

Hiawassee Resolution No. _____

2015 Hiawassee Open Meetings/Open Records
Policy & Procedures

Whereas, the Council of the City of Hiawassee supports Open Government and believes that Open Meetings and the provision of public information generates public confidence; and

Whereas, the Council of the City of Hiawassee wishes to express its intent to fully comply with State Law regarding Open Meetings and Records and require the same of its staff and employees; and

Whereas, State Law allows the City to adopt certain policies and procedures to ensure the efficient compliance with Open Records.

THEREFORE, NOW, BE IT RESOLVED, by the Hiawassee Council that the following procedures and policies are hereby adopted:

Part 1: OPEN MEETINGS POLICY.

Section 1: This Policy shall apply to every "office" of the city [§ 50-14-1 (a) (1) (C)].

Section 2: Definitions.

A meeting subject to the open meetings law is defined as a gathering of a quorum where official business, policy, or a public matter of the city is presented, discussed or voted upon [§ 50-14-1 (a)(3)(A)(i)].

Committees created by the city are subject to the open meetings law. If a quorum of a committee gathers for official business, that constitutes a meeting subject to the open meetings law [§ 50-14-1 (a) (3) (A) (ii)].

Section 3: Exceptions.

The following gatherings are not a Meeting:

Inspecting facilities or property where no other official action is discussed or taken [§ 50-14-1 (a) (3) (B) (i)].

Attending statewide or regional meetings or training where no official action taken [§ 50-14-1 (a) (3) (B) (ii)].

Meetings with state or federal legislative or executive officials where no official action taken [§ 50-14-1 (a) (3) (B) (iii)].

Traveling together where no official business, policy, or public matter is formulated,

presented, discussed or voted on [§ 50-14-1 (a) (3) (B) (iv)].

Attending social, civic, ceremonial or religious events where no official business, policy, or public matter is formulated, presented, discussed or voted on [§ 50-14-1 (a) (3) (B) (v)].

However, regarding the above exceptions, if it can be shown that the primary purpose of the gathering is to avoid the requirements of the open meetings law, then the gathering would be deemed a meeting where all notice, access, agenda, summary and minutes requirements must be met [§ 50-14-1 (a)(3)(B)].

Section 4: Voting.

With limited exceptions, explained herein, all votes must be taken in public after due notice to the public [§ 50-14-1 (b) (1)]. Decisions that are made outside a meeting that meets the requirements of the act are not binding. Any challenge must be brought within 90 days of the action occurring or being discovered, but in no case more than six months after the date of the contested meeting [§ 50-14-1 (b) (2)].

Section 5: Executive session.

An Executive Session is defined as a meeting lawfully closed [§ 50-14-1 (a) (2)].

In contrast to the general rule, votes may be taken in executive session regarding the following [§ 50-14-3 (b) (1)]:

- To authorize settlement of any matter relative to the attorney-client privilege per OCGA § 50-14-2 (1);

- To authorize negotiations to acquire, dispose or lease property;

- To authorize an appraisal relative to the acquisition or disposal of real estate;

- To contract to purchase, dispose or lease property; and

- To enter into an option to purchase, dispose or lease real estate.

However, no vote to acquire, dispose or lease real estate or to settle a claim is binding until subsequently voted on in open meeting.

Applicants for the position of executive head of an agency, presumably to include city managers and department heads, may be interviewed in executive session [§ 50-14-3 (b) (2)].

Discussion in executive session of records that are otherwise protected from disclosure under the open records act is authorized [§ 50-14-3 (b) (4)].

If a non-exempt topic is brought up in executive session, the mayor must immediately rule the discussion out of order. If the non-exempt discussion continues, the chairman must adjourn the meeting. Council policy is that all councilmembers must sign the affidavit under oath swearing that only exempt topics were discussed in the executive session rather than just the mayor [§ 50-14-4 (b)].

Part II. OPEN RECORDS

Section 1: Records Retention.

Records by local governments must be maintained in accordance with the state records retention act found at § 50-18-90 et seq. [§ 50-18-71 (a)].

Section 2: Timeline.

Records still must be produced within 3 business days if possible. If not, the response must be made within 3 business days as to when the records will be produced [§ 50-18-71 (b) (1) (A)].

Records Not in Existence at the Time of the Request. Cities will not be required to produce documents not in existence at the time of the request. I.e., a requestor is not entitled to make standing requests for the production of documents in the future if and when they are produced [§ 50-18-71 (b) (1) (A)].

Section 3: Requests Orally or in Writing/Enforcement.

Requests can be made orally or in writing. [§ 50-18-71 (b) (1) (B)]. However, only requests made in writing are subject to the criminal and civil enforcement proceedings and penalties in the law [§ 50-18-71 (b) (3)]. The City of Hiawassee will provide a form request for purposes of documentation.

Section 4: Records Custodian or Officer.

The City can specify that all written requests go to a records custodian [§ 50-18-71 (b) (1) (B)]. The custodian can be the mayor, chief executive, agency head, a clerk, or other person [§ 50-18-71 (b) (1) (B)]. The custodian hereby designated for the City of Hiawassee is the City Manager.

Written requests may be made by mail, fax or email [§ 50-18-71 (b) (2)].

The Three-day response period starts when the custodian gets the request—not when it arrives at the city hall mailroom or when a city employee or official gets it that is not actual keeper of the records. [§ 50-18-71 (b) (2)].

Section 5: Access to Records/Copies of Records.

Generally, in lieu of the costs of producing copies of a large volume of records, requestors may inspect records. At the time of inspection, the requestor may make photographic copies or other electronic copies using portable devices brought in to the place of inspection. However, the city in its discretion may provide copies in lieu of access if the records contain personal information subject to redaction [§ 50-18-71 (b) (1) (B)].

Section 6: Fees for Responding to Records Requests/Redaction:

Charges for search, retrieval and production of copies are allowed at the rate of the lowest paid full

time employee able to respond [§ 50-18-71 (c) (1)]. The City may charge for the cost of redacting records by a full time employee [§ 50-18-71 (c) (1)].

Fees for copying records are \$.25/page to \$.10/page for letter or legal size documents. For odd-size printed documents, the actual cost of producing the documents can be charged. For electronic records, a city can charge the actual cost of the media on which the records or data are produced. [§ 50-18-71 (c) (2)]. City can charge for records--even if not picked up [§ 50-18-71 (c) (3)]. If estimated cost of producing records is over \$25.00, the city must notify the requestor within three business days of the request as to the estimated amount.

The city can defer search and retrieval until the requestor agrees to pay the estimated amount [§ 50-18-71 (d)]. If estimated cost of producing records is over \$500, the city may require prepayment before the search, retrieval, review or production of records [§ 50-18-71 (d)]. If costs not paid to the city for prior requests, the city may require prepayment for all new requests, regardless of amount, until the previous charges are paid [§ 50-18-71 (d)].

Section 6: Discovery.

If records are sought as part of ongoing litigation, the request must be in writing and copied to the city attorney simultaneously. The city would have to prepare a duplicate set of the requested documents produced that must be provided to the city attorney unless the city attorney elects not to receive them [§ 50-18-71 (e)].

Section 7: Requests for Emails or other Electronic Messages.

Requests for emails should contain information about the requested messages that is reasonably calculated to allow the records custodian to locate the requested messages such as name, title, office or specific data base to be searched to assist the custodian in finding the emails [§ 50-18-71 (g)].

Section 8: Electronic Records/City Website.

Cities must produce electronic copies, or if the requestor prefers, printouts of electronic records or data from database fields used by the city [§ 50-18-71 (f)]. Cities cannot refuse to produce electronic records, data or data fields on the grounds that exporting data or redaction of exempted data will require inputting range, search, filter, report parameters, or similar commands or instructions into the agency's computer system [§ 50-18-71 (f)].

A requestor may request that electronic records, data and data fields be produced in the format in which such data or records are kept by the city, or in a standard export format in which case the data or records are to be downloaded in such format onto suitable electronic media by the city [§ 50-18-71 (f)].

The city cannot be required to prepare new reports, summaries, or compilations not in existence at the time of the request [§ 50-18-71 (j)].

In lieu of providing printouts, a city may provide access to records through a website accessible by the public. However, if the request is for data fields, the city cannot refuse to comply on the grounds that the data is available on the website [§ 50-18-71 (h)].

The city cannot use private vendors to limit access data maintained by the vendor for the city and must ensure that the vendor does not impede access to public records [§ 50-18-71 (h)].

Section 9: Exemptions from Disclosure.

Pending, rejected or deferred sealed bids or proposals and related detailed cost estimates are exempt from disclosure, but must be released after the final award of the contract is made, the project is terminated or abandoned, or the city takes a public vote on the bids or proposals, whichever occurs first [§ 50-18-72 (a)(10)].

Personal emails addresses, unlisted phone numbers, cell phone numbers found in public records are exempted and must be redacted before the underlying document is released [§ 50-18-72 (a)(20)(A)].

Information regarding public employees, such as home address, home telephone numbers, social security numbers, birthdates, credit card information, bank account information, and similar personal data is extended to former employees as well as current employees [§ 50-18-72 (a)(21)]. Records pertaining to rating plans, underwriting rules and similar proprietary information used to administer self-insurance to a city are exempt [§ 50-18-72 (a) (45)].

Exhibits tendered to a court in a civil or criminal trial are not open to disclosure without the approval of the court. Where disclosure is allowed, it is done under circumstances provided for in the law.

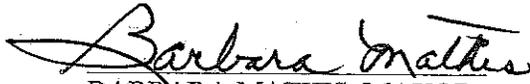
Section 10: Attorney-Client Privilege.

The attorney-client privilege includes all records containing communications subject to the attorney-client privilege recognized by state law, with one exception. The privilege does not extend to factual findings related to an investigation conducted by an attorney on behalf of the city, so long as such investigation does not pertain to pending or potential litigation, settlement, claims or other judicial actions. Where records are withheld under this provision, the requestor make seek an in camera review of the records to determine whether or not the records were properly withheld [§ 50-18-72 (a) (41)].

Section 11: Confidential Attorney Work Product.

Attorney work product is protected. However, the protection does not extend to factual findings related to the investigation conducted by an attorney on behalf of the city, so long as such investigation does not pertain to pending or potential litigation, settlement, claims or other judicial actions. Where records are withheld under this provision, the requestor make seek an in camera review of the records to determine whether or not the records were properly withheld.

So Resolved, this 6th. Day of January 2015.


BARBARA MATHIS, MAYOR


JANET ALLEN, COUNCILMAN

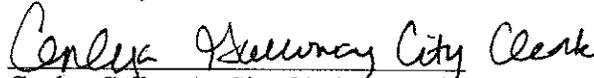

STEPHEN H. SMITH, COUNCILMAN


PAT SMITH, COUNCILMAN


JUNIOR CHASTAIN, COUNCILMAN


JOAN CROTHERS, COUNCILMA

Certified By:


Cenlya Galloway, City Clerk [CITY SEAL]