

ORDINANCE NO. 2315

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, PROVIDING THAT THE CITY WILL SAVE PROTECT, HOLD HARMLESS AND INDEMNIFY MEMBERS OF THE CITY COUNCIL, INCLUDING THE MAYOR FROM ANY CLAIM, SUIT OR JUDGMENT FOR ACTS OR OMISSIONS WITHIN THE SCOPE OF SUCH MEMBER'S OFFICIAL DUTIES OF OFFICE AND DEFINING SUCH TERM; BY PROVIDING A SEVERABILITY CLAUSE AND DECLARING AN EMERGENCY.

WHEREAS, the City Council acts in a legislative capacity and in a quasi-judicial capacity in managing the affairs of the City; and

WHEREAS, recent court decisions have questioned the traditional immunity from liability of City Council Members;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the City of Mesquite shall at City expense save, protect and defend and hold harmless each and any member of the City Council including the Mayor from suit, claim or judgment and indemnify such member for any financial loss suffered thereby, by reason of such member's acts or omissions within the scope of such member's official duties of office as Mayor or Council Member. Such obligation shall be for acts or omissions occurring or alleged during tenure of office including such period as a member may hold over pending qualification of a successor in office regardless of when such claim or suit may be instituted or judgment entered. Provided, however, that such protection shall not extend to any claim, suit or judgment by or in favor of the City of Mesquite against a present or former Council Member.

SECTION 2. This ordinance shall not render the City of Mesquite liable to any party that may have a claim, suit or judgment against the Mayor or City Council Member but said obligation of City shall inure to the benefit of the Mayor or Council Member personally and at said Mayor or Council Member's option, may be waived or cancelled.

SECTION 3. It is the express intent of each member voting hereon and the Mayor in presiding, voting and signing same that his or her act or vote be applicable only to other members of the Council and future members and not to himself or herself and each declares that he or she is aware of no claim, suit or judgment pending or expected against himself or herself or any other member in connection with service upon the City Council and that no present pecuniary benefit is conferred upon any member voting hereon.

SECTION 4. The term "within the scope of such member's official

duties of office" is defined as all acts or lack of action for which liability may be claimed or alleged because of said member's position as a Council Member or Mayor or for acts taken as a member or mayor or for acts taken or not taken because such party is a member or mayor, whether or not liability is predicated upon such position of office and shall include all votes upon matters before the council in which discretion is conferred by law, whether of a legislative, quasi-judicial or executive nature; all discussion regarding matters before the Council or matters affecting the City's interest; attendance and participation in public functions as a part of or on behalf of the City and the giving of testimony or the advocacy on behalf of City in any court, administrative agency or other adjudicative body where decisions will or may affect the City's interest but does not include purely private acts or public acts in which the member has a substantial conflict of interest as such term is defined by law.

SECTION 5. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional the remaining provisions of this ordinance shall remain in full force and effect.


SECTION 6. The fact that the present ordinances of the City are inadequate to properly protect members of the City Council from personal liability for acts and omissions within the scope of such member's official duties of office creates an urgency and emergency and necessitates that this ordinance become effective immediately from and after its date of passage and the publication of its caption as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 7th day of July, A.D., 1986.


 Mrs. Brunhilde Nystrom
 Mayor

ATTEST:

APPROVED AS TO FORM:


 Lynn Prugel
 City Secretary

 Elland Archer
 City Attorney