



MICHAEL BARIL [REDACTED]

Public Records Request Inquiry/Question (James Gagner's emails, phone calls & personal text messages)

5 messages

MICHAEL BARIL [REDACTED]

Wed, Jun 6, 2018 at 10:06 AM

To: Rebecca Acerra <acerra@warren-ma.gov>, Warren Selectmen <selectmen@warren-ma.gov>, richard@warren-ma.gov, "WARREN-NARDI, Dario" <nardi@warren-ma.gov>, John Nason <nason@warren-ma.gov>

Hi Becky:

A Warren resident just informed me that former Selectmen James Gagner posted on social media that he received phone call(s) from the project engineer that they wanted permission to run underground cables (or similar) and that they would be pouring the concrete pad, etc, etc.

From what I was told by your office to me, not in public, is that the cell tower project was James Gagner's. So if that is true, then the cell tower project is not an official town sponsored project (per se), and that it's all of a personal nature. On the other side of the coin, he spoke about it at BOS meetings, so that would mean it's a town sponsored project. Now if it's personal, and your office has no correspondence, that he communicated via his town e-mail and his personal cell phone & personal e-mail address, that now connects his personal owned resources to official town business.

Key Points:

- * The town has discussed the cell tower at your meetings. Your office told me he did it on his own, meaning the other BOS members were not cc'd or in the loop on e-mails to Industrial Communications, etc.
- * I just got off the phone with the SOC-Public Records Division, spoke to the on duty attorney, and she advised me that if he conducted official town related business with his personal cell phone (to include e-mails to/from his cell phone, text messages to/from his cell phone, social media to include Facebook messages to/from his personal cell phone to Industrial Communications, and then his former town e-mail address (which is probably now shut off, if he didn't delete those e-mails), are all town government public records.

Questions:

- * Before I submit the official PRR for 3-4 years worth of Selectmen Gagner's records, I'm asking for the Board's blessing that you would in fact subpoena his personal cell phone records & data, to include text messages to/from his personal cell phone to/from Industrial Communications, subpoena e-mails from his personal e-mail address to/from Industrial Communications, and lastly since he likes to post on social media, subpoena his Facebook messages from his personal accounts to/from Industrial Communications?

The town is responsible for providing public records RE: official town business, and in this case, which is unfortunate that your office has informed me that the other BOS members were left in the dark by former Chairman Gagner RE: the cell tower project, which he should have shared those with the other Board members.

Lastly, the Public Records Division said the Town is responsible for providing me all of the records, and it's not my responsibility to get the subpoena for his personal accounts, it's yours. So are you willing to do that, and if so, I will then submit my request. As you know I'm trying to prove to you, the Board, that Gagner lied to you, his co-workers and all Town residents about hidden details is the cell tower, and I'm sure those records would prove he lied to all of you, and you seeing these records would prove my case to your office - he committed a crime while being in office.

Respectfully Submitted,
Michael Baril

Warren Selectmen <selectmen@warren-ma.gov>
To: MICHAEL BARIL [REDACTED]

Thu, Jun 7, 2018 at 9:55 AM

Michael,

Is this a public records request and if so, please clarify as to what documents your seeking.

Thank you,

Rebecca Acerra
Records Access Officer
Town of Warren
413-436-5701 ext. 2

Board of Selectmen
Town of Warren

[Quoted text hidden]

The Secretary of the Commonwealth of Massachusetts has determined that email is a public record. Please keep that in mind when Writing or responding to any emails. Notice of Confidentiality: This communication may contain Privileged or other confidential information. If you Are not the intended recipient or believe that you have received this communication in error, please do not print, copy, retransmit, Disseminate, or otherwise use the information. Also, please indicate to the sender that you have received this email in error and delete the copy you received.

MICHAEL BARIL [REDACTED]

Thu, Jun 7, 2018 at 10:19 AM

To: Rebecca Acerra <acerra@warren-ma.gov>, Warren Selectmen <selectmen@warren-ma.gov>, richard@warren-ma.gov, "WARREN-NARDI, Dario" <nardi@warren-ma.gov>, John Nason <nason@warren-ma.gov>

All:

Official written public records request

Dates: 5/1/15 to present day, today

Records Requested: All/every coorespondence from James A. Gagner to/from Industrial Communications and/or its employees RE: cell tower

Requested records from:

- 1) former Town e-mail address.
- 2) James Gagner's personal cell phone, that would have been used in official Town business (both e-mail & all text messages to/from Industrial Communications).
- 3) James Gagner's personal e-mail account (all e-mails to/from Industrial Communications).

What I was sharing before, is if he doesn't provide items from his personal, then you need to have Town Counsel filed a court ordered subpoena, have Mr. Ganger served to produce his personal items to the town.

That's what the State said the Town needs to do if he refuses to be cooperative.

[REDACTED]

Thanks,
Mike Baril

MICHAEL BARIL [REDACTED]

Thu, Jun 7, 2018 at 10:46 AM

To: Rebecca Acerra <acerra@warren-ma.gov>, Warren Selectmen <selectmen@warren-ma.gov>, richard@warren-ma.gov, "WARREN-NARDI, Dario" <nardi@warren-ma.gov>, John Nason <nason@warren-ma.gov>

sorry left out...

4) want social media coorespondence, specifically his personal Facebook messages to/from Industrial Communications and its employees.

MICHAEL BARIL [REDACTED]

Wed, Jun 27, 2018 at 1:37 PM

To: Rebecca Acerra <acerra@warren-ma.gov>

Cc: Warren Selectmen <selectmen@warren-ma.gov>, richard@warren-ma.gov, "WARREN-NARDI, Dario" <nardi@warren-ma.gov>, John Nason <nason@warren-ma.gov>

Wed, 6/27/18

Hi Becky:

* I received your PRR results in the mail on Sat 6/23, thank you !

* What I received are "screen shots / screen saved" images of Town official business communications between Selectmen Gagner & John Champ, but these cell phone images seem to be from John Champ's cell phone, not James Gagner's, or are they Gagner's - can you answer this please (who gave you the records - Gagner or Champ) ? The text messages start 1/5/17 and end on Sun, 4/1/18. There is no way these are the only correspondence between Selectmen Gagner & Industrial Communications, there is an awful low amounts of messages, not far 1.5 years worth.

* You did not send me any "Selectmen James Gagner e-mails from his Town e-mail address"? I'm sure your office has access to them? If you have none, I don't believe he never used that e-mail account, and that he has hidden them.?

* A few odd items:

a) John Champ texts Gagner a question here & there, and the replies are missing. So it appears I don't have the full text records....

b) Second - Selectmen Gagner seems to promise favors in advance, prior to Warren public meetings. How did he promise a vote would pass before public meeting date(s) actually happened? Selectmen Gagner admits in his own texts he sent your own town employees there to "get the vote passed" and wrangled deals. Like I said, his actions as Selectmen seem very shady to me, and these simple text messages seem to suggest that, in my opinion.

Thank you as always Becky ! and I await your reply.

Respectfully Submitted,
Michael Baril



BOARD OF SELECTMEN

CHARLES E. SHEPARD MUNICIPAL BUILDING



48 High St. • P.O. Box 609 • Warren, MA 01083-0609 • Tel. 413-436-5701 • Fax 413-436-9754

June 21, 2018

Mr. Michael Baril
PO Box 542
Warren, MA 01083

RE: Public Records Request

Dear Mr. Baril,

The Town of Warren ("Town") is in receipt of your public records request from you dated June 7, 2018 that you sent via email, to which I received as the Records Access Officer.

Summary of Request

In your request, you seek the following records:

All/every correspondence from James A. Gagner to/from Industrial Communications and/or its employees RE: cell tower

(from former Town e-mail address, James Gagner's personal cell phone, that would have been used in official Town business (both email & all text messages to/from Industrial Communication) and James Gagner's personal e-mail account (all emails to/from Industrial Communication))

Additionally, you've requested "want social media correspondence, specifically his personal Facebook messages to/from Industrial Communications and its employees."

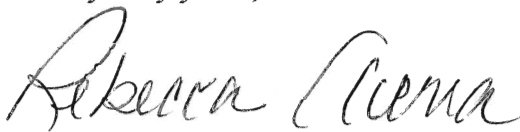
Please be advised that the Town's duty to respond to records requests extends only to records that are in existence and in the custody of the Town, and the Town is under no obligation to create records in request to your request. See "A Guide to the Massachusetts Public Records Law", January, 2017, published by the Secretary of the Commonwealth.

The Town has reviewed your request, and based upon its initial review, anticipated that it may have record responsive to your request. Responsive records that are subject to mandatory disclosure under the Public Records Law will be provided upon payment of any applicable fees, however I have enclosed copies of responsive records to you at no charge. Please note that

where permitted by law, however, such records or material contained therein may be withheld or redacted under any of the exemptions to the Public Records Law, other applicable provision of law, and/or common law privileges, such as the attorney-client privilege. See G.L. c.4§7(26) *Suffolk Construction Co. v. Div. of Capital Asset Mgmt.* 449 Mass. 444,449-450 (2007); 950 CMR 32.06(3). The Town reserves the right to identify and assert any other applicable exemptions, as it conducts further search and review. In accordance with G.L. c 66, §10(a) (iv), nothing herein shall limit the Town's ability to redact or withhold information in accordance with state or federal law.

You may appeal this response to the Supervisor of Public Records pursuant to 950 CMR 32.08(1)(d). By law, the Supervisor is required to respond within ten (1) business days of receipt of your appeal. You may also seek judicial review of an unfavorable response by commencing a civil action in the superior court, under G.L. c66, §10A(c).

Very truly yours,

A handwritten signature in cursive script, reading "Rebecca Acerra".

Rebecca Acerra
Administrative Secretary/
Records Access Officer

Enclosure



John Champ



Conversation with John • 1/5/17, 1:17 PM

AG's office approved the zoning change. We are good to go.



Nice thanks Jim

Monday, Jan 23, 2017 • 6:43 AM

You ready to go tonight?

Monday, Jan 23, 2017 • 9:08 AM

Superintendent of schools has a meeting, but Police & Fire Chiefs will be there to support it.



Yup we're ready. Are you? Are fire and police going to be there

Text message



SMS



John Champ



Did she say anything about the written decision

Wednesday, Mar 22, 2017 • 6:38 PM

Not yet

She knows I'm ready to go off though

Wednesday, Mar 22, 2017 • 7:47 PM



That sucks. They said they didn't want to hold us up and that's what they're doing

They had 2 people sick for Mondays meeting so they didn't have a super majority anyway



Text message





John Champ



Jesus. Ok Jim thanks. I appreciate your help

I hate it when I have no control over stuff



They should've already written the decision had it stamped in by the clerk I don't understand what the hell they're doing

Friday, Mar 24, 2017 • 8:53 AM

Vote Monday on the Tower

Friday, Mar 24, 2017 • 12:29 PM



What time



Text message





John Champ



Good me too Mark booth is dropping off the signed and notarized easement document so I'll give it to you when I see you so you can have it for the April



town meeting see you tonight

Well now there may not be a vote if the paperwork isn't ready.

The agenda says possible vote. Un-effing-believable

You mean a vote on our cell tower site for approval that they said was approved and they were going to write the decision and have it stamped and signed

by the Clark Wednesday, March 15 that hasn't been done to



Text message





John Champ



by the Clark Wednesday, March 15 that hasn't been done to date? That one?

But of course



Come on!!!!!!

I don't know if it's ready to sign. If it is then they will vote, but the wording is what I'm worried about.



F&@k!!!!

We don't know yet. Driving me up a wall.



Text message



SMS



John Champ



Me too!! Jesus what the hell are they doing!! I thought they didn't want to hold us up holy crap

Tuesday, Apr 4, 2017 • 9:27 AM



Hi Jim. Any news on the written decision yet? Did you guys sign easement last night or is that tonight

We sign it Thursday & the board told the new admin to have the paperwork ready to sign for next meeting. They were not happy it wasn't ready last night.

Next meeting is the 24th



The 24th to sign easement?



Text message



SMS



John Champ



Can you call me when you get a moment

Tuesday, Apr 4, 2017 • 7:40 PM

I know that T-Mobile wants on the tower. Who is the other one? I won't mention it to anyone. Just curious.

Tuesday, Apr 4, 2017 • 10:23 PM



Verizon

Cool. Been asked about them allot. I tell everyone to wait & see

Friday, Apr 7, 2017 • 10:43 AM



Are you guys going to record the

Text message





John Champ



Are you guys going to record the easement

Tuesday, Apr 11, 2017 • 8:35 AM



Jim

Just a reminder to let me know who is supposed to be recording the easement. Thanks
John

We will do it



Ok great thanks enjoy this beautiful day!!

Monday, Apr 24, 2017 • 9:18 AM



Am I on for our decision tonight?



Text message





John Champ



Am I on for our decision tonight?

Thursday, Apr 27, 2017 • 9:22 AM

Jim. You gotta get me a copy of the signed easement. I'm absolutely getting hounded about this. Please email me a copy sooner that asap

Thanks man

John

Monday, May 1, 2017 • 11:01 AM

Morning Jim

I called and left a message for Becky about an hour ago to confirm that we are on for tonight but haven't heard back from her yet

Text message





John Champ



Morning Jim

I called and left a message for Becky about an hour ago to confirm that we are on for tonight but haven't heard back from her yet.

Can you

PLEASE make sure that they are all set and that they are actually expecting us tonight. The sooner you can let me know the better. We leave here usual

ly around 3:00

Thanks man

Monday, May 1, 2017 • 4:00 PM

Did you get a copy of the signed

Text message



SMS



John Champ



Monday, May 1, 2017 • 4:00 PM

Did you get a copy of the signed
easement?

Tuesday, May 2, 2017 • 9:00 PM

Stamped today



Awesome thanks bud.

Thursday, Jul 6 • 10:19 AM



Hey Jim. Hope all is well. I got
your message last night and I
sent a text to Joe to give you a
call. Have a great day bud

John



Text message





John Champ



Thank you

Saturday, Sep 2 • 10:14 AM

Hoping you & your family have a great holiday weekend.

J
Hey thank you Jim that was very kind of you I hope you and your family have a great holiday weekend as well nice hearing from you bud

Wednesday, Nov 22 • 8:33 AM

Hoping you and your family have a happy Thanksgiving.

Damn you beat me to it again. Thanks Jim! I hope you and your family have a Happy

+

Text message





John Champ



Damn you beat me to it again.
Thanks Jim! I hope you and
your family have a Happy
Thanksgiving as well. Pig out!!

John

Sunday, Dec 24 • 1:31 PM

Hey Jim merry Christmas to you
and your family and a happy
new year

See I waited to let you get this
one in first. Lol

Have a great holiday

Hahahahaha.... I am lol. Thanks
man!!

Text message





John Champ



Hey Christmas to you
and your family and a happy
new year

See I waited to let you get this
one in first. Lol

Have a great holiday



Hahahahaha... I am lol. Thanks
man!!

Sunday, Apr 1 • 9:20 AM

Happy Easter to you & your
family.

Sunday, Apr 1 • 11:22 AM



Same to you Jim. Hope all is
well



Text message



RECEIVED
6/21/18



1000



01083

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JUN 21, 18
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BOARD OF SELECTMEN
P.O. BOX 609
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WARREN, MA 01083

Mr. Michael Baril
PO Box 542
Warren, MA 01083

Mr. Michael Baril
PO Box 542
Warren, MA 01083



MICHAEL BARIL [REDACTED]

Public Records Request

1 message

Rebecca Acerra <acerra@warren-ma.gov>
To: MICHAEL BARIL [REDACTED]

Mon, Jul 9, 2018 at 1:49 PM

Michael,

When you get a moment, can you give me a call so we may discuss your request re: James Gagner/Industrial Communications.

Thanks,

Becky

—
Rebecca Acerra
Administrative Secretary/RAO
Town of Warren
48 High Street
Warren, MA 01083
413-436-5701 ext 2.

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