RESOLUTION NO. 1830

AMENDING RESOLUTION NO. 1230 AND RESOLUTION NO. 1327
ESTABLISHING PROCEDURES FOR RELEASE OF PUBLIC RECORDS AND ESTABLISHING FEES FOR THE COST OF REPRODUCING PUBLIC RECORDS

WHEREAS, the Yavapai County Board of supervisors recognizes the right of the public to have unobstructed access to Yavapai County public records; and

WHEREAS, Yavapai County is required to comply with the provisions of Title 39, Chapter 1, Article 2 of the Arizona Revised Statutes, which relate to the public’s right to inspect public records and obtain copies of them; and

WHEREAS, Title 39, Chapter 1, Article 2 of the Arizona Revised Statutes also provides the County with the authority to charge a fee or fees for supplying copies of public records.

NOW, THEREFORE, BE IT RESOLVED that the following procedures for the release of public records and corresponding fees are established, and all County employees responsible for maintaining official records are required to comply with this policy and with Arizona law to protect the public’s right to information:

I. Definitions

A. Commercial Purpose: The use of a public record for the purpose of:
   1. Sale or resale or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale, or:
   2. Obtaining of names and addresses from such public records for the purpose of solicitation; or
   3. Monetary gain from the direct or indirect use of the public record.

   Commercial purpose does not include the use of public records as evidence or research in a judicial or quasi-judicial action in Arizona, or the publication of all or a portion of a public record in a newspaper for its news value.

B. Officer: Any person elected or appointed to hold any elective or appointive County office and any chief administrative officer, head, director, superintendent, or chairman of any County office.

C. Person: Includes corporations, associations, societies, organizations and individuals.

D. Public Record: A record made by a public officer in pursuance of a duty, the immediate purpose of which is to disseminate information to the public, or to serve as a memorial of official transactions for public reference.

II. Procedure

A. Yavapai County records management retention policies adhere to Arizona State Library and Archives policies and guidelines.

B. Public records in Yavapai County offices are generally presumed to be open for public inspection at all times during office hours. Release of certain types of information may not be required or permitted if that information is determined to fall under exceptions to public
records statutes. Such determinations may involve complex legal issues. Questions involving access to or disclosure of public records shall be addressed as follows:

1. For routine public records issues, each department will act as its own custodian of their records and shall develop public records guidelines which shall be reviewed and approved by the County Attorney’s Office and County Records Management prior to distribution to employees. The Guidelines shall be updated as necessary.

2. If the answer to a public records question is not clearly provided by the department’s public records guidelines, the question shall be referred to the Officer in charge of records for the department or the County Attorney’s Office.

C. Any person may request to examine or be furnished copies of a public record during regular office hours or may request that the custodian mail a copy of a public record not otherwise available on the public body’s website to the requesting person. The requestor may be required to pay in advance for the appropriate costs of the copies.

1. The custodian of the records being requested SHALL REQUIRE that the request be in writing. Anyone requesting records for commercial purposes SHALL BE REQUIRED to complete and sign a disclosure statement.
   
   i. The request shall be specific in and to the office the request is being made, the documents that are being requested and if the documents are being requested to fulfill research in a judicial or quasi-judicial action, the specific information that identifies the action.
   
   ii. The request for information will be fulfilled within the time frame established by statute and the department guidelines.

2. In response to the public records request, the County will provide data that is maintained in the format in which it is kept, unless the data is available in a format other than that in which it is kept and providing that data in the alternate format would be the most efficient and cost effective manner of providing the data. The County is NOT REQUIRED to create a record to meet a public record request nor is it required to obtain new data, perform research, or create new report formats.

3. All requests for electronic access to the County MIS databases, other than that routinely provided to the general public through the County’s website or otherwise, must be approved in writing in advance by the MIS Director, with concurrence from the appropriate department Officer AND either the County Administrator or the Board of Supervisors.

III. Cost Recovery

A. With regard to non-commercial public records requests, the County may, unless otherwise provided by statute, recover the cost of reproduction, which includes:

1. The cost of materials (paper, diskettes, CDs, etc.)
2. The cost of the machinery to do the reproduction, and/or
3. The cost of labor to make copies.

At the discretion of the elected official or department head, these costs may be waived where the public record is to be used for the provision of public information via the news media.

B. With regard to commercial public records requests, the County shall recover the following costs:
1. A portion of the cost for obtaining the original or copies of the document.
2. A reasonable fee for the cost of time, equipment and personnel necessary for the reproduction.
3. The value of the reproduction on the commercial market as determined by the department responding to the request.

C. No County employee can demand or receive a fee or compensation for issuing certified copies of public records or for making a search for them, when they are to be used in connection with a claim for pension, allotment, allowance, compensation, insurance or other benefits which is to be presented to the United States or a bureau or department thereof.

D. Unless specific statutory authority or other authority for a specific fee exists, the general fee for copies of public records for non-commercial purposes shall be 25 cents per page, which is assumed to include the cost of paper, machinery costs and labor. The general fee for copies of public records for non-commercial purposes provided on either a diskette or CD shall be the current cost of such materials as determined by the MIS Director, plus any applicable labor costs. The fee for maps shall be determined by the department head providing the maps based on reproduction costs, including any applicable labor costs.

E. Fee determination for copies of public records for commercial purposes shall be determined by the department responding to the request in accordance with paragraph B of this section, with input from the Finance Director.

IV. Forms

The attached forms are suggested; however any written request that substantially addresses the form requirements is acceptable:

Verified Statement of Non-Commercial Purpose
Verified Statement of Commercial Purpose
Statement of Fees

V. Departmental Responsibility

Unless other provisions or authorizations exist in statute or other administrative rules or orders, all departments shall adhere to the provisions and general fees set forth in this Resolution. Each department shall post in a location visible to the public a statement of the department’s fees, as listed on the Statement of Fees form provided as part of this resolution. Each department shall file a copy of its Statement of Fees, and any amendments thereto, with the Clerk of the Board of Supervisors. Each department shall maintain a file containing executed Verified Statements of Commercial Purpose, and at the discretion of the department head, Verified Statements of Non-Commercial Purpose. Such statements shall be retained in accordance with either the standard records retention regulations promulgated by the Arizona Department of Library, Archives and Public Records, or in accordance with the department’s customized retention schedule as approved by DLAPR.

APPROVED AND ADOPTED this 3rd day of June, 2013.

/s/ A.G. “Chip” Davis
Chairman, Board of Supervisors

ATTEST:

/s/ Ana Wayman-Trujillo
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

/s/ Jack Fields
Board Attorney