




**IMPROVING MORE THAN JUST ROADS**

POSTED TO WEB  
07/22/2024  
@ 9:40 A.M.

**AGENDA**  
**Workshop of the Board of Directors**  
**of the**  
**Cameron County Regional Mobility Authority**  
**3470 Carmen Avenue, Suite 5**  
**Rancho Viejo, Texas 78575**  
**July 25, 2024**  
**11:00 AM**

- 1. Public Comments.**
- 2. Ethics Training provided by Rentfro, Irwin & Irwin, P.L.L.C. for the Board of Directors.**
- 3. Adjournment.**

Signed this 22<sup>nd</sup> day of July 2024

  
Frank Parker, Jr.  
Chairman

**NOTE:**

**Participation by Telephone Conference Call** – One or more members of the CCRMA Board of Directors may participate in this meeting through a telephone conference call, as authorized by Sec. 370.262, Texas Transportation Code. Each part of the telephone conference call meeting that by law must be open to the public shall be audible to the public at the meeting location and will be recorded. On conclusion of the meeting, the recording will be made available to the public.

**2 ETHICS TRAINING PROVIDED BY RENTFRO, IRWIN & IRWIN,  
P.L.L.C. FOR THE BOARD OF DIRECTORS.**

# *BOARD TRAINING*

# CAMERON COUNTY REGIONAL MOBILITY AUTHORITY

- Arm of the State Government
- Purpose of the CCRMA
  - Serve the public interest through administering transportation projects for the benefit of both the people in Cameron County, Texas and the people in this State.
- Board of Directors
  - The Board of Directors carries out the purpose of the CCRMA, sets policies for day-to-day operations, and otherwise takes action to serve the public interest.
  - This happens through majority vote at Board meetings. No individual Director can act on his own.

# CAMERON COUNTY REGIONAL MOBILITY AUTHORITY

- Applicable Laws
  - Overarching principles are to ensure transparency and that each Director's judgment remains independent and focused exclusively on the public interest.
  - Public Information Act
  - Open Meetings Act
  - Ethics Laws
  - Conflict of Interest Laws
  - Anti-Nepotism Laws

# PUBLIC INFORMATION ACT

Information Subject to the Public Information Act:

All information held by the CCRMA, or for the CCRMA is presumed to be public information.

- Only required to provide non-exempt information in response to a public information request and not required to create information.
- Records that our firm keeps for you are subject to the Public Information Act but are generally protected by the Attorney Client Privilege.
- Information held by consultants is also subject to the Public Information Act and may or may not be protected from disclosure.

# PUBLIC INFORMATION ACT

- The Board members have a special right of access to the CCRMA's information. In other words, if you are using the information in your official capacity, then you obviously don't need to submit a public information request.
- Generally, you have 10 business days to respond.
- E-Mails to personal account or Text messages – typically considered transitory information and so disposal is not documented. However, it depends on the e-mail or the text-- might trigger retention schedule set by the Texas State Library. If in doubt, ask us.

# OPEN MEETINGS ACT

- The Open Meetings Act was adopted to make governmental decision-making open to the public. It generally requires that Board meetings be open to the public except for authorized Executive Sessions, and to be preceded by public notice of the time, place, and subject matter of the meeting.
- In order for the CCRMA to exercise its powers, the Board must hold a meeting.
- **General rule:** The Act applies to a gathering of a **quorum** of a governmental body's members if **public business** is **deliberated or discussed**.



# WHAT CONSTITUTES A MEETING?

A meeting occurs when:

1. A quorum of the Board gathers;
2. the public business that the Board has authority to supervise or oversee is discussed; and
3. either:
  - a. a Director participates in the discussion; or
  - b. the Board (a) called the meeting and (b) conducts or is responsible for the meeting.

\*A discussion by a quorum of the Board via E-Mail, Text, or on social media can be a “meeting”.

\*\*Develop a habit of asking yourself, “is this a meeting?”

# WHAT CONSTITUTES A MEETING?

- The Act does not generally apply to social functions or regional, state, or national workshops if the CCRMA's public business is not discussed.
- Some scenarios that could turn into a "meeting": social situations, "walking quorum", circulating a letter for signature outside of a meeting, e-mail, social media.

# PROCEDURES FOR OPEN MEETING

- The Act requires written notice of the date, hour, place, and subject of each meeting – both open meetings and executive sessions
- Specificity: Fair notice. The notice must be sufficient to apprise the general public of the subject matter to be discussed – legal sufficiency depends on and can vary based on the facts:
  - Listings like “personnel” or “new business/old business” generally insufficient
  - More important the issue is to the public, the more specific the notice should be
  - “Public forum” or “public comment” is sufficient to hear from residents
    - Public comments on social media

# PROCEDURES FOR OPEN MEETING

- A meeting may not be convened unless a quorum is present in the meeting room
- The Americans with Disabilities Act requires a meeting to be held in a room that is physically accessible to those with disabilities
- Members of the public (including the media) have a right to record the meeting by audio or video tape or other comparable means
- A governmental body may adopt reasonable rules to maintain order in a meeting, including those relating to the location of recording equipment

# PROCEDURES FOR OPEN MEETING

- The Open Meetings Act does not entitle members of the public to speak at open meetings unless the agenda has an item for public comment.
- If the Board allows public comment, it may set reasonable rules regarding the number, frequency, and length of presentations, but it should not discriminate against speakers.
- If a member of the public asks a question about an item that is not on the agenda, the Board may not deliberate the item, and are limited to:
  - A statement of fact regarding the issue
  - A statement of policy regarding the issue
  - A proposal to place the item on a future agenda for deliberation

# NOTICE REQUIREMENTS

- Individual notice is not required
- Accessibility: A governmental body must post its notice in a place that is “readily accessible to the general public for all times for at least 72 hours” before the meeting is scheduled to start (e.g., Bulletin Area at the Main Building, BND’s website)
- When you post notice on your website, the physical notice has to be readily accessible to general public only during normal business hours instead of at “all times.”

# NOTICE REQUIREMENTS

- Emergency meeting or supplemental posting: Where there is an imminent threat to public health and safety or a reasonably unforeseeable situation, a meeting on an emergency matter may be held after only two hours notice
  - The notice must describe the emergency
  - What if we “forgot to post” an item? Not an emergency
- Recess: May recess to following business day if the action is taken in good faith and not to circumvent the Act’s requirements

# RECORDKEEPING

- A governmental body must prepare and keep minutes of a meeting or a tape recording of each open meeting.
- The minutes must:
  - State the subject of each deliberation
  - Indicate each vote, order, decision, or other action taken
- A brief summary is all that is required - A verbatim transcript is not necessary
- The minutes or tape recording are public records.



# PROCEDURES AND REQUIREMENTS

## *EXECUTIVE SESSIONS*

- A governmental body may only hold a closed meeting when a statute expressly authorizes it to do so
- To conduct an executive session, a governmental body must:
  1. have a quorum;
  2. properly convene in an open meeting;
  3. announce that a closed meeting will be held;
  4. identify in the open meeting the section of the law that allows the closed meeting; and
  5. keep a certified agenda or a tape recording of the closed meeting:
    - a. the certified agenda must include a statement of the subject of each deliberation and a record of any further action taken
    - b. The certified agenda or tape recording is confidential and may not be released absent court action
    - c. A sitting member of the governmental body may review the certified agenda or tape recording.

# PROCEDURES AND REQUIREMENTS

## *EXECUTIVE SESSIONS*

- Who may attend an executive session?

Only the Directors have a right to attend a closed meeting. Although you may include others in a closed meeting if necessary to the matter under consideration, it may not admit a person whose presence is against the interests of the governmental body that the closed meeting is designed to protect.

# PROCEDURES AND REQUIREMENTS

## *COMMON EXECUTIVE SESSIONS*

- ***Real Property Deliberations***

- to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person

- ***Personnel Matters***

- to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee

- to hear a complaint or charge against an officer or employee

- Must be conducted in open session if the officer or employee requests a public hearing

# PROCEDURES AND REQUIREMENTS *COMMON EXECUTIVE SESSIONS*

- ***Economic Development***

- to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations
- to deliberate the offer of a financial or other incentive to a business prospect that meets the above requirements

- ***Consultation with Attorney***

- to seek advice about legal matters, pending or contemplated litigation, or settlement offers
- Governmental body's attorney must be present if employee (may be present by conference call, videoconference, or Internet communications if a contract attorney)
- General discussion of policy not permitted

# VIOLATIONS – CIVIL PENALTIES

- An action taken in violation of the Act is voidable
  - An voidable action may be redone at a later meeting, but that action will not be given retroactive effect
- Civil actions
  - Any interested person may bring a civil lawsuit to force officials to comply with the Act, to enjoin officials from acting, or to void actions taken in an illegal meeting
  - A person injured by the unlawful disclosure of a certified agenda or tape recording of a lawfully closed meeting may sue for damages, attorney fees, and exemplary damages

# VIOLATIONS – CRIMINAL PENALTIES

- The mindset of "Knowingly" (reasonably certain) constitutes a crime.
- Participating in a closed meeting "knowing that a certified agenda or a tape recording is not being made"
- Class C Misdemeanor.
- In general, knowingly disclosing a certified agenda or tape recording of a closed meeting to a member of the public
- Class B Misdemeanor
  - Defense to prosecution if had good reason to believe that the disclosure was lawful; or,
  - The disclosure was the result of a mistake of fact concerning the nature or content of the certified agenda or tape recording.

# VIOLATIONS – CRIMINAL PENALTIES

- Knowingly conspiring to circumvent the Act “by meeting in numbers less than a quorum for the purpose of secret deliberations”
  - Walking quorum/unlawful series of communications: where a quorum is not present in one place at the same time and secretly discusses public business with the goal of avoiding a public meeting – may subject members to criminal and civil liability
- Knowingly calling, aiding in calling, organizing, or participating in an unlawful closed meeting
  - Misdemeanor punishable by fine or by confinement in county jail for 1-6 months, or both.
  - Affirmative defense: member acted in reasonable reliance on a court order, attorney general opinion, or the written opinion of the governmental body's attorney

# ETHICS LAWS

- In general, I would recommend that you not accept anything without first consulting with us to make sure it is legally acceptable and then also consider the optics if you were to accept the benefit.
- If we are unable to determine if you can, then the conservative approach is to request an advisory opinion from the Ethics Commission.
  - If the advisory opinion authorizes you to receive the gift, then you can rely on this opinion to protect you from civil penalties or criminal prosecutions.
  - If you receive an unsolicited benefit that you are prohibited from accepting, then you may donate the benefit to a governmental entity with the authority to accept the gift, or to a charity.
  - Just because you can do something, doesn't always mean you should.



# CONFLICT OF INTEREST

- “Substantial Interest” = ownership of at least 10% in a business entity/funds received in previous year exceed 10% of gross income; or,
- Ownership interest in real property is \$2,500 or more.

If you have a Substantial Interest, then you must file, before a vote or decision on any matter involving that Substantial Interest, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

- (1) the action on the matter will have a special economic effect on the Substantial Interest that is distinguishable from the effect on the public.

\*The affidavit must be filed with the official record keeper of the CCRMA.

# CONFLICT OF INTEREST

A Director is considered to have a Substantial Interest if a person related to the Board member in the first degree of consanguinity (parent and child) or affinity (husband and wife) has a Substantial Interest.

# NEPOTISM

Nepotism is the hiring of family or relatives. Anti-nepotism laws prevent the hiring of a “close relative”, i.e.:

- (1) A relative who is within the third degree by consanguinity (by blood) or within the second degree by affinity (by marriage).
- (2) A relative who is related to another Director within the third degree by consanguinity or within the second degree by affinity.

Who is the hiring authority?

1. Safest course is to presume that both the Board of Directors and the Executive Director are the hiring authority. AG Opinion from 2004 that the hiring authority can be either the governing body or public employee if either can exercise control over a hiring decision—even if that authority was delegated to another individual or entity.
2. When the Board of Directors is the hiring authority, the anti-nepotism laws apply to close relatives of each Director.
3. If an employee such as the Executive Director, possesses the final hiring authority, then the anti-nepotism laws apply to the Executive Director’s close relatives.

# NEPOTISM

## Third Degree of Consanguinity:

- (1) Parent or child (relatives in the first degree);
- (2) Brother, sister, grandparent, or grandchild (relatives in the second degree); and,
- (3) Great-grandparent, great-grandchild, aunt, uncle, niece, nephew (relatives in the third degree).

## Second Degree of Affinity:

- (1) Spouses, Father in law, Mother in law, Son in law, Daughter in law (first degree);
- (2) Brother in law, Sister in law, Spouse's grandparent, Spouse's grandchild (second degree)

# NEPOTISM

Exception:

A nepotism prohibition does not apply to the employment of an individual to a position if:

1. The employee has been continuously employed for at least 30 days immediately prior to the appointment of the close relative.

So, if you had a close relative employed by the CCRMA for at least 30 days before you got appointed to the Board, then your close relative wouldn't lose their job.

# QUESTIONS

**Texas Department of Criminal Justice  
Nepotism Chart**

<b>Consanguinity Kinship Relationship by Blood</b>			<b>Affinity Kinship Relationship by Marriage</b>	
<b>First Degree</b>	<b>Second Degree</b>	<b>Third Degree</b>	<b>First Degree</b>	<b>Second Degree</b>
Father Mother Son Daughter	Grandfather Grandmother Grandson Granddaughter Brother Sister	Great-Grandfather Great-Grandmother Great-Grandson Great-Granddaughter Uncle Aunt Nephew Niece	Spouse Father-in-law Mother-in-law Son-in-law Daughter-in-law Stepfather Stepmother Stepson Stepdaughter	Stepbrother Stepbrother's Spouse Brother's Spouse Stepsister Stepsister's Spouse Sister's Spouse Step-Grandfather Step-Grandmother Step-Grandson Step-Granddaughter Spouse's Sister Spouse's Stepsister Spouse's Brother Spouse's Stepbrother Spouse's Grandfather Spouse's Step-Grandfather Spouse's Grandmother Spouse's Step-Grandmother Spouse's Grandson Spouse's Step-Grandson Spouse's Granddaughter Spouse's Step-Granddaughter

Half-blood relationships fall within the same degree as those of full blood.

Step relationships by affinity (marriage) fall within the same degree as those by consanguinity (blood). For example, a stepson would be considered the same as a son.

An adopted child is considered the child of the adoptive parents.

In cases where a marriage has ended by divorce, an employee continues to be related by affinity to the former spouse and the former spouse's relatives indicated on this chart as long as a natural or adopted child of the former marriage is living. In cases where a marriage has ended by death of a spouse, an employee continues to be related by affinity to the deceased spouse's relatives indicated on this chart as long as a natural or adopted child of the former marriage is living. If the employee remarries, these rules continue to apply for all former marriages.

An employee who claims to be married via an informal marriage for health insurance or any other benefit entitlement will be considered married via informal marriage for the purpose of a nepotism violation.