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FEB 29 2012

**OPINION COMMITTEE**



FILE # ML-46968-12  
I.D. # 46968

The State of Texas  
House of Representatives

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Monday, February 27, 2012

The Honorable Greg Abbott  
Attorney General  
Price Daniel Building  
Attn: Opinions Committee  
P.O. Box 12548  
Austin, Texas 78701-2548

**RQ-1042-GA**

RE: Application of the Open Meetings Act to Committee Meetings of a Coordinated County Transportation Authority created under Chapter 460 of the Transportation Code

Dear General Abbott:

I am writing to request an Attorney General opinion on the application of the Open Meetings Act, Tex. Gov't Code Ann. Chapter 551, to a committee of the Denton County Transportation Authority ("DCTA" or "Authority") which was created pursuant to Tex. Transp. Code Ann. Chapter 460. There are no prior Attorney General opinions directly on point with the facts herein specified.

#### BACKGROUND

The DCTA is a coordinated county transportation authority created under Chapter 460 of the Texas Transportation Code. The DCTA is governed by a board of directors who are appointed by participating entities (those governmental agencies which have imposed a transit and use tax in support of the Authority), the County Commissioners Court, and by other governmental entities (those agencies which have not imposed a transit and use tax, but which are eligible for membership as authorized by Chapter 460 of the Transportation Code). The Cities of Denton, Lewisville, and Highland Village (the "participating members") have adopted the transit and use tax and have appointed members to the DCTA Board.

There are currently fourteen (14) members of the DCTA Board including the three (3) members appointed by the participating cities. Texas Transportation Code, Section 460.205 provides that the quorum for a coordinated county transportation authority board of directors such as DCTA is five (5) members.

Texas Transportation Code, Section 460.204(c)(2) authorizes the board of directors of a coordinated county transportation authority to adopt bylaws as necessary to conduct meetings. Pursuant to Article III, Section 9 of the bylaws adopted by the DCTA Board, the Chair of the Board may appoint committees. The committees do not have any power or authority to act on behalf of the DCTA. Each committee consists of at least three (3) members of the DCTA. The DCTA currently has two (2) standing committees appointed by the Chair of the DCTA Board, the finance committee and the program and development committee, although there are several ad hoc committees (e.g. the DCTA bylaws committee, new member policy committee and legislative committee). The standing committees meet each month and ad hoc committees meet when necessary.

Additionally, Article III, Section 9 of the DCTA bylaws creates an Executive Committee consisting of four (4) officers of the Board of Directors and allows the Chair of the DCTA Board to appoint one (1) additional Director to the Executive Committee.

Attached is a sample of the Open Meetings Act posting for a committee. Please note that the posting indicates that a quorum of the DCTA Board may attend the committee meeting. The total number of members, including committee members, present at some of these meetings is five (5) or more (a quorum of the DCTA board).

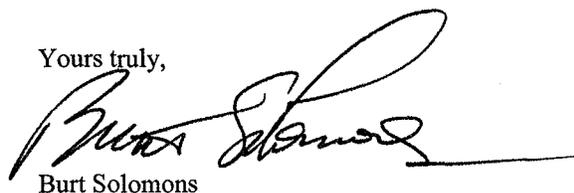
Concerns have been expressed that the presence of a quorum of the DCTA Board (five members) at a committee meeting presents certain questions pertaining to the Open Meetings Act, as follows:

#### QUESTIONS PRESENTED

- 1) When a committee of the DCTA Board, which does not have authority to supervise or control public business or public policy of the DCTA, conducts a committee meeting, is such meeting considered to be a meeting of the DCTA Board, if, in addition to the committee members, a quorum of the DCTA Board attends the committee meeting?
- 2) Does the answer to question 1 differ when the committee is the Executive Committee which is composed of five or more members of the Board of the DCTA?
- 3) If the answer to either questions number 1 or 2 are in the affirmative, then should such committee meeting require an agenda posting as a DCTA Board meeting rather than as a meeting of the specific DCTA committee?
- 4) May non-committee members of the DCTA Board attend a DCTA committee meeting when the attendance of the non-members of the DCTA Board brings the total count of Board members present to five (5) or more?
  - a. If the Attorney General is of the opinion that such attendance is not allowable under the Open Meetings Act, is the problem cured if the non-committee members of the DCTA Board attend only as members of the general public and do not vote on any matter pending before the committee?
  - b. May such non-committee Board Members attend and refrain from voting, but participate in the discussion of the issues before the Committee?
- 5) As to question number 4, if the agenda posting for the DCTA committee also provides that "a quorum of the Board 'may' attend," is any posting or other violation of the Open Meetings Act cured?

Thank you for your assistance on the questions posed herein. I stand available to provide any other information or assistance needed by the Attorney General to facilitate a response to these questions.

Yours truly,



Burt Solomons

CC: George C. Campbell, City Manager, City of Denton  
Claude King, City Manager, City of Lewisville  
Michael Leavitt, City Manager, City of Highland Village  
Jim Cline, President, DCTA  
Pete Smith, General Counsel, DCTA