Number: 10-90
Date: December 12, 1990

RESOLUTION
OF THE CITY COUNCIL
CITY OF CLARK FORK

TITLE: ACCESS TO PUBLIC RECORDS POLICY

WHEREAS the 1990 Idaho Legislature has enacted a comprehensive new public records act, included as Sections 9-337 through 9-348 of the Idaho Code;

AND WHEREAS the State Attorney General has encouraged all public agencies at all levels of government to adopt a policy to implement the new public records act;

AND WHEREAS the City of Clark Fork currently has no formal public records policy;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Clark Fork has set forth these public records requirements in a document entitled "Access to Public Records Policy."

BE IT FURTHER RESOLVED that this resolution shall take effect upon approval by the City Council at it's December 12, 1990 meeting.

Ambrose Martinosky
Ambrose Martinosky, Mayor

ATTESTED BY:

Elizabeth Parenti
Elizabeth Parenti, City Clerk

DATED: December 12, 1990

CITY COUNCIL MEMBERS	YES	NO	ABSENT	ABSTAIN
Betty Little	BLL	---	---	---
Linda Reed	L.V.R.	---	---	---
Russell Schenck	---	---	/	---
Lewis Speelmon	LWS	---	---	---

REVISED 5/13/92

ACCESS TO PUBLIC RECORDS POLICY
CITY OF CLARK FORK

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ACCESS TO PUBLIC RECORDS POLICY
CITY OF CLARK FORK

I. INTRODUCTION

Effective July 1, 1990, Idaho has a new law relating to the disclosure of information by all state and local government entities. The Idaho Public Records Act is found at Idaho Code Sections 9-337 through 9-348. The intent of this law is that all records maintained by public agencies are open to the public for inspection and copying at all reasonable times, unless the information is specifically exempted from disclosure by law.

II. DEFINITIONS

Key terms are defined in the Act. Some of the law's most important concepts are:

1. Public records - These include, but are not limited to, any writing containing information relating to the conduct or administration of the public's business, prepared, owned, used or retained by a public agency. "Writing" means information maintained in many forms, including, for example, pictures, maps, tapes, magnetic or punched cards, and computer disks.

2. Inspect - This means the right to listen, view, and make notes of public records, as long as the public record is not altered or damaged.

3. Copy - This means transcribing by handwriting, photocopying, duplicating machine, and reproducing by any other means, so long as the public record is not altered or damaged.

4. Custodian - This means any public official or employee having physical custody and control of the public records, including those who respond to requests for information on a routine basis. "Custodian" also includes the person, whether elected or appointed, who is legally responsible for administering the public agency, or that person's designee. "Designated custodians" are those employees authorized to perform specific responsibilities that are described in this policy, including denying requests for information when appropriate to do so.

III. DESIGNATED CUSTODIANS

The following persons are the designated custodians for this agency:

City Clerk
Mayor & Council Members, when available.

IV. EXEMPTIONS

The records exempt from disclosure by this Act are listed in Idaho Code Section 9-340.

Personnel Information

The employment history, classification, pay grade and step, longevity, gross salary and salary history, status, work place and employing agency of any current or former employee are required to be disclosed to any person who requests the information.

All other information relating to an employee or applicant, such as home address and phone number, shall not be disclosed to the public without the written consent of the employee, applicant or designated representative. Employees may inspect and copy their own records, except for material used to screen and test for employment.

* * * * *

Records may contain both exempt and non-exempt material. The public agency is responsible for separating the exempt from the non-exempt information and supplying the non-exempt record. The Act prohibits denying access based upon the fact that the record contains both types of materials.

Even if an exemption applies to a record, the law allows disclosure of statistical information that does not identify any particular person.

V. PROCEDURE FOR REQUESTING PUBLIC RECORDS

It is this agency's policy to continue providing access to and copies of records immediately upon request whenever possible. Examination of records should be done during normal working hours, unless the person who administers the agency or a designated custodian authorizes otherwise. A certified copy, if feasible to produce or required by law, must be provided upon request.

The law prohibits asking why the information is needed. It is permissible to explain what records are available and to help identify the material that is desired. It is also permissible to allow the person to examine non-exempt files in order to select the specific records needed. Staff must maintain vigilance to see that records are not altered or destroyed, but the law prohibits examination of any copy, photograph or notes in the person's possession.

V. PROCEDURE FOR REQUESTING PUBLIC RECORDS (CONTINUED)

Whenever information is requested, the request must be made in writing.

A request for records must be granted or denied within three (3) working days. The person in this agency who is authorized to determine that a longer time is needed to locate or retrieve the records is the custodian who receives the request. If longer than three (3) days is required, the request must be granted or denied in whole or part within ten (10) working days. If no answer is provided within ten (10) working days, the request will be deemed to have been denied.

VI. COSTS FOR PROVIDING PUBLIC RECORDS

Due to the cost of accounting for copying fees, a fee will be charged for each photocopy provided.

The Act does not require the agency to provide multiple copies of the same document.

The fee charged for locating or copying a public record cannot include any administrative or labor costs. The Act does permit public agencies to charge for the actual cost of copying records. This agency's cost of standard photocopies is currently ten (10) cents per page.

Advance payment of the photocopying charges is required.

The fee charged for providing information in the form of computer tapes, disks, microfilm or similar record media may not exceed the amount of the direct cost of copying. If the information is also available in publication form, the agency may offer the published material to the individual at the standard cost of selling the publication.

If there is a request to mail copies of documents to someone, advance payment and a stamped, self-addressed envelope large enough for the number of copies will be required.

The designated custodian or person who administers the agency may choose to allow staff, as time permits, to transmit a small number of records by FAX, with the understanding that the person requesting the records will pay the telecommunications charges if they are not minimal.

VII. INSPECTION AND CORRECTION OF AN INDIVIDUAL'S RECORDS

After providing identification, an individual may inspect, copy and request correction of public records pertaining to that person, except those portions of records that are exempt from disclosure. A correction, or a written refusal to make the correction, must be made within ten (10) calendar days. Refer these requests to the person who administers the agency or a designated custodian immediately.

Subsection (3) of Section 9-342 prohibits access to certain records pertaining to oneself, if the information: relates to exempt investigatory records of ongoing investigations; "is compiled in reasonable anticipation of litigation which is not otherwise discoverable"; relates to adoption records' or "is otherwise exempt from disclosure by statute."

VIII. DENIAL OF REQUEST

If there is ANY doubt about whether information should be disclosed, ask for a written request and immediately direct it to a designated custodian. It is this agency's policy that such a request shall be reviewed by the agency's attorney.

If a request for a record is denied in whole or in part, the Act requires the person who administers the agency or a designated custodian to notify the person in writing. This notice shall state that (1) the attorney for the agency has reviewed the request, or that the agency had the opportunity to consult with an attorney and has chosen not to do so; (2) the statutory basis for the denial; (3) a simple statement of the right to appeal and the time limit for appeal; and (4) a certificate of mailing.

If a request to correct an individual's record is denied, written notification is required within ten (10) calendar days of the receipt of the request. The notice of refusal to amend a record must state the reasons for the refusal, and provide the statement of appeal rights and certificate of mailing mentioned above.

The time limit for filing an appeal is 180 days from the date the notice of denial is mailed. The sole remedy for protesting the public agency's decision is to file a petition in the district court of the county where the records or some part of them are located, requesting the court to compel the agency to make the information available or to correct the record.

VIII. DENIAL OF REQUEST (CONTINUED)

If a request is denied, the requested records must be retained until the end of the appeal period, until there has been a decision on an appeal, or as otherwise provided by law, whichever is longer. Whenever a request is denied, there must be some indication made on the record that it shall not be purged without the approval of the person who administers the agency or a designated custodian.

IX. PENALTY AND IMMUNITY

The law provides a penalty of up to $1,000 for a deliberate, bad faith denial of information that should be disclosed. It also provides immunity from liability for the release of records as long as there is a good faith attempt to comply with the law's requirements. Therefore, it is important to refer immediately any questions or any requests that seem doubtful to the person who administers the agency or a designated custodian.

REQUEST FOR PUBLIC RECORDS

TO: CITY OF CLARK FORK

Date of Request: _____

I request to examine ( )
copy ( ) the following records:

_____

_____

_____

_____

_____

Name: _____

Address: _____

_____

Daytime Phone Number: _____

* * * * * * * * * * * * * * * *

Date Request Received: _____

Request Received By: _____

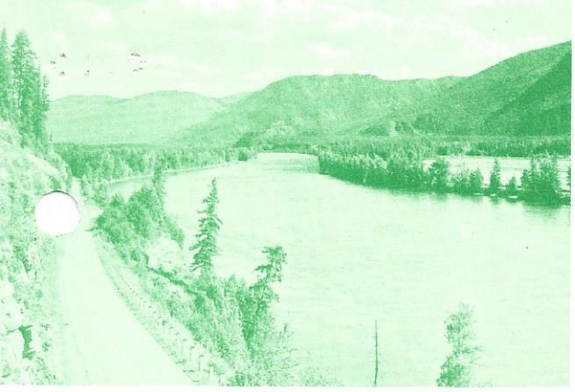
( ) More than three (3) working days are needed to locate or retrieve the requested records. A response shall be provided within ten (10) working days of request.

Signed by: _____

Payment received for _____ copies.

Amount Rceived: _____

Receipt Number: _____



City of Clark Fork
CLARK FORK, IDAHO 83811

RE: Request For Information

TO:

Dear _____:

On _____, I received your request for _____
_____.

Section 9-340 of the Idaho public records law provides: _____
_____.

To the extent that your request involves records that are exempt from disclosure under this section, the request is denied.

You have 180 days from the date of mailing indicated below in which to protest this decision. You have the right to file a petition in the district court of the county where the records, or some part of them, are located, requesting the court to compel disclosure of the information. The court will set a time for our response and for a hearing at the earliest possible time, not later than twenty-eight (28) days after the petition is filed.

I regret that we could not accommodate your request.

Elizabeth A. Parenti
City Clerk

( ) This request has been reviewed by _____, our attorney. Approved: _____
(signature of attorney)

( ) Though I have had an opportunity to have this request reviewed by an attorney, I have chosen not to do so because the Idaho Public Records Law makes this information exempt from disclosure.

( ) I have consulted with our attorney, _____, by telephone.

CERTIFICATE OF MAILING

I hereby certify that the original of this letter was deposited in the United States mail, postage prepaid, this _____ day of _____, 199__.

_____

WATER RESOURCE FLOOD PLAIN ORDINANCE: Mayor Martinosky reported to the Council on his meeting with Mr. Fred Eisenbarth of the Department of Water Resources regarding the Water Resource Flood Plain Ordinance and the National Flood Insurance Program. Mr. Eisenbarth stated in a letter that the City of Clark Fork is doing a good job with the flood plain ordinance.

PUBLIC RECORDS POLICY - PRICE OF COPIES: The City Clerk reported that the Public Records Policy currently states the charge for anyone wishing to make copies is 20 cents per copy. With the purchase of a new copy machine, the cost to the City per copy is now less than 20 cents. Councilwoman Reed moved we charge 10 cents per copy for public records, Councilwoman Dawson seconded the motion and it was passed by all.

DISASTER COORDINATION: The City received a letter from Jerry Foote and Loren Kenworthy regarding a Mutual Aid Agreement wherein the City would be able to call on the resources of other areas in the County in the event of a disaster which is beyond our ability to handle. The Council felt that resources were already in place to handle these situations and that this was additional paperwork that was unnecessary.

BUILDING PERMIT REQUIREMENTS: The Council was asked to review the current Clark Fork Building Requirement form to see if any changes were necessary. Councilwoman Reed felt that Panhandle Health should sign off on the building permit first before the City signs off. After some discussion, the Council decided the form and procedure currently in place did not need to be changed and that, as the form requires that property owners secure a permit from the Health Department, it didn't matter if the City or Panhandle Health signed off first.

As there was no further business to discuss, Councilwoman Dawson moved the meeting be adjourned, Councilwoman VanStone seconded the motion and it was passed by all. The meeting adjourned at 10:40PM.

Bills paid from the Water Fund in May, 1992:

AMOUNT	CK #	DATE	PAYEE
$863.00	1470	5/1	General Electric Capital Corporation
$86.30	1471	5/1	C. F. Water Revenue Bond Fund
$10.00	1472	5/14	Idaho Dept. of Health & Welfare
$12.36	1473	5/14	GTE Northwest
$228.69	1474	5/14	Pacific Power
$13.67	1475	5/14	Evergreen Supply
$105.59	1476	5/14	Heiman Fire Equipment Inc.
$224.54	1477	5/20	C. F. General Account

$1,544.15 Total Water Fund Expenditures in May, 1992