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## Judge dismisses Lenk lawsuit against Pasco

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Stan Strebel, left, Pasco deputy city manager, Debbie Clark, city clerk, and Patrick Galloway, attorney for the city, appear in Franklin County Superior Court in Pasco on Wednesday for a hearing regarding Roger Lenk's lawsuit against the city. Superior Court Judge Sal Mendoza dismissed parts of the lawsuit during the hearing.

KAI-HUEI YAU — Tri-City Herald [Buy Photo](#)

By Geoff Folsom — Tri-City Herald

A lawyer for the city of Pasco celebrated a court victory Wednesday by presenting his opponent with a paper copy of an email.

The move came after Superior Court Judge Sal Mendoza Jr. dismissed a public records lawsuit filed against the city by Roger Lenk, who asked for emails from city council members who voted last year to annex part of the area known as the "doughnut hole."

Mendoza ruled the city properly responded to Lenk's requests for emails to and from Rebecca Francik and Saul Martinez on their personal and government accounts.

The city admitted that it failed to provide one email, in which Francik thanked the city manager's assistant for letting her know a city meeting had been canceled.

Mendoza said the city performed a reasonable search for emails and disagreed with Lenk's statements that the city had other emails that it had lost, destroyed or failed to locate.

"That is nothing other than speculation at this point," Mendoza said.

Patrick Galloway, representing the city, gave Lenk a copy of Francik's missing email at the end of the hearing.

Lenk had found out about the email through a public records request to the Pasco School District, where Francik works as a librarian.

Mendoza also ruled that the city will not have to provide Lenk with metadata from emails until February 2016, when it is set to be completed as part of the city's schedule for release of information to Lenk. Metadata, or "data about data," is hidden information including where an email was sent from and anybody who was blind-copied on it.

Lenk also requested years of records from Councilman Mike Garrison, but found nothing substantial. He is still waiting for his requests to be answered for records for Mayor Matt Watkins, City Manager Gary Crutchfield and Fire Chief Bob Gear. The city scheduled the release of records through 2016, and the schedule was approved by Judge Bruce Spanner.

The city estimates that it has provided 120,000 pages of documents to Lenk, who has helped lead the fight for two ballot propositions that would change the city's form of government and eliminate two recent annexations in the doughnut hole. City staff has spent 900 hours working on Lenk's requests at a cost of \$46,800, plus another \$120,000 in attorney fees.

That doesn't include \$12,056 that Spanner ruled the city had to pay in November 2012 because it failed to supply Lenk with 17 documents in a timely fashion.

Lenk argued Wednesday that Francik and Martinez ignored a memorandum from Pasco Deputy City Manager Stan Strebel that told council members to stick to their city email accounts to conduct city business. He accused the council members of creating a "shadow government" using personal email accounts that had been destroyed by the time he made his public records requests.

"Effectively, defendant Francik and defendant Martinez conducted the city's business by using non-city email accounts," Lenk said. "All we are getting is what goes through the city's system."

Francik and Martinez did not attend the hearing at the Franklin County Courthouse. In affidavits, they denied sending any city government related emails that wouldn't have shown up in the city's system, either from their accounts or by being received on another city email account.

Strebel told the Herald he is confident they did not conduct secret business.

"These council members have indicated they don't do that," he said.

Strebel expects completing Lenk's remaining public records requests will cost tens of thousands of additional dollars and thousands of employee hours, he said.

After the hearing, Strebel exchanged words with Lenk, defending the council members. The records request revealed private details such as business dealings and job interviews in other cities.

"They're people, Roger," Strebel said.

"They're public servants," Lenk replied.

The city provided Lenk, who worked in local government for more than 20 years in Washington and California, with 6,162 emails involving Francik and 4,254 for Martinez, compared to one that slipped through the system, Strebel said.

Lenk, who represented himself during the hour-long hearing Wednesday, sought unspecified fines and attorney fees and costs from the city, Strebel said.

Lenk filed a complaint with the state attorney general's office against Francik and Martinez last month, claiming they had misused their city email accounts.

Lenk told the Herald that he was pleased that the judge allowed him to sue if the city fails to provide metadata by 2016, which he doesn't believe it will be able to do. But he doesn't like to see it come to that.

"I want to make sure the public is aware that public officials are not doing everything they should be doing to make city records available to the public," he said.

Strebel asked Lenk what Crutchfield's records from 30 years ago could have to do with annexation. Lenk said information on the history of Pasco trying to annex the unincorporated area goes far back.

"I know there's a whole bunch of data the city has on annexation," he said. "It has gone to council members, but it hasn't gone to the public."

Galloway said the city will provide Lenk with the metadata by the deadline. He hopes Lenk will work with the city on completing the requests.

"I think it's a great decision for helping the process going forward," he said of Mendoza's rulings. "Roger's actions are costing the city a lot of money. That's money that could be spent elsewhere."

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