



February 3, 2016

Aaron Rosenzweig  
1 Thorburn Road  
Gaithersburg, MD 20878

Re: Request for Public Information

Dear Mr. Rosenzweig:

The City received your written request on January 19, 2016, in which you requested certain records under the Maryland Public Information Act ("MPIA"), Annotated Code of Maryland, General Provisions Article, §4-101 *et. seq.* City staff has collected those records in our custody that are responsive to your request and you may inspect all of the records we have compiled with the exceptions noted below.

In particular, you seek to inspect and copy all records in the City's custody and control pertaining to the following:

Regarding the Gaithersburg Book Festival from 2010 to the present:

1. How many man hours do staff spend and what is the dollar amount of their prorated salaries during that time?

Response: The City does not maintain any document responsive to your request as we do not track time staff time for any specific activity other than grant funded activities.

2. How much police staff is utilized and what is the cost?

Response: For each year of the Book Festival, the Police Department allocates 8 officers to the event that are otherwise on-duty for the day. No additional costs are incurred, with the exceptions noted below:

2011 – Three officers incurred a cumulative total of 2.25 hours of overtime at a cost of \$153.38.

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2012 – Two officers incurred a cumulative total of 1.75 hours of overtime at a cost of \$76.39.

3. What is the net monetary profit generated (or loss)?

Response: Budget Reports for the Book Festival for Fiscal Years 2010 – 2015 are available for inspection and copying.

4. What is the break down on revenue that comes in from sponsors and all other sources?

Response: Budget Reports for the Book Festival for Fiscal Years 2010 – 2015 are available for inspection.

5. What is the expenditure on all authors and quests including airfare, lodging, and all other services?

Response: Budget Reports for the Book Festival for Fiscal Years 2010 – 2015 are available for inspection.

6. What is the expenditure on equipment such as booths, electricity, tents, and all other items?

Response: Budget Reports for the Book Festival for Fiscal Years 2010 – 2015 are available for inspection.

7. We are a diverse city, how many Spanish speaking authors and books do we show at the festival? Could you list the breakdown of English and Non-English book authors at this city sponsored event?

Response: The City does not maintain any documents responsive to your request. During the period of time subject to your request, approximately 900 authors have participated in the Book Festival and the City does not inquire as to the languages in which they write. The Book Festival does provide diverse programing; for example, the 2015 Festival featured a Multilingual Story Time Tent in the Children's Village which featured readings by Non-English book authors in Spanish, French, Vietnamese, Hindi, Farsi and Korean.

Regarding the City's Animal Control Division:

8. Publish the results of the internal investigation of city staff including, but not limited to, corrective action.

Response: The City is denying inspection of its records related to the internal investigation of city staff including, but not limited to, corrective action, with the exception of the April 30, 2015 email from the City Manager to you, which is available for inspection. The MPIA, §4-311, requires denial of inspection of personnel records of an individual. The Maryland Courts have held that personnel records, as used in the MPIA, are documents that directly pertain to employees and an employee's ability to perform a job. *Baltimore City Police Department v. State*, 158 Md. App. 274 (2004); *Kirwan v. The Diamondback*, 352 Md. 74 (1998). In *Montgomery County Maryland v. Shropshire*, 420 Md. 362 (2011), the Maryland Court of Appeals specifically held that records of an internal investigation of allegations of misconduct by employees were personnel records under the MPIA and were mandatorily exempt from disclosure.

9. Compare fraudulent to legitimate dog bit complaints for the past five years.

Response: The City does not maintain any documents responsive to your request as we do not track "fraudulent" dog bit complaints. However, the total number of reported incidents of a dog having bitten or scratched the skin of a human from 2010 to 2015 in the City is 246, broken down by year as follows: 2010 – 39; 2011 – 33; 2012 – 38; 2013 – 30; 2014 – 44; and 2015 – 62. All of these bites were classified as "founded."

Dog bit complaints involving a dog bite to another dog or other animal are not separately tracked by the City, but would be included in Aggressive Animal Service Complaint and Animals at Large Service Complaint documents. From January 1, 2010 to December 31, 2015, the City responded to 133 Aggressive Animal Complaints and 1284 Animals at Large Complaints. In order for the City to determine which of these complaints involved a dog bite, City staff would need to individually review each file, which would involve an estimated 40 hours of staff time at the hourly rate of \$51.18, for an estimated total cost of \$2,047.20. Should you wish the City to undertake such a search of records, please forward \$2,000.00 as a deposit toward these costs.

The cost of search for and preparing the records for disclosure comes to \$226.12, which represents 8.25 hours of staff time at prorated hourly salaries of \$60.23 for 1.5 hours of Department of Parks, Recreation & Culture staff, \$37.43 for 1 hour of Police Department staff, \$51.18 for 1 hour Department of Planning and Code Enforcement staff, \$68.92 for 2.5 hours of Department of Human Resources staff; \$23.97 for 0.5 hours for Department of Finance staff; \$21.16 for 0.25 hours of City Manager and \$123.31 for 1.5 hours of City Attorney time, which the first two hours provided free of charge. (Note that we have provided the two hours free of charge based on the highest hourly rates or a total of \$386.20 - \$123.31 - \$23.97 - \$12.80 (1/4 of \$51.18) = \$226.12. You may also obtain copies of the records. The City charges a fee of \$0.20 per page for copies with the first 10 pages free. If you prefer to receive the documents via email, there is a \$10.00 charge in lieu of the per copy charge. If you wish to inspect the records that are available for inspection under the MPIA, please call or email my Paralegal, Lauren Klingler, at 301-258-6310 or [lklingler@gaithersburgmd.gov](mailto:lklingler@gaithersburgmd.gov) to arrange for a mutually convenient time.

Pursuant to the MPIA §4-362, you are entitled to seek judicial review of this decision. You may also refer any concerns about this decision to the Public Access Ombudsman pursuant to the MPIA §4-1B-01, *et seq.* Should you have any questions about this letter, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink that reads "N. Lynn Board". The signature is fluid and cursive, with the first name "N." and last name "Lynn Board" clearly legible.

N. Lynn Board,  
City Attorney

cc Mayor and City Council