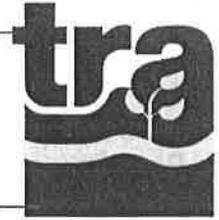


Trinity River Authority of Texas



General Office

November 20, 2014

The Honorable Greg Abbott
Attorney General of Texas
Attn: Opinion Committee
P.O. Box 12548
Austin, TX 78711-2548

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OPINION COMMITTEE

FILE # ML-47668-14
I.D. # 47668

RQ-1232-GA

Via Email to Opinion.Committee@texasattorneygeneral.gov

Re: Open Meetings Act
Meeting Location
Secured Access Venues

Dear General Abbott:

On behalf of the Trinity River Authority of Texas (Authority) and pursuant to Texas Government Code Section 402.042(b)(9), I hereby request an opinion concerning the application of the Texas Open Meetings Act (Act) to public meetings held at public-sector secured-access facilities or locations. For more than a decade, the Region C Water Planning Group (RCWPG) has routinely conducted its public meetings in space provided by the Authority at its Central Regional Wastewater System (CRWS) Plant in Grand Prairie, Texas. Access to that facility requires the presentation of government-issued photo identification. The Authority respectfully requests that your office address the question of whether such a requirement violates the Act's requirement that meetings be open to the public. TEX. GOV'T CODE § 551.002.

Background

In 1997, the 75th Texas Legislature passed Senate Bill 1, legislation designed to address Texas water planning issues. With the passage of Senate Bill 1, the legislature put in place a regional process to plan for the future water needs of all Texans. To implement this process, the Texas Water Development Board created 16 regional water planning groups across the state and established regulations governing regional planning efforts. The meetings of the RCWPG, one of those regional water planning groups, must be conducted in accordance with the Act. 31 TEX. ADMIN. CODE § 357.21.

Like many public-sector facilities, in response to the terrorist attacks of September 11, 2001, the Authority began requiring visitors to the CRWS Plant to furnish security personnel with government-issued photo identification. The CRWS Plant provides a convenient venue for RCWPG meetings, because it is centrally located in the Dallas/Fort Worth Metroplex. Since the RCWPG's creation, the North Texas Municipal Water District (NTMWD) has served as the responsible administrative agency acting on behalf of the RCWPG. In 2015, the Authority will succeed NTMWD as the administrative

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agency of the RCWPG. It is the Authority's desire to continue to hold regular meetings of the RCWPG at the Authority's CRWS Plant.

Request for Opinion

Both NTMWD and the Authority have been approached by an individual who contends that conducting RCWPG meetings at the Authority's CRWS Plant constitutes a violation of the Open Meetings Act, because access to that facility requires the presentation of government-issued photo identification. Numerous examples of public meetings held at locations that require presentation of government-issued photo identification for access exist in Texas (e.g., access to the William P. Clements Building for hearings of the State Office of Administrative Hearings and access to the meeting space of the Commissioners of the Texas Commission on Environmental Quality).

The Act requires a meeting of a governmental body to be held in a location accessible to the public. A meeting that is "open to the public" under the Act is one that the public is permitted to attend. Op. Tex. Att'y Gen. No. M-220 (1968) at 5. Members of the public are permitted to attend meetings of the RCWPG held at the CRWS Plant, subject to their presentation of appropriate identification. The Authority requests that your office furnish an opinion that the requirement for presentation of photo identification for access to the location of a public meeting does not violate the Act's requirement that a meeting be "open to the public" under the Act.

Examples where the Attorney General has determined a meeting is not "open to the public" include meetings to be conducted in Mexico or in the offices of a bond underwriter in New York City. Op. Tex. Att'y Gen. Nos. JC-0487 (2002), JC-0053 (1999). By contrast, the issue presented here is whether, in the interests of security, health and safety, the venue of a properly posted public meeting may require the furnishing of identification for access. In this instance, the reasons for such a requirement may be even more pressing than for the other public meeting venues identified above. The Authority's CRWS Plant is subject to the requirements of the Chemical Facility Anti-Terrorism Standards (CFATS) promulgated by the Department of Homeland Security. 6 C.F.R. §§ 27.100-.410 (2012). The CRWS Plant is subject to those standards as a consequence of its use of certain chemicals necessary to the wastewater treatment process. The requirement for the presentation of photo identification is one part of an overall system to monitor the number and identities of persons on the CRWS Plant site. That information is critical in the event that a chemical release requires evacuation of that site. Of course, the requirement also serves to protect the physical security of the plant, the same reason why other public meeting locations require visitors to furnish photo identification.

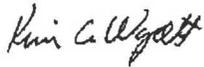
Conclusion

The Authority, which will succeed to NTMWD's RCWPG administrative responsibilities shortly, believes that the Act is not frustrated or violated by a requirement to furnish photo identification for access to meetings of the RCWPG at the Authority's CRWS Plant. A contention to the contrary is without apparent precedent or justification under the Act or the opinions of the Attorney General. A finding to the contrary would undermine the physical security of many locations that presently enforce such a requirement.

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The Authority respectfully requests that your office render an opinion that a requirement for the presentation of photo identification for access to the venue of a public meeting under the Act does not violate the Act's requirement that a meeting be "open to the public."

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kim C. Wyatt".

KIM C. WYATT
President and Chairman, Board of Directors

KCW/cac