

Mayor and Council Communication

DATE: 01/23/24

M&C FILE NUMBER: M&C 24-0005

LOG NAME: 12PIALAWSUIT2023

SUBJECT

(ALL) Adopt Resolution Ratifying the City's Lawsuit Entitled City of Fort Worth, Texas v. Ken Paxton, Attorney General, Cause No. D-1-GN-23-006609 Pursuant to Chapter 552 of the Texas Government Code

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution ratifying the filing of the lawsuit entitled City of Fort Worth, Texas v. Ken Paxton, Attorney General of Texas Cause No. D-1-GN-23-006609.

DISCUSSION:

On June 30, 2023, July 7, 2023, July 7, 2023, and July 10, 2023, the City received public information requests (CFW Open Records Requests E003606-063023, P011376-070723, P011391-070723, P011447-071023) that sought the release of information the City believes to be confidential under sections 552.108(b)(1) and 552.101 of the Texas Government Code in conjunction with section 418.177 of the Texas Government Code. The requestors sought the release of portions of the Fort Worth Police Department General Orders, specifically the Department's Vehicle Pursuit Policy.

On July 24, 2023, the City submitted a brief to the Attorney General arguing that a portion of the information requested was confidential under sections 552.108(b)(1) and 552.101 of the Texas Government Code in conjunction with section 418.177 of the Texas Government Code. Specifically, the City argued that these records were internal department records and release would interfere with law enforcement activities and that the release of information concerning certain equipment and tactical information used to prevent, detect, respond to, and investigate acts of terrorism or related criminal activity would compromise law enforcement purposes.

On September 12, 2023, the Attorney General ruled that the City could rely upon previous Open Records Letter Rulings (Nos. 2018-09648, 2018-14766, 2018-26729, and 2019-2944) as previous determinations but also ruled that the remaining information was not protected pursuant to sections 552.108(b)(1) and 552.101 of the Texas Government Code in conjunction with section 418.177 of the Texas Government Code because the City did not demonstrate the remaining information was confidential under the cited sections of the Texas Government Code. The Attorney General ruled that the General Order at issue must be released to the requestors.

On October 12, 2023, the Attorney General issued Open Records Letter Ruling No. OR2023-23345A (AG No. 23-087867) related to a separate request by Harriet Ramos submitted on April 21, 2023. Although initially requesting all of the Fort Worth Police Department's General Orders, Ramos later agreed to limit her request to the Vehicle Pursuit Policy. As this ruling directly relates to the subject of the September 12, 2023 ruling, a First Amended Petition was filed to include all the rulings concerning the Vehicle Pursuit policy in one lawsuit.

In order to preserve the City's right to withhold confidential information under sections 552.108(b)(1) and 552.101 of the Texas Government Code in conjunction with section 418.177 of the Texas Government Code, the City's only recourse is to file suit against the Attorney General seeking a judicial ruling on this matter.

Because of additional deadlines set forth in the Texas Public Information Act, the City Attorney's Office filed suit against the Attorney General on September 22, 2023, and amended its petition on October 23, 2023. Due to the City Council's meeting calendar for the months of September and October, it was not possible to seek City Council action on this matter prior to that date. As a result, the City Attorney now seeks ratification by the City Council of this action.

This M&C does not request approval of a contract with a business entity

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that this action will have no material effect on City funds.

Submitted for City Manager's Office by: ALL ACMS 6122

Originating Business Unit Head: Leann Guzman 8973

Additional Information Contact:

Leann Guzman 8973

Laetitia Brown 6639