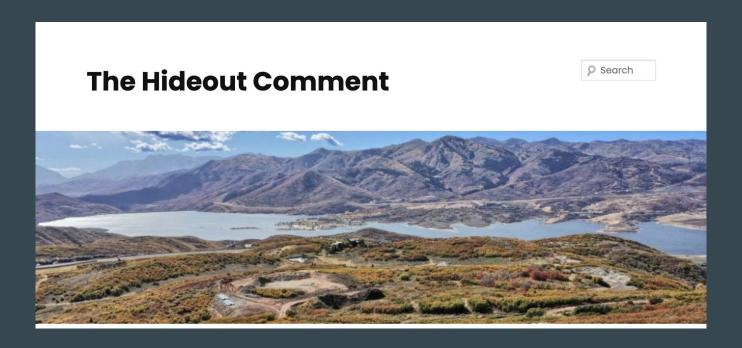
The Hideout Comment: a local publication in Hideout, UT



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

Pleaes 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

| \$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." |
|--------------------------------|---|
| | (Affidavit of Hideout Recorder ¶4) |
| \$2,000: (Town Recorder) | "I estimate that <u>processing</u> the documents will require approximately 50 hours of time at a rate of \$40/hr <u>because the documents will contain</u> private, protected, and controlled information." (Affidavit of Hideout Recorder \$5,\$7) |

(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."

\$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 <u>processing</u> the documents will require approximately 50 hours of time at a rate of \$40/hr... <u>because the documents will contain</u> 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 <u>processing</u> the documents will require approximately 50 hours of time at a rate of \$40/hr... <u>because the documents will contain</u> private, protected, and controlled information."

Presumed process:





Redact

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

| \$1,000: \$55 (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." |
|---|--|
| \$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." |

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.

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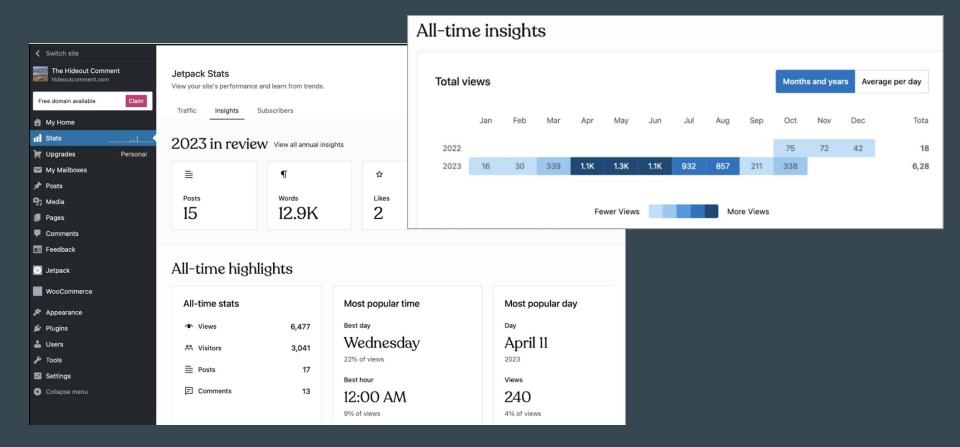
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Hideout Comment: 381 readers/avg (of ~900 residents)



Reprinted by a local newspaper



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

Including in the Park Record print version

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GUEST EDITORIAL Another day, another lawsuit in the long-running Hideout saga

MIKI MULLOR,

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Name's appeal law limit Gloon, of Glass Registerto, at an expert witness.

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GUEST EDITORIAL

Another day, another lawsuit in the long-running Hideout saga

MIKI MULLOR. Minbrid Spain

hable personally and have to pay damages the court awards Mustang.

In its occupiates Mostang is arking for a "judgment The Guiden Eagle nevelopment in Hidroxt now official—upwest Hidragion, Imagented Planning & Design and Mr.

Town attorney confirmed the presumption elements

63G-2-204. Record request

(5) Any person who requests a record to obtain information for <u>a story</u> or report <u>for publication</u> or broadcast <u>to the general public</u> 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"



<u>transparency</u>

Unbridaled access to official email is key to

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Mayor commits to monthly reports to council



"Mayor Rubin mentioned that <u>monthly updates would be provided</u> on this issue, <u>keeping the Council and the public informed</u> 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















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

Posted on July 1, 2023

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

Posted on June 19, 2023

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

Posted on July 15, 2023

Thank you