

**BEFORE THE MISSISSIPPI ETHICS COMMISSION**

**KIMBERLY S. MAYER**

**COMPLAINANT**

**VS.**

**PUBLIC RECORDS CASE NO. R-24-027**

**TOWN OF POTTS CAMP**

**RESPONDENT**

**ORDER OF DISMISSAL**

This matter came before the Mississippi Ethics Commission through a Public Records Complaint filed by Kimberly S. Mayer against the Town of Potts Camp, Mississippi (the “town”). The town filed a response to the complaint by and through its attorney. The Ethics Commission has jurisdiction over this matter pursuant to Section 25-61-13, Miss. Code of 1972. The hearing officer presented a Recommendation of Dismissal to the Ethics Commission at its regular meeting held on April 4, 2025, at which time the commission approved this Order of Dismissal in accordance with Rule 5.6, Rules of the Mississippi Ethics Commission.

**I. FINDINGS OF FACT**

1.1 Kimberly Mayer alleges the Town of Potts Camp, Mississippi, violated the Public Records Act by failing to provide responsive documents to her public records request. On July 22, 2024, Ms. Mayer filed a public records request for “video or pictures that Mayor Sidney Person stated on July 22, 2024, that he had in his possession that would include myself, Alderman Garrison, or Alderman Mayer.” In her request, she notes that she believes these images were obtained by the Mayor from the town’s security cameras, for his personal use.

1.2 In response, the town provided Ms. Mayer a fee estimate of \$165.00 (consisting of 1 hour of an outside IT service at \$150/hour minimum and \$15 for a USB drive) and stated:

Be advised that the Town of Potts Camp is in receipt of your Open Records Request of the Town Hall’s video surveillance. You did not specifically state the time period. However, there is only a 7-day window for the camera before it rolls off. Therefore, we have the eight days prior to your request. Additionally, the Town has secured an IT person to download the information.

1.3 Ms. Mayer clarified to the town that she was not seeking video footage from the town’s surveillance system, but specifically “video and pictures that Mayor Person stated that he already had in his possession.” She indicated her familiarity with the town’s surveillance system, estimated it would only take about two minutes to download a day’s worth of footage, and believes that it would not require the expertise of an IT person to retrieve the data. Ms. Mayer states that since receiving the fee estimate, she received no additional response from the town.

1.4 In response to the complaint, the town states that it timely responded to Ms. Mayer’s public records request for “video surveillance or pictures of her husband Alderman Casey Mayer, Alderman Denise Garrison, and her.” Instead of seeking copies of the videos and pictures from the Mayor, the town provided Ms. Mayer a fee estimate for downloading

surveillance footage for the 8 days prior to her July 22, 2024 request. Upon receiving the public records request, the town “realized that the subject video surveillance could not be downloaded by the Town staff and sought the assistance of its IT person. Hence, expenses and costs were incurred by a professional not employed with the town.” The town claims that “Mayer refused to pay the deposit to download and produce the video surveillance. Rather Mayer dictated how the Town should produce the video surveillance from the Town’s equipment ‘since she was familiar with it.’” The town also states that “Mayer misstates facts in her complaint about statements made in municipal court about the Town’s Mayor being in possession of an alleged video surveillance at the time of the court proceedings.”

## II. CONCLUSIONS OF LAW

2.1 The Mississippi Public Records Act of 1983 (the “Act”) declares that public records shall be available for inspection or copying by any person unless otherwise provided by law. Section 25-61-2, Miss. Code of 1972. “Public records” are defined as all documents or records “having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body.” Section 25-61-3(b). A public body must provide access to public records upon request of any person, unless a statute or court decision “specifically declares” a public record to be confidential, privileged, or exempt. Section 25-61-11.

2.2 A public body “may establish and collect fees reasonably calculated to reimburse it for, and in no case to exceed, the actual cost of searching, reviewing and/or duplicating and, if applicable, mailing copies of public records.” Section 25-61-7(1). “Any staff time or contractual services included in actual cost shall be at the pay scale of the lowest level employee or contractor competent to respond to the request.” Section 25-61-7(1). A public body must collect fees “in advance of complying with the request.” *Id.*

2.3 Any attempt by a public body to impose fees exceeding actual costs reasonably incurred constitutes a willful and knowing denial of access to public records that warrants the imposition of a civil penalty and the award of attorney fees and costs against the public official charging the excessive cost. Harrison County Development Commission v. Kinney, 920 So. 2d 497, 503 (Miss. App. 2006). See also Comment 8.5(4), Mississippi Model Public Records Rules. The same can be said for an estimate that is so high that it does not reasonably reflect the actual costs the public body expects to incur in responding to a records request.

2.4 Based on the record before the Ethics Commission, the charge estimated by the town is reasonable. The evidence provided by the town shows that they employed an outside vendor to download video from the camera, since the town staff was unable to. The IT professional charged the town \$165 for his time. As stated in other cases, the Public Records Act does not prohibit a public body from outsourcing the search or review of public records. For example, in Davis v. Miss. Dept. of Corrections, Public Records Case R-20-025, the Department of Corrections utilized a third party for information technology services related to litigation hold, eDiscovery and public records requests. Similarly, the town may charge Ms. Mayer its actual costs to download the data from the surveillance cameras. As such, the town complied with its obligations under the Public Records Act, and this case should be dismissed.

WHEREFORE, the complaint is hereby dismissed this the 4th day of April 2025.

MISSISSIPPI ETHICS COMMISSION

BY: \_\_\_\_\_  
TOM HOOD, Executive Director