



October 30, 2010

This is a true and correct copy of the Minutes of the **Special Workshop** of the Simonton City Council on October 30, 2010.

1. Mayor McJunkin called the meeting to order at 9:05 AM.

Council present:  
Daniel McJunkin  
Jane Stockton

Jeff Young  
Sandy Bohannon

Kathy Nida

A quorum was present.

Public Present:  
Jim Gammill  
Judge Robert Richter

2. The purpose of this workshop was to learn the proper procedures and uses of a municipal court. Leading the workshop was Judge Robert Richter. He presented information on the authority of a municipal court as well as the Texas Code of Criminal Procedure Chapter 45.
3. Adjournment  
*Councilwoman Jane Stockman made a motion to adjourn; Councilwoman Sandy Bohannon seconded – MOTION PASSED.*

The meeting ended at 12:00 noon

Respectfully submitted,

Handwritten signature of Daniel McJunkin in black ink.

Daniel McJunkin  
Mayor

Handwritten signature of Kathy Nida in black ink.

Kathy Nida  
City Secretary



October 30, 2010

## COUNCIL NOTES of the Special Municipal Court Workshop

1. Mayor McJunkin called the meeting to order at 9:05 AM.

Council present:  
Daniel McJunkin  
Jane Stockton

Jeff Young  
Sandy Bohannon

Kathy Nida

A quorum was present.

Public Present:  
Jim Gammill  
Judge Robert Richter

2. The purpose of this meeting is to learn the proper procedures and uses of a municipal court. Leading the workshop was Judge Robert Richter.
- Judge Richter graduated from Baylor. Has served in a number of capacities in Municipal Court. Has been prosecutor and judge in Harris and Fort Bend County for the last 30 years.
  - Municipal Court is not like on TV. Most people do not have any experience with court other than maybe divorce court or paying tickets.
  - Background: Municipal court is NOT a constitutional court. It was formed by statues created by the legislature of the State of Texas. (A Statutory Court). Probate Court is another example. Municipal Courts have criminal jurisdiction; they generally handles civil cases that have criminal penalties.
  - A Court of Record: any court that is recorded either by stenographer or digital recorder. Municipal Court is generally NOT a Court of Record as it is not recorded in anyway. Appeals out of Simonton Municipal Court would go to the County Court in Fort Bend County- it is call a "trial de novo" – a Latin term meaning you get a new trial if you appeal from a court that is NOT a court of record. Once it moves outside of the Simonton area, the interest in the case drops dramatically. Judge Richter suggested for the moment, Simonton avoid being a Court of Record to save costs. Run a few cases through and see what the history is. If a lot of cases are appealed, then consider becoming a Court of Record. A good recording system would cost several thousand dollars.
  - Cases involving city ordinances such as junk vehicles or loose dogs generally are charged with emotion. More so than a speeding ticket.
  - JURISDICTION OF MUNICIPAL COURT: They have exclusive original jurisdiction within the limits of the municipality pertaining to city ordinances with fines not to exceed \$2,000 in cases involving fire safety, zoning, or public health and sanitation, including dumping of refuse; or \$500 in all other cases. The municipal court will have *concurrent jurisdiction* with the justice court of a precinct in which the municipality is located in all criminal cases arising under state law.
  - A Statute is passed by the State Legislature and Ordinance is at the City level.
  - The judge said he should always hold himself separate from the prosecution and the defense. Judges does not want Councilmen calling him to ask for guidance. He recommends Simonton hold another workshop with the prosecutor that the city will be working with to learn more.
  - Jurors in a Municipal Court must live inside of the city limits if someone asks for a jury trial. Need to create a list of residents inside the city limits to have a jury pool. Try tax records or voter registration lists. Councilwoman Jane Stockton will work on creating a jury pool list.
  - Justice courts may sit at any time to try criminal cases – even on Sunday if the court chooses.
  - Chapter 45 of the Code of Criminal Procedure is the governing document of Municipal Court. The judge will not cover that in depth, but he will review the highlights as they pertain to Simonton's ordinances. This covers the procedures in a Municipal Court.

- In any of our ordinances, you can use either your city ordinance OR the state law pertaining to a give subject. (i.e., use our junk vehicle ordinance OR the State Transportation Code.) You can not presume anything in a prosecution. *Note: the new junk vehicle ordinance needs to be uploaded onto the website.*
- You can have an abatement and as offence going on at the same time. The difference is abatement deals with getting rid of a junk vehicle; an offence means someone has violated a city ordinance.

*Q. If a citation is issued because a vehicle is inoperable because the engine is sitting on the ground and has an expired license plate but when the owner comes to court and says "the engine was out, but I put it back in the next day and the vehicle is in the parking lot"; would you simply say case dismissed?*

**A.** NO. The vehicle may now be in compliance, but the owner was still in violation of the ordinance at the time the citation was issued. If the owner corrected the problem, they may be entitled to a reduction of the penalty. The question of innocence or guilt stems from the day of the offence occurred. Differed disposition is an effective tool: rather than simply reducing the fine, you put someone on probation. If at the end of the time, if there was no other offence the case is dismissed. The special expense fee is \$100 plus court costs (\$64). If there are any other violations, the person will have to pay the full fine of \$500.

- The Process: You do not need a police department to get someone into court. Someone swears out a complaint; and send that along with a summons with a court date sent by regular first class mail. If they do not come, a warrant can be issued. (The judge issues a warrant. The prosecutor prepares the complaint.) Any law enforcement officer can write a citation for the Municipal Court as long as it happens inside the city limits.
- The city secretary can act as court clerk.
- DPS can enforce anything in the State. The Sheriff's office can enforce anything in the county. However, they may not want to enforce local city ordinances.
- Any police officer can serve a warrant and "snatch them up", but where do you put them once you have them? You can have an agreement with the county to hold prisoners. Where do you put them if they are a juvenile? You cannot arrest a juvenile, but you can put them in a non-secure custody (have them sit in court all day).

*Q. Who serves the warrant?*

**A.** With no police department, that could be a small problem because they need a place to put them. You may be able to have an agreement with the county to house prisoners for a fee-per-day.

- A crime of moral turpitude could be as minor as stealing a stick of gum – called theft. It can disqualify you from voting, seeking public office, from serving in the military, from getting federal education grants. 17 years old is an adult.

*Q. The county has a brand new precinct building complete with a court room. when can we use that?*

**A.** If there is concurrent jurisdiction, you can use J.P. Court, but they will not handle city ordinances.

- There is an issue of kids stealing stop signs. That is a state law and can be prosecuted in JP court.

*Q. If we do away with our ordinances, we can use state law?*

**A.** You do not need to do away with local ordinances. The State law addressing dangerous animal and does not address dogs running loose.

- A complaint can be an eye witness or by hearsay. That is on the basis of a credible person that observed a violation.
- The complaint form that the city has been using as a "complaint form" is NOT a legal complaint form...it is "a request to file charges". A complaint form is a legal document with specific information necessary.
- A legal complaint form gets someone into court. If it goes that far, there must be a "probable cause" clause where someone personally observed the violation first hand.

*Q. If a citizen will not sign a complaint because they are afraid can the mayor sign the complaint form?*

**A.** If a citizen will not sign the complaint form, do not bother to proceed. It needs to be signed by someone that personally observed the violation to go to court. You want your prosecution to be based on good, hard facts. You do not want to harass your people.

*Q. How often does court have to meet? How spontaneous can court be?*

A. It does not matter to the Judge. It can be spontaneous, or it can be set up for once a quarter and all cases are scheduled for that date.

*Q. How do we go about setting up court and accepting fines?*

A. Texas Municipal Court Education Center can help set everything up. They have all the information needed. They do seminars if necessary.

- A “Star Chamber Proceeding” was a government group where people would come in and report a crime anonymously. The accused would not know who filed the complaint. You want to avoid finding yourself in a similar situation.

*Q. If a ticket is written by any police officer, is there any benefit to Simonton to have that case heard in Simonton Municipal Court.*

A. You would get part of the fine. However, it may be tough to get the county to give up the revenue from the fine since *their* deputies are writing the citations.

*Q. Again, who serves the warrant when someone does not show up in court?*

A. Any police officer in the State can pick up someone. A warrant is put into the Omni System and if the person is stopped for any reason, the officer will see the warrant and they will pick them up. If it is out of town, they will call Simonton to come pick the person up.

- Our “complaint” form is not a legal complaint form – it is a request to file charges. A legal complaint form is available online. A complaint is a “sworn” allegation charging the accused with the commission of an offense. The complaint is accepted by the court clerk or a notary public. A complaint must be filed at least one day before any action is taken.
- This is not a game. If the person goes to court and found guilty, but they refuse to pay. The judge can order they pay it right away, serve community service or other options. If they refuse, the person is taken into custody at \$50 a day. Assuming you do not want to put anyone in jail, you can use an “Abstract of judgment” which is a notice that comes from the clerk with all the fine information and it gets recorded. No one takes any other action, until they try to sell their house.
- This is no joke. If you are going to run a court, then run it.

*Q. How do we select a prosecutor and bailiff?*

A.. Judge Richter spoke to Kelly Soucia (sp?) and asked if she was interested and she said yes. He knows her and she is good. A bailiff is not necessary, but it is a good idea. Any law enforcement office is good – outside of Simonton.

*Q. What are the first steps we need to take?*

A. If you have some complaints that justify bring to court, have someone prepare the complaints. Send a copy of a summons with a copy with the complaint and mail it to the offender. We will set up a date.

- The City needs to pass an ordinance appointing Judge Richter and set his terms limits. Judge Richter was appointed for a 2-year term. If there is no action for 90 days, the judge’s term is automatically renewed. Look for the minutes that appointed the judge originally. Put an official designation in the file.

### 3. Adjournment

*Councilwoman Jane Stockman made a motion to adjourn; Councilwoman Sandy Bohannon seconded – MOTION PASSED.*

The meeting ended at 11:30 AM

Respectfully submitted,



Kathy Nida  
City Secretary