



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 2, 2020

Ms. Courtney M. White  
Assistant City Attorney  
City of Amarillo  
P.O. Box 1791  
Amarillo, Texas 79705-1971

OR2020-30069

Dear Ms. White:

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# 856431 (ORR# P003395).

The City of Amarillo (the "city") received a request for all staff concerns regarding four named employees of the city's Department of Animal Management and Welfare (the "department"). The city claims the submitted information is excepted from disclosure under sections 552.101 and 552.111 of the Government Code. We have considered the exceptions the city claims and reviewed the submitted information.

Section 552.111 of the Government Code excepts from disclosure "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency[.]" Gov't Code § 552.111. This exception encompasses the deliberative process privilege. *See* Open Records Decision No. 615 at 2 (1993). The purpose of section 552.111 is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. *See Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.—San Antonio 1982, writ ref'd n.r.e.); Open Records Decision No. 538 at 1-2 (1990).

In Open Records Decision No. 615, this office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.—Austin 1992, no writ). We determined section 552.111 excepts from disclosure only those internal communications that consist of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. *See* ORD 615 at 5. A governmental body’s policymaking functions do not encompass routine internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. *Id.*; *see also* *City of Garland v. Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (section 552.111 not applicable to personnel-related communications that did not involve policymaking). A governmental body’s policymaking functions do include administrative and personnel matters of broad scope that affect the governmental body’s policy mission. *See* Open Records Decision No. 631 at 3 (1995).

Further, section 552.111 does not protect facts and written observations of facts and events that are severable from advice, opinions, and recommendations. *Arlington Indep. Sch. Dist. v. Tex. Attorney Gen.*, 37 S.W.3d 152 (Tex. App.—Austin 2001, no pet.); *see* ORD 615 at 5. But if factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make severance of the factual data impractical, the factual information also may be withheld under section 552.111. *See* Open Records Decision No. 313 at 3 (1982).

The city states the submitted information consists of an intra-agency e-mail from the city’s Human Resources Manager to the city’s Assistant City Manager. The city states the e-mail “summarizes anonymous staff opinions about” one of the named employees, who is the head of the department. The city states the e-mail does not relate to disciplinary action in a routine personnel matter, but rather was used by the city to “deliberate the future direction of the [d]epartment and its impact on the [d]epartment’s policy mission.” Based on these representations and our review of the information at issue, we find the city has demonstrated the information at issue consist of advice, opinions, or recommendations on the policymaking matters of the city. Thus, the city may withhold the submitted information under section 552.111 of the Government Code.<sup>1</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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

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<sup>1</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of the submitted information.

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/gw

Ref: ID# 856431

Enc. Submitted documents

c: Requestor  
(w/o enclosures)