

City of
SHELBYVILLE
Tennessee

PRESS RELEASE
February 8, 2018

FORMAL RESPONSE TO ADDRESS RECENT MEDIA REPORTS REGARDING SECRET MEETINGS OF THE CITY

I have been asked to read a statement on behalf of the City and its Administration to address recent media reports that have accused the City of holding secret meetings in violation of state law. Specifically, Executive Sessions held in October 2017 as they related to the large rally planned by numerous groups for October 28, 2017. Under the law in Tennessee, government meetings are open for the public to attend and require public notice of the date, time, and place of the meeting, subject to certain exceptions. One of those exceptions is for Attorney Client Privilege Sessions also referred to as Executive Sessions. Executive Sessions are held to discuss potential and pending litigation between the client and attorney. Under the definitions of the Tennessee Open Meetings Act, an Executive Session using Attorney Client privilege does not fall under the definition of "a meeting" under the Act and therefore is not required to comply with the notice requirements of the Act. While gathering of individuals is considered a meeting in the general sense of the term, under the Tennessee Open Meetings Act the word meeting has a specific definition. An Attorney Client Privilege Session does not fall within that definition. This interpretation of State Law is not only what the City has received from its own legal counsel, but also the Tennessee Office of Open Records Counsel and Municipal Advisory Technical Service (MTAS). While media reports have recognized government's right to hold Executive Sessions, they appear to take issue with not following the notice requirements of the Act citing Englewood citizens for Alt B. vs. Town of Englewood 1999 TN Court of Appeals Case. That case dealt with a Special Called Meeting open to the public and subsequently did not address notice requirements for Attorney Client Privileged Executive Sessions. They are two separate unrelated matters. It is also important to note that neither the Tennessee Office of Open Records Counsel nor the Municipal Technical Advisory Service have deemed it necessary under their formal interpretation of the law that local governments would be required for minutes to be kept for Executive Sessions. Both the Tennessee Office of Open Records Counsel and MTAS interpretation of the law was referenced in an earlier memo provided to the media by legal counsel in November 2017, but was excluded from publication.

Time constraints among numerous daily tasks in planning and litigation issues presented daily challenges for city government in continued efforts to ensure public safety in October. Those challenges were ongoing and although it is recognized that public notices for Executive Sessions had been a past practice, they are not required by law, and due to the rapid pace as which information was being received they were also not deemed possible.

It has always been and will continue to be a priority for city government to be transparent to the citizens of our community. We are here to serve our community and to communicate as openly as possible. For this reason, that is why meeting minutes were created by Administration for the Executive Sessions held in October, which is above what the law requires, to create a formal record of the meetings so that we are transparent.

Therefore, City Administration and Elected Officials wanted the opportunity to formally respond out of respect for the citizens of our community and to those employees and jurisdictions involved with providing for public safety, to address the facts surrounding law, what defines a meeting, and when public meeting notices are required. City government also recognizes the responsibility of the media to provide the community with information regarding their local governments. However, recently opinions of the press have been expressed throughout media articles as if fact, and therefore city government felt the need to communicate directly with our great citizens of Shelbyville to further explain the issue. The City has strong relationships with business leaders in our community and will continue to maintain those relationships and develop new ones. Those relationships have been achieved through our dedication and efforts of open communication throughout our community. The city wants to ensure the community that city operations and practices are in compliance with state law and to once again reiterate our philosophy of transparency and to preserve the community efforts of October 28th all the while providing accurate facts to our citizens which are greatly deserved.