

## John Hummel District Attorney

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April 25, 2022

Victoria Gonzalez  
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Mary Winters  
City of Bend Legal Counsel  
[mwinters@bendoregon.gov](mailto:mwinters@bendoregon.gov)

Dear Ms. Winters and Ms Gonzalez:

Thank you for your prompt and courteous presentation of the issues. This letter constitutes my ruling in the matter of Ms. Gonzalez's appeal of the City of Bend's handling of her recent public records request.

### Background

- On February 26, 2022, via the City of Bend's online public records request portal, Ms. Gonzalez requested that the City provide her with: "Oaths of Office and copy of surety bonds required to be held by elected officials. • Sally Russell Mayor • Anthony Broadman Councilor • Barb Campbell Councilor • Melanie Kebler Councilor • Megan Perkins Councilor • Rita Schenkelberg Councilor."
- On February 28, 2022, the City responded via email to Ms. Gonzalez. In their email, the City provided oaths of office for each of the City Councilors, and informed Ms. Gonzalez that they had no responsive documents regarding surety bonds.
- Ms. Gonzalez replied to the City's February 28<sup>th</sup> email, stating that she wanted signed oaths of office (the oaths provided to her were unsigned).
- The City responded to Ms. Gonzalez via email, informing her that: "We've recently relocated our archives and I do not have those on site."
- Pursuant to ORS 192.415, on April 19, 2022, Ms. Gonzalez petitioned my office to review the City of Bend's purported denial of her public records request.
- In their response to Ms. Gonzalez's appeal (April 21, 2022 letter to me with copy to Ms. Gonzalez), the City provided Ms. Gonzalez with signed copies of the oaths, reiterated that no responsive documents exist regarding the surety bond request, and provided copies of insurance policies that are not surety bonds.

### ANALYSIS

The gravamen of Ms. Gonzalez's appeal is apparently that the signed oaths were not provided to her, nor was she provided with a time and cost estimate to obtain them, and that she believes surety bond documents exist, thus they should have been provided to her.

### **Oaths of Office:**

When Ms. Gonzalez requested oaths of office via the City of Bend's online public records request portal, she did not specify that she wanted signed copies. When she received unsigned copies, she then requested signed copies, but this request was in an email rather than through the online public records request portal. The City responded to the email by informing Ms. Gonzalez that the signed oaths were located offsite. Ms. Gonzalez did not reply to this email (for example, by stating explicitly that she wanted the City to obtain the signed oaths from the offsite storage facility).

While it is understandable that Ms. Gonzalez requested the signed oaths of office by replying to an email response from the City, making a request in this manner runs the risk of the request not being processed as clearly and efficiently as it would be if it was submitted via the City's online portal. This is because the City has standard operation procedures for how to process public records request that arrive via the online portal.

This seems to be exactly what happened here. The City was waiting for a response from Ms. Gonzalez to their email (the email that stated the signed oaths were stored offsite), and Ms. Gonzalez took this email response from the City to be a denial of her request for the signed oaths.

I find the City did not deny Ms. Gonzalez's request for signed oaths of office; they merely were waiting for clarification from her regarding whether she wanted them to expend the time and expense of retrieving the signed oaths from offsite storage.

### **Surety Bonds:**

The City asserts they are not in possession of surety bonds for elected officials; Ms. Gonzalez believes they are. Ms. Gonzalez presents no evidence to support her view that the City is being less than truthful.

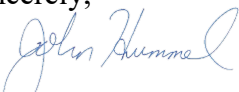
Oregon law does not require surety bonds to be in place for elected officials, and I can fathom no reason why the City would be reluctant to produce copies of surety bonds if they existed.

I find the City's failure to provide Ms. Gonzalez with copies of surety bonds for elected officials was lawful, because the records do not exist.

If Ms. Gonzalez disagrees with my ruling she has the right to seek review of my decision in Deschutes County Circuit Court.

Thank you again for your timely and professional interactions during this process.

Sincerely,



John Hummel  
District Attorney