

MEMORANDUM FOR RECORD  
RS-17-050, 05-16-17

My vote is no for any member of this body contending to be Mayor Pro Tempore, who may be implicated with violating the spirit or proscribed statutes of The Texas Open Meetings Act. This memorandum, to be submitted to the City Secretary, will fully elucidate the reasoning of my vote action. In accordance with a memorandum for record, submitted September 7, 2016 relating to DS-16-142, employment evaluation of the Interim City Manager, I asserted evidence regarding questionable ethical conduct of various members of this body, possibly enjoined in a walking quorum, in violation of the Texas Open Meetings Act.

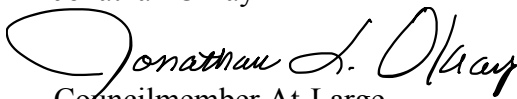
Public knowledge of possible violation of The Act is relevant and appropriate to this discussion and consideration. Two hundred thirty-five days of email correspondence to the Killeen Daily Herald, its chronic apathy to shed rays of sunlight to provide windows for the public to view its government- derelict in its fiduciary obligation to fully inform the public- is also relevant and appropriate to this discussion and consideration.

March 24, 2017, I received an update from Chief Young regarding the status of two voluntary statements I have made to the Killeen Police Department. One of the statements is relevant to the September 7, 2016 Memorandum for Record and is relevant and appropriate to this discussion and consideration. According to the update provided by Chief Young, the Bell County Attorney's Office reviewed the complaint and advised that the element of offense was not present so the case is suspended.

According to the Texas Open Meetings Act<sup>1</sup>, Section VI, F. New Technologies and Social Media, neither the courts nor the Attorney General have determined the applicability of the [Act] to these new technologies, however, under the current interpretations of the Act, a quorum would exist if a majority of the governmental body discussed public business on a Facebook wall. The Facebook wall could be closed to the public, or open; however, absent prior notice of the "meeting" the [members of the governmental body] could be in violation of the [Act]. A similar situation could arise with Twitter where members can have public or private accounts. The Eighty-second Legislature considered various bills that would amend chapter 551 regarding such new technologies and social media, but enacted none. The Eighty-third Legislature did not enact any new provision expressly related to social media, although it authorized governmental bodies to communicate through an online message board under section 551.006.

In the context to The Act, I believe valid contrast exist and that there is a world of difference between suspension and dismissal as it regards this consideration.

Jonathan Okray



Councilmember At-Large

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<sup>1</sup> "Microsoft Word - Newly Typed version\_Post Agency Review\_092215 - OMA\_handbook\_2016.pdf," n.d., accessed May 17, 2017, [https://www.texasattorneygeneral.gov/files/og/OMA\\_handbook\\_2016.pdf](https://www.texasattorneygeneral.gov/files/og/OMA_handbook_2016.pdf).