



STATE OF NEBRASKA  
**Office of the Attorney General**

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**MIKE HILGERS**  
ATTORNEY GENERAL

**LESLIE S. DONLEY**  
ASSISTANT ATTORNEY GENERAL

May 7, 2024

Via email at [REDACTED]  
Joy Reel

RE: *Public Records Matter Involving the Village of Ohiowa*  
Our File No. 20241069

Dear Ms. Reel:

This letter is our final response to your public records petition received by this office on March 14, 2024, which you supplemented at our request on April 7 and 9. You sought our assistance in obtaining certain public records, i.e., meeting minutes and ordinances, from the Clerk of the Village of Ohiowa (Village), Heather Schultz. We considered your petition under the provisions of the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 to 84-712.09 (2014, Cum. Supp. 2022), amended 2024 Neb. Laws LB 43.

Per your April 28, 2024, email to the undersigned, you agree to pay \$26.50 to the Village for a copy of the requested meeting minutes. Since the Village charges \$.25 *per copy*, we see no discernible savings in receiving two-sided copies. Ms. Schultz has informed us that copies have been made and are ready to be picked up. Please contact Ms. Schultz to make arrangements for payment and pick-up.

You have also confirmed that you would like to receive a copy of the Village ordinances. As we previously informed you, Ms. Schultz has requested some additional time in which to compile a current set of ordinances since several have been repealed or replaced over the years. Under § 84-712(4), delays in producing records are permissible "due to the significant difficulty or the extensiveness of the request." Accordingly, we will inform Ms. Schultz, through a copy of this letter, that she is to fulfill your request for a complete, current copy of the Village ordinances in accordance with § 84-712. Subsection (4) requires the custodian of the records to provide, when a delay is necessary, "a written explanation, including the earliest practicable date for fulfilling the

request, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request.” Once Ms. Schultz has provided you this information, you will have ten business days to review the estimate, and request that she proceed with fulfilling the request, negotiate to narrow or simplify the request, or withdraw the request. If you do not respond within ten business days, Ms. Schultz is not required to fulfill the request.

Section 84-712(3)(b) and (c) dictate how much a public body may charge a requester when fulfilling a request. Those provisions state:

(b) Except as otherwise provided by statute, the public body, public entity, or public official which is the custodian of a public record may charge a fee for providing copies of such public record pursuant to subdivision (1)(b) of this section, which fee shall not exceed the actual added cost of making the copies available. For purposes of this subdivision, (i) for photocopies, the actual added cost of making the copies available shall not exceed the amount of the reasonably calculated actual added cost of the photocopies, which may include a reasonably apportioned cost of the supplies, such as paper, toner, and equipment, used in preparing the copies, as well as any additional payment obligation of the custodian for time of contractors necessarily incurred to comply with the request for copies, (ii) for printouts of computerized data on paper, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of computer run time and the cost of materials for making the copy, and (iii) for electronic data, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of the computer run time, any necessary analysis and programming by the public body, public entity, public official, or third-party information technology services company contracted to provide computer services to the public body, public entity, or public official, and the production of the report in the form furnished to the requester.

(c) The actual added cost used as the basis for the calculation of a fee for records shall not include any charge for the existing salary or pay obligation to the public officers or employees with respect to the first four cumulative hours of searching, identifying, physically redacting, or copying. A special service charge reflecting the calculated labor cost may be included in the fee for time required in excess of four cumulative hours, since that large a request may cause some delay or disruption of the other responsibilities of the custodian's office, except that the fee for records shall not include any charge for the services of an attorney to review the requested public records seeking a legal basis to withhold the public records from the public.

In no event shall the Village's cost estimate exceed the actual added costs to make the records available. A special service charge for “searching, identifying, physically redacting, or copying” records may be assessed only after the first four cumulative hours


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of labor are expended. If the estimate to produce copies of the records is more than fifty dollars, § 84-712(3)(f) allows the public body to request a deposit before proceeding. We have enclosed a copy of § 84-712 for the parties' convenience.

Lastly, we want to make clear to Village officials that strict compliance with the NPRS is required in the future. There is no option to ignore a proper written request, and the underlying purpose for the records request does not matter. Fulfilling requests for copies of public records as basic as meeting minutes and ordinances should not require the intervention of the Attorney General. As a result, similar noncompliance with the NPRS in the future may well result in our considering additional sanctions under the appropriate statutes.

Sincerely,

MIKE HILGERS  
Attorney General



Leslie S. Donley  
Assistant Attorney General

Enclosure

c: Heather Schultz (via email only)

49-3535-31