

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, EXPLAINING ITS DILEMMA IN COMPLYING WITH THE OPEN MEETINGS ACT, CITY CHARTER AND RIGHT OF PRIVACY OF INDIVIDUALS.

WHEREAS, the City Council of the City of Abilene believes firmly in the right of all citizens to have access to its government; and,

WHEREAS, the drafters of the Open Meetings Act respected the right of privacy of citizens and provided that "Nothing in this Act shall be construed to require a meeting open to the public involving the appointment of a public officer;" and,

WHEREAS, another provision of the Charter and the Open Meetings Act clouds the issue and makes it difficult to absolutely ascertain the proper construction of the Charter and the Open Meetings Act; and,

WHEREAS, the City Council in evaluating employees must ask questions which would necessarily involve an individual's character; and,

WHEREAS, should any such questions stigmatize or damage an individual's reputation, the City Council and the City of Abilene might be liable to the damaged individual; and,

WHEREAS, the City Council of the City of Abilene is trying to comply with these competing requirements; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the City Council of the City of Abilene has been informed that at least three other cities larger than Abilene have similar City Charters. In each of these cities the City Attorneys believe that the Open Meeting provisions which allow closed meetings for personnel matters are not prohibited by their City Charters.

PART 2: That the City Council, in balancing the right of privacy of individuals and its responsibility to examine all applicants closely and to pick the best qualified applicant, must interview City Manager applicants in a private session as permitted by the Open Meetings Act.

PART 3: That this position is adopted in the reasonable belief that it is in substantial compliance with the Open Meetings Act, the City Charter and the individual applicant's right of privacy.

This position is based upon an examination of the laws applicable and the following summary.

(a) The Open Meetings Act allows executive deliberation for the appointment of employees. This specific provision provides "Nothing in this Act shall be construed to require an open meeting for the appointment of an employee." This provision was written in recognition of an individual's right of privacy.

(b) The City Charter would be satisfied by the posting of a notice, publicly, and announcing an executive deliberation is to be held, publicly, and then re-convening in public and taking a final vote. The City Council will have conducted a meeting "open to the public."

PART 4: That this procedure is adopted after a great deal of study of the possible choices and appears to be the best approach considering the circumstances.

PART 5: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 6 day of February, A.D. 1979.

ATTEST:

Ruth Hodgins  
CITY SECRETARY

Oliver J. Lewis  
MAYOR

APPROVED AS TO FORM AND SUBSTANCE:

Harvey Caygill  
CITY ATTORNEY