

AGENDA
HASTINGS CITY / BARRY COUNTY AIRPORT COMMISSION
REGULAR MEETING
July 24, 2019

1. Call to Order at 4:30 p.m. at the Airport Terminal Building.
2. Pledge of Allegiance
3. Roll Call
4. *Approval of Agenda
5. Limited Public Comment
6. *Approval of the minutes of the June 26, 2019 Regular Meeting of the Airport Commission.
 - A. Approval of the minutes of the June 26, 2019 Closed Session Meeting
7. Financial Reports
 - A. *Consider approval of the June 2019 Financial Reports
8. Old Business
9. New Business
 - A. *FOIA Appeal of Excess Fee for Request #19-0181 – Ronald Neil.
 - B. Open bids for new lawn mower.
 - C. *Approve legal fees for Cohl, Stoker, and Toskey (\$2,313.55)
 - D. Approve new airport manager per the current managers agreement.
10. Airport Manager's Report
11. Board Comments
12. Limited Public Comment
13. Adjournment

* Indicates Attachment

Revenue Status Report
BARRY COUNTY
6/1/2019 through 6/30/2019

295 AIRPORT FUND					
Account Number		Adjusted Estimate	Revenues	Year-to-date Revenues	Balance
					Prct Rcvd
000 DEPT					
000-580-000 CONTRIBUTIONS FROM LOCAL UNITS CONT		0.00	0.00	0.00	0.00
000-608-000 HANGER RENT & TIE DOWN FEES		130,000.00	15,549.00	86,501.90	43,498.10
000-608-010 NEW HANGER RENT		0.00	0.00	0.00	0.00
000-609-050 OTHER		1,000.00	0.00	0.00	0.00
000-648-000 SALE OF GAS		182,784.00	14,214.18	74,444.24	108,339.76
000-675-000 DONATIONS		0.00	0.00	0.00	0.00
000-679-000 MISC REVENUE		3,500.00	0.00	2,475.52	1,024.48
000-679-010 MISC REIMBURSEMENT		0.00	0.00	345.55	-345.55
Total AIRPORT FUND		317,284.00	29,763.18	163,767.21	153,516.79
Grand Total		317,284.00	29,763.18	163,767.21	153,516.79
					51.62

Expenditure Status Report

BARRY COUNTY
6/1/2019 through 6/30/2019

295 AIRPORT FUND

Account Number	Adjusted Appropriation	Expenditures	Year-to-date Expenditures	Year-to-date Encumbrances	Balance	Pct Used
895 AIRPORT						
895-708-000 CONTRACTUAL SALARIES	79,000.00	6,583.33	39,499.98	0.00	39,500.02	50.00
895-727-000 OFFICE SUPPLIES	550.00	103.99	209.17	0.00	340.83	38.03
895-729-000 POSTAGE	180.00	7.85	90.22	0.00	89.78	50.12
895-734-000 SALES TAX	10,200.00	373.12	1,579.04	0.00	8,620.96	15.48
895-745-000 GAS & OIL	300.00	0.00	0.00	0.00	300.00	0.00
895-748-000 OTHER SUPPLIES	400.00	0.00	282.84	0.00	117.16	70.71
895-802-010 ARCHITECT/ENGINEERING FEES	0.00	0.00	0.00	0.00	0.00	0.00
895-806-000 LEGAL FEES	500.00	240.70	555.20	0.00	-55.20	111.04
895-807-000 DUES-SUBSCRIPTIONS	50.00	0.00	36.00	0.00	14.00	72.00
895-808-000 CONTRACTUAL SERV/SNOW PLOWING	0.00	0.00	0.00	0.00	0.00	0.00
895-809-000 CONTRACT CONTRACTS	1,250.00	0.00	0.00	0.00	1,250.00	0.00
895-816-000 CONTRACTUAL SERVICES	0.00	0.00	0.00	0.00	0.00	0.00
895-851-000 TELEPHONE & FAX	1,680.00	0.00	837.58	0.00	842.42	49.86
895-910-000 INSURANCE	6,600.00	0.00	1,319.45	0.00	5,280.55	19.99
895-921-000 UTILITIES	10,000.00	878.86	6,550.73	0.00	3,449.27	65.51
895-925-000 TRASH PICKUP	700.00	0.00	50.00	0.00	650.00	7.14
895-931-000 BUILDING REPAIRS & MAINTENANCE	2,500.00	42.34	139.02	0.00	2,360.98	5.56
895-932-000 EQUIPMENT REPAIRS & MAINT	3,000.00	167.20	1,788.57	0.00	1,211.43	59.62
895-960-000 MISCELLANEOUS EXPENSES	500.00	0.00	0.00	0.00	500.00	0.00
895-960-100 BANK OR CREDIT CARD FEES	8,400.00	408.44	2,294.79	0.00	6,105.21	27.32
895-974-000 CAPITAL OUTLAY/LAND IMPROVEMENTS	3,500.00	0.00	200.00	0.00	3,300.00	5.71
895-975-000 CONSTRUCTION	0.00	0.00	0.00	0.00	0.00	0.00
895-976-000 CAPITAL OUTLAY/5 YEAR MATCH	3,500.00	0.00	0.00	0.00	3,500.00	0.00
895-977-000 CAPITAL OUTLAY/MACHINERY & EQUIPMENT	3,000.00	0.00	-7,855.93	0.00	10,855.93	281.86
895-979-000 CAPITAL OUTLAY/YARD & BUILDING	7,000.00	44,235.34	44,235.34	0.00	-37,235.34	631.93
895-979-010 GAS TANK	154,000.00	0.00	61,110.67	0.00	92,889.33	39.68
895-990-000 AIRPORT LOAN PAYMENT	0.00	0.00	0.00	0.00	0.00	0.00
Total AIRPORT FUND	296,810.00	53,042.17	152,922.67	0.00	143,887.33	51.52

	Invoice #	Inv. Date	Account Number	Description	Invoice Amount	Check Number	Check Date
295 AIRPORT FUND							
895 AIRPORT							
295-895-708-000							
041972 NOTEBOOM CONSTRUCTION &, MANAGEM	276	06/05/2019	295-895-708-000	AIRPORT/JUNE	\$6,583.33	309797	06/06/2019 C
				ACCOUNT TOTAL	6,583.33		
				DEPARTMENT TOTAL	\$6,583.33		
041972 NOTEBOOM CONSTRUCTION &, MANAGEM	294	06/11/2019	295-895-727-000	AIRPORT/TONER CARTRIDGE	\$103.99	309993	06/13/2019 C
				ACCOUNT TOTAL	103.99		
				DEPARTMENT TOTAL	\$103.99		
041972 NOTEBOOM CONSTRUCTION &, MANAGEM	329	06/19/2019	295-895-729-000	AIRPORT/POSTAGE	\$7.85	310096	06/20/2019 C
				ACCOUNT TOTAL	7.85		
				DEPARTMENT TOTAL	\$7.85		
023425 STATE OF MICHIGAN	2019/SA	06/05/2019	295-895-734-000	AIRPORT/FUEL CONF#300014554401	\$373.12	309813	06/06/2019 C
				ACCOUNT TOTAL	373.12		
				DEPARTMENT TOTAL	\$373.12		
007717 COHL, STOKER, & TOSKEY, P.C.	50366	06/25/2019	295-895-806-000	LEGAL COUNSEL/AIRPORT - FOIA	\$240.70	310240	06/27/2019
				ACCOUNT TOTAL	240.70		
				DEPARTMENT TOTAL	\$240.70		
051099 JIM'S PICKUP SERVICE	111985	06/11/2019	295-895-921-000	AIRPORT/JUNE	\$50.00	309972	06/13/2019 C
008300 CONSUMERS ENERGY, PAYMENT CENT	006612080851	06/18/2019	295-895-921-000	AIRPORT	\$18.54	310063	06/20/2019 C
014546 GREAT LAKES ENERGY	325	06/18/2019	295-895-921-000	AIRPORT	\$810.32	310074	06/20/2019 C
				ACCOUNT TOTAL	878.86		
				DEPARTMENT TOTAL	\$878.86		
041972 NOTEBOOM CONSTRUCTION &, MANAGEM	294	06/11/2019	295-895-931-000	AIRPORT/TONER CARTRIDGE	\$42.34	309993	06/13/2019 C
				ACCOUNT TOTAL	42.34		
				DEPARTMENT TOTAL	\$42.34		
041972 NOTEBOOM CONSTRUCTION &, MANAGEM	277	06/03/2019	295-895-932-000	AIRPORT/MOWER BELTS	\$167.20	309797	06/06/2019 C
				ACCOUNT TOTAL	167.20		
				DEPARTMENT TOTAL	\$167.20		
053477 BUER WELL DRILLING INC.	10107	06/11/2019	295-895-979-000	AIRPORT/WELL REPAIRS	\$2,960.34	309919	06/13/2019 C
053152 J. RANCK ELECTRIC INC.	111985	06/11/2019	295-895-979-000	AIRPORT/INSTALL 2 SETS RUNWAY 1	\$41,275.00	309968	06/13/2019 C
				ACCOUNT TOTAL	44,235.34		
				DEPARTMENT TOTAL	\$44,235.34		

Invoice #	Inv. Date	Account Number	Description	FUND TOTAL	Invoice Amount	Check Number	Check Date
			Add Bank/credit card fees		\$52,632.73		
					409.44		
				TOTAL	\$53,042.17		

Revenue Status Report

BARRY COUNTY
6/1/2019 through 6/30/2019

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000-608-010	NEW HANGER RENT	0.00	0.00	0.00	0.00
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895-729-000 POSTAGE	180.00	7.85	90.22	0.00	89.78	50.12
895-734-000 SALES TAX	10,200.00	373.12	1,579.04	0.00	8,620.96	15.48
895-745-000 GAS & OIL	300.00	0.00	0.00	0.00	300.00	0.00
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					409.44		
				TOTAL	\$53,042.17		

RECEIVED

JUL 11 2019

LAIR INVESTIGATIONS LLC

Ronald L. Neil

P.O. BOX 557
HASTINGS, MICH. 49058
USA

Phone/269-945-8754
Fax /269-978-0580
Voicemail/ 269-240-1937
Email/rneil@lairinvestigations.com
www.lairinvestigations.com

Member of The Bureau Group
thebureaugroup.com

July 7, 2019

Mr. Ron Holley
Chairperson
Hastings City/Barry County Airport
2505 Murphy Drive
Hastings, MI 49058

Dear Mr. Holley:

This letter is written in accordance with MCL 15.240 and is my written appeal of the Freedom of Information Act request detailed cost itemization dated May 29, 2019. I have attached a copy of the itemization for your convenience as Exhibit 1. The basis of the appeal relates to the failure to provide previously requested document in response to my FOIA requests of August 2018, as well as the exorbitant proposed charges for contract labor and copying/duplication costs set forth in Exhibit 1.

I have attached for your review, as Exhibit 2, a copy of my FOIA request dated August 9, 2018. In the accompanying correspondence, the request for information includes:

... any and all records pertaining to the operation of the Hastings/Barry County Airport for the last five years. Specifically, for years: 2014, 2015, 2016, 2017 & current year 2018.

This should include **but is not limited to** operational records, financial records, contractual records, minutes of airport authority board meetings, lease contracts, employee contractual records.

(Emphasis applied)

While I did receive a response to my August 9, 2018 FIOA request, that production did not include the cell phone and computer records relative to the airport

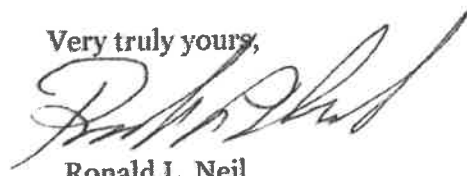
manager, Mark Noteboom. As a consequence, I was required to forward an additional FOIA on April 25, 2019. Exhibit 3. After review of Exhibits 2 and 3, it is clear that the requests overlap. The requested information relative to Mr. Noteboom's cellphone and computer should have been produced ten months ago. Pursuant to statute, these records are therefore late and, in accordance with MCL 15.234(9), are subject to a 5% per day fee reduction. Rather than simply file an action in the Barry County Circuit Court for a failure to comply with the lawful FOIA request, this appeal is taken in an attempt to resolve this matter without litigation.

The second basis for this appeal is based upon the claimed expenses set forth in Exhibit 1. MCL 15.234 permits a governmental entity to charge for the costs of contract labor in the event that it doesn't have an individual who is able to perform these services. However, the notice very clearly indicates that the name of "contracted" person is Mark Noteboom, the airport manager who was directly accountable to this public body and has administrative duties as part of his contract. No rational or reasonable basis is outlined relative to the claim that the service would take in excess of 8,300 minutes to compile the information, nor does this appear to be the actual hourly rate paid to Mr. Noteboom in his capacity as the airport manager. Finally, the airport is attempting to use the "fox to guard the hen house," as the subscribed information is in the direct possession of the individual regarding the subject of the FOIA request.

Accordingly, I request that the documents be produced as they were covered by my FOIA request of August 9, 2018. In the alternative, I request that the fees be reviewed and reduced and/or waived, as the amount that you are attempting to charge exceeds the amount permitted by law.

I look forward to your prompt response.

Very truly yours,



Ronald L. Neil
Lair Investigations, LLC

Enclosure

cc: Mr. Michael Brown,
Barry County Administrator
and FOIA Coordinator

Consultations & Investigations
Licensed & Insured

EXHIBIT 1

County: Keep original and provide copies of both sides of each sheet, along with Public Summary, to Requestor at no charge.



Barry County
Barry County Courthouse – Floor 3
220 W State St, Hastings, MI 49058
Phone: (269) 945-1284

Detailed Cost
Itemization

Freedom of Information Act Request Detailed Cost Itemization

Date: 5/29/19

Prepared for Request No.: 19-0181

Date Request Received: 4/26/19

The following costs are being charged / estimated in compliance with Section 4 of the Michigan Freedom of Information Act, MCL 15.234, according to the County's FOIA Procedures and Guidelines. If the County is seeking a 50% deposit prior to providing the public records sought, the estimate is itemized on this form, lines 1-5 below.

If all or a portion of the requested information is available on the County's website, the County is required to tell you it is available on the website and, where practicable, include a specific webpage address where the information is available. In this case

- ☒ None
☐ Some
☐ All

of the requested material can be found at the following webpage(s):

If the webpage is all the information you need, it is provided without charge. If, however, you still wish to receive a copy of material from the webpage, please let us know. The FOIA charges will apply if the County is required to produce copies of material from the webpage.

☐ Requestor has stipulated that some / all of the requested records that are already available on the County's website but requests they be provided in a paper or non-paper physical digital medium and acknowledges that providing the records in that format shall be subject to the County's normal charges outlined below.

1. Labor Cost to Locate:

This is the cost of labor directly associated with the necessary searching for, locating, and examining public records in conjunction with receiving and fulfilling a granted written request. This fee is being charged because failure to do so will result in unreasonably high costs to the County because of the nature of the request in this particular instance, specifically:

The County will not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in this particular instance, regardless of whether that person is available or who actually performs the labor.

These costs will be estimated and charged in 15-minute time increments; all partial time increments must be rounded down. If the number of minutes is less than 15, there is no charge.

Hourly Wage Charged: \$ _____

Charge per ¼ hour: \$ _____

OR

Hourly Wage with Fringe Benefit Cost: \$ _____

Multiply the hourly wage by the percentage multiplier: _____ %
(up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.

Charge per ¼ hour: \$ _____

(For records already available on the County's website that Requestor has requested in a paper or non-paper digital medium, greater than the 50% limitation, not to exceed the actual costs may be used to calculate Fringe Benefit Costs to be added to the hourly wage).

☐ Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)

To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down. Enter below:

Number of Increments

X _____ = \$ NA

1. Labor Cost

2. Labor Cost for Copying / Duplication

This is the cost of labor directly associated with duplication of publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on non-paper physical media or through the Internet or other electronic means as stipulated by the requestor.

This shall not be more than the hourly wage of the County's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor.

These costs will be estimated and charged in 15-minute time increments as set by the County Board Of Commissioners (for example: 15-minutes or more); all partial time increments must be rounded down. If the number of minutes is less than one increment, there is no charge.

Hourly Wage Charged: \$ _____

Charge per ¼ hour: \$ _____

OR

Hourly Wage with Fringe Benefit Cost: \$ _____

Multiply the hourly wage by the percentage multiplier: _____ %
(up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.

Charge per ¼ hour: \$ _____

(For records already available on the County's website that Requestor has requested in a paper or non-paper digital medium, greater than the 50% limitation, not to exceed the actual costs may be used to calculate Fringe Benefit Costs to be added to the hourly wage).

☐ Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)

To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down. Enter below:

Number of Increments

X _____ = \$ NA

2. Labor Cost

3a. Employee Labor Cost for Separating Exempt from Non-Exempt (Redacting):

(Fill this out if using a County employee. If contracted, use No. 3b instead).

The County will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.

This fee is being charged because failure to do so will result in unreasonably high costs to the County that are excessive and beyond the normal or usual amount for those services compared to the County's usual FOIA requests, because of the nature of the request in this particular instance, specifically:

This is the cost of labor of a County employee, including necessary review, directly associated with separating and deleting exempt from nonexempt information. This shall not be more than the hourly wage of the County's lowest-paid employee capable of separating and deleting exempt from nonexempt information in this particular instance, regardless of whether that person is available or who actually performs the labor.

These costs will be estimated and charged 15-minute time increments; all partial time increments must be rounded down. If the number of minutes is less than 15, there is no charge.

Hourly Wage Charged: \$ _____

Charge per ¼ hour: \$ _____

OR

Hourly Wage with Fringe Benefit Cost: \$ _____

Multiply the hourly wage by the percentage multiplier: _____ %
(up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.

Charge per ¼ hour: \$ _____

For records already available on the County's website that Requestor has requested in a paper or non-paper digital medium, greater than the 50% limitation, not to exceed the actual costs may be used to calculate Fringe Benefit Costs to be added to the hourly wage.

☐ Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)

To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down.
Enter below:

Number of
Increments

x _____ =

3a.
Labor Cost

\$ NA _____

3b. Contracted Labor Cost for Separating Exempt from Non-Exempt (Redacting):

(Fill this out if using a contractor, such as the attorney. If using in-house employee, use No. 3a Instead.)

The County will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.

This fee is being charged because failure to do so will result in unreasonably high costs to the County that are excessive and beyond the normal or usual amount for those services compared to the County's usual FOIA requests, because of the nature of the request in this particular instance,

specifically: The request for any records contained on any storage device being owned or used by Mark Noteboom as related to business being conducted by him on behalf of the Hastings Airport for the years 2014, 2015, 2016, 2017, 2018 and 2019 will require a review of voluminous information.

As this County does not employ a person capable of separating exempt from non-exempt information in this particular instance, as determined by the FOIA Coordinator, this is the cost of labor of a contractor (i.e.: outside attorney), including necessary review, directly associated with separating and deleting exempt information from nonexempt information. This shall not exceed an amount equal to 6 times the state minimum hourly wage rate of 9.45 (currently \$8.15).

Name of contracted person or firm: Mark Noteboom, Airport Manager

These costs will be estimated and charged in 15-minute time increments (must be 15-minutes or more); all partial time increments must be rounded down. If the number of minutes is less than 15, there is no charge.

Hourly Cost Charged: \$ 45.00

Charge per increment: \$ 11.25

To figure the number of increments, take the number of minutes: 8,111, divide by 15-minute increments, and round down to: 555 increments. Enter below:

Number of increments

x 11.25 =

3b. Labor Cost

\$ 6,243.75

4. Copying / Duplication Cost:

Copying costs may be charged if a copy of a public record is requested, or for the necessary copying of a record for inspection (for example, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection).

No more than the actual cost of a sheet of paper, up to maximum 10 cents per sheet for:

- Letter (8 1/2 x 11-inch, single and double-sided): 10 cents per sheet
- Legal (8 1/2 x 14-inch, single and double-sided): _____ cents per sheet

No more than the actual cost of a sheet of paper for other paper sizes:

- Other paper sizes (single and double-sided): _____ cents / dollars per sheet

Actual and most reasonably economical cost of non-paper physical digital media:

- Circle applicable: Disc / Tape / Drive / Other Digital Medium Cost per item: _____

The cost of paper copies must be calculated as a total cost per sheet of paper. The fee cannot exceed 10 cents per sheet of paper for copies of public records made on 8-1/2- by 11-inch paper or 8-1/2- by 14-inch paper. The County must utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

Number of Sheets:

x 25,000 =

Costs:

\$ 2,500.00

x _____ =

\$ _____

x _____ =

\$ _____

No. of Items:

x _____ =

\$ _____

4. Total Copy Cost

\$ 2,500.00

5. Mailing Cost:

The County will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner. Delivery confirmation is not required.

- The County *may* charge for the least expensive form of postal delivery confirmation.
- The County *cannot* charge more for expedited shipping or insurance unless specifically requested by the requestor.*

Actual Cost of Envelope or Packaging: \$ _____

Actual Cost of Postage: \$ _____ per stamp

\$ _____ per pound

\$ _____ per package

Actual Cost (least expensive) Postal Delivery Confirmation: \$ _____

*Expedited Shipping or Insurance as Requested: \$ _____

☐ * Requestor has requested expedited shipping or insurance

Number of
Envelopes or
Packages:

x _____ = \$ _____

x _____ = \$ _____

x _____ = \$ _____

x _____ = \$ _____

x _____ = \$ _____

x _____ = \$ _____

Costs:

5. Total
Mailing Cost

\$ NA

Subtotal Fees Before Waivers, Discounts or Deposits:

Estimated Time Frame to Provide Records:

120 days (days or date)

The time frame estimate is nonbinding upon the County, but the County is providing the estimate in good faith. Providing an estimated time frame does not relieve the County from any of the other requirements of this act.

☒ Cost estimate

☐ Bill

1. Labor Cost to Locate: \$ NA

2. Labor Cost for Copying: \$ NA

3a. Labor Cost to Redact: \$ NA

3b. Contract Labor Cost to Redact: \$ 6,243.75

4. Copying/Duplication Cost: \$ 2,500.00

5. Mailing Cost: \$ NA

Subtotal Fees: \$ 8,743.75

Waiver: Public Interest

A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the County determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public.

☐ All fees are waived OR ☐ All fees are reduced by: _____ %

Subtotal Fees
After Waiver:

\$ NA

<p>Discount: <u>Indigence</u> A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by an individual who is entitled to information under this act and who:</p> <p>1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, OR</p> <p>2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.</p> <p>If a requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if ANY of the following apply:</p> <p>(i) The individual has previously received discounted copies of public records from the same public body twice during that calendar year, OR</p> <p>(ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.</p> <p><input type="checkbox"/> Eligible for Indigence Discount</p>	<p>Subtotal Fees After Discount (subtract \$20):</p>	<p>\$ NA</p>
<p>Discount: <u>Nonprofit Organization</u> A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by a nonprofit organization formally designated by the state to carry out activities under subtitle C of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the federal Protection and Advocacy for Individuals with Mental Illness Act, if the request meets ALL of the following requirements:</p> <p>(i) Is made directly on behalf of the organization or its clients.</p> <p>(ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Michigan Mental Health Code, 1974 PA 258, MCL 330.1931.</p> <p>(iii) Is accompanied by documentation of its designation by the state, if requested by the County.</p> <p><input type="checkbox"/> Eligible for Nonprofit Discount</p>	<p>Subtotal Fees After Discount (subtract \$20):</p>	<p>\$ NA</p>
<p>Deposit: <u>Good Faith</u> The County may require a good-faith deposit before providing the public records to the Requestor if the entire fee estimate or charge authorized under this section exceeds \$50.00, based on a good-faith calculation of the total fee. The deposit cannot exceed 1/2 of the total estimated fee. Percent of Deposit: 50 %</p>	<p>Date Paid:</p>	<p>Deposit Amount Required: \$ 4,371.88</p>

<p>Deposit: Increased Deposit Due to Previous FOIA Fees Not Paid in Full After the County has granted and fulfilled a written request from an individual under this Act, if the County has not been paid in full the total amount of fees for the copies of public records that the County made available to the individual as a result of that written request, the County may require an increased estimated fee deposit of up to 100% of the estimated fee <u>before it begins a full public record search</u> for any subsequent written request from that individual if ALL of the following apply:</p> <p>(a) The final fee for the prior written request was not more than 105% of the estimated fee. (b) The public records made available contained the information being sought in the prior written request and are still in the County's possession. (c) The public records were made available to the individual, subject to payment, within the best effort estimated time frame given for the previous request. (d) Ninety (90) days have passed since the County notified the individual in writing that the public records were available for pickup or mailing. (e) The individual is unable to show proof of prior payment to the County. (f) The County calculates a detailed itemization, as required under MCL 15.234, that is the basis for the current written request's increased estimated fee deposit.</p> <p>The County can no longer require an increased estimated fee deposit from an individual if ANY of the following apply:</p> <p>(a) The individual is able to show proof of prior payment in full to the County, OR (b) The County is subsequently paid in full for the applicable prior written request, OR (c) Three hundred sixty-five (365) days have passed since the individual made the written request for which full payment was not remitted to the County.</p>	<p>Date Paid: _____</p>	<p>Percent Deposit Required: _____ %</p> <p>Deposit Required: \$ _____</p>
<p>14. Late Response Labor Costs Reduction If the County does not respond to a written request in a timely manner as required under MCL 15.235(2), the County must do the following:</p> <p>(a) Reduce the charges for labor costs otherwise permitted by 5% for each day the County exceeds the time permitted for a response to the request, with a maximum 50% reduction.</p>	<p>Number of Days Over Required Response Time: _____</p> <p>Multiply by 5% _____</p> <p>= Total Percent Reduction: _____</p>	<p>Total Labor Costs \$ _____</p> <p>Minus Reduction \$ _____</p> <p>= Reduced Total Labor Costs \$ NA</p>
<p>15. Balance Due (Deduct amount on Line 14 from amount on Line 13c) Balance due is an estimate and assumes that the 50% deposit was paid. Total estimate: \$8,743.75; 50% deposit=\$4,371.88</p>	<p>Date Paid: _____</p>	<p>Total Balance Due: \$ 4,371.87</p>
<p>The Public Summary of the County's FOIA Procedures and Guidelines is available free of charge from:</p> <p>Website: www.barrycounty.org Email: mbrown@barrycounty.com Phone: : (269) 945-1284 Address: Barry County Courthouse – Floor 3 220 W State St, Hastings MI 49058</p> <p>Request Will Be Processed, But Balance Must Be Paid Before Copies May Be Picked Up, Delivered or Mailed</p>		

(Form created by MTA, MAMA and CS&T, PC, June 2015)

EXHIBIT 2

Request Form
Note: Requestors are not required to use this form. The County may complete one for recordkeeping if not used.

Date 8-9-18
(Complete both sides)

Records Located on Website

If the County directly or indirectly administers or maintains an official internet presence, any public records available to the general public on that internet site at the time the request is made are exempt from any labor charges to redact (*separate exempt information from non-exempt information*).

If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, the County must notify the Requestor in its written response that all or a portion of the requested information is available on its website. The written response, to the degree practicable in the specific instance, must include a specific webpage address where the requested information is available. On the detailed cost itemization form, the County must separate the requested public records that are available on its website from those that are not available on the website and must inform the requestor of the additional charge to receive copies of the public records that are available on its website.

If the County has included the website address for a record in its written response to the Requestor and the Requestor thereafter stipulates that the public record be provided to him or her in a paper format or other form, including digital media, the County must provide the public records in the specified format (if the County has the technological capability) but may use a fringe benefit multiplier greater than the 50%, not to exceed the actual costs of providing the information in the specified format.

Request for Copies/Duplication of Records on County Website

I hereby stipulate that, even if some or all of the records are located on the County website, I am requesting that the County make copies of those records on the website and deliver them to me in the format I have requested above. I understand that some FOIA fees may apply.

Requestor's Signature

Date

Overtime Labor Costs

Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the detailed cost itemization form.

Consent to Overtime Labor Costs

I hereby agree and stipulate to the County using overtime wages in calculating the following labor costs as itemized in the following categories:

1. ☐ Labor to copy/duplicate 2. ☐ Labor to locate 3a. ☐ Labor to redact 3b. ☐ Contract labor to redact
6b. ☐ Labor to copy/duplicate records already on County's website

Requestor's Signature

Date

Request for Discount: Indigence

A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by an individual who is entitled to information under this act and who:

- 1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, OR
- 2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.

If a Requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if ANY of the following apply:

- (i) The individual has previously received discounted copies of public records from the same public body twice during that calendar year,
- (ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.

Office Use: ☐ Affidavit Received ☐ Eligible for Discount ☐ Ineligible for Discount

I am submitting an affidavit and requesting that I receive the discount for indigence for this FOIA request:

Date:

Requestor's Signature:

Request for Discount: Nonprofit Organization

A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by a nonprofit organization formally designated by the state to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act, if the request meets ALL of the following requirements:

- (i) Is made directly on behalf of the organization or its clients.
- (ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931.
- (iii) Is accompanied by documentation of its designation by the state, if requested by the County.

Office Use: ☐ Documentation of State Designation Received ☐ Eligible for Discount ☐ Ineligible for Discount

I stipulate that I am a designated agent for the nonprofit organization making this FOIA request and that this request is made directly on behalf of the organization or its clients and is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931:

Date:

Requestor's Signature:

(Form created by MTA, MAMA and CS&T, PC, June 2015)

LAIR INVESTIGATIONS LLC

Ronald L. Neil

P.O. BOX 557
HASTINGS, MICH. 49058
USA

Phone/269-945-8754
Fax /269-978-0580
Voicemail/ 269-240-1937
Email/rneil@lairinvestigations.com
www.lairinvestigations.com

Member of The Bureau Group
thebureaugroup.com

August 9, 2018

Mr. Michael Brown
Barry County Administrator
FOIA Coordinator
Barry County Courthouse
Hastings, Mi. 49058

RE: FOIA Request
LI0713218

Dear Michael,

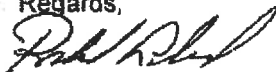
Please allow this letter to serve as my request for the following records I believe are part of the normal business records of Barry County.

I am requesting any and all records pertaining to the operation of the Hastings/Barry County Airport for the last five years. Specifically, for Years: 2014, 2015, 2016, 2017 & current year 2018.

This should include but is not limited to operational records, financial records, contractual records, minutes of Airport Authority Board meetings, lease contracts, employee contractual records.

Please do not hesitate to contact my office if you have any questions on this request.

Regards,



Ronald L Neil

Consultations & Investigations
Licensed & Insured

EXHIBIT 3

LAIR INVESTIGATIONS LLC

Ronald L. Neil

P.O. BOX 557
HASTINGS, MICH. 49058
USA

Phone/269-945-8754
Fax /269-978-0580
Voicemail/ 269-240-1937
Email/rneil@lairinvestigations.com
www.lairinvestigations.com

Member of The Bureau Group
thebureaugroup.com

April 25, 2019

Mr. Michael Brown
Barry County Administrator
FOIA Coordinator
Barry County Courthouse
Hastings, Mi. 49058

RE : FOIA Request (4)
LI0713218

Dear Michael,

Please allow this letter to serve as my request for the following records I believe are part of the normal business records of Barry County and particular those of the Barry County Airport Authority.

Cell phone records pertaining to cell phone 269-838-5874, this being the cell phone of Mark Noteboom, Airport Manager, pertaining to business at the Hastings Airport. It is my understanding that Mr. Noteboom has used his cell phone to conduct airport business thus allowing for it to fall under the guidelines of the Freedom of Information Act.

This request is only for records pertaining to the operation of the airport and not for any unrelated records that may be contained on the device or store thru the carrier.

Requesting any records that may be contained on any storage device being owned or used by Mark Noteboom as related to business being conducted by him on behalf of the Hastings Airport. This to include any computers furnished to him by the Airport Authority and personal computers in which he has conducted airport business in his capacity as airport manager.

Requesting records to include the following years, 2014, 2015, 2016, 2017, 2018 and any records for the current year 2019.

Please do not hesitate to contact my office if you have any questions on this request.

Regards,

Ronald L Neil
Ronald L Neil
Lair Investigations

Licensed & Insured
Consultations & Investigations

EXHIBIT 7-1 • Sample Preservation Letter

[Law Firm]

[date/address]

Re: Notice to Preserve Electronic Evidence
[Legal Matter]

Dear _____:

Our law firm represents [name] in the above legal matter in which you [your business] are [is] [will be] named as a defendant. This letter requests your immediate action to preserve electronically stored information that may contain evidence important to the above legal matter. Briefly, the matter involves [short statement of facts in case].

This notice applies to your [company's] on- and off-site computer systems and removable electronic media plus all computer systems, services, and devices (including all remote access and wireless devices) used for your [company's] overall operation. This includes, but is not limited to, e-mail and other electronic communications; electronically stored documents, records, images, graphics, recordings, spreadsheets, databases; calendars, system usage logs, contact manager information, telephone logs, internet usage files, deleted files, cache files, user information, and other data. Further, this notice applies to archives, backup and disaster recovery tapes, discs, drives, cartridges, voicemail and other data. All operating systems, software, applications, hardware, operating manuals, codes, keys and other support information needed to fully search, use, and access the electronically stored information must also be preserved.

The importance of immediate action cannot be overstated. Electronically stored information is easily corrupted, altered, and deleted in normal daily operations. Even booting a drive, running an application, or reviewing a document can permanently alter evidence. An important method for preserving data in its original state is to have a forensic image (mirror image or clone image) made of pertinent hard drives of both office and home computers used for business and of network servers. This image captures all current data, including the background or metadata about each document. Simply copying data to a CD-ROM or other common backup medium is not adequate. For each captured image file, record and identify the person creating the image

EXHIBIT 7A - Sample Preservation Letter (continued)

and the date of creation. Secure the file to prevent subsequent alteration or corruption and create a chain of custody log. Once the forensic data image file is created, the pertinent computer or other device can be placed back into operation.

[If known, identify any key persons', officers', supervisors', and employees' computers to which special attention for forensic imaging must be directed.]

This preservation notice covers the above items and information between the following dates: [state dates]. Follow the above procedures to preserve electronic information created after this notice.

Current law and rules of civil procedure clearly apply to the discovery of electronically stored information just as they apply to other evidence, and confirm the duty to preserve such information for discovery. You [company] and your officers, employees, agents, and affiliated organizations must take all reasonable steps to preserve this information until this legal matter is finally resolved. Failure to take the necessary steps to preserve the information addressed in this letter or other pertinent information in your possession or control may result in serious sanctions or penalties.

Further, to properly fulfill your preservation obligation, stop all scheduled data destruction, electronic shredding, rotation of backup tapes, and the sale, gift or destruction of hardware. Notify all individuals and affiliated organizations of the need and duty to take the necessary affirmatives steps to comply with the duty to preserve evidence.

Sincerely,

[attorney/address]

LAIR INVESTIGATIONS LLC
Ronald L. Neil

P.O. BOX 557
HASTINGS, MICH. 49058
USA

Phone/269-945-8754
Fax /269-978-0580
Voicemail/ 269-240-1937
Email/rneil@lairinvestigations.com
www.lairinvestigations.com

Member of The Bureau Group
thebureaugroup.com

April 24, 2019

Mr. Michael Brown
Barry County Administrator
FOIA Coordinator
Barry County Courthouse
Hastings, Mi. 49058

RE : FOIA Request
(4) LI0713218

Dear Michael,

Please allow this to serve as a request under the Freedom of Information Act for the following records.

Cell phone records pertaining to cell phone 269-838-5874, this being the cell phone of Mark Noteboom, pertaining to business at the Hastings Airport. It is my understanding that Mr. Noteboom has used his cell phone to conduct airport business thus allowing it to fall under the guidelines of the Freedom of Information Act.

This request is only for records pertaining to the operation of the airport and not for any unrelated records that may be contained on the device or stored thru the carrier.

Requesting any records that may be contained on any storage device being owned or used by Mark Noteboom as it relates to business being conducted by him on behalf of the Hastings Airport. This to include any computers furnished to him by the Airport Authority and personal computers in which he has conducted airport business in his capacity as airport manager.

Please do not hesitate to contact my office if you have any questions on this request.

Regards,

Ronald L. Neil

Ronald L Neil
Lair Investigations

Consultations & Investigations
Licensed & Insured



**HASTINGS CITY / BARRY COUNTY
AIRPORT COMMISSION**



2505 Murphy Dr.

Hastings, MI. 49058

July 16, 2019

Mr. Ron Neil
Lair Investigations LLC
P.O. Box 557
Hastings, MI 49058

Sent Via Email: rneil@lairinvestigations.com

Re: FOIA Appeal of Excess Fee for Request #19-0181

Dear Mr. Neil:

Please be advised that I have received your appeal of an Excess Fee in response to the FOIA Detailed Cost Itemization dated 5/29/19, for FOIA request #19-0181, filed with the Barry County FOIA Coordinator on 4/26/19.

This appeal will be placed on the agenda for the next regular meeting of the Hastings City/Barry County Airport Commission on Wednesday, July 24, 2019 at 4:30 p.m., at 2505 Murphy Drive, Hastings, Michigan 49058.

At this meeting, it is anticipated that the Hastings City/Barry County Airport Commission will uphold, reduce, or waive the fees for the response to FOIA #19-0181. You are welcome to attend this meeting and you will be afforded an opportunity to state the basis for your appeal of excess FOIA fees. In the meantime, if you have any questions, please contact me at 945-2647.

Sincerely,

A handwritten signature in cursive script that reads "Ron Holley".

Ron Holley
Chairperson, Hastings City/Barry County Airport Commission

COHL, STOKER & TOSKEY, P.C.

601 North Capitol Avenue
 Lansing, MI 48933
 (517) 372-9000

RECEIVED

JUL 15 2019

INVOICE

Specializing in Municipal and Labor Law since 1979

Federal ID No. 38-2236687

ATTORNEY/CLIENT PRIVILEGED

Michael C. Brown, Administrator
 Hastings City / Barry County Airport
 220 W. State Street
 Hastings, MI 49058

Statement Date 07/10/2019
 Statement No. 50412
 Account No. 8210.000000

General

		Hours	
06/05/2019	Rules and Regulations - Receive and review correspondence and documents.	0.70	
	Email from Michael Brown re: Airport; Review same.	0.50	
06/06/2019	Receive and review correspondence and documents; Conference with Clients.	2.50	
	Attend Hastings Barry Airport meeting	2.50	
06/11/2019	Lease issue - Receive and review correspondence and documents from Client;		
	Work on opinion letter; Letter to Client.	1.20	
06/12/2019	Email from Mark Noteboom re: Notice to Renters; Review same.	0.30	
06/19/2019	Lease issue - Receive and review correspondence from Client; Research; Letter to Client.	0.50	
06/26/2019	Lease issues - Prepare and attend Airport Commission meeting; Conference with Client.	3.80	
06/27/2019	Lease issue - Work on Notice to Quit; Letter to Client.	0.40	
	For Current Services Rendered	12.40	2,294.00
06/30/2019	Photocopies		19.05
06/30/2019	Postage		0.50
	Total Expenses		19.55
	Total Current Work		2,313.55
	Previous Balance		\$240.70
	Total Payments Thru 07/10/2019		-240.70
	Balance Due		<u>\$2,313.55</u>