

Office of the Attorney General
State of LOUISIANA

Opinion No. 82-347
April 26, 1982

Mr. Kenneth Simmons
Town Attorney
Town of Many

The undersigned is in receipt of your recent opinion request concerning the Open Meetings Law. You state that a public body properly notices a special meeting with one item listed on the agenda. At the meeting a member of the public body makes a general motion to "take-up items not on the agenda." You inquire whether this type of general motion is in accordance with the Open Meetings Law or must the motion specifically state, i.e., identify what the items are to be discussed.

R.S. 42:7(A)(1) requires that a public body give notice of its meetings, both regular and special, and further that such notice shall include inter alia an agenda. Further R.S. 42:7(A)(1) states that

[u]pon approval of two-thirds of the members present at a meeting of a public body, the public body may take up a matter not on the agenda.
(emphasis added).

Black's Law Dictionary (West, 1968) states an agenda is a "memoranda of the things to be done, items of businesses or discussions to be brought up at a meeting." "[An] agenda must be reasonably clear so as to advise the public in general terms each subject to be discussed." (A.G.Op. No. 80-128). We are of the opinion that since an agenda itself "must be reasonably clear so as to advise the public in general terms each subject to be discussed," a motion to take up a matter not on the agenda, should at the least identify the matters to be discussed. Also the language of R.S. 42:7(A)(1) itself supports this reasoning. The statute allows the public body to "take up a matter (i.e., a subject of discussion), not on the agenda." The statute does not contemplate a general, capricious exercise of this authority; rather the authority to take up a matter not on the agenda "was designed to be an effective means to be used (by the public body) in the policymaking process in good faith." (A.G.Op. No. 79-1492). This simply means that since meetings of a public body are open, and meaningful citizen participation is effected by posting an agenda so that citizens can be sure of what will be discussed, the two-thirds vote requirement to discuss an item not on the agenda, is an exception to be used with discretion in assisting the public body to manage public affairs. It cannot be used as a subterfuge to deny indirectly the right of citizens' direct participation.

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1982 WL 183067 (La.A.G.), 1982-83 La. Op. Atty. Gen. 15,
La. Atty. Gen. Op. No. 82-347, 1982 WL 183067 (La.A.G.)
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