

CITY OF WARREN
FOIA APPEALS COMMITTEE MEETING
May 7, 2015

A meeting of the Warren FOIA Appeals Committee was called for Thursday, May 7, 2015 at 4:00 p.m. in the Warren Community Center, Conference Room B, 5460 Arden, Warren, Michigan 48092.

Members of the Committee present:

Patrick Green, Council Vice President
Robert Boccomino, Councilman

Members of the Committee Absent:

Scott Stevens, Council Secretary, Mayor Pro Tem

Also present:

Jacqueline Gartin, Assistant City Attorney

1. CALL TO ORDER

Chairman Green called the meeting to order at 4:00 p.m.

2. ROLL CALL

Motion:

Mr. Boccomino made a motion to adopt the agenda, supported by Mr. Green. A voice vote was taken. The motion carried (2-0).

3. ADOPTION OF THE AGENDA

Motion:

Mr. Boccomino made a motion to adopt the agenda, supported by Mr. Green. A voice vote was taken. The motion carried (2-0).

4. John Mainardi – Freedom of Information Act Appeals.

Mr. Green stated he had read the information, the appeal and the response from the City Attorney. He asked the City Attorney to please summarize.

Jacqueline Gartin, Assistant City Attorney, informed the Committee they have determined there are several exemptions in regards to the request for all video including hallways, holding cell video of Mr. Mainardi during May 18, 2013 to May 21, 2013. Again, there are several exemptions that allow for this that would exclude this information as not privy to the public.

CITY OF WARREN
FOIA APPEALS COMMITTEE MEETING
May 7, 2015
Page 2

Furthermore, this request was entered on March 21, 2014 pursuant to the Warren City procedures for FOIA and the actual Federal FOIA, there is a one hundred and eighty (180) day appeal process. This appeal is fourteen (14) or fifteen (15) months after the original denial and she would ask that they continue to deny their request of Mr. Mainardi.

Mr. Green thanked her and stated that was the information he had read and understood. He asked Mr. Boccomino if he had any questions.

Mr. Boccomino said not at the time.

Mr. Green asked Mr. Mainardi if there was anything additional he would like to add.

Mr. Mainardi wondered how he could appeal the decision of today.

Mr. Green informed him if they affirm it, their options are to affirm the denial from the person filing, approve the reverse a denial and disclose. If they affirm the denial he believes his option is to go to circuit court. He asked Ms. Gartin if that was correct.

Mr. Gartin replied it is, but she would say again, pursuant to the FOIA rules, it was one hundred and eighty days (180) from the original denial.

Mr. Green stated his option is to appeal this to the Macomb County Circuit Court.

Mr. Gartin asked if it was because of the one hundred and eighty (180) day thing.

Mr. Green says that's correct. At this point, he asked Mr. Boccomino if he wished to add anything.

Mr. Boccomino wondered if that was all Mr. Mainardi had to add.

Mr. Mainardi asked if he could plead his case, if it would make any difference.

Mr. Green says in normal FOIA appeals, most of it is administrative. Where most other entities get their appeal and they read through it. Those issues are written back; no we're affirming, yes we're reversing. They actually have a public hearing on it but they still make a determination based on what was presented. There is nothing additional to add, they do it based on this (Mr. Green pointed to the paperwork).

CITY OF WARREN
FOIA APPEALS COMMITTEE MEETING
May 7, 2015
Page 3

Mr. Mainardi states that anything he adds really won't make a difference.

Mr. Green says if it's additional to what's here; hey I forgot this one thing type, that's when they do that. But in general they do it a little bit differently and ask, where most places do not.

Mr. Boccomino said it's a courtesy.

Mr. Mainardi asked the Committee if they wanted to know why he's appealing or why he would want the matter.

Mr. Green replied no. It's strictly the honest face.

Mr. Mainardi said if there is nothing he can say he doesn't want to waste anybody's time.

Mr. Green appreciates it.

Mr. Mainardi asked Ms. Gartin if he could get a copy of the final decision.

Mr. Green asked her how he would go about that to get the minutes.

Ms. Gartin informed that he would have to go through council and someone would have to transcribe the minutes.

Mr. Mainardi assumes there are some section numbers that would go with the one hundred and eighty (180) day thing. He also wondered if there were other section numbers that go along with the one hundred and eighty (180) day thing.

Mr. Green asked if he meant the reasons for the denial.

Mr. Mainardi stated the reason for the denial.

Ms. Gartin says the denial he received on March 27, 2014 signed by Sergeant John Barnes stated the reason they denied. They're agreeing with him indicating there are more exceptions to it as well as the one hundred and eighty (180) day rule. She thinks she cites in her response to him.

Mr. Green asked if it was the May 1st letter.

CITY OF WARREN
FOIA APPEALS COMMITTEE MEETING
May 7, 2015
Page 4

Ms. Gartin continued in her May 1st letter she thinks she cites to the rule in regards to one hundred and eighty (180) day.

Mr. Green wondered if that is what he is looking for.

Mr. Mainardi said that and he's hearing other issues right now; there's other reasons why would it would be denied.

Mr. Green stated no.

Mr. Mainardi asked there's no other reasons and if that's the lone reason because of the one hundred and eighty (180) days.

Mr. Green informed him the letter that they sent him a copy of is what..

Mr. Mainardi asked if it was the May 1st letter.

Mr. Green replied yes.

Ms. Gartin stated it was drafted by herself. She sent it to him on May 1st.

Mr. Mainardi asked if it cited all section numbers and all reasons for denial.

Ms. Gartin asked if he read it.

Mr. Boccomino stated no.

Mr. Mainardi replied he did read it.

Mr. Green asked Mr. Boccomino if he had a motion.

Mr. Boccomino has a motion.

Mr. Mainardi asked the Assistant Attorney if she included all matters in that letter, if she remembers what she wrote in that letter and if all things were considered in that letter. If he took it to circuit court based on everything in the letter, there is nothing else he has to think about. No other purposes to address.

Mr. Green says if you're asking the question of, did we cite every possible item, no. They're basing their decision on what was presented here. They're not basing it on anything further.

CITY OF WARREN
FOIA APPEALS COMMITTEE MEETING
May 7, 2015
Page 5

Mr. Boccomino says based on that...

Mr. Mainardi stated there are possible other reasons besides what is stated in the letter that he could be denied on.

Mr. Green doesn't know because they didn't address those.

Mr. Mainardi asked Ms. Gartin if that is fair to say.

Ms. Gartin said she is not going to ask anymore of his questions.

Mr. Boccomino says based on that...

Motion:

Mr. Boccomino made a motion to affirm the denial, supported by Mr. Green. A voice vote was taken. The motion carried (2-0).

Mr. Mainardi said alright, fine, I guess that's it then. He asked Ms. Gartin what her name was.

Ms. Gartin gave her name.

Mr. Mainardi asked if she was the assistant.

Ms. Gartin said yes, the assistant to the city attorney.

Mr. Mainardi thanked them.

5. AUDIENCE

No audience.

6. ADJOURNMENT

Motion:

Mr. Boccomino made a motion to adjourn. Mr. Green supported the motion. A voice vote was taken. The motion carried (2 - 0).

The meeting adjourned at 4:06 p.m.