



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 31, 2016

Mr. Jimmy A. Cassels
Counsel for the City of Diboll
Cassels & Reynolds, L.L.P.
P.O. Box 1626
Lufkin, Texas 75902-1626

OR2016-24162

Dear Mr. Cassels:

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# 632408.

The City of Diboll (the "city"), which you represent, received a request for information pertaining to a specified meeting. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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 section encompasses information protected by other statutes, such as section 551.104 of the Open Meetings Act, chapter 551 of the Government Code. Section 551.104 provides, in part, "[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). We note the city is not required to submit a certified agenda or tape recording 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 from disclosure under statutory predecessor to section 552.101). 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); *see also* ORD 495 at 4. You state the information submitted as Exhibit E consists of the certified agenda from a city council's closed Executive Session. Based on your representations, we agree the city must withhold the information you have submitted as Exhibit E under section 552.101 of the Government Code in conjunction with section 551.104 of the Government Code.

We understand you ask this office to issue a previous determination that would authorize the city to withhold certified agendas from closed meetings under section 552.101 of the Government Code without the necessity of requesting a decision by this office under the Act. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001) (previous determinations). We note this office issued Open Record Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including a certified agenda and tape of a closed meeting under section 552.101 in conjunction with section 551.104 of the Government Code, without the necessity of requesting an attorney general decision. We decline to grant the city a previous determination for any other types of information at this time.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PL/som

Ref: ID# 632408

Enc. Submitted documents

c: Requestor
(w/o enclosures)