



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 2, 2011

Mr. Michael S. Ratcliff  
City Attorney  
City of Jasper  
P.O. Box 610  
Jasper, Texas 75951

OR2011-05985

Dear Mr. Ratcliff:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 418024.

The City of Jasper (the "city") received a request for a copy of the city council general and executive session tape recordings from a specified date. You claim the tape recording of the executive session is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim.

Initially, we note that you only seek to withhold the tape recording of the executive session. Thus, to the extent any additional information responsive to the instant request existed and was maintained by the city on the date the city received the request, we assume you have released it. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if a governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Section 551.104 of the Open Meetings Act, chapter 551 of the Government Code, provides in part that "[t]he certified agenda or tape of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3)." *Id.* § 551.104(c). Thus, such information cannot be released to a member of the public in

response to an open records request. *See* Attorney General Opinion JM-995 at 5-6 (1988) (public disclosure of certified agenda of closed meeting may be accomplished only under procedures provided in Open Meetings Act). Section 551.146 of the Open Meetings Act makes it a criminal offense to disclose a certified agenda or tape recording of a lawfully closed meeting to a member of the public. *See* Gov't Code § 551.146(a)-(b). You inform us the information at issue is a tape recording of the city council's executive session.<sup>1</sup> Accordingly, the tape recording of the executive session must be withheld under section 552.101 of the Government Code in conjunction with section 551.104 of the Government Code.<sup>2</sup>

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kirsten Brew  
Assistant Attorney General  
Open Records Division

KB/sdk

Ref: ID# 418024

c: Requestor

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<sup>1</sup> We note the city is not required to submit the certified agenda or tape of a closed meeting to this office for review. *See* Open Records Decision No. 495 at 4 (1988) (attorney general lacks authority to review certified agendas or tapes of executive sessions to determine whether a governmental body may withhold such information under statutory predecessor to Gov't Code § 552.101).

<sup>2</sup> We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including certified agendas and tapes of closed meetings under section 552.101 of the Government Code in conjunction with section 551.104(c) of the Government Code, without the necessity of requesting an attorney general decision.