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RECEIVED
MAY 25 2017
BY CITY SECRETARY

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May 25, 17

Mayor David Turner
City Hall
411 W. 8th Street
Odessa, Texas 79761

Dear Mayor Turner,

On May 12th, 2017, a complaint was filed alleging the Odessa City Council violated the Open Meetings Act, *Texas Government Code* §551. The complaint was referred to the Texas Rangers for further investigation.

The relevant facts from the complaint are as follows:

1. Failure to announce the exemption allowing a closed session concerning the continued appointment of Jim Breaux on the Odessa Development Corporation.
2. Failure to properly notice the public on the intent and purpose of the closed session.
3. The city leaders who participated in the executive session were District 3 Councilwoman Barbara Graff, District 5 Councilman Filiberto Gonzales, District 1 Councilman Malcolm Hamilton, Mayor David Turner and District 2 Councilman Dewey Bryant.

In response to the questions raised in the complaint, below are some of the findings of the Texas Rangers' investigation and my research:

1. The Open Meetings Act was adopted to help make governmental decision making accessible to the public. It requires meetings of governmental bodies to be open to the public except for expressly authorized closed sessions, and to be preceded by public notice of the time, place, and subject matter of the meeting. The provisions of the Act are **mandatory** and are to be liberally construed in favor of open government. *City Of Laredo v. Escamilla*, 219 S.W.3d 14,19 (Tex.

App. -San Antonio 2006, pet. denied).

2. Under the Open Meetings Act, a "meeting" is a deliberation of a governmental body in which public business or policy over which the governmental body has supervision or control is discussed or in which formal action is taken. *Tex. Gov't Code 551.001.*

3. A City Council meeting is subject to the Open Meetings Act.

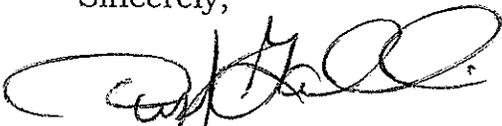
4. The meeting that was held, discussing the removal of Jim Breaux as the head of the Odessa Development Corporation, violated the Open Meetings Act.

In this particular case, based on the investigation conducted by the Texas Rangers, there seems to have been no willful or deliberate violation of the provisions contained in Texas Gov't Code Chpt. 551. Therefore, no criminal offense has occurred.

I have attached a copy of the Attorney General's, Opinion No. *DM-395*. Please review this opinion along with Texas Gov't Code Chpt. 551 in order to familiarize yourself with the procedures of the Open Meetings Act and the penalties associated with violations of the Open Meetings Act for future reference.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Dusty Gallivan", with a large, stylized flourish at the end.

Dusty Gallivan

CC: Larry Long
Barbra Graff
Filiberto Gonzalez
Malcom Hamilton
Dewey Bryant
Michael Gardner