

MAINE MUNICIPAL ASSOCIATION READIES ANOTHER ATTACK ON THE FREEDOM OF ACCESS ACT (FOAA)

February 4, 2013

By Editor:

Will Falmouth's **Rep. Mary Nelson**, be the water bearer for the Maine Municipal Association (MMA) again for this next legislative fiasco to limit one person in the State, from asking any questions about how Falmouth mismanages some part of our \$40,000,000 budget?

On the 21st our reporter listened to **Judy Myer, Chairlady**, for the Right to Know Advisory Committee (RTK), (they advise the Legislature's Judiciary Committee on changes that should be made to the FOAA) testify that there is a proposal to her Committee made by the MMA to allow the court to stop any and all requests that may be deemed a NUISANCE. This is the new version of the Anti-Mike Doyle proposed law that **Rep. Mary Nelson** submitted last session that started out as a two foot wide, 30 foot oak tree, and wound up as a 2X4 when it's far smaller version passed instead of the monumental over reach that **Nathan Poore** and **Nelson** put together with the help of the MMA.

The purpose that the FOAA law, enacted by the Maine Legislature, was designed to make government open to public OVERSIGHT. Certain privacy rights such as health records, tax returns, and the like, are exempt, as well they should be. Instead of being charged access to government records that residents of a town pay for with property taxes, having to guess what a government manager has labeled a document, being cheated out of the first free hour to answer the request repeatedly, then being charged for fully redacted answers, we suggest this new addition to the current law:

**ALL GOVERNMENT UNITS MUST POST ALL DOCUMENTS TO THEIR SITE
WITHIN 48 HOURS OF THEIR AUTHORSHIP OR RECEIPT.**

This would completely eliminate the need for the \$15/hr. search fee, the padding of time and overcharges for answers, and having to request the help provided by Brenda Kielty, A.A.G. to even get an answer from some government units. Then Brenda's time could be put to better use fighting the government units that REALLY need to be forced to give up their embarrassing information.

The proposal on the table that day was for a NEW portal for FOAA requests to the State at a cost of what sounded like \$38,000, for it seems 257 hours of code writing at \$148/hr. This will go to a private company, Maine.gov, on a NO BID contract, to a company that hasn't been put through the bid process on its current contract since 2006. What could go wrong here? FTM obtained a

competitive bid of \$17,995 in a few minutes from a very experienced company. Multiply this one overpayment, on one no bid contract, thousands of times, and this is why the taxpayers in Maine are being screwed at every turn.

At one point **Judy Myer** opined that she may be a nuisance FOAA requester, as she said she makes a FOAA request everyday to some government unit. We can see an exemption of the nuisance law coming that exempts important people like **Judy** and her ilk. You can see a sample of **Judy Meyer's** brain power below in a piece she wrote about the previous anti-Mike Doyle version of the FOAA law changes. In this article in which, less than a year ago her claim that Doyle misused the email list, was documented as false for the following reasons: First Doyle told **Nathan Poore** if the town would send his messages to the list or give him access to the master address containing all the email addresses he would waive access to the individual addresses. **Poore** denied this solution to the request and lied when he told Doyle there was no master address containing all of the addresses. Second, this lie was proven when Doyle had all 2,800+/- of the addresses provided by Poore entered into his computer. One of the addresses provided by **Poore** was the **MASTER ADDRESS**. When we pointed out this error to Judy Myer, she actually responded that Sunday morning that accuracy about Doyle's use of the email list wasn't the main focus of the article. Apparently the managing editor of the Sun Journal can't manage an explanation of the FOAA law and be accurate simultaneously. It makes many people wonder what else the brain trust at the Sun Journal can't do while opining about the misuse of anything?

If this change to the FOAA is passed that allows courts to ban any requester, it will be the harbinger of the end of any meaningful open government. Why would **Rep. Mary Nelson** and the rest of the Democrats want the public looking at the theft from Turnpike users by its former Democratic Executive Director, who was recently a guest at the Maine State Prison system? Why would the Democrats want the public to know that Democrat Dale McCormick, former Executive Director of the Maine State Housing Authority, was funding one-bedroom apartments at over \$350,000 each when the private developers were doing better units for \$159,000? Why indeed? In our experience local (Falmouth) and state government units are annoyed when we embarrass them by pointing out their total incompetence and malfeasance in handling someone else's money, the taxpayers. To quote **Judy (the brain trust) Meyer**, "**ENOUGH REQUESTS THAT MR. DOYLE HAS UNCOVERED SIGNIFICANT OVERSPENDING THAT HAD PREVIOUSLY ESCAPED OFFICIAL NOTICE...**"

We can see how that would lead incompetent government leaders to want to crush the FOAA law and prevent their stupidity from becoming public.

Maine proposal to solve 'Doyle Problem' seen as overreach

Posted by admin on 20 February 2013, 10:43 pm



Judith Meyer, managing editor of the Sun Journal, Lewiston, Maine

There is a man living in Falmouth, Maine, who is perceived as a singular nuisance to public officials.

Michael Doyle, who has lived in this toney coastal community for more than 30 years, submits a lot of public records requests under Maine's Freedom of Access Act. Enough requests that Mr. Doyle has uncovered significant overspending that had previously escaped official notice, and so many that the town has instituted special rules when responding to his requests.

Last year, Mr. Doyle submitted a request to the town for access to all email addresses contained in a database used by town officials to send transitory communications — newsletters and the like — to townspeople. He got the list. He also misused the town's website, which was considered an outrageous overreach of a citizen's access to municipal information, and further irritates public officials by regularly posting original and fictionalized tales of municipal wrongdoing on his personal blog.

The "problem" of Mr. Doyle was brought to the attention of the Maine Municipal Association which, in turn, brought the issue to Maine's Right to Know Advisory Committee, which advises the Legislature on public access and which has oversight authority to recommend legislation.

That committee discussed the town's concern that Doyle was able to obtain its email database because FOAA does not expressly protect that information, and it considered a request from MMA (a request supported in concept by the Maine School Management Association) to draft legislation to repair this oversight. After months of discussion, the RTK Advisory Committee opted — instead — to ask the state's newly appointed ombudsman to research whether access to email databases was a widespread problem across the state or whether it was specific to the town of Falmouth. The committee felt, overwhelmingly so, that if the database problem was specific to one town that drafting legislation that would impact the entire state was an overcorrection.

The ombudsman agreed to do this research and report back to the RTK Advisory Committee in 2013, and the matter appeared settled. That is, until Rep. Mary Nelson, D-Falmouth, submitted legislation early this year — LD 104 — asking Maine's Judiciary Committee to create a new exemption for all email

addresses "obtained by a political subdivision of the state for the sole purpose of disseminating noninteractive notifications, updates, cancellations, newsletters" etc.

It is legislation drafted to stop Doyle, a move that is being widely opposed by members of the RTK Advisory Committee, Maine Press Association, private attorneys and Mr. Doyle, among many others.

Mr. Doyle argues that the bill would give government a greater voice than citizens in reaching residents on issues of public importance because towns would have access to master email lists maintained by public officials and citizens would not. But, the wider objection among Maine's FOAA advocates is that Maine's Legislature does not differentiate between street addresses and email addresses in matters of access, and despite years of discussions, the RTK Advisory Committee has not yet been convinced to shield addresses of people who have regular contact with public officials and vice versa.

The concern that is always raised is that shielding addresses of those in contact with public officials can also shield identities and we can lose the ability to track who has contact with public officials and why, influential and not. Creating that shield of influence would dangerously ding the transparency that Maine officials and citizens all say we want (until or unless we find transparency a nuisance, that is).

What we have here is a cry to deal with a nuisance without proof that, beyond Falmouth, there is a widespread and legitimate problem.

LD 104 gets worse.

The bill contains language that would permit government entities to charge "actual cost" of retrieval and compilation of public records requests, a cost that could be a great deal over Maine's current \$15 per hour allowance. For instance, a town that compiles a FOAA request may now charge \$60 for five hours of work (the first hour is free in Maine). Under the proposed change, that charge could be more than \$275 (in some towns) if the fee was figured on the actual cost of the responder's salary.

At some point, the cost of access to records becomes a barrier to access if the requestor cannot afford the fee. In Maine that's particularly true for many people who live at or below the poverty level, and it's inherently unfair to knowingly block access to the poor while granting access to the wealthy.

Last year, the RTK Advisory Committee felt so strongly about this that it added language allowing Judiciary to consider cost as a barrier to access when the committee considers existing and proposed exemptions to FOAA. LD 104 attempts to circumnavigate that protection barely a year after it was added to statute, which is not in the public's best interest.

Filed under Maine, Public Records Tagged Falmouth, Freedom of Access Act, Maine, Maine Municipal Association, Maine School Management Association, Maine's Right to Know Advisory Committee, Michael Doyle | [Permalink](#)
