THE CITY OF GEORGETOWN

BOARD AND COMMISSION
ETHICS TRAINING

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3.06.2018
BOARDS AND COMMISSIONS

PURPOSE

- The City Charter states that boards, commissions and committees are established to assist City Council in carrying out its duties in accordance with State law.

- You play a critical role in City Government. Your expertise and detailed review, evaluation, and recommendations assist the City Council in making informed decisions for the City of Georgetown.

- As a board or commission member, you are responsible for adhering to the ethics rules and laws covered in this presentation.
Topics for Discussion

- Texas Open Meetings Act (TOMA)
- Texas Public Information Act (TPIA)
- Conflicts of Interest
- City of Georgetown Ethics Ordinance
TEXAS OPEN MEETINGS ACT (TOMA)

TEXAS GOVERNMENT CODE CHAPTER 551
TOMA

GENERAL RULE

Generally, every meeting of a governmental body shall be open to the public.
TOMA Definitions

Governmental Body

- A deliberative body with rulemaking or quasi-judicial power that is classified as a department, agency, or political subdivision of a county or municipality.

- If a governmental body routinely adopts an advisory committee’s recommendations, the committee will likely be considered a governmental body and subject to TOMA.
TOMA Definitions

Quorum

- Generally a majority of members, but may vary

- Refer to the applicable Ordinance or Bylaws for your board or commission to determine the number of members necessary for a quorum
TOMA Definitions

Meeting – A Deliberation

- Oral or written exchange;
- Between a quorum of a governmental body or between a quorum of a governmental body and another person;
- During which public business or public policy over which the governmental body has supervision or control is discussed or considered; or
- During which the governmental body takes formal action

Meeting – A Gathering

- Called by the governmental body;
- At which a quorum of members of the governmental body is present;
- Conducted by or for the governmental body; and
- At which members receive or give information, ask or receive questions from any third person about public business or policy over which the governmental body has supervision or control
TOMA Definitions

Exceptions to “Meetings”

- Social functions unrelated to the public business that are conducted by the governmental body;
- Attendance by a quorum of the governmental body at a regional, state, or national convention or workshop; or
- Attendance by a quorum of the governmental body at a ceremonial event or press conference

AS LONG AS...

- Formal action is not taken; and
- Any discussion of public business is incidental to the event
TOMA
NOTICE OF MEETINGS - AGENDAS

- Written notice of all meetings is required and must state the date, time, place and subject of the matters to be discussed

- The notice must be posted at least 72 hours in advance on the bulletin board outside of City Hall and on the City’s website

- Action taken at a meeting without proper notice is voidable
TOMA
OPEN SESSION

- A meeting of a governmental body must be held in a location accessible to the public
- The public is permitted to attend
- A quorum of the governmental body must be present in the meeting room
- Minutes must be kept and are public records
TOMA

Closed (Executive) Session Requirements

- A quorum of the governmental body must be assembled in the meeting room.

- The meeting must be convened as an open meeting pursuant to proper notice.

- The presiding officer must announce that a closed session will be held and identify the applicable sections of the Act.

- Final action, decision or vote on the ultimate issue must be made in a properly noticed open session (exception for electric utility competitive matters).

- A certified agenda or tape recording must be kept and is confidential under state law.
TOMA

CLOSED SESSION – STATUTORY AUTHORITY

- Consultation with Attorney
- Real Property Deliberations
- Economic Development
- Negotiations
- Utility Competitive Matters
- Personnel Matters
TPIA

RESPONSE TO OPEN RECORDS REQUESTS

- Generally all records that the City maintains or has a right of access to are open to inspection and review by the public.

- Emails, even on a personal email address, or notes about City business should be retained and if possible kept separate from other personal or business documents.

- When the City receives a written request for records, within 10 business days, a decision is made to either:
  - produce responsive documents; or
  - request an exception to disclosure from the Attorney General.

*Please contact your Board Liaison if you think you received an Open Records Request.*
CONFLICTS
OF
INTEREST

LOCAL GOVERNMENT CODE
CHAPTER 171
AND
CITY OF GEORGETOWN
CODE OF ORDINANCES
CHAPTER 2.20
Texas Penal Code
- Chapter 36: Bribery and Corrupt Influence
- Chapter 39: Abuse of Office

Texas Government Code
- Chapter 551: Open Meetings
- Chapter 552: Public Information

Texas Local Government Code
- Chapter 171: Conflicts of Interest of Officers
Chapter 171 of the Texas Local Government Code prohibits you from:

- Discussing and participating in a vote on a matter
- Involving a business entity or real property
- In which you (or certain people you are closely related to)
- Have a substantial interest
CONFLICT OF INTEREST
STATE LAW DEFINITIONS - SUBSTANTIAL INTEREST

In a Business Entity:
- You or your relative own 10% or more of the voting stock or shares of the business entity; or
- You or your relative own either 10% or $15,000 or more of the fair market value of the business entity; or
- Funds received by you or your relative from the business entity exceed 10% of your gross income for the previous year.

In Real Property:
You or your relative own an equitable or legal interest in real property with a fair market value of $2,500 or more.
CITY ETHICS ORDINANCE
TYPES OF CONFLICTS OF INTEREST

- Substantial *Financial* Interest:
  - Follows state law

- Substantial *Economic* Interest:
  - More comprehensive
  - Governed by City Ethics Ordinance
  - Includes an interest that is:
    - more than minimal or insignificant; *and*
    - would be recognized by reasonable persons to have weight in deciding a case or an issue
You will be deemed to have an Economic Interest in a matter if any of these people or entities have an Economic Interest in the matter:

1. Relatives
2. Business entity
3. Job offers
4. Business negotiations
CITY ETHICS ORDINANCE
ADOPTED JUNE 22, 2004

Applies to:
  o Mayor
  o Council Members
  o City Manager
  o City Secretary
  o City Attorney
  o Members of City Boards, Committees, and Commissions
CITY ETHICS ORDINANCE

DECLARATION OF POLICY

- The proper operation of democratic government requires City Officials to be independent, impartial and responsible

- City Officials shall not permit any interest, financial or otherwise, direct or indirect, or engagement in any business, transaction, or professional activity to conflict with the proper discharge of duties in the public interest

- Governmental decisions and policies be made in the proper channels of the governmental structure

- Public Office not be used for illegal or improper personal gain

- City Officials shall at all times strive to avoid even the appearance of impropriety or partisanship

- The City Council shall be maintained as a nonpartisan body
CITY ETHICS ORDINANCE

PURPOSES

- To establish high ethical standards in official conduct by City Officials
- To establish guidelines for ethical standards of conduct for all City Officials
- To require disclosure by City Officials of private financial or other interest in matters affecting the City
- To provide discipline for violations
CITY ETHICS ORDINANCE

WHAT IS NOT ALLOWED - GENERAL

- Disclosure of confidential information obtained through the Official’s position for gain or advantage

- Use of the Official’s position or any City-owned facilities, supplies, equipment, or resources for gain or for a political campaign

- Appearance before the same body of which the Official is a member to represent the Official or others

- Acting as surety for a person or entity that has a contract with the City or as surety on any bond required by the City for a City Official

Note: this is a Class A Misdemeanor under state law

- Accepting gifts that are offered or given with the intent of influencing the judgment or discretion of the Official
SUBSTANTIAL FINANCIAL INTEREST

In a Business Entity:
- You or a Family Member own 10% or more of the voting stock or shares of the business entity;
- You or a Family Member own either 10% or $15,000 or more of the fair market value of the business entity; or
- Funds received by you or Family Member from the business entity exceed 10% of your gross income for the previous year.

In Real Property:
You or a Family Member own an equitable or legal interest in real property with a fair market value of $2,500 or more.
**SUBSTANTIAL ECONOMIC INTEREST**

Substantial Economic Interest includes a:
- a legal or equitable interest in real or personal property; *or*
- a fiduciary obligation to such property; *or*
- a contractual right in such property;

*that is*

- more than minimal or insignificant; and

- would be recognized by **reasonable persons** to have weight in deciding a case or an issue.
To avoid the appearance and risk of impropriety, a City Official may not take any official action that the Official knows is likely to affect the Substantial Economic Interest of:

- **A Family Member**
- **A Business Entity** - if you are an officer or director, or if you are employed and have a “policy-making position”
- **Job Offers** - People or Business Entities who have offered you or your spouse a job in the last 12 months, or from whom you or your spouse has asked for a job
- **Business Negotiations** – People or Business Entities with whom, within the past 12 months, you or your spouse has engaged in negotiations pertaining to “business opportunities”
Any person who is related to a City Official or the spouse of a City Official in the First Degree or Second Degree of Consanguinity or Affinity:

**First Degree:**
Spouse, Mother, Father, Daughter, Son, Brother, or Sister

**Second Degree:**
Grand-Father, Grand-Mother, Grand-Daughter, Grandson, Aunt, Uncle, Niece, Nephew, and First Cousin
CITY ETHICS ORDINANCE

SUBSTANTIAL ECONOMIC INTEREST – DOES NOT INCLUDE

- Being involved with an educational, religious, charitable, fraternal, or civic organization
- Owning mutual or common investment funds - unless you participate in the management of the fund
- Having an economic impact to you that is indistinguishable from the impact on the public or on the particular group affected by the matter
IF YOU HAVE A CONFLICT OF INTEREST
WHAT SHOULD YOU DO?

Disclose – fill out the affidavit form attesting to the conflict

Refrain – from participating in the discussion or vote on the matte

Abstain – recommend leaving the dais/table at the beginning of the item and not returning until all discussion and action on that matter has been completed and the next matter is called
No City Official may vote or participate in any decision-making process on a matter if the Official has a Substantial Financial Interest in the outcome of the matter

No City Official may vote or participate in any decision-making process on a matter if the Official has a Substantial Economic Interest in the outcome of the matter
**WHAT IF YOU DO NOT DISCLOSE?**

- Someone could file a complaint with the Ethics Commission
- Someone could file a complaint for a violation of state law
City Ethics Ordinance
Sanctions

- If the Ethics Commission determines a violation occurred
  - A letter of notification - when the violation is clearly unintentional
  - A letter of admonition - when the Commission finds the violation is minor
  - A letter of reprimand - when the Commission finds a serious violation has been committed
  - A letter of censure - when the Commission finds that a serious violation has occurred or more than one serious violation or repeated serious violations of the Ordinance have been committed

- City Council receives letters issued by the Commission

- Commission may recommend suspension or removal of Council-appointed Officials from office if warranted
STATE LAW
PENALTIES

- A person who *knowingly* violates state law commits a Class A misdemeanor punishable by a fine not to exceed $4,000, confinement in jail for a term not to exceed one year, or both.

- Violation does not render an action of the governing body voidable unless the action involving a conflict of interest would not have passed without the vote of the violating Member.
RESOURCE LINKS

- Open Meetings Act – Chapter 551
- Public Information Act – Chapter 552
- Conflict of Interest – Chapter 171
- Georgetown Code of Ethics – Chapter 2.20
- Texas Attorney General Open Government Publications
THANK YOU!

QUESTIONS?