



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 21, 1997

Ms. Kelley Littlefield
City Secretary
City of Shepherd
P.O. Box 248
Shepherd, Texas 77371

OR97-1651

Dear Ms. Littlefield:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 107310.

The City of Shepherd (the "city") received a request for "[a]ny and all information, including packet presented to city council members, concerning [sic] presentation given by Lou Rogers at a recent council meeting; and the related agenda." As you have not raised an objection to the release of the "related agenda," we assume that your office will release the requested document.¹ Although you have not raised any specific exceptions under the Act to the requested information, you claim that the responsive documents were not created by your office, and ask whether the city is required to release the requested information and the charge for preparing of some information. We have considered your arguments and reviewed the submitted information.

Section 552.002(a) defines the term "public information" to include information that is "collected, assembled, or maintained . . . (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." Gov't Code § 552.002(a) (emphasis added). We understand that the information responsive to the requests is "collected, assembled, or *maintained*" by the city. Therefore, to the extent that the requested information is in the possession of the city, you must comply with the request for information. See Open Records Decision No. 561 (1990) (governmental body has duty to make a good faith effort to relate a request for information to information the governmental body holds).

¹We also assume that the city will release the remaining information for which an exception has not been claimed.

We note that we are not aware of any law that would render the information at issue confidential. *See generally* Open Records Decision Nos. 551 (1990) at 2-3 (laws or ordinances are open records), 221 (1979) at 1 (“official records of the public proceedings of a governmental body are among the most open of records”). Furthermore, this office generally considers information regarding a specific transaction between an individual and a public body to be public information. *See* Open Records Decision Nos. 611 (1992), 480 (1987), 443 (1986). Therefore, because you have not shown that the requested information is excepted from disclosure, it must be released to the requestor.

We next address your question regarding the proper charge of fees for preparation of information in response to an open records request. Sections 552.261 and 552.262 of the Government Code provide for the determination of cost of copies under the Open Records Act. Section 552.261 of the Government Code provides that the cost of providing copies of public information “shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead.” The Texas General Services Commission sets rules specifying the methods and procedures for determining such costs. Gov’t Code § 552.262. Governmental bodies must follow the rules adopted by the General Services Commission, “except to the extent that other law provides for charges for specific kinds of public information.”² Gov’t Code § 552.262(a); *see also* Gov’t Code § 552.263 (payment of bond for costs of preparation). In conclusion, we also note that the Act places on the custodian of records the burden of proving that records are excepted from public disclosure. *See* Gov’t Code § 552.301(b)(1); *see also* Attorney General Opinion JM-672 (1987).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

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²If you have any concerns over the costs associated with providing the requestor with information, we suggest that you contact the Open Records Administrator for the General Services Commission. *See* Gov’t Code §§ 552.261-273.

Ref: ID# 107310

Enclosures: Submitted documents

cc: Mr. Greg Magee
The Watchdog
P.O. Box 516
Coldspring, Texas 77331
(w/o enclosures)

