



July 14, 2000

Ms. Jeanette Dunkerson
City Secretary
City of Kenefick
Rt. 5, Box 525-A
Dayton, Texas 77535

OR2000-2657

Dear Ms. Dunkerson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 138263.

The City of Kenefick (the "city") received a request for audio cassettes and minutes from city council meetings for the period between September 1, 1999 and June 6, 2000. You indicate that you have released to the requestor all of the requested information with the exception of the information related to the January 17, 2000 meeting.¹ You claim that the January meeting information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

We note that, pursuant to section 551.001(3)(C) of the Government Code, a city council is a governmental body that is subject to the Open Meetings Act. 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." 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

¹You have submitted arguments to withhold from required disclosure only the information related to the January, 2000 meeting. Other than the documents you have submitted for our review, you make no arguments and assert no exceptions to any of the other information that is responsive to the request. Thus, if you have not yet released all other information that is responsive to the request, you must do so at this time. Gov't Code §§ 552.301, .302.

in Subchapter C of chapter 552 of the Government Code. Open Records Decision No. 451 (1986) (specific statute that affirmatively requires release of information at issue prevails over litigation exception of Public Information Act). The information at issue consists of minutes and an audiotape of an open meeting, and, therefore, must be made available to the requestor. Gov't Code § 551.002; *see* Attorney General Decision JM-1143 (1990)(tape recordings of meeting of governmental body produced as aid in preparing minutes are expressly subject to Open Records Act); Open Record Decision No. 221 (1979)(board minutes of school district cannot be excepted under section 3(a)(3) [statutory predecessor to section 552.103] under any imaginable circumstances). Consequently, you must release to the requestor all of the requested information.

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).

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,



Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/ljp

Ref: ID# 138263

Encl. Submitted documents

cc: Mr. John M. Brandt
P.O. Box 116
Dayton, Texas 77535
(w/o enclosures)