

Texas Open Meetings Act The Basics

June 2, 2011



What is the Open Meetings Act?

- The Open Meetings Act is a Texas statute that provides for public access to meetings of governmental bodies.
- Chapter 551 Texas Government Code.
- Requires that every meeting of a governmental body, with certain narrow exceptions, be open to the public with notice of the time, place, and subject of the meeting.



Does the Open Meetings Act Apply to This Commission?

- Yes.
- The City Code 2-1-43(B) says that all Boards (which includes permanent bodies such as this commission) shall comply with the Open Meetings Act.



What Does “Comply with the Open Meetings Act” mean?

- (1) Meetings must be open to the public (time and place);
- (2) The public has to know the subject matter of the meeting; and
- (3) Records must be kept (minutes or tape recordings).



What is a Meeting?

- While the Open Meetings Act refers to a meeting as a verbal exchange among a quorum of the committee, or between a member of the public and a quorum of the committee, the Attorney General and courts have added that a meeting can occur if the conversation happens via other forms of communication for example email, or text message.
- A meeting may not be convened unless a quorum of the board is physically present in the meeting room.
- If a quorum is at an event, but not talking about business, that is not a meeting – but if you start talking about committee business, it is a meeting.



What is a Quorum?

- A quorum is a majority of the committee.
- For example, for a seven-member board, a quorum is four members.



What about Smaller Groups?

- If the committee forms smaller groups to study a limited issue, those are called a “working group.”
- These smaller groups must be less than a quorum, they must not make final decisions, and they can only be temporary.
- If the group meets these requirements they do not have to comply with the Open Meetings Act.



Subcommittees

- A subcommittee chosen by a governmental body from its membership may be subject to the Open Meetings Act even though it consists of less than a quorum of the parent body.
- Subcommittee are more permanent than working groups.
- If the subcommittee is effectively making decisions without holding open meetings, then the public is deprived of access to the decision-making process and this would violate the Open Meetings Act.



What Must be Posted?

- The Open Meetings Act requires written notice of all meetings.
- The notice must be sufficient to let the general public know the subjects to be considered at the meeting.
- The notice must not be so detailed that it is a script for the meeting.
- The notice must be clear enough so the public can understand it.



Posting Tips

- “Other business” – too broad and not descriptive enough.
- Can group items to show which ones will have similar types of actions – e.g., “Action items” and “briefings” – action items are ones on which the commission may vote; briefings are public presentations with no citizen comment.



Where and When to Post?

- The Open Meetings Act requires the governmental body to post notice of each meeting on a bulletin board at a place in the city hall that is readily accessible to the general public at all times.
- The meeting posting must be up for at least 72 hours before the scheduled time of the meeting.
- These requirements are mandatory. If the committee wants to discuss or hear about something and it is not posted properly, you cannot hear about it or discuss it.



How do we Keep a Record?

- The City must keep minutes or make a recording of every commission meeting.
- Minutes must state the subject of each discussion and must show action taken.
- City staff assists this committee in keeping minutes that the committee approves at its next scheduled meeting.
- The meetings are sometimes recorded on Channel 6.
- These minutes and recordings are public records and are open to people who ask for them.



Can we Discuss Something that Wasn't Posted?

- Generally, no.
- If a board member or member of the public raises a subject that has not been included in the notice for the meeting, it cannot be discussed.
- You may:
 - (1) give a factual answer to a simple question (e.g. “who do I talk to about which sidewalk projects are included in the bond funded projects?” “You are welcome to speak to Ms. So and So.”);
 - (2) recite existing policy in response to someone asking about that.
 - (551.042)



What are the Rights of the Public?

- The Act gives the public the right to have timely notice of:
 - Time of meeting;
 - Location of meeting; and
 - Subjects to be discussed.
- The public can attend the meeting.
- The public can record the meeting.
- The Act does not give the public a right to participate in a meeting.



Can the Committee Place Some Limits on Public Comment?

- Yes.
- The governing body may make reasonable even-handed limits for public comment.
- Examples: reasonable restrictions on the number of speakers and the time allowed to each speaker.



Rare Events

- Executive sessions are meetings that are permitted to be conducted in private.
- Meetings closed to the public or executive sessions are normally not appropriate for boards and commissions and must not be conducted without the advice and consent of the City Attorney.
- If the committee believes a closed session is appropriate, consult with the Law Department.



Holding an Executive Session

- If your executive session has been approved by the Law Department, you must :
 - 1) Convene publically
 - 2) Presiding officer announces the executive session – including reciting the correct provision from the Open Meetings Act that allows the session
 - 3) Once in executive session, it is recorded (unless Open Meetings Act says otherwise)
 - 4) No action can be taken in the session
 - 5) When out of executive session, the presiding officer reconvenes the open meeting.



Penalties for Violations

- The Open Meetings Act has criminal penalties for a member of a governing body who knowingly calls or aids in calling an improper closed meeting.
- The Open Meetings Act also has criminal penalties for a member of a governing body who knowingly conspires to circumvent the Act by meeting with members for secret deliberations.
- Fines can be up to \$500 and confinement can be up to 6 months.
- Meeting in an executive session knowing that a proper recording isn't being kept is a Class C misdemeanor (\$500 maximum fine).
- Improperly disclosing the recording of an executive session is a Class B misdemeanor (\$2,000 maximum fine, confinement of up to 180 days or both).



Required Training

- City Clerk's Office coordinates any required training for Open Meetings.



The End

- Questions?
- Thank you very much for your service.

