



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 28, 1997

Mr. Larry W. Schenk
City Attorney
City of Longview
P.O. Box 1952
Longview, Texas 75606-1952

OR97-1713

Dear Mr. Schenk:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 107830.

The City of Longview (the "city"), which you represent, received a request for a copy of the tape recording of a certain executive session of the City Council. At issue in this request are actions taken during what the city contends is an "executive session" which was conducted as a closed meeting pursuant to section 551.082 of the Government Code. The City contends that the request for a copy of an executive session excerpt falls outside the provisions of the Open Records Act.

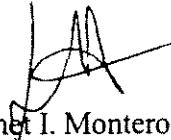
Section 551.104(c) of the Government Code states that a "certified agenda or tape of a closed meeting is available for public inspection and copying only under a court order." Thus, the city's executive session tapes must not be disclosed unless a court rules otherwise in an action filed under the Open Meetings Act. Gov't Code 551.104; Open Records Decision No. 495 (1988) (attorney general lacks authority to review certified agendas or tapes of executive sessions). Additionally, we observe that the circumstances presented involve a factual dispute as to whether the City Council "took a final action, decision, or vote" in executive session and this office is unable to resolve factual disputes in the Open Records context. Open Records Decision Nos. 554, 552 (1990). Accordingly, absent a court order, you must withhold the requested tape recording which you assert is an executive session meeting.

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

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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,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/alg

Ref: ID# 107830

cc: Ms. Keely Coghlan
Longview News-Journal
P.O. Box 1792
Longview, Texas 75606-1792
(w/o enclosures)