



19-0400

**TITLE:** Review on Open Government Training

**ITEM SUMMARY:**

- It is the City of McKinney's stated policy to make training on Open Government procedures and expectations for ethical conduct available to all Board and Commission members on an annual basis
- Topics in the training include;
  - Board and Commission Appointment,
  - Conflicts of Interest/Disclosure,
  - Nepotism,
  - Texas Open Meetings Act,
  - Texas Public Information Act, and
  - Other Ethical and Legal Considerations
- Texas Open Meeting Act (Texas Gov't Code Chapter 551) - Slides 35-81
  - Executive Session - Slides 62-74
- What is an Executive Session?
  - A limited exception from the general Open Meetings Act rule that all governmental business must be conducted in the presence of the public
  - Executive sessions are limited to discussion, not action or voting
    - Subjects include: Personnel matters; certain consultations with an attorney; discussions about the value or transfer of real property; discussion of certain economic development matters; and deployment or implementation of security personnel or devices or a security audit.
- Who is permitted to attend an Executive Session?
  - The Open Meetings Act does not specify who may or may not attend an executive session
  - Texas Attorney General Opinion JC-0375 (2001):
    - Concluded the governmental body has discretion to determine who may attend executive sessions. However, the governmental body may not admit those whose attendance is contrary to the legal basis for the executive session.

- Can a governmental body approve items or vote in an executive session?
  - No. “a final action, decision, or vote on a matter deliberated in a closed meeting...may only be made in an open meeting.” Texas Gov’t Code §551.102
- Texas Gov’t Code §551.103 requires a governmental body to produce a “certified agenda” or make a tape recording of every executive session, unless the closed session is being held under the exception for consultation with an attorney. A governmental body may turn off the tape or stop taking notes during the portion of a closed meeting that portion of a closed meeting that involves consultations with an attorney.
- Can a member of the governmental body or staff release a copy of a certified agenda to the public?
  - No. A certified agenda or tape kept during an executive session may only be disclosed to a member of the public under a court order. In fact, there are criminal penalties for releasing a copy of the certified agenda to the public without a court order
    - Texas Gov’t Code §551.146: makes the release of a certified agenda a class B misdemeanor
  - A City must maintain a certified agenda of an executive session for two (2) years after the date of the meeting
    - If an action involving the meeting is brought within that period, the city shall preserve the certified agenda while the action is pending.

## **SUPPORTING MATERIALS:**

[Open Government Training](#)