

**RESOLUTION TO RELEASE EMAILS EXEMPTED FROM  
FOIA REQUEST T000177-101422**

WHEREAS, Warrenton, VA (hereinafter “The Town”) is a municipal corporation located within the County of Fauquier,

WHEREAS on October 14, 2022, the Town received request number T000177-101422 from Citizens for Fauquier County, a non-stock membership organization located in Warrenton, VA (“CFFC”), seeking under the Virginia Freedom of Information Act, Va. Code Ann. §§ 2.2-3700, *et. seq.* (“VFOIA”) among other records within the meaning of VFOIA, documents and communications with the town mayor or the town managers pertaining to a proposed Amazon Development (“CFFC Request.”)

WHEREAS in response to the CFFC Request, the Town exempted 3,142 emails purportedly as follows: 2,633 emails involving the mayor or the town manager as chief executive officer pursuant to Virginia Code §§ 2.2-3705.7(2), 314 emails pursuant to Virginia Code §§ 2.2-3705.1 (2) (“Attorney-Client Privileged), and 195 emails pursuant Virginia Code §§2.2-3705.1(1) (“Personnel Exemption”); hereinafter “Confidential Documents”;

WHEREAS the Town asserted that the VFOIA exemption covered the “working papers and correspondence” of the mayor *and* the town manager as chief executive officer of the Town (the “CEO Exemption”), including emails where the Mayor and the Town Manager were merely on the distribution list and/or may have simply received a copy;

WHEREAS the Town’s interpretation of the CEO Exemption contravenes the plain language of Virginia Code §§ 2.2-3705.7(2), which provides that the CEO Exemption shall apply to the mayor *or* the town manager (emphasis added);

WHEREAS CFFC appealed the Town’s interpretation of the CEO Exemption to the Fauquier Circuit Court;

WHEREAS the Fauquier Circuit Court sustained the Town's interpretation of the exemption, denying CFFC any relief;

WHEREAS on appeal by CFFC, a three-judge panel of the Virginia Court of Appeals unanimously reversed the lower court's ruling;

WHEREAS pursuant to the appellate court ruling, the Town currently applies the CEO Exemption to "working papers and correspondence" of only the town manager;

WHEREAS the non-release of the Confidential Documents, including emails involving the town manager, has generated an extensive and negative response by Town citizens, reinforcing their views that the Town operates in secret, contrary to the basic principles of Virginia's Freedom of Information Act;

WHEREAS Virginia Code 2.2-3705.7 allows for the disclosure of public records at the discretion of the custodian except where such disclosure is otherwise prohibited by law;

WHEREAS The Virginia Freedom of Information Act expressly states at VA. Code 2.2-3700 (B), "the provisions of this chapter shall be liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government."

WHEREAS an election was held on November 5, 2024, in which five members of Council were elected who, in the name of transparency, each pledged to remove wherever practicable any assertion of privilege over which the Council has discretion;

WHEREAS those new members were sworn into office on January 3, 2025, for a four-year term, and the Council desires now to act in accordance with the spirit and direction of the Virginia Freedom of Information Act.

NOW THEREFORE BE IT RESOLVED that the Warrenton Council on this 14<sup>th</sup> Day of January 2025 and in conformation with the Appellate Court decision as attached hereto and made a part hereof, orders the clerk to do the following:

TO RELEASE TO THE PUBLIC ALL EMAILS OR OTHER COMMUNICATIONS FOR WHICH A CEO OR MAYOR EXEMPTION WAS PREVIOUSLY CLAIMED IN RESPONSE TO FOIA REQUEST T000177-101422 MADE BY THE CITIZENS FOR FAUQUIER COUNTY, EXCEPT THAT RELEASE SHALL BE WITHHELD WHERE DISCLOSURE IS OTHERWISE PROHIBITED BY LAW (“LEGALLY EXEMPT DOCUMENTS”). THE CLERK SHALL ESTABLISH A FREE-OF-CHARGE ELECTRONIC ACCESS POINT ON THE TOWN’S WEBSITE ONTO WHICH HE SHALL LOAD THESE DOCUMENTS, AND SHALL ACT ON THESE TASKS WITH DISPATCH. THE CLERK SHALL REPORT TO THE COUNCIL WITHIN TEN DAYS OF THE DATE HEREOF ON HIS PROGRESS IN THIS REGARD AND SHALL CALL OUT SPECIFICALLY THE LEGALLY EXEMPT DOCUMENTS, DETERMINATION OF WHICH SHALL BE MADE BY THE TOWN ATTORNEY.

**RESOLUTION TO ESTABLISH WARRENTON COMMISSION  
ON OPEN AND TRANSPARENT GOVERNMENT**

WHEREAS the Town Council of Warrenton is a governing body of a municipal corporation in the Commonwealth of Virginia pursuant to Subtitle 1 and Subtitle 2 of Virginia Code §§15.2-100, *et. seq.*,

WHEREAS Virginia Code § 15.2-1411 provides that the governing body of any locality may appoint advisory boards, committees, and commissions as necessary to advise the governing body with regard to any matter of concern to the locality;

WHEREAS such members shall be appointed to serve at the pleasure of the governing body,

WHEREAS the governing body may appropriate such funds as necessary to pay for direct expenses incurred by such members, including legal expenses; and

WHEREAS the Town Council of Warrenton has at this time concluded that the citizenry of the town has lost considerable faith in their Town government owing in large measure to the Town Council's methods and manners of conduct over the past 4 years in an array of highly visible issues; and

WHEREAS the the Town Council of Warrenton believes that addressing this loss of faith is foundational to responsive government and a predicate to achieving all other goals identified by the Council for the term ahead; and that doing so will require a substantial commitment of time and attention.

THEREFORE BE IT RESOLVED THAT THE TOWN COUNCIL OF WARRENTON SHALL HEREBY ESTABLISH "THE WARRENTON COMMISSION ON OPEN AND TRANSPARENT GOVERNMENT" WITH THE FOLLOWING AUTHORIZATIONS, DUTIES AND OBJECTIVES AIMED AT REFORMING AND IMPROVING TOWN PROCESSES:

1. Review the development applications process as managed by the Town of Warrenton, with specific focus on procedures that unnecessarily shield such applications from public participation or interfere with the public's timely awareness and understanding of said applications;
2. Review any application that has been before the Town at any point over the past 6 years that the Commission (i) deems appropriate for better understanding how best to affect the increased transparency and openness that is the Council's principal goal; and/or (ii) believes might reveal particularly poor, even potentially improper, practices by Town government of a nature where appropriate sanctions may be determined later to be advantageous to the reform process. Of initial and particular interest by the Town Council is the Town's approval of Special Use Permit 22-03 issued on February 14, 2023, to Amazon Web Services.
3. Conduct its review with the support of the Town Attorney and such outside experts and counsel as the Town Attorney may deem necessary to research, investigate and develop a complete record of all written and electronic correspondence, applications, meetings, news reports and any other activity relevant to the issuance of any application selected by the Commission for review;
4. Prepare a report, for delivery to Council, including all supporting documentation and providing the Commission's findings and recommendations regarding improvements to procedure, process and/or the Town's Code of Ethics to ensure that all communications with applicants are timely, open and transparent, excepting any valid exemption under the Virginia Freedom of Information Act.
5. Appropriate such funds as necessary for the Commission to discharge its duties.
6. The composition of the Committee shall consist of two members of the Town Council, one of whom shall be the Vice Mayor, and three town residents selected by them and confirmed by the Council.

**RESOLUTION TO WITHDRAW PETITION FOR APPEAL**

WHEREAS Warrenton, VA (hereinafter “The Town”) is a municipal corporation located within the County of Fauquier;

WHEREAS Citizens for Fauquier County, a non-stock membership organization located in Warrenton, VA (“CFFC”) filed two requests (T000148-071222 and T000177-101422) to the Town under the Virginia Freedom of Information Act, Va. Code Ann. §§ 2.2-3700, *et. seq.* (“VFOIA”) seeking, among other records within the meaning of VFOIA, documents and communications with the town mayor and the town managers pertaining to a proposed Amazon Development;

WHEREAS in response to VFOIA request T000177-191422 specifically, the Town exempted 3,142 emails, claiming 2,633 emails involving either the mayor or chief executive officer as exempt pursuant to §§ 2.2-3705.7(2), 314 emails as exempt pursuant to §§ 2.2-3705.1 (2) (“Attorney-Client Privileged), and 195 emails as exempt pursuant §§2.2-3705.1(1) (“Personnel Exemption”);

WHEREAS on December 19, 2022, CFFC filed a Petition for Writ of Mandamus, Injunctive Relief and Award of Civil Penalties against the Town of Warrenton and Steven Clough Town Clerk (“Lawsuit”) demanding the release of said 3,142 emails (“Confidential Documents”);

WHEREAS at a January 6, 2023 hearing before Judge Alfred D. Swersky in the Fauquier Circuit Court, the Town Attorney proffered that the Confidential Documents were about the steps for Amazon to gain approval for the proposed datacenter, the special-use permit that was required, and the tax revenue generated by the project;

WHEREAS on February 7, 2023, Judge Alfred D. Swersky of the Fauquier Circuit Court denied all relief sought by CFFC;

WHEREAS upon appeal by CFFC, Stuart A. Raphael of the Virginia Court of Appeals issued a ruling dated July 30, 2024, on behalf of the unanimous three judge panel, reversing the lower court’s ruling;

WHEREAS on September 27, 2024, the Town of Warrenton appealed the ruling by the Virginia Court of Appeals to the Virginia Supreme Court, to which the Appellee filed a brief in opposition on October 18, 2024 (“Petition for Appeal”);

WHEREAS as of January 14, 2025, the Town’s appeal has not been docketed for a hearing before the Virginia Supreme Court;

WHEREAS the non-release of the Confidential Documents has generated an extensive and profoundly negative response by Town citizens, reinforcing their views that their Town government operates in secret, contrary to the basic principles of Virginia’s Freedom of Information Act;

WHEREAS an election was held on November 5, 2024, in which five candidates for Council were elected who, in the name of transparency, each pledged to remove wherever practicable any assertion of privilege over which the Council has discretion;

WHEREAS the Town Council of Warrenton no longer wishes to defend a lawsuit that violates the principles of transparency and open government, and is contrary to the basic principles of Virginia’s Freedom of Information Act ;

THEREFORE, be it resolved that the Town Council directs the Town Attorney to withdraw the Petition for Appeal forthwith, and to provide all necessary or appropriate notices in connection therewith.

**RESOLUTION TO WITHDRAW AFFIRMATIVE DEFENSES IN THE MATTER OF  
CHARLES AND MARYGAY CROSS, ET. AL., PLAINTIFFS-PETITIONERS VS. THE TOWN  
COUNCIL OF THE TOWN OF WARRENTON AND THE TOWN OF WARRENTON,  
DEFENDANTS**

WHEREAS on March 16, 2023, the above named petitioners filed a Petition for Review and Complaint in Fauquier County Circuit Court (“Petition”) appealing the decision of the Warrenton Town Council on January 14, 2023, to issue Special Use Permit 22-03 (“SUP 22-03”) to Amazon Data Services, Inc. (“Amazon”);

WHEREAS Plaintiffs-Petitioners Kevin and Amy Hampton reside at 90 Dorset Lane, Warrenton VA, located approximately 400 feet of the Amazon property;

WHEREAS Plaintiff-Petitioner Chrystal Mehl resides at 92 Dorset Lane, Warrenton, VA, located approximately 400 feet of the Amazon property;

WHEREAS Plaintiff-Petitioner The Lauren-Donahoo-Hatchell Trust owns a single family residence at 525 Colony Court, within approximately 825 feet of the Amazon property, occupied by Lauren-Donahoo-Hatchell;

WHEREAS Plaintiffs-Petitioners Ms. Claudia Delores Sandoval González and Mr. Carlos Ivan Lemus Bojórquez own and reside at a single-family home nearby and to the northwest of the Amazon property that is commonly known as 23 Pepper Tree Court, Warrenton, Virginia 20186 (the “Bojórquez-Sandoval González Home”), just across Blackwell Road from the Property, an area that will be directly impacted by the Data Center’s expected traffic, and will also suffer from impacts to viewshed, increased light and constant noise.

WHEREAS on April 10, 2023, the Town filed a Motion Craving Oyer and Demurrer to the Petition, alone contesting the standing of the Petitioner-Plaintiffs;

WHEREAS it is unclear whether the referenced residents were properly noticed;

WHEREAS on April 12, 2023, Amazon filed an unopposed motion for leave to intervene, granted by order on April 14, 2023;

WHEREAS on May 5, 2023, Amazon filed a Motion Craving Oyer, Demurrer, and Plea in Bar;

WHEREAS on June 7, 2023, CFFC filed an amended petition, which states that when the Council initiated a text amendment on April 13, 2021, to include data centers as a Special Use Permit, (“The Data Center Resolution”), the resolution failed to state a public purpose as mandated by VA. Code § 15.2-2286(A)(7);

WHEREAS on August 10, 2021, the Town Council adopted the Data Center Zoning Amendment pursuant to the Data Center Resolution;

WHEREAS the Data Center Resolution was not “properly initiated” under VA. Code § 15.2-2286(A)(7), rendering the Resolution *void ab initio*;

WHEREAS at a December 13, 2023, hearing, the defendant’s attorney admitted that if there were a defect in the initiating resolution, it would have been *void ab initio*,

WHEREAS at the same hearing, the court found that the Plaintiffs-Petitioners’ petition had been timely filed;

WHEREAS at the same hearing, the court found that the “Plaintiffs do enjoy standing” and denied the Town’s demurrer contesting the sufficiency of standing;

WHEREAS once determined that the initiating resolution was *void ab initio*, the Town Council would have had no authority to issue a special use permit to Amazon;

THEREFORE BE IT RESOLVED that in the interest of the public, and to further avoid the unnecessary expenditure of public resources, the Town Council hereby directs the Town Attorney to determine the appropriateness of continuing to assert the Town’s affirmative defenses contesting the standing of the above-named Plaintiffs-Petitioners and the timeliness

and validity of the initiating resolution pursuant to Code §15.2-2286(A)(7), and if deemed proper, to withdraw those defenses.