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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 25-45
March 14, 2025
Town of Eagle Harbor, Custodian
Patricia Crews, Complainant

Patricia Crews, the complainant in this matter, alleges that the Town of Eagle Harbor (“Town”) violated the Public Information Act (“PIA”) with its responses to two PIA requests she sent in June and July of last year. As explained below, we find that the Town failed to produce all records responsive to the PIA requests, thus violating the PIA.

Background

We take the following facts from the submissions. Eagle Harbor is a small town in southeastern Prince George’s County. The complainant is one of the Town’s commissioners. The Town office has been shut down for some time due to a mold problem, and the Town’s records are temporarily being stored in a shed behind the Town office. According to the complainant, that shed, though apparently secured with a lock and key, is not otherwise secure or temperature controlled. Many of the Town’s files are also stored on a USB drive that belonged to a former town manager, which was passed along to the Town’s mayor and another commissioner. This arrangement has caused some tension between certain Town officials.

On June 13, 2024, the complainant sent a PIA request by email addressed to the Town’s Mayor. The complainant asked for “all invoices submitted and or paid thus far from the survey company for all surveys in the Town authorized by [the Mayor] and Commissioner Garoute for Trueman Point and [R]iver Trail and the balance due,” as well as a “copy of the survey in question.”¹ It is not clear from the submissions whether the Town responded to or otherwise acknowledged this PIA request.

¹ The complainant sent the PIA request in response to an email from the Town’s Mayor that attached “an invoice for \$700 as partial payment for survey work the Town will be paying.” The Mayor’s email also indicated that the Town would “advance \$1890 to Commissioner Garoute which will be reimbursed by DNR, as part of the Coleman Creek grant.” The complainant’s PIA request took issue with certain aspects of this email, but because they are not related to the PIA, we do not recount them here.

On July 18, 2024, the complainant sent a second PIA request asking for a variety of records, including: (1) “invoices from all contractors with regards to the DNR^[2] funded Coleman [C]reek restoration project,” including “close out documents and invoices, and copies of all checks written to Greenvest, the River Keeper, and Commissioner Garoute for the entire duration of the grant”; (2) “[i]nvoice with hourly rate, a copies of any checks including a \$2,000.00 written to Commissioner Garoute by the mayor to write a grant to Senator Ben Cardin’s Office, or the appropriate grant agency,” and “meeting notes, and or any resolution hiring Commissioner Garoute as Grant writer for the Town of Eagle Harbor”; and (3) “[i]nvoices with the hourly rates for any checks written to Commissioner Linda Garoute from any source, for her admin work as project grant manager, contracting officer or any other titles positions for her contract work or services for the Coleman Creek restoration project.”

On July 23, 2024, the Town sent a letter in response to the complainant’s July PIA request stating that the requested records were not in the Town’s possession.³ Unhappy with the Town’s responses to her PIA requests, the complainant contacted the Public Access Ombudsman to request dispute resolution assistance.⁴ The Ombudsman ultimately issued a final determination stating that the disputes were not resolved. According to the final determination, the disputes presented for mediation were the Town’s failure to issue a final response or produce records regarding the complainant’s June PIA request and the complainant’s “concerns about the propriety and accuracy of the Town’s response” regarding her July PIA request.

As a result of the mediation process, the Town issued, on October 21, 2024, a supplemental response to the complainant’s PIA requests. In that supplemental response, the Town maintained its position that it does not possess records responsive to the complainant’s July PIA request. As to the June PIA request, the Town stated that “DNR records are and have been readily available to [the complainant],” and that “all payments are publicized in Eagle Harbor’s Monthly Financial Reports, of which [the complainant] has access.”⁵ The Town suggested that the complainant was asking it to “become the

² We assume, based on information in the submissions, that “DNR” refers to the State Department of Natural Resources.

³ The record we have does not contain a copy of the Town’s July 23, 2024, letter. The letter is referenced in a supplemental response dated October 21, 2024, a copy of which is in the record.

⁴ The Public Access Ombudsman is charged with making “reasonable attempts to resolve disputes between applicants and custodians relating to requests for public records.” Md. Code Ann., Gen. Provisions § 4-1B-04(a). Before filing a complaint with our Board, a complainant must attempt to resolve a dispute through the Ombudsman and receive a final determination that the dispute was not resolved. *Id.* § 4-1A-05(a).

⁵ The Town also noted that Commissioner Garoute had been “voted and affirmed as the temporary grant manager of the Town of Eagle Harbor’s \$5.4 million Coleman Creek Grant Project,” presumably in response to the complainant’s questions about and requests for records related to

repository and preparer of information of which [the complainant] already [has] access.” Finally, the Town addressed the survey the complainant identified in her June PIA request, stating that the survey had “not been completed because the surveyors have agreed to consolidate trips and complete the River Trail survey when vegetation at Trueman Point has been cut to allow them to complete the survey at Trueman Point.”

In her complaint to our Board, the complainant states that the Town “has no central filing system,” and that she has “no idea where most of the newly created records that have occurred since [she] took office [are].”⁶ The complainant alleges that “the withholding of documents is deliberate in order to hide the misdeeds and misappropriation of Town funds” by the Mayor and other commissioners. The complainant maintains that the Mayor has “falsely claimed he did not have access to the basic records [she] was requesting.” The complainant asks that we require the Town to “produce the requested documents and properly centralize and make a provision for the proper storage of Town documents.”⁷

In response to the complaint, the Town first states that the complainant has the USB drive containing the Town’s records and “keys and access to the shed containing town records.” The Town asserts that a “copy of the incomplete survey was enlarged and posted for months in our community center for public display and also emailed to [the complainant].” The Town provides a screenshot of an email from the complainant, dated December 24, 2024, in which she states “[a]ppreciate the copy of the map,” and notes, “[w]hat has been requested is a report to explain what was found.” The Town also provides a screenshot of an email from the Mayor to the complainant, dated October 21, 2024, as support for its position that “[c]opies of survey payments and balances were emailed to [the complainant].”⁸

Turning to the complainant’s July PIA request, the Town takes the position that the complainant “has access to DNR records and was told to contact DNR for their records.” Regarding the records related to the Town’s payments to Commissioner Garoute and her

the Town’s payments to Commissioner Garote for grant writing and administrative work, and “meeting notes, and or any resolution hiring Commissioner Garoute as Grant writer for the Town of Eagle Harbor.”

⁶ The complainant states that she took office on or about September 9, 2024.

⁷ Here we note that our authority does not extend to how the Town stores and manages its records. *See* PIACB 24-99, at 4 n.4 (June 14, 2024). Rather, the Maryland State Archives and the Records Management Division of the Department of General Services oversee agencies’ management of records. *See* Md. Code Ann., State Gov’t §§ 10-608 through 10-611; COMAR 14.18.02 (regulations governing records retention and disposition schedules).

⁸ The email appears to attach the Town’s supplemental response to the complainant’s PIA requests, described above, which indicates that an invoice was attached. The screenshot appears to contain an email attachment labeled “Survey Invoice.”

work for the Town as a grant writer, the Town provides the minutes of a February 24, 2024, special in-person meeting. The minutes indicate that four commissioners voted to approve Commissioner Garoute to “write and submit the request for funding form Senator Ben Cardin[’s] office,” and that they agreed that the commissioner would be “compensated for her services as a grant writer in the amount \$2000.” The Town states that the complainant and all other commissioners receive “monthly hard-copy financial reports,” and that “a copy of the \$2000 check for Linda Moore-Garoute is reflected in monthly financial report and bank statement.” The Town provides a screenshot of the Town’s “consolidated statement,” which is dated March 29, 2024.

Addressing the complainant’s PIA request more broadly, the Town contends that her “complaints and allegations are vexatious and ongoing.” The Town stresses that Eagle Harbor has “the second smallest population compared to other municipalities in the State,” and that other than a clerk/treasurer and the five elected commissioners, the Town has no staff. The Town suggests that “[w]hen a vote by the majority of the BOC does not go her way, [the complainant] has and continues to use means at her disposal, whether through the courts or other government sanctioning authorities, to try to reverse the outcome of the vote.” The Town states that the complainant “continues to taunt and threaten further PIA complaints,” and attaches an email dated November 21, 2024, in which the complainant states that she “shall put in a PIA request” and that “PIA requests are mounting against you.”

In reply, the complainant disputes the Town’s contention that she has either been provided with or has access to all records responsive to her PIA requests. She maintains that the “current location of the [Town’s] files is a shed that is not temperature controlled, has vermin, and insects, and is not a safe, acceptable or accessible place to view documents or store them.” The complainant stresses that the Board of Commissioners has asked the Mayor to remove the files and store them at the community center instead, but that this has not been done. The complainant also claims that the survey identified in her June PIA request “has been outstanding for almost a year” and that the Town “refuses to provide a copy of the checks associated with the invoices [the Town] claims were paid.” The complainant states that “[y]es, [she] received a map,” but contends that “a survey consists of more than a map, it consists of reports, opinions etc.,” and that therefore “this request is not complete.”

The complainant acknowledges that she has received “some invoices,” but asserts that “invoices do not equate to payments,” and that she is “entitled to see a copy of any checks written on behalf of the Town,” and thus “this request was not satisfied.” The complainant reiterates her position that the Town’s October 21, 2024, supplemental response “did not satisfy [her] request for documents,” and that “[a]ny records that have been alluded to with regards to DNR were supposed to be provided to all of the Town commissioners for review and oversight.” The complainant maintains that it is “ludicrous” for the Town to say that she should get the records from DNR herself. The complainant

also states that the “contract provided was not a ratified copy with both signatures,” and that “this requests has not been satisfied until a copy of a ratified contract has been provided.”⁹

Analysis

The PIA directs us to review and resolve complaints alleging certain violations of its provisions, including that a custodian improperly denied inspection of public records. § 4-1A-04(a)(1)(i).¹⁰ We have construed this subsection liberally to include allegations that a custodian conducted an insufficient search that led to a failure to locate all responsive records or, put differently, that a custodian constructively denied a PIA request. *See* PIACB 23-03, at 3-4 (Nov. 2, 2022); *see, e.g.*, PIACB 24-34 (Apr. 1, 2024). If we determine that a custodian has wrongfully denied inspection of a public record, we must order the custodian to “produce the public record for inspection.” § 4-1A-04(a)(3)(i). In cases where we find that a custodian constructively denied inspection of records, we may direct the custodian to conduct a remedial search and “produce any non-exempt responsive records to the complainant.” PIACB 24-08 at 6 (Sept. 28, 2023).

The animating principle of the PIA is that “[a]ll persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees.” § 4-103(a). The PIA provides this “access to information” through inspection of public records. *See* § 4-201(a) (“Except as otherwise provided by law, a custodian shall allow a person or governmental unit to inspect any public record at any reasonable time.”). As the modifying language of § 4-201(a)(1) suggests, the PIA also contains exceptions to the general rule of disclosure—i.e., provisions that either require or permit a custodian to deny inspection of certain records or information. *See, e.g.*, § 4-301(a)(1) (mandatory exemption for records that are privileged or confidential “by law”); § 4-311 (mandatory exemption for individuals’ personnel records); § 4-329(b)(1) (mandatory exemption for individuals’ “medical or psychological information”); § 4-351(a) (discretionary exemption for certain investigatory records). In general, however, the PIA “establishes a public policy

⁹ The complainant’s reply contains a number of allegations of wrongdoing against the Town—the Mayor specifically—that do not necessarily implicate the PIA, so we do not to include them here. In addition, the complainant provides email correspondence regarding a grant from the Maryland Historical Trust that addresses the need for mowing and the possibility of excavating certain lands in Eagle Harbor to search for historical artifacts. The complainant contends that this correspondence demonstrates that the Mayor’s “statement that the Town was not directly involved with the grant is false.” We do not see how this correspondence is relevant to the complainant’s allegations regarding the Town’s response to her PIA requests, beyond the implication that the Town would have records related to this particular grant.

¹⁰ Statutory citations are to the General Provisions Article of Maryland’s Annotated Code unless otherwise stated.

and a general presumption in favor of disclosure of government or public documents.” *Kirwan v. The Diamondback*, 352 Md. 74, 80 (1998).

A custodian who receives a PIA request “must conduct a search in good faith that is reasonably designed to capture all responsive records.” *Glass v. Anne Arundel County*, 453 Md. 201, 232 (2017). The PIA does not require that a custodian “robotically examine every record in its possession.” *Id.* Instead, “the search should be focused on where responsive records are likely to be found.” *Id.* “A search may be reasonable and adequate without being perfect.” *Id.* As our State’s Supreme Court has explained, “the adequacy of the agency’s search is measured by whether it is reasonably calculated to uncover responsive records, not by whether it locates every possible responsive record.” *Id.* at 212. In addition, the PIA does not speak to instances in which a custodian *should* have a record but is unable to locate it after a reasonable search. *Cf. Abell Found. v. Baltimore Dev. Corp.*, 262 Md. App. 657, 715-16 (2024) (finding no material factual dispute where the custodian agreed that it should have certain records but represented that it could not find them, and observing that the custodian “cannot produce what it does not have”); *see also* PIACB 24-99, at 4 & n.4 (June 14, 2024) (recognizing a complainant’s frustration with a custodian’s failure to locate his case file, but noting that we are not empowered to enforce record retention laws).

We start by taking stock of the precise records that the complainant requested in her PIA requests as compared to the records that the Town has provided:

PIA Request sent June 13, 2024

- “[A]ll invoices submitted and or paid thus far from the survey company . . . for Trueman Point and [R]iver Trail and the balance due.” The Town had previously sent an email attachment labeled “Survey Payment of \$700.” In addition, the Town provided an email attachment labeled “Survey Invoice” with its October 21, 2024, supplemental response.
- “[A] copy of the survey in question.” The Town states that the survey is “incomplete.” The Town sent a copy of a survey map to the complainant on or about December 24, 2024.

PIA Request sent July 18, 2024

- “[I]nvoices from all contractors with regards to the DNR funded Coleman [C]reek restoration project . . . and close out documents and invoice, and copies of all checks written to Greenvest, the River Keeper, and Commissioner Garoute for the entire duration of the grant.” The Town took the position that it had no responsive records, and that the complainant should contact DNR for the records.

- “Invoice with hourly rate, and copies of any checks including a \$2,000.00 written to Commissioner Garoute . . . to write a grant to Senator Ben Cardin’s Office, or the appropriate grant agency.” The Town initially took the position that it had no responsive records. In response to this complaint, the Town provides a bank statement and states that “a copy of the \$2000 for Linda Moore-Garoute is reflected in the monthly financial report and bank statement.”
- “[M]eeting notes, and or any resolution hiring Commissioner Garoute as Grant writer for the Town of Eagle Harbor.” In response to this complaint, the Town provides a screenshot of the minutes from a February 26, 2024, “Special In Person Meeting” which state that a majority of the Board of Commissioners voted to approve Commissioner Garoute as “grant writer” and to compensate her \$2,000 for such services.
- “Invoices with the hourly rates for any checks written to Commissioner Linda Garoute from any source, for her admin work as project grant manager, contracting office or any other titles positions for her contract work or services for the Coleman Creek restoration project.” The Town took the position that it has no responsive records.

Based on the submissions, it seems clear that the Town has not produced copies of any checks written to Greenvest, the River Keeper, or Commissioner Garoute. And, while the Town has produced some invoices apparently related to the survey work, it has not produced any invoices related to the work performed by Commissioner Garoute in relation to certain grants.

As to these and other records that the complainant requested, the submissions alone did not provide enough information for us to resolve her complaint. We thus asked the Town to provide additional information about the responsive records and how the Town searched for them. *See* § 4-1A-06(b)(2). Broadly, we asked the Town to explain how and where it searched for responsive records. We also asked how many invoices the Town had from: (1) the survey company performing work for Trueman Point and River Trail; (2) contractors performing work for the “DNR funded Coleman Creek restoration project”; and (3) Commissioner Garoute. We asked how many invoices had been provided to the complainant, and whether the Town had written any checks related to the restoration project. Finally, we asked the Town to provide a copy of the contract to which both parties refer in their submissions.

In response to our request for additional information, the Town stated that there were “more than two” invoices related to the Trueman Point and River Trail survey, and that the complainant had been given “more than two” invoices. The Town also indicated that, in addition to the map, the survey contained “esoteric survey jargon and acreage.” In

light of this additional information, along with the information supplied by the submissions, we find that the Town improperly denied inspection of records responsive to the complainant's June 13, 2024, PIA request.¹¹ Although the Town represents that the complainant has been given "more than two" of the responsive survey invoices, the Town provides no detail as to when that occurred or evidence of those invoices having been produced. The record shows that two invoices were sent to the complainant. To ensure that the complainant receives all responsive survey invoices, we direct the Town to provide copies of *all* of those invoices to the complainant. As to the survey itself, the parties appear to agree both that the map was provided to the complainant and that the survey contains more than just the map. Thus, we direct the Town to provide the entire survey to the complainant, including the "esoteric survey jargon and acreage."

Moving to the complainant's July 18, 2024, we find there too that the Town failed to produce all responsive records. In response to our request for additional information, the Town states that it does not have any contractor invoices regarding the "DNR funded Coleman Creek restoration project," thus presumably this is why the Town directed the complainant to DNR for those records. We are inclined to accept this representation. First, the complainant's PIA request—which described the project as "DNR funded"—tends to support the inference that any invoices related to the project would be sent to DNR, and not the Town. We also note that GreenVest, which describes itself as an "entrepreneurial, land-based, resilience and restoration practitioner,"¹² stated in a public-facing article that the Coleman Creek project was "funded by the DNR and Prince George's County," which suggests that financial records related to the project would be in the custody of those government entities. *See* GreenVest, Eagle Harbor Groundbreaking, <https://www.greenvestus.com/2024/05/23/eagle-harbor-groundbreaking/> (last visited Mar. 14, 2025). We therefore find no improper denial as to that aspect of the complainant's PIA request.

However, as stated above, we do find that the Town improperly denied inspection of other aspects of the complainant's July 18, 2024, PIA request, namely the parts that requested copies of checks that the Town has written to Commissioner Garoute. It is clear based on the submissions that the Town has written at least two checks to Commissioner Garoute for her grant writing work, one for \$2,000 and one for \$1,890. While the Town did produce a bank statement that shows that a check for \$2,000 was cashed, a bank statement is not a copy of a check. To the extent that the Town has copies of the specific

¹¹ To the extent that the Town did not respond to this PIA request until it issued its October 21, 2024, supplemental response, the Town also failed to comply with § 4-203(a), which requires a custodian to "grant or deny" a PIA request "promptly, but not more than 30 days after receiving the [request]."

¹² *See* GreenVest, GreenVest Statement, <https://www.greenvestus.com/> (last visited Mar. 14, 2025).

checks that the complainant requested (or can obtain them from its bank), the Town must produce them to the complainant.

We find no improper denial as to the remaining records. The Town provided a copy of the meeting minutes reflecting the commissioners' votes to approve Commissioner Garoute as "grant writer," thus satisfying the complainant's request for "meeting notes, and or any resolution hiring Commissioner Garoute as Grant writer for the Town of Eagle Harbor."¹³ As for any invoices submitted by Commissioner Garoute for her work on the Cardin grant or the Coleman Creek restoration project, we have no compelling reason to disbelieve the Town's representations that it has no such invoices. The meeting minutes reflect that a majority of the Board of Commissioners voted to compensate Commissioner Garoute \$2,000 for her work on the grant from Senator Cardin's Office, and the submissions contain an email from the Mayor in which he states that the Town would "advance \$1890 to Commissioner Garoute, which will be reimbursed by DNR, as part of the Coleman Creek grant." These facts tend to support the Town's assertion that it does not have any invoices responsive to the complainant's PIA request, as they suggest that the amount of payment to Commissioner Garoute was decided ahead of the work being done. Here we are mindful that the PIA governs only public records that a government unit actually has, rather than records a unit arguably *should have* but does not.¹⁴ *Abell Found*, 262 Md. App. at 715-16.

Conclusion

After review of the submissions, including the additional information provided by the Town, we find that the Town improperly denied inspection of certain records responsive to the complainant's PIA request, as detailed above. We therefore direct the Town to produce the following records to the complainant within thirty days of receipt of this decision and order: (1) all invoices related to the survey at Trueman Point and River Trail; (2) the entirety of the survey, including the "esoteric survey jargon and acreage,"; and (3) copies of all checks written to Commissioner Garoute for her work as "grant writer" on the Cardin grant and the Coleman Creek restoration project.

Public Information Act Compliance Board

Sareesh Rawat, Chair
Samuel G. Encarnacion
Debra Lynn Gardner

¹³ The complainant disputes the authenticity of these meeting minutes. We are neither authorized nor equipped to resolve such disputes.

¹⁴ We also note the complainant's own assertions, made at several points in her submissions, that the Town is generally doing a poor job of tracking and recording its finances.

Quinton M. Herbert
Nivek M. Johnson