



# Did You Notice That?

William "Bill" Hill  
Assistant Attorney General  
Opinion Committee

Views expressed are those of the presenter, do not constitute legal advice, and are not official opinions of the Office of the Texas Attorney General.



# Notice of what?

- ▶ “A governmental body shall give written notice of the date, hour, place, and **subject** of each meeting held by the governmental body.”
- ▶ Texas Government Code § 551.041



# The agenda is the subject

## **Notice of Regular Board Meeting The Board of Trustees Dillon Independent School District**

A Regular meeting of the Board of Trustees of Dillon ISD will be held on Wednesday, October 26, 2016, beginning at 6:00 p.m. in the Dillon High School Auditorium, 300 Basin Street, Dillon, Texas.

### **Agenda**

1. Call to order and establish Quorum
2. Pledge of Allegiance
3. . . . .



# When is notice adequate?

- ▶ Notice is adequate if it is sufficiently descriptive to alert a reader that a particular subject will be addressed.
- ▶ Whether the description of an agenda item is sufficient often depends on the public's level of interest in the matter.
- ▶ If the subject is sufficiently identified, notice need not state all possible consequences and actions that may be taken at the meeting.



# Misleading notice

- ▶ “Discussion/action: campus Wi-Fi system contract”
- ▶ “Discussion/action: employment of the campus law enforcement officer”
- ▶ “Discussion: lease of stadium”



# Dillon ISD meeting

- ▶ Wednesday, October 26, 2016
- ▶ 6:00 p.m.
- ▶ Dillon High School Auditorium
- ▶ Subject?



# Executive Assistant to Board

Joanne Street, DISD Executive Assistant

907 Lee St.

Dillion, Texas



October 2, 2016

Re: Agenda Items, October 26, 2016

Dear Chad,

The Superintendent says the Board needs to find additional funds for facilities maintenance. Employee development? The Board's lawyer says she needs to talk about the Birdwell whistleblower lawsuit in executive session and give updates on ongoing litigation. Also, I know the superintendent will be giving a report, and we'll need to start looking for a successor. I don't know of anything else.

Sincerely,

Joanne Street,  
DISD Executive Assistant



# Executive Assistant to Board—agenda items

- ▶ Possible transfer of funds from unused employee development to facilities maintenance
- ▶ Per board lawyer: The filing of the new Birdwell whistleblower lawsuit in executive session, and give updates on other ongoing litigation
- ▶ Superintendent's report



# Trustee-District 1 (president)—agenda items

Notes from meeting with board president Lucy Rodell:

- ▶ Congrats
- ▶ Condemnation for sidewalk
- ▶ Renewal of teachers contracts (art teacher?)
- ▶ Renewal of DHS principal Levi Brunwell?
- ▶ Hire new assistant band director?
- ▶ Crossing guard's job performance



# Trustee, District 2

## Outlook

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**From:** Corrina Williams, Trustee, District 3  
**Sent:** Thursday, October 20, 2016 9:27 A.M.  
**To:** Chad Clarke, DISD assistant attorney  
**Subject:** October 26, meeting agenda items

Hi Chad,

Agenda items per the contracts clerk:

- ▶ Contract with Tech Network Maintenance
- ▶ Approve construction contract for new basketball gym
- ▶ Solicit bids for food contract
- ▶ Interlocal agreement with Texas Methodist University and Early College High School Campus
- ▶ Textbook purchase approval
- ▶ Adoption of supplemental textbook, Hispanic Studies

Thanks!



# Trustee, District 2—agenda items

- ▶ Contract with Tech Network Maintenance
- ▶ Approve construction contract for new basketball gym
- ▶ Solicit bids for food contract
- ▶ Interlocal agreement with Texas Methodist University and Early College High School Campus
- ▶ Textbook purchase approval
- ▶ Adoption of supplemental textbook, Hispanic Studies



# Trustee, District 3—agenda item

Re: DISD Mtg.

Fire  
Coach  
Taylor!

- J. McCoy



# Trustee, District 4—agenda items

Notes, phone call from Angela Collette

- ▶ Accept Superintendent's notice of upcoming retirement
- ▶ Executive session—ground rules for superintendent search committee
- ▶ Wants to make a presentation about her views on student driver policy
- ▶ Amend Student Code of Conduct
- ▶ Birdwell whistleblower litigation



# Possible Categories

- ▶ Announcements
- ▶ Fiscal matters
- ▶ Personnel
- ▶ Litigation
- ▶ Contracts
- ▶ Condemnation
- ▶ Reports and Presentations



# General Terms

- ▶ General terms such as “old business,” “new business,” “superintendent’s report,” are inadequate to inform the public about the subject to be considered.
- ▶ Other general terms such as “personnel” or “litigation” are inadequate if the particular matter is likely to be of interest to the public.
- ▶ *See Cox Enterprises Inc. v. Board of Trustees*, 706 S.W.2d 956 (Tex. 1986).



# Public Announcement

- ▶ Section 551.0415 of the Government Code gives the governing body of municipalities and counties authority to receive reports of certain matters of public interest such as congratulations, recognition, and reminders of upcoming events without providing specific notice.
- ▶ Such authority has not been provided to school districts.



# Budget

- ▶ Matters concerning the Budget are likely to be of special public interest and generally require more specific description than “budget” or “fiscal matters.”



# Personnel matters to be considered

- ▶ Superintendent
- ▶ Art teacher
- ▶ Crossing guard
- ▶ Head high school football coach
- ▶ Assistant band director
- ▶ Art teacher
- ▶ DHS principal



# Sufficient for multiple personnel agenda items?

- ▶ “Personnel: Discussion and possible action concerning appointment, employment, evaluation, reassignment, duties, discipline, and dismissal of employees”



# Specificity of personnel agenda item—it depends

- ▶ The description is not sufficient for positions of general interest and importance to the general public, such as superintendent and principal.
- ▶ It is probably not sufficient for a high school head football coach.
- ▶ Depending on the facts, it is likely sufficient for nonrenewal of art teacher, hiring new assistant band director, and discipline and possible termination of crossing guard.
- ▶ *See Cox Enterprises, Inc. v. Board of Trustees*, 706 S.W.2d 956 (Tex. 1986).



# Litigation

- ▶ Whistleblower litigation will likely require specific mention, even if it is only discussed in executive session.
- ▶ Routine litigation may not require specific description, but it is advisable to identify any matter requiring formal board action.



# Contracts

- ▶ Contract with Tech Network Maintenance
- ▶ Approve Construction contract for new basketball gym
- ▶ Solicit bids for food contract
- ▶ Interlocal agreement with Dillon College and Early College High School Campus
- ▶ Textbook purchase approval
- ▶ Adoption of supplemental textbook, Hispanic Studies



# Real Property–Condemnation

- ▶ The description should be sufficient to alert the public to possible action that may be taken and where, but it does not require a legal description or identification of persons affected.
- ▶ E.g., “Consideration of condemnation of certain property along the two blocks along Permian street abutting the east boundary of DHS campus for sidewalk easement”



# Executive session

- ▶ There is no legal requirement to give notice of matters to be discussed in executive session, provided the topics are identified elsewhere on the agenda.
- ▶ While not required by law, notice might inform the reader that the governing body may meet in executive session concerning any matter on the agenda as authorized by TOMA.
- ▶ For public convenience, the agenda might identify matters that will be considered only in executive session.



# Public comment

- ▶ “Public Comment” is generally sufficient notice of a segment of the meeting to allow the public to address the governmental body.
- ▶ While not required by law, the agendas of some governmental bodies include their ground rules for speakers to observe during public comment.
- ▶ May members of a governing body step down and participate in “public comment” to address matters not otherwise on the agenda?



# DISD Board of Trustees Meeting

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