

CITY AND BOROUGH OF SITKA

A COAST GUARD CITY

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MEMORANDUM

To: Mayor Eisenbeisz and Assembly Members

From: Rachel Jones, Municipal Attorney

Date: August 19, 2026

Subject: Second-Level Appeal of Austin W. Cranford
Public Records Request dated June 23, 2026
Assembly Hearing August 25, 2026

Dear Mr. Mayor and Assembly Members,

I. INTRODUCTION AND SUMMARY

This memorandum responds to the appeal filed by Austin W. Cranford concerning the Municipal Clerk's July 6, 2026, response to his public records request dated 06/23/2026. Mr. Cranford asks the Assembly to (1) find that the City's answer to Item 6 of that request was a refusal to search rather than a confirmation that no record exists; (2) order the City to search for and produce records responsive to Item 6 and to a supplemental request he sent by email on July 9, 2026; and (3) order the certification and "narrowing tip" features of the City's digital records portal suspended. The Assembly has jurisdiction over appeals from public records determinations under Sitka General Code § 1.20.080 and § 1.21.040(E).

For the reasons set out below, the Municipality respectfully requests that the Assembly uphold the Clerk's July 6, 2026, response and deny the appeal in its entirety.

1. Item 6 did not ask for a document. It asked for "the legal framework that justifies" a City practice. A legal framework is a conclusion, an argument assembled from authorities and applied to facts, not a specific document sitting in the Clerk's custody. The Alaska Public Records Act gives the public the right to access records that exist. It does not require a municipality to research a question, construct an explanation, or reduce its reasoning to writing on demand.
2. Items 1 through 5 of the same request *did* describe records, and every one of them was answered. Mr. Cranford asked for local ordinances, state statutes, legal opinions, administrative directives, and policy memorandums. He was directed to the Sitka General Code and the Alaska Statutes, and he was told that no legal opinion, administrative directive, or policy memorandum exists. Those are complete and responsive answers under the Act. Item 6 rather than asking for a specific record, asked for the information that Mr. Cranford was hoping to find within the documents he asked for; "the legal framework" is content, not a document type, and is outside the scope of a public records request.

3. The July 9, 2026, email is not properly before the Assembly. It seeks a different category of records, communications, tickets, or instructions concerning the configuration of the NextRequest portal, than the June 23 request. Neither the Act nor Chapter 1.20 provides a mechanism for supplementing, amending, or adding subject matter to a request that has already been answered and closed. A requester may not place a new subject matter before the Assembly that the Clerk has never searched for and never responded to. If Mr. Cranford wants records concerning how or when the portal language was changed, the remedy is available to him today: submit a new public records request identifying the documents he seeks. The Clerk will process it in the ordinary course, and any denial will carry the appeal rights described in SGC § 1.21.040(E).
4. The third form of relief requested, an order suspending features of the City's records portal, is not relief that a records appeal can grant. Whether those features should remain on the portal is a question of administrative and legislative policy. The Assembly is free to take that question up through its own processes; it is not properly before the Assembly on an appeal from a determination on a request for records. The Municipality takes no position on the policy question in this proceeding, as it is not properly before the Assembly.

The Municipality therefore respectfully requests that the Assembly uphold the Clerk's response and deny the appeal in its entirety.

II. BACKGROUND

On June 23, 2026, Mr. Cranford submitted a public records request on the City's Public Records Request Form. It was received and logged by the Municipal Clerk's Office on June 24, 2026. The request read:

I am requesting any and all local ordinances, state statutes, legal opinions, administrative directives, or policy memorandums that authorize the City of Sitka to mandate a 'Certificate of Non-Litigation Affiliation' and implement algorithmic 'narrowing tips' for digital public records requests. Note: As the City's official paper Public Records Request Form contains no such litigation certifications or narrowing mandate, I am requesting the legal framework that justifies applying these restrictive hurdles exclusively to digital portal users.

On July 6, 2026, the Municipal Clerk's Office responded in writing, addressing the request in the six numbered parts the Clerk understood it to contain:

- (1) Local ordinances for which the Clerk directed Mr. Cranford to Sitka General Code, with a link to the published code;
- (2) State statutes, which the Municipal Clerk is not the records custodian for, but to which the Clerk's office provided a link regardless;
- (3) Legal opinions, which the Municipal Clerk found did not exist;
- (4) Administrative directives, which did not exist;
- (5) Policy memorandums, which also did not exist; and
- (6) "Legal framework" which was presented in a "note" explaining the content of what Mr. Cranford was looking for in items 1 – 5, which the Clerk identified as a request for analysis and the creation of a new document, and not a request for a pre-existing public record.

The letter closed with the appeal-rights notice that appears on the Clerk's response letters and on the face of the City's paper request form.

Mr. Cranford replied the same day, contesting the sufficiency of that response and asking that his email be treated as an appeal. On July 6, 2026, the Municipal Administrator responded at length, explaining the scope of the Act, noting that SGC § 1.20.060 in the online version of the Sitka General Code to which the Clerk had directed him, and confirming that no legal opinion, administrative directive, or policy memorandum exists. The Administrator asked, on July 6 and again on July 7, that Mr. Cranford identify what public record he had requested that was denied, and stated that the City remained willing to forward an appeal to the Assembly.

On July 9, 2026, Mr. Cranford sent an email requesting "any communication, ticket, or instruction directing or authorizing" an edit to the certification language on the City's NextRequest portal, together with comparable records from when the portal was originally configured.

On July 10, 2026, in response to the Clerk's request that he identify the specific portion of the response he was appealing under SGC § 1.21.040(E), Mr. Cranford identified Items 4, 5, and 6. His appeal brief, filed for the August 25, 2026, hearing, identifies Item 6.

On July 16, 2026, the Municipal Clerk scheduled the appeal for the Assembly's August 25, 2026, regular meeting.

III. THE SCOPE OF THE MUNICIPALITY'S OBLIGATION UNDER APRA

APRA creates a presumption of public access to "public records" held by a public agency.⁽¹⁾ The presumption attaches to a record that *exists*. The statute reaches records "developed or received" by the entity and "preserved for their informational value or as evidence of the organization or operation of the public agency."⁽²⁾ The Municipality's obligation is to make a good faith effort to locate and produce requested records that fall within the scope of the request and are not subject to a statutory exemption.⁽³⁾ Two limits on that obligation are dispositive here. First, an agency has no duty to generate a document that does not already exist. The Alaska Supreme Court has said so directly. In *Carter v. Alaska Public Employees Ass'n*, the Court conceded that the University of Alaska was under no duty to create a list answering the requestor's question in response to a public records request.⁽⁴⁾ Federal FOIA doctrine, from which the Alaska Supreme Court draws where appropriate, is to the same effect: the statute reaches records the agency has in fact created or obtained, and imposes no obligation to compile or procure information that does not exist in the form requested.⁽⁵⁾ Second, the disclosure obligation does not require the agency to perform analysis of the records in response to a requester's subject-matter related goals. Although not binding on

¹ AS 40.25.110(a).

² AS 40.25.220(3).

³ *Griswold v. Homer City Council*, 310 P.3d 938 (Alaska 2013).

⁴ *Carter v. Alaska Pub. Emps. Ass'n*, 663 P.2d 916 (Alaska 1983) (noting counsel's concession that the University "is under no duty to create a new record" in response to a public records request).

⁵ *Kissinger v. Reporters Comm. for Freedom of the Press*, 445 U.S. 136, 152 (1980) (FOIA "imposes no obligation to compile or procure a record in response to a request"); *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 161–62 (1975); *Zemansky v. EPA*, 767 F.2d 569, 573–74 (9th Cir. 1985).

the municipality, the Alaska Administrative Code's explanation for state agencies is instructive. Specifically, 2 AAC 96.210, which provides that agencies are "not required to create records, conduct research, or analyze records in response to a public records request."⁶ Although that regulation is not directly controlling on the Municipality, it states the same rule that AS 40.25.220(3) states by its terms, and it is the reading the Alaska Department of Law applies to the statute. Chapter 1.20 of the Sitka General Code, which governs the Municipality's records obligations and procedures, is consistent with it.

IV. ARGUMENT

A. Item 6 did not identify a record. A request for a "legal framework" is a request for analysis, which APRA does not reach.

A properly framed records request identifies something the Clerk can go look for. It names a document, or describes one with enough particularity (for example, by providing a custodian, a date range, a subject, a type of document) that the Clerk can search a file, a drive, or a mailbox and say whether the document is there. Items 1 through 5 of Mr. Cranford's request did that. Each named a recognized category of municipal record: an ordinance, a statute, a legal opinion, an administrative directive, a policy memorandum. Each was answered.

Item 6 did not identify a record. It asked for "the legal framework that justifies" applying the portal's certification and narrowing features to digital requesters. A "legal framework" is not a genre of document kept in a filing cabinet. It is the product of legal work: identifying the authorities that bear on a practice, reading them, and explaining how they apply. Asking the City to supply one is asking the City to perform that work and reduce the result to writing. That is analysis and the creation of a new record, and it falls outside what the Act obligates the Municipality to do.

B. The response to Item 6 was an answer, not a refusal to search, because Item 6 did not request a document and Items 3 through 5 disposed of every category of record that could have contained the reasoning he describes.

Mr. Cranford's central argument is that a confirmation of non-existence and a refusal to search are different things, and that Item 6 got the latter. Mr. Cranford is correct that non-existence is a response, and that Item 6 did not receive a non-existence response. But he is mistaken that it was a refusal to search for a document. Item 6 does not request a document, it requests an analysis of content that is outside the scope of a public records request.

If the reasoning behind the portal's configuration had ever been written down, it would exist as a legal opinion, an administrative directive, or a policy memorandum. Those are Items 3, 4, and 5. The Clerk searched for and confirmed the non-existence of all three. Item 6 asked for the same reasoning to be provided, without naming a document that could hold it. There was no additional search to run, because Item 6 supplied no additional search terms, no additional custodian, and no additional category of record. Item 6 is merely an explanation of the research question Mr. Cranford is hoping to answer with the available records, it does not itself request a record. The Clerk did not decline to look; Mr. Cranford failed to identify any further documents to be searched for.

The Clerk is not responsible for answering Mr. Cranford's research question about why the portal was configured the way it was, the Clerk is only obligated to search for and retrieve the documents requested,

⁶ 2 AAC 96.210.

with no obligation to conduct analysis of the contents therein to determine if they answer the research question the requestor has in mind.

C. Mr. Cranford has identified the “refused portion” inconsistently, and the portions he identified on July 10 were answered by confirmation of non-existence.

When the Clerk asked Mr. Cranford on July 10, 2026, to identify the specific portion of the response he was appealing under SGC § 1.21.040(E), he identified Items 4, 5, and 6. His appeal brief identifies Item 6 alone. To the extent Items 4 and 5 remain in the appeal, they were answered “None exist” which is, by the appellant’s own definition, a confirmation of non-existence rather than a refusal, and therefore not the kind of determination he says is appealable. The Municipality addresses Item 6 because that is the item his brief presents.

D. The July 9, 2026, email is an improper attempt to make a new records request through the appeal process.

On July 9, 2026, Mr. Cranford asked by email for “any communication, ticket, or instruction” directing or authorizing a change to the certification language on the NextRequest portal. The Municipality notes that this so called “supplemental” request does actually ask for documents which is what Mr. Cranford’s “Item 6” failed to do.

An appeal is not the correct forum to ask for documents that were not previously requested. The Act and Chapter 1.20 provide for a discrete sequence: a request is submitted, the Municipality responds, and an adverse determination may be appealed. There is no provision for supplementing, amending, or attaching new subject matter to a request that has already been answered and closed, and no provision for a back-and-forth in which the scope of a request expands as the appeal proceeds. The request dated 06/23/2026 sought authorities for a practice. The July 9 email seeks internal communications about a software configuration change. Those are not the same records, and the second was never presented to the Clerk as a public records request, and is not properly before the Assembly on Appeal.

The consequence is jurisdictional. Under SGC § 1.20.080 and § 1.21.040(E), the Assembly reviews a determination. As to the records described in the July 9 email, there is no determination to review. The Clerk has made no determination, because no request for them has been properly filed. The Assembly cannot order the production of records on a request that has never been processed, and it should not be asked to make the first-instance determination that the Code assigns to the Clerk.

The remedy is straightforward and entirely within Mr. Cranford’s control. He may submit a new public records request listing the documents he wants with whatever date range and custodians he cares to specify. The Clerk will process it in the ordinary course. If records are located, they will be produced subject to any applicable exemption. If none are located, he will be told so. And if he is dissatisfied with that determination, it will carry the appeal rights he has invoked here. The Municipality has said as much to him twice already, in the Administrator’s July 6 and July 7 correspondence.

E. A record generated after the response cannot make the response incomplete.

Mr. Cranford argues that because the portal’s certification language was edited to add a paragraph citing SGC § 1.20.060 and AS 40.25.122, a record of that edit must exist, and its absence from the production shows the search was inadequate. On his own account, that edit occurred “within roughly 24 hours of Mr. Leach’s July 6 email.” “Within 24 hours” is necessarily *after* the moment the Clerk’s response issued. His own exhibits are screen captures dated June 15, 2026, and July 7, 2026. A response to a request is measured against the records in existence when the request was made, for the time frame specified in the request. A

document created afterward does not render an earlier answer wrong, and it does not convert a completed response into a refusal.

If Mr. Cranford wants records concerning that edit, they are the subject of the July 9 email addressed above, and the path to obtaining them is the one described above.

F. Suspension of the portal's certification and narrowing features is not relief available on a records appeal.

The third form of relief Mr. Cranford requests asks the Assembly to suspend two features of the City's digital records portal until the City identifies authority applying equally to paper and digital requesters. That is a request to change municipal administrative practice. It is not a request to release a record.

The Assembly's appellate authority under SGC § 1.20.080 and § 1.21.040(E) is the authority to review a determination on a request for records. The Assembly has the authority to decide whether a record was properly withheld and, if it was not, to order it released. It is not general supervisory authority over the design of the Clerk's intake systems, exercised through an individual requester's appeal.

That does not leave Mr. Cranford without a forum. As the Administrator told him on July 7, the portal's configuration is a policy matter properly raised with the Assembly directly. This can be done by public comment, by contact with individual members, or through the ordinance process. The Municipality takes no position in this proceeding on whether the portal's terms should be revised because that question is not properly before the Assembly on an appeal from a records determination.

V. CONCLUSION AND REQUESTED RELIEF

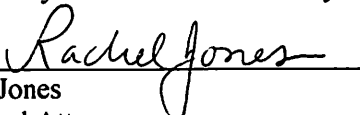
Item 6 of Mr. Cranford's June 23, 2026, request did not ask for a record. It asked the Municipal Clerk to assemble and articulate the legal justification for a City practice. The Public Records Act does not require the Municipality to perform that work, and the Clerk was correct to say so plainly rather than to run a search for unknown document types that the request never described. Every item of the request that did describe a record was answered, two by production of the publicly available source, and three by written confirmation that no such record exists.

The additional records Mr. Cranford now says he wants, are properly requestable, and the Municipality has twice invited him to request them. They cannot, however, be added to a closed request and, as an appellate body, the Assembly does not have jurisdiction to order their production without the Clerk ever having processed, searched, or ruled on a request for them.

The suspension of portal features Mr. Cranford asks for is relief that cannot be granted in any records appeal, as it goes to the content of a policy decision and not to the question of whether Mr. Cranford got all of the documents that he actually requested.

For the reasons stated above, the Assembly should uphold the Municipal Clerk's July 6, 2026, response and deny the appeal in its entirety.

Respectfully submitted this 19th day of August, 2026.


Rachel Jones
Municipal Attorney
City and Borough of Sitka