



Memo

To: Mayor Praino and Council
From: Jessica Garza
CC:
Date: Nov. 14, 2006
Re: Office Procedure

As per ordinance 88-113 and 88-114 and as a result of our discussion with the Sheriff's Department, I am requesting your approval for the following:

- 1) The door to the Office of the Clerk is to remain closed and locked at all times. Authorized personnel are myself and the Deputy Clerk(s).
- 2) All file cabinets are to be secured with a key at all times when not in use.
- 3) The main copier will be coded and users will be required to utilize an access code and password.
- 4) Entry to Clerk's Office is permitted for the purpose of meeting with the clerks or to conduct immediate business such as check signing.
- 5) All requests for information are to be made in writing by everyone and must contain date, name, address, phone number, specific document(s) requested and method.
- 6) If the request is made to view and the documents are extensive then a time and place will be set up for the requestor and staff to view the documents. If the request is not extensive, then the requestor will be permitted to enter the office and view the documents in an area designated for working purposes.
- 7) All requests made for copies or other form of media will follow the Open Records Act.

I feel that this procedure is necessary:

- 1) To avoid the disruption of daily work duties in the office; and
- 2) To preserve the validity of municipal documents; and
- 3) To secure municipal documentation within the office given past incidents; and
- 4) To avoid documents being misplaced in the future.

ORDINANCE NO. 088-113

AN ORDINANCE DESIGNATING THE VILLAGE
CLERK AS THE RECORDS MANAGEMENT
OFFICER FOR THE VILLAGE OF VINTON, TEXAS

WHEREAS, Section 203.021 of the Texas Local Government Code requires governing bodies of all local governments to:

(1) establish, promote, and support an active and continuing program for the efficient and economical management of all local government records;

(2) cause policies and procedures to be developed for the administration of the program under the direction of the records management officer;

(3) facilitate the creation and maintenance of local government records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the local government and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and persons affected by the activities of the local government;

(4) facilitate the identification and preservation of local government records that are of permanent value;

(5) facilitate the identification and protection of essential local government records; and

(6) cooperate with the commission in its statewide records management surveys, and

WHEREAS, Section 203.025 of the Texas Local Government Code requires governing bodies to designate a records management officer by

(1) designating an individual; or

(2) designating an office or position, the holder of which shall be the records management officer; now, therefore:

BE IT ORDAINED BY THE VILLAGE COUNCIL FOR THE VILLAGE OF VINTON, TEXAS, THAT:

SECTION I.

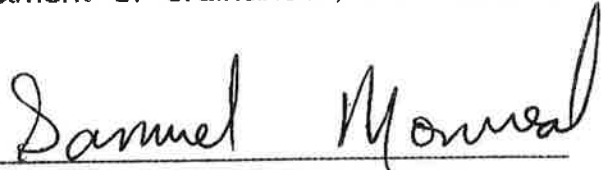
The Village Clerk for the Village of Vinton, Texas, is hereby designated as the Records Management Officer for the Village.

SECTION II.

The duties of the Records Management Officer shall consist of those duties set forth in Section 203.023 of the Texas Local Government Code and shall be expanded or reduced as provided under Texas Law at present and into the future.

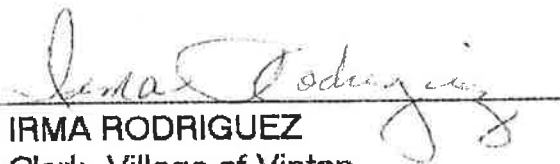
SECTION III.

That this Ordinance was duly enacted with all requisites and formalities incident thereto the enactment of ordinances, and such is evidenced by the below signatures.



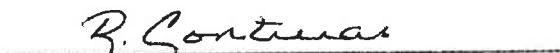
SAMUEL MONRREAL
Mayor, Village of Vinton

Attest:



IRMA RODRIGUEZ
Clerk, Village of Vinton

Approved:



RICHARD CONTRERAS
Attorney, Village of Vinton

First Reading: 4/23/91
Second Reading: 6/11/91

ORDINANCE NO. 088-114

**AN ORDINANCE ESTABLISHING A RECORDS
MANAGEMENT PROGRAM TO BE ADMINISTERED
BY THE RECORDS MANAGEMENT OFFICER**

WHEREAS, Section 203.021 of the Texas Local Government Code V.T.C.A., requires governing bodies of all local governments to:

(1) establish, promote, and support an active and continuing program for the efficient and economical management of all local government records;

(2) cause policies and procedures to be developed for the administration of the program under the direction of the records management officer;

(3) facilitate the creation and maintenance of local government records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the local government and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and persons affected by the activities of the local government;

(4) facilitate the identification and preservation of local government records that are of permanent value;

(5) facilitate the identification and protection of essential local government records; and

(6) cooperate with the commission in its conduct of statewide records management surveys; and

WHEREAS, Section 203.026 of the Texas Local Government Code, V.T.C.A., requires governing bodies of all local governments to:

(1) establish by ordinance or order, as appropriate, a records management program to be administered by the records management officer;

(2) the ordinance or order must provide methods and procedures to enable the governing body, custodians, and the records management officer to fulfill the duties and responsibilities set out in Sections 203.021, 203.022, and 203.023, Texas Local Government Code, V.T.C.A., concerning the management and preservation of records; and

WHEREAS, the Records Management Program shall be applicable to:

(1) all records created or received by the local government that is still in its possession and to be retained pursuant to the requirements of the Texas Local Government Code; now therefore;

BE IT ORDAINED BY THE VILLAGE COUNCIL FOR THE VILLAGE OF VINTON, TEXAS, THAT:

SECTION I

The Records Management Officer shall efficiently and economically manage the records of the Village of Vinton, Texas, and shall further be directed hereby to create and preserve adequate documentation of the transaction of government business and services.

SECTION II

All records shall be maintained in the care of the Records Management Officer and shall be located at the offices of the Village Hall and said records shall be preserved, microfilmed, destroyed or otherwise disposed of only in accordance with the policies and procedures of this program.

SECTION III

The following records shall be preserved:

(1) all records created or received by the Village of Vinton, Texas;

(2) any record no longer created or received by the Village of Vinton, Texas, that is still in its possession or for which the retention period on a records retention schedule has not expired; and

(3) any record no longer created or received by the Village of Vinton, Texas, that is still in its possession and for which the retention period on a records retention schedule has expired but which will not be destroyed.

SECTION IV

All records shall be retained for a period prescribed by current state or federal law, regulation, or rule of court or as set forth on a records retention schedule which shall be prepared and filed by the Records Management Officer on or before January 2, 1995.

SECTION V

The Records Management Officer is hereby authorized to microfilm in addition to or instead of paper or other media, subject to the requirements of Chapter 204 of the Texas Local Government Code, V.T.C.A., and rules adopted under it.

SECTION VI

The Records Management Officer is hereby authorized to store data electronically in addition to or instead of source documents in paper or other media, subject to the requirements of Chapter 205 of the Texas Local Government Code, V.T.C.A., and rules adopted under it.

SECTION VII

All records which are obsolete or unscheduled and which are sought to be destroyed shall first be reviewed by the Records Management Officer and if destruction is recommended, and said destruction is not prohibited by the schedules or rules of the Texas State Library and Archives Commission, then the records may be destroyed.

SECTION VIII

The Records Management Officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities.

SECTION IX

This Ordinance is subject to any and all rules established by the Texas State Library and Archives Commission and, if a conflict arises

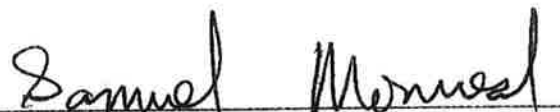
between this Ordinance and the rules established by the Commission then, in that event, the rules of the Commission shall prevail.

SECTION X

The Records Management Officer may offer to transfer the records of permanent value not needed in the day-to-day business of the local government to the Texas State Library and Archives Commission or another local government that operates an archives, library, or museum that meets standards for the care and storage of permanent records established by the Commission.

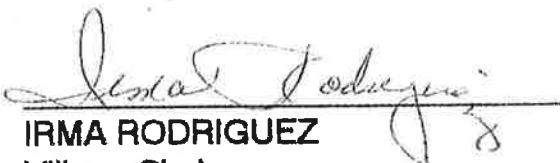
SECTION XI

That this Ordinance was duly enacted with all requisites and formalities incident thereto the enactment of ordinances, and such is evidenced by the below signatures.



SAMUEL MONRREAL
Mayor

ATTEST:



IRMA RODRIGUEZ
Village Clerk

APPROVED:



RICHARD CONTRERAS
Village Attorney

First Reading: 4/23/91
Second Reading: 6/11/91

VILLAGE OF VINTON

REQUEST FOR CITY COUNCIL AGENDA ITEM

Regular Council Meetings are held on the 1st and 3rd Tuesday of each month. Requests **MUST** be submitted to the town clerk by **4:00 p.m.** on the **Wednesday** one week before the scheduled meeting date. Late items (**after 4:00 p.m.**) must be cleared by the Mayor.

Date Submitted: 3/26/07

Submitted By: Mayor Prainw

Position/Title: Mayor

Describe Request: Policy for information

Please Check One:

() Presentation Agenda

() Regular Agenda

() Report Agenda

() Executive Session

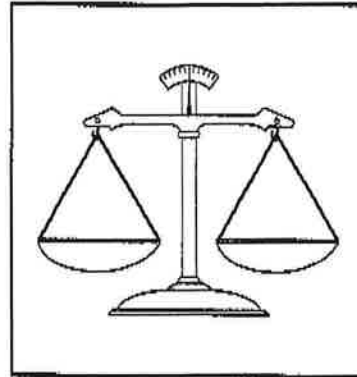
This item is to be placed on the agenda for April 3, 2007.

Received by town clerk on 3/26/07, 2007. Time _____.

Approved late item: _____, Mayor.

KEITHLY & ENGLISH, P.C.

Attorneys at Law
Licensed Texas-New Mexico
224 Anthony Drive
P.O. Drawer 1329
Anthony, New Mexico 88021
(505) 882-4500



John E. Keithly
Shane A. English
Russell Dean Clark

FAX COVER SHEET
Facsimile No. (505) 882-5000

TO: Mayor Madeleine Praino and Council Members, Village of Vinton, Texas

ATTENTION: Mayor Madeleine Praino and Council Members

ADDRESS: 436 E. Vinton Road, Vinton, TX 79821

FACSIMILE NO.: (915) 886-4120 **BUSINESS PHONE:** _____

FROM: SHANE A. ENGLISH **SENT BY:** Dasela

P.O. Drawer 1329, Anthony, New Mexico 88021

SUBJECT: Adoption of Official Policies on Recording of Council Meetings and on Dissemination of Public Information (including "back-up" documentation)

TRANSMISSION DATE: 03/27/07 **TIME:** 9:00 a.m.

NUMBER OF PAGES TO FOLLOW: 5

Note: If you do not receive all of pages, or material is not readable, please call (505) 882-4500 (on duty from 8:00 a.m. to 5:00 p.m., MST, Monday through Friday.)

COMMENTS

KEITHLY & ENGLISH, PC

LOCATED AT:

**JOHN E. KEITHLY
SHANE A. ENGLISH**

ATTORNEYS AT LAW
LICENSED TEXAS - NEW MEXICO
P.O. DRAWER 1329
ANTHONY, NEW MEXICO 88021

**224 N. ANTHONY DR,
ANTHONY, NEW MEXICO**

RUSSELL DEAN CLARK

TELEPHONE
(505) 882-4500
FAX (505) 882-5000

VIA FACSIMILE (915) 886-4120

March 27, 2007

Madeleine Praino, Mayor
and Council Members
Village of Vinton
436 E. Vinton Road
Vinton, TX 79821

Re: Adoption of Official Policies on Recording of Council Meetings and on Dissemination of Public Information (including "back-up" documentation)

Dear Mayor and Council:

An inquiry has been received on the legalities associated with adoption of policies on recording council meetings by members of the public and on the dissemination of back-up information provided to Council members.

It is lawful to adopt policies addressing each topic provided that the policies do not conflict with the governing statutes. I am enclosing a copy of V.T.C.A., Govt. Code §551.023 from the Texas Open Meetings Act and §552.230 from the Texas Open Records Act which expressly allow for the adoption of rules of procedure not inconsistent with these Acts.

To maintain order at a meeting, §551.023(b) allows for the adoption of rules pertaining to the location of recording equipment and the manner in which the recording is conducted.

§552.230 (a) allows a governmental body to promulgate rules under which public information may be inspected and copied. §552.223 requires that all requests for information be treated uniformly and §552.221 requires application for the information to the public information officer. Thus, it is consistent with the Open Records Act to adopt a procedure directing that all public information to only be disclosed by the officer for public information (the Mayor or Department Head) or the officer's agent upon proper application and that individual Council members and Village staff be expressly prohibited from disclosing the information informally. Such a prohibition should properly include so-called "back-up" documentation provided to Council members in connection with a Council meeting or for other official purposes because it typically fits within the broad definition of "public information" which is defined as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business." §552.002(a). See also §552.022 for specific examples of public information.

The adoption of a policy can be done by motion and simply recorded on the official minutes or can be formally written and adopted. I hope this offers some direction on how the Council may wish to proceed with respect to these matters. Thank you.

Very truly yours,



Shane A. English

SAE/dp

GOVERNMENT; ETHICS
Title 5

OPEN MEETINGS
Ch. 551

§ 551.023
Note 2

ion taken.

Research References

Encyclopedias

TX Jur. 3d Administrative Law § 55, Circumstances Justifying Closed Meetings.
TX Jur. 3d State of Texas § 36, In General.
TX Jur. 3d State of Texas IV a Ref., Divisional References.

Forms

2 West's Texas Forms § 6.3, Recording of Open Meeting.

Administrative Law and Proce-

§ 551.023. Recording of Meeting by Person in Attendance

(a) A person in attendance may record all or any part of an open meeting of a governmental body by means of a tape recorder, video camera, or other means of aural or visual reproduction.

(b) A governmental body may adopt reasonable rules to maintain order at a meeting, including rules relating to:

- (1) the location of recording equipment; and
- (2) the manner in which the recording is conducted.

(c) A rule adopted under Subsection (b) may not prevent or unreasonably impair a person from exercising a right granted under Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, § 1, eff. Sept. 1, 1993.

Forms § 6.3, Recording of

Minutes Aids
Prac. Series § 4.07, Minutes

Prac. Series § 4.08, Votes.
Prac. Series § 6.6, Minutes.

sition or the payment of
price. Dallas County Flood
v. Cross (App. 5 Dist. 1991)
writ denied. Administrative
Code § 124; Levees And Flood

Historical and Statutory Notes

Prior Laws:

Acts 1973, 63rd Leg., p. 45, ch. 31, § 2.

Acts 1987, 70th Leg., ch. 964, § 4.
Vernon's Ann.Civ.St. art. 6252-17, § 2(i).

not in meeting of a govern-
ment the Texas Open Meetings
Act, 978, No. H-1163.

Library References

Administrative Law and Procedure § 124.
Westlaw Topic No. 15A.

C.J.S. Public Administrative Law and Procedure § 17.

Meeting: Public Record
are public records and
request to the govern-
ment designee.

Research References

Encyclopedias

TX Jur. 3d Administrative Law § 55, Circumstances Justifying Closed Meetings.

Forms

2 West's Texas Forms § 6.3, Recording of Open Meeting.

Notes of Decisions

Open to the public 1
Tape recorders 2

1. Open to the public

The phrase "open to the public" does not require the commissioners court to allow the live broadcast of its meetings or to permit the taping thereof for broadcast at a later time. Op.Atty.Gen.1968, No. M-180.

2. Tape recorders

Open meetings statute specifically authorizes use of tape recorders at public meetings but

makes no similar provision for use of them at executive sessions of same public bodies, legislature necessarily denied the use of tape recorder in executive session; thus member of board of trustees for school district was not entitled to tape record proceedings of board in executive session against wishes of majority of the board. Zamora v. Edgewood Independent School Dist. (Civ.App. 1979) 592 S.W.2d 649, ref. n.r.e.. Administrative Law And Procedure § 124; Schools § 57

§ 552.229

OPEN GOVERNMENT; ETHICS
Title 5

Library References

Records §§ 54 to 62.
Westlaw Topic No. 326.

C.J.S. Records §§ 95, 99 to 112, 115, 118 to 119, 121, 124, 127 to 128, 130 to 131.

§ 552.230. Rules of Procedure for Inspection and Copying of Public Information

(a) A governmental body may promulgate reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay.

(b) A rule promulgated under Subsection (a) may not be inconsistent with any provision of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, § 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, § 15, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1231, § 3, eff. Sept. 1, 1997.

Historical and Statutory Notes

Acts 1995, 74th Leg., ch. 1035, in the section and section heading, substituted "Information" for "Records".

Section 26(a) of Acts 1995, 74th Leg., ch. 1035 provides:

"The changes in law made by this Act affecting the availability of information, the inspection of information, or the copying of information, including the costs for copying information, apply only to a request for information that is received by a governmental body on or after September 1, 1995. A request for information that is received by a

governmental body before that date is governed by the law in effect at the time the request is made, and the former law is continued in effect for this purpose."

Acts 1997, 75th Leg., ch. 1231, in the section name, inserted "and copying"; designated subsec. (a), and therein, inserted "and copied" and added subsec. (b).

Prior Laws:

Acts 1973, 63rd Leg., p. 1112, ch. 424, § 13. Vernon's Ann.Civ.St. art. 6252-17a, § 13.

Library References

Records §§ 62.
Westlaw Topic No. 326.

C.J.S. Records §§ 95, 99, 112, 115, 118 to 119, 121, 124, 127 to 128, 130 to 131.

Research References

Encyclopedias
TX Jur. 3d Administrative Law § 71, Where Administrative Body Not a "State Agency".

TX Jur. 3d Administrative Law IV B Ref. Divisional References.

§ 552.231. Responding to Requests for Information That Require Programming or Manipulation of Data

(a) A governmental body shall provide to a requestor the written statement described by Subsection (b) if the governmental body determines:

(1) that responding to a request for public information will require programming or manipulation of data; and

(2) that:

(A) compliance with the request is not feasible or will result in substantial interference with its ongoing operations; or

PUBLIC INFORMATION
Ch. 552

(B) the information at a cost that

(b) The writer

(1) a statement

(2) a description

(3) a description provide the information

(4) a statement requested from the General Secretary

(5) a statement in the request

(c) The government or within 20 days request. The government statement if the government 20 days after the needed.

(d) On providing the information until the requestor:

(1) wants the information in accordance with the requestor's agreement; or

(2) wants the information

(e) The officer shall make the information available to the requestor if the governmental body shall make the information available in a readable form.

Added by Acts 1995

Section 26(a) of the Act provides:

"The changes in law affecting the availability of information, including the inspection of information, including information, apply c

§ 552.205

OPEN GOVERNMENT; ETHICS
Title 5

sufficient time so that governmental bodies may print the sign required by that section and begin displaying the sign on or before January 3, 2000.

"(b) A governmental body is not required under Section 552.205, Government Code, as added by this Act, to display the required sign before January 3, 2000."

Library References

Records § 51.
Westlaw Topic No. 326.
C.J.S. Records §§ 97, 99.

Research References

Encyclopedias
TX Jur. 3d Administrative Law § 70, Procedure Under the Administrative Procedure Act.

TX Jur. 3d Administrative Law IV B Ref., Divisional References.

[Sections 552.206 to 552.220 reserved for expansion]

SUBCHAPTER E. PROCEDURES RELATED TO ACCESS

§ 552.221. Application for Public Information; Production of Public Information

(a) An officer for public information of a governmental body shall promptly produce public information for inspection, duplication, or both on application by any person to the officer. In this subsection, "promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay.

(b) An officer for public information complies with Subsection (a) by:

- (1) providing the public information for inspection or duplication in the offices of the governmental body; or
- (2) sending copies of the public information by first class United States mail if the person requesting the information requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F.¹

(c) If the requested information is unavailable at the time of the request to examine because it is in active use or in storage, the officer for public information shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

(d) If an officer for public information cannot produce public information for inspection or duplication within 10 business days after the date the information is requested under Subsection (a), the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

Added by Acts 1993, 73rd Leg., ch. 268, § 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, § 15, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1231, § 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1319, § 12, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 791, § 1, eff. June 20, 2003.

¹ V.T.C.A., Government Code § 552.261 et seq.

§ 552.222

Note 1

ual pursuant to Open Records Act, asking what exactly inmate was looking for in manual, were permissible inquiries in attempt to assist inmate. Felix v. Thaler (App. 1 Dist. 1993) 923 S.W.2d 650. Records 62

Where the City of El Paso received a request for documents related to a law suit by the El Paso Public Service Board against the State of New Mexico, the first request sought production of all documents related to the current dispute between El Paso and New Mexico over water rights which are a matter of public record, compliance with this request was not feasible because it was too broad, and the requestor did not respond to an invitation to specify the documents he wished to examine, it is proper for the city to require the requestor to identify the

OPEN GOVERNMENT; ETHICS Title 5

documents requestor sought. Op.Atty.Gen. 1982, No. ORD-304.

2. Mandamus

Requestor of public information from state pension investment trust manager failed to demonstrate that manager had any duty to provide information requested, as required to obtain writ of mandamus under Public Information Act; requestor failed to show that manager was government body subject to act, requestor failed to show request was one to which manager could have reasonably responded, and requestor failed to respond to manager's request for clarification or narrowing of documents sought. Lisson v. Texas Growth Fund (App. 3 Dist. 2004) 2004 WL 101683. Unreported, rehearing overruled, rule 53.7(f) motion granted. Mandamus 82

§ 552.223. Uniform Treatment of Requests for Information

The officer for public information or the officer's agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media.

Added by Acts 1993, 73rd Leg., ch. 268, § 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, § 15, eff. Sept. 1, 1995.

Historical and Statutory Notes

Acts 1995, 74th Leg., ch. 1035 substituted "information" for "records" and "requestor" for "person making the request".

Section 26(a) of Acts 1995, 74th Leg., ch. 1035 act provides:

"The changes in law made by this Act affecting the availability of information, the inspection of information, or the copying of information, including the costs for copying information, apply only to a request for information that is received by a governmental

body on or after September 1, 1995. A request for information that is received by a governmental body before that date is governed by the law in effect at the time the request is made, and the former law is continued in effect for this purpose."

Prior Laws:

Acts 1973, 63rd Leg., p. 1112, ch. 424, § 5. Acts 1989, 71st Leg., ch. 1248, § 13. Vernon's Ann.Civ.St. art. 6252-17a, § 5(c).

Library References

Records 62. Westlaw Topic No. 326.

C.J.S. Records §§ 95, 99, 112, 115, 118, 119, 121, 124, 127 to 128, 130 to 131.

Research References

Encyclopedias

TX Jur. 3d Administrative Law § 70, Procedure Under the Administrative Procedure Act.

Forms

2 West's Texas Forms § 7.4, Procedures Access to Public Information.

PUBLIC Ch. 552

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§ 552.2

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Added by 74th Leg.,

Acts 199 "Informati for "person Section 1035 provi "The che fecting the ppection o informatio informatio formatio 1 body on o

Records & Westlaw

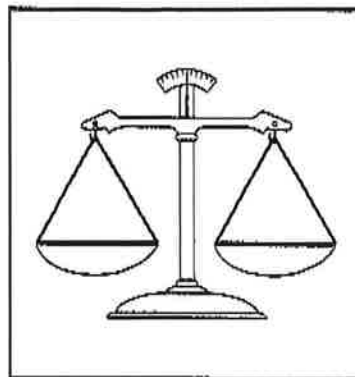
Encycloped TX Jur. 3 Procedure U Act.

General

In gener Open Rec person

KEITHLY & ENGLISH, P.C.

Attorneys at Law
Licensed Texas-New Mexico
224 Anthony Drive
P.O. Drawer 1329
Anthony, New Mexico 88021
(505) 882-4500



John E. Keithly
Shane A. English
Russell Dean Clark
Matthew G. Watson

FAX COVER SHEET
Facsimile No. (505) 882-5000

TO: Mayor Madeleine Praino and Council Members, Village of Vinton, Texas

ATTENTION: Mayor Madeleine Praino and Council Members

ADDRESS: 436 E. Vinton Road, Vinton, TX 79821

FACSIMILE NO.: (915) 886-4120 **BUSINESS PHONE:** _____

FROM: SHANE A. ENGLISH **SENT BY:** Dasela
P.O. Drawer 1329, Anthony, New Mexico 88021

SUBJECT: Official Access to Information Held by the Governmental Body

TRANSMISSION DATE: 06/05/07 **TIME:** 2:50 p.m.

NUMBER OF PAGES TO FOLLOW: 9

Note: If you do not receive all of pages, or material is not readable, please call (505) 882-4500 (on duty from 8:00 a.m. to 5:00 p.m., MST, Monday through Friday.)

COMMENTS

KEITHLY & ENGLISH, PC

LOCATED AT:

JOHN E. KEITHLY
SHANE A. ENGLISH

ATTORNEYS AT LAW
LICENSED TEXAS - NEW MEXICO
P.O. DRAWER 1329
ANTHONY, NEW MEXICO 88021

224 N. ANTHONY DR.
ANTHONY, NEW MEXICO

RUSSELL DEAN CLARK

TELEPHONE
(505) 882-4500
FAX (505) 882-5000

VIA FACSIMILE (915) 886-4120

June 5, 2007

Madeleine Praino, Mayor
and Council Members
Village of Vinton
436 E. Vinton Road
Vinton, TX 79821

Re: Official Access to Information Held by the Governmental Body

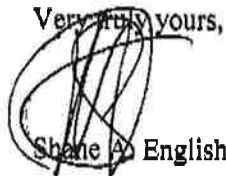
Dear Mayor and Council:

I am in receipt of the enclosed facsimile correspondence dated June 5, 2007 from Richard Contreras on behalf of Councilperson Juvencia Rios-Ontiveros. In response thereto and in anticipation of this evening's executive session on the subject, I am enclosing herewith for your information copies of Texas Attorney General's opinion numbers JM-119 and JC-0283. As you can see, the Texas Open Records Act does not apply to members of a governmental body. Instead, members of a governmental body have an inherent right of access to such records for use in their official capacity.

The Council is entitled to adopt reasonable policies governing official access to information in an effort to establish that the information is to be used for official purposes and to protect against the loss of official records. Thus, unlike under the Open Records Act, it is permissible for the Council to establish a policy requiring Alderpersons to state the reason for requesting particular information. It is also permissible to establish procedures for accessing the information to protect its integrity. In this regard, at a minimum, it is advisable to adopt a rule which prohibits the removal from the Village Hall of any original official document without specific authorization from the Council. It may also be appropriate to require a member of the Village staff to be present when official records are being inspected by a council person. It is also permissible to adopt a procedure for locating and copying documents in order that the Village staff will not be unduly burdened and prevented from carrying out their regular duties and responsibilities, such as adopting a reasonable notice and time-frame requirements for locating documents and making copies. Beyond this, free access should be promoted and it is important to recognize that the Council is not responsible for the possible misuse of government records obtained by elected Village officials which is the subject of various criminal proscriptions.

I hope this information and advice is of some assistance to the Council in addressing this issue. Please contact me if you have any questions. Thank you.

Very truly yours,



Shane A. English

SAE/dp
Enclosures

RICHARD CONTRERAS

ATTORNEY AT LAW

June 5, 2007

Mr. Shane A. English
KEITHLY & ENGLISH, PC
Attorneys At Law
P.O. Drawer 1329
Anthony, New Mexico 88021

Via Fax: (505) 882-5000

RE: *Juvenica Ontiveros*

Dear Shane,

I received a telephone call from Mrs. Juvencia Ontiveros regarding the refusal by the Village Clerk and staff to permit her to review the minutes and other records of the Village without written request. She has also been denied access to the Clerk's station by that same staff.

I have been asked to represent Mrs. Ontiveros against the Village as a result of the violations of her right to access but I advised her that I would write to you first to make certain inquires and to permit you to review the circumstances of this matter and resolve this issue.

As you are aware, the elected member of a City Council has the absolute right to review any and all records of that municipality without the formal requirement of written request. In essence, the open records formalities do not apply to that person and the records requested should be delivered to that person immediately. This position is also adopted by the Office of the Texas Attorney General and El Paso County Attorney.

Unless the Council has adopted formal rules limiting this access and said rules contain the reasons why this foregoing should be superceded this right is inherent in the position of the Council member. If the Village has adopted rules such as these please forward same to my office for review.

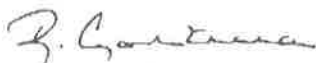
2150 Trawood, Suite B-200 El Paso, Texas 79935
(915) 594-1970 Fax (915) 594-1967

If rules have also been adopted by the Village limiting access to the City Clerk's Office by members of the City Council please forward those to me for consideration.

If neither of the foregoing rules have been adopted then please advise the office of the City Clerk that Mrs. Ontiveros has the absolute right to enter into all parts of the that office and examine any documents belonging to the Village without restriction.

I do trust that you will address this matter with the Council this evening.

Sincerely,

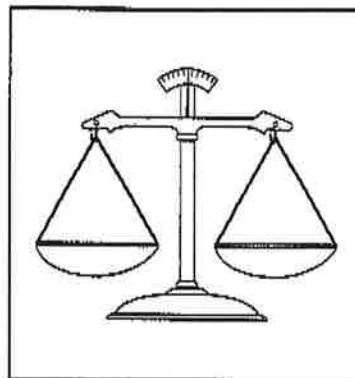


Richard Contreras
Attorney At Law

xc: Mayor Madeline Praino - fax: 886-4120
City Representative Juvencia Ontiveros

KEITHLY & ENGLISH, P.C.

Attorneys at Law
Licensed Texas-New Mexico
224 Anthony Drive
P.O. Drawer 1329
Anthony, New Mexico 88021
(505) 882-4500



John E. Keithly
Shane A. English
Russell Dean Clark

FAX COVER SHEET
Facsimile No. (505) 882-5000

TO: Mayor Madeleine Praino and Council Members, Village of Vinton, Texas

ATTENTION: Ms. Jessica Garza, Village Clerk

ADDRESS: 436 E. Vinton Road, Vinton, TX 79821

FACSIMILE NO.: (915) 886-4120 **BUSINESS PHONE:** _____

FROM: SHANE A. ENGLISH **SENT BY:** Dasela
P.O. Drawer 1329, Anthony, New Mexico 88021

SUBJECT: Draft Resolution on Council Procedures

TRANSMISSION DATE: 06/06/07 **TIME:** 2:30 p.m.

NUMBER OF PAGES TO FOLLOW: 4

Note: If you do not receive all of pages, or material is not readable, please call (505) 882-4500 (on duty from 8:00 a.m. to 5:00 p.m., MST, Monday through Friday.)

COMMENTS

Dear Jessica:

Pursuant to our discussion earlier this afternoon, attached hereto please find a draft Resolution pertaining to council meeting procedures and setting agendas. This draft does not address all of the basic procedural issues which I have suggested to the Mayor which need to be addressed but it could be used as a starting point. It occurs to me that one other item that should be included on the special meeting/workshop agenda should be to establish the procedures applicable to open forum. Thank you.

Very truly yours,


Shane A. English

SAE/dp



RESOLUTION _____

A RESOLUTION PROVIDING FOR RULES OF DECORUM FOR MEETINGS OF THE VILLAGE COUNCIL, VILLAGE OF VINTON, TEXAS; PROVIDING FOR A PROCEDURE FOR SETTING COUNCIL AGENDAS; PROVIDING FOR RULES OF ENFORCEMENT; AND PROVIDING FOR ADOPTION OF ROBERTS RULES OF ORDER.

WHEREAS, the Vinton Council, believes that it is important to the orderly conduct of the business and affairs of the Village of Vinton, Texas that the Vinton Council establish rules of decorum to ensure that order is maintained and the deliberative process of the Council is encouraged ;

and

WHEREAS, the Vinton Council also believes that each Councilmember should be dedicated to public service by being cooperative and constructive and by making the best and most efficient use of available resources, so that each member may merit the respect and confidence of the citizens of the Village of Vinton, Texas; and

WHEREAS, the Vinton Council further believes that each Councilmember should recognize the worth of individual councilmembers members and appreciate their individual talents, perspectives, opinions, and contributions;

and

WHEREAS, the Vinton Council also believes that the establishment of rules of conduct and procedure for conducting the official business of the Village of Vinton will

help foster an atmosphere of respect, civility, and cooperation where individual Councilmembers, staff, and the public will be free to express their ideas and work to

their full potential for the good of all our citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE VINTON COUNCIL OF THE VILLAGE OF VINTON, TEXAS:

Section 1. Rules of Decorum for Village Council Meetings.

A. Decorum. Council meetings shall be conducted in an orderly manner to ensure that the public has full opportunity to be heard within the time constraints set by

the council and that the deliberative process of the Village of Vinton Council continues.

B. Councilmembers.

Councilmembers shall listen courteously and attentively to all public discussions before the Vinton Council. Councilmembers shall refrain from interrupting other speakers; making personal comments not germane to the business at hand and posted on the agenda, or otherwise interfere with the orderly conduct of meetings. Councilmembers shall refrain from abusive conduct, shouting, argumentative/aggressive behavior, personal charges, or verbal attacks upon the character or motives of other Councilmembers, City staff members, or members of the general public. The presiding officer of the City Council shall be responsible for maintaining order and decorum of City Council meetings.

C. Vinton Staff.

Vinton staff shall observe the same rules of order and decorum as those which apply to Vinton Councilmembers.

D. Persons Addressing the Village of Vinton Council. Persons addressing the Vinton

Council shall do so in an orderly manner without making personal, impertinent, slanderous, or profane remarks about any Councilmember, Village of Vinton staff member, a member of the general public. Speakers shall address the Council and staff respectfully and no shouting or argumentative behavior will be tolerated.

Any person who makes such remarks or engages in any other disorderly conduct which disrupts or otherwise impedes the orderly conduct of any Vinton Council meeting shall, at the discretion of the presiding officer, be barred from addressing the Vinton Council or from further attendance at the meeting

E. Members of the Audience. No person in the audience at a meeting of the Vinton Council shall engage in disorderly or boisterous conduct, including the utterance of

loud, threatening, or abusive language, whistling, stamping of feet, or other acts which disturb, disrupt, or otherwise impede, the orderly conduct of any Village of Vinton Council meeting.

Any person who conducts himself in such a manner shall, at the discretion of the presiding officer, be barred from addressing the City Council or from further attendance at the meeting.

KEITHLY & ENGLISH, P.C.

Attorneys at Law
Licensed Texas-New Mexico
224 Anthony Drive
P.O. Drawer 1329
Anthony, New Mexico 88021
(505) 882-4500



John E. Keithly
Shane A. English
Russell Dean Clark

FAX COVER SHEET

Facsimile No. (505) 882-5000

TO: Mayor Madeleine Praino and Council Members, Village of Vinton, Texas

ATTENTION: Ms. Jessica Garza, Village Clerk

ADDRESS: 436 E. Vinton Road, Vinton, TX 79821

FACSIMILE NO.: (915) 886-4120 **BUSINESS PHONE:** _____

FROM: SHANE A. ENGLISH **SENT BY:** Dasela
P.O. Drawer 1329, Anthony, New Mexico 88021

SUBJECT: Draft of proposed Resolution of the Village of Vinton, Texas Establishing Village Policy for Elected Officials to Access Official Records

TRANSMISSION DATE: 06/18/07 **TIME:** 5:00 p.m.

NUMBER OF PAGES TO FOLLOW: 2

Note: If you do not receive all of pages, or material is not readable, please call (505) 882-4500 (on duty from 8:00 a.m. to 5:00 p.m., MST, Monday through Friday.)

COMMENTS

Dear Jessica:

Attached hereto please find a draft of my proposed Resolution concerning the above-referenced matter which I request you to please put in the council members' packets for tomorrow evening's meeting. Thank you.

Very truly yours,


Shane A. English

SAE/dp

RESOLUTION NO. 2007-06-26-1

A RESOLUTION OF THE VILLAGE OF VINTON, TEXAS ESTABLISHING VILLAGE POLICY FOR ELECTED OFFICIALS TO ACCESS OFFICIAL RECORDS.

WHEREAS, the Village Council of the Village of Vinton, Texas finds that it is reasonable and necessary to establish a Village policy governing access to official Village records by elected Village officials in order to preserve and protect the integrity of such records while facilitating the inherent right of access to such records by elected Village officials acting in their official capacities and to give Village staff charged with maintaining and safeguarding the records clear direction on the procedures related to official access.

WHEREAS, the Village Clerk has previously been designated pursuant to Chapter 203 of the Texas Local Government Code as the Official Records Management Officer of the Village by Ordinance Nos. 088-113 and 088-114 with authority and responsibility for managing, maintaining and preserving the official records of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF VINTON, TEXAS as follows:

(a) Any elected Village official may request to see any official record maintained by the Village Clerk by making a written request upon the Village Clerk. The request shall fairly identify the official records sought to be reviewed by the elected official and shall state the official purpose for request.

(b) If reasonably practicable, the Village Clerk shall make the documents requested available for inspection and copying at the time the request is made. However, if the requested records are in use or in storage or are not otherwise reasonably accessible for immediate inspection and/or copying (including if the Village Clerk staff is not immediately available to

locate and/or copy the record request due to other pressing matters), than the Village Clerk shall certify to this fact in writing and shall set a date and hour within a reasonable time when the requested records will be made available for inspection and duplication.

(c) Requested records shall generally be produced for inspection and copying in the form that they are maintained by the Village Clerk unless such a procedure is not reasonably practicable. Official records may not be removed from the Village Hall by elected officials and may not be inspected outside the presence of the Village Clerk or a deputy clerk. Copies of official records may be made either by the Village Clerk's staff or by the requestor of the records in the presence of the Village Clerk staff, at the discretion of the Village Clerk. The elected official obtaining copies of official records and/or information from official records shall be solely responsible for protecting the documentation/information from disclosure to the general public outside of the legal procedures governing disclosure of public information.

PASSED AND APPROVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF VINTON, TEXAS ON THIS 26 day of June, 2007.

MADELEINE PRAINO, Mayor

ATTEST:
Jessica Garza
JESSICA GARZA, Village Clerk

APPROVED:

SHANE A. ENGLISH, Village Attorney

436 E. Vinton Road
Vinton, Texas 79821
915-886-5104
915-886-4120

**Village of Vinton,
Texas**

Fax



To: Shane English

From: Jessica Garza

Fax: 505-882-5000

Pages: 2

Phone: 550-882-4500

Date: 8/30/2007

Re: Open Records?

cc:

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

Shane can you draft a response to this letter for me? She handed it to me while I was still reviewing the projects with the monitor that was here from ORCA. I did not know that she had attempted to give the letter to the Mayor and was refused.

TRANSMISSION VERIFICATION REPORT

TIME : 08/30/2007 09:19
NAME :
FAX :
TEL :
SER.# : 000A6J711029

DATE, TIME	08/30 09:18
FAX NO./NAME	ENGLISH
DURATION	00:00:41
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

To: Mayor M. Praino
From: Councilperson J. Rios-Ontiveros
Date: August 28, 2007
Subject: **Open Records Act. Tex. Atty. Gen. Op. No. LO-93-069**

On May 23, 2007, when I was in the office requesting to review the meeting minutes for the past year (May 2006 to May 2007) to office staffers Jessica Garza and Ruby Rodriguez. They refused to allow me to do so. I have informed you, council member's, City Attorney Shane English and at public meetings of the above mentioned Attorney General's ruling to no avail. In short, that **"members of the governing body of a state or local governmental entity have an inherent right to examine the records of the governmental entity if they request access to the records in their official capacity."**

Again, on August 21, 2007 during the executive session that you ordered, there were three letters read by Attorney English for which we council members did not have. I requested a copy of each letter and I was denied access to them unless I requested it in writing and to "state the purpose" of it. I informed the attorney that we as council members should have had a copy in our meeting packet 72 hours in advance since it was part of that date's meeting. He also stated I was to put it in writing and to state the purpose if I wanted them.

Therefore, since you are not abiding by Attorney General state ruling and I have still not been able to obtain the information I have requested, you leave me no alternative but to notify the Attorney General's Office and inform them of these and other concerns that need to be looked into. Unless you want to set things lawfully right with my **"inherent official right to access of records"** to these two previous requests and any future request made by me or any other council member without putting it in writing and stating the purpose, I am willing to fore-go in getting the Attorney General involved in these issues and others if I acquire all the information I have requested before this Friday.


As I have stated numerous times, I am committed to represent, work for and inform my constituents, follow all the laws, be accountable and be their voice in city council.

I hope you will take my six years experience in city council and over forty years of working with people in boards, commissions, advisory committees, etc. in many capacities as a positive outlook that will help our community move towards a better quality of life. I look forward to your cooperation and response, my ph.# is (915)886-5270.

Sincerely,


Councilperson Juvencia Rios-Ontiveros, Pl. 4

Xc: Attorney Richard Contreras
Council Members & Village Attorney Shane English


Read by
J. Garza
8/28/07

KEITHLY & ENGLISH, P.C.

Attorneys at Law
Licensed Texas-New Mexico
224 Anthony Drive
P.O. Drawer 1329
Anthony, New Mexico 88021
(575) 882-4500



John E. Keithly
Shane A. English

FAX COVER SHEET
Facsimile No. (575) 882-5000

TO: Mayor Madeleine Praino and Council Members, Village of Vinton, Texas

ATTENTION: Ms. Jessica Garza, Village Clerk

ADDRESS: 436 E. Vinton Road, Vinton, TX 79821

FACSIMILE NO.: (915) 886-4120 **BUSINESS PHONE:** _____

FROM: SHANE A. ENGLISH **SENT BY:** Dasela
P.O. Drawer 1329, Anthony, New Mexico 88021

SUBJECT: Request for Copies of documents by Councilperson Rios- Ontiveros

TRANSMISSION DATE: 08/08/08 **TIME:** 10:00 a.m.

NUMBER OF PAGES TO FOLLOW: 2

Note: If you do not receive all of pages, or material is not readable, please call (575) 882-4500 (on duty from 8:00 a.m. to 5:00 p.m., MST, Monday through

COMMENTS

KEITHLY & ENGLISH, PC

ATTORNEYS AT LAW
LICENSED TEXAS - NEW MEXICO
P.O. DRAWER 1329
ANTHONY, NEW MEXICO 88021

LOCATED AT:

224 N. ANTHONY DR.
ANTHONY, NEW MEXICO

TELEPHONE
(575) 882-4500
FAX (575) 882-5000

JOHN E. KEITHLY
SHANE A. ENGLISH

VIA FACSIMILE (915) 886-4120

August 8, 2008

Madeleine Praino, Mayor
and Council Members
Village of Vinton
436 E. Vinton Road
Vinton, TX 79821

Re: Request for Copies of documents by Councilperson Rios-Ontiveros


Dear Mayor and Council:

I have again been asked for advice on how to proceed with respect to recurring record requests made by Councilperson Rios-Ontiveros directed to the Mayor in open session during regular council meetings. You will recall that I previously offered advice on this subject by letter to the Mayor and Council dated June 4, 2008. At the meeting held on August 5, 2008, I am informed that Ms. Rios-Ontiveros presented the Mayor with the attached request for copies of documents. I understand this request was made by Ms. Rios-Ontiveros in her official capacity as a Village Alderperson. Because the request was not made on the required information request form to be utilized by elected officials of the Village, the purpose of the request was not noted on the request and because it was not submitted to the official records custodian of the Village, it is my advice that the Village is not legally required to respond.

As I indicated in my prior opinion letter on this subject, this request is governed by the Village policy governing access to official records by elected Village officials which my records reflect was adopted by Resolution on June 26, 2007. The Resolution states in pertinent part that "Any elected official may request to see any official record maintained by the Village Clerk by making a written request upon the Village Clerk. The request shall fairly identify the official record(s) sought to be reviewed by the elected official and shall state the official purpose of the request." The Resolution further provides in pertinent part that "Copies of official records may be made either by the Village Clerk's staff or by the requestor of the records in the presence of the Village Clerk staff, at the discretion of the Village Clerk." It also provides that "if the Village Clerk staff is not immediately available to locate and/or copy the record request due to other pressing matters, that the Village Clerk shall certify to this fact in writing and shall set a date and hour within a reasonable time when the requested records will be made available for inspection and duplication."

If the recurring document copying requests made by Ms. Rios-Ontiveros are unduly burdensome to the Village Clerk staff, I again recommend in accordance with the Resolution that the Village Clerk schedule a time for Ms. Rios-Ontiveros to copy the records herself at the Village Hall under the supervision of the Village Clerk staff. As I previously noted, the Village Clerk is the Official Records Management Officer for the Village and has the authority and responsibility for determining the precise manner and method of how the copying will be accomplished. Please contact me if you have further questions or concerns about this issue. Thank you.

Very truly yours,


Shane A. English

SAE/dp
Enclosures

To: Mayor Praino
From: Councilperson J.R. Ontiveros *JRO*
Date: August 5, 2008
Subject: Request for copies of Account Payable receipts

I am hereby requesting specific copies of receipts that are listed in the accounts payable for July 1st to July 31st. They are:

Cleaning Solutions
El Paso Water Utilities
International Bank VISA
Parkhill, Smith & Copper, Inc
Yolanda Lucero
Nestor Lopez
Timesheets for employees: Jessica G. and Ruby R.

Please call me at my home (886-5270) and leave a message when they are ready for pick up on or before the ten allowed days allowed for providing requested information. Thank you for your time.