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State of Texas  
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**BILL G. CARTER**

DISTRICT 91

RQ-0539-JC

April 30, 2002

The Honorable John Cornyn  
Attorney General of Texas  
P. O. Box 12548  
Austin, TX 78711-2548

FILE # ML-42581-02  
I.D. # 42581

Dear General Cornyn:

I am requesting an interpretation and an opinion of the legality of a resolution passed by the Council of the City of Cockrell Hill on January 22, 2002 in relation to the requirements of Texas Government Code Section 21.002. In particular, the amendment to Section 21.002 passed by the 77th Legislature providing:

A member of the governing body of a municipality may serve as a volunteer for an organization that protects the health, safety or welfare of the municipality regardless of whether the organization is funded or supported in whole or in part by the municipality if the governing body adopts a resolution allowing members of the governing body to perform service of that nature.

On January 22, 2002, the City of Cockrell Hill duly passed resolution 2002-B (attached ) which provides that :

- (1) It is against public policy for a person to serve as mayor, council person and as a member of Cockrell Hill Fire Department at the same time, and
- (2) If a person chooses to serve on the Cockrell Hill Volunteer Fire Department , such action shall be deemed a violation of public policy and shall be deemed a resignation as a

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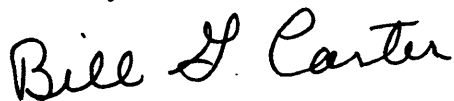
member of the City Council of the City of Cockrell Hill, Texas and the City Council of Cockrell Hill, Texas, shall immediately replace such member or members as provided by law.

One council member serves also on the Cockrell Hill Volunteer Fire Department. Consequently, the interpretation and validity of resolution 2002-B in relationship to Section 21.002 has come into question. For this reason, I am respectfully requesting an opinion from the Attorney General on the following issues:

1. Can the city council determine as a matter of public policy that a person may not serve as a council member and also serve on the volunteer fire department?
2. If the city council can forbid a member of the council from also serving on the volunteer fire department because of public policy, can the provision providing that the refusal to resign from the volunteer fire department by that council person also be deemed a resignation from the city council?
3. Can the refusal to resign be deemed an automatic resignation, and if so what remedy does the city council have if the individual refuses to leave office?
4. If the resolution was passed in order to prevent a specific council person from continuing to serve on the volunteer fire department, does this action in any way violate the rights of the council person? Pursuant to this issue, documents relating to the passage of the resolution and identifying the council person, are attached.

I look forward to your response and thank you for your assistance in this request.

Sincerely,



Bill G. Carter  
Chairman, House Committee on Urban Affairs

enc: Resolution 2002-B  
Agenda and Minutes, Cockrell Hill City Council Jan. 22, 2002

cc: **Honorable Harryette Ehrhardt**  
**Jerry Gilmore, City Attorney, City of Cockrell Hill, Texas**