



**Joseph M. Centorino**, Inspector General

## **FINAL REPORT**

TO: File  
FROM: Joseph Centorino, Inspector General  
  
DATE: August 6, 2020  
RE: McKinney Public Records Report  
OIG No. 20-22

## **INTRODUCTION:**

The OIG received a complaint from Mr. David McKinney, a Miami Beach resident and architectural historian, regarding the proposed demolition of the South Shore Community Center and the City's proposed plan to build a new Fire Station at the site. The Fire Station is being funded with G.O. Bond dollars and will serve the South Beach area. Mr. McKinney expressed concern that the demolition of the South Shore Community Center would endanger programs for underserved populations and result in the destruction of a historically significant building which was designed by Morris Lapidus. In his effort to prevent this outcome, Mr. McKinney made a series of public records requests for office communications related to the City's discussions, planning, or proposals to demolish the South Shore Community Center. According to Mr. McKinney, the cost to acquire these public records was prohibitive. He contacted the OIG to complain that the cost of transparency was punitive and had prevented him from pursuing his belief that the decision-making process with respect to the Fire Station was not done within public view.

## **FINDINGS:**

The OIG contacted Ms. Carmen Hernandez, Office Associate IV, in the City Clerk's Office to discuss the public records request process. Ms. Hernandez advised that the City pays a retired employee \$40.00/hour to perform the records searches. If the emails require a review by the Legal Department, the reviewer's time is billed at a flat rate which reflects

the employee's base salary and benefits whose normal scope of duties includes this function. Before email records are released, the person making the request must pay 50% of the total cost. The emails are not sent to the Legal Department until this money is received.

Mr. McKinney's original request resulted in 94,000 emails. When he narrowed the search, it was broken down into five individual requests. Requests one, three and four resulted in 66 emails. The City's contracted retired employee spent 5.5 hours collecting this information. Because these emails did not require the legal department to conduct any review, the cost, \$200.00, reflected the time needed to compile the emails minus the first 30 minutes for which there is no charge.

The second search resulted in 1,036 emails. The cost for these emails included a special service charge based on the labor cost of the Assistant City Attorney who reviewed the emails for any information that would be confidential or exempt from the Florida Public Records Law. In total, it required five hours to conduct the search and an estimated 10 hours to review the 1036 emails. The cost for this search totaled \$555.80.

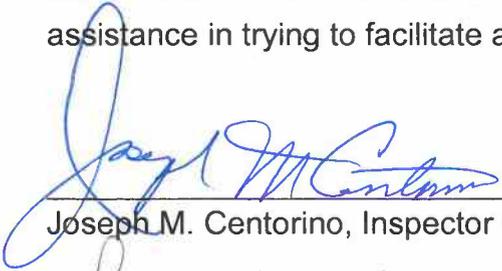
The fifth search yielded 1509 emails. The contracted retiree spent five hours conducting the search and the Assistant City Attorney estimated 15 hours for the review. The total for this request was \$733.70.

The City's 2017 policy, Public Records Processing Policy, adopted pursuant to City Resolution 2017-30124, states that "the City shall charge a "special service charge" for "extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both." (See Policy at Section III (B)). The service charge shall be reasonable and based on the costs incurred for the extensive use of information technology resources or extensive clerical or supervisory assistance. Extensive is defined as labor of ½ hour or more which will be charged at the flat rate of the employee's base salary and employee benefits whose normal scope of duties include performing the function."

## **CONCLUSION:**

The City worked with Mr. McKinney to accommodate his public records requests and reduce the costs. The City's charges were in alignment with Chapter 119, Florida

Statutes, and were reasonable for the extensive hours of work involved. The OIG spoke with Mr. McKinney about this conclusion. He was satisfied with the conclusion that the City was not acting punitively and appreciated the OIG's involvement. The OIG would like to thank Ms. Hernandez for her attention to Mr. McKinney's request and her assistance in trying to facilitate a positive result for him.

  
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Joseph M. Centorino, Inspector General

08/06/2020  
Date

  
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Jani Kline Singer, Special Agent

08/06/2020  
Date