

Bush counters in open records battle involving county treasurer race

By Andrew DuBois, adubois@hcnonline.com Published 4:26 pm, Wednesday, December 27, 2017



Photo: Internal

Melanie Bush

Photo: Jason Fochtman, Staff Photographer

Montgomery County Attorney J D Lambright, right, speaks next to County Treasurer Stephanie Davenport, center, during a commissioners court meeting at the Alan B. Sadler Commissioners Court Building Tuesday, Dec. 19, 2017, in Conroe.

Montgomery County treasurer candidate Melanie Bush has filed a brief with the Texas Attorney General's Office in response to County Treasurer Stephanie Davenport's brief seeking an AG's Opinion regarding whether the Treasurer Office Procedure Guides developed in 2014 are exempt from the Public Information Act.

Davenport, who was appointed treasurer in 2013 and ran unopposed in 2014, has cited potential security risks of information and funds entrusted to her office as the reason not to release some of the documents Bush requested Dec. 1. There was other financial information Bush requested that Davenport, who created the manual, did release.

However, Davenport, in her letter to the AG, maintains there are 700 pages of documents in her guide that contain "a combination of steps, much like a combination to a safe," and therefore "constitute a measure of internal controls and anti-fraud measures."

In her letter, Davenport argues that the security procedures are protected under portions of the government code and are exempt from the Texas Public Information Act because they contain:

1. Access device numbers (such as accounts) that could expose secure financial and personal

information; and 2. anti-fraud procedures that qualify as "routine efforts to prevent, detect, investigate, or mitigate a computer security incident."

However, Bush, in her response brief, counters that: 1. Access numbers easily can be redacted; and 2. computer security protection (under Section 552.139 of the Government Code) solely applies to IT network security – and not merely to software.

Bush also argues that no PIA exemption justifies the entire 700-page manual and that the Texas Legislature already has weighed Davenport's concerns on fraud against the state's overriding public policy on open government and none apply in this instance.

Bush, in her response brief, also points out that Davenport's reasoning for protecting the documents has evolved over time, including first agreeing to allow Bush to view the manual, then stating certain account numbers and credentials would have to be redacted to finally withholding the manual and seeking an AG's opinion.

Davenport has requested that each security procedure – and the processes within each one – in her guide be evaluated by the AG's Office separately to avoid a "conclusory" ruling.

Davenport was required to file her brief with the AG by Dec. 22. That filing must include a copy of the specific information requested, or representative samples of the information if it is a voluminous amount, indicating which exceptions apply to which parts of the document.

The Attorney General's Office has 45 business days to issue a ruling, which would push right up to the start of early voting Feb. 20 for the March 6, 2018, Republican primary election, in which Bush is challenging Davenport.

"The main goal of this (brief response) is to correct (Davenport's) incorrect statements for the exclusions," Bush told The Courier Wednesday. "And a side goal would be to expedite a decision."

Bush said she filed the response with the AG because the "process gives the requester the ability to have their say, and I wanted to have my say – that this is a public document and it should be released as such."

Bush said while it would be nice to have the documents to review before several upcoming political forums in January, she doesn't believe the timeline for an AG opinion will allow that. However, she said, it does bring up another campaign issue for Montgomery County voters – open government.

"Transparency is a huge thing," said Bush, who owns her own bookkeeping business and serves as president of the Conroe ISD Board of Trustees. "These are taxpayer dollars, and they should know how they are being accounted for."

However, Davenport maintains she has been transparent during this process, including putting an item on the Dec. 19 Commissioners Court agenda for commissioners to discuss the process in order to "secure the treasury."

Commissioners took no position on the open records request, and County Attorney J D Lambright's office previously recommended that Davenport release the documents and redact any proprietary information.