

## Towns slash public records fees

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Sussex County is at the forefront of the evolving cost of public records.

Of the county's 24 municipalities, 19 have lowered or are in the process of lowering their per-page Open Public Records Act copy fees to nominal costs, with 18 of those towns charging a dime or less. The towns also have scaled back the prices of audio recordings of meetings on CDs and cassettes.

The five municipalities still charging what the state recommends as the maximum fee -- 75 cents for each of the first 10 paper copies, followed by a sliding scale of 50 and 25 cents for subsequent pages -- are Frankford, Fredon, Green, Hampton and Sparta. However, the Frankford, Green and Hampton township committees all already have begun discussions on scaling back their own OPRA fees to account for "actual cost," or charging roughly the cost of materials to fulfill the request, whether it's the paper and toner required to copy a page, or a blank audio CD. Green has even suspended its charges for public records while its township committee discusses a possible new set of fees.

Sparta and Fredon are the only towns not considering changing from the 75-cents-per-page model. The county also continues to follow that same, state-maximum model.

Audio recordings vary in availability and cost in several of the smaller towns in the county, but most towns said a CD of a meeting would cost between 35-50 cents.

The countywide changes among the municipalities are relatively new; seven towns have changed or are in the process of changing their fee schedules in the first three weeks of July. The other towns scaled back their fees just this year -- except for Hardyston, which changed its fees in 2007.

The result of the latest changes in the public record fees is due to the tag-team activism of two individuals. The Hardyston cost reduction two years ago was brought by the lobbying of Martin O'Shea, a resident who happens to be a statewide open government activist. Andover Township lowered its paper fees to 7 cents and its CD cost to 40 cents after O'Shea lobbied there as well several months ago.

The most recent push, though, has been spearheaded by Sparta activist Jesse Wolosky. In a series of countywide open public record requests, Wolosky demanded the fees be lowered, and even indicated lawsuits against the towns could be possible. Most towns quickly complied with ordinance changes, fearing legal costs from fighting a court battle. Most of the towns now charge 10 cents per page, with some towns lowering their rate to as little as 5 cents. Wolosky said it was

his "summer project" to get the fees lowered for the public at large, which resulted in the recent conversion of 16 more of the county's municipalities.

"There's a change in the air," Wolosky said. "That's good."

Sussex County is at the forefront of the massive -- and belated -- shift in the cost of public records statewide, according to open government activist John Paff. While some areas, like Morris County, continue to stick to the 75-cents-per-page model, he said change can come quickly once it gains momentum, like it did in Sussex County.

"Once the monolithic facade gets cracked, it all starts to change," Paff said.

The cracks in the statewide facade of records costs could bust wide open in the next several months, according to onlookers.

In a Mercer County court ruling in May, the judge ruled in favor of a class-action lawsuit, saying "actual cost" was the intent of law. Since then, joint insurance funds representing more than 100 towns across the Garden State have advised their municipal clients they may owe reimbursements for public records requests dating back to the law's 2001 passage.

However, two other lawsuits, which ruled in favor of higher fees than statewide activists had hoped, are awaiting appeals. In one of them, O'Shea unsuccessfully sued the Sussex County Clerk's Office in 2007 for charging a quarter per copy. An appeal on the case is scheduled to be heard this fall.

O'Shea, who's been fighting the actual cost battle statewide for several years, was pleased Sussex County has made strides toward open government, and he was happy with the result.

"That's marvelous," he said.

Many of the municipal clerks overseeing the changes in Sussex County said they were in favor of public access, including the lower costs for copying. Beth Brothman, the Andover Borough clerk, said she just passed along the actual cost to requesters.

Lorraine Read, Newton's clerk, said she agreed with the simple concept of the lower fees.

"It does make more sense," Read said. "This actually makes it cut-and-dry across the board."

Robin Kline, Vernon's clerk, said the new rules, and a proactive stance toward requesters, makes the process work better.

"When you work with the public in getting them the records they want, you build a rapport with them, and it works for everyone," she said.

Wolosky said his "summer project" would be followed by a "fall project" -- most notably, working on lowering public records costs at local boards of education.