



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

June 25, 2020

Via electronic mail

Mr. Curt Borman
Assistant City Attorney
City of Urbana Legal Division
400 South Vine Street
Urbana, Illinois 61801
c/o CityClerk@urbanainllinois.us

RE: FOIA Request for Review – 2020 PAC 63412; Urbana File. No. 2020-F-269
Requester: Mr. Christopher Hansen
Date of FOIA Request: May 14, 2020

Dear Mr. Borman:

The Public Access Bureau has received the enclosed Request for Review of the response by the City of Urbana (City) to a Freedom of Information Act (FOIA) request submitted by Mr. Christopher Hansen. We have determined that further action is warranted.

On May 14, 2020, Mr. Hansen submitted a five-item FOIA request to the City seeking various records pertaining to a May 12, 2020, incident and communications/documents pertaining to specified individuals. On June 15, 2020, the City provided an estimate of fees for certain records responsive to items 1-3 of the request. The City withheld body camera footage responsive to item 1 pursuant to section 7.5(cc) of FOIA (5 ILCS 120/7.5(cc) (West 2018)). The City also denied items 3-5 pursuant to section 3(g) of FOIA (5 ILCS 140/3(g) (West 2018)). Mr. Hansen contests the charging of the fees. He also contends that he is the subject of the withheld body camera footage and that compliance with items 3-5 would not be unduly burdensome.

As required under section 9.5(c) of FOIA (5 ILCS 140/9.5(c) (West 2018)), please provide a detailed explanation of the legal and factual basis for the fees, together with any relevant documentation supporting that basis. If the City treated the request as a voluminous request, please include a copy of the City's notice to Mr. Hansen designating the request as a voluminous request. Please also provide a copy of the withheld body camera footage for this office's confidential review, together with a detailed explanation of the legal and factual basis for

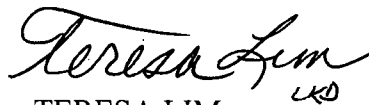
Mr. Curt Borman
June 25, 2020
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the applicability of section 7.5(cc) to that footage. Lastly, please provide a detailed explanation of the legal and factual basis for the applicability of section 3(g) to items 3-5, including an estimate of the number of e-mails responsive to those items.

This information must be submitted to our office within seven (7) business days after receipt of this letter. Under FOIA, "[t]he Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. The requester may, but is not required to, respond in writing[.]" 5 ILCS 140/9.5(d) (West 2018). **If you claim that any portion of your written response is confidential, please send two versions of your response letter: a complete copy for this office's confidential review and a redacted version suitable for this office to forward to the requester.**

Please contact me at tlim@atg.state.il.us if you have questions or would like to discuss this matter. Thank you.

Very truly yours,



TERESA LIM
Assistant Attorney General
Public Access Bureau

Attachment

cc: *Via electronic mail*
Mr. Christopher Hansen
corruptcu@gmail.com

Dunham, Lorraine

63412

From: Sanchez, Lidia
Sent: Tuesday, June 16, 2020 1:06 PM
To: Public Access
Subject: 63412 - Initial Docs
Attachments: Fwd: Urbana FOIA Request - Van Wreck, CPRB seats, Brown emails, Clark/HRO emails, Marlin Mar/Apr 2020 emails; Fwd: Response to FOIA request 2020-F-269.

**RECEIVED
ATTORNEY GENERAL**

JUN 16 2020

FOIA/OMA

Thanks,

Lidia Sanchez
Paralegal II
Public Access Bureau
Illinois Attorney General's Office
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601
Ph: 312-814-2770
FOIA Hotline: 877-299-3642
paccess@atg.state.il.us
lsanchez@atg.state.il.us

Dunham, Lorraine

From: Christopher Hansen <corruptcu@gmail.com>
Sent: Tuesday, June 16, 2020 1:40 AM
To: Public Access
Subject: Fwd: Urbana FOIA Request - Van Wreck, CPRB seats, Brown emails, Clark/HRO emails, Marlin Mar/Apr 2020 emails

Below, please find the original FOIA request for which I sent an appeal just one minute ago.

----- Forwarded message -----

From: Christopher Hansen <corruptcu@gmail.com>
Date: Thu, May 14, 2020 at 12:14 AM
Subject: Urbana FOIA Request - Van Wreck, CPRB seats, Brown emails, Clark/HRO emails, Marlin Mar/Apr 2020 emails
To: !City Clerk <CityClerk@urbanaininois.us>

Please supply the following records:

- 1) Any and all documents related to an incident on May 12 around 10pm involving a damaged van on the 500 block of W Illinois St. UPD responded. Please include all reports, emails, and audio/video.
- 2) Any and all documents related to the Urbana CPRB regarding the resignation of Grace Mitchell, the placement of Mikhail Lyubansky as chair, and the resulting vacant board seat which the City now seeks to fill (including documents about new applicants). Any related related emails should be included.
- 3) All emails to/from Council member Bill Brown from April 15 to May 15.
- 4) All emails to/from Vacellia Clark during 2020. Clark seems to have at least two email addresses (vpclark@urbanaininois.us and hro@urbanaininois.us).
- 5) All emails to/from Diane Wolfe Marlin during March and April of 2020

Dunham, Lorraine

From: Christopher Hansen <corruptcu@gmail.com>
Sent: Tuesday, June 16, 2020 1:38 AM
To: Public Access
Subject: Fwd: Response to FOIA request 2020-F-269

Public Access Counselor Pratt,

I am seeking your help in regards to a FOIA request that I sent to the City of Urbana. The City's response is below, and I will forward my original request immediately after sending my appeal.

The City has assessed numerous fees for this request. This is a practice never before seen by the City of Urbana, nor have I seen this practice from other public bodies in my area. Is it legal for the City to assess fees in a non-uniform (discriminatory) fashion?

My reading of the FOIA indicates that the fee structure for digital files was designed for text documents, not for video. The City has assessed a \$100 fee on one simple dash-cam video. This is absurd, and I have never before seen a public body assess such a fee on a video.

The City has denied a body worn camera video in which I personally appear. Their denial is not legal based on my reading of the body worn camera law.

I attempted to receive guidance from the City about making my request less burdensome, but they gave no useful information. It should be noted that City Clerk Charlie Smyth initially responded to my request. Smyth said I could contact him to discuss methods for handling the request, but then he resigned from office that same day.

I believe the "unduly burdensome" claim is incorrect. The City gave no specific information about what made the request burdensome. It seems Smyth was simply guessing that the request would be burdensome. Furthermore, I am certain that the public interest outweighs the burden. The records requested were emails to/from the Mayor and the Human Relations Officer. Over the past 2 months, the public has stormed the City with complaints about corruption within the City, particularly in regards to the Urbana Police Department. Urbana's Human Relations Officer, who is tasked with handling police complaints, has been cited numerous times by members of the public, as well as by public officials, for failing to perform her job correctly. My records requests have been attempts to learn more about how the City handles police complaints. There is now a national movement regarding this same issue. The burden is minimal compared to the public interest.

Thank you,
Christopher Hansen

----- Forwarded message -----

From: Meharry, Kay <lkmeaharry@urbanaininois.us>
Date: Mon, Jun 15, 2020 at 3:57 PM
Subject: Response to FOIA request 2020-F-269
To: Christopher Hansen <corruptcu@gmail.com>

Dear Mr. Hansen:

The City of Urbana (City) hereby tenders its response to your FOIA request, dated May 14, 2020, and designated as number 2020-F-269.

The estimated fee for the City's response to your request is \$168.35. This fee has been determined as follows:

Part 1 of request: Any and all documents related to an incident on May 12 around 10 pm involving a damaged van on the 500 block of W Illinois St. Please include all reports, emails, and audio/video.

<u>Item</u>	<u>Cost</u>
Accident report #U20-1986: 0.619 megabytes in PDF format	\$20
Dispatch ticket: 0.00345 megabytes in PDF format	\$0
Dashcam video (Vogt): 509 megabytes in non-PDF format	\$100
USB flash drive	\$7.97
DVD	\$0.38
Part 1 total	<hr/> \$128.35

Part 2 of request: Any and all documents related to the Urbana CPRB regarding the resignation of Grace Mitchell; the placement of Mikhail Lyubansky as chair, and the resulting vacant board seat which the City now seeks to fill (including documents about new applicants). Any related emails should be included.

<u>Item</u>	<u>Cost</u>
Miscellaneous responsive records: 5.74 megabytes in PDF format	\$20
Part 2 total	<hr/> \$20

Part 3 of request: All emails to/from Council member Bill Brown from April 15 to May 15.

<u>Item</u>	<u>Cost</u>
Miscellaneous responsive records: 18.5 megabytes in PDF format	\$20
Part 3 total	<hr/> \$20

Estimated total fee

\$168.35

You must pay the estimated fee before the City begins copying the requested records. Payment is due no later than Monday, June 22, 2020. To make this payment, please mail a check or money order to the City Clerk's Office, 400 S. Vine Street, Urbana, Illinois 61801 and include the City's FOIA request number with your payment. If you fail to remit the estimated fee, the City may deny this request. However, if the City processes this request and you subsequently fail to accept or collect the responsive records, the City may still charge you for its response pursuant to Section 6 of FOIA. Further, your failure to pay will be considered a debt due and owing to the City and may be collected in accordance with applicable law.

Portions of the records you have requested may be exempt from disclosure under FOIA. These portions will be redacted from the records being released to you. The redactions will increase the size of electronic records, which may result in an additional fee. In this case, the City will provide you with an accounting of the final fee. You must pay the final fee before the City will release the records. When retrieving your records, you must present a government-issued photo identification document (ID).

The City will respond to parts 1, 2, and 3 of your FOIA request not more than 21 business days from the date the City receives your payment of the estimated fee.

Part 1 of request: Part 1 of your request is denied with respect to officer-worn body camera videos. Section 7.5(cc) of FOIA exempts from inspection and copying recordings made under the Law Enforcement Officer-Worn Body Camera Act, except to the extent authorized under that Act. 5 ILCS 140/7.5(cc). The Act provides that recordings made with an officer-worn body camera are not subject to disclosure under FOIA unless the recordings are "flagged," as this term is defined in the Act, or the request comes from the subject of the encounter captured on the recording, the subject's attorney, or the subject's legal representative. 50 ILCS 706/10-20(b). The Urbana Police Department informs me that the responsive body camera recordings are not flagged and that it does not possess information indicating that you are the subject of the encounter captured on the recording or the subject's attorney, or legal representative. Therefore, these recordings are exempt from disclosure. The person responsible for the denial is Freedom of Information Officer Curt Borman.

Parts 3, 4, and 5 of request: On May 30, 2020, the City notified you that producing records responsive to parts 3, 4, and 5 of your request would be unduly burdensome under section 3(g) of FOIA (5 ILCS 140/3(g)) and invited you to narrow the scope to bring these requests within manageable proportions pursuant to section 3(g). The City received your response to that notice on June 4, 2020. In that response, you asked for guidance on reducing the size of your requests. On June 8, 2020, the City provided you with guidance. The City has not received any further response from you. Because you did not narrow parts 4 and 5 of your request, the City has determined that these parts remain unduly burdensome requests. Therefore, parts 4 and 5 of your request are denied. However, the City will produce records responsive to part 3 after you pay the estimated fee, as described above. The person responsible for this denial is Freedom of Information Officer Curt Borman.

If you believe any records you are seeking have been wrongfully withheld or redacted, you are entitled to a review of this decision by the Public Access Counselor of the Office of the Illinois Attorney General. To file a "request for review,"

you may write to the Public Access Bureau at 500 S. Second Street, Springfield, Illinois 62701, or you may phone 877-299-FOIA (877-299-3642). Any person denied access to inspect or copy any public record also may file suit for injunctive or declaratory relief, in accordance with 5 ILCS 140/11.

Sincerely,

L. Kay Meharry

Assistant City Clerk
400 S. Vine St, Urbana, IL 61801
217-384-2362
cityclerk@urbanaininois.us

