



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 490

April 21, 2010

Whether a communication relating to a measure that a city is considering using public funds to publish complies with section 255.003 of the Election Code. (AOR-553)

The Texas Ethics Commission has been asked to consider whether a communication relating to a measure that a city is considering using public funds to publish complies with section 255.003 of the Election Code. The communication at issue is a pamphlet that relates to the City of Crowley's Crime Control and Prevention District (hereafter, CCPD).¹ The requestor of the opinion states that in 2005 the voters approved CCPD for five years and that in May 2010 the voters will consider continuing CCPD for an additional 10 years. The requestor states that the pamphlet is designed to disseminate information for citizens to understand how sales tax money is spent through CCPD.

Section 255.003 of the Election Code provides, in relevant part, as follows:

- (a) An officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising.
- (b) Subsection (a) does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.
- (b-1) An officer or employee of a political subdivision may not spend or authorize the spending of public funds for a communication describing a measure if the communication contains information that:
 - (1) the officer or employee knows is false; and
 - (2) is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.
- (c) A person who violates Subsection (a) or (b-1) commits an offense. An offense under this section is a Class A misdemeanor.

Elec. Code § 253.003.

The initial question in determining compliance with section 255.003 is whether the communication provided for our inspection constitutes political advertising for purposes of section 255.003(a). Political advertising is defined by section 251.001(16) of the Election Code as follows:

"Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

(A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or

(B) appears:

(i) in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or

(ii) on an Internet website.

The critical question in determining whether the communication constitutes "political advertising" is whether it is a communication supporting or opposing a measure. Whether a particular communication supports or opposes a measure is a fact question. A factor in determining whether a particular communication supports or opposes a measure is whether the communication provides information and discussion of the measure without promoting the outcome of the measure. [Ethics Advisory Opinion No. 476 \(2007\)](#). The communication at issue is a pamphlet that is titled "City of Crowley Crime Control and Prevention District" and that provides information about CCPD cost, programs, and goals and includes the name of members of the city council and the city secretary. The pamphlet does not provide information about the election nor does it support or oppose the continuation of CCPD and, therefore, does not constitute political advertising as the term is defined in section 251.001(16).

The remaining question in determining compliance under section 255.003 is whether using public funds to publish the pamphlet is permissible under section 255.003(b-1). In our opinion, the information provided in the pamphlet is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the continuation of CCPD. Therefore, for the use of public funds to publish the pamphlet to be permissible, an officer or employee of the city may not authorize the use of public funds if the officer or employee knows the pamphlet contains information that is false. Whether or not an officer or employee provides such authorization is a fact question that cannot be resolved in an advisory opinion.

SUMMARY

For purposes of section 255.003 of the Election Code, the attached pamphlet is not "political advertising" and, therefore, public funds may be used to publish it unless an officer or employee of the city authorizing such use of public funds knows that the pamphlet contains false information.

¹ A copy of the communication is attached to this opinion as an appendix.

CCPD Goals

Future plans for Crowley's Crime Control and Prevention District include:

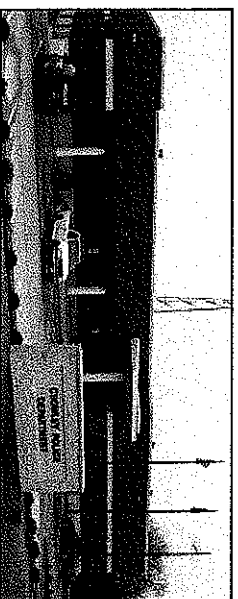
- Organizing neighborhood National Night Out and other community programs (Public Safety Education and Alcohol, Drug, and Tobacco Awareness)
- An annual Bike Rodeo to educate and inform young and old riders of bicycle safety
- Providing safe transportation for CATCH kids to volunteer or fulfill obligations
- Equipping the Teen Room in the new Recreation Center (computers, media equipment, pool tables)
- Hiring a second Community Resource Officer to assist youths at the City's new Recreation Center
- Purchasing a vehicle for new CRO
- Networking with other law enforcement agencies and professional organizations to use the Police Department's Training Room for cooperative training and continuing education (including Explorers)
- Improving professional police services
- Providing citizens with training and volunteer opportunities for community involvement in crime awareness
- Reducing fear of crime for the citizens and businesses in Crowley

CRIME CONTROL AND PREVENTION DISTRICT

Crowley City Hall
201 E. Main Street
P. O. Box 747
Crowley, TX 76036
(817) 297-2201, Ext. 4000



Crime Control and Prevention District



CRIME CONTROL AND PREVENTION DISTRICT

What is the CCPD?

The Crime Control and Prevention District provides necessary resources to effectively reduce crime through prevention and education strategies throughout the community.

Presently, the CCPD funds one fulltime, permanent Community Resource Officer, purchased a vehicle and utility trailer for the CRO, provided initial funding for the new Police Station, and set in motion the growing success of community programs such as the Neighbors on Watch program.

The CCPD is governed by a seven-member Board of Directors. The Board members are responsible for establishing the annual budget, setting policies, overseeing expenditures and evaluating programs funded by the District.

What is the Cost?

During the 2005 election, citizens voted to establish a Crime Control and Prevention District in Crowley. CCPD's funding comes from sales tax collected from those who visit, shop or work in Crowley.

When goods or services are purchased in the City...



...one-half cent of each \$1.00 spent goes to CCPD. Crowley's sales tax rate remains 8.25%.

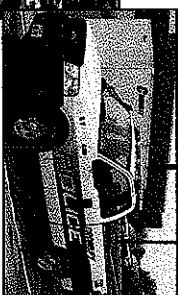
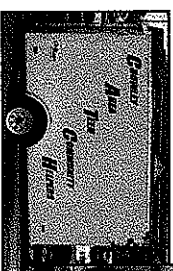
About the CCPD Programs

Neighbors On Watch

Well into its second year, the Neighbors On Watch program (N.O.W.) has over 420 active members in the City of Crowley. N.O.W. enlists the eyes and ears of residents in each neighborhood to report suspicious behavior without putting themselves in harm's way or confronting potential suspects.



Under the Community Resource Officer's guidance, N.O.W. Grid Captains meet monthly for training and to discuss crime trends in Crowley. In turn, the Grid Captains meet with the N.O.W. members in their respective community to pass along important information. To get involved in the N.O.W. program, contact Crowley's CRO Chris LaChance at (817)297-2276, Ext. 6507 or go to crowleynow.com.



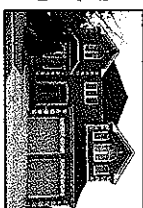
Crowley Area Teen Community Helpers

Known in the community as CATCH kids, this program appeals to youths in two capacities: volunteering and Court-mandated community service. Youths can explore possible careers in the judicial system by volunteering in Teen Court. Those who find themselves on the wrong side of the law have an opportunity to fulfill their legal responsibilities by working with the City's Community Resource Officer.



Home Security Inspections

The Community Resource Officer's goal is to inform and educate residents and business owners of potential security breaches. The security inspection includes reviewing easy or unsecured entry points, landscaping issues, and a checklist of other possible weaknesses. A home security inspection is available at no cost.



New Police Department Facility

During its Grand Opening in March, 2009, residents and visitors toured the new Police Department's 22,000 sq. ft. facility. Special features include a welcoming front lobby, jail lobby, two dispatch stations, a fingerprint station, workout room, breakroom, large training room with an Emergency Operations Center, interrogation rooms, conference rooms and office space for staff. The jail has a 24-detainee capacity and a sally port to accommodate four vehicles. This facility also includes adequate storage, a large Property and Evidence area and office space for the Chief, two Lieutenants and support staff.



President:	Councilman Jesse Johnson
Vice President:	Councilman Jim Hirth
Members:	Mayor Billy Davis
	Councilman John Shotwell
	Councilman Jerry Beck
	Councilwoman Tina Pace
	Councilman Beau Yarborough
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