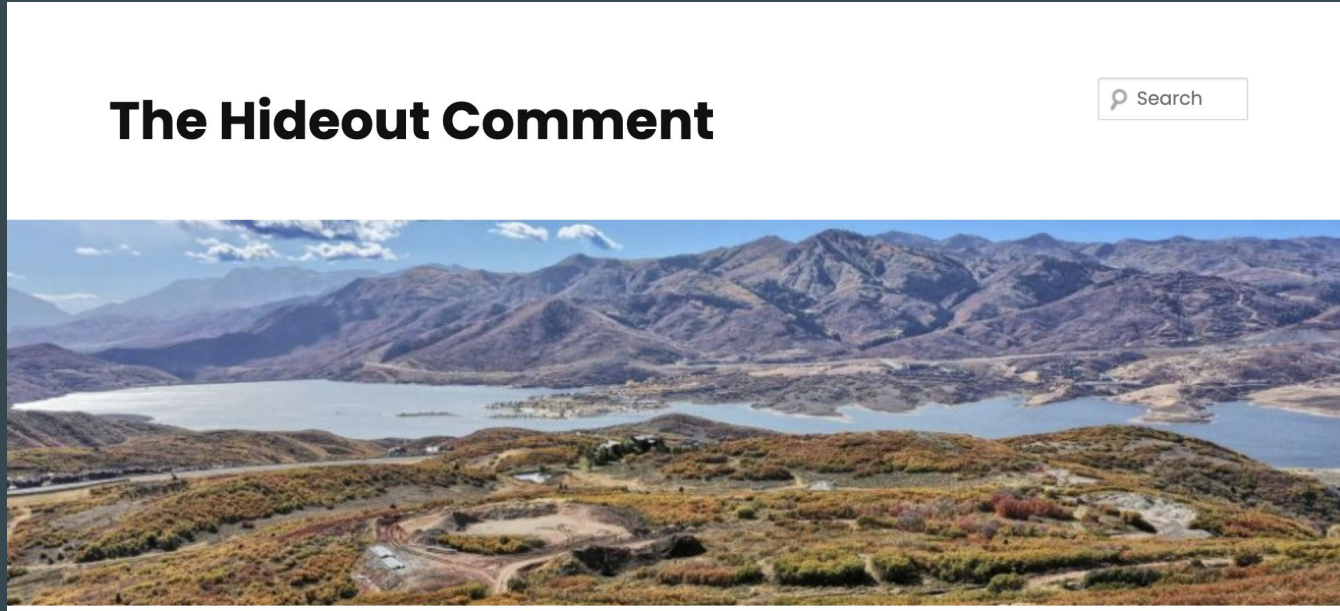


# The Hideout Comment: a local publication in Hideout, UT



# Water Rights story: a serious fiscal risk

## The Hideout Comment



Posted on [August 9, 2023](#)

Edit

## Hideout's water rights deficit: a \$13-25 million water bomb ?

After the *Hideout Comment* exposed in our last [story](#) another misrepresentation by Mayor Phil Rubin to the town council, his administration

# The GRAMA request the Town wants \$3,000 for

Please provide all emails sent by Jan McCosh since July 1, 2023.

I'm aware that the Town of Hideout delegates GRAMA searches to official, however, this is not proper - and this GRAMA specifically asks that the clerk, or IT, conduct the search and production for this request.

direct administrative costs for complying with the request will be approximately **\$3,000**. This estimate is based on the rate of our contract service provider, as well as the cost per hour of the lowest paid employee who has the necessary skill and training to review the materials

# \$3,000 fee: violates Hideout and Utah laws

<p>\$1,000: (IT Contractor)</p>	<p>“The costs were estimated as \$1,000.00 for Hideout’s information technology contractor to <b><u>retrieve</u></b> the responsive documents because the emails are maintained on the email computer servers and <b><u>not in PDF format.</u></b>”</p> <p>(Affidavit of Hideout Recorder ¶4)</p>
<p>\$2,000: (Town Recorder)</p>	<p>“I estimate that <b><u>processing</u></b> the documents will require approximately 50 hours of time at a rate of \$40/hr... <b><u>because the documents will contain</u></b> private, protected, and controlled information.”</p> <p>(Affidavit of Hideout Recorder ¶5,¶7)</p>

(Affidavit of Hideout Recorder)

# Hideout council-adopted GRAMA fees schedule is controlling

## 4.3 Compiling Documents

Records Request	(Utah Code §63-2-203) An hourly charge may not exceed the salary of the lowest paid employee who, in the discretion of the custodian of records, has the necessary skill and training to perform the request. No charge may be made for the first quarter hour of staff time.
In a form other than that maintained by the Town	\$55.00 per request or \$23.00 per employee hour required to compile the record, whichever is greater.

<https://hideoututah.gov/wp-content/uploads/2024/01/2024-R-01-Resolution-Fee-and-Rate-Schedule-Clean.pdf>

# \$1000 charged by IT exceeds \$55.00 authorized fee

\$1,000:

(IT Contractor)

“The costs were estimated as \$1,000.00 for Hideout’s information technology contractor to retrieve the responsive documents **because the emails are maintained on the email computer servers and not in PDF format.”**

In a form other than that maintained by the Town

\$55.00 per request or \$23.00 per employee hour required to compile the record, whichever is greater.

# \$2,000 fee: for redaction of non-public records

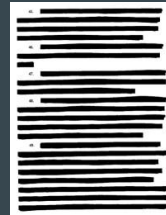
\$2,000:  
(Town  
Recorder)

“I estimate that processing the documents will require approximately 50 hours of time at a rate of \$40/hr... because the documents will contain private, protected, and controlled information.”

Presumed process:



Review & Determine



Redact

# 63G-2-203. Fees.

- (5) (a) As used in this Subsection (5), "media representative":
  - (i) means a person who requests a record to obtain information for a story or report for publication or broadcast to the general public; and
  - (ii) does not include a person who requests a record to obtain information for a blog, podcast, social media account, or other means of mass communication generally available to a member of the public.
- (b) A governmental entity may not charge a fee for:
  - (i) reviewing a record to determine whether it is subject to disclosure, except as permitted by Subsection (2)(a)(ii);
  - (ii) inspecting a record; or
  - (iii) the first quarter hour of staff time spent in responding to a request under Section 63G-2-204.
- (c) Notwithstanding Subsection (5)(b)(iii), a governmental entity is not prevented from charging a fee for the first quarter hour of staff time spent in responding to a request under Section 63G-2-204 if the person who submits the request:
  - (i) is not a Utah media representative; and
  - (ii) previously submitted a separate request within the 10-day period immediately before the date of the request to which the governmental entity is responding.



# BRYNER vs CITY OF COTTONWOOD HEIGHTS is on point

6. A governmental entity may not charge a fee for reviewing a record to determine whether it is subject to disclosure except as permitted by Utah Code § 63G-2-203(2)(a)(ii), or inspecting a record. Utah Code § 63G-2-203(5).

# BRYNER vs CITY OF COTTONWOOD HEIGHTS is on point

7. Cottonwood Heights classified all records responsive to Mr. Bryner's Request #7 as public records that contain non-public information, and provided to the Committee examples of these records. The Committee reviewed these records in camera and found that the records are public records, but also contain information that would be considered private or protected information. Accordingly, Cottonwood Heights properly classified these records as public records subject to redaction. See, Utah Code § 63G-2-308. Therefore in response to Mr. Bryner's GRAMA request, Cottonwood Heights shall provide the records responsive to Request #7 after redacting all non-public information and may charge a fee for the actual cost of redaction pursuant to the fee guidelines and requirements outlined in Utah Code § 63G-2-203.

# \$2,000 fee: includes impermissible fees

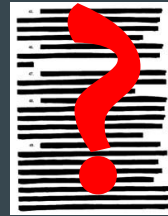
\$2,000:  
(Town  
Recorder)

“I estimate that processing the documents will require approximately 50 hours of time at a rate of \$40/hr... because the documents will contain private, protected, and controlled information.”

Presumed process:



Review & Determine



Redact

# \$55: the maximum the Town can charge by law

<p><del>\$1,000:</del> \$55 (IT Contractor)</p>	<p>“The costs were estimated as \$1,000.00 for Hideout’s information technology contractor to <b><u>retrieve</u></b> the responsive documents because the emails are maintained on the email computer servers and <b><u>not in PDF format.</u></b>”</p>
<p><del>\$2,000:</del> (Town Recorder)</p>	<p>“I estimate that <b><u>processing</u></b> the documents will require approximately 50 hours of time at a rate of \$40/hr... <b><u>because the documents will contain</u></b> private, protected, and controlled information.”</p>

# Town did not overcome Petitioner's “public benefit” presumption

## 63G-2-204. Record request

(5) Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.

# 63G-2-203. Fees.

(5) (a) As used in this Subsection (5), "media representative":

- (i) means a person who requests a record to obtain information for a story or report for publication or broadcast to the general public; and
- (ii) does not include a person who requests a record to obtain information for a blog, podcast, social media account, or other means of mass communication generally available to a member of the public.

(b) A governmental entity may not charge a fee for:

- (i) reviewing a record to determine whether it is subject to disclosure, except as permitted by Subsection (2)(a)(ii);
- (ii) inspecting a record; or
- (iii) the first quarter hour of staff time spent in responding to a request under Section 63G-2-204.

(c) Notwithstanding Subsection (5)(b)(iii), a governmental entity is not prevented from charging a fee for the first quarter hour of staff time spent in responding to a request under Section 63G-2-204 if the person who submits the request:

- (i) is not a Utah media representative; and
- (ii) previously submitted a separate request within the 10-day period immediately before the date of the request to which the governmental entity is responding.

# Water Rights story: a serious fiscal risk

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Posted on [August 9, 2023](#)

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# Hideout Comment: 381 readers/avg (of ~900 residents)

Switch site

The Hideout Comment  
hideoutcomment.com

Free domain available [Claim](#)

My Home

**Stats**

Upgrades Personal

My Mailboxes

Posts

Media

Pages

Comments

Feedback

Jetpack

WooCommerce

Appearance

Plugins

Users

Tools

Settings

Collapse menu

## Jetpack Stats

View your site's performance and learn from trends.

Traffic **Insights** Subscribers

### 2023 in review

View all annual insights

Posts <b>15</b>	Words <b>12.9K</b>	Likes <b>2</b>
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### All-time stats

Views	6,477
Visitors	3,041
Posts	17
Comments	13



## All-time highlights

<b>Most popular time</b>	<b>Most popular day</b>
Best day <b>Wednesday</b> 22% of views	Day <b>April 11</b> 2023
Best hour <b>12:00 AM</b> 9% of views	Views <b>240</b> 4% of views



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YOUR AD HERE

## Guest editorial: Another day, another lawsuit in the Hideout saga

The letter claims the sewer system violates Utah's administrative code

Opinion [FOLLOW OPINION](#) | Apr 11, 2023

Miki Mullor, Madrid, Spain



*Miki Mullor is a citizen journalist in Madrid, Spain, and a Hideout landowner.*



# Town attorney confirmed the presumption elements

## 63G-2-204. Record request

(5) Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.

Here, Petitioner provides evidence to show he is a “citizen journalist” but not enough evidence to show a nexus between him and the media industry. Petitioner argues that the information obtained from the records could be used for a news story but only provides one possible topic and did not agree to limit the request to that topic. Although Petitioner may be an

(RESPONDENT’S POSITION STATEMENT)

# Summary

- Town exceeded its own fee schedule
- Town failed to account for unallowed “review”
- Town failed demonstrate “actual cost” of redactions
- Town failed to rebut “public benefit” presumption

# Relief sought

- Determine the maximum allowed fee is \$55
- Waive any fee under “public benefit” presumption
- Recognize the “Hideout Comment” as a “Publication to the General Public”



Unbridled access to official email is key to  
transparency

# Water Rights story: a serious fiscal risk

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# Mayor commits to monthly reports to council



“Mayor Rubin mentioned that monthly updates would be provided on this issue, keeping the Council and the public informed about the progress of the Independent Water Commission and the steps taken to address water-related challenges in Hideout”

(Official Town Council Meeting minutes, Sep 14, 2023)

# But the Town says there are none...

RE: GRAMA Request External Inbox x



**Alicia Fairbourne** <afairbourne@hideoututah.gov>

Wed, Dec 20, 2023, 11:16 PM



to Miki, Jan ▾

Dear Mr. Mullor,

I received your GRAMA request on 12/8/2023 for the following information:

*During the 9/14/23 council meeting the Mayor committed to the council that his newly established water rights task force / work group will report to the council on a monthly basis Please provide all reports or any other documentation that includes these reports.*

**As of this date, there are no reports or documentation.**

Cost Due: \$0.00

# Two scandals already daylighted thanks to GRAMA requests

## The Hideout Comment



**Hideout rolls back water meter fees, will issue refunds**

1

Posted on [July 1, 2023](#)

**Hideout gouges water meter fees by \$3,500, possibly illegally**

1

Posted on [June 19, 2023](#)

**Hideout's attempt to hike water rates by up to 54% tests the Mayor's credibility**

4

Posted on [July 15, 2023](#)

**Thank you**