



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

August 23, 2024

The Honorable Marsha Gates
Councilwoman, City of Okolona
301 Middle Street
Okolona, Mississippi 38860

Re: Requesting Copies of City Bank and Credit Card Statements

Dear Ms. Gates:

The Office of the Attorney General has received your request for an official opinion.

Background

According to your request, you have asked the Okolona City Clerk (“Clerk”) to provide you with paper copies of bank and credit card statements from June 2021 to the present. You were told that you would have to pay for the requested statements. As we understand it, the question is whether these records are needed for your official duties as a councilwoman. The Clerk’s office is treating the request as a request by a private citizen and, in accordance with its public records policy, is requesting payment due to the amount of time necessary to complete the request. The city of Okolona (“City”) is a special charter municipality.

Question Presented

Does an elected official have to pay for copies of the City’s bank and credit card statements?

Brief Response

An elected official does not have to pay for copies of records if the governing authorities determine that the requested access is reasonable and that the records are required for the elected official to perform his or her official duties.

Applicable Law and Discussion

As an initial matter, official opinions of this office are issued on prospective questions of law pursuant to Mississippi Code Annotated Section 7-5-25. We cannot make factual determinations by official opinion. Further, if the City's special charter speaks to the issue at hand, then the charter controls. *See* MS AG Op., *Gaylor* at *1 (Dec. 15, 2006) (“[W]here the provisions of a special charter conflict with general law[,] . . . the specific provisions of a municipal special charter will take precedence over the provisions of general municipal law.”); MS AG Op., *Lowe* at * 1 (Feb. 13, 2009) (“[P]rovisions of a private or special charter that are contrary to general statutory provisions are viewed by this office as exceptions to the statutory provisions except where the general statutes expressly provide otherwise.”). Assuming that the City's special charter is silent on your question, we offer the following for prospective purposes.

This office has consistently opined that members of a municipal governing body “are entitled to reasonable access, without charge, to information required to perform the duties of their office.” MS AG Op., *Tindell* at *2 (Feb. 24, 2017) (internal citations omitted); *see also* MS AG Op., *Holcomb* at *1 (July 11, 2022) (opining that “records may only be accessed for lawful purposes”); MS AG Op., *Manley* (Dec. 3, 2019) (stating that what is reasonable and timely access to information is a factual determination to be made by the municipality). Whether copies of the City's bank and credit card statements from 2021 forward are required to perform the duties of councilwoman and whether the access is reasonable are factual determinations that must be made by the City Council (“Council”), subject to judicial review. If the Council determines that requested access is unreasonable or that the records are not required to perform the duties of councilwoman, the records may be requested according to the City's public records policy as referenced in your request. We suggest that you consult your municipal attorney for legal advice regarding compliance with any applicable municipal policies or ordinances.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General