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(903) 537-2212  
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**TOM RAMSAY**  
**TEXAS HOUSE OF REPRESENTATIVES**

November 6, 2000

RECEIVED

NOV 08 2000

OPINION COMMITTEE

FILE # ML-41740-00

I.D. # 41740

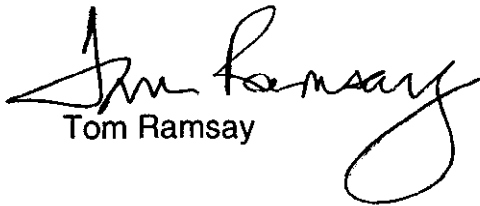
Office of the Attorney General  
Attn: Liz Robinson  
Opinion Committee  
P.O. Box 12548  
Austin, TX 78711-2548

Dear Ms. Robinson:

Attached please find a letter from the City of La Vernia City Council requesting assistance for an opinion from your office, regarding a conflict of interest issue. Please contact my staff if you have any questions, or require further information.

Thank you for your assistance in this matter.

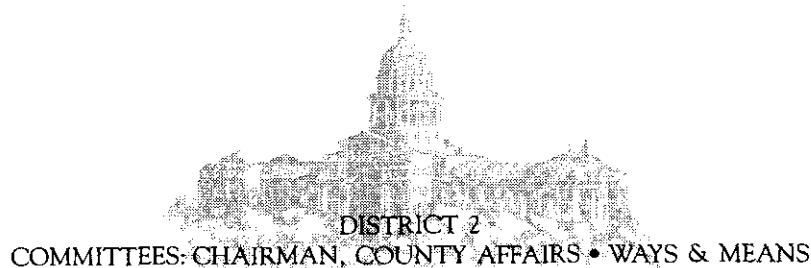
Sincerely,

  
Tom Ramsay


TR/mw

enclosure

cc: Representative Ignacio Salinas, Jr.





THE HOUSE OF REPRESENTATIVES  
 Ignacio Salinas, Jr. **RECEIVED OCT 29 2000**  
 State Representative  District 44

P.O. Box 2910 • Austin, Texas 78768-2910

October 25, 2000

COMMITTEES:  
 County Affairs  
 Pensions & Investments

Hon. Tom Ramsay, Chairman  
 Committee on County Affairs  
 P.O. Box 2910  
 Austin, Texas 78728

DISTRICT 44 COUNTIES:

- Atascosa
- Duval
- Jim Wells
- La Salle
- McMullen
- Wilson

**Re: Request for Attorney General Opinion for the City of La Vernia**

Dear ~~Chairman Ramsay~~ *Chairman,*

The City of La Vernia, Wilson County, has contacted my office requesting an Attorney General opinion regarding a constitutional issue. I therefore am asking for your assistance in meeting the request.

I have enclosed the copy of the letter sent to me by Ms. Susan Rocha the attorney for the City of La Vernia explaining the circumstances surrounding the request.

I appreciate your assistance regarding this matter. Please contact Celina Solis in my district office if you have any questions.

Working for a better Texas,

*Ignacio*  
 Ignacio Salinas, Jr.

cc: Susan C. Rocha  
 La Vernia City Attorney

Jim Terrell  
 Legislation  
 David A. Parnell  
 Administration  
 Celina Solis  
 District Office

(512) 463-0590  
 fax (512) 463-1490  
 ignacio.salinas@house.state.tx.us

District Office:  
 1111 N. King St., Ste. 101  
 Alice, Texas 78332  
 (361) 664-5868  
 fax: (361) 668-0793

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TEXAS BOARD OF LEGAL SPECIALIZATION

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HARLINGEN OFFICE:  
BANK OF AMERICA BLDG.  
222 E. VAN BUREN, SUITE 408  
HARLINGEN, TEXAS 78560  
(956) 421-4904  
FAX (956) 421-3821

September 12, 2000

The Honorable Ignacio Salinas, Jr.  
State Representative, District 44  
C/O Selena Solis  
301A N. King St., Suite 101  
Alice, Texas 78332

VIA FACSIMILE (361) 668-0793

Re: Request for Attorney General Opinion from the City Council the City of La Vernia.

Dear Representative Salinas,

The City of La Vernia City Council is requesting your assistance in obtaining an Attorney General Opinion regarding a constitutional issue. The City is requesting your assistance because the city council believes the current Mayor may have a dual office holding/common-law incompatibility conflict under TEX. CONST. art. XVI § 40; specifically a conflicting loyalties prohibition. Under Tex. Gov't Code § 402.042, only certain individuals may request an opinion from the Texas Attorney General. One of the individuals that may request an opinion is the Chair of a Legislative committee of the House or Senate. We are therefore requesting your assistance in obtaining this opinion request through the Chair of a House Committee. The facts of the situation are as follows:

The current Mayor of the City Council was elected in May of 2000. Prior to his election, Mayor Carl Zenner served as a city councilmember for the City of La Vernia from April 1975 to December of 1981. He again continued to serve as councilmember from April 1985 last being re-elected in May 1999. He was elected to the Mayor's position in May of 2000. The Mayor will be up for re-election in May, 2002. The City Council of La Vernia is in Wilson County and La Vernia is a Type A General-law municipality. The Mayor and Council serve for two (2) year terms.

Mr. Carl Zenner was also elected to the Wilson County Memorial Hospital Board in 1987. He has served continuously since then. He has been president of the Wilson County Memorial Hospital District Board of Directors since May of 1990. The term of the office for the Board of Directors is two (2) years. Mr. Zenner was reelected in 1999 and his current term continues until May 2001.

The Wilson County Memorial Hospital District was created in 1977 with the passage of SB1188 during the 65<sup>th</sup> Legislative Regular Session (see attached Exhibit A). The act is located in the Session Laws for 1977, Sec.4, Chpt.511. The Wilson County Memorial Hospital District elects its Board of Directors by precincts. Mr. Zenner was elected from the precinct that encompasses the City of La Vernia. Both the City of La Vernia and the Hospital District are governmental entities and taxing authorities. Both governing bodies are elected and both entities have the power of condemnation. Neither the councilmembers for the City of La Vernia, nor the Board of Directors for the Wilson County Memorial Hospital District receive compensation, although both are reimbursed for actual expenses.

Recently an issue arose when the Wilson County Memorial Hospital District on April 27, 2000 voted to condemn property located on FM775 in the Country Garden Subdivision inside the city limits of City of La Vernia. This subdivision is zoned residential. The Hospital District intends to place a clinic at that location. Numerous citizens of the City of La Vernia appeared at a Hospital District Board meeting to express their opposition to the placement of the clinic in the subdivision. The same citizens approached the City Council of the City of La Vernia opposing the placement of this clinic. The negotiations for acquiring this property for the construction of the new clinic were conducted by Hospital Board President Carl Zenner and Bob Duffield, Hospital District administrator.

On May 11, 2000 the City of La Vernia City Council passed a resolution expressing its opposition to the Wilson County Memorial Hospital District's placement of the clinic in the Country Garden Subdivision because of its residential zoning and traffic (see attached Exhibit B). As Mayor of the City Council of the City of La Vernia, Mr. Zenner abstained from voting on this resolution before the City Council. However, the Hospital Board did vote in favor of the condemnation of the property in the Country Garden Subdivision inside the city limits of the City of La Vernia for the placement of a clinic.

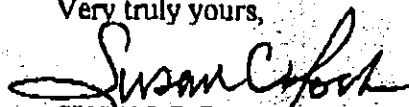
The City Council is concerned that Mayor Zenner may have a conflict under TEX CONST. art. XVI § 40 based on dual office holding/common-law incompatibility of office-conflicting loyalties prohibition (elected to the Hospital District and to the City Council which have overlapping jurisdiction and possible conflicts; and the Hospital District condemning property inside the city limits of the City of La Vernia and City of La Vernia City Council taking a position in opposition to such action). Additionally, the city is concerned that if Mr. Zenner is in violation of TEX. CONST. art. XVI § 40 that the automatic resignation provision of the same section applies. See *Pruitt v. Glen Rose Independent School District*, 84 S.W.2d 1004 (Tex. 1935). The City Council also believes there may be a violation of the Election Code if Mr. Zenner appeared on an election ballot twice.

At this point in time the Wilson County Memorial Hospital District is proceeding with the condemnation of the property inside the city limits of the City of La Vernia, and the Hospital Board has chosen to ignore the resolution of the city Council of the City of La Vernia and the opposition expressed by citizens of that subdivision.

Your assistance in obtaining an Attorney General Opinion is greatly appreciated. If I can be of any further assistance in the process of obtaining this opinion please notify me immediately.

Thank you very much for your time and kind consideration.

Very truly yours,



SUSAN C. ROCHA  
City Attorney