

Mayoral Memo Regarding Assemblymember Records Requests

At the June 15th Assembly Meeting, the topic of Assemblymember public record requests was brought up. Two Assembly members indicated that they made comprehensive municipal records requests and were told they would need to submit formal (written) public records request due to the time it would take the Clerk's office to comply. These same two Assembly members maintained that they should have access to all municipal records without a formal (written) request.

I spoke with the Director of the Alaska Municipal League (AML), the Juneau City Manager, and a few Alaska municipal clerks on this topic. Additionally, multiple out-of-state clerks were also consulted.

First, everyone I spoke with said these requests were highly unusual. The AML Director couldn't provide an example of how other municipalities deal with these requests because of their uncommon nature. He said that the Municipality of Skagway could develop a policy to deal with these requests but certain considerations need to be addressed.

- The clerk works for the entire assembly. Lengthy demands of the clerk's time should be vetted through the entire Assembly. The entire governing body (Assembly and Mayor) would need to understand the nature of these requests and how much time it would take the clerk's office to comply.
- The best way to accommodate this process would be to supply a form that could be reviewed by the entire Assembly at the next regular business meeting.
- The Assembly could vote to approve the request or deny it, leaving the Assembly Member to decide whether to submit a formal public records request.

The clerks offering input stressed that these requests take a small community clerk's office a lot of time and there is a cost attached to this time. There was a universal agreement that it makes more sense to require a formal (written) public records request.

Some other considerations. These are my thoughts based on my research:

- The idea that elected officials somehow should have privileged access to public documents is misguided. The same rules that apply to the public should apply to elected officials. I would argue that elected officials should hold themselves to higher standards by publicly stating all of the reasons they want to obtain information gathered from a comprehensive public records request at a formal meeting so that the public and their colleagues at the table understand the nature of the request. The Assembly operates as a governing body and personal agendas should be left out in the lobby.
- Having access to large public records requests without any documentation could lead to misuse or unethical behavior. For example, an elected contractor could seek information from many years' worth of sealed records in an effort to craft their own bid. This is obviously unethical.

- All of the clerks agree that the simplest way to handle burdensome records requests is by submitting the same form that the public uses and paying any fees associated with the request.
- As a governing body member, and considering the “unusual” nature of high-volume record requests by elected officials, I would like to understand why a fellow governing body member is asking for large amounts of public records so I can better understand their intent.
- Regardless of how the records requests are ultimately made, the request must be vetted through the Borough Attorney and they may or may not agree to release the records, based on state or federal law.

Synopsis of options:

- Create a special form for voluminous Assemblymember records. This would be any records request that takes the clerk’s office more than 30 minutes. The form would include fields for the Assemblymember to describe what documents they want and why. The clerk would determine the time and cost required to comply with the request. The form would then go to the Assembly at the next regular meeting for consideration. If approved, the Borough Attorney would then determine what records are released.
- Assembly members seeking large amounts of information are required to submit a formal public records request to the clerk. The Borough Attorney would then determine what records are released. The Assembly could choose to waive the fee, although I don’t think elected officials should exempt themselves from fees that the public is required to pay. This is the policy I recommend and adopting this policy requires no action by the Assembly.

Keep in mind that the clerk works for the governing body, so the Assembly ultimately decides how to handle this issue and should direct the clerk accordingly.

- Andrew Cremata