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District 18

The Senate of
The State of Texas
Austin 1871

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OPINION COMMITTEE

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FILE # ML-44575-DL January 19, 2006
I.D. # 44575

The Honorable Gregg Abbott
Texas Attorney General
P.O. Box 12548
Austin, TX 78711-2548

RQ-0432-GA

VIA U.S. Certified Mail

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RE: Whether a municipality has the authority to lease its oil, gas and mineral property in the manner and upon the terms that the governing body of the municipality deems appropriate pursuant to Sec. 253.005, Local Government Code, or whether a municipality is required to follow the bidding procedure set forth in Chapter 71, Subchapter A, Texas Natural Resources Code.

Dear General Abbott:

The City of Lubbock has brought to my attention an issue of apparent conflict in Texas statutes regarding the mineral leasing process for a municipality between the Local Government Code and the Natural Resources Code. A review and opinion from your office would clarify this ambiguity for any city contemplating a lease of oil, gas and minerals under city owned property.

There appear to be two statutes that speak to the authority of a municipality to lease its mineral property. The question arises as to whether these two statutes are in conflict, and if so, which controls.

AG Opinion Request, January 19, 2006
Senate Natural Resources Committee

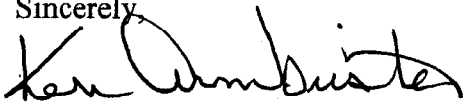
Sec. 253.005 of the Local Government Code authorizes a municipality to lease its land for mineral development as follows:

- (a) Except as provided by Subsection (b), a municipality may lease oil, gas, or mineral land that it owns, in the manner and on the terms that the governing body of the municipality determines, for the benefit of the municipality. A lease under this section is not a sale under the law governing the sale of municipal land.
- (b) A municipality may not lease under this section a street, alley, or public square in the municipality.
- (c) A well may not be drilled in the thickly settled part of the municipality or within 200 feet of a private residence.

Chapter 71, Subchapter A, of the Texas Natural Resources Code provides for the leasing of land for mineral development by a "political subdivision". The term "political subdivision", as used in Chapter 71, would appear to include municipalities. Specifically, Sec. 71.001, et seq, requires public notice and a bidding procedure for the leasing of mineral land owned by a political subdivision.

Attorney General's Opinion No. V-1569, dated December 30, 1952, addressed a similar inquiry about predecessor statutes, and may still provide the appropriate guidance. However, it would be extremely useful to have an opinion issued construing the current statutory provisions. I am requesting this opinion in my capacity as Chairman of the Senate Natural Resources Committee. If you need further information please do not hesitate to contact me.

Sincerely,



Ken Armbrister
Chairman, Senate Natural Resources Committee

cc: Richard Casner, First Assistant City Attorney
P.O. Box 2000
Lubbock, TX 79457