

Steve and Sharon Wolff
3 Painter St.
Rio Dell, CA 95562
707-764-3793

May 26, 2009

Nancy Flemming, City Manager
City of Rio Dell

RECORDS REQUEST

Dear Records Request Officer:

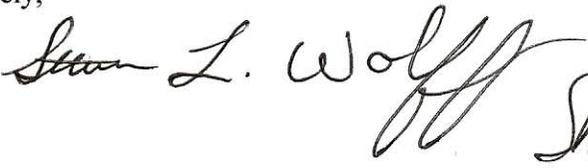
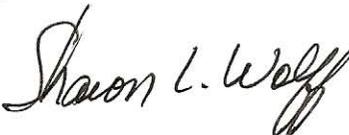
Pursuant to the state open records act, We request access to and copies of all accounting reports produced by Mann, Urrutia & Nelson, CPA's for the City of Rio Dell. Copies of any reports or summaries related to any investigation into any city department or employee. Copies of reports or memos related to the disappearance or disposal of public works equipment.

We understand that there may be a minimal copying fee for this request, as per Cal. Gov't Code § 6253(b). We agree to pay this fee up to \$20.00 at the time of delivery. If the fee exceeds this amount, please call us with the estimate so that we may approve.

If my request is denied in whole or part, We ask that you justify all deletions by reference to specific exemptions of the act.

Thank you for your assistance.

Sincerely,

Steve and Sharon Wolff

DAVID H. DUN
(dhd@dunmartinek.com)

DAVID E. MARTINEK
(dem@dunmartinek.com)

PAMELA GIOVANNETTI
(pam@dunmartinek.com)

RANDALL H DAVIS
(rhd@dunmartinek.com)

SHELLEY C. ADDISON
(sca@dunmartinek.com)

DUN & MARTINEK LLP
ATTORNEYS AT LAW
2313 I STREET
EUREKA, CALIFORNIA 95501
TELEPHONE: (707) 442-3791
FACSIMILE: (707) 442-9251

MAILING ADDRESS
P.O. BOX 1266
EUREKA, CALIFORNIA 95502

LEGAL ASSISTANTS

JO-ANNE STEVENS
(jaf@dunmartinek.com)

RUTH A. JOHNSON
(raj@dunmartinek.com)

PAT VISSER
(pat@dunmartinek.com)

June 2, 2009

Steve and Sharon Wolff
3 Painter St.
Rio Dell, CA 95562

Re: Public Records Act Request

Dear Mr. and Mrs. Wolff:

Your May 26, 2009 public records request has been forwarded to me for reply.

Please be advised that the city will make available the requested accounting reports, upon payment of copying charges.

Other requested records will not be provided. Among other authorities, please see Government Code Section 6254(c).

Very truly yours,

DUN & MARTINEK LLP


David E. Martinek

cc: client

June 7, 2009

David Martinek, Dun & Martinek LLP

PO Box 1266

Eureka, CA 95502

Re. Public Records Act Request

We received your letter of June 2, 2009 responding to our Freedom of Information records request. Your letter stated that copies of the accounting reports would be made available upon payment of the copying charges but did not state what those charges are. We would be happy to remit the payment as soon as we know what that is.

The letter further stated that the requested copies of any reports or summaries related to any investigation into any city department or employee and copies of reports or memos related to the disappearance or disposal of public works equipment would not be released. The letter cited Government Code Section 6254(c) which states "Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy" are not required to be disclosed. We are confused how any records of investigations into city departments that are funded by the taxpayers of Rio Dell would violate an individual's right to personal privacy. There is an overriding public interest in records of wrong doing or investigations into the functioning of the government that takes precedence over the right to privacy. "The privacy of the individuals whose personal affairs are recorded in government files is as important as, but narrower than, the fundamental interest of the public in disclosure of information that permits checks against the arbitrary exercise of official power and secrecy in the political process" *New York Times Co. v. Superior Court*, 52 Cal. App. 4th 97. Further, the court held "A public agency may not shield a record from public disclosure by placing it into a file labeled investigatory" (*Ibid*). The intentions of the legislation are clearly on the side of public disclosure; particularly in name of open government.

Unless a clear reason can be demonstrated as to how the requested information is protected under the provisions of personal privacy you cited over and above the interests of public disclosure; then

the law clearly supports its disclosure. The protections of government code 6254 (a-f) are to be narrowly defined against the interests of the public. "Cal. Gov't Code § 6254(c), allows for a weighing of interests by the trial court. Under Cal. Gov't Code § 6255, a government agency must demonstrate that the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record" (Ibid).

We swear, under penalty of perjury, that this records request is being made for journalistic purposes and will be made available to the public via our community website: www.riodelltimes.com.

Please tell us the nominal copying fees involved with the records request so that we may promptly remit.

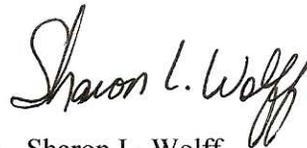
Regards,



Steven L. Wolff

3 Painter St.

Rio Dell, CA 95562



Sharon L. Wolff

Cc Nancy Flemming, Rio Dell City Manager