



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 456

July 16, 2004

Application of section 255.003 of the Election Code to comments made by city council members at a public meeting that is broadcast over a public access television channel. (AOR-510)

The Texas Ethics Commission has been asked about the application of section 255.003 of the Election Code to statements by city council members at a city council meeting that is recorded and broadcast over a public access television channel.

Section 255.003 of the Election Code prohibits a city officer or employee from using city resources for political advertising. [Ethics Advisory Opinion No. 45](#) (1992). The requestor's specific question is "whether the recording and the televising of city council meetings may run afoul of § 255.003 any time a council member states an opinion concerning a measure that is or may be on an upcoming ballot."

In our opinion, section 255.003 was not intended to inhibit discussion of matters pending before a governmental body. When a city council holds a meeting to discuss whether to place an issue before the voters, council members and members of the public are likely to voice opinions about the issue. We do not interpret section 255.003 to prohibit the city from broadcasting a tape of such a meeting if the broadcast is in keeping with the city's regular practice of broadcasting meetings. In that situation, city resources would not be used "for" political advertising even if an incidental effect of broadcasting the tape would be to broadcast statements supporting or opposing a ballot measure.

It is not possible, however, to state that comments by city council members at a recorded public meeting could never give rise to a violation of section 255.003 because we can imagine a situation in which one or more city council members might arrange a discussion of a matter not pending before the city council with the hope that broadcasts of the discussion would influence the outcome of an election.

SUMMARY

Section 255.003 of the Election Code does not prohibit a city from broadcasting a tape of a city council meeting at which the city council considers placing an issue before the voters if the broadcast is in keeping with the city's regular practice of broadcasting meetings.