TOWNSHIP OFFICIALS OF ILLINOIS

LIGHTS, CAMERA, AUDITORS: GUIDANCE FOR TOWNSHIPS ON FIRST AMENDMENT AUDITS

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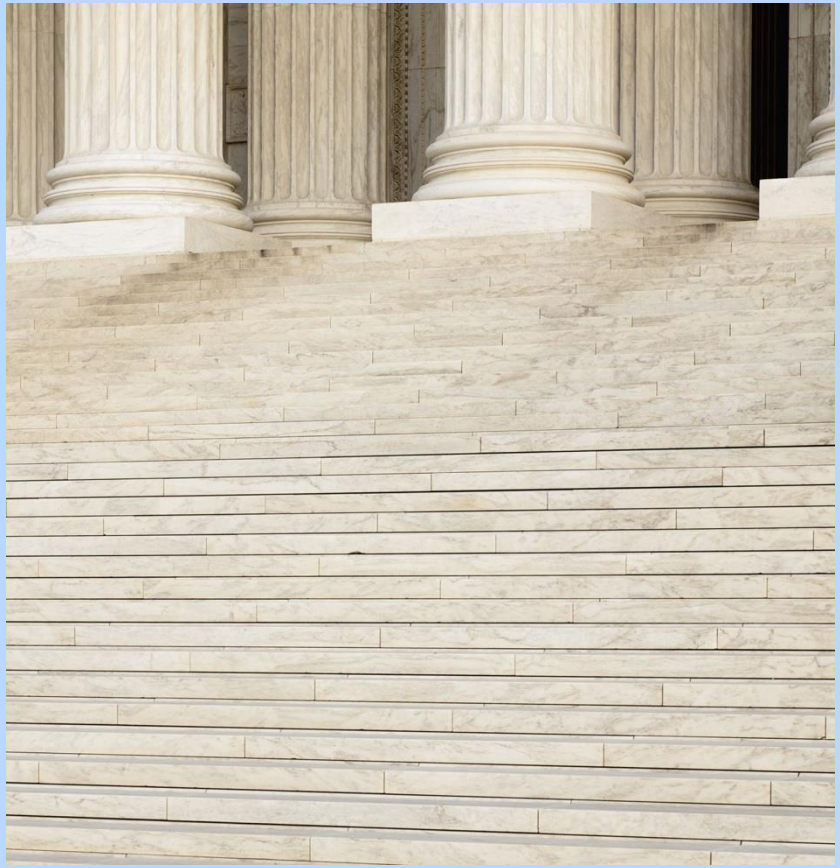


WHO?

Self-identified activists or citizen journalists (aka “auditors”) claim they are simply exercising their constitutional rights.

WHAT?

The auditor targets a government facility or government employee to “test” the government’s response to see if the government will violate the individual’s First Amendment rights.





WHAT?

Auditors record their encounters with government employees (usually on a cell phone) and later broadcast the video to the public on social media sites (YouTube has numerous examples).

WHERE?

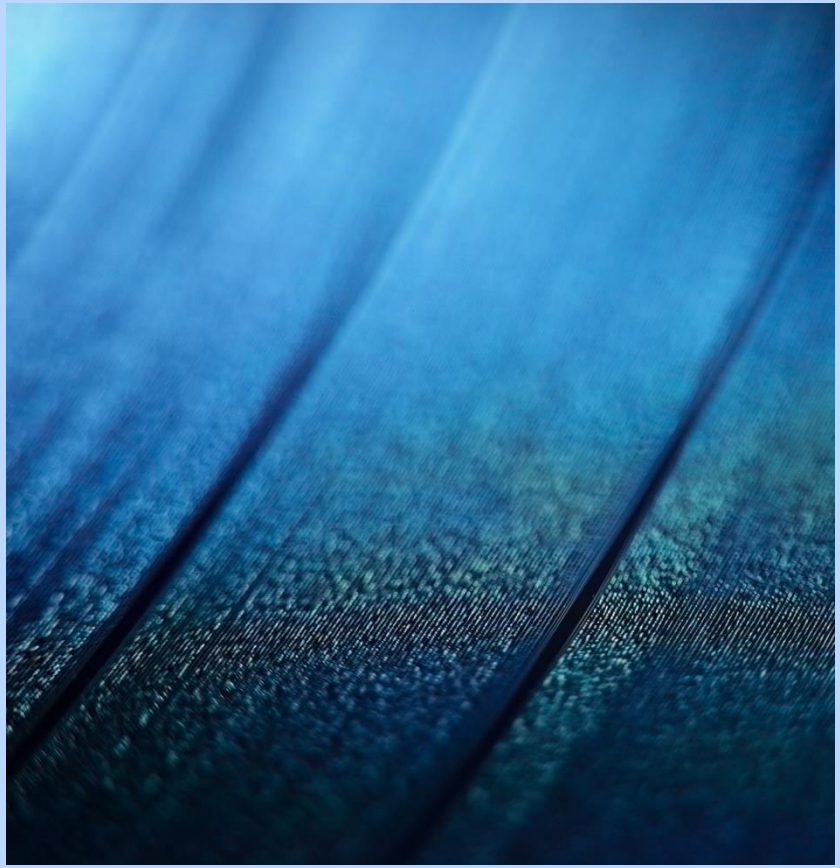
Audits typically take place in public buildings or facilities, although some auditors will search out government employees who work off-site (i.e., public works, firefighters, police) and record their activities.



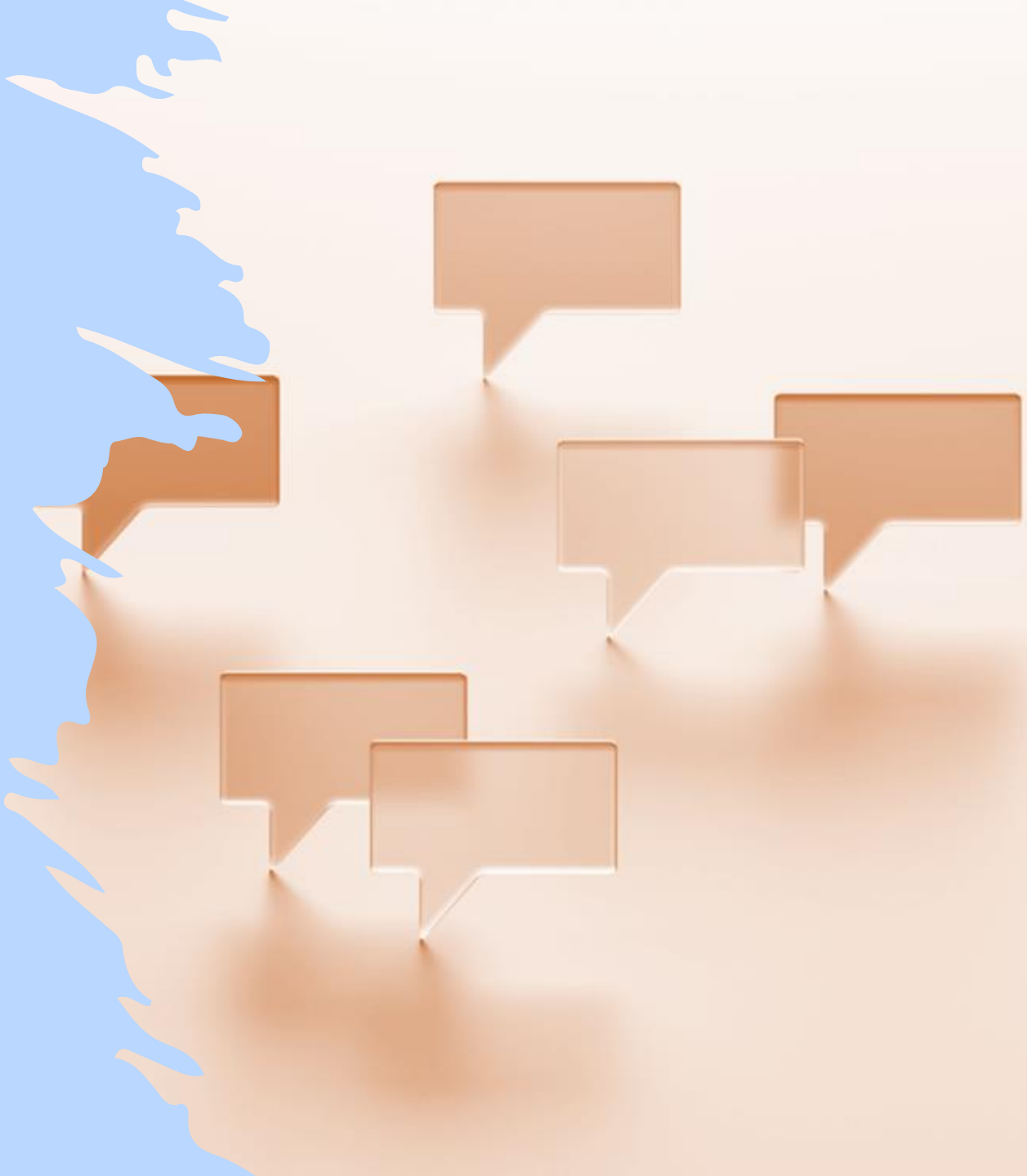
WHY?

Auditors claim the First Amendment movement and their activism promotes transparency and open government.

The financial payoff an auditor may receive if the video goes “viral” can certainly factor into an auditor’s motivations.



Social Media Platforms & First Amendment Audits



first amendment audit

Filters



Holding A Sign Is Illegal Now! Nerd Gets Owned! Walk Of Shame! First Amendment Audit! Newton PD, IA

69K views • 9 days ago

Flex Your Freedoms

Subscribe To Chasing Liberty: https://www.youtube.com/@UCUMkLaerUjsrNI8yMgndkjA ...

Shorts



CRAZY HILLBILLY GETS *PEPPER SPRAYED* OVER...

1.3M views



#shorts COCKY cop eats CONCRETE CROW!! First...

7.5M views



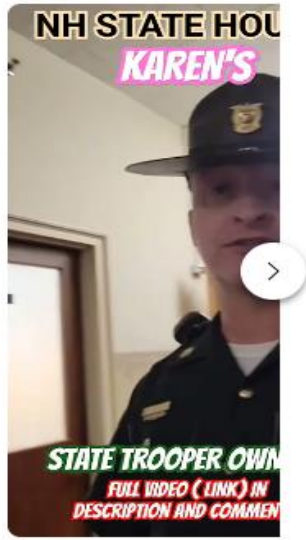
ID Refusal 1st Amendment Audit Walk Of Shame...

137K views



First Amendment Audit Fail with Walk Of Shame (Part 1)

1.1M views



*PANIC ALARM ACTIVATE NH STATE POLICE OWNED

37K views

Videos



First Amendment Audit Exclusive - 0071 00_00_00-00_08_55 ...

Facebook · Uteseksjonen i Oslo
Apr 26, 2022



DARREN GETS BEAT UP AND KAREN'S FREAK OUT! 1ST ...

Facebook · D'or Baisa
May 11, 2022



Complete Meltdown Over Cameras (first amendment audit ...

Facebook · 98 Car Spare Parts
Aug 23, 2022



AUDITING AMERICA - 1st amendment audit PASS (CITY OF ...

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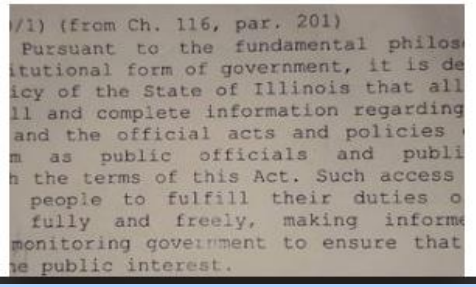
Audit Them
I conduct first Amendment audit I like to request freedom of information as well as other inspections I like to analyze water departments

POSTS TAGGED













Legal Background

"Congress shall make no law…abridging the freedom of speech…"

First Amendment, U.S. Constitution



Remember:

The goal of a First Amendment audit is to measure the employee's reaction and to "score" or "grade" the encounter

HOW AUDITS STARTED

Some courts trace the origins of First Amendment auditing to the 1991 recording by George Holliday of L.A. police officers' encounter with Rodney King.

OTHER PUBLIC EMPLOYEES

Today, First Amendment audits go beyond recording police encounters and involve recording other government employees on public property while employees are working.

OTHER PUBLIC EMPLOYEES

- A Colorado Springs, Colo auditor was detained when he refused to provide identification after police found him filming marked police cars in the police station lot. He sued for wrongful detainment and the City settled for $41,000
- Court strikes down Idaho statute making it a crime to record a facility's operations without consent after animal rights advocates challenge the statute under the First Amendment.
- Members of the public recording voters dropping off ballots in front of county building were considered "First Amendment auditors."

FIRST AMENDMENT AUDITS ARE LEGAL

- It is not illegal for members of the public to record government employees' activities and encounters in public spaces during the employees' work days.

- If the recording is made in a public place (i.e., lobby of City Hall or other public building) while the employee is working, courts have determined that the government employee typically has no expectation of privacy.



What NOT to do…

It’s just as important to know what NOT to do as it is to know how to respond to audits

Don’t

Tell the auditor to stop recording or attempt to take their phone

Don’t

Order the auditor to leave the building for simply recording in open, public areas

Don’t

Demand identification or require the auditor to disclose his or her name

Don’t

Call the police and request the auditor be arrested *solely* because the auditor is recording in open, public areas

Don’t

Invite or let auditors access employee-only or authorized personnel restricted areas

Don’t

Leave sensitive, private, or confidential information out in the open that auditors might be able to view and record (even through a window)

Don’t

- Overreact or “take the bait”
- Threaten or swear at the auditor

Example: Provocation & Overreaction



Denver Metro Audits. (2021, Dec. 1). *Meltdown! Librarian Loses it Over a Camera* [Video]. Youtube. https://www.youtube.com/watch?v=J79uSiBHwIo.



What you CAN (and should) do…

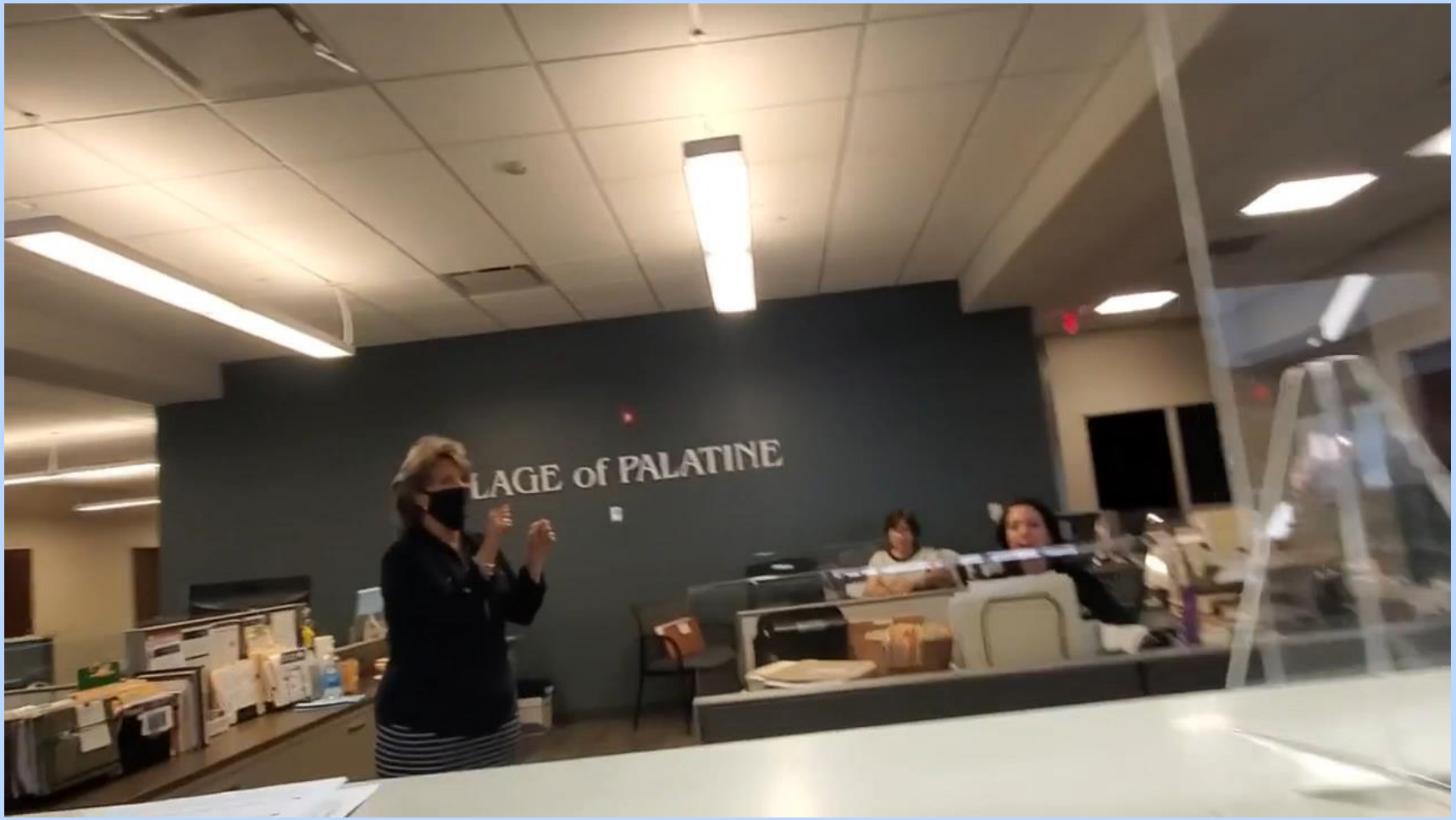
10 tips for a successful audit

- The employee should remain calm in their interaction with an auditor.
- Remember, auditors are trying to provoke a negative reaction that they can post on social media.
- A public employee responding calmly to questions or requests for records will not get much traction on social media.

Tip # 1

Stay calm

Example: Remaining Calm



Audit Them. (2020, Sept. 27). *Palatine Illinois 1st Amendment audit Pass* [Video]. Youtube. https://www.youtube.com/watch?v=A50ek3qfwzs&t=3s.

- Where an auditor does not reach out for assistance, an employee may not need to engage the auditor.
- If the auditor seeks assistance, employees should treat the auditor as they would any other patron or customer since they are not entitled to any more or less than anyone else.
- Once an employee has provided assistance to the auditor, he or she can get back to regular duties.

Tip # 2
Business as Usual

The employee should keep the audit encounter in a public area, and if possible where there are cameras or where other employees can witness the interaction so the government has its own record of the encounter.

Tip # 3
Keep the Encounter Public

Tip # 4

Secure Non-Public Areas

- Government employees do not have to allow auditors in non-public areas.
- Use signage to identify these areas (i.e., “employees only” or “authorized personnel area”) and keep those non-public areas locked or otherwise secure.

Tip # 5

Call a Friend (Supervisor)

- If an employee begins to feel frustrated or overwhelmed by the encounter, he or she should call a supervisor to assist.
- This can give the employee a needed break and provide a “cooling off” period.
- The supervisor may be able to resolve the audit quickly and without incident.

Tip # 6
Have Records Available

Auditors will often ask to inspect government records. It may be helpful to have certain documents available for inspection:

- Codes or Ordinances
- Budget or Appropriation Ordinance
- Meeting Minutes
- Total Compensation Chart Required by the Open Meetings Act

Where records are not readily available, direct the auditor to follow the FOIA process

Tip # 6, cont. FOIA Records

FOIA does not usually require a public body to create records. However, there are a few provisions in FOIA that do require the creation, retention, and, in some cases, the posting of certain records by public bodies. These requirements are listed below:

1. List of documents or categories of records that are immediately disclosable upon request. (Section 3.5)
2. Current list of all types or categories of records under the control of the public body. (Section 5)
3. A description of the manner in which electronic records will be provided to persons who do not have reasonable access to computers or printers. (Section 5)
4. A brief description of the public body. (Section 4)
5. A short summary of the public body's purpose. (Section 4)
6. A block diagram of its functional subdivisions. (Section 4)
7. Total amount of the operating budget. (Section 4)
8. Number and location of the public body's offices. (Section 4)
9. Approximate number of full and part time employees. (Section 4)
10. Membership of all advisory boards, commissions, committees, or councils. (Section 4)
11. Description of the method by which persons can file FOIA requests. (Section 4)
12. Directory of FOIA Officers. (Section 4)
13. Address where FOIA requests can be directed. (Section 4)
14. FOIA fees. (Section 4)

Naperville Park District™
FREEDOM OF INFORMATION ACT (FOIA) GUIDE

FILING A FREEDOM OF INFORMATION ACT (FOIA) REQUEST

FOIA requests must be submitted in writing. Although the use of a particular form is not required, a Request for Public Records Form is available on the Naperville Park District website. The Park District may provide records in an electronic format and must do so if available in such format and requested in that format. Individuals who do not have reasonable access to computers or printers may request a printed copy of the records.

FOIA Process

Upon receipt of the request, a FOIA Officer will note the date the request is received and calculate the appropriate response deadline before processing. All documents related to a request will be kept until it is complied with or denied, and files of all FOIA requests and the responses thereto will be maintained.

Fees are not charged for the first 50 pages of standard black and white copies. After the first 50 pages, the fee for black and white copies is $.15 per page unless the actual reproduction costs (for color or oversized copies, for example) are higher. A fee equal to the actual cost may be charged for such copies.

Naperville Park District FOIA Officers

Marissa Kula, Lead FOIA Officer
(630) 848-3509 | mkula@napervilleparks.org

Jennifer Herrmann
(630) 848-2139 | jherrmann@napervilleparks.org

Sameera Luthman
(630) 848-3570 | sluthman@napervilleparks.org

Ashley Rowden
(630) 995-8916 | arowden@napervilleparks.org

Katie Sepe
(630) 848-3508 | ksepe@napervilleparks.org

Brad Wilson
(630) 848-3532 | bwilson@napervilleparks.org

Methods for Submitting a FOIA Request

- Mail or in-person delivery to a Naperville Park District Office (locations listed below)
- Email to foia@napervilleparks.org
- Fax to 630-689-2573

Categories of Organizational Records

- *Agendas *(2019–present immediately avail.)*
- *Minutes *(2019–present immediately avail.)*
- *Budgets *(2016–present immediately avail.)*
- Ordinances
- Resolutions
- Policies
- Reports
- Agreements
- Contracts
- Invoices
- Bids

**These records are immediately available for inspection for the years specified in digital format; additionally, copying of available records is available upon request at a Park District customer service location during regular business hours. Many of these records are posted and available online at: www.napervilleparks.org.*

NAPERVILLE PARK DISTRICT OFFICES CUSTOMER SERVICE LOCATIONS

- Alfred Rubin Riverwalk Community Center – 305 W. Jackson Ave., Naperville, IL 60540
- Fort Hill Activity Center – 20 Fort Hill Dr., Naperville, IL 60540
- Knoch Knolls Nature Center – 320 Knoch Knolls Rd., Naperville, IL 60565

Office hours of the above facilities are available at www.napervilleparks.org

Additional Naperville Park District Facilities

- Administration Bldg – 320 W. Jackson Ave., Naperville, IL 60540
- North Maint. Facility – 219 Mill St., Naperville, IL 60540
- Central Maint. Facility – 427 Martin Ave., Naperville, IL 60540
- South Maint. Facility – 3415 Book Rd., Naperville, IL 60564
- Naperbrook Golf Course – 22204 Hassert Bvd., Plainfield, IL 60585
- Springbrook Golf Course – 2220 West 83rd St., Naperville, IL 60564

ABOUT THE NAPERVILLE PARK DISTRICT

Created in 1966, the Naperville Park District is an independent municipal agency serving the recreation needs of its residents. The District maintains and operates more than 2,400 acres with 140 parks and facilities and provides over 7,500 recreational classes, teams, events, and performances annually for a population of nearly 150,000. The Park District is an accredited agency through Commission for Accreditation of Park and Recreation Agencies (CAPRA) of the National Recreation and Park Association (NRPA).

The purpose of the Naperville Park District is identified through its Mission, Vision and Core Values:

MISSION: We provide recreation and park experiences that promote healthy lives, healthy minds and a healthy community.

VISION: To be a national leader in parks and recreation providing and promoting high quality experiences and facilities at a great value to our community.

CORE VALUES: Health and Wellness • Community Enrichment • Public Safety Environmental Education, Stewardship & Sustainability • Accessibility Personal Growth and Enrichment

Membership of Park Boards and Committees:

- Park Board of Commissioners: *Leslie Ruffing (president), Rhonda Ansier, (vice president), Aishwarya Balakrishna, Chris Jacks, Rich Janor, John Risvold and Alison Thompson*
- Finance Committee: *President Leslie Ruffing and Commissioner Chris Jacks*
- Legislative Committee: *Commissioners Alison Thompson, Aishwarya Balakrishna and John Risvold*
- Parks and Recreation Committee: *Commissioners Aishwarya Balakrishna and Rich Janor, and Vice President Rhonda Ansier*
- Western DuPage Special Recreation Association. Board: *Brad Wilson, NPD Executive Director*
- Riverwalk Commission: *President Leslie Ruffing and Tiffani Picco, NPD North Parks Operations Manager*

Organizational Chart

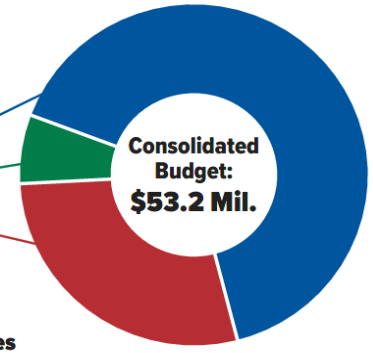


2025 Budget

Operating Budget: $36.1 Million

Debt Retirement: $3.7 Million

Capital Budget: $13.4 Million



Approximate Number of Employees

Full-time & Full-time Equivalent (FTE) Employees



Part-time Employees



Tip # 7
Know Your Policies

- Auditors usually know their rights to record (they may have even studied your filming policy in advance).
- A First Amendment audit is not a “commercial filming” event that requires advance notice or permission.

- Governments can enforce facility use policies against auditors whose behavior is unreasonably disruptive.
- Auditors are also subject to compliance with laws prohibiting physical violence or threats of violence.

Tip # 8
Enforce Your Policies

- Employees should be aware of how an audit might affect other patrons who do not want to be recorded.
- Offer the affected patron an option to come in another day or find another employee to serve the affected patron.
- Protect patrons' sensitive information (credit card or private information)

Tip # 9
Be Mindful of Other Visitors

Tip # 10
Let the Auditor Record

Let the auditor record so long as the auditor is not committing a crime, trying to access an unauthorized area, or unreasonably disrupting others use of the facility.

Questions?

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