

Noack pushes for security breach discussion in open session

By Catherine Dominguez, cdominguez@hcnonline.com Published 9:13 pm, Monday, March 19, 2018

Photo: Jason Fochtman, Staff Photographer



County Treasurer Stephanie Davenport

Precinct 3 Commissioner James Noack is calling for his fellow court members to move an item from a closed session to open court. The item concerns the recent release of 79 current and former employees' personal information by County Treasurer Stephanie Davenport's office.

Noack said he is going to push for the item to be discussed entirely in open session and added it was the "shroud of secrecy" that led to the situation in which the information was released and not redacted. "This needs to be done in a public forum," Noack said. "I am calling for this discussion to be had, with the treasurer in Commissioners Court. There have been no lawsuits filed, so there is no reason not to."

The commissioners will meet at 9:30 a.m. Tuesday on the fourth floor of the Alan B. Sadler Administration Building. County Judge Craig Doyal said it is an executive session item because it could deal with potential litigation.

The issue centers around Davenport's release of her department's procedure manual following an open records request from challenger Melanie Bush in the March 6 Republican primary election. After delaying the release almost three months, Davenport finally released the documents March 8 at the direction of the state Attorney General's Office but did not redact some personal information of those 79 current and former county employees.

Of the dozens of names, some of the documents show the entire Social Security number, date of birth and names of 16 people. The remaining names have the Social Security number partially redacted. In the release of the documents, the list of names, Social Security numbers and birth dates appears four separated times in the hundreds of pages released.

That information was posted through links on a couple of individuals' social media pages, and officials did not know how many others had seen or downloaded the documents from those sites.

"It is a shame that the county treasurer chose not to utilize the elected county attorney," said Noack, adding that he hopes to learn why Davenport's manual contained the personal information.

Davenport, who lost her bid for a second four-year term as treasurer to Bush, who will face a Democratic opponent in November, said she did exactly as she was instructed by the AG's Office. "I have stated all along that this information should not be distributed," Davenport said. "I was advised by the county attorney that any AG opinion received would have to be followed and submitted to the requestors."

In a March 12 statement to The Courier, the AG's Office stated while it may indicate what types of information should be redacted, it does not do all the redactions needed for release to the public. "We bracket information, but do not actually black it out," said Damian Bell, a spokesman for the AG's Office. "Therefore, the governmental body is still required to go back through the information and redact themselves."

On Feb. 28, the AG released its ruling regarding Bush's Dec. 1 request for the Treasurer's Office policy and procedure manuals. The AG's ruling stated the Treasurer's Office must release the manuals but redact "access device numbers" (under Section 552.136 of the Government Code); employees' dates of birth (under Section 552.102(a) of the code); and Social Security numbers (under Section 552.147).

The ruling specifically addressed Social Security numbers noting "Section 552.147(a) of the Government Code excepts the Social Security number of a living individual from public disclosure. Gov't Code § 552.147(a). Accordingly, the treasurer's office may withhold all social security numbers in the remaining information under section 552.147 of the Government Code."

According to County Attorney J D Lambright, the Texas Legislature has enacted several laws that generally prohibit the release of employee Social Security numbers and dates of birth including allowing people to elect to not have certain personal information disclosed. In fact, he added, the county's Human Resources Department has provided the required form to every employee to keep their information from being publicly disclosed.

Lambright said all people whose information was released by Davenport's officer had signed the required forms. In a March 9 statement, Lambright said it is his "understanding that this release occurred because the treasurer's office simply redacted information based solely on the notations from the Attorney General's Office, rather than applying the actual Attorney General Letter Ruling that was sent directly to the treasurer on February 28, 2018."

According to Lambright, the AG's Office identified "some" exceptions to the act directly on the documents. However, he said, it was Davenport's responsibility for completing the redactions in accordance with both the AG ruling and the exception the AG noted on the physical documents.

"It is unfortunate that the treasurer, once again, chose to handle this matter internally within her office, rather than seek our legal advice," Lambright stated. "This situation was totally and completely avoidable."

But Davenport said Lambright's office offered little guidance. "The lack of support and politics by the County Attorney's Office led my office to seek an AG opinion on our own," Davenport said. "The county attorney received the redactions from the AG first, had them on their computer and then gave us a copy on a CD for us to complete the redactions and distribute. "If they believed further redactions or consultation with the AG was needed, they should have told us, as they had already reviewed the documents."