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Date: Mon, 21 Feb 2005 13:28:10 -0500

From: "Staran, John" <JStaran@beierhowlett.com> [Add To Address Book](#) | [This is Spam](#)

Subject: RE: Clerk Selection

To: "Melinda Hill" <hillm@rochesterhills.org>

Melinda: I can certainly provide more detail in response to specific questions, but, speaking generally, the info. that Pam Lee provides to council will likely constitute a public record that is not confidential, and any discussion/deliberations by council as a whole must be in open session.

The Open Meetings Act does authorize council to meet in closed session to review and consider the contents of an application for employment or appointment to public office if the candidate requests that the application remain confidential.

However, this is a very limited exemption, as it has been construed by the courts.

Deliberations and decisions must be in public, and there is case law to suggest that developing a "short list" constitutes decision-making that invokes the open-meeting requirement. Also, the OMA expressly requires that "all interviews by a public body for employment or appointment to a public office shall be held in an open meeting..." Thus, other than to review employment applications (where confidentiality has been requested) and to perhaps ask some related questions about those, there is not much relating to the employment/appointment process that the city council can do in closed session. That is a principal reason why some public employers will utilize a "headhunter" who can do a lot of behind the scenes work without invoking the open meetings act. However, once the headhunter shares info. w/ council or discusses with or gets direction from council, the veil of confidentiality lifts.

Have I addressed your question/concern?

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-----Original Message-----

From: Melinda Hill [mailto:hillm@rochesterhills.org]
Sent: Friday, February 18, 2005 10:32 AM
To: Staran, John
Subject: Clerk Selection

Hi John,

Hope you are feeling better. Just wanted to send a reminder re our conversation pertaining to the Clerk selection process. I would appreciate some type of memo outlining the appropriate process for council's discussion of information during this selection process. Pam Lee is presently assembling an information package on the position, and a selection process flow chart indicating council's options and steps in order to move forward. I want to have a clear understanding on what discussions/actions must take place