

County commissioners, judge should steer clear of pre-court agenda meetings

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For about a year now, the Montgomery County Judge's Office has been inviting all four elected commissioners to attend a meeting regarding the draft agenda for the upcoming Commissioners Court meeting. It is called the "Expanded Agenda Review Meeting," and email invites go out to all elected officials and department heads in county government, stating, "While attendance is not mandatory, you are strongly encouraged to attend or to send a representative to ensure your item is represented." The meetings are on Thursday afternoons prior to Tuesday court meetings and normally are run by the county judge or his chief of staff. The purpose is to review the agenda, ensure items are properly noticed and give departments a chance to answer questions about items.

While all elected members of the court are on the email invite from the judge's office, the meetings are not posted, the public, including the media, is not allowed to attend and no minutes are kept. Why? Because it does not constitute a public meeting.

The reason: While the commissioners are invited, a majority do not attend, therefore there is no quorum; and, according to the County Judge's Office, they are not deliberating on county business, only ensuring that agenda items are properly noticed. If at least three of the five court members show up, they would not be permitted to enter the meeting, according to the County Judge's and County Attorney's offices.

"The whole purpose of this meeting is to get clarification -- to get items (on the agenda) posted properly," County Judge Craig Doyal said. "I thought this was a great idea. We're trying every way we can to make government as efficient and transparent as possible."

These agenda briefings used to only involve the County Judge's Office, the County Attorney's Office, the Purchasing Department and auditor. But Chief of Staff Jim Fredricks got the idea from Fort Bend County, which holds agenda briefings, and said he modeled Montgomery County's pre-court meeting after Fort Bend County's.

However, there is a major difference. According to Fort Bend County Attorney Roy Cordes, county commissioners and the county judge are not invited or allowed to attend his county's agenda briefings; they are run by the agenda coordinator and attended by department heads and staff members, as well as a representative from the County Attorney's Office. "We make sure there are no discussions of the merits of agenda items," Cordes said.

And when Fredricks approached Montgomery County Attorney J D Lambright's office for clarification on the meetings in February 2016 to ensure the meetings would be in line with the Texas Open Meetings Act, Lambright's office responded with an email which recommended that "Commissioners should send a representative and that the 'purpose of the meeting should be to ensure that agenda items are properly noticed.'"

Call it "housekeeping" or "quality control," the meeting should not involve elected members of the court. While it may be legal under the definition of TOMA, there is a cloud over Montgomery County government for its lack of transparency and ethics as three members of the five-member court face a criminal charge for allegedly attempting to circumvent TOMA. Their trial is scheduled to start March 27. Considering that, we believe the court should steer as clear as possible away from any situations that have the appearance of doing county business outside the public's eye.

While the County Attorney's Office has an attorney at all draft agenda meetings, which are in the executive session meeting room, there has been at least one instance over the past year where two court members attended the meeting and the County Attorney's representative had to warn them about discussing county business and request that they move on. An employee of one county commissioner who attended the meeting told his boss he was so uncomfortable with the discussion that the employee refuses to attend any more of the meetings.

Commissioners walk a fine line when it comes to ethics and transparency, so why would they put themselves in a situation where they could inadvertently make a mistake? A representative from the Texas Attorney General's Office told The Courier that unless a quorum shows up and county business is discussed, it does not meet the definition of a public meeting and therefore they do not have to meet the requirements of an open meeting (posting agenda, keeping minutes, etc.). However, the AG's representative said the way the agenda meetings are being conducted is "strange and it's not the way I would do it."

We understand that ensuring every agenda item is properly noticed and written saves a lot of time during Commissioners Court meetings. However, in no way should the elected officials be involved in these agenda briefings. Montgomery County should fully follow the way Fort Bend County handles it, including a written policy in place that states Commissioners Court members cannot attend the meetings, but only send a representative, and have the chief of staff oversee the meetings with the department heads, other staff members and the County Attorney's Office in attendance.