

Statement of Laura B. Ahearn to
Public Records Advisory Council
September 18, 2023

Thank you for this opportunity to discuss my ongoing experience in Jackson County. I have three main concerns:

- The complexity and opacity of Jackson County's procedures invite errors, intimidation and retaliation.
- Jackson County demands extortionate fees, multiples of the fees of other public bodies, including elements that are not reimbursements of actual costs. In my case, as high as \$212.78 per hour.
- Jackson County rejects requests to waive or reduce fees *unless* made by established newspapers and media outlets. It appears that County employees are instructed to do this automatically based on this sole factor. The County even has boilerplate rejection language.

Some brief background: By virtue of a 1935 petition by stock raisers, Jackson County must operate a dog control district. For decades the County handed over unclaimed dogs to the Humane Society for rehoming or euthanasia. Demand exceeded SoHumane's capacities in the 1950s; the County opened a dog pound with a "killing room." As society's expectations evolved, this morphed into an "animal shelter." The current warehouse-style facility was built in 1994.

I began volunteering in 2018. The relationship between volunteers and County employees was positive and productive. The shelter attained "no-kill" status. It was a true "animal" shelter, saving rabbits, guinea pigs, even reptile pets.

But then Jackson County put new administrators who had no background in animal care in charge. The County implemented what *IT* describes as a "sea change" in how it runs the shelter. The shelter fell out of no-kill status for over two years. Now it generally accepts only stray or confiscated dogs. A few select felines are allowed. It became NOT an "animal" shelter, but a dog holding facility with some cats.

As a result of this sea change, at least 18 ways in which citizens traditionally served have been banned or drastically curtailed. Citizens witnessed negative consequences for the dogs and cats. Citizens packed the County Commissioners' hearing room on February 1 to state their concerns (time limit: 3 minutes). The Board Chair opened the session with a misstatement of state law, claiming that by statute the Commissioners were forbidden to respond to any comment. But, the County Administrator was given unlimited time and scope to say what he wished.

I don't have time to recount how this pattern repeated itself over and over in subsequent Commissioners' meetings. Suffice to say, citizens kept voicing concerns. The County Administrator accused them publicly of spreading a "false narrative," a characterization blindly repeated by our fledgling local newspaper – which further published its own editorial admonishing that "the barking must stop." Yes, our local media criticized us for exercising our First Amendment rights.

This sea change has been an issue of great public concern, addressed in front page articles, letters to the editors, radio talk shows, local TV, and of course social media. The most concerning new County directive was **the Monday ban**. Volunteers were flatly forbidden to come to the shelter on Mondays. Why? We have heard at least seven different unconvincing answers.

On Mondays, this governmental facility operates behind a secretive curtain, out of the sight of taxpayers. County Administration makes public claims about what happens on Mondays, but volunteers allowed back on Tuesday mornings have seen different evidence.

I turned to a County Commissioner and to the nonprofit which schedules the volunteers to seek up-to-date information and explanations. Brick walls. So on July 5, I submitted public records requests. Jackson County dictates that a citizen must submit requests to identified clerical personnel in individual departments. There is no Public Affairs Office, no centralized clearing house. I sent requests to the Board of Commissioners, County Administrator, and Health and Human Services which oversees the shelter. And the response came back from ... the County's attorney.

Most people would probably have given up there.

To date I have received only 3 documents for which I paid \$92.50. One document was a Feasibility Study and Conceptual Design prepared by outside architects and engineers over a year ago. This had never been shared with the public, the volunteers or the Animal Control Advisory Committee, a body much like yours. I believe this important report should have been available for free on the County's website. It's overall conclusion: "the current facility fails to meet modern standards for the humane treatment of animals." Two pages of deficiencies, single spaced, follow.

I continue wrangling with County Counsel over the remaining open requests, including records concerning the Monday ban. This county employee is also Deputy County Administrator. He has changed hats repeatedly, sometimes acting as a record collector and other times asserting legal arguments. His superior, the top County Administrator who publicly vilified me, monitors our emails. This surely would dissuade most people from proceeding.

Off the bat, the County attorney took my three separate requests, and tried to repackage them as *ONE* request to the entire County. This produced a mind-numbing maze of repetitive and confusing emails. Individual requests got lost in the blur. I was told "the County has no responsive documents" to a couple of requests for which I know based on first-hand knowledge there are records. Weeks passed.

The attorney told me I must pay \$212.78 per hour for a specified manager to find her files about the Monday ban. I asked how he came up with that number. Oops, that was a mistake – how about \$153.07? OK, what are the components of that number?

Labor cost = \$141.85

HHS Overhead = \$10.29

County Overhead = \$.93

As an individual taxpayer, I already pay almost \$5000 for "overhead."

I asked the attorney to itemize "labor cost." His initial response: "For a generalization, labor

cost includes not only hourly wage rate, but benefits costs (health insurance, leaves, allowances, etc), and employer taxes (FICA, PLO, etc) over the number of productive hours.”
 Five days later I received actual numbers:

- Wages: \$145,994 per year
- Benefits: \$59,005 per year
- Vacation Accrual: \$14,769 per year
- Employer costs: \$11,169 per year
- Based on 1628 productive hours per year**

I then wrote:

“I would like further information to understand what I am being asked to pay for. You said "benefits" include allowances - allowances for what? Please itemize "benefits.”

Almost \$15,000 is specified as an accrual entry - are any of the other dollars accrual accounting entries as opposed to actual payments? The statute specifies that fees must be "reasonably calculated to *reimburse*"; an unpaid or contingent accrual cannot be reimbursed.

What is the basis for using 1628 productive hours per year?... This divisor is obviously a key driver of fees.

I then received the most lawyerly, and dismissive, response in our dialog. No breakdown of benefits. “We use 1628 productive hours per year, as that is what the County calculates as the number of hours, **on average**, an employee is being productive for the County.” So this was *not* a reasonable effort to calculate the actual cost of this particular manager. “As for the accrual entry, that is a cost to the County, and so is included” - ignoring the limiting statutory term “reimburse.”

Mine is not an isolated experience. Another volunteer requested attendance records for Mondays. He was first told the records were being collected, but two weeks later received a demand for almost \$600. Another colleague just received an invoice for \$284.64 for 3 hours of “HR Research plus Overhead.”

Where does this leave Jackson County citizens in comparison to other Oregonians? Josephine County and many other public bodies have published schedules of set fees:

	<u>Josephine</u>	<u>Klamath</u>	<u>Douglas</u>	<u>OR Governor</u>	<u>OR DOJ</u>
Managerial	\$55			\$60-75	
Professional	\$45			\$32-40	\$79*
Clerical	\$32	\$5*	\$0 for 15 min*	\$20-25	\$47
Notes		*Standard fee for Animal Control	Fully burdened rate approx. \$60 if >15 min		*Paralegal or IT

In Douglas County, I would have received that Feasibility Study at no cost. While Douglas does employ a “fully burdened compensation rate” approach, requests are handled by its Public Affairs Office at around \$60 per hour. Perhaps that county's PAO employees are more productive than in Jackson, and a higher “productive hours” divisor means a much lower fee?

I was advised by the Public Records Advocate and others that I could request a fee waiver. After all, Jackson County officials know I have organized public meetings to disseminate information about the “sea change,” written letters to the editor, addressed the Commissioners on numerous occasions. It took less than one hour for the County's attorney to reject my request. The colleague with the invoice for almost \$300 for HR received the identical boilerplate, although she is an elected official in a local service district, a well-known leader in our community. Why the automatic rejections? Citing the Attorney General's Public Records and Meetings Manual, “the County has typically only granted fee reductions or waivers to requesters who have demonstrated the ability to disseminate the records or information to wide audiences, such as requesters who represent established newspapers and media outlets.”

This identical language came from both County Counsel and low-ranking HR personnel, reflecting that Jackson County apparently has an unannounced but controlling policy to make this single factor controlling. This is not consistent with the intent or literal language of the statute or the manual.

I have often pondered if the County's true end game is to force me to go to court. That is the ultimate way to obstruct a concerned citizen's inquiries.

I would be happy to answer questions or submit more detailed documentation. Thank you.