age population and Hispanic persons comprise 14.8 percent. The commissioners court is elected from four single-member districts with a county judge elected at large. With regard to the election for justices of the peace and constables, there are eight election precincts under the benchmark method. Each elects one

person to each position, except for Precinct 8, which elects two justices of the peace. The county has proposed to reduce the number of election precincts to five, with a justice of the peace and a constable elected from each.

We turn first to the commissioners court redistricting plan. With respect to the county's ability to demonstrate that the commissioners court plan was adopted without a prohibited purpose, the starting point of our analysis is the framework established in *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977). There, the Court provided a non-exhaustive list of factors that bear on the determination of discriminatory purpose, including the impact of the action on minority groups; the historical background of the action; the sequence of events leading up to the action or decision; the legislative or administrative history regarding the action; departures from normal procedures; and evidence that the decision-maker ignored factors it has otherwise considered important or controlling in similar decisions. *Id.* at 266-68.

Based on our analysis of the evidence, we have concluded that the county has not met its burden of showing that the proposed plan was adopted with no discriminatory purpose. We start with the county's failure to adopt, as it had in previous redistricting cycles, a set of criteria by which the county would be guided in the redistricting process. The evidence establishes that this was a deliberate decision by the county to avoid being held to a procedural or substantive standard of conduct with regard to the manner in which it complied with the constitutional and statutory requirements of redistricting.

The evidence also indicates that the process may have been characterized by the deliberate exclusion from meaningful involvement in key deliberations of the only member of the commissioners court elected from a minority ability-to-elect precinct. For example, the county judge and several – but not all – of the commissioners had prior knowledge that a significant revision to the pending proposed map was made on August 29, 2011, and would be presented at the following day's meeting at which the final vote on the redistricting plans would be taken. This is particularly noteworthy because the commissioner for Precinct 3, one of two precincts affected by this particular revision, was one of the commissioners not informed about this significant change. Precinct 3 is the only precinct in the county in which minority voters have the ability to elect a candidate of choice, and is the only precinct currently represented by a minority commissioner.

Another factor that bears on a determination of discriminatory purpose is the impact of the decision on minority groups. In this regard, we note that during the current redistricting process, the county relocated the Bolivar Peninsula – a largely white area – from Precinct 1 into Precinct 3. This reduced the overall minority share of the electorate in Precinct 3 by reducing the African American population while increasing both the Hispanic and Anglo populations. In addition, we understand that the Bolivar Peninsula region was one of the areas in the county that was most severely damaged by Hurricane Ike in 2008, and lost several thousand homes. The county received a \$93 million grant in 2009 to provide housing repair and replacement options for those residents affected by the hurricane, and has announced its intention to spend most of the grant funds restoring the housing stock on Bolivar Peninsula. Because the peninsula's population has historically been overwhelmingly Anglo, and in light of the Census Bureau's

estimated occupancy rate for housing units in the Bolivar Census County Division of 2.2 persons per household, there is a factual basis to conclude that as the housing stock on the peninsula is replenished and the population increases, the result will be a significant increase in the Anglo population percentage. In the context of racially polarized elections in the county, this will lead to the concomitant loss of the ability of minority voters to elect a candidate of choice to office in Precinct 3. *Reno v. Bossier Parish School Board*, 528 U.S. 320, 340 (2000) (“Section 5 looks not only to the present effects of changes but to their future effects as well.”) (citing *City of Pleasant Grove v. United States*, 479 U.S. 462, 471 (1987)).

That this retrogression in minority voting strength in Precinct 3 is neither required nor inevitable heightens our concern that the county has not met its burden of showing that the change was not motivated by any discriminatory purpose. Both Precincts 1 and 3 were underpopulated, and it would have been far more logical to shift population from a precinct that was overpopulated than to move population between two precincts that were underpopulated. In that regard, benchmark Precinct 4 was overpopulated by 23.5 percent over the ideal, and its excess population could have been used to address underpopulation in the other precincts. Moreover, according to the information that the county supplied, its redistricting consultant made the change based on something he read in the newspaper about the public wanting Bolivar Peninsula and Galveston Island to be joined into a commissioner precinct; but a review of all the audio and video recordings of the public meetings shows that only one person made such a comment.

Based on these factors, we have concluded that the county has not met its burden of demonstrating that the proposed commissioners court redistricting plan was adopted with no discriminatory purpose. We note as well, however, that based on the facts as identified above, the county has also failed to carry its burden of showing that the proposed commissioners court plan does not have a retrogressive effect.

The voting change at issue must be measured against the benchmark practice to determine whether it would “lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise.” *Beer v. United States*, 425 U.S. 130, 141 (1976). Our statistical analysis indicates that minority voters possess the ability to elect a candidate of choice in benchmark Precinct 3, and that ability has existed for at least the past decade.

As noted, the county’s decision to relocate the Bolivar Peninsula from Precinct 1 into Precinct 3 had the effect of reducing the African American share of the electorate in Precinct 3, while increasing both the Hispanic and Anglo populations. In specific terms, the county decreased the black voting age population percentage from 35.2 to 30.8 percent and increased the Hispanic voting age population 25.7 to 27.8 percent, resulting in an overall decrease of 2.3 percentage points in the precinct’s minority voting age population. There is sufficient credible evidence to prevent the county from establishing the absence of a retrogressive effect as to this change, especially in light of the anticipated and significant population return of Anglo residents to the Bolivar Peninsula, as discussed further above.



We turn next to the proposed reduction in the number of election precincts for the justice of the peace and constable, and the 2011 redistricting plan for the justices of the peace/constable precincts. With regard to the election for justices of the peace and constables, there are eight election precincts under the benchmark method. Each elects one person to each position, except for Precinct 8, which elects two justices of the peace. The county has proposed to reduce the number of election precincts to five, with a justice of the peace and a constable elected from each.

Our analysis of the benchmark justice of the peace and constable districts indicates that minority voters possess the ability to elect candidates of choice in Precincts 2, 3 and 5. With respect to Precincts 2 and 3, this ability is the continuing result of the court's order in *Hoskins v. Hannah*, Civil Action No. G-92-12 (S.D. Tex. Aug. 19, 1992), which created these two districts. Following the proposed consolidation and reduction in the number of precincts, only Precinct 3 would provide that requisite ability to elect. In the simplest terms, under the benchmark plan, minority voters in three districts could elect candidates of choice; but under the proposed plan, that ability is reduced to one.

In addition, we understand that the county's position is that the court's order in *Hoskins v. Hannah*, which required the county to maintain two minority ability to elect districts for the election of justices of the peace and constables, has expired. If it has, then it is significant that in the first redistricting following the expiration of that order, the county chose to reduce the number of minority ability to elect districts to one. A stated justification for the proposed consolidation was to save money, yet, according to the county judge's statements, the county conducted no analysis of the financial impact of this decision. The record also indicates that county residents expressed a concern during the redistricting process that the three precincts electing minority officials were consolidated and the precincts with white representatives were left alone. The record is devoid of any response by the county.

In sum, there is sufficient credible evidence that precludes the county from establishing, as it must under Section 5, that the reduction of the number of justice of the peace/constable districts as well as the redistricting plan to elect those officials will not have a retrogressive effect, and were not motivated by a discriminatory intent.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. *Georgia v. United States*, 411 U.S. 526 (1973); 28 C.F.R. 51.52. In light of the considerations discussed above, I cannot conclude that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the county's 2011 redistricting plan for the commissioners court and the reduction in the number of justice of the peace and constable districts as well as the redistricting plan for those offices.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed change neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. 28 C.F.R. 51.44. In addition, you may request that the Attorney General reconsider the objection. 28 C.F.R. 51.45. However, until the

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objection is withdrawn or a judgment from the United States District Court for the District of Columbia is obtained, the submitted changes continue to be legally unenforceable. *Clark v. Roemer*, 500 U.S. 646 (1991); 28 C.F.R. 51.10. To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action that Galveston County plans to take concerning this matter. If you have any questions, you should contact Robert S. Berman (202/514-8690), a deputy chief in the Voting Section.

Because the Section 5 status of the redistricting plan for the commissioners court is presently before the United States District Court for the District of Columbia in *Galveston County v. United States*, No. 1:11-cv-1837 (D.D.C.), we are providing the Court and counsel of record with a copy of this letter. Similarly, the status of both the commissioners court and the justice of the peace and constable plans under Section 5 is a relevant fact in *Petteway v. Galveston County*, No. 3:11-cv-00511 (S.D. Tex). Accordingly, we are also providing that Court and counsel of record with a copy of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom E. Perez', written over a diagonal watermark that says 'RETRIEVED FROM DEMOCRACYDOCKET.COM'.

Thomas E. Perez  
Assistant Attorney General