

OPRA Request

City of Margate

Submitted on 08/20/09 via Fax to 609-487-1142

To the Custodian of Records: Please accept this as my request for government records. Please note that the Open Public Records Act (OPRA) is not the only basis for my request. I claim entitlement to the records sought under both OPRA and the Common Law right of access.

Requestor's Name: John Paff
Address: DO NOT use regular mail – Please use e-mail or fax
Phone: 732-873-1251
FAX: 908-325-0129
E-Mail: paff@pobox.com

Background:

One purpose of this records request is to determine whether elected officials have municipal e-mail accounts or instead use their personal accounts (e.g. yahoo.com or gmail.com). Another purpose is to find out, regardless of whether the elected officials have municipal e-mail account or use their personal accounts, whether the City is complying—for its elected officials—with the New Jersey Division of Archives and Records Management's "Circular Letter No. 03-10-ST" entitled, "Managing Electronic Mail: Guidelines And Best Practices.

Records Requested:

1. The nonexempt portion of the first e-mail sent by Commissioner Blumberg after 12:01 a.m. on June 1, 2009 that related to municipal business.
2. The nonexempt portion of the first e-mail sent by Councilman Campbell after 12:01 a.m. on June 1, 2009 that related to municipal business.
3. The nonexempt portion of the first e-mail sent by Mayor Becker after 12:01 a.m. on June 1, 2009 that related to municipal business.
4. Any policy or other writing presently in force in Margate which addresses the requirements and recommendations set forth in DARM Circular Letter No. 03-10-ST.



THOMAS D. HILTNER, R.M.C., C.T.C.
CITY CLERK AND TAX COLLECTOR

OFFICE OF CITY CLERK AND TAX COLLECTOR

MUNICIPAL BUILDING

1 SOUTH WASHINGTON AVENUE
MARGATE CITY, NEW JERSEY 08402

(609) 422-2605

FAX (609) 487-1142

August 28, 2009

TO: John Paff
FROM: Thomas D. Hiltner, City of Margate City Clerk *TDA*
RE: OPRA Request of 8/20/09

Please find the requested emails of Mayor Becker, Commissioners Blumberg & Campbell attached.

With regard to request #4 please be advised that the City of Margate City has a shared service policy with the Margate City Board of Education. The same email server is used for both but each is segregated from the other. City employee mailboxes are stored locally on a file server, which is backed up daily. In addition the City also has an email policy in its *Personnel Policies & Procedures Manual* (Section 208 attached), which notifies all employees that email is subject to the requirements of OPRA.

Becker

-----Original Message-----

From: mbecker414@aol.com [mailto:mbecker414@aol.com]
Sent: Wednesday, July 22, 2009 7:22 AM
To: maury.jerseyarch@verizon.net; dcampbell403@comcast.net
Cc: Hiltnerd@aol.com
Subject: BOE

Due to the unexpected resignation of Bob Fiedler and a scheduled board meeting tonight, I am appointing Jacob Sless to fill the unexpired term on the Board of Education.

JB has previously been through the interview process and will bring expertise and energy to the board at this very crucial time. His career as a child advocate attorney should be a great asset.

Mike

Loading...

Home Email Voice Address Book Preferences

New Folder

New

Get Mail

Delete

Rep

Spam

Folders

Inbox (6)

Sent

Drafts

Spam

Trash

Close Re: phone messages

dcampbell403@comcast...
+ Add to Address Book

Sent By: dcampbell403@comcast.net On: Jul 07/28/09 10:24 M

To: Agnes Schwartz

The dog park is Maury's puppy can you give this to him. I'll deal with the port o potty people.

----- Original Message -----

From: "Agnes Schwartz" <schwartz_agnes@margate-nj.com>

To: "Dan Campbell" <dcampbell403@comcast.net>

Sent: Tuesday, July 28, 2009 10:20:09 AM GMT-05:00 US/Canada Eastern

Subject: phone messages

OK - the dog park must be under way because we are getting mucho phone calls and so is Code Enforcement.

Tom Vickers, 7503 Fremont Ave, 610-909-5547, wants you to call him because: #1 the contractors are very rude; #2 do they have permits; #3 this was supposed to be in the proposed stages so why are they starting the work/

Judy Day, 7403 Fremont Ave, before 5pm 641-6100 (ext 222) or after 5pm 822-4690 wants to know why this is going forward when it is only proposed

Blumberg

maury

From: maury [maury.jerseyarch@verizon.net]
Sent: Monday, June 01, 2009 3:15 PM
To: 'kelley_john@margate-nj.com'
Cc: Hiltner@sol.com
Subject: RE: spending over \$ 1000

OK and thanks for following the process.

-----Original Message-----

From: Fire Chief John Kelley [mailto:kelley_john@margate-nj.com]
Sent: Monday, June 01, 2009 2:27 PM
To: Maury. Jerseyarch
Subject: spending over \$ 1000

Commish,

We need firefighting foam badly we have exhausted our supply over the last couple of years its not something we order every year but must keep in stock so I, spoke to the vendor today and hes got an order going in and if he adds our stuff to the order he will get a better price and forward the savings to us.

I cleared this with Tom and wanted to let you know that I have to give him a PO by the end of business today.

Tom said to e-mail you and go ahead with the PO.

Thanks in advance, John

205 No Smoking Policy:

The New Jersey Legislature has declared that in all governmental buildings the rights of non-smokers to breathe clean air supersedes the rights of smokers. In accordance with State law, the City of Margate has adopted a smoke-free policy for all buildings. City of Margate facilities shall be smoke-free and no employee or visitor will be permitted to smoke anywhere in City of Margate buildings. Employees are permitted to smoke only outside City of Margate buildings and at such locations as not to allow the re-entry of smoke into building entrances. Smoking inside vehicles owned by the City of Margate and near equipment that may be sensitive to smoke is also prohibited. This policy shall be strictly enforced and any employee found in violation will be subject to disciplinary action.

206 Use of Vehicles Policy:

City of Margate owned vehicles shall be used only on official business and all passengers must be on City of Margate business. Vehicles may be taken home only with the advance approval of the City Clerk except a Department Head may also grant temporary approval to facilitate responses to after-hours emergency call. When an employee takes home a City of Margate vehicle, it is to be used only for official City of Margate business any other use is not permitted. Any violation of this policy constitutes cause for disciplinary action.

207 Telephone Usage Policy:

City of Margate telephones are for official business and employees may make a personal call only to inform their family of unexpected overtime. Charges for all other personal calls must be reimbursed to the City of Margate.

208 E-Mail, Voice Mail and Internet Usage Policy:

City of Margate E-mail, voice mail and the Internet are for official business and use for non-business purposes is prohibited. All E-Mail, voice mail and Internet messages are official documents subject to the provisions of the Access to Public Records Act.

The City of Margate reserves the right to monitor, obtain, review and disclose all E-Mail messages, computer files, voice mail and Internet messages on the computer and communications systems of the City of Margate deemed necessary and appropriate. By using City of Margate E-Mail, computer systems, voice mail and the Internet, each user agrees that the City of Margate has unrestricted access and the right to disclose all information communicated or stored on the E-Mail Computer System, voice mail and the Internet for any security, health, employment or other legitimate business reasons. Legitimate reasons also include systems maintenance, message routing, retrieval of business information, trouble-shooting hardware and software problems, preventing system misuse, protecting confidential proprietary information, insuring compliance with software license policies and complying with legal and regulatory requests for information. E-mail shall not be used to harass, torment or disparage another party. Offensive and harassing communications are unacceptable and prohibited.



New Jersey Libertarian Party

Open Government Advocacy Project

John Paff, Chairman

P.O. Box 5424

Somerset, NJ 08875-5424

Phone: 732-873-1251 - Fax: 908-325-0129

Email: lpsmc@pobox.com

August 31, 2009

Thomas D. Hiltner, R.M.C., Clerk
City of Margate City
1 S Washington Ave
Margate City, NJ 08402

(via e-mail only to hiltnertd@aol.com)

Dear Mr. Hiltner:

I am in receipt of your August 28, 2009 response to my August 20, 2009 OPRA request.

I now understand that the City and the Board of Education share an e-mail server that keeps daily backups of official e-mails. But, what I don't understand is why, given the existence of the e-mail server, the Mayor and Commissioners are still using what appears to be personal e-mail addresses for official business. For example, Mayor Becker, Commissioner Blumberg and Commissioner Campbell, respectively, are using an AOL, Verizon and a Comcast address.

If the City has an e-mail server, it would seem to me that only e-mails sent or received by a "margate-nj.com" address would be preserved on the server. Unless I misunderstand the City's e-mail system, the City's e-mail server would not receive and back up any official e-mails that were sent or received from a non-city e-mail address. Is this correct?

Also, the City's e-mail policy apparently doesn't do anything to promote proper retention of official e-mails. What the policy, in my view, ought to say is that any official e-mails sent by a city official must be sent from a "margate-nj.com" address. This way, all such e-mails will be retained on the server. Do you agree?

Thank you for your attention to this matter. I look forward to hearing from you.

Sincerely,

John Paff



THOMAS D. HILTNER, R.M.C., C.T.C.
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September 3, 2009

John Paff
PO Box 5424
Somerset, NJ 08875-5424

Re: City E-mail Policy

Dear Mr. Paff:

Thank you for your letter of August 31, 2009. Please be advised that all Margate City employees, whose jobs require the use of a computer, have "margate-nj.com" e-mail addresses. Commencing September 8, 2009, Mayor Becker as well as Commissioners Blumberg and Campbell will use their "margate-nj.com" e-mail for all official business.

Please be further advised that the City is in the process of amending its *Policies & Procedures Manual* to require City officials to use their "margate-nj.com" address for all official e-mails.

Thank you for your time and attention to this matter.

Very truly yours,


Thomas D. Hiltner, RMC
City Clerk

TDH:raf