

Chief Christopher Hurst
FOIA Coordinator
111 North Monroe Street
Lowell, MI 49331
foia@ci.lowell.mi.us

December 1, 2023

Good Morning Chief Hurst,

Thank you for your letter of Nov. 29, 2023, which included an estimate for the cost of completing a FOIA request dated Nov. 16, 2023. Please accept this correspondence as my appeal of both the exclusion of City Attorney Jessica Wood's records and of the cost estimate.

While I realize the contents of attorney-client communications are not subject to disclosure, the fact that those communications exist is not exempt. After consulting with a municipal attorney experienced in FOIA matters, I have been informed that I should be provided redacted copies of this correspondence. I realize that may mean I only receive email and memo headers.

As for the overall cost, I am appealing the estimate based on the following sections of the City of Lowell FOIA Procedures and Guidelines dated May 14, 2015:

- **Section 4.1(A) and (B):** These sections stipulate that labor costs are to be charged "only when failure to charge a fee would result in unreasonably high costs." The estimate provided seems unreasonably high compared to charges for previous FOIA requests. For instance, Lowell's First Look submitted a similar-sized request in 2017 and was charged \$40.55 for 239 paper copies.
- **Section 4.2(B):** "Labor costs for employees will be charged at the hourly wage of the lowest-paid City employee capable of doing the work...**regardless of who actually performs the work.**" (emphasis mine) I'm not sure why the city would need IPC to complete an email search for these documents when surely city staff, councilmembers and commissioners are capable of searching their own emails. If they have difficulty doing so, I notice that the city's contract with IPC includes desktop support.
- **Section 4.2(C):** This section explicitly says that the city cannot charge for IPC email searches. "...no fee shall be charged for contract information technology personnel performing electronic searches for records."
- **Section 4.3:** "...the FOIA Coordinator shall specifically identify why the failure to charge a fee would result in unreasonably high costs to the city." Your letter did not include this reason.
- **Section 4.7:** Since the city says it will need 30 days to complete the request, it appears that notwithstanding all the above, the fee should be reduced 50%.

Finally, I would like to draw your attention to Section 6.1 which states the "The FOIA Coordinator may, in his or her sole discretion, waive or reduce FOIA fees upon determining that the request is in the public interest.

Chief Hurst, I would argue that this FOIA request is in the public interest.

Thank you for your time and consideration of this appeal.

Sincerely,

A handwritten signature in black ink, appearing to read 'Maryalene LaPonsie', written in a cursive style.

Maryalene LaPonsie
Lowell's First Look