



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 17, 2015

Mr. George Ivan Alexander
Counsel for the City of Greenville
Curtis, Alexander, McCampbell & Morris, P.C.
P.O. Box 1274
Greenville, Texas 75403-1274

OR2015-05113

Dear Mr. Alexander:

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# 556738.

The City of Greenville (the "city"), which you represent, received a request for the following: 1) documents related to a named city council member's authority to act for the city or the city council regarding a specified building, 2) agendas or minutes related to any city council discussion of Hunt County's alleged partnership with the city, 3) documents indicating that the county entered into a legal partnership related to the specified building, 4) documents or e-mails related to the named city council member's consideration of or plan to run for mayor, and 5) e-mails to or from the named city council member mentioning any of six specified terms in the body of the e-mail during a specified time period. You state the city has released some information to the requestor. We understand you to claim some or all of the submitted information is not subject to the Act. Additionally, we understand you to contend release of the submitted information may implicate the privacy interests of the named city council member. Accordingly, you notified the named city council member of the request for information and of his right to submit written comments to this office stating why the information should or should not be released. *See Gov't Code* § 552.304. We have received comments from the city council member. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the named city council member argues the city released information to the requestor that was not responsive to the request. However, this information was not submitted by the city for our review. This ruling does not address information that was not submitted by the city and is limited to the information the city has submitted for our review. *See id.* § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested).

Next, you and the named city council member contend the submitted information is not subject to the Act. The Act applies to “public information,” which is defined in section 552.002(a) of the Government Code as

information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body; or
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or
 - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- (3) by an individual officer or employee of a governmental body in the officer’s or employee’s official capacity and the information pertains to official business of the governmental body.

Id. § 552.002(a). Information is “in connection with the transaction of official business” if it is “created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer’s or employee’s official capacity, or a person or entity performing official business or a government function on behalf of a governmental body, and pertains to official business of the governmental body.” *Id.* § 552.002(a-1). Thus, virtually all of the information in a governmental body’s physical possession constitutes public information and is subject to the Act. *See* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988).

You state the information at issue consists of information obtained from the city council member’s personal e-mail account and “some, if not all, of the e-mails in question . . . are not public records.” Further, the city council member informs us the information at issue consists of information about his personal business as a private attorney, information regarding his clients, information regarding an attorney list serve to which he belongs, and personal e-mails. Thus, we understand the city and the city council member to argue this information does not concern the business of the city and was not written, produced, collected, or assembled and is not maintained pursuant to any law or ordinance or in connection with the transaction of the city’s business. Based on these representations and our review of the submitted information, we find this information does not constitute “information that is written, produced, collected, assembled, or maintained under a law or

ordinance or in connection with the transaction of official business” by or for the city. *See* Gov’t Code § 552.002. Therefore, we conclude the information at issue does not constitute public information for purposes of section 552.002 of the Government Code. *See* Open Records Decision No. 635 at 7 (1995) (section 552.002 not applicable to personal information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources). Accordingly, the city is not required to release the submitted information in response to the request for information.

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.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,



Kristi L. Godden
Assistant Attorney General
Open Records Division

KLG/cz

Ref: ID# 556738

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Daniel J. Perkins
Attorney at law
WatkinsPerkins Law Group
P.O. Box 876
Greenville, Texas 75403-0876
(w/o enclosures)