

CITY OF BURTON
LEGISLATIVE COMMITTEE MEETING MINUTES
APRIL 22, 1998, 9:30 A.M., COUNCIL CHAMBERS

The Meeting was called to order by Charles Cross, Chairman, at 9:35 AM.

MEMBERS PRESENT: Centilli, Cox and Cross.

MEMBERS ABSENT: None.

OTHERS PRESENT: G. Webster, City Clerk/FOIA Coordinator; R. Austin, City Attorney and C. Ladd, Deputy City Clerk.

PURPOSE OF THE MEETING: DISCUSSION AND POSSIBLE RECOMMENDATIONS
CONCERNING THE FOLLOWING ITEM(S):
FREEDOM OF INFORMATION ACT:

1. Establish Policy & Procedure on FOIA Appeals.
2. Policy on Cost Estimate
3. Cost Recovery for FOIA

PRESENTATION:

Mr. Austin said he prepared a draft of the proposed policy and procedure guideline for Council's consideration that affords a person, if denied, the opportunity to bring that grievance before the City Council for an appeal process. The Council will then decide whether the request should be denied or the grievant the opportunity to receive the requested information.

Mr. Austin said he has made two decisions for the City, which are subject to change by the City Council. The State Statute doesn't require any kind of appeal process for money assessed for duplicating and collating of documents. He said we have had a couple of appeals that objects to calculation of charges for documents. He said he has not included those kinds of appeals in the policies and procedures given to you. The Statute is very clear as to how the charges are calculated and the Clerk's Office is adhering to this procedure.

Mr. Austin said it has been brought to his attention that there are several outstanding accounts on information requested and not picked up by the individual requesting the information. This has not been addressed at this time.

Mr. Austin noted that if the Committee would like to have the policies and procedures amended, he would be happy to do so.

AUDIENCE PARTICIPATION:

Pauline Dargel, 6119 Hugh St., Burton, MI, asked which policy is the Council looking at, at this time. She was advised the Appeal Process, effective January, 1997 under the Freedom of Information Act.

Mr. Austin said this is a procedure that fills in the blanks of the nuts and bolts of any denial on any FOIA request.

There was no other audience present.

COMMITTEE DISCUSSION:

Mr. Cross questioned Section VII under the Policies and Procedures.

Mr. Austin explained there was an appeal filed on April 22, 1998. He then explained Sections VII and VIII which follows the FOI Act.

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A lengthy discussion was held concerning the procedures when an appeal is filed and the time period and manner in which it shall be handled by the FOIA Coordinator and the City Council.

Mr. Cross inquired about the possibility of assigning policy numbers, the similar to the way Ordinances are numbered.

Mr. Austin noted that this is not just the Clerk's Office policy, but a City wide policy. He agreed there should be a number assigned to the policy. Discussion continued regarding this matter. Mr. Austin said he would reformat the policy now titled "Clerk's Office Policy", as the FOIA Coordinator's Policy.

Mr. Cross asked if there are any particular numbers that should be assigned to these policies. Discussion was held and a consensus was to start with FOIA Coordinator Policy #101 and City of Burton FOIA Appeal Policy as #102.

Mrs. Webster requested that under Section 8B, the following be included:

The City Council shall afford the FOIA Coordinator the opportunity to address the City Council and to submit any supporting documentation which might serve to support the denial of requested information.

Mrs. Webster said she would also like to have language added to have the attorney present at all appeal hearings.

Mr. Austin said he would hope that Council would have an attorney present at the hearings. Another concept would be to have the attorney's written opinion on the appeal.

Mr. Austin said he could add Mrs. Webster's request as item 8C. Discussion continued and the members agreed to add Mrs. Webster's recommendation as Item 8C. Items C will become D and Item D will become E.

Mr. Cox said two other issues referred to by Mr. Austin were regarding charges under the Statute. I'm sure we will hear more about this in the future. The appeals process doesn't deal with the cost issue, nor the unpaid costs incurred for the requests not picked by an individual.

Mr. Austin said if you were of the opinion you could act as a safety valve and deter the filing of a law suite, you might be justifiable in dealing with the costs. However, if the FOIA Coordinator's Office does their job properly, the cost issue is dictated by the Statute. If the Clerk has simply made an error, this could be changed where there would not be a full blown appeal.

Mrs. Webster replied that with requests where research is involved, we call the person requesting the information and try to give an estimated cost for the information and ask the individual if they would like us to continue with their request. If they want us to continue, we do so; if not, we cease working on the request.

Mr. Cross said when the Clerk's Office calls back and gives an estimated amount, it may be beneficial to have the person come into the office and sign for the continuation process.

Mr. Austin said having the person come in to sign for the continuation process would interfere with the timeliness of the requests. By law there is a five day period to fill the request, and this would put the Clerk's Office under a severe time restraint.

Mr. Cross noted that after the policies are adopted, any policy changes should come back to the Council and the FOIA Coordinator cannot arbitrarily set policies.

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Mr. Austin stated the Clerk is to send a notice of the appeal to the appellant and will be placed on the agenda for Council consideration and adoption of the Appeal Policy #102.

Mr. Cross said a special meeting has been set for 7:15 P.M. for a FOIA Appeal hearing.

COMMITTEE RECOMMENDATIONS:

Centilli moved and Cox seconded the following motion:

1. Approve and authorize the recommendation that the City Council adopt the FOIA Policies and Procedures #101 and the FOIA Appeals Policy #102.

Motion carried 3-0.

Centilli moved and Cox seconded the following motion:

2. Approve and authorize the City Attorney, Richard Austin, to reformat the policy now titled Clerk's Office Policy and present it to the City Council for their approval.

Motion carried 3-0.

Meeting Adjourned at 10:20 A.M.

Cheryl M. Ladd, CMC/AAE
Deputy City Clerk.

CML