



**AGENDA**  
**WORK SESSION**  
**TEXAS OPEN MEETINGS ACT TRAINING**



**LANCASTER CITY COUNCIL AND**  
**ALL LANCASTER BOARDS & COMMISSIONS**

**MUNICIPAL CENTER - CITY COUNCIL CHAMBERS**  
**211 N. HENRY STREET, LANCASTER, TEXAS**

**Tuesday, January 28, 2015– 6:30 P.M.**

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**6:30 p.m.**

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CALL TO ORDER

1. Welcome
2. State mandated Texas Open Meetings Act Training conducted by Nichols, Jackson, Dillard, Hager, & Smith, L.L.P.

ADJOURNMENT

A quorum of City Council members and Lancaster boards and commissions members may be present at this training. No deliberation will be conducted by City Council or any Lancaster board or commission.

**ACCESSIBILITY STATEMENT:** The Municipal Center is wheelchair-accessible. For sign interpretive services, call the City Secretary's office, 972-218-1311, or TDD 1-800-735-2989, at least 72 hours prior to the meeting. Reasonable accommodation will be made to assist your needs.

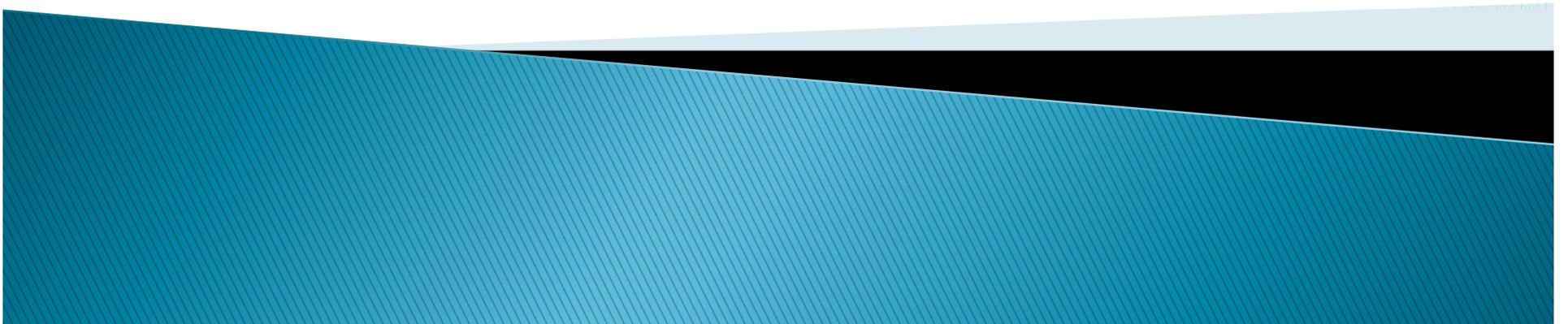
**Certificate**

**I hereby certify the above Notice of Meeting was posted at the Lancaster City Hall on January 23, 2015 @ 6:30 p.m. and copies thereof were provided to the Mayor, Mayor Pro-Tempore, Deputy Mayor Pro-Tempore and Council members.**

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Sorangel O. Arenas, TRMC  
City Secretary

# Open Meetings



# Training

- ▶ Complete an open meetings training course of not less than one hour
- ▶ Not less than 90 days after the member takes the oath of office or assumes the responsibilities of the office.
- ▶ Failure to complete training does not affect action taken by the Council.



# Open Meetings Act

- ▶ Every regular, special or called meeting of a governing body is open to the public unless a closed meeting is authorized by the Act.
- ▶ Governing body includes quasi-judicial boards and commissions but not advisory board.



# Bodies Subject to the Act

- ▶ Every City Council, Planning & Zoning, 4A and 4B Boards, Board of Adjustment, Building and Standards Commission.
- ▶ Advisory board, commission or committee, such as the Library Board which has no authority over public business or policy is not subject to the Act.
- ▶ Committees consisting of members of the governing body even though less than a quorum are subject to the Act when the committee meets to discuss public business.
- ▶ By local City policy all boards and commissions follow the Act.



# Entities Not Subject to the Act

- ▶ Any discussion or deliberation between a quorum (majority), or between a quorum and another person, about public business or policy which the Council controls or supervises, or during which formal action is taken
- ▶ Advisory body will be subject to the Act if its recommendations are routinely adopted by the parent board.



# Meetings Subject to the Act

- ▶ Purely advisory board, commission or committee, such as the Library Board, which has no authority over public business or policy is not subject to the Act.
  - ▶ However, if a quorum of a governing body attends a meeting of a committee of the governmental body at which a deliberation takes place, the meeting will constitute a meeting of the governmental body.



# Meetings Subject to the Act

- ▶ Deliberation is defined as a verbal exchange during a meeting between a quorum, or between a quorum and another person concerning public business or policy



# Notice required by the Act

- ▶ Seventy-two (72) hours prior written notice of the date, hour, place, and subject of each meeting, including authorized closed meetings with the exception of a closed meeting for consultation with an attorney.
- ▶ Notice must be sufficient to inform the public of the subject matter that the governing body will consider in an open or closed meeting.
- ▶ City that maintains a Internet Web site is required to post notice of its meetings on its Web site. If the City has a population of 48,000 or more must post the meeting agenda on the Web site.



# Emergency Meetings

- ▶ Must be imminent threat to the public health or safety or reasonably unforeseen situations requiring immediate attention.
- ▶ Notice posted at least two (2) hours before the scheduled meeting and clearly state the urgent public necessity or emergency.
- ▶ Notice given to news media previously requesting notice and agreeing to pay cost of providing the notice.



# Secret Deliberations

- ▶ May not deliberate by telephone (contact members by telephone for the purpose to arrive at a decision or consensus concerning public business).
- ▶ May not use email or exchange voice mail to arrive at a decision.
- ▶ May not meet in numbers less than a quorum for the purpose of secret deliberations.
- ▶ May not meet or conspire to meet in numbers that do not physically constitute a quorum at any one time but through successive gatherings secretly discuss a public matter with a quorum.



# Golden Rule

- ▶ If public deprived of opportunity to see deliberation, and see officials in action, then such telephone/email exchange or other gatherings should be avoided.



# Act does not Apply

- ▶ Purely social meetings unrelated to public business;
- ▶ Conventions, seminars or workshops if no formal action is taken and any discussion of public business is incidental;
- ▶ Legislative hearings; and
- ▶ Consultations with Attorney



# Videoconference Call

- ▶ Council may hold an open or closed meeting by videoconference call.
- ▶ A quorum must be present at one location.
- ▶ Notice of the meeting must specify the location where the quorum is to be present, and each other location where a member of the governmental body who will participate in the meeting will be physically present.
- ▶ Each location is open to the public during the open portions of the meeting.



# Videoconference Call

- ▶ In 2013, conflicting legislation was adopted concerning videoconferencing meetings.
  - ▶ Until these conflicts are resolved, Council is advised to comply with the following guidelines concerning videoconference meetings:
    - Provide space equipped with equipment that provides an audio and video display, as well as equipment by which a member of the public can actively participate in the meeting and provide in its notice the location of that space.
    - Provide notice of where the member presiding over the meeting will be physically present.
    - If members are not visible and/or audible to the public due technical difficulties the meeting must be recessed in order to repair the problem; If the problem cannot be addressed in six hours or less then the meeting must be adjourned.
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# Online Message Board

- ▶ A communication or exchange of information between members of Council about public business or public policy over which the Council has supervision or control does not constitute a meeting or deliberation for purposes of this chapter if:
  - (1) the communication is in writing;
  - (2) the writing is posted to an online message board or similar Internet application that is viewable and searchable by the public; and
  - (3) the communication is displayed in real time and displayed on the online message board or similar Internet application for no less than 30 days after the communication is first posted.



# Online Message Board

- ▶ No more than one online message board or similar Internet application may be used for these purposes.
- ▶ The online message board or similar Internet application must be owned or controlled by the City, prominently displayed on the City's primary Internet web page, and no more than one click away from the City's primary Internet web page.
- ▶ The Council may not vote or take any action that is required to be taken at a meeting by posting a communication to the online message board.



# Online Message Board

- ▶ The online message board may only be used by members of Council or staff members who have received specific authorization from a member of Council. If a staff member posts a communication to the online message board or similar Internet application, the name and title of the staff member must be posted along with the communication.
- ▶ If the City removes from the online message board a communication that has been posted for at least 30 days, the City must maintain the posting for at least six years. This communication is public information.



# Subcommittees

- ▶ Committees consisting of members of the Council, even though less than a quorum, are subject to the Act when the committee meets to discuss public business.



# Final Action

- ▶ Decision must be made in public.
- ▶ No voting in closed session or by secret ballot.
- ▶ May disclose what was discussed in closed session, but may not disclose certified agenda or tape from closed meeting.



# Closed Meetings

- ▶ Limited to specific purposes.
- ▶ Notice must be posted listing the specific Section of the Gov Code and give brief description.
- ▶ Common examples: seek the advice of attorney, discuss real estate, discuss personnel and economic development.



# Procedure for Closed Meetings

- ▶ Quorum of Council first convenes in open meeting for which proper posted notice is given.
- ▶ Presiding officer announces that a closed meeting will be held and states the applicable sections of the Gov Code and the subject matter.
- ▶ No final action, decision, or vote may be made except in an open meeting.
- ▶ A member may express opinion or state how the member will vote.



# Procedure for Closed Meetings

- ▶ Certified agenda or tape recording must be kept; may not be released to the public except by court order.
- ▶ Certified agenda includes announcement at the beginning and end of meeting stating the date and time; and subject matter and any action taken.
- ▶ Attendance should be limited to persons necessary for purpose of executive session and whose interest is not adverse to the Council.



# Consultation with Attorney

- ▶ Seek the advice about pending or contemplated litigation or a settlement offer, the meeting agenda notice should describe the lawsuit.
- ▶ If during the course of a meeting, a situation arises in which the Council seeks legal advice and in order to preserve the attorney/client privileged communication, the Council may convene a closed meeting to seek legal advice even though not listed on the meeting agenda.



# Deliberation Regarding Real Property

- ▶ Council may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental affect on the position of the Council in negotiations with third person.



# Personnel Matters

- ▶ Council may conduct a closed meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of an officer or employee or to hear a complaint or charge against an officer or employee.
- ▶ If the officer or employee who is the subject of the deliberation or hearing requests a public hearing, it must be open.



# Deliberation Regarding Economic Negotiations

- ▶ Council may conduct a closed meeting to discuss or deliberate commercial or financial information that the Council has received from prospect with which the Council has conducted negotiations, and to deliberate the offer of incentives to such prospect.
- ▶ Notice for the executive session does not have to identify the business prospect, the property location, or the types of incentives under consideration.
- ▶ Although not required, the notice may include descriptive information such as the general location, type of business prospect, or incentive (i.e. incentive for national retailer for property located in northeast quadrant of City).



# Deliberation Regarding Economic Negotiations

- ▶ The Council should keep in mind that an executive session should not be held for every business prospect that comes to the City seeking an incentive.
- ▶ The Council should only hold an executive session when it is necessary to protect proprietary or commercial information of the business prospect, or when the board discusses whether and to what extent the corporation will offer an incentive.



# Videotaping & Citizen Appearance

- ▶ The public has a right, subject to reasonable access, to tape or videotape open meetings.
- ▶ Act does not grant the public the right to speak at or to control public meetings.
- ▶ If the Council allows public to speak, it must do so in a nondiscriminatory matter.
- ▶ The Citizen's presentation time may be limited but not the content.



# Recess of Meetings

- ▶ May recess a meeting to following day without new notice if in good faith and not to circumvent the Act.
- ▶ If prevented from convening a meeting because of catastrophe, the meeting may be convened in convenient location within 72 hours.



# Violations

- ▶ Action taken in violation of the Act is voidable – may be set aside by a court/but can be cured by subsequent meeting.
- ▶ Members who knowingly conspire to circumvent the Act by meeting in numbers less than a quorum for the purpose of secret deliberations in violation of the Act, commit a misdemeanor offense.
- ▶ Members commit a misdemeanor offense if they participate in a closed meeting knowing that a certified agenda of the closed meeting is not being kept or that a tape recording of the closed meeting is not being made.



# Violations

- ▶ Disclosure of the certified agenda or tape recording of a meeting that was lawfully closed to the public under the Act is a misdemeanor
- ▶ Member is liable to the person who is injured or damaged by the disclosure for actual damages, including damages for personal injury, lost wages, defamation, mental or emotional distress, reasonable attorney's fees, and court costs



# Confidentiality

- ▶ Act does not prohibit members from making public statements about the subject matter of that session
- ▶ Each member should respect the privilege afforded to the Council to conduct a closed meeting
- ▶ If those in attendance of an authorized closed meeting do not intend to keep the matter privileged and confidential, then the Council should not deliberate in a closed meeting

