

**MINUTES OF A REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES
4111 COTTONWOOD DRIVE- CIVIC CENTER
THURSDAY, JANUARY 20, 2000 AT 7:00 P.M.**

1. **CALL TO ORDER AND ROLL CALL:** Mayor Pickens called this Regular Meeting to Order at 7:03 p.m. with both Commissioner Pfeifer and Commission Phipps in attendance, a Quorum was present.
2. **CONSENT AGENDA:**
 - A. **MINUTES OF A REGULAR CITY MEETING ON DECEMBER 16, 1999:** Commissioner Phipps made a motion to approve the minutes of the Regular Meeting held on December 16, 1999 as recorded. Commissioner Pfeifer seconded the motion, which carried.
 - B. **FINANCIAL STATEMENTS FOR THE MONTHS OF SEPTEMBER, OCTOBER, NOVEMBER AND DECEMBER OF 1999:** Commissioner Pfeifer made a motion to approve the Financial Statements for September and October of 1999 with the noted minor corrections. Commissioner Phipps seconded the motion, which carried. The Financial Statements for November and December of 1999 were tabled, as they are not back from the auditors.
3. **CONSIDER AND POSSIBLY TAKE ACTION ON A RESOLUTION ACCEPTING THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS C.D.B.G. GRANT NO. 719201 IN THE AMOUNT OF \$250,000 AWARDED FOR THE PURPOSE OF IMPROVEMENTS TO THE WATER SYSTEM INCLUDING CONSTRUCTION OF A WATER STORAGE FACILITY:** Mr. Gandolf Burrus, with Grant Development Services, addressed those in attendance. After reading Resolution No. 012000 he explained the City had been awarded a grant in the amount of \$250,000 for water system improvements. This resolution was for the City Council to officially accept the grant and the stipulations thereof. Commissioner Pfeifer made a motion to approve Resolution No. 012000 as recorded. Commissioner Phipps seconded the motion, which carried.
4. **CONSIDER AND POSSIBLY TAKE ACTION ON A RESOLUTION AUTHORIZING SIGNATORIES IN CONNECTION WITH THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS 1999 C.D.B.G. NO. 719201 AWARDED FOR THE PURPOSE OF IMPROVEMENTS TO THE WATER SYSTEM INCLUDING CONSTRUCTION OD A WATER STORAGE FACILITY:** Mayor Pickens read Resolution No. 012000-A and explained this authorized signers on the account used for the grant monies received. Commissioner Phipps made a motion to approve Resolution No. 012000-A as recorded. Commissioner Pfeifer seconded the motion, which carried. Mr. Burrus stated this would activate the grant. He then thanked the Council for letting him manage the grant and be part of the team.
5. **CONSIDER AND POSSIBLY TAKE ACTION ON A RESOLUTION ACCEPTING A PETITION FOR ANNEXATION OF THE CASTLE TERRACE SUBDIVISION AND SETTING THE DATES FOR PUBLIC HEARINGS:** Mayor Pickens read the proposed resolution and stated the dates set for the Public Hearings would be February 8, 2000 and February 17, 2000. Commissioner Pfeifer made a motion to approve Resolution No. 012000-B as recorded. Commissioner Phipps seconded the motion, which carried.
6. **MONTHLY ACTIVITY REPORTS:**
 - A. **POLICE DEPARTMENT:** Chief Ellis reported the New Year went off without any real problems. They had one narcotics bust; one suspect ran and was still at large. Basically it had been a quite month. He noted even though there was one patrol car down, they still had two so they could both respond if necessary. He added if anyone knew where he could get a 318-engine for the patrol car to let him know.

B. PUBLIC WORKS - WATER & SEWER DEPARTMENTS: Robert read the Water Usage Report. He stated water loss was up due to leaks, however, he still had 75,4000 gals. Unaccounted for even with allowing for loss during leaks. He asked Mr. Mike Butler with the V.F.D. to let him know on the 1st of each month what they used for fires and training so he could account for some of this loss. He then reported the Street Department had been working on Fir Lane. He added we were waiting on someone to texture the walls at the new City Hall Building before we could paint and move. Connie then read the Animal Control Report. Mayor Pickens asked Mike Butler with the V.F.D. to relay the message about getting a form showing the water usage for each month.

C. CIVIC PRIDE: Mayor Pickens stated the group was inactive at this time. They had donated funds for paint and materials to build a counter for the new City Hall.

D. CHRONICLE AND COMMUNITY CHURCH: No one present to give a report.

E. V.F.D.: Mike Butler reported the V.F.D. had responded to seven calls; six EMS assists and one structure fire. He added after the structure fire that he realized they needed more training with air packs. He stated Hoover Valley had donated a new grass truck. He noted it was not in service, there were some modifications to be done to the tank. He asked if he could schedule a meeting with the Council to look up water use agreement with the City. Mayor Pickens asked Mike if he could explain why the firetruck was going up and down the streets on New Year's Eve with the sirens blowing. There were children riding on the firetruck unrestrained. What steps was he going to take to ensure this would not happen again? Mike stated the V.F.D. was not affiliated with the City. Mayor Pickens stated they had violated City Ordinances, as well as endangered lives, by doing so...Mike stated that maybe you should do something about it. Mayor Pickens stated he had received several phone calls about the V.F.D.'s behavior that night. Mrs. Linda Smith asked Mike what all the fuss was about. Mike stated the V.F.D. had organized a peaceful demonstration...Linda said no, not that; why were people riding up and down the streets disturbing others at that hour? Mike stated it would only happen ever 1000 years. Linda stated never mind, if she wasn't going to get a descent answer. Mike stated the V.F.D. had twelve people who volunteered to provide fire protection, and it is dangerous... Mrs. Joann Austin stated what was dangerous was having the fire truck speeding up and down the unlit streets at 1:00 a.m. with children hanging off. She asked Mike where was the disaster. Mike stated the night had been a disaster. Joann stated not being able to light fireworks was not a disaster. Linda asked why they had to take it out on the citizens. She explained she had elderly parents who were scared that there really was a disaster with all the Y2K hype and then to hear the sirens at that hour. Mike stated anyone who wants to attend a fire meeting certainly could on Tuesdays. He added the V.F.D. had a save display on July 4th...Mr. Frank Smith stated that the fireworks display was not the real issue. The real issue was the firetruck going through the community at 1:00 a.m. with sirens blowing and no emergency call.

7. **MAYOR'S REPORT:** Mayor Pickens stated the City had some good employees who manage to keep the old equipment running. He stated it was taking longer than anticipated to move into the new building, however, we are already using the shop area. The water tower project is going along well. Public Hearings scheduled in regards to annexing Castle Terrace. This will be a plus for the City. He added there had been no discussion about a fireworks display. No one brought it before the Council to get approval.
8. **OPEN DISCUSSION:** Frank Smith stated that he knew as citizens we were blessed to have the E.M.S. and V.F.D. He noted lots of times the V.F.D. is first on the scene. Mr. Don Roberts asked about a salary for Mayor Pickens. He noted he sees the Mayor there six to seven days a week. He added Mayor Pickens had done more for the City than anyone else had. Mike Butler asked if the V.F.D. could set up a meeting to go over funding from the City. Mayor Pickens stated that if the V.F.D. would provide the two things requested, an audit and to get legal with the I.R.S., then the City could provide funding. Ms. Dottie Stueckroth asked what items were needed for the new building. Mayor Pickens said we need paint, floor tile, desks, and phones. He added pictures would also be nice. He apologized for not having a list...Joann added flags for the courtroom. Linda Smith asked if we had scheduled a time for a Grand Opening. Mayor Pickens stated he would let everyone know as soon as possible. Commissioner Pfeifer asked if anyone had noticed the orange stakes out on RR

2147 for the City Limit signs. He added the City had sent in an application for funding to purchase new street signs. He said he would keep us informed as to the status.

9. **ADJOURNMENT:** Mayor Pickens adjourned this Regular Meeting at 8:07 p.m.



DALE PICKENS, MAYOR

ATTEST:



TENA COLLIER, CITY SECRETARY



agenda info


**Barney L. Knight
& Associates
Attorneys at Law**

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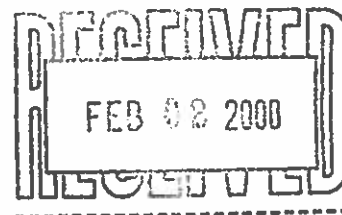
Sheila I. Jalufka
Attorney At Law

MEMORANDUM

TO: All Cities
FROM: Sheila I. Jalufka, Attorney at Law 
DATE: February 2, 2000
RE: Open Meetings Opinion

Please find attached a memorandum released January 28, 2000 from the General Counsel's Office of TML to all Texas City Attorneys. The memorandum focuses specifically on the recent Attorney General Opinion JC-169 concerning open meetings. We have previously sent information concerning public comments at open meetings. Our office will make a copy of the opinion available upon request. The memorandum does not summarize the entire opinion but provides discussion of several important points made therein.

If you have any questions or need any clarification, please feel free to contact our office.



January 28, 2000

MEMORANDUM

TO: Texas City Attorneys
FROM: TML Legal Department
SUBJECT: Attorney General Opinion JC-169

The Texas Attorney General has released Opinion No. JC-169 which addressed this request:

“Whether a governmental body may permit members of the public to comment at public meetings on matters not specified in the posted meeting notice.”

In his opinion, the Attorney General concludes “that while such sessions constitute meetings for which notice must be given, the terms ‘public comment,’ ‘public forum,’ ‘open mike,’ or some other generic term, provide sufficient notice for the kind of sessions” described in this request.

The purpose of this memorandum is to alert you to other statements in the opinion. The opinion also states:

“We caution that the use of public comment or similar term will not provide adequate notice if the governmental body is, prior to the meeting, aware, or reasonably should have been aware, of specific topics to be raised. If, for example, a governmental body is apprised in advance that members of a particular neighborhood association will be present to comment on drainage problems, it must insure that its notice is tailored to its prior knowledge.”
(Emphasis Added)

1821 Rutherford Lane
Suite 400
Austin, Texas
78754-5128
512/719-6300
Fax 512/719-6390
www.tml.org

Although the Attorney General's opinion reached the conclusion that the practice of many cities to allow public comment at meetings was legal, the note of "caution" contained in the opinion should not be underestimated. The term "public comment" will not be sufficient notice if the governmental body reasonably should have been aware of specific topics to be raised. As you know, the consequences of failing to provide sufficient notice are significant. Complying with the standard of "reasonably should have been aware" may force you to consider alternatives that may not be politically popular but that are prudent. The problem is that the opinion could trigger a notice requirement under a number of scenarios: a neighbor telling a councilmember that he will "see him Thursday at the meeting to complain about the change in the garbage collection schedule", or a neighborhood association newsletter encouraging its members to "go to the city council meeting to voice your objection to a change in zoning." Realistically, any subject that is controversial or which there is a great deal of interest could be a subject that a citizen might want to address and may easily fall within the category that would require more specific notice.

If the city council decides to have a "public comment" period during its meeting, it may be prudent to have a policy of ensuring that the posted notice is in compliance with the Act.

To avoid these situations, you may want to consider a policy that would require persons who want to comment at a meeting to register and provide the subject that will be discussed. This registration should take place prior to the meeting and with enough time to meet the time requirements in the Open Meetings Act for posting notice. This will enable the city to post a notice that will comply with the statute as interpreted by the Attorney General. Compliance with the Open Meetings Act is crucial, and a procedure such as this may be the only way to avoid unintentional violations of the statute.

⊕ The text of the opinion is on the Attorney General's website at www.oag.state.tx.us, or you can get a copy by calling the TML Legal Department at 512-231-7400.


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& Associates
Attorneys at Law**

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Sheila I. Jalufka
Attorney At Law

MEMORANDUM

TO: Dale Pickens, Mayor
FROM: Barney Knight, City Attorney 
DATE: January 27, 2000
RE: Tex. Atty. Gen. Op. No. JC-0169; Open Meeting & Agenda Requirements

The Attorney General issued the above referenced opinion, dated January 24, 2000. The opinion addresses legislative changes to the Open Meetings Act, Chapt. 551, Tex. Gov't. Code, (the "Act") and the Attorney General's interpretation of those changes and certain related matters. The following is a summary overview of that opinion.

(1) Citizen Communications. General citizen communications are permitted under the general heading of "Citizen Communications", or similarly worded agenda items. However, unless the specific subject matter of the communication is listed on the agenda, the responses that can be made to the citizen are limited.¹ Only (1) a specific fact statement, or (2) a statement of existing policy may be made in response to the citizen communication. All discussion is limited to placing the matter on a future agenda.

Exception. If the subject matter of the communication is known, or could reasonably be known, prior to posting the agenda, the subject matter must be listed on the agenda.

¹ The permissible responses to a general member communication at the meeting are limited by § 551.042, as follows: "Sec. 551.042. Inquiry Made at Meeting. (a) If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to: (1) a statement of specific factual information given in response to the inquiry; or (2) a recitation of existing policy in response to the inquiry. (b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

It is advisable that the Council adopt at least some reasonable rules applicable to Citizen Communications, to formalize the availability of this vehicle. These can be very limited, i.e. "The agenda for each regular meeting of the City Council shall include an agenda item entitled: Citizen Communications. The first ten (10) citizens to sign up to speak under this agenda item shall be heard at the meeting. Each such speaker shall have three (3) minutes. If a citizen files a request to be heard, prior to the posting of the agenda, the speaker's name and the subject matter to be addressed will be included on the agenda." If the Council decides to do this, it should be done by ordinance.

(2) Councilmember Communications. The statute appears to specifically permit a councilmember to enquire about a subject that is not on the agenda, subject to the same limitations and conditions as for a citizen communication. However, the Opinion taken as a whole makes it clear that the Attorney General construes § 551.042 (in the context of the statute as a whole) to be limited to "members of the public", i.e. a councilmember is no longer permitted to enquire about a subject that is not listed on the agenda. I believe the courts may well interpret this differently. However, until this portion of the opinion is withdrawn or the courts decide otherwise, the Council should comply. *The Attorney General is at least consistent with the above citizen communication Exception.*

(3) Staff Reports. Agenda items such as "City Manager Report", "City Engineer Report" are not sufficient. Such items must now include a listing of the individual subject matters that will be discussed or reported.

Discussion and Examples

The Act requires only that the subject matter be posted for an agenda item. It does not require a proposed action to be taken on the item to be included. Taken as a whole, the 1999 Legislative changes to the Act and the Opinion simply require more public notice, more advance thought by councilmembers and more attention to detail in preparing the Agenda.

The following examples are provided to assist in addressing these matters in future agendas.

Citizen Communications.

- "3. Citizen Communications.
 - A. John Smith - Potholes in X Street
 - B. Jane Smith - Improvement of Animal Shelter
 - C. Citizens Signing Up At the Meeting."

Mayor and Councilmember Comments.

- "4. Items from Mayor and Councilmembers [Discussion Only].

A. Items from the Mayor.

- (1) Proclamation-Old Leander Days
- (2) Schedule a Council Workshop on Economic Development
- (3) Recognize Troop 427 Girl Scouts

B. Items from Councilmembers. [as requested and approved]

- (1) Schedule and progress on XYZ Road Project - Councilmember Smith
- (2) Request a Economic Development Workshop be scheduled - Councilmember Jones.
- (3) Advise the public regarding grant, and construction of ABC Park - Councilmember Hill."

City Engineer Report.

- "5. City Engineer Report.
- A. XYZ Road Project.
 - B. ABC Park Improvements.
 - C. Jones Street Wastewater Transmission Main."

City Manager Report.

- "6. City Manager Report.
- A. Staff promotions and awards.
 - B. Grant award ABC Park.
 - C. Council Workshop-Economic Development.
 - D. Water System performance."

Keith Patschke
4108 Lakeview
Marble Falls, TX 78654

January 21, 2000

City of Cottonwood Shores

Dear Mayor and Commissioners of Cottonwood Shores:

I am requesting that the zoning for a lot known as lot 103 of the Bluff View Subdivision by the City of Cottonwood Shores be changed to commercial zoning. This is a unrecorded lot. It is not subject to the deed restrictions of Bluff View Subdivision and makes it suitable for commercial use. The adjacent properties are outside the city limits of Cottonwood Shores.

Applicant name:

Keith Patschke
4108 Lakeview
Marble Falls, TX 78654

The location of the property falls within the incorporated city limits of Cottonwood Shores.

A survey is attached "schedule A" showing lot location in relation to other properties and roadway.

Sincerely,



**COUNCIL MEETING
WATER TREATMENT
PLANT MONTHLY
REPORT**

**FOR THE MONTH OF
JANUARY 2000**

RAW WATER USAGE

3,079,000 GALLONS TOTAL

99,000 GALLONS AVG.

140,000 GALLONS MAX.

86,000 GALLONS MIN.

TREATED WATER USAGE

2,812,000 GALLONS TOTAL

91,000 GALLONS AVG.

127,000 GALLONS MAX.

78,000 GALLONS MIN.

**7,000 GALLONS OF UNACCOUNTED
WATER LOSS**

**180,000 GALLONS OF WASTEWATER
PUMPED TO L B J FOR TREATMENT**

City of Cottonwood Shores Animal Control Report

Mid-Dec, 1999, to Mid-Jan, 2000

Dogs

Returned to Owner	2
Destroyed	1
Found home <i>for</i>	0
Dead	1
Citations Issued	3

Cats

Returned to Owner	0
Destroyed	0
Released	17
Dead	1
Citations Issued	1

Other

Destroyed	0
Released	0
Dead	0

3 Cage Traps in Service
Caught 17 Animals

Animal control truck in service
thanks to Glenn Henderson

Attending ACO School on
Feb.15th & 16th



City of Cottonwood Shores

Chartered 1987

3915 Cottonwood Drive
Marble Falls, Texas 78654

830/ 693-3830

Fax 830/ 693-6436

Dale Pickens - Mayor

Tena Collier - City Secretary

ATTENDANCE RECORD CITY COMMISSIONERS MEETING CITY OF COTTONWOOD SHORES, TEXAS

DATE: JANUARY 20, 2000

Please sign in:

Jeff Beuss

[Signature]

Walter Eli

Dotu Streckroth

Brenda Slaton

Becky Evans

Keith Patschke

Ed. Pepper

Dave Austin

Op Austin

Frank Smith

Linda Smith

Mike Butler

[Signature]

Robert Kay

[Blank]

[Blank]

Series of horizontal lines for recording attendance.

**REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES
4111 COTTONWOOD DRIVE- CIVIC CENTER
THURSDAY, JANUARY 20, 2000 AT 7:00 P.M.**

A G E N D A

1. CALL TO ORDER AND ROLL CALL.
2. CONSENT AGENDA:
 - A. MINUTES OF A REGULAR CITY MEETING ON DECEMBER 16, 1999.
 - B. FINANCIAL STATEMENTS FOR THE MONTHS OF SEPTEMBER, OCTOBER, NOVEMBER AND DECEMBER OF 1999:
3. CONSIDER AND POSSIBLY TAKE ACTION ON A RESOLUTION ACCEPTING THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS C.D.B.G. GRANT NO. 719201 IN THE AMOUNT OF \$250,000 AWARDED FOR THE PURPOSE OF IMPROVEMENTS TO THE WATER SYSTEM INCLUDING CONSTRUCTION OF A WATER STORAGE FACILITY.
4. CONSIDER AND POSSIBLY TAKE ACTION ON A RESOLUTION AUTHORIZING SIGNATORIES IN CONNECTION WITH THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS 1999 C.D.B.G. NO. 719201 AWARDED FOR THE PURPOSE OF IMPROVEMENTS TO THE WATER SYSTEM INCLUDING CONSTRUCTION OF A WATER STORAGE FACILITY.
5. CONSIDER AND POSSIBLY TAKE ACTION ON A RESOLUTION ACCEPTING A PETITION FOR ANNEXATION OF THE CASTLE TERRACE SUBDIVISION AND SETTING THE DATES FOR PUBLIC HEARINGS.
6. MONTHLY ACTIVITY REPORTS:
 - A. POLICE DEPARTMENT.
 - B. PUBLIC WORKS - WATER & SEWER DEPARTMENTS.
 - C. CIVIC PRIDE.
 - D. CHRONICLE AND COMMUNITY CHURCH.
 - E. V.F.D.
7. MAYOR'S REPORT.
8. OPEN DISCUSSION.
9. ADJOURNMENT.

I CERTIFY THAT THE ABOVE NOTICE WAS POSTED AT CITY HALL, 3915 COTTONWOOD DRIVE, COTTONWOOD SHORES, TEXAS ON THIS 17TH DAY OF JANUARY 2000 AT 5:00 P.M.



DALE PICKENS, MAYOR

ATTEST:



TENA COLLIER, CITY SECRETARY

