

RECEIVED

AUG 07 2015

OPINION COMMITTEE



FILE # ML-47782-15
I.D. # 47782

LOGAN PICKETT
Liberty County District Attorney

RQ-0043-KP

July 31, 2015

REQUEST FOR ATTORNEY GENERAL OPINION

The Honorable Ken Paxton
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

Re: Request on behalf of the City of Hardin, Texas

Dear General Paxton:

I am writing this request for the Attorney General's Opinion on behalf of the City Council of the City of Hardin, Texas. The substance of this request is as follows:

1. What is the vote required to remove a Municipal Officer under Local Government Code 22.077(a)?
2. What is the vote required to remove a Municipal Officer under Local Government Code 22.077(b)?
3. What constitutes a quorum at an emergency meeting?
4. Is an emergency meeting a "called" meeting?

LAW

Section 22.077, Local Government Code, provides for the removal of a Municipal Officer by two different means. A City Secretary is a Municipal Officer according to Section 22.071, Local Government Code. Subsection (a) of 22.077 provides for the removal because of incompetency, corruption, misconduct, or malfeasance. This subsection does not specifically state the required vote necessary for removal. Subsection (b) of 22.077 provides for removal because of a lack of confidence. This subsection states that removal is effective only if two-thirds of the elected aldermen vote in favor of a resolution declaring lack of confidence.

Section 551.045, Government Code, states that an emergency or an urgent public necessity exists only if immediate action is required of a governmental body because of:

1. An imminent threat to public health and safety; or
2. A reasonably unforeseeable situation.

A quorum is defined in Section 22.039, Local Government Code, to be a majority of aldermen. The same section requires two-thirds of the number of aldermen to constitute a quorum at a called meeting.

I respectfully request the Attorney General's opinion with respect to the matters discussed in this letter.

Sincerely,



7/31/15

Logan Pickett
District Attorney

LP:km