



February 18, 2000

Ms. Sheila I. Jalufka
Barney L. Knight & Associates
223 West Anderson Lane, Suite A-105
Austin, Texas 78752

OR2000-0628

Dear Ms. Jalufka:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 133102.

The City of Jonestown (the "city") received two requests for information: (1) a copy of the "Oct./Nov. Audio min. from conc. meeting" and (2) a copy of the city's annual budget and expenditures for the year 1999, and the city's annual budget for the year 2000. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. You have provided a representative sample of the city's budgets and expenditures.¹ We have considered the exception you claim and reviewed the submitted information.

We will first consider the request for the audiotape of the city council meeting. Section 551.002 of the Government Code expressly provides that "[t]he minutes and tape recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee. The audiotapes at issue are of an open meeting, and, therefore, must be made available to the requestor. When a statute expressly makes information public and mandates the release of the information, that information cannot be withheld from disclosure under one of the exceptions in Subchapter C of chapter 552 of the Government Code. Open Records

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Decision No. 451 (1986) (specific statute that affirmatively requires release of information at issue prevails over litigation exception of Public Information Act). Therefore, the audiotape must be released.

Next we will consider the request for the city's budgets and expenditures for the years 1999 and 2000. You assert that section 552.103 of the Government Code excepts from disclosure the requested information. We note that the Seventy-sixth Legislature amended section 552.022² to provide that information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body is public unless that information is expressly made confidential under other law. Gov't Code § 552.022(a)(3). Section 552.103 is an exception under the Public Information Act and is, therefore, not other law that makes the requested information confidential. We conclude that the city's budget and expenditures for the years 1999 and 2000 fall within the purview of section 552.022(a)(3) of the Government code, as this information constitutes information in an account, voucher, or contract which relates to the receipt and expenditure of public or other funds by a governmental body. Therefore, the requested city budgets and expenditures are made expressly public pursuant to section 552.022(a)(3) and must be released.

Additionally, the city budgets were part of ordinances that were adopted by the city council in open meetings. Therefore, the budgets may not be withheld under section 552.103 of the Government Code and must be disclosed. Open Records Decision Nos. 551 at 203 (1990) (laws or ordinances are open records), 221 at 1 (1979) ("official records of the public proceedings of a governmental body are among the most open of records").

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

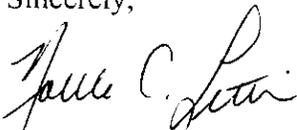
²Act of May 25, 1999, 76th Leg., R.S., S.B. 1851, § 5 (codified at Gov't Code 552.022).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Noelle C. Letteri
Assistant Attorney General
Open Records Division

NCL/ch

Ref: ID# 133102

Encl. Submitted documents

cc: Mr. Rick Hamilton
Sandy Creek Investors, Ltd.
10630 Craighead Street
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(w/o enclosures)