



NEW AG OPINION ON MEETING AGENDAS Last week, in opinion number GA-0668 (2008), the Office of the Attorney General of Texas (AG) clarified the notice requirements of the Texas Open Meetings Act, Government Code Chapter 551 (“the Act”). In essence, the AG was asked to consider how the Act applied to vaguely worded agenda items such as a “report” delivered at a meeting by a city manager, or an “update” by a member of the city council .

The AG addressed a common item that appears on agendas in several municipalities, which is typically posted simply as “City Manager’s Report.” Under this item, a city manager might “state, describe, and announce upcoming agenda items, the date and time for local meetings, the status of city department issues, the receipt of City awards, and the arrival of new department directors.”

Similarly, the AG also evaluated agenda items worded simply as “mayoral update” or “city council report,” which often involve questions by the city council to city 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.” In the city about which the AG opinion was issued, when these agenda items were posted, the city council generally extended its gratitude to staff or other members of the public, and advised the city manager of citizen complaints, the location of potholes, and city-related news and matters.

Usually when such items are on an agenda, the city council did not engage in any discussion or take any action regarding these items.

The AG concluded that the manner in which the agenda items were posted was *inadequate as a matter of law*. The AG explained that the “general and generic nature of the notice does not sufficiently notify a reader, as a member of the interested public, of the subjects of the update and reports to be discussed at any particular meeting.” Further, the subjects to be addressed by the posted agenda items can be presumably ascertained in advance by the city, and thus are capable of being described on agendas in more detail.

In light of the AG’s response, it is important for municipalities to formulate agenda items that: (1) are specific enough to sufficiently notify a member of the general public of the topics that will be discussed at the city council meeting, and (2) address subjects that can be determined in advance.

Furthermore, the AG stated that the Act allows a limited response (a brief statement of fact or existing policy) to an inquiry about a subject not included in the posted notice while preventing deliberation or making a decision about the subject matter of the inquiry. In other words, the Act does not allow a full-blown discussion or meeting about a “report” if the subject of the report was not clearly identified on the agenda.

PRACTICAL POINTERS

1. Describe topics or subject matter for “reports” that are listed on the agenda.
2. Conduct staff meetings to prepare agendas.
3. Set early deadlines for the submission of agenda items .
4. Have your city attorney review the agenda prior to posting.



Front: Associate Margaret Chen Kercher, Office Manager Geri Jarl, Associate Cristina Ruiz Blanton. Rear: Office Assistant Tyler Jarl, Associate Roger Gordon, Partner Alan Bojorquez, Partner Cary Bovey, and Associate Jonathan Koury.

FEATURED TEAM PROFILE The firm is pleased to introduce three outstanding professionals who recently joined the B&B team.



Margaret Chen Kercher received her law degree from Baylor Law School, where she was a member of the Association of Trial Lawyers of America Mock Trial Team and the Order of Barristers. She received her Bachelor of Arts from the University of Texas at Austin. Margaret is an associate with our firm, and her practice is committed to providing general legal counsel to Texas municipalities.



Cristina Ruiz Blanton graduated with a degree in Corporate Finance from the University of Texas- Pan American. Cristina received her law degree from St. Mary's School of Law in San Antonio, Texas. Previously, she served as a Staff Attorney with the Texas Secretary

of State's Elections Division. Cristina also has civil litigation experience and prosecuted criminal cases as an Assistant Atascosa County Attorney. Cristina is an associate with our firm, and her practice emphasizes Election Law and Employment Law.

Tyler Jarl is a *summa cum laude* alumnus of St. Edwards University, with a focus on government, history, and political science. Tyler is the firm's office assistant.



EDUCATIONAL OPPORTUNITIES The semi-annual meeting of the Texas City Attorneys Association (TCAA), to be held on October 30th in San Antonio, will feature a presentation by Alan Bojorquez on the Ethical Challenges confronting Municipal Lawyers.

On December 5th, Christina Ruiz Blanton will present a session on the Legal Aspects of Flex-time and Telecommuting at the Texas Municipal Human Resources Association's Employment Law Seminar in Rockwall.

HOLIDAY CELEBRATION B&B's 7th annual Christmas Party will be held on *Friday, December 5th*, at the firm's offices in Austin. RSVPs should be sent to Office Manager Geri Jarl at: geri@texasmunicipallawyers.com.

