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SENATE DISTRICT 25



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2008 - 2009

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The Senate of  
The State of Texas

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Guadalupe         Travis (south)

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RECEIVED

December 28, 2011

DEC 29 2011

OPINION COMMITTEE

Honorable Greg Abbott  
Attorney General, State of Texas  
Office of the Attorney General  
P.O. Box 12548  
Austin, TX 78711-2548

FILE # ML-46914-11  
I.D. # 46914

Re: Request for Attorney General Opinion

RQ-1034-GA

Dear General Abbott:

In my capacity as Chairman of the Senate Select Committee on Open Government, I respectfully request your opinion on the legal questions set out in this letter. This request is made pursuant to Section 402.042, TEX. GOV'T. CODE.

Your response to this letter will help to clarify several questions arising under the Texas Open Meetings Act ("TOMA") that are of concern to municipalities and other governmental bodies in the district I represent, and throughout the state.

**Scenario One: Press Conference By Member of Governmental Body**

The mayor of a home rule city with a council-manager form of government conducts a press conference on an issue relating to city business. The conference is open to and attended by the news media. It is televised on the city television channel, which is available to persons with basic cable access. The conference is held in a television production room that is large enough for media representatives and city personnel, but not large enough to accommodate the public.

Enough members of the city council are present to constitute a quorum. The mayor makes a prepared statement and answers questions from the media. No business is transacted, and no action is taken. No other public business is discussed, unless a member of the media asks a question related to different city business.



Given this situation:

1. Assuming the mayor is the only member of the city council speaking, is this a meeting within the meaning of TOMA?
2. If statements are made or questions are answered by more than one member of the city council, but not enough members to constitute a quorum, is this a meeting within the meaning of TOMA?
3. If statements concerning public business are made or questions are answered by a number of council members that constitutes a quorum, is that a meeting within the meaning of TOMA?

**Scenario Two: Luncheon Speech**

The mayor gives a speech to a civic organization at its luncheon meeting. Members of the media are invited. Since it is a meeting of a private organization, members of the public do not attend unless they are guests of a member or are otherwise invited by the organization.

Members of the city council are invited, and enough members attend to constitute a quorum. As the speaker, the mayor discusses city issues from the past year and other issues that the city may face in the future. No other council member speaks, except to converse with persons (not other members of the council) at their table.

Is this a meeting within the meaning of TOMA?

**Scenario Three: Simulation of Crisis/Preparation Exercise**

The city participates in a "crisis simulation exercise" sponsored by a local council of governments. The exercise is designed to simulate an emergency event, such as a tornado. Other area cities, emergency services districts, the county, and the hospital district also participate in the exercise.

Several departments of the city, including the city council, participate in the exercise. No formal vote or action is taken, although the council may go through the motions of approving an emergency ordinance or a mock proclamation. Matters addressed in this exercise fall within the meaning of public business, but in this situation are purely hypothetical.

1. If a quorum of the city council participates in this exercise, is this a meeting within the meaning of TOMA?
2. Would the answer be different if the exercise were conducted solely by the city, rather than by a multi-jurisdictional council of governments?

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**Scenario Four: Political Group/Candidate Forum**

Although a municipality's elections are non-partisan, groups associated with political parties and others organized around an issue (such as the environment or taxes) or a geographic area (such as a neighborhood) sponsor candidate forums. Some forums are "members only," and some are open to the public. At the forums, city council candidates, including incumbents, appear before a group's membership, make presentations seeking support and respond to questions. The questions and presentations typically involve issues or public business before the city council or that may come before the city council.

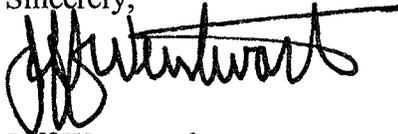
Many candidates for the council, including incumbents, attend these forums as part of their campaign activity, but council members do not treat them as part of their official duties. Members of the council running unopposed or who are not on the ballot that year may also attend, either as members of the sponsoring group or to connect with constituents and maintain political ties.

Given this situation:

1. If enough council members to constitute a quorum are present at a candidate forum at which city business is discussed, is this a meeting within the meaning of TOMA?
2. Is the answer the same if a quorum is reached only when a council member who is not a current candidate is present at the forum?
3. Alternatively, if no election is pending, and if enough city council members to constitute a quorum attend meetings of civic groups and there is discussion of city business, does that change the answer to 1 and 2, above?

Thank you for your attention to this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Wentworth", with a horizontal line drawn through the middle of the signature.

Jeff Wentworth