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DISTRICT ATTORNEY

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October 16, 2024

City of Tyler Mayor and City Council
P.O. Box 2039
Tyler, TX 75710

Re: August 23, 2023 "Emergency" City Council Meeting

Dear Mayor Warren and Tyler City Council:

The political action committee Grassroots America We the People requested my office look into alleged violations of the Texas Open Meetings Act concerning a Tyler City Council meeting that occurred on August 23, 2023, and a subsequent meeting September 13, 2023. One of the subject matters discussed at these meetings was appointments to the Library Board for the City of Tyler. After reviewing the materials provided, I identified several areas of concern.

First, it appears that an "emergency notice" was given for a "training session" scheduled on August 23, 2023, concerning board appoints. On its face, the "emergency notice" does not appear to comply with Section 551.045 of the Texas Government Code (*Exception to General Rule: Notice of Emergency Meeting or Emergency Addition to Agenda*). Namely, the "emergency notice" does not identify an emergency as required by §551.045 such as a fire, flood, earthquake, hurricane, etc.

Second, the "emergency notice" gives notice that the City Council Boards and Commission Training is "For Invited Guests." The language "For Invited Guests" could lead a member of the public to believe that the August 23rd training was not open to the public. As you should be aware, Section 551.144 of the Texas Government Code provides that a member of a governmental body commits an offense if the member knowingly participates in a closed meeting when the closed meeting is not permitted by law.

It does not appear from the materials provided that the August 23rd training session was a meeting the law would allow to be closed to the public. If the meeting was closed to the public, Tyler City Council members who knowingly participated could have violated §551.144 (*Closed Meeting; Offense; Penalty*). Violation of §551.144 carries a potential punishment of confinement in the county jail for not less than one month or more than six months, a fine of not less than \$100 or more than \$500, or both the fine and confinement. Additionally, conviction of a violation of §551.144 could result in a member being removed from office.



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Third, the improperly noticed “emergency meeting” that occurred on August 23, 2023, purportedly related to training for City Council members regarding appointments to various boards and commissions. At the following open meeting on September 13, 2023, the City Council voted to approve a slate of numerous board and commission positions. At that meeting, the slate was approved unanimously without discussion regarding the particular appointments. This raises concerns as to when the slate was prepared and by whom.

As you are aware, the Texas Open Meetings act exists to ensure transparency in government. It is vital that we all strive for constant vigilance when conducting public business. Therefore, it is my recommendation to you that you revisit the open meetings training mandated by Texas Government Code §551.005. Additionally, I would refrain from using the phrase “for invited guests” when posting meeting agendas. Finally, “emergency notices” should only be used in the very limited circumstances outlined by Texas Government Code §551.044.

Thank you for your attention to this matter. In the event you should have any questions, please do not hesitate to contact my office.

Thank you,

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