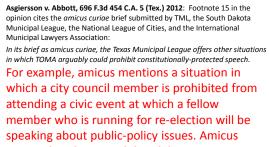


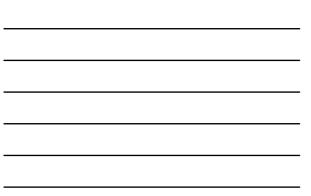
- Candidate forums?
- "Walking quorums?"
- Town hall meetings





argues that that is prohibited, because it is a quorum discussing government policy at event not open to the general public.

TEXAS MUNICIPAL LEAGUE



The potential situations listed, however, are not from actual cases but are only examples of advice attorneys have given to local government officials. Furthermore, such broad interpretations of the law are suspect, given that TOMA appears to exclude such gatherings from its definition of "meeting":

["Meeting"] does not include the gathering of a quorum of a governmental body at a social function unrelated to the public business that is conducted by the body, or the attendance by a quorum of a governmental body at a regional, state, or national convention or workshop, ceremonial event, or press conference, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, or press conference.



#### Complaint filed in Xxxxxxx council race:

[Candidate's] backer accuses opponent [incumbemt] of violating state open meetings law at campaign event

By Xxxxx Xxxxx AMERICAN-STATESMAN STAFF Wednesday, May 06, 2009

A supporter of Xxxxxx City Council candidate Xxxxxxx filed a complaint with prosecutors Tuesday alleging that incumbent Xxxxxxxx may have violated the state's Open Meetings Act at a campaign event.

The complaint filed by Xxxxxx accuses Xxxxx of attending and possibly organizing a private, invitation only meeting in Xxxxx to promote his campaign raise money on April 15.

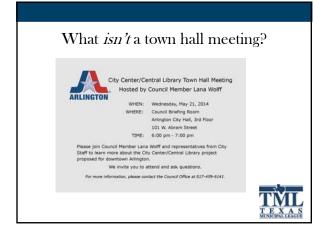
# Walking Quorum

**Question**: Can I talk to another councilmember outside of a posted meeting?

Answer = 20 page memo

Still can't say yes or no!





# What *is* a town hall meeting?

• A gathering of a quorum of a city council where citizens are invited to a city or other facility to share their concerns with, and ask questions of, the city council and city staff





#### COME VISIT WITH YOUR MAYOR AND CITY COUNCIL ON ITEMS OF IMPORTANCE TO YOU AND HEAR FROM THEM BASED ON YOUR INPUT!

\*There will be no votes or any formal actions taken on subjects discussed out of meeting as this town hall meeting will only allow members of the public to present ideas and information to city officials and staff.

### Inadequate Notice?

- GA-0668 (2008): Postings such as "City Manager's Report," "Mayor's Update," or "Council and Other Reports" provide insufficient notice to the public.
- Cox Enters., Inc. v. Bd. of Trs. of Austin Indep. Sch. Dist., 706
  S.W.2d 956 (Tex. 1986): the Austin American-Statesman sued claimed that AISD by posting an agenda listing only general terms such as "personnel," "litigation," and "real estate matters" failed to give adequate notice





## Inadequate Notice?

- Hays County Water Planning Partnership v. Hays County, Texas, 41 S.W.3d 174 (Tex. App.—Austin 2001, pet. Denied): County commissioner addressed the commissioners court from the citizens' comment microphone pursuant to an agenda posting that read: "Presentation by Commissioner Molenaar."
- Of particular interest, the court addressed the issue of the requirements of the Act as they relate to an elected official's freedom of speech.
   Specifically, the court concluded that requiring advance notice in compliance with the Act does not restrict the constitutional right of free speech when the official seeks to exercise that right at a meeting of the public body of which he is a member. "In the context in which they were made, Molenaar's remarks were not those of a private citizen but of an elected official. In these circumstances, requiring compliance with the Open Meetings Act does not violate the First Amendment."
- In response to GA-0668, the legislature enacted 551.0415 BUT a town hall meeting ain't no ceremonial event.



## Public comment?

Sec. 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.

JC-0169 at 4: Threw in the idea that a posting of "public comment" will "not provide adequate notice if the governmental body is, prior to the meeting, aware, or reasonably should have been aware, of specific topics to be raised." The opinion cites to "See Cox Enterprises, 706 S.W.2d 956" for that proposition.



#### NOTICE

CITY COUNCIL MEETING FRIDAY, JUNE 20, 2014 CITY HALL 123 NONSENSE ROAD, CITY, TX 12345 3:45 P.M.

COME VISIT WITH YOUR MAYOR AND CITY COUNCIL ON ITEMS OF IMPORTANCE TO YOU AND HEAR THEIR THOUGHTS AND IDEAS ON MAKING IMPROVEMENTS BASED ON YOUR INPUT!

1. Call to order.

2. "Town Hall Meeting" moderated by the mayor to include discussion on any and all types of city business, including:

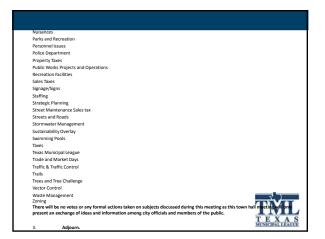
#### WAIT FOR IT!!!!!!



Animal Control	
Beautification of City	
County Flood Control	
Watershed Projects	
Building-related Permits	
Business Development	
Churches	
City Agendas and Minutes	
City Beautification	
City Budget	
City Code of Ordinances	
City Committees	
City Communications	
City Contracts	
City Engineer	
City Events	
City Facilities	
City Finances	
City Library	
City Manager	
City Meetings	
City Water System	7
City Website	
Code Enforcement	
Community and Conference Centers	TEX

Community Development	
Curfew Ordinance	
Drug Enforcement	
Economic Development	
Elections	
Federal Stimulus Plan	
Finance Department	
Fire Department	
Future Development	
Flooding & Drainage Issues	
Garbage and Recycling	
Grants	
Graffiti Ordinance	
Growth, taxes, vision	
Home Rule Charter	
Human Resources	
Interlocal Agreements	
Intergovernmental Relations	
Interrelationship w/County Government	
Interrelationship w/University	
Interrelationship between City Govt & Fed Govt	
Junked Vehicle Ordinance	7
Law Enforcement Programs	
EDC	
	TEXAS
	STUNDLEPAL LEAGUE

Elections	
Federal Stimulus Plan	
Finance Department	
Fire Department	
Future Development	
Flooding & Drainage Issues	
Garbage and Recycling	
Grants	
Graffiti Ordinance	
Growth, taxes, vision	
Home Rule Charter	
Human Resources	
Interlocal Agreements	
Intergovernmental Relations	
Interrelationship w/County Government	
Interrelationship w/University	
Interrelationship between City Govt & Fed Govt	
Junked Vehicle Ordinance	
Law Enforcement Programs	
EDC	
Lighting	
Litigation	7
Master Plan	
Master Redevelopment Plan	
Municipal Court	T E X A S MUNICIPAL LEAGUE



## Adequate Notice?

- City of San Antonio v. Fourth Court of Appeals, 820 S.W.2d 762 (Tex. 1991): the condemnation notice complied with the Act, because the notice apprised the public at large in general terms that the city would consider the condemnation of certain property in a specific area for purposes of the project.
- Tex. Turnpike Auth. v. City of Fort Worth, 554 S.W.2d 675 (Tex. 1977): the notice need not have stated all the consequences that might result from the proposed action.
- Lower Colorado River Auth. v. City of San Marcos, 523 S.W.2d 641 (Tex. 1975): "Although conceding that the notice was 'not as clear as it might be;" the Court held that it complied with the Act "because 'it would alert a reader to the fact that some action would be considered with respect to charges for electric power sold in San Marcos."



# What's the Harm?

The Act provides that a closed meeting involving a quorum of members is a misdemeanor offense:

Sec. S51.144. CLOSED MEETING, OFFENSE, PENALTY. (a) A member of a governmental body commits an offense il the member involution (r); (1) calls or aids in calling or organizing the docad meeting, whether it is a special or called docad meeting; (2) docas or aids in calling the meeting to the public, if it is a regular meeting; or (3) participates in the docad meeting, whether it is a regular, special or called meeting.

participates in the closed meeting, whether it is a regular, special, or called meeting.
 (b) An offense under Subsection (a) is a misdemeanor punishable by:
 a fine of not less than \$100 or more than \$500:

 confinement in the county jail for not less than one month or more than six more b) both the fine and confinement.

- (c) It is a different advects apprecision and characteristic (i) it is a memory of the apprecision of the start of the start of the apprecision of the start o
- The likely remedy would be a civil lawsuit filed by a disgruntled citizen or group seeking mandamus or an injunction to stop, prevent, or reverse a violation of the Act under Sections 551.141 or 551.142.



## The Best Way?

Just before posting this article, the Austin-American Statesman issued a story about the City of Austin having a town hall meeting. How did Austin handle the agenda posting? That city required speakers to sign up in advance with their topic listed, and specifically posted them on the agenda.

# Brilliance!



