ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 30, 2004

Ms. Julia Gannaway
Lynn, Pham, Moore & Ross, LLP
University Centre II
1320 South University Drive, Suite 720
Fort Worth, Texas 76107

OR2004-10956

Dear Ms. Gannaway:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 216032.

The Forest Bend Volunteer Fire Department (the "department ") received two requests for information. The first request seeks "copies of the bi-weekly payroll sheets for the submitted [sic] for both the part time paid personnel and the volunteer day man payroll sheets–for the time period beginning Jan. 1. 2004 until the present date." The second request seeks copies of the minutes from a specified business meeting including 1) the names of all members that were present, 2) how many votes were cast, 3) who was responsible for counting votes, 4) a roster of all members that are currently eligible to vote, and 5) the name of the individual that denied a specified point of order. The department is releasing a portion of the information that is responsive to the first request. The department claims that the remaining information responsive to this request is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.[1] We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that person may submit comments stating why information should or should not be released).

[1]We 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 Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Initially, we note that you did not submit any information or representative samples of information responsive to the second request for our review. Further, you have not indicated that such information does not exist or that you wish to withhold any such information from disclosure. Therefore, to the extent information responsive to the second request existed on the date that the department received the second request, we assume that the department has released it to the requestor. If the department has not released any such information, the department must release it to the requestor at this time. *See* Gov't Code §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

Next, we note that the requestor does not seek the information the department seeks to redact. Therefore, such information is not responsive to the request and it need not be released to the requestor in this instance. However, the department must release the remaining submitted 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 Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,

Tamara L Harswick

Tamara L. Harswick
Assistant Attorney General
Open Records Division

TLH/sdk

Ref: ID# 216032

Enc. Submitted documents

c: Mr. James P. Laird
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(w/o enclosures)