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Aldermen haggle over records access, policy

Residents ask for consistent research, copy charges for open records requests

By Linda Grøer
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In a three and a half-hour Marshfield Board of Aldermen meeting Thursday, March 12, overshadowed with words of "impeachment" and "harassment," the board tabled discussion of the city's Sunshine Law policy. Residents Steven Gullett and Bill and Neva Schroder said the open records request fees are too high, while Assistant City Administrator Deana Fishel said the research time is taxing her and her staff. Two weeks earlier, the Schroders said the city unjustly charged them more than \$112 for records they

requested on a tree-planting project Neva Schroder spent hundreds of hours working on.

The board took no action at the Feb. 19 meeting on the Schroder's request for reimbursement.

Sunshine Law charges

At the March 12 meeting, City Attorney David Replogle said the city can charge for all time and materials for each request, could charge nothing or could set a maximum amount to charge.

Alderwoman Barbara Carroll said the current policy does not specifically
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list charges, and has been inconsistent in charging fees.

Last summer, the city waived a fee for St. Louis attorney Tom Burcham, who later sued the city for failing to comply with open records requests on time. In February, the city settled out of court for \$5,000 in the matter.

"To keep it simple, charge for copies, not research time," Carroll said, later suggesting 10 cents per copy. "If we do our job correctly, then people won't be down here asking for something."

Mayor C.R. "Bob" Clark said some city records are stored outside of City Hall and would require more time to retrieve.

Resident Sid Holmes asked if it takes two weeks for city employees to gather records, how the city recoups the cost.

"Doesn't it take staff away from their job?" Holmes asked.

"That's the cost of doing business," Carroll said.

Gullett said city employees are paid by taxpayers to provide a service to residents. To charge for copies or research time would be to be paid double, he said.

"I agree, except when the clock hits 5 o'clock," Holmes said.

Research time

Fishel said she spent 82 and a half hours researching documents for Neva Schroder's most recent request for tree-planting costs, only to have the information used against her.

"I've been called a liar," Fishel said. "I've been harassed."

Fishel said the issue has become personal and has defamed her character.

"Eighty-two hours in one week is not to the benefit of the city," Fishel said. "It's my time and, basically, I am donating it because I don't get overtime. I don't get comp time."

Fishel said Neva Schroder asked her to provide 15 years of receipts for tree purchases.

"That was a waste of my time," Fishel said.

As Gullett began to say it sounded as if Fishel is too stressed by her job, the mayor stopped him.

"Wait," Clark said to Gullett.

"You gave me the floor," Gullett said, adding that fees should not be based on emotional content.

Alderman Jim Downing said the extra work could cause Fishel to make errors. "If she's overloaded, she's going to make mistakes," Downing said.

Copy fees

Carroll motioned to set the copy fee at 10 cents.

"I don't know of other governmental bodies that do this kind of research for 10 cents a copy," Owen said, adding that it is legal for the city to charge for research time.

"We don't actually have a policy in place," Carroll said.

When Owen suggested giving six copies for free and 30 minutes of research time, Carroll said that would end up again as a judgment call.

Inman seconded Carroll's motion. The board voted 2-2 with Downing and Owen voting against. Clark broke the tie with a "no" vote.

Replogle said it would be legal for the city to charge for research time. Downing said he liked Owen's idea. Carroll asked what "reasonable" research fees would be.

"The actual cost for research time," Replogle said.

Carroll said the city of Springfield recently got in trouble for charging residents for the parks director's time for research when a lesser-paid employee actually did the research.

Neva Schroder said she wrote the grant for the Interstate 44 tree project, and was appointed by Clark to oversee planting. She said the city charged her an excessive research fee to dissuade her from seeking information about project costs.

"I think it's unjust to do citizens this way," Neva Schroder said. "I want the same fairness for everybody."

"I agree 100 percent," Owen said. "It should be fair and legal."

"We need to give you your money back," Inman said to the Schroders. To Fishel he said, "I don't want the staff to feel overburdened."

Inman said Fishel never came to the board with a complaint regarding time spent on Sunshine Law requests.

Downing said Replogle should come up with a plan, and the issue should be tabled for two weeks.

Replogle said he could come up with four possibilities and survey other cities.

Fee waiver

When Gullett said he came to speak about a grievance, Clark said he was listed on the agenda to speak about a Sunshine Law fee waiver.

"I can't help it if you got it wrong," Gullett said.

Owen said Gullett should have a time limit to speak. To which Gullett said he wanted the record to show that no one else had been given a time limit.

Gullett said that when he served as vice chairman of the mayor's Human Rights Committee, the committee met while he was out of town. Gullett said he later asked to see the committee meeting minutes and was denied access.

"I came here, and Larry McCormack (building inspector) threw me out of the building," Gullett said.

Gullett, a self-described Sioux medicine man, said the mayor has violated his civil rights two or three times and has not followed up on a "whole stack of requests" that were unanswered.

"I'm tired of the white-hooded tactics here," Gullett said. "It's time to impeach the mayor."

Gullett said he cannot afford to pay \$25 for a piece of paper, and the board is merely trying to "put a Band-Aid" on a larger problem. Gullett said the Schroders "worked their hearts out planting trees," and were treated with disrespect by city staff.

"We have a mayor who blatantly disregards people's rights," Gullett said.

Carroll asked Gullett if he had been charged more than once for open records requests. Gullett showed two invoices with different charges.

Gullett was charged 10 cents per copy in January 2008 for a request. In January 2009, the city charged Gullett for copies, time, research fees and postage.

"That's where we're in trouble," Carroll said.

Gullett said he also was told he could not look at committee

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minutes at City Hall. He then asked City Administrator Dan McMillan to confirm that he was denied access.

Replogle said, under the law, citizens are allowed to view documents at City Hall.

When Gullett asked McMillan again to confirm he was not allowed to see the minutes, McMillan said he understood at the time that Gullett wanted to have copies made of the minutes.

"I understood you wanted to

take them with you," McMillan said.

Gullett said the fees are too costly for poor people and should be waived.

Carroll motioned to table the issue for two weeks while Replogle does research.

Legal action

In a later interview, Gullett said he intends to challenge the board's vote on the issue of charging 10 cents per copy. Gullett said the vote was unlawful, because discussion continued

before a second to the motion was made.

Gullett said he is also likely to pursue legal action against the city for Sunshine Law requests that were not answered.

"I gave them two years to straighten up," Gullett said. "The only way I can see not taking them to court is if by some miracle they come up with a master plan."

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Resident says Sunshine Law request about ⁸⁰⁰ cost of planting trees only partially answered

By Linda Greer

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Almost three months after making a Sunshine Law open records request, a Marshfield resident told the Board of Aldermen on Thursday, March 12, she did not receive all the information she requested.

Neva Schroder told the board she wanted the calculations Assistant City Administrator Deana Fishel used to figure out how much it cost the city to plant 90 trees in the Interstate 44 exit/entrance ramps.

Fishel gave the board several pages of information detailing costs in the project completed last fall as part of a Missouri Department of Transportation (MoDOT) enhancement grant. The total cost was given as \$25,734, of which the city contributed \$7,500 in cash and \$21,160 in in-kind labor.

Schroder said Fishel first reported the trees could be planted professionally for \$16,000, but then convinced the board it would be cheaper for city crews to plant the trees.

Fishel then calculated it would cost \$35,000 to plant the trees and take 196 loads of dirt to plant the trees in the areas near the interstate exit/entrance ramps, Schroder said. The project used 22 loads of dirt.

"It is a mystery to citizens why the council did not question any of these numbers," Schroder wrote in a prepared statement. "For example, why didn't the council suggest they have them planted professionally at half the cost if her estimate grew to over \$35,000 to have city boys do it?"

"The only thing not included in the Sunshine Law request was information already presented to the council," Fishel told the board. "The information requested was very extensive, including a 15-year tree history."

Fishel said she calculated the \$35,000 estimate because the map she first used was not to scale.

"After we did it with the right scale map, the price came down," Fishel said. "On equipment and labor is where we went over."

Alderman Nicholas W. Inman asked why the city decided to use city personnel.

"I don't remember us having that discussion," Inman said.

Fishel said the board voted on it.

"I said that was an absurd amount," Schroder, who helped oversee planting, said to Fishel. "No one would reply to my e-mail. I just wanted a breakdown of how it all fell into place. Nothing made sense to me."

"I don't think anyone was being malicious," Fishel said.

Alderman Jim Downing asked Public Works Director Sammy Rost if the state required extra work to plant trees along the interstate.

Rost said crews had to put out signs and had to drive to the Northview exit to come back to Marshfield for more loads of dirt.

"You can't back up on the interstate," Rost said. "Every little thing adds up. We had two back hoes going."

Fishel said the city charged Schroder \$112 for research on the request because of the extensive history Schroder requested.

"All of this was done afterwards," Fishel said.

Fishel said because the city's financial system goes only to 2006 on the computer, she had to get records from storage above the police station.

"I can't just go to a computer and print that," Fishel said, adding that she received harassing e-mail messages from Schroder regarding the request.

"What I wanted was your calculations," Schroder said. "You didn't have to dig."

Fishel said she was

required by law to get the information Schroder asked for.

"I didn't get the calculations in the report," Schroder said.

"Let's move on to Spur Drive costs," Mayor C.R. "Bob" Clark said at 7:20 p.m., after going through four items on the 21-item agenda in one hour and 20 minutes.

In other business

- The board unanimously approved reducing the number of historical markers called for in a MoDOT enhancement grant from 100 markers to 40 to reduce costs.

- The board approved 3-1, with Alderman Tom Owen opposed, to proceed with seeking bids to build a sidewalk near the high school complex.

- The board approved 3-0, with Alderwoman Barbara Carroll abstaining, to start engineering contract negotiations. The issue passed unanimously to first negotiate with Mathews and Associates Engineering of Springfield, followed by negotiations with Great River Engineering.

- The board unanimously approved a policy for concrete street specifications.

- Police Chief Ken Clardy said overnight parking has not been a problem recently in city parks.

- The board approved 3-1, with Inman opposed, to pay Olsson Associates \$5,828 for consulting fees on the city's comprehensive plan update. Carroll first suggested tabling the issue for two weeks. "I don't think we ought to pay them, period, and I'm not going to change my mind in two weeks," Inman said.

- The board unanimously approved installing a street light at Commerce Road and Route A.

- The board unanimously approved allowing resident Dale Hartwell to use the city parking lot during Harvest Days in October. The board suggested reviewing the city policy that requires vendors in city parks to have \$1 million liability insurance.

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<ul style="list-style-type: none">• The board approved 3-0, with Carroll abstaining, to refer an issue on portable storage buildings to the Planning and Zoning Committee. The board referred two other plat issues to the committee.• Carroll said the \$30,000	<p>parks budget is for maintenance, not capital improvements.</p> <ul style="list-style-type: none">• City Administrator Dan McMillan said employee health insurance will be on the April 9 agenda.• The board approved plac-	<p>ing a stop sign at Crestwood and Marshal streets.</p> <p>Next meeting The Marshfield Board of Aldermen meets again at 6 p.m. Thursday, March 26, at City Hall.</p>
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