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City should nix plan for new records fee

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(Photo: courtesy)

The Las Cruces City Council, which likely violated both the state open meetings and open records laws during its selection process for a new city manager, is now considering petitioning the Legislature to weaken those laws by making it far more expensive to access public records.

During a discussion Monday of legislative priorities for the 2017 session in January, it was suggested by the city attorney that the best thing the Legislature could do to help the city of Las Cruces would be to put an end to all those troublesome public-records requests.

The number of requests for public records has increased from 158 in 2013 to 582 this year, according to City Attorney William "Rusty" Babington. He sees all those public records request as a nuisance, and has proposed as the remedy a new fee of up to \$100 to process each request.

We see the increase in public records requests as a positive sign that information which, by law, must be accessible to the public is, in fact, being accessed. Much of the increase in requests has come from the business community, which relies on the ability to access public records, said Greg Williams, president of the New Mexico Foundation for Open Government.

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But the primary reason for both the open meetings and open records laws is to maintain transparency in government. They allow watchdogs to follow the money, track the votes and keep government officials honest. Any number of public corruption scandals in this state have been uncovered by those digging through public documents.

Clearly, a \$100 processing fee would have a chilling impact on the ability New Mexico residents to keep tabs on their government. Perhaps the businesses would be able to afford a new fee, but those active government watchdogs living on a fixed income certainly would not.

Freedom of information isn't free when you add a \$100 price tag.

Fortunately, this is just a proposal at this point, something for the City Council to consider, and not something that is likely to ever actually happen. Even if City Council members were to go along with this proposal, and they should not, the best they could do is make a request to the state Legislature to change the law. Babington concedes that would be a "tough sell."

So essentially, City Council members are being asked to take a vote against open government and transparency, with the expectation that their vote won't actually change anything. Talk about a tough sell.

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All of this comes after the City Council issued a press release last month announcing Stuart Ed as the new city manager following a closed meeting, a clear violation of the open meetings law. Babington reportedly advised the City Council on that press release and approved it.

Before that, the city avoided compliance with the open records law by having a private company maintain custody of all job applications and then refusing to release them.

That they were able to do all of this with impunity (a court case involving the job applications is still pending) suggests that the state's transparency laws are too weak now. City Council members should be working to ensure better compliance on their part in the future, not seeking to weaken those laws further.

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