

September 9, 2021

Texas Ethics Commission
P.O. Box 12070
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REQUEST FOR OPINION – AUTHORITY OF CITY SECRETARY AND/OR CITY MANAGER IN ENFORCING SECTIONS OF THE TEXAS ELECTION CODE

Dear Commissioners:

The Frisco Political Action Committee (“Frisco PAC”) is a nonpartisan, nonprofit citizen focused organization. We aim to educate, inspire, and advocate for increased civic engagement leading to honest, ethical and accountable governance from our local elected leaders. We are a registered Political Action Committee with the Texas Ethics Committee (TEC) and the Federal Election Commission (FEC).

We are seeking an opinion – and hopefully clarification – in relation to the responsibility and accountability delegated to city officials under the Texas Election Code for local elections. Specifically, we are seeking an opinion on the following questions:

Does a city secretary of a Home Rule City in the State of Texas have the authority to enforce provisions of the Texas Election Code as it relates to campaign finance reports?

Does a city manager of a Home Rule City in the State of Texas have the authority to enforce provisions of the Texas Election Code as it relates to campaign finance reports if a City Secretary does not?

Legislative Background

The requirements for campaign finance reporting, filing deadlines and designated persons who are responsible for the receipt of campaign finance reports are regulated under Section 254 of the Election Code.

For a local city council candidate, Sec. 254.066. (“Authority With Whom Reports Filed”) states that “*Reports under this subchapter shall be filed with the authority with whom the candidate’s campaign treasurer appointment is required to be filed.*”

The City of Frisco, Texas is a Home Rule City that operates under a City Charter (“Charter”). Article 5 of that Charter relates to City Elections and Section 5.01(1) states that “[a]ll city elections shall be conducted in accordance with the Texas Election Code.” See Appendix A for a copy of this reference.

The Charter further states that the City Manager is responsible to “[s]ee that all state laws and city ordinances are effectively enforced;” (Sec. 4.01(5)(C)).

During the City of Frisco council meeting held on February 2, 2021, an ordinance authorizing the city council election scheduled for May 1, 2021 was approved unanimously by the city council. The ordinance (No. 2021-02-13 (Appendix B)) is similar to previously approved ordinances over years past, and defines the logistics and operations of the election for city council members.

Section 7 of the ordinance (titled “Election to Comply with Applicable Laws”) states (emphasis added):

The City Secretary is hereby authorized and directed to publish and/or post, in the time and manner prescribed by law, all notices required to be so published and/or posted in connection with the conduct of this Election. *The Election and notice of the Election shall be conducted in accordance with the Texas Election Code and other applicable law, and all qualified and registered voters of Frisco shall be eligible to vote at the Election.*

Section 9 of the ordinance (titled “Authority of Mayor and City Secretary”) states (emphasis added):

The Mayor and the City Secretary, in consultation with the City Attorney, are hereby authorized and directed to take *any and all actions necessary to comply with the provisions of the Texas Election Code and any other state or federal law in carrying out and conducting the Election*, whether or not expressly authorized herein.

Further, the City of Frisco website (Appendix C) relating to Elections also states the following to support this designation:

“The City Secretary serves as the Chief Election Official for the City of Frisco. City elections shall be conducted in accordance with the Texas Election Code and held annually on the first Saturday in May.”

Based on the above legislative references, it is clear to us that the City Secretary does in fact have the responsibility, obligation and duty to enforce provisions of the Election Code as it relates to City Council elections, which would include provisions of Sections 254.037, 254.061, 254.064 and 254.065.

TEC Sworn Complaint SC-32011247

Following the 2020 council election, a sworn complaint was submitted by the Frisco PAC in relation to Mr. Dan Strickland, a candidate for City Council and his failure to comply with reporting requirements under various sections of the Election Code. This complaint was reviewed by the commission, and an order and agreement were finalized in June 2021 (SC-32011247 Final Disposition C, Appendix D). In that order, the Commission noted that “*the respondent promised that he would ‘update the CFRs in question with additional data’ and filed corrected reports thereafter*” (paragraph 7).

The Frisco PAC communicated with Ms. Morrow about the filed corrected reports in an email on June 28, and Ms. Morrow replied with the following response:

“I do not have the authority to answer that question. You would need to get that answer from the Ethics Commission as I cannot remark on what is or is not acceptable to the commission. All filed reports are on the City’s website.”

The Frisco PAC did then confirm that some filed reports had been filed, however the response from Ms. Morrow seemed troubling as it appeared that there was a lack of clarity in the role of the City Secretary in relation to many of the obligations under the Election Code that is designated to that office.

An email was sent to the City of Frisco Mayor, Mr. Jeff Cheney to seek clarification on this matter, specifically if it was and/or the council’s understanding that the City Secretary had legal obligations under the Election Code as described above. Mayor Cheney responded to this inquiry with the following (Appendix E):

“I did send to the city attorney and he confirmed Kristi’s response that is beyond her scope of city secretary and these types of complaints are adequately handled through the state processes.”

It is this response by the city attorney that generated this request for an opinion from the Texas Ethics Commission.

We believe the city attorney, and therefore the city council and Mayor appear to have a misunderstanding of the responsibilities and duties delegated to the City Secretary, City Manager and Mayor under the Election Code and the City’s Election Ordinances.

We also recognize (sadly) that the Texas Ethics Commission has limited review and enforcement provisions under the Election Code as it relates to the conduct of elections within local election jurisdictions, and a failure of designated officials to properly

administer the election laws contribute to the lack of faith in the integrity of elections within our great State.

The integrity of our election processes in Texas have been challenged over the past few years, and it seems appropriate that one way of improving this would be to assist those designated under Section 254.066 of the Election Code to better understand their obligations and authority under state law.

It is for this reason that we we ask for the Commission's review and clarification on the questions raised above. We look forward to your response.

Sincerely,



James Nunn
TREASURER

Attachments (5)

XC: Mayor Jeff Cheney (jcheney@friscotexas.gov)
Mayor Pro Tem Bill Woodard (bwoodard@friscotexas.gov)
Deputy Mayor Pro Tem Brian Livingston (blivingston@friscotexas.gov)
Councilmember Shona Huffman (shuffman@friscotexas.gov)
Councilmember John Keating (jkeating@friscotexas.gov)
Councilmember Angela Pelham (apelham@friscotexas.gov)
Councilmember Dan Stricklin (dstricklin@friscotexas.gov)
Ms. Kristi Morrow, City Secretary (kmorrow@friscotexas.gov)

PART I - HOME RULE CHARTER*

ARTICLE V. NOMINATIONS AND ELECTIONS

ARTICLE V. NOMINATIONS AND ELECTIONS

Sec. 5.01 City elections

- (1) All city elections shall be conducted in accordance with the Texas Election Code.
- (2) The regular City election shall be held annually on the first Saturday in May or such other date as required by the Texas Election Code. The City Council shall be responsible for specification of places for holding such elections.
- (3) The city council may, by resolution, order a special election for purposes consistent with this Charter and laws of the State of Texas. The city council will fix the time and places for such a special election, and provide all means for holding same.
- (4) Municipal elections shall be conducted by election officials appointed by the city council, or as prescribed by law. Sample ballots identical in format to those used in the specific election shall be posted in the voting place(s) for the purpose of voter orientation.
- (5) All municipal elections shall be publicized in accordance with the Texas Election Code.
- (6) A sample ballot shall be published in at least one of the official media of communication designated for City notices.

([Ordinance 10-02-13](#) adopted 3/16/2010; [Ordinance 10-05-28](#), sec. 2, ex. B, 5/18/2010; [Ordinance 19-05-38](#), props. Q–R, adopted 5/14/19)

ARTICLE V. NOMINATIONS AND ELECTIONS

Sec. 5.02 Filing for office

- (1) Candidates for elective City offices shall file for office in accordance with the Texas Election Code. Each candidate's application for a place on the ballot must be accompanied by a nonrefundable filing fee of two hundred dollars (\$200.00) or, in lieu of the payment of a filing fee, a petition signed by no less than 25 qualified voters of the City or one-half of one percent of the total votes received in the City by all candidates for Mayor in the most recent mayoral Special Election, whichever is greater.
- (2) Candidates for elective city offices shall meet the following qualifications:
 - (A) Shall be at least 18 years of age at the time of the election for which they are filing;
 - (B) Shall be a qualified voter;
 - (C) Shall have resided within the corporate limits of the city, or recently annexed territory, for at least one year immediately preceding the filing date;
 - (D) Shall not, at the time of filing or while in office, be in arrears in payment of taxes or other liabilities due the city after notice of any delinquency;
 - (E) No candidate may file in a single election for more than one office or position as provided by this Charter;

(F) Reserved;

(G) The office of an incumbent elected city official shall become vacant when the person holding such office files an application to have his name placed on an official ballot as a candidate for any elective public office other than the one such person holds, unless otherwise prohibited by law; and

(H) Shall comply with all other city ordinances or resolutions that may be applicable.

([Ordinance 10-02-13](#) adopted 3/16/2010; [Ordinance 10-05-28](#), sec. 2, ex. B, adopted 5/18/2010; [Ordinance 19-05-38](#), props. F, S, adopted 5/14/19)

ARTICLE V. NOMINATIONS AND ELECTIONS

Sec. 5.03 Official ballots

(1) The name of each candidate seeking elective office, except those who have withdrawn, died, or become ineligible, shall be printed on the official ballot in the form designated by the candidate in accordance with the Texas Election Code. If two or more candidates have the same surname, their residence addresses shall be printed with their names on the ballot.

(2) The order of the names of the candidates on the ballot shall be determined by lot in a public drawing to be held under the supervision of the person performing the duties of the city secretary in accordance with the Texas Election Code.

(3) Procedures for voting by absence ballot shall be consistent with the Texas Election Code.

(4) An ordinance, bond issue, or Charter amendment to be voted on by the voters of the city shall be presented for voting by ballot title. The ballot title of a measure may be different from its legal title and shall be a clear, concise statement, approved by the city council, describing the substance of the measure without argument or prejudice.

(5) Procedures for write-in votes shall be consistent with the Texas Election Code.

ARTICLE V. NOMINATIONS AND ELECTIONS

Sec. 5.04 Official results

(1) The candidate for elective office receiving a majority of the votes cast shall be declared the winner. In the event that no candidate receives a majority of all votes cast for any one place at such election, the city council shall, upon completion of the official canvass of the ballots, issue a call for a runoff election to be held within 30 days following the issuance of such call, or in accordance with the Texas Election Code. At such runoff election, the two candidates receiving the highest number of votes (or three persons in case of tie for second place) for any one place in the first election shall again be voted for.

(2) The returns of every municipal election shall be handled in accordance with the Texas Election Code. These returns shall be delivered from the election judges to the person performing the duties of the City Secretary and the Mayor at City Hall as soon as possible after the closing of the polls. Election returns, general and special, shall be presented to the City Council at their next meeting in accordance with the Texas Election Code, at which time the City Council shall canvass and declare the results of the election, which shall be recorded in the minutes of the meeting.

([Ordinance 19-05-38](#), prop. T, adopted 5/14/19)

ARTICLE V. NOMINATIONS AND ELECTIONS

Sec. 5.05 Taking of office

- (1) Each newly elected person to the City Council shall be inducted into office at the first regular City Council meeting following the official canvassing of the election.
- (2) At such meeting the oath shall be in accordance with the city Charter.

([Ordinance 19-05-38](#), prop. T, adopted 5/14/19)

CITY OF FRISCO, TEXAS

ORDINANCE NO. 2021-02-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRISCO, COLLIN AND DENTON COUNTIES, TEXAS, ORDERING A GENERAL ELECTION TO BE ADMINISTERED BY THE COLLIN COUNTY ELECTIONS ADMINISTRATOR AND THE DENTON COUNTY ELECTIONS ADMINISTRATOR ON MAY 1, 2021, FOR THE PURPOSE OF ELECTING TWO MEMBERS OF THE FRISCO CITY COUNCIL (PLACE NOS. 1 AND 3) TO FILL EXPIRING TERMS; DESIGNATING EARLY VOTING POLLING PLACES AND HOURS; DESIGNATING ELECTION DAY POLLING PLACES AND HOURS; DESIGNATING FILING DEADLINES; ORDERING NOTICES OF ELECTION TO BE GIVEN AS PRESCRIBED BY LAW IN CONNECTION WITH SUCH ELECTION; PROVIDING FOR THE APPOINTMENT OF ELECTION JUDGES; AUTHORIZING THE MAYOR AND CITY SECRETARY TO TAKE ALL ACTIONS NECESSARY TO COMPLY WITH APPLICABLE ELECTION LAWS; AND PROVIDING A SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Frisco, Texas (“City Council”) duly authorizes and hereby orders a general election to be held within the City of Frisco, Collin and Denton Counties, Texas (“Frisco”) on May 1, 2021, for the purpose of electing two members of the Frisco City Council (Place Nos. 1 and 3), with each such term being for a period of three years.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: General Election Ordered. A general election (“Election”) is hereby ordered to be held on Saturday, May 1, 2021 (“Election Day”), for the purpose of electing two members of the Frisco City Council (Place Nos. 1 and 3) to fill expiring terms. The Election shall be administered by the Collin County Elections Administrator and the Denton County Elections Administrator. The Collin County Elections Administrator shall administer the Election for the Collin County portion of Frisco, and the Denton County Elections Administrator shall administer the Election for the Denton County portion of Frisco. Frisco voters shall vote in the county in which they are registered.

SECTION 3: Early Voting.

Collin County Voters: Early voting by personal appearance shall be available at: Collin College, Frisco Campus, Room J113, 9700 Wade Blvd., Frisco, Texas 75035; Fire Station No. 8, Training Room, 14700 Rolater Rd., Frisco, Texas 75035; Maus Middle School, Auxiliary Gym, 12175 Coit Rd., Frisco, Texas 75035; Hunt Middle School, Auxiliary Gym, 4900 Legendary Dr., Frisco, Texas 75034; or the Collin County Elections Office, 2010 Redbud Blvd., #102, McKinney, Texas 75069, which is designated as the main early voting polling place. Early voting will begin on Monday, April 19, 2021, and continue through Tuesday, April 27, 2021, during the normal working hours of 8:00 a.m. to 5:00 p.m., with

extended voting hours on Saturday, April 24, 2021 from 8 a.m. to 5 p.m.; Monday, April 26, 2021 from 7:00 a.m. to 7:00 p.m.; and Tuesday, April 27, 2021 from 7:00 a.m. to 7:00 p.m. Applications for ballots by mail shall be requested from and mailed to Bruce Sherbet, Early Voting Clerk, 2010 Redbud Blvd., Suite 102, McKinney, TX 75069, or faxed to 972-547-1996 or emailed to absenteemailballoting@collincountytx.gov. (If faxed or emailed, the original application must be mailed and received within 4 days.) Applications for ballots by mail must be received no later than the close of business on April 20, 2021.

Collin County voters may vote at any of the additional Early Voting locations open under full contract services with the Collin County Elections Administrator, which may be designated after February 14, 2021. This previous sentence shall also be posted in the Notice of Election. Early voting times and locations are subject to change.

Denton County Voters: Early voting by personal appearance shall be available at: Fire Station No. 4, Training Room, 4485 Cotton Gin Road, Frisco, Texas 75034; Fire Station No. 7, Training Room, 330 W. Stonebrook Parkway, Frisco, Texas 75036; Griffin Middle School, Front Atrium/Entrance Area, 3703 Eldorado Parkway, Frisco, Texas 75033; or the Denton County Elections Office, 701 Kimberley Drive, Denton, Texas 76208, which is designated as the main early voting polling place. Early voting will begin on Monday, April 19, 2021, and continue through Tuesday, April 27, 2021, during the normal working hours of 8:00 a.m. to 5:00 p.m., with extended voting hours on Saturday, April 24, 2021 from 8 a.m. to 5 p.m.; Sunday, April 25, 2021 from 11 a.m. to 4 p.m.; Monday, April 26, 2021 from 7:00 a.m. to 7:00 p.m.; and Tuesday, April 27, 2021 from 7:00 a.m. to 7:00 p.m. Applications for ballots by mail shall be requested from and mailed to Frank Phillips, Early Voting Clerk, Denton County Elections, PO Box 1720, Denton, TX 76202, or emailed to elections@dentoncounty.gov. (If emailed, the original application must be mailed and received within 4 days.) Applications for ballots by mail must be received no later than the close of business on April 20, 2021.

Denton County voters may vote at any of the additional Early Voting locations open under full contract services with the Denton County Elections Administrator, which may be designated after February 14, 2021. The previous sentence shall also be posted in the Notice of Election. Early voting times and locations are subject to change.

SECTION 4. Election Day Voting.

Collin County Voters: Election Day voting by personal appearance shall be at the following locations, and any of the additional Election Day Vote Centers open under full contract services with Collin County Elections Administrator, from 7:00 a.m. to 7:00 p.m.

City Precinct No.	Collin County Precinct No.	Address
2	30, 92, 111, 177, 229	Hunt Middle School Auxiliary Gym 4900 Legendary Drive Frisco, Texas 75034

3	134, 212, 220, 225	Maus Middle School Auxiliary Gym 12175 Coit Road Frisco, Texas 75035
7	101, 117, 118, 127, 146	Collin College, Frisco Campus Room J113 9700 Wade Boulevard Frisco, Texas 75035
8	87, 234	Fire Station No. 8 Training Room 14700 Rolater Road Frisco, Texas 75035

Denton County Voters: Election Day voting by personal appearance shall be at the following locations, according to voter precincts, from 7:00 a.m. to 7:00 p.m.:

City Precinct No.	Denton County Precinct No.	Address
1	1029, 1030, 1031, 1040, 1049, 1050, 1051, 1055	Griffin Middle School Front Atrium/Entrance Area 3703 Eldorado Parkway Frisco, Texas 75033
4	1035, 1056	Hicks Elementary School Gym 3651 Compass Drive Frisco, Texas 75034
5	1036, 1032	Fire Station No. 7 Training Room 330 W. Stonebrook Parkway Frisco, Texas 75036

6	1033, 1034, 1052	Fire Station No. 4 Training Room 4485 Cotton Gin Road Frisco, Texas 75034
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SECTION 5: Filing Deadlines. Candidates must file for a specific place and adhere to the filing deadlines. Candidate packets are available in the City Secretary’s Office, 6101 Frisco Square Blvd., Frisco, Texas 75034. The candidate filing periods for the Election are as follows:

Beginning: January 13, 2021 at 8:00 a.m.
Ending: February 12, 2021 at 5:00 p.m.

SECTION 6: Voting Equipment and Materials. For early voting in person, early voting by mail, election day voting and provisional voting, the following voting equipment will be used in Collin County: ExpressVote Universal Voting System, EVS 6.0.2.0; ES&S DS200 Digital Precinct Scanner, EVS 6.0.2.0; and ES&S Model DS850 High-Speed Scanner/Tabulator, Version 1, EVS 6.0.2.0, along with the required ancillary parts and services required for such voting tabulation system. For early voting in person, early voting by mail, election day voting and provisional voting, the following voting equipment will be used in Denton County: Hart InterCivic, Verity 2.4, a ballot-on-demand paper balloting system, along with the required ancillary parts and services required for such voting tabulation system.

SECTION 7: Election to Comply with Applicable Laws. The City Secretary is hereby authorized and directed to publish and/or post, in the time and manner prescribed by law, all notices required to be so published and/or posted in connection with the conduct of this Election. The Election and notice of the Election shall be conducted in accordance with the Texas Election Code and other applicable law, and all qualified and registered voters of Frisco shall be eligible to vote at the Election.

SECTION 8: Appointment of Election Judges. Upon the receipt of recommendations from the City Secretary and/or the Collin County Elections Administrator and Denton County Elections Administrator, the City Council shall appoint the early voting and Election judges. In the event that the appointed judges are unable to execute or complete their duties for any reason, the City Secretary and/or the Collin County Elections Administrator and Denton County Elections Administrator may identify alternate judges that the City Council shall appoint as soon as possible.

SECTION 9: Authority of Mayor and City Secretary. The Mayor and the City Secretary, in consultation with the City Attorney, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of the Texas Election Code and any other state or federal law in carrying out and conducting the Election, whether or not expressly authorized herein.

SECTION 10: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause and phrase thereof regardless of whether any one or more sections, subsections, sentences, clauses or

phrases may be declared unconstitutional and/or invalid.

SECTION 11: Savings/Repealing. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portion of conflicting ordinances shall remain in full force and effect.

SECTION 12: Effective Date. This order for an election becomes effective immediately upon its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS on this 2nd day of February, 2021.



Jeff Cheney

Jeff Cheney, Mayor

**ATTESTED AND
CORRECTLY RECORDED:**

APPROVED AS TO FORM:

Kristi Morrow

Kristi Morrow, City Secretary

Ryan D. Pittman

Abernathy, Roeder, Boyd & Hullett, P.C.
Ryan D. Pittman, City Attorneys

Dates of Publication: February 7, 2021 and February 14, 2021 *Frisco Enterprise*

Elections

The City Secretary serves as the Chief Election Official for the City of Frisco. City elections shall be conducted in accordance with the Texas [Election Code](#) and held annually on the **first Saturday in May**.

The City of Frisco is a Home Rule municipal government and operates under a council-manager form of government. The mayor and six council members are elected at-large. The City of Frisco is located in both Collin and Denton counties and contracts elections through both the [Collin County Elections Administrator](#) and the [Denton County Elections Administrator](#).

The next **May General Election** will be held on **Saturday, May 7, 2022** to elect a member for **City Council Place 2, and City Council Place 4**. For more information on who is currently serving on City Council please see [our City Council page](#).

Requirements to Run for Elective City Office:

Section 5.02 of the City Charter states to file for an elective City office, one must meet the following requirements/qualifications:

(1) Candidates for elective City offices shall file for office in accordance with the Texas Election Code. Each candidate's application for a place on the ballot must be accompanied by a nonrefundable filing fee of two hundred dollars (\$200) or, in lieu of the payment of a filing fee, a petition signed by no less than 25 qualified voters of the City or one-half of one percent of the total votes received in the City by all candidates for Mayor in the most recent mayoral Special Election, whichever is greater. *(The total votes received in the City by all candidates in the last Mayoral Election was 62,653.)* **Those candidates choosing to submit a petition should do so using the [approved petition form \(PDF\)](#).**

(2) Candidates for elective City offices shall meet the following qualifications:

(A) Shall be at least eighteen (18) years of age at the time of the election for which they are filing;

(B) Shall be a qualified voter;

(C) Shall have resided within the corporate limits of the City, or recently annexed territory, for at least one (1) year immediately preceding the filing date;

(D) Shall not, at the time of filing or while in office, be in arrears in payment of taxes or other liabilities due the City after notice of any delinquency;

(E) No candidate may file in a single election for more than one (1) office or position as provided by this Charter;

(F) The office of an incumbent elected City official shall become vacant when the person holding such office files an application to have his or her name placed on an official ballot as a candidate for any elective public office other than the one such person holds, unless otherwise prohibited by law; and

(G) Shall comply with all other City ordinances or resolutions that may be applicable.

Important Dates - for May 2022 General Election

First Day to File for a Place on the Ballot

Wednesday, January 19, 2022

Last Day to File for a Place on the Ballot

Friday, February 18, 2022

Important Dates - for May 2022 General Election

Last Day to Register to Vote	Thursday, April 7, 2022
First Day of Early Voting	Monday, April 25, 2022
Last Day of Early Voting	Tuesday, May 3, 2022
Election Day	Saturday, May 7, 2022

Notices:

- [Notice of Deadline to File Application for a Place on the Ballot \[PDF\]](#)
- [Ordinance Ordering May 1, 2021 General Election \[PDF\]](#)
- [Notice of Drawing for a Place on the Ballot \[PDF\]](#)
- [Drawing for a Place on the Ballot Certification \[PDF\]](#)
- [Notice of General Election May 1, 2021 \[PDF\]](#)
- [Notice of General Runoff Election June 5, 2021 \[PDF\]](#)

More information regarding 2022 Elections Dates may be found via the [Texas Secretary of State](#).

Polling Locations:

Polling Locations for the May 2022 General Election will be officially determined in March of 2022. The proposed polling locations will be the same as previous May General Election polling locations. See an example of previous locations on the [Polling Locations Map\(pdf\)](#).

Helpful Links:

- [Texas Ethics Commission](#)
- [Appointment of a Campaign Treasurer Form \(PDF\)](#)

TEXAS ETHICS COMMISSION JTH

<p>IN THE MATTER OF</p> <p>THOMAS D. "DAN" STRICKLIN,</p> <p>RESPONDENT</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p style="text-align: right;">BEFORE THE</p> <p style="text-align: right;">TEXAS ETHICS COMMISSION</p> <p style="text-align: right;">SC-32011247</p>
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**ORDER
and
AGREED RESOLUTION**

I. Recitals

The Texas Ethics Commission (Commission) met on June 16, 2021, to consider sworn complaint SC-32011247. A quorum of the Commission was present. The Commission determined that there is credible evidence that certain allegations made in the sworn complaint constituted violations of Section 254.031 of the Election Code, a law administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission adopted this resolution.

II. Allegations

The complaint alleged that the respondent: 1) failed to properly disclose the addresses of political contributors on his campaign finance reports, in violation of Section 254.031(a)(1) of the Election Code; 2) failed to individually disclose political expenditures, in violation of Section 254.031(a)(3) of the Election Code; and 3) failed to properly disclose the addresses of expenditure payees, in violation of Section 254.031(a)(3) of the Election Code.

III. Findings of Fact and Conclusions of Law

Credible evidence available to the Commission supports the following findings of fact and conclusions of law:

1. The respondent was an opposed candidate for the city council of Frisco, Texas, in the November 3, 2020, election, and was successful in the subsequent December 8, 2020, runoff election.

Failure to Disclose Addresses of Contributors

2. The sworn complaint alleges that the respondent failed to properly disclose the addresses of several political contributors on his 30-day and 8-day pre-election campaign finance reports for the November 3, 2020, election.

3. For contributions accepted during the 2020 calendar year, each campaign finance report filed under Chapter 254 of the Election Code must include the amount of political contributions from each person that in the aggregate exceed \$90 and that are accepted during the reporting period by the person or committee required to file a report under Chapter 254, the full name and address of the person making the contributions, and the dates of the contributions. Tex. Elec. Code § 254.031(a)(1); 44 Tex. Reg. 1979 (2019) (codified at 1 Tex. Admin. Code § 18.31) (Tex. Ethics Comm'n); *see also* Tex. Gov't Code § 571.064(b) (requiring the Commission to adjust statutorily set dollar amounts for inflation).
4. A technical, clerical, or *de minimis* violation for purposes of Section 571.0631 of the Government Code may include allegations against a respondent for typographical or incomplete information on a campaign finance report that is not misleading and does not substantially affect disclosure. 1 Tex. Admin. Code § 12.81(a)(1).
5. On his 30-day pre-election report, the respondent disclosed one monetary political contribution of \$2,500 and two in-kind contributions – of “contract labor” and of a “billboard,” valued at \$740 and \$1,333 respectively – from the “Frisco Firefighters’ Association” (the Association). While the respondent did disclose the Association’s full address on the portion of the campaign finance report provided for disclosure of political committees from which the respondent received notice under Sections 254.128 or 254.161 of the Election Code, the respondent omitted part of the Association’s address in his entries on Schedules A1 and A2 for the contributions he accepted from the Association, listing the Association’s address only as “Frisco, TX.”
6. On his 8-day pre-election report, the respondent disclosed an \$8,000 monetary political contribution from “Bounmy Vail,” whose address the respondent disclosed as “1112 Swan Lake Dr., Bossier City, LA, 7111.” The sworn complaint included an excerpt from the Bossier Parish Tax Assessor’s records, which indicated that a “Bounmy Thammavongsa” lived at 2408 Swan Lake Rd., Bossier City, LA 71111-7202. Further, a search of United States Postal Service records indicates that while no such address as “1112 Swan Lake Dr.” exists in Bossier City, Louisiana, the address “2408 Swan Lake Rd.” does exist. In his corrected 8-day report, the respondent changed the address to “2408 Swan Lake Dr., Bossier City, LA, 7111.”
7. In his sworn response to the complaint, the respondent did not expressly admit or deny any of the allegations. However, the respondent promised that he would “update the CFR’s in question with additional data,” and filed corrected reports promptly thereafter.
8. The respondent averred that any irregularities in his disclosure of these contributors’ addresses were simple good-faith mistakes, and that he had no intent to conceal activity or deceive the public. The respondent further explained that while he endeavored to disclose

accurate and complete information on his campaign finance reports, he ultimately relied on his contributors' representations for their address information.

9. There is credible evidence that the respondent failed to disclose an address for the contributions from the Frisco Firefighters' Association, and that the address disclosed by the respondent for the contribution from "Bounmy Vail" was incorrect as to the street number, street name, and zip code. Therefore, there is credible evidence of violations of Section 254.031(a)(1) of the Election Code for the respondent's failure to properly disclose contributor information for political contributions totaling \$12,573 in value. However, because these disclosure errors were not misleading and did not substantially affect disclosure, the violations are technical or *de minimis*. See 1 Tex. Admin. Code § 12.81(a)(1).
10. The respondent also failed to include addresses for the contributors of four monetary contributions that were beneath the applicable \$90 itemized disclosure threshold. These four contributions totaled \$55 in value; none was individually larger than \$25. Because Section 254.031(a)(1) of the Election Code and Section 18.31 of the Ethics Commission Rules only required the respondent to itemize political contributions that in the aggregate exceeded \$90 during the reporting period at issue, the respondent was not required to disclose the addresses of these contributors. There is therefore credible evidence of no violation of Section 254.031(a)(1) of the Election Code for the respondent's failure to disclose address information for these political contributions.

Failure to Disclose Addresses of Expenditure Payees

11. The sworn complaint alleges that the respondent failed to properly disclose the addresses of the payees of political expenditures on his July 2020 semiannual campaign finance report and his 30-day and 8-day pre-election campaign finance reports for the November 3, 2020, election.
12. For expenditures made during the 2020 calendar year, each campaign finance report filed under Chapter 254 must include the amount of political expenditures that in the aggregate exceed \$180 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. Tex. Elec. Code § 254.031(a)(3); 44 Tex. Reg. 1979 (2019) (codified at 1 Tex. Admin. Code § 18.31) (Tex. Ethics Comm'n); see also Tex. Gov't Code § 571.064(b) (requiring the Commission to adjust statutorily set dollar amounts for inflation).
13. A technical, clerical, or *de minimis* violation for purposes of § 571.0631 of the Government Code may include allegations against a respondent for typographical or incomplete information on a campaign finance report that is not misleading and does not substantially affect disclosure. 1 Tex. Admin. Code § 12.81(a)(1).

14. On his July 2020 semiannual report, the respondent disclosed expenditures to “Signs on the Cheap” and “Vistaprint” of \$2,290 and \$999.95, respectively. On his 30-day pre-election report, the respondent disclosed expenditures to “E-Canvasser” and “Vistaprint” of \$1,047 and \$911.93, respectively. On his 8-day pre-election report, the respondent disclosed a \$399 expenditure to “E-Canvasser.” The respondent left the field for the payee’s address in all of these entries blank. The respondent explained that his failure to include the address information for these expenditure payees was a good-faith mistake, and that he omitted the addresses because he did not think it was required to disclose the addresses of businesses the location of which was public knowledge. There is therefore credible evidence of violations of Section 254.031(a)(3) of the Election Code for failure to disclose addresses for the payees of these expenditures. However, under these circumstances, the respondent’s failure to include the addresses was not misleading and did not substantially affect disclosure. Therefore, the violations are technical or *de minimis*. See 1 Tex. Admin. Code § 12.81(a)(1).
15. The respondent further failed to include a complete address for a \$35.70 expenditure to Papa John’s, a \$23.97 expenditure to Tom Thumb, and a \$47.97 expenditure to Constant Contact on the reports at issue. The respondent disclosed only a company-assigned store identification number in the address field for the expenditure to Papa John’s, and left the address field blank for the other two expenditures. However, because the itemized reporting threshold for expenditures was \$180 during the reporting period for the campaign finance reports at issue, the respondent was not required to individually disclose these three expenditures. See Tex. Elec. Code § 254.031(a)(3); 44 Tex. Reg. 1979 (2019). There is therefore credible evidence of no violation of Section 254.031(a)(3) of the Election Code for the respondent’s failure to include address information for these expenditure payees.

Failure to Individually Disclose Expenditures for “Contract Labor”

16. The sworn complaint alleges that the respondent failed to individually disclose expenditures made for “contract labor” on his July 2020 semiannual campaign finance report and his 30-day and 8-day pre-election reports for the November 3, 2020, election.
17. On the three campaign finance reports at issue, the respondent disclosed \$24,315 in expenditures for “contract labor.” The description field for some of these disclosures elaborated that they were for “canvassing.” While the precise manner in which the respondent reported these expenditures varied from instance to instance, the respondent did not separate out the expenditures by the individual payee, disclosing all of the expenditures of this nature in a single entry for each reporting schedule on which the expenditures were required to be reported. Except for a single entry for \$1,896 that the respondent disclosed on Schedule G (political expenditures from personal funds) in his 30-day pre-election report, all of these expenditures were disclosed on Schedule F1 (political expenditures made from political contributions).

18. The respondent explained that he made these payments to students at the local high school that he employed to canvas for him. The respondent filed corrected reports that, in addition to disclosing the missing address information discussed above, individually disclosed the expenditures made to pay the students for their canvassing work. These expenditures were made to a dozen different individuals in disbursements of a few hundred dollars at a time throughout the reporting periods at issue. The aggregate expenditures to each payee all exceeded the \$180 itemized reporting threshold for the reporting periods in which they were made. As disclosed in the corrected reports, the expenditures totaled \$24,385.
19. The respondent further explained that he did not disclose the identity of the individual students because he did not realize that the campaign finance law required him to identify them individually. The respondent expressed concern about revealing the identity of individual minors on a public campaign finance filing.
20. As noted above, for expenditures made during the 2020 calendar year, each campaign finance report filed under Chapter 254 must include the amount of political expenditures that in the aggregate exceed \$180 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. Tex. Elec. Code § 254.031(a)(3); 44 Tex. Reg. 1979 (2019) (codified at 1 Tex. Admin. Code § 18.31) (Tex. Ethics Comm'n); *see also* Tex. Gov't Code § 571.064(b) (requiring the Commission to adjust statutorily set dollar amounts for inflation).
21. The respondent failed to properly disclose the political expenditures made to the team members for the canvassing work in the original campaign finance reports at issue. Specifically, the respondent did not identify the date and amount of the specific expenditures or the name and address of the payees on his original reports. There is therefore credible evidence of violations of Section 254.031(a)(3) of the Election Code. However, as noted above, the respondent voluntarily filed corrected campaign finance reports to correct the errors.

IV. Representations and Agreement by Respondent

By signing this order and agreed resolution and returning it to the Commission:

1. The respondent neither admits nor denies the findings of fact and conclusions of law described under Section III, and consents to the entry of this order and agreed resolution solely for the purpose of resolving this sworn complaint.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in this matter.

3. The respondent acknowledges that each campaign finance report filed under Chapter 254 of the Election Code must include: 1) the amount of political contributions from each person that in the aggregate exceed the applicable itemized reporting threshold and that are accepted during the reporting period, the full name and address of the person making the contributions, and the dates of the contributions; and 2) the amount of political expenditures that in the aggregate exceed the applicable itemized reporting threshold and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures.
4. The respondent further acknowledges that all political expenditures to a particular payee that in the aggregate exceed the itemized reporting threshold during the reporting period must be disclosed individually and separately, and may not be combined with expenditures to different payees, or with separate expenditures made to the same payee.
5. The respondent agrees to fully and strictly comply with the above requirements of law.

V. Confidentiality

The Commission has determined that some of the violations described in this order and agreed resolution are neither technical nor *de minimis*. Accordingly, this order and agreed resolution is not confidential under Section 571.140 of the Government Code and may be disclosed by members and staff of the Commission.

VI. Sanction

Section 571.177 of the Government Code provides that the Commission shall consider the following factors when assessing a civil penalty: 1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation; 2) the history and extent of previous violations; 3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation; 4) the penalty necessary to deter future violations; and 5) any other matters that justice may require. In addition to the *de minimis* reporting errors described above, the respondent failed to individually disclose \$24,385 in political expenditures. The particular circumstances surrounding this violation do not indicate that the respondent intended to conceal payments for corrupt purposes, and the respondent offers a good-faith justification for his failure to identify the specific payees. However, the total amount of the expenditures was large, as were the payments to each individual payee. Section 571.177 of the Government Code directs the Commission to consider the seriousness of a violation in assessing a civil penalty, including the extent and gravity of the violation. The substantial amount of the payments requires a comparatively heavy penalty. However, the respondent has no prior violations and has cooperated with the Commission in good faith to correct the disclosure violations and resolve the sworn complaint. Further, the respondent has represented to the Commission that he was an inexperienced filer when

he committed the violations and that he has engaged a specialist to help him comply in the future.¹ Section 571.177 of the Government Code further directs the Commission to consider past violations, the respondent's good faith, and what penalty may be necessary to deter future violations, in addition to the circumstances of the violation and any other matters that justice may require. After considering these mitigating factors, the Commission imposes a \$1,000 civil penalty. The respondent agrees that the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, must receive from the respondent full payment of the \$1,000 civil penalty no later than November 3, 2021. If the \$1,000 civil penalty is not paid by November 3, 2021, then the civil penalty is increased to \$2,500 and will be referred to the Office of the Attorney General of Texas for collection.

VII. Order

The Commission hereby orders that if the respondent consents to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-32011247.

AGREED to by the respondent on this 17 day of May, 2021.



Thomas D. "Dan" Stricklin, Respondent

EXECUTED by the Commission on: June 22, 2021.

Texas Ethics Commission

By: /s/ Anne Temple Peters
Anne Temple Peters, Executive Director

¹ Before running in 2020, the respondent was an unsuccessful candidate for Frisco City Council in the February 18, 2017, special election.

Subject: Re: SC-32011247 Final Disposition C
Date: Thursday, September 2, 2021 at 11:14:26 Central Daylight Time
From: Jeff Cheney
To: James Nunn

James,

I did send to the city attorney and he confirmed Kristi's response that is beyond her scope of city secretary and these types of complaints are adequately handled through the state processes.

Please let me know if you have any questions

--

Jeff Cheney
Mayor
6101 Frisco Square Blvd
Frisco Tx 75034
(O) 972-292-5050
(M) 214-707-7320
www.FriscoTexas.gov

From: James Nunn <jamesn@friscopolitics.com>
Date: Tuesday, August 31, 2021 at 10:05 AM
To: Jeff Cheney <JCheney@friscotexas.gov>
Subject: Re: SC-32011247 Final Disposition C

CAUTION: External Email.

Just following up on this with you Mayor.

James

From: Jeff Cheney <JCheney@friscotexas.gov>
Date: Monday, June 28, 2021 at 22:16
To: James Nunn <jamesn@friscopolitics.com>
Subject: Re: SC-32011247 Final Disposition C

James,

I will send to our legal for review. Thanks

Jeff Cheney
Mayor
6101 Frisco Square Blvd
Frisco Tx 75034
(O) 972-292-5050
(M) 214-707-7320

On Jun 28, 2021, at 9:03 PM, James Nunn <jamesn@friscopolitics.com> wrote:

CAUTION: External Email.

Mayor Cheney,

I'm referring this email from City Secretary Morrow in relation to her authority as the city's chief election official. As you will see, Mr. Stricklin was found to have violated some parts of the TX Election Code and an order and agreed resolution was granted by the Texas Ethics Commission, which included a fine.

I would ask that you review this and determine if this should be a discussion by council on the role of our City Secretary in her capacity to manage our city's elections.

James Nunn, Treasurer
Frisco Political Action Committee
www.friscopolitics.com
+1.469.581.8222

From: Kristi Morrow <KMorrow@friscotexas.gov>
Sent: Monday, June 28, 2021 4:41:03 PM
To: James Nunn <jamesn@friscopolitics.com>
Subject: Re: SC-32011247 Final Disposition C

Mr. Nunn,

I do not have the authority to answer that question. You would need to get that answer from the Ethics Commission as I cannot remark on what is or is not acceptable to the commission. All filed reports are on the City's website.

Sincerely,

Kristi Morrow, TRMC, CMC
City Secretary, City of Frisco
6101 Frisco Square Blvd.
Frisco, TX 75034

From: James Nunn <jamesn@friscopolitics.com>
Sent: Monday, June 28, 2021 3:14 PM
To: Kristi Morrow
Subject: FW: SC-32011247 Final Disposition C

CAUTION: External Email.

Ms. Morrow,

Are you able to confirm that Mr. Stricklin did file the corrected reports as noted in the

attached Texas Ethics Commission's Order and Agreed Resolution?

James Nunn, Treasurer
Frisco Political Action Committee
www.friscopolitics.com
tel:+1.469.581.8222

From: Margie Castellanos <Margie.Castellanos@ethics.state.tx.us>
Date: Tuesday, June 22, 2021 at 09:15
To: James Nunn <jamesn@friscopeitics.com>
Cc: James Tinley <James.Tinley@ethics.state.tx.us>
Subject: SC-32011247 Final Disposition C

Dear Mr. Nunn,

See attached regarding the disposition of the sworn complaint.

Sincerely,

Margie Castellanos
Legal Secretary
Texas Ethics Commission
512-463-5800
margie.castellanos@ethics.state.tx.us