

  
**J & M**  
**JONES & MAYER**

ATTORNEYS AT LAW

3777 NORTH HARBOR BOULEVARD • FULLERTON, CALIFORNIA 92835  
(714) 446-1400 • (562) 697-1751 • FAX (714) 446-1448

Richard D. Jones\*  
Partners  
Martin J. Mayer (1941-2017)  
Kimberly Hall Barlow  
James R. Touchstone  
Thomas P. Duarte  
Richard L. Adams II  
Christian L. Bettenhausen

Associates  
Monica Choi Arredondo  
Melissa M. Ballard  
Jamaar Boyd-Weatherby  
Baron J. Bettenhausen  
Paul R. Coble  
Keith F. Collins  
David R. Demurjian  
Michael Q. Do

Kathya M. Firlik  
Russell A. Hildebrand  
Crystal V. Hodgson  
Krista MacNevin Jee  
Ryan R. Jones  
Gary S. Kranker  
Bruce A. Lindsay  
Adrienne Mendoza  
Gregory P. Palmer

Scott E. Porter  
Harold W. Potter  
Tarquin Preziosi  
Carrie A. Raven  
Brittany E. Roberto  
Denise L. Rocawich  
Yolanda M. Summerhill  
Ivy M. Tsai  
Carmen Vasquez

Of Counsel  
Michael R. Capizzi  
Harold DeGraw  
Deborah Pernice-Knefel  
Dean J. Pucci  
Steven N. Skolnik  
Peter E. Tracy

\*a Professional Law  
Corporation

Consultant  
Mervin D. Feinstein

April 17, 2017

VIA E-MAIL AND U.S. MAIL

Kelly Aviles, Esq.  
LAW OFFICES OF KELLY A. AVILES  
1502 Foothill Boulevard, Suite 103-140  
La Verne, CA 91750  
kaviles@opengovlaw.com

Re: Public Records Request to the City of Fullerton

Dear Ms. Aviles:

This letter serves as the written response to your public records request to the City of Fullerton which was e-mailed to the City Clerk's office on Friday afternoon, March 31, 2017, pursuant to your gracious extension of one week to provide the response.

Your request seeks records relating to the November 9, 2016 traffic incident involving former City Manager Joe Felz. Below are the categories specified in your request (verbatim), and the City's response to each:

1. Records of any text messages sent on November 9, 2016, from the personal devices of Mr. Felz, Councilmember Jennifer Fitzgerald, or Police Chief Danny Hughes from any personal or city phone;

We have individually inquired of Council Member Fitzgerald, Mr. Felz, and Mr. Hughes regarding the existence of any responsive texts, and they have each confirmed that no texts were exchanged.

2. A copy of any report r the incident;

The only responsive record is the Police Department's incident report, which is exempt from disclosure pursuant to Government Code section 6254(f) and 6255.



3. The results of any investigation done by the City;

The only responsive record is the Police Department's incident report, which is exempt from disclosure pursuant to Government Code section 6254(f) and 6255.

4. Any documents provided to or obtained by the investigator during the course of the investigation;

Responsive records are exempt from disclosure pursuant to Government Code section 6254(f) and 6255.

5. Any communications, including text messages and emails, regarding the incident (including those which may exist on private devices);

Pursuant to our conversation on April 10, 2017, this category has been narrowed to the following individuals: Former City Manager Joe Felz, former Chief of Police Dan Hughes, City Council members, Gretchen Beatty, Nicole Bernard, Sgt. Jeff Corbett, and Lt. Andrew Goodrich.

Non-exempt records will be produced. We are still in the process of reviewing potentially responsive records, and records may be redacted or withheld pursuant to Government Code sections 6254(c) (personnel), 6254(f) (law enforcement investigative files), 6254(k), Evidence Code section 950 *et seq.* (attorney-client privileged communications), Government Code section 54963 (closed session communications), and Government Code section 6255.

6. Any claim or threat of litigation made by Mr. Felz;

There are none.

7. Any communication from legal counsel for Mr. Felz;

There are none.

8. Any communications regarding Mr. Felz' leave or subsequent departure from the City;

Pursuant to our conversation on April 10, 2017, this category has been narrowed to the following individuals: Former City Manager Joe Felz, former Chief of Police Dan Hughes, City Council members, Gretchen Beatty, Nicole Bernard, Sgt. Jeff Corbett, and Lt. Andrew Goodrich.

Non-exempt responsive records are being produced, including a letter to the Mayor and City Council from Mr. Felz, an Acknowledgment of Waiver of Provision in Employment Agreement, and e-mails sent to City employees. Exempt records are being withheld pursuant to Government Code section 6254(c) (personnel) and Government Code section 6254(k),

Evidence Code Section 950 *et seq.*, and Code of Civil Procedure section 2018.010 (attorney-client privileged communications and attorney work product).

9. Any severance or settlement agreement between the City and Mr. Felz;

There is none.

10. Any complaints or charges made against Mr. Felz from 2011 to present;

Pursuant to our conversation on April 10, 2017 clarifying this category, no complaints about Mr. Felz were made to Human Resources from 2011 to the present.

11. All emails, text messages, or correspondence from Mr. Felz (or sent on his behalf) sent to any member of the City Council or the City Attorney from November 9, 2016, to the present;

Non-exempt responsive records will be produced. Exempt records and information will be redacted or withheld pursuant to Government Code section 6254(c) (personnel) and Government Code section 6254(k), Evidence Code Section 950 *et seq.*, and Code of Civil Procedure section 2018.010 (attorney-client privileged communications and attorney work product).

12. Any emails, text messages, or correspondence from any member of the City Council or the City Attorney to Mr. Felz (or his representative) from November 9, 2016, to the present; and,

Non-exempt responsive records will be produced. Exempt records and information will be redacted or withheld pursuant to Government Code section 6254(c) (personnel) and Government Code section 6254(k), Evidence Code Section 950 *et seq.*, and Code of Civil Procedure section 2018.010 (attorney-client privileged communications and attorney work product).

13. All weekly reports, sometimes referred to as Friday Reports, Weekly Reports, Weekly Memos, or Weekly Updates, from the City Manager to the City Council from November 2016 to the present.

The weekly reports will be produced without attachments pursuant to our April 10, 2017 conversation. Please let me know if you are interested in any attachments. We are still in the process of completing our review of the reports, and portions of the reports may be redacted pursuant to Government Code sections 6254(b) (litigation), 6254(c) (personnel), 6254(f) (law enforcement investigative files), 6254(k), Evidence Code Section 950 *et seq.*, and Code of Civil Procedure section 2018.010 (attorney-client privileged communications and attorney work product), and Government Code section 54963 (closed session communications), and Government Code section 6255.

Kelly A. Aviles, Esq.  
April 17, 2017  
Page 4

In addition to the above-requested categories, your letter referenced a records request made by Travis Kiger for call logs and/or billing records of Council Member Fitzgerald and former Police Chief Hughes. As I mentioned when we spoke on April 10, 2017, due to a miscommunication to Council Member Fitzgerald regarding the request, a search for records was performed as to an incorrect date. However, after further review and discovery of the error, Council Member Fitzgerald promptly sought to provide the correct records. Her phone log for November 9, 2016 is being provided with personal items redacted, and we apologize for the error.

Your letter also made reference to the City purging phone records. To clarify, the City's phone system keeps certain data about phone traffic, and the system can only hold so much data. The City does not purge phone records. A sample of the data that is retrievable is being provided to you.

The City is in the process of completing the gathering and reviewing of records responsive to your request. We are providing a partial production of records at this time and anticipate that the rest of the non-exempt responsive records will be available no later than 10:00 a.m. on May 1, 2017. We will contact you as soon as the records are available.

Please feel free to contact me if you have any questions.

Very truly yours,



Ivy M. Tsai  
Deputy City Attorney  
City of Fullerton