

CITY OF WARREN  
FOIA APPEALS COMMITTEE MEETING  
August 8, 2013

A meeting of the Warren FOIA Appeals Committee was called for Thursday, August 8, 2013 at 4:30 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  
Scott Stevens, Council Secretary, Mayor Pro Tem  
Robert Boccomino, Councilman

**Members of the Committee Absent:**

**Also present:**

Annette Gattari-Ross, Assistant City Attorney

**1. CALL TO ORDER**

Chairman Green called the meeting to order at 4:35 p.m.

**2. ROLL CALL**

All Committee Members were present.

**3. ADOPTION OF THE AGENDA**

**Motion:**

Mr. Stevens made a motion to adopt the agenda, supported by Mr. Boccomino. A voice vote was taken. The motion unanimously carried (3-0).

**4. APPROVAL OF THE MINUTES – June 13, 2013**

**Motion:**

Mr. Boccomino made a motion to approve the minutes, supported by Mr. Stevens. A voice vote was taken. The motion unanimously carried (3-0).

**5. Ms. Karen Spranger – Freedom of Information Act Appeals.**

Joseph Hunt appeared on behalf of Karen Spranger and stated there was an additional document that he would like to provide to the Board. The request was related to Mayor James Fouts in the media regarding political foes and political enemies. Ms. Spranger was at the court of appeals regarding an issue that she has with Assessor Marcia Smith, taking away the principle residence exemption and the property exemption for no good reason. Whenever the Mayor encounters

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opposition he specifically mentions that there are political dirty tricks and that residents are foes and enemies. There are numerous articles written by Norb Franz of the Macomb Daily and Brian Louwers of the Warren Weekly regarding Mayor Fouts having foes and enemies whenever something bad happens to him. The FOIA Appeal denial states that no public record exists regarding a list of names maintained by the Mayor or the Mayor's office that would be considered a public document related to a list of political foes or enemies. Because the Mayor has been using the phrase political foes and political enemies for quite some time in all of his responses as the official office of Mayor, he would like to point out in the FOIA request and the denial, the Mayor's office would be copied. At this point the FOIA Coordinator, the City Attorney basically may have actually asked the Mayor's office to conduct a good faith search for such a list of political foes and enemies. However, the Mayor or anyone in his office the FOIA Coordinator was ever copied on that in the response. He and Ms. Spranger have been through enough FOIA requests, to understand how the FOIA policy works in the City. The FOIA Coordinator contacts the department head and asks if the records exist, and performs a good faith search, then gets back with the FOIA Coordinator before a determination was made. The Mayor has used the term political foes and or nemesis, actually a year ago today that a subpoena was served on the City of Warren, and he has used this phrase no less than sixteen times with references to political foes or enemies. Ms. Spranger would like to determine if she is a political foe, a political enemy, a foe or enemy of Mayor James Fouts. This information would help her in gathering evidence toward her Court of Appeals case against the City of Warren. The document that was notarized that references the Charter Section 2.3 regarding public records being evidence in such proceedings. He would request that the FOIA Appeals Committee review whether or not the City has indeed performed a good faith search in looking for the documents, maintained by the Mayor in the Mayor's office. With the changeover in the City Attorney's office he feels this may have gotten lost in the shuffle and a good faith search was not performed.

Chairman Green asked the City Attorney when the search was done for the request, one document was copied to the Mayor, but was the request done to the Mayor's office.

Annette Gatarri-Ross, Assistant City Attorney responded and stated what she could tell Chairman Green was that on July 10, 2013 Mr. Walter Connelly responded to this request. Mr. Connelly was an officer of the court and he has a license that he has in order to practice law and he could lose his license if he did not properly act responsibly in responding to the request. He signed it, and he was an officer of the court.

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Mr. Stevens stated he could understand where tracking down this list of foes or political enemies or opponents, if you do not narrow it down, he believes the statute even speaks about being specific as possible. Had Ms. Spranger requested the spiral note book that he keeps to the right of his desk, rather than any public document, then there would be information of where to look. Just to say any document or public record maintained by James Fouts, where do you look, or how do you track it down.

Joseph Hunt stated the Mayor James Fouts maintains a list or refers to a list of foes and enemies and specifically, if he was referring to foes and enemies in the press, then he obviously was making it up in his mind or there was a public document that he maintains and references every time a media outlet calls him and he disagrees with something that was taking place that embarrasses him. He did understand what Mr. Stevens was saying. Ms. Spranger would just like at this time to determine if she was a political foe or enemy of James Fouts.

Mr. Boccomino stated he knew in the school system that the requests had to be very specific. He felt this request would have been tough to identify and as far as whether someone was a political enemy or not, he feels that person must determine that for themselves.

**Motion:**

Mr. Boccomino made a motion to affirm the denial of the FOIA Coordinator, supported by Mr. Stevens.

**Roll Call:**

A roll call was taken on the motion to affirm, all voted in favor. The motion unanimously carried (3-0).

**6. AUDIENCE**

Joseph Hunt appeared before the committee and stated the over load of the Mayor's face within the newspapers, several Council meetings ago, he had gone through and presented several papers back in April and May, the City was being embarrassed in one shape or another everyday by the Chief Executive Officer of the Administrative Branch. He was concerned about the level of separation between the Administrative Branch, the Executive Branch and the Legislative Branch and that the board's decisions on behalf of the taxpayers are being made with good conscious as opposed to where the Administration at times sort of seems to be persecuting the residents that actually contribute to the overall common good. Particularly the political action committees investigation of private citizens and their families. That issue was not going to go away.

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When public documents are generated by public officials on City time or statements are made to the media during City time, related to facts and or figures that are supposedly supposed to come from credible sources that are being paid by tax dollars, in some way these documents they become technically public documents. He has no faith in the Mayor and at this point he knows he was considered a political foe and enemy and he cannot FOIA his little trust fund, death wish-list, which was a private matter, although he has been discovered in a private nature that he was planning to haunt people from the grave. He understand that the request needs to be more specific in location and time frame.

Karen Spranger appeared before the Board and asked if the Mayor was officially contacted, was he officially asked, what it was she was looking for? If he has a journal, that was a record. She does not have a little mouse that goes into this office to see if he has a journal. She does not believe that the attorney that wrote the FOIA back to her, did a proper job. She could challenge this in District Court and see what the ruling would be, because narrowing it down, the newspaper makes reference to it and that would give a date and time, so if James Fouts was never asked and the FOIA Coordinator failed to do a specific duty on the request, if he loses his license over it, well so be it. She does not feel he did a due diligence job and the Board's due diligence was to make sure that her request in any way shape or form should be asked of the Mayor, she believes he was not asked.

Tomas Bania appeared before the Board and stated first the question posed by Mr. Green to Annette Gatarri-Ross in his opinion was not answered at all. Second, Mr. Boccomino made a mention regarding specificity in a FOIA request, and he would say that specificity was proper to the extent that a location can be reasonably ascertained. Now whether such specificity would have been reasonable in this situation, he finds that questionable.

## 7. **ADJOURNMENT**

### **Motion:**

Mr. Boccomino made a motion to adjourn. Mr. Stevens supported the motion.

### **Roll Call:**

A roll call was taken on the motion to adjourn, all voted in favor. The motion unanimously carried (3-0).

The meeting adjourned at 4:48 p.m.