

CITIZENS OF HARBOR

Appeal to the

Land Conservation and Development Commission

for

their intervention

to

correct a litany of abuse regarding the intent and aims
of GOAL ONE by the Curry County Commissioners.

Curry County has subverted the rights of citizens to receive information in the form of public documents at a reasonable cost by enacting regulations which are making the procurement of said documents financially prohibitive, cumbersome and creating a needless waste of gasoline and additional traffic on our highways and roads rather than using electronic transmittal of document.

This is described in the following documents.

From Ken Hall resident of Harbor.

The whole experience was one that increases my frustration with the County. I am not sure if they are inept, poorly managed or just have bad manners.

I called and asked to get a copy of the proposed change in policy and was told (of course) it could not be sent electronically and I would have to come to Gold Beach to get it. So I drove up, burning at least two gallons of gas, just to look it over and get a copy.

When I entered the County Counsel's office no one was there, although I could hear Gerry Herbage talking on his phone in his office. I rang the bell and a young man came from an adjoining office and asked if he could help me. When I told him I wanted to get a copy of the proposed change in policy and I understood it was in a file in the office he excused himself and went into Mr. Herbage's office.

I heard Mr. Herbage put his caller on hold and then he came out and asked if he could help me. I repeated my request and he asked me to come into his office. When inside he took his legal pad and asked me my name. I told him I was Ken Hall, a resident of Harbor, and I wanted to look at the proposed policy and get a copy. He asked if I was a member of HCAC. I confirmed to him that I am. He noted this on his yellow legal pad.

He located the file and gave it to me, and told me I could sit and read through it. I excused myself from his office and he went back to his phone call. While sitting in the outer office reading the file his assistant came in. I told her I would like to get a copy of the complete file. She advised it would be 25 cents per page, for the 19 pages. I told her that was fine. Looking in my wallet I had four Ones and one Twenty dollar bill. With no change in my pockets I extended the \$20.

She looked at and said, apologetically, she couldn't take it because she had no change. She sent me to the Tax Collectors office to see if they had change. Oops! They don't open until 1 p.m. It was 11:20 a.m. but I guess we can't expect them to know the Tax Collectors office is closed, can we? After all, their office is almost 25 feet from the County Counsel's office.

I checked three other offices where people might have a need to make change but no one had change. Then I walked over to Sterling Bank, two blocks away, and got the \$20 bill broken. I came back to the County Counsel's office and gave the lady a \$5. She said she was sorry but she didn't even have a quarter! By that time I really found their ineptitude and lack of professionalism to be more humorous than irritating so I told her to keep the change, they obviously needed it more than I did. She looked at me and said she was sorry but they weren't supposed to do that.

Now I was finding their attitude to be more obstructionist than just stupid so I told her to put the extra money in their slush fund or she would have to keep the copies they just made because I didn't have three quarters and I wasn't going to walk anywhere to get them! She was then going to take the time to void the receipt for \$4.75 and write one for \$5! I told her my car was running, polluting the lovely Gold Beach weather, harming the environment and leading to global warming....She got the message and gave me the receipt for \$4.75, my copies and I was on my way.

The question is, do they try to be that stupid? If so, they have perfected it!

Ken Hall

Comments to LCDC Re: Curry County Public Records Policy:

Public Records & Public Meetings Laws Abuses of Power - Curry County

Both the public records and public meetings go hand in hand. Should one area be abused by county elected and appointed officials, the probability is high the other will also be abused. The primary emphasis of this report is that of public records requests and the burdens placed on citizens requesting these records.

The primary source referenced here is The State of Oregon Department of Justice "*Attorney General's Public Records and Meetings Manual*" January 2008 Edition. Secondary reference is from "*Open Oregon A Freedom of Information Coalition.*" <http://www.open-oregon.com/>

Recent comparisons of Curry County with regard to transparency or the lack thereof have been made to Josephine County, which is east and inland of Curry County with a similar form of general law and organizational structure. In this writers experiences and opinion, on one hand (Curry County) you have pre 1970's government (opaque, secretive and not to be trusted). On the other hand (Josephine County) you have transparency. The information available for Josephine County online is second to none.
<http://www.co.josephine.or.us/Sitemap.asp>

Below are six areas regarding Public Records and two regarding Public Meetings.

1) Public Meetings: In Curry County there are Regular Meetings, Workshops, Special Meetings, Consent Calendars and Executive Sessions. Most of the meetings are comprised of the latter four which, in the eyes of the elected commissioners and county counsel permits them to provide notice to citizens just 24 hours in advance of the meeting. These four individuals have become so brazen in this regard they now on a regular basis will provide notice on Friday afternoons for meetings the following Monday morning.

Occasionally they take it right down to the wire. For example: Special Meeting Wednesday, January 23, 2008 at 10:00 A.M. Notice sent via e-mail Tuesday, January 22, 2008 at 9:51 A.M. Occasionally, they don't quite make even that. For example:

Special Meeting Friday, December 21, 2007 at 1:30 P.M. Notice sent via e-mail Thursday, December 20, 2007 at 3:26 P.M. They like to schedule these special little sessions right before Thanksgiving and Christmas when they believe their chances of slipping something by the citizens is most opportune. Another example: Work Session April 7, 2008 at 1:30 P.M. Notice sent via e-mail Saturday, April 5, 2008 at 1:51 P.M. Yes had staff in on a Saturday. In their defense, this particular meeting notice was published in the local newspaper Wednesday April 2, 2008 because this meeting was to approve the new Public Records Policy that fortuitously was pre dated with an approval date of April 7, 2008.

Perhaps during the last 12 months there have been five public notices published in the local newspaper regarding subjects such as this. Maybe five times. One last example would be general notices for "Regular Meeting", which is the exception vs. the four other types of meetings. The bold arrogance of these officials has progressed to such extremes they now consistently provide notice of subject matter the Friday preceding the Monday "Regular Meeting." In many cases notice is less than one workday in duration.

"Questions & Answers" are taken from Appendix A of the *"State of Oregon Department of Justice Attorney General's Public Records and Meeting Manual"* Revised January 2008.

The Question: *"How far in advance must a public body give notice of its regular meetings?"*

Answer: *"Far enough in advance reasonably to give interested persons actual notice and an opportunity to attend. Because the notice must specify the principal subjects to be covered, it must be given separately for each meeting even though the public and news media know that the body meets every Wednesday evening."*

Although the answer is vague in this document, it is much more specific in the reference below that comes from "Open Oregon", which is a highly recognized organization. The organization list of supporters includes Oregon Attorney Generals, etc.

"Quick Reference Guide - Oregon Public Meeting Law" taken from the Open Oregon website with respect to notice time to the public at large for "regular" meetings states: *"Governing bodies wishing to provide adequate notice should*

strive to provide as much notice as possible to ensure that those wishing to attend have ample opportunity -- a week to 10 days for example."

2) An Exercise in Futility:

The following is taken from correspondence January 23, 2008 regarding notification of Board of Commissioners Meetings from the new chairperson for the Curry County Commission on Citizen Involvement.

"I am the new chairperson for the Curry County Commission on Citizen Involvement and I am concerned about the hit-or-miss approach there seems to be regarding proper notification of meetings of the Board of Commissioners.

First, please put me on the list for notification of these meetings. As a concerned citizen I am deeply interested in all meetings and would like to know about the meetings so I can attend when possible.

Second, can you please advise the logic or rationale as to who is placed on the list? I couldn't find any place on the County website that indicated such notices were emailed and how to sign up for it. Is there any reason this isn't done?

Third, why are meeting notifications not posted on the County website page, showing the printed agenda? Since the agenda has to be done and posted, and the website is functional 24/7, it seems it would be a logical step -- but only a partial step - for the County to work towards meeting its obligation to notify its citizens of BOC meetings and agendas.

Fourth, are you the person responsible for sending the meeting notifications to the newspapers for publication? If not, could you forward this to that person? I am concerned that publication of the required notifications do not seem to get to the Curry Pilot, which is the logical publication for over half of all the citizens of Curry County.

Thank you for your time."

And the answer is....

3) Public Records Requests Early On:

Wednesday, March 16, 2005; Curry Coastal Pilot: "Despite law, Oregon's governments don't provide public records." By William McCall. The Associated Press.

Nothing has changed!

Example: May 8, 2007 a simple request of the Curry County Planning Department for a tax lot number referred to on a Land Use Compatibility Study (LUCS). After repeated requests the final e-mail response was "They were off on the tax lot." Like, they were off on your Social Security Number or your checking account number or your Passport number. No big deal with the accuracy of public records.

Example: In June 2007 after repeated attempts to obtain information regarding buildable land inventories in the Harbor Hills areas from Curry County Planning Department personnel;

"We have given you everything in our files. You are more than welcome to come and go through everything we have. If you wish for us to do further research it is \$65.00 an hour. This cost will increase by 2.5% sometime in July. If you decide to come and peruse our files, please let us know in advance so that we may have a chance to pull the information for you."

The problem here was that the individual requesting the records had not received anything to that point in time. The message from staff was quite clear.

Example: Meeting and subsequent correspondence December 6, 2007 regarding missing files for a tax lot per Administrative Decision #AD-0514. These files were requirements specified in the Administrative Decision that were to be completed prior to commencement of any construction that was now nearly complete. December 11, 2007 correspondence to Curry County Planning Department personnel stating that information provided with respect to the December 6, 2007 request had nothing to do with the items requested. The items initially addressed were very serious items.

There was never any further response regarding the whereabouts of these records.

4) Public Records Requests February 2008:

The first significant Public Records Request this writer became involved with was February 8, 2008.

The request encompassed rules; policies, forms & procedures governing travel practices, documentation and approvals. This included automobile usage practices including sign-out and return logs, reports and any other documentation and approvals.

County counsel responded to the records request in typical cat and mouse fashion. As the request was primarily with respect to determining the accountability of elected officials, the responses from county counsel indicated those officials were not accountable. The requestor asked for one month's credit

card activity for each of the three elected commissioners. One different month for each individual. The requestor also asked for one months vehicle usage documents from each of the elected commissioners although counsel had eluded to the fact elected officials were not accountable for any documentation or anything else regarding their use of publicly owned vehicles.

The records were finally provided. The previous position of Curry County officials had been to charge individuals \$0.25 per photocopy which included staff time to operate the photocopy machine. Retail businesses in the local area provide copies for \$0.05 to \$0.10 per copy, which includes overhead and, profit. In this particular situation the requestor was charged the total labor costs for the personnel including vacation, holiday, PERS, FICA, etc. plus \$0.25 per copy.

Enter the new county strategy. In order to deter citizens from learning more than county officials want them to know, make requesting public records expensive. **You now have a for profit enterprise crafted to discourage citizens access to public records.**

The results of a review of the subject credit card receipts were appalling. A report was generated, read during the March 3, 2008 Board of Commissioners Regular meeting and placed into the meeting records.

4) The Weasel Catch All - ORS 192.501 (1):

February 27, 2008 the following records request was submitted to the commission chair.

"A recent news article in the Curry County Reporter dated February 6, 2008 referred to written inquires to county employees from personnel representing City County Insurance Services, an insurance provider for Curry County.

More specifically, the article referred to Senior Claims Consultant James McWilliams from City County Insurance Services asking if employees "*would send [him] photocopies of any reports, logs or notes you kept of the incidents discussed. Of particular interest would be the notes of the situation involving Commissioner Schafer being under the influence of alcohol while on County property or at work, notes of conversations with Sheriff Metcalf regarding this matter and notes regarding conversations with County Counsel [Jerry Herbage].*"

The use of quotations indicates there was written correspondence from the consultant requesting this information from a number of county employees. This behavior on the part of an insurer appears to be a highly unusual practice. Were there not serious safety concerns for county employees, citizen's at large and significant perceived financial exposure, the insurer, in my judgment would not go

to such length. As the insured is Curry County, a copy of any such request and other associated correspondence would, as a minimum be Cc: to the insured.

Therefore, I respectfully request photocopies of the following public records. All correspondence from City County Insurance Services, their claims consultants or their agent of record, CAL/OR Insurance Specialists, Inc. related to the above scenario. Specifically any such inquiries to county employees similar to the one referred to above.

Thank you for your prompt attention to this request.

There have been numerous published articles indicating the commissioner referred to above is about as pure as new fallen snow yet the response from the commission chair states:

"But even if we did [have the requested records], we would not be releasing them to you under ORS 192.501(1) "Records of a public body pertaining to litigation."

The plot thickened February 26, 2008 when the Curry County District Attorney was asked how they would process a Petition for Public Records to be made available for inspection with the following caveat.

"Furthermore, I realize there may be a conflict of interest in submittal of this request to the District Attorney as 1) these records may apply to the District Attorney as an elected official and 2) the District Attorney's departmental operating budget is controlled and approved by the Curry County Commissioners."

The District Attorney's response dated February 26, 2008:

"Because of the budget/staff cuts, my policy, regarding public records requests, will be [not currently is] to issue a letter when I receive a petition. The letter will indicate the D.A. office will not act on the matter and that the petitioner may file in Circuit Court seven days after the date of the letter."

Ironically, March 22, 2008 in the Curry Coastal Pilot there was an advertisement in the help wanted section for full time personnel in the District Attorney's office.

Curry County Position: Should a citizen request a record we do not want them to have, we will make it extremely difficult and expensive, if not prohibitive for the citizen to obtain that record.

Chapter I; E; 1. Of the "Attorney General's Public Records and Meetings Manual" January 2008 Edition." The specific case law in the paragraphs that follow is not referenced. References may be found on pages 23 & 24 in the publication referred to above.

"The Public Records Law is primarily a *disclosure* law, rather than a confidentiality law. Exemptions in ORS 192.501 and 192.502 are limited in their nature and scope of application because the general policy of the law favors public access to government records. Accordingly, a public body that denies a records inspection request has the burden of proving that the record information is exempt from disclosure. ORS 192.490(1). Oregon courts interpret the exemptions of the Public Records Law *narrowly*, and the courts "presume" that the exemptions do not apply.

Moreover, the fact that particular information qualifies for exemption from disclosure does *not* necessarily mean that a public body is prohibited from disclosing the information. In most cases, a public body has discretion to disclose a record that qualifies for exemption from disclosure under the Public Records Law. In short, no public body validly may say, in every case, "This record is exempt from disclosure under ORS 192.501 or 192.502 and therefore we may not disclose it."

The position of Curry County officials with respect to all public records, especially electronic media (e-mails) is totally to the contrary of the courts interpretation. Everything is exempt until proven otherwise at such expense to the citizens that information will never be disclosed.

5) Recent Tests of Citizen Patience:

March 18, 2008 a citizen requested the following of the County Treasurer.

- 1) *Current Budget Summary (7/1/2007 - 6/30/2008) - Electronic if possible.*
- 2) *Proposed Budget Summary (7/1/2008 - 6/20-2009) - Electronic if possible.*
- 3) *Chart of Accounts - Electronic if possible.*
- 4) *County Organizational Chart - PDF format if possible.*
- 5) *Department staffing numbers (approximation).*

The request was forwarded to the Finance Department Director the following day and the Treasurer notified the requestor.

One additional request was sent to the Finance Department Director with no response. On April 8, 2008 this writer drove a total of 70 miles round trip from Brookings to Gold Beach to request one of the 5 items requested three weeks previously. That experience follows and is verbatim per e-mail correspondence sent to several individuals. Personal names except for elected officials are shown as: ***

"I arrived in Gold Beach at 12:35 P.M. everything in the main annex building appeared to be shut down and closed up. The doors to the main lobby of the commissioner's office were locked.

*Stopped back about 1:45 and went to the commissioners office and spoke with ****. Showed her the e-mail from **** to Isabella Brock dated March 18, 2008 requesting direction in where to obtain five documents, one of which was a county organizational chart. The e-mail was then forwarded to the Finance Department by Isabella Brock.. **** stated "you would think we would have one (organizational chart)" and went back to one of the offices. About three minutes later **** came out and said that I should go down to the Personnel Department at the end of the hall and speak with****.*

***** reports to the Finance Director which is where the e-mail request was first forwarded. I spoke with **** who already had made a copy of the organizational chart that existed. She commented it was created in early 2007 and explained the titles of the chart were pretty much those used by the various departments with a few exceptions where there had been changes since the chart was created. She remembered seeing the e-mail from **** but commented she had not heard anything further. I was somewhat baffled and did not pursue that comment.*

*I thanked *** and was told with a smile, "that will be \$0.25." I paid and left with the org chart that I have scanned and converted to PDF format. See Attached.*

To sum this experience up in one sentence; Three weeks of written requests for, among other things a one page document that should be available online and "nothing" followed by a 70 mile round trip to locked doors followed by killing some time in Gold Beach followed by a return trip to the county annex building followed by receipt of a one page, one year old organizational chart followed by scanning and converting the document into PDF format to distribute this public document. Oh Well!!!"

The following week the initial requestor was notified the records were ready for pickup. Most of the records were in electronic format but were not provided as such. Rather, the requestor was charged \$0.25 per page to print what could and should have been provided in a matter of seconds as an e-mail attachment four weeks earlier.

6) See Attachment from Ken Hall

7) E-Mail Records Requests - Will Never Happen:

This writer had been told via two previous Curry County Department Directors that previous e-mail correspondence between commissioners was basically in a league of its own and that obstacles placed before citizens attempting to gain access to the documents would make obtaining e-mail records extremely difficult if not impossible.

This has proved to be the case under the current county leadership. Immediately after the records request in 4) above, Curry County counsel and the elected commissioners went into overdrive to institute the now current Public Records Policy. A CD is available at no charge to all interested parties that includes the April 7, 2008 audio portion of the Curry County Board of Commissioners discussion regarding the onerous Public Records Policy. This CD also includes in PDF format a summary of the meeting including numerous quotations from the commissioners, counsel and the Director of the Information Technology Department.

A few of the far out items included within this new policy are requirements that:

- * Requestors shall provide their name, address and phone number, which is contrary to state law.

- * No records will be transmitted via electronic format, which is nothing short of ludicrous.

- * Public records requests will no longer be accepted via electronic (e-mail) format. Rather they must be hand delivered or mailed.

The public records request form includes a statement the requestor must sign acknowledging "Photographing documents or sending documents or data via electronic mail is not permitted."

This writer/requestor struck out that wording when requesting a recent copy that had been inadvertently overlooked during a previous request, as it is totally contrary to state law. The commissioner's assistant was asked if the county accepted credit cards as driving 70 miles round trip to purchase \$2.50 worth of photocopies was not prudent.

Answer NO.

The requestor might consider mailing a check. If they wished the copies be mailed back to them there would be an additional \$1.00 charge in this particular situation. Time to accomplish this snail mail task; approximately four working days.

Other Public Records Policies were looked at including Josephine County (east of Curry County) and the Department of Land Conservation and Development (DLCD).

Their respective Public Records Policies are not (thankfully) in the same league as that of Curry County.

On March 13, 2008 a request for one months e-mail correspondence between three commissioners and the county Assessor was requested. This predated the

new county Public Records Policy and indeed was the impetus behind the motivation to implement the current policy.

A copy of the summary document referred to in the second paragraph of 8) above would be very helpful.

To be brief, the Curry County Information Technology Director provided the following testimony.

- a) The estimate to retrieve the e-mails ranged up to \$8,000, payable in advance.
- b) Total document count was estimated at approximately 1,250 before narrowing by subject matter that would take additional time.
- c) The next step would be to review each record to see if it met the search criteria and required redaction of any sort including residential addresses or other details that are excluded under state law.
- d) After this step the Director would turn over the files to county counsel to review and make sure he had not overlooked anything.
- e) Time claimed spent just to determine the number of records in b) above was twenty hours at approximately \$40 labor cost per hour.
- f) Conversion of e-mails to PDF format was not safe or cost effective and could not be automated.
- g) Documents would have to be printed to be secure.
- h) PDF files would require watermarks.
- i) Digital files are easy to alter.

This was all a bit much to swallow so representatives in Josephine County were contacted, including the Director of their Information Technology Department (IT). The representatives contacted, including a member of the Board of Commissioners, an administrative assistant of the board and the Director of their Information Technology Department were extremely helpful and informative. The e-mail system used by Josephine County is the Novel GroupWise System that, according to the IT Director is very similar to the Microsoft Exchange Server System used by Curry County.

Josephine County personnel had recently received several public records requests for e-mails so they had actual examples that included the number of records requested, search criteria, length of time over which the records were requested, the type of final records that were generated and the individuals that processed the requests.

Example 1: A request for records between one commissioner and one or two other entities over a period of several months. Each county employee has one account or mailbox. The first step when the IT Department handles this request is to perform a "restore" of the county e-mail system as close to just after the last date the documents are requested. In other words, if the request were for January through March of 2006, the restore would be as close to April 1, 2006 as

possible. Time required for this is approximately 4 hours restore time and 1 hour of chargeable staff time.

At this point, each mailbox (one per county employee) must be pulled up in a separate process. Staff time per mailbox is approximately two hours. If the records request were for a contiguous period of time, staff will usually print to electronic PDF format and zip (compress) the file. Typically they do not review the file content in any detail unless the messages involve personnel or legal departments.

Commissioner e-mail documents are typically FYI and require little review. The IT Department uses Adobe Pro software to create PDF files, which is capable of automating the file creation process.

This particular request totaled approximately 400 records, of which approximately 40 were actually per the search criteria. The entire 400 records were provided to the requestor in PDF format at a total charge of \$150.

Example 2: This request was regarding a different commissioner than the individual in example 1. The administrative assistant in the commissioner's office handled the request.

The administrative assistant, with commissioner approval accessed the commissioner's e-mails and printed out approximately 400 pages of documents pertaining to the requestor's criteria. Total cost for staff time and the photocopies was \$180.

Example 3: This is in process and a very large records request. The request was for all e-mails for one commissioner for the past 3 1/2 years. The total number of records is approximately 10,000. The requestor may reduce the total record count downward.

To date, IT Department staff have created PDF files for all the records and provided the files to staff in another department for further review. Total cost for IT Department staff time was approximately \$500. The IT Department has budgeted \$10,000 to purchase additional software that will complement their existing GroupWise System. It is a "gwava" *retain software* product. This will significantly enhance their capability to work with and sort e-mail documents via a relational database. Their rationale was that it would enhance the internal county system and expedite future retrieval records requests. It does not have the capabilities to work backwards. Rather, it will only improve future e-mail generation.

Respectfully submitted April 30, 2008:
Thomas C. Huxley
Brookings, Oregon

Re: Curry County Commissioners Regular Meeting Monday April 7, 2008 10:00 A.M. 10:30 A.M. Item # 9: Administrative Action New County Records Policy.

Times noted are per the audio recording of the meeting. Quotations are in *"italic."* Audio applicable to this subject begins 25 minutes into the CD and ends 1 hour and 5 minutes into the CD.

Those public officials participating in the discussion are: Commissioner's LaBonté, Nowlin and Schafer. County counsel Herbage and Information Technology Director Barker.

Herbage opened stating that Oregon Statute 192.440 sub section 7 indicates a public body is to have a written procedure for making public records requests. Curry Counties was borrowed from Columbia County, taken to department heads and staff for comments *"...which could be a packet to be given to the public."* The entire 15 plus page policy was predated to April 7, 2008.

Herbage: *"We published notice of that and I know people came in and got copies and we have public copies right there."*

One individual at least, driving 70 miles and paying \$0.25 per copy for a document that could have been e-mailed in a matter of seconds at no charge. This is addressed further under separate cover.

27 minutes 15 seconds into the audio:

Nowlin: *"Well actually we need to adopt the order for the adoption of of the public records policy. Then we go into a public hearing."*

LaBonté: *"How can we adopt it before we hear from the public?"*

Herbage: *"I don't have any problem just hearing from the public."*

Schafer: *"Yah, I think that's what we should do."*

Nowlin: *"I guess the people who signed up, did you want to comment on both?"*

Nowlin: *"OK, well why don't we go ahead and start our special hearing then before we adopt the general order. Does that work for you county counsel?"*

Herbage: *"That's fine."*

Nowlin: *"Let's go ahead and do that. All right."*

30 minutes into the audio:

Nowlin and company went through the motions of allowing three citizens to speak.

30 to 34 minutes into the audio: A resident from Harbor objected to the process.

34 to 37 minutes 30 seconds: Maggi Runyan, a resident from Harbor.

During this time Ms. Runyan stated a citizen was not required to provide their name and address when requesting public records.

38 minutes 30 seconds to 40 minutes: Ken Hall a resident from Harbor.

Mr. Hall was the individual Herbage refers to in his opening statements as coming in to get copies of the pre dated records policy. His unbelievable experiences in procuring this policy as stated earlier are addressed further under separate cover.

40 minutes 30 seconds into the audio: Nowlin: *"All right is there any other further public comments? OK uhm shall we go ahead and keep it open and and respond or how do we best approach it counsel?"*

Herbage explains to Nowlin what to do next.

LaBonté in what appeared to be a pre rehearsed part of the act: *"Before we close the hearing I'd kind of like to hear have Phil Barker comment and explain what you have to do to retrieve e-mails. I've had this question asked of me several times over the weekend and I know that on my computer I have just about every e-mail that I've sent. It did crash the system about a month ago."*

Asked, by whom?

41 minutes 20 seconds into the audio:

Barker: *"It's not a simple process sir. If I had a simple process I'd love to give any member of the public the records requested. These is technology available although it's not free. It's commercial developed..."*

Barker was cut off by Herbage and Schafer in mid sentence. They did not under any circumstances want him going into the details of what software is available. This subject is addressed in detail under separate cover.

43 minutes into the audio:

Schafer: *"Mr. Huxley asked for five different areas correct?"*

Baker: *"I got to the point where after using 20 hours of my own time in order to make sure that everything had been selected that could be selected but ah didn't actually take the time to begin the process of actually inspecting the individual messages which would be the next step in making sure that they actually contain any of the subject matter for any one of the ah subjects that was of interest."*

43 minutes 45 seconds into the audio: Schafer began to interrupt Baker.

LaBonté: *"He's testifying in a hearing Marlyn."*

Baker then brought up the term redaction (marking out personal information) and protected information not for public disclosure

Baker: *"Like residential addresses or other details that are excluded under state law. And then after going all through that process I would then turn it over to county counsel for his review to make sure that I haven't overlooked anything. And then at that point it would be printed to paper because in this day and age, having been a security professional I know how easy it is to alter any digital file. Paper on the other hand is much, much more difficult to alter and by doing that I thought that it was in the best public interest to completely eliminate one possibility that anyone could lodge in either direction as to whether a document was or wasn't actually valid and was unaltered."*

As this document is primarily a recap of the audio only, further comments regarding the absurdness of some of these and other statements and tactics are addressed under separate cover.

45 minutes 50 seconds into the audio:

LaBonté: *"So what about PDF files. Could they be sent as PDF cause when I work I can't get and change PDF? I can paste over things."*

Barker: *"PDF's can be altered but the way in which PDF's are altered is not nearly as simple as say altering a word document or an excel spreadsheet." "Those frankly are child's play even if its password protected."*

Baker: *"Uhm, it certainly could be done ah in that manner provided that I were to find a way to watermark it is a way that was unalterable."*

47 minutes into the audio:

Baker: *"You install a virtual PDF printer on the workstation that's actually going to do the extractions. And unlike printing a document where you simply click and print, what you have to do is click print, select the PDF virtual printer, then give it a meaningful name, tell it which directory to save it to so there's some extra steps*

involved. It can't be automated so there's a lot of manual handling involved regardless of which method we use."

Baker then stated there are between 2,000 and 6,000 e-mails per day in the county offices.

Schafer: *"I probably get a hundred a day myself because everything is electronic anymore. I know how that is."*

49 minutes into the audio:

Baker: *"I wish it were a relational database. That would make it much easier to work with. It's clunky."*

Herbage: *"Just for edification to the press or whoever. You may already have this. How many documents was Mr. Huxley asking for?"*

Barker: *"Ah, if I recall the correct figure, all of the messages matching the initial search criteria by date alone for all the receipts I think was 1,246. And then I hadn't even begun the process of actually inspecting every single one of those messages to see if they actually matched any of the search criteria."*

49 minutes 50 seconds into the audio:

Baker: *"And if I may say so, ah I do take exception to anyone making any allegations that we have anything to hide and that what we're asking for in order to pay for the operating costs is not unreasonable. It's simply the cost of doing business whether we were public sector or private sector. The fact remains, things aren't free."*

51 minutes into the audio:

Nowlin: *"There was a comment about the electronic data vs. hard copy from Mr. Hall and I think the understanding is ah is simply the fact that digitized information can be easily manipulated. Hard copies are something that is much less likely for one reason or another and it's just ah I think a matter of ah process."*

51 minutes 30 seconds into the audio: Nowlin: *"County counsel there was some other comments there about the Sunshine Law where you don't need a name and address to get the information. It how how does that fit as far as our request is?"*

Herbage: *"I think that ah the statutes are ah control. It's not something...."*

For the next 6 1/2 minutes this "individual" skirted answering the question:

The question was: Are citizens requesting public records in Oregon required to provide their name, address, phone number and the reason for their request.

1 hour 2 minutes 30 seconds into the audio:

Nowlin: *"I'm going to go ahead and close the public hearing at this point and ah we'll go ahead and start..."*

1 hour 4 minutes 30 seconds into the audio:

Nowlin: *"For me transparency in government is very important ah but you have to balance that with costs..."*

1 hour 5 minutes into the audio: The motions were passed, signed, sealed and delivered!

