



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

May 2, 2011

Mayor Larry Tish  
Mayor, City of St. Elmo  
Lrt33@hotmail.com

RE: Pre-Authorization Request - 2010/PAG-10794

Dear Mayor Tish:

We have received and reviewed the written notice from the City of St. Elmo of its intention to withhold certain information as exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c)).

On November 12, 2010, Connie Barnes, reporter for the *St. Elmo Devonian News*, submitted a FOIA request to the City seeking the cell phone records of Mayor Larry Tish.

On November 18, 2010, the City submitted a Pre-Authorization Request to the Office of the Public Access Counselor and asserted that Mayor Tish's personal cell phone records are exempt from disclosure under Section 7(1)(c) of FOIA, which exempts from inspection or copying "[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless disclosure is consented to in writing by the individual subjects of the information." The exemption defines "[u]nwarranted invasion of personal privacy" as "the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information," but further provides that "[t]he disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy."

**Determination**

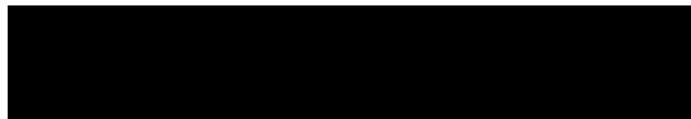
The City's request for approval to withhold the personal cell phone records of Mayor Tish is approved.

We have concluded that Mayor Tish's personal cell phone records are highly personal and the disclosure of those records would be objectionable to the reasonable person. Further, there is no evidence that the personal cell phone records relate to the public duties of Mayor Tish. Because Section 9.5(b) of FOIA (5 ILCS 140/9.5(b)) limits the Pre-Authorization process to determine the applicability of the Section 7(1)(c) or Section 7(1)(f) exemption, we decline to make an explicit finding with regard to the remainder of Ms. Barnes' FOIA request.

Accordingly, the City has met its initial burden and may withhold Mayor Tish's personal cell phones records.

Should you have any questions, please feel free to contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Sincerely,



Matthew C. Rogina  
Assistant Public Access Counselor

cc: Ms. Connie Barnes  
*St. Elmo Devonian News*  
423 N. Main Street  
St. Elmo, Illinois 62458

*10794 pre-auth al 7(1)(c) priv mun*