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SENATE DISTRICT 25

RECEIVED



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2004 - 2005

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APR 07 2008

OPINION COMMITTEE

The Senate of
The State of Texas

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COUNTIES IN
SENATE DISTRICT 25

Bexar (north) Hays
Comal Kendall
Guadalupe Travis (south)

April 4, 2008

FILE # ML-45622-08
I.D. # 45622

The Honorable Greg Abbott
Attorney General of Texas
Attn: Opinions Committee
Post Office Box 12548
Austin, Texas 78711-2548

RQ-0696-GA

Re: Whether placing "City Manager's Report," "Mayor's Update" and "Council and Other Reports" on a city council agenda provides adequate notice under the Open Meetings Act.

Dear General Abbott:

As Chairman of the Senate Jurisprudence Committee, I ask for your opinion on two questions regarding the interpretation of the Open Meetings Act.

The Texas Government Code Section 551.041 states the following:

§ 551.041. *NOTICE OF MEETING REQUIRED.* A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.

The Texas Government Code Section 551.042 states the following:

§ 551.042. *INQUIRY MADE AT MEETING.* (a) If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:



(1) a statement of specific factual information given in response to the inquiry; or

(2) a recitation of existing policy in response to the inquiry.

(b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

For several years, the Corpus Christi City Council Agenda has traditionally included items to provide for "City Manager's Report," "Mayor's Update" and "Council and Other Reports."

The "City Manager's Report" has traditionally included such items as information about upcoming agenda items, date and time information for various local meetings, brief statements on the status of various City department issues, description of items to be presented at future City Council agendas, announcements of City awards, and the introduction of new department directors.

During the "Mayor's Update" and "Council and Other Reports," the Mayor and City Council members typically advise the City Manager of a complaint received from a citizen, the location of potholes that need repair, news or development of a city-related matter, or a general "thank you."

The City Council was recently advised that agenda items such as "City Manager's Report," "Mayor's Update," and "Council and Other Reports," may not provide the public with sufficient notice of the subjects to be discussed under the Open Meetings Act and, therefore, should be eliminated.

The City has traditionally identified City Manager's topics on the Agenda as follows:

"CITY MANAGER'S REPORT

Upcoming items."

For example, here is a summary from City Council minutes for five meetings held from December 11, 2007, through January 29, 2008, regarding information provided by City Manager during "City Manager's Report" at the City Council meetings:

- New delivery dates for City Council agenda packets
- Information about possible dates for City Council retreats
- Statement that staff is working on report for certain water garden repairs
- Statement that the Environment Projects Office is operational and working on water lab compliance issues
- Congratulations to City departments and employees for various awards
- Announcement of new wi-fi hot spots
- Statement that stations will be set up at various locations for citizen input regarding Bond 2008 project
- Announcing fire academy class graduation
- Announcing Holiday schedule for City services
- Providing information about funeral services for Police Officer
- Statement that City is requesting state assistance in analysis of traffic incident that resulted in death of Police Officer
- Providing information regarding scheduled date for demolition of building on airport property
- Announcing that Corpus Christi named as finalist for best place to work
- Statement that Staff is working on refinancing of bonds
- Providing information regarding Doddridge Street construction schedule dates
- Statement that staff is working on building fees audit
- Announcement of the appointment of new Intergovernmental Relations Director

The City has traditionally identified Mayor and Council reports on the agenda as follows:

"REPORTS:

"The following reports include questions by Council to Staff regarding City policies or activities; request by Council for information or reports from Staff; reports of activities of individual Council members and Staff; constituent

concerns; current topics raised by media; follow-up on Staff assignments; scheduling of future Council meetings and activities; and other brief discussions regarding city-related matters.

MAYOR'S UPDATE

COUNCIL AND OTHER REPORTS"

The following is a summary from City Council meeting minutes from five meetings held from December 11, 2007, through January 29, 2008, regarding information provided by Mayor and City Council members during "Mayor's Report" or "Council and Other Reports":

- Announcement regarding Council member's grandson's military service
- Thank you to City employees for their hard work
- Request for Animal Control staff follow-up
- Request for pothole repair for staff follow-up
- Request for information on Development Services Advisory Group
- Holiday Greetings
- Graffiti complaints for staff follow-up
- Signage issue for staff follow-up
- Condolences to family of Police Officer killed in line of duty
- Announcement that Astros caravan and Fox Sports were in Corpus Christi
- Condolences to families of deceased soldiers
- Thank you to NAACP for banquet invitation
- Thank you to Corpus Christi ISD for Vision 2020 program
- Thank you to Delta Sigma Theta Sorority alumni for Martin Luther King march
- Request for update on department head director and council calendar
- Request for copy of minutes from recent beach meeting
- Request for summary of the stakeholders' meeting on stormwater
- Request a review of the ordinance defining single family residences
- Ordinance relating to estate sales and illegal signs
- Invitation to public to attend Mardi Gras in downtown area

- Request for staff to develop guidelines to improve water quality of runoff into the estuaries
- Request to include sign recommendations in Bond 2008 project
- Request for staff to look into complaint regarding release of vehicle from impound
- Thank you to staff for attending various meetings and providing various assistance
- Announcement of date and location for Town Hall meeting
- Question for information regarding graffiti truck operation
- Condolences to family of former Council member
- Request for staff to investigate possible business incentive for new coffee shop
- Question regarding how to encourage authorities to develop stronger enforcement laws regarding graffiti
- Request regarding drainage issue
- Request for report on factors affecting American Bank Center's schedule of events
- Congratulations to local high school
- Request from Tuloso Midway ISD
- Request for status on signage for Seatown

In the 2008 Open Meetings Act Handbook, page 26, it states "a governmental body must give the public advance written notice of the subjects it will consider in an open meeting or a closed executive session." The Handbook further states on page 26 that "the notice must be sufficient to apprise the general public of the subjects to be considered during the meeting." In the "Texas Open Meetings Act Made Easy," on page 8, it asks, "Does an agenda posting indicating 'employee briefing session' or 'staff briefing session' provide adequate notice of the subjects to be discussed?" The answer states, "An agenda posting simply indicating 'employee briefing session' or 'staff briefing session' does not provide the public with sufficient notice as to the subjects to be discussed at a public meeting. Unlike sessions involving 'public comment,' language that is considered adequate notice for comments of the general public, a local entity is in a better position to ascertain from its employees or officers in advance what subjects will be addressed. Accordingly, posted agendas simply indicating 'employee briefing sessions' give inadequate notice."

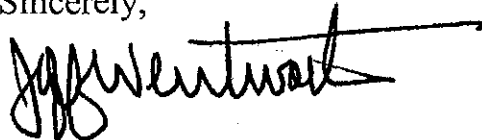
Do the terms "considered" and "discussed" in the Attorney General Handbook and Open Meetings guidelines refer to the types of information provided under "City Manager's Report," "Mayor's Update," and "Council and Other Reports" when there is no discussion or action from the City Council? I respectfully request an opinion on the following questions:

(1) Does the "City Manager's Report" provide adequate notice under the Open Meetings Act if the individual Council members do not engage in any discussion or take any action regarding these items, **or** does the Open Meetings Act require that every topic addressed by the City Manager during "City Manager's Report" be specifically listed on the Agenda?

(2) Do the "Mayor's Update" and "Council and Other Reports" provide adequate notice under the Open Meetings Act if the individual Council members provide the information, and the remaining Council members do not discuss further or take any consideration regarding these items, **or** does the Open Meetings Act require that every topic addressed by an individual Council member or Mayor during "Mayor's Update" and "Council and Other Reports" be specifically listed on the Agenda?

Thank you for your assistance in this matter.

Sincerely,



Jeff Wentworth
Chairman
Senate Jurisprudence Committee

JW/kh