

Joshua Vissers  
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Jan. 6, 2022

Houghton County Commissioners  
County of Houghton  
401 E. Houghton Avenue  
Houghton, MI, 49931

Dear members of the Houghton County Board of Commissioners,

I'm writing to you today to formally appeal the decision of your administrator and FOIA coordinator on a record request that I made following your December meeting. The original request as submitted and Ms. Bjorn's response are included after this letter for your review.

I'll continue to address the items individually, but a larger issue is the failure to respond legally as required by the Michigan Freedom of Information Act. In [MCL 15.235\(5a\)](#), the law clearly states that "*An explanation of the basis under this act or other statute for the determination that the public record, or portion of that public record, is exempt from disclosure...*" should be included. However, as you can see in the response I received, no laws were cited.

Instead, the administrator asserts that written documents provided to the board are "non-records". However, FOIA law defines a public record as "*a writing prepared, owned, used, in the possession of, or retained by a public body in performance of an official function, from the time it is created*". ([MCL 15.232](#)) As there is [a video record](#) of these documents being presented to the board during a board meeting, it is impossible to argue that these documents do not constitute writings used by the public body.

The question is whether or not these records are exempt from disclosure under FOIA, OMA, or another statute. Valid exemptions to the Freedom of Information Act are listed in [MCL 15.243](#).

To address the denied requests individually -

I requested a summary of accounts payable and was told that doesn't exist, but there is a check register. That's acceptable, and I'll renew my request this month asking for a copy of the check register. However, Ms. Bjorn, as Mr. Larson before her, also referred me to a physical location to view these records. Under the Freedom of Information Act, I am requesting a copy be sent to me. While I can be referred to an online location, or charged for certain costs, referring me to a physical location and refusing to create a digital or physical copy is not lawful. ([MCL 15.234\(5\)](#))

I requested the Sheriff's Union contract agreement that was voted on at the meeting and was initially denied as it is a "non-record" tentative agreement. Upon further discussion, it was revealed that the agreement had yet to be confirmed by the union, and so under Open Meetings Act rules, it would be exempt as part of the bargaining process. ([MCL 15.268 1\(c\)](#)) It is exempt from release, but it is also still a record. Ms. Bjorn's referral to a Non-Disclosure Agreement in her informal response is also irrelevant to the FOIA, as she cannot sign away the rights of the public under Michigan law. I look forward to reviewing this document once it has been approved by both parties.

I requested the documentation that accompanied the remonumentation application. I was disturbingly informed that the county does not "hold onto, store, record or process" it. This application was placed before the board for their approval and signature, which is an official action. Under Michigan law, disposing of any "official books, papers, or records created by or received" before authorization under an approved Retention and Disposal Schedule is a misdemeanor. ([MCL 750.491](#)) This lapse in record-keeping should certainly be remedied, and a copy of the application should be held by the county and provided to the public unless another exemption is found to apply.

I requested the summary sheet for the wage increase of appointed officials and was told it doesn't exist. However, once again there is a video record of this document being presented to the board before they voted on the decision. It is a document under the law and should be retained by the county and provided to the public at request.

Finally, I requested the quarterly budget amendments, as they were approved by the board in December. Initially, I was informed they are a "non-record", which is not a valid exemption. Anything presented to the board in an official capacity (ie, during a public meeting) is a record and should be retained by the county, the only question is whether or not is exempt from disclosure. On further inquiry, I was told that it was actually a "budget movement outline", not a true amendment. Nonetheless, in order to fulfill the requirements of the Open Meetings Act, decisions of the public body must be made in the public view. The board voted to approve these changes, but there was no discussion, no documentation available to the public, and no record of what the decision entailed in the released meeting minutes. **This is a complete lack of transparency in regards to this decision by the board.**

In summary, the Houghton County Administration does not seem to have an appropriate familiarity with the Freedom of Information Act, the Open Meetings Act, or public records keeping, and I implore the board of commissioners to take action to remedy this situation and provide the records access the public needs to rightfully participate in American self-government.

Sincerely,

Joshua Vissers

Joshua Vissers  
Copper Beacon  
PO BOX 445  
South Range, MI, 49963  
(616) 490-6628  
me@joshuavissers.com



Dec. 16, 2021

Elizabeth Bjorn  
County of Houghton  
401 E. Houghton Avenue  
Houghton, Michigan, 49931  
controller@houghtoncounty.net

Dear Administrator Bjorn;

Under the Michigan Freedom of Information Act § 15.231 et seq., I am requesting copies of the information provided to the Houghton County Board of Commissioners for the Dec. 14, 2021 board meeting, including (but not limited to):

- a) Correspondence from the ATC and U.S. Coast Guard
- b) Summary of accounts payable
- c) Draft letter concerning the possibility of a new bridge
- d) Sheriff's union agreement
- e) Remonumentation documentation
- f) Summary sheet for the wage increase of appointed and elected officials\  
and
- g) Quarterly budget amendments

Please provide these documents attached to an email, in .pdf format.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$5. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest. Copper Beacon is a non-profit entity, and this information is not being sought for commercial purposes.

The Michigan Freedom of Information Act requires a response to this request within five days. If access to the records I am requesting will take longer than this amount of time, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,

Joshua Vissers



22 December 2021

Joshua Vissers  
Copper Beacon  
me@joshuavissers.com

RE: Your Recent FOIA Request is Granted in Part and Denied in Part

Dear Mr. Vissers,

Please be advised that we have received and reviewed your recent FOIA request which was received by, The County of Houghton, on the 16<sup>th</sup> day of December 2021.

Your request is granted in part with respect to the following documents:

Correspondence from the ATC and US Coast Guard

We have denied your request in part and/or have redacted from the record the following:

Summary of accounts payable – this record does not exist – a check register is made available for public viewing on the Courthouse 2<sup>nd</sup> floor bulletin board immediately after the meeting of the BOC

Draft letter concerning the possibility of a new bridge – non record draft letter

Sheriff's Union Agreement – non-record of the Controller's Office - tentative agreement

Remonumentation Documentation – non-record of the Controller's Office - remonumentation application

Summary Sheet of wage increase of appointed elected officials – this record does not exist

Quarterly budget amendments – non -record

In the event that you are not satisfied with this response, I want to advise you of your rights. You have the right to submit a written appeal to the County of Houghton, Board of Commissioners and specifically state the word "appeal" and identify the reason(s) for reversal of this denial by myself.

In addition, you may seek judicial review of this denial pursuant to MCL 15.240. If you seek judicial review and the Court determines that the public records are not exempt from disclosure, you have the right to receive attorney fees and damages in the amount not to exceed \$1,000.00.

Respectfully,

Elizabeth L Bjorn, Administrator  
FOIA Coordinator of Houghton County

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commander  
Ninth Coast Guard District

1240 E. 9th St.  
Cleveland, OH 44199  
Staff Symbol: (dpb)  
Phone: (216) 902-6085  
FAX: (216) 902-6088  
E-mail: Lee.D.Soule@uscg.mil

16593  
December 6, 2021  
B-276/lds

Albert Koskela  
Chairman, Houghton County Board of Commissioners  
401 East Houghton Avenue  
Houghton, MI 49931

Dear Mr. Koskela:

We are responding to your letter of September 14, 2021 concerning altering the regulation that governs the U.S. 41 Bridge at Mile 16.0 over the Kewanee Waterway between the towns of Houghton and Hancock, Michigan.

We understand the concern for potential issues with emergency vehicle response and that is why those vehicles are provided for in their own regulation. Provisions for emergency vehicles and vessels can be found in Section 117.31 of Title 33 of the Code of Federal Regulations. Because this is already considered in the Code of Federal Regulations, it cannot be considered as part of a new rule making process.

Our response to the Michigan Department of Transportation is included in this letter to you because there seems to be a failure to share information throughout the community regarding the captured data and the reason for the denial.

It was recommend that the Michigan Department of transportation compile and submit for review a new set of vehicle counts and drawtender logs from the beginning of May through the end of September. If you require further assistance in this matter, please contact Lee Soule of this staff at (216) 902-6085.

Sincerely,

A handwritten signature in black ink, appearing to read "W. B. Stanifer".

W. B. STANIFER  
Chief, Bridge Branch  
U.S. Coast Guard  
By direction

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commander  
Ninth Coast Guard District

1240 E. 9th St.  
Cleveland, OH 44199  
Staff Symbol: (dph)  
Phone: (216) 902-6085  
FAX: (216) 902-6088  
E-mail: Lee.D.Soule@uscg.mil

16593  
December 6, 2021  
B-277/lds

Aaron D. Johnson, P.E.  
Region Engineer  
Michigan Department of Transportation  
100 S. Westwood Drive  
Ishpeming, MI 49849

Dear Mr. Johnson:

We are responding to your letter of December 3, 2021, regarding your request to permanently alter the drawbridge operation regulations contained in 33 CFR 117.635 which govern the operation of the U.S. 41 Bridge at Mile 16.0 over the Kewanee Waterway between the towns of Houghton and Hancock, Michigan.

The District Commander has reviewed your request and cannot grant your request at this time for the following reasons:

The rulemaking process commences through a showing of a scheduling issue at a bridge crossing through data incorporating vehicular crossings and openings for vessels. The data provided by the Michigan Department of Transportation does not definitively show a disparity caused by vehicle crossing and vessel openings. On average, this data indicated less than one opening each day with no openings on federal holidays. The lone exception to this would be the July 4th holiday weekend.

In previous requests to permanently alter the drawbridge operation regulations contained in 33 CFR 117.635, the Michigan Department of transportation provided vehicle crossings for the subject bridge from July 9, 2019 through July 15, 2019. Drawtender logs for 2017, 2018, and 2019 seasons were also provided. After careful review, the data shows:

The hourly average for vehicle crossings at 0700 is 1,535 vehicles and continues until after 1800 when the vehicles crossing every hour drop to 1,407. The data proves there is a steady flow of vehicles crossing the bridge except from 2200 to 0700 each weekday. No spike of vehicular traffic crossing the bridge is indicated at the times you requested for consideration as "rush hours at the bridge." We also carefully reviewed the drawtender logs from July 9, 2019 through July 15, 2019, the dates of the vehicle crossings provided by the Michigan Department of Transportation. During this time, there were eight drawbridge openings for sailing vessels. Only four of those were between 0700 and 1800 each day. Four bridge openings in one week are more than reasonable.

We understand your concern for potential issues with emergency vehicle response. However, those vehicles are provided for in accordance with the provisions of Section 117.31 of Title 33 of

16593  
December 6, 2021  
B-277/lds

Aaron D. Johnson, P.E.  
Region Engineer  
Michigan Department of Transportation  
100 S. Westwood Drive  
Ishpeming, MI 49849

the Code of Federal Regulations. As such, this cannot be considered for a new rule making process.

A different determination based on data in which we have previously proven no adverse impact to vehicular traffic exists at the subject bridge is not possible at this time. We recommend that the Michigan Department of transportation compile and submit for review new vehicle counts every 15 minutes from the beginning of May through the end of September for the current year. This would allow us to review the current situation and identify possible mitigation measures if not begin the rulemaking process to permanently alter 33 CFR 117.635 for the subject bridge.

In accordance with the 2018 Coast Guard Authorization Act Section 832 d.2.B, you may address each reason for denial and resubmit your request to this office. You may appeal the District Commander's decision in accordance with 33 CFR § 114.50.

Sincerely,



W. B. STANIFER  
Chief, Bridge Branch  
U.S. Coast Guard  
By direction



December 2, 2021

Helping to keep the lights on,  
businesses running  
and communities strong®

**Winona-Atlantic Rebuild Project**

Dear Neighbor:

American Transmission Co. (ATC) builds, maintains, owns and operates the high-voltage electric transmission system in most of Michigan's Upper Peninsula. To address constraints on the current transmission system and make needed improvements, we will be rebuilding the 69,000 volt transmission line that crosses on or near your property. The roughly 23-mile line runs from the Winona substation in the township of Elm River to the Atlantic substation in the township of Adams (please see map on reverse side).

In the coming weeks you may see contractors moving along the transmission line right-of-way performing various pre-construction tasks such as surveying and collecting soil boring samples. There is no anticipated interruption of the electrical service to your property. Below is a preliminary timeline for the project:

**Pre-Construction Activities: Beginning Late 2021**  
**Vegetation Management: 2022-2023**  
**Construction Begins: Summer of 2023**  
**Project Complete/Restoration: 2024**

Our employees and contractors carry proper identification. If vehicle or crew access is needed outside the right-of-way, a construction contractor will contact you (or may already have contacted you) directly for permission to access through your property.

Safety is a significant concern for ATC during this time, and our field workers and contractors will continue to conduct their work according to the safe distancing practices ordered by the Centers for Disease Control and Prevention and state public health guidelines. **For everyone's safety, we politely request landowners remain a safe distance away from any onsite field crews.**

We will keep you updated as the project progresses. If you have questions, please contact me. Thank you in advance.

Sincerely,

Michael White  
ATC Local Relations  
608-877-3680  
mwhite@atcllc.com





December 2, 2021

Helping to keep the lights on,  
businesses running  
and communities strong®

***Winona-Atlantic Rebuild Project***

Elizabeth Bjorn  
Houghton County Administrator  
401 E Houghton Ave 5th Floor  
Houghton, MI 49931

Dear Ms. Bjorn:

The enclosed letter was mailed to landowners along a portion of the Winona-Atlantic transmission line which is scheduled for construction beginning in 2022. As a local official, I thought you may be interested in the project.

We will continue to update you on the construction schedule and activities, and any other issues related to this project. If you have questions, comments or concerns, please feel free to contact me at 608-877-3680 or by e-mail at [mwhite@atcllc.com](mailto:mwhite@atcllc.com).

Sincerely,

Michael White  
Local Relations Consultant