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Taxpayers billed thousands of dollars for public records

By [John Davis](#)

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For years the City of North Port has allowed its legal counsel to charge taxpayers thousands of dollars to do work benefitting private businesses and individuals who sought copies of public records.

City Attorney Rob Robinson and his firm would rack up dozens of billable hours copying and reviewing records, then offer the requestor a steep discount when the bills came due.

Instead of reducing what he charged, Robinson billed the city for the difference, ensuring his firm got paid.

In one case, Robinson's law firm, Nelson Hesse, charged \$27,000 to gather and process records. He offered the requestor -- home improvement giant Lowe's -- a \$20,000 discount while billing the city for the work.

Some experts question whether the city should have paid Robinson's fees.

Like many contracted government attorneys, Nelson Hesse earns a hefty retainer each year to handle basic legal work. North Port's retainer agreement states Robinson will handle "routine" city business at no extra charge.

"What could be more routine than a public records request?" said Barbara Petersen, president of Florida's First Amendment Foundation.

Robinson did not return phone calls seeking comment. City officials defended his billing practices and said his firm is in the best position to determine when the city should subsidize public records requests.

Assistant City Manager Danny Schult said the discounts were offered in an attempt to comply with Florida's public records law, which states that fees charged to provide records must be "reasonable."

But a Herald-Tribune review of public records requests handled by Nelson Hesse since 2009 found that the firm did not provide discounts to everyone, even when everyday citizens faced bills reaching thousands of dollars.

The largest taxpayer-funded discount went to Lowe's in 2009, when the company was disputing impact fees charged by the city.

Robinson and his firm spent more than 200 hours compiling and screening several thousand pages of emails, meeting notes and maps for the company.

The final bill came to \$27,000 -- a fee that at least two Florida public records experts question.

By comparison, Sarasota County compiled and had an attorney review 3 million pages of documents for a similar public records request last year. The bill came to \$950.



In the end, Nelson Hesse charged Lowe's \$7,000 for the North Port records and passed the remaining \$20,000 on to taxpayers.

The Herald-Tribune asked an expert in legal billing to review the invoices Robinson submitted to city officials for the Lowe's records request.

"The duplication in effort is just outrageous," said Judith Bronsther, of New York-based Accountability Services Inc., a company that specializes in helping clients control legal costs.

"It doesn't look as if anybody's monitoring these bills in a detailed fashion," she said, noting multiple lawyers working on the same task and "block billing," or lumping one task in with another on a bill, making it impossible to know exactly how much time was spent.

"I think the city would be well advised to bring in an outside consultant to audit their bills," she said.

Petersen, of the First Amendment Foundation, called the Lowe's bill shockingly high.

But assuming the charges complied with Florida public records law, Lowe's should have paid them, Petersen said.

"Why is he giving a huge corporation a break and charging three times that to the city? It doesn't make sense," Petersen said. "I think the city has a fiduciary duty to its residents to question these fees."

Even with the discount, Greg Woods, the Lowe's attorney in the case, said he was struck by the bill. He said he considered protesting the charge but decided against it to focus on the \$1.3 million impact fee reduction sought by his client.

City officials said they signed off on a bill reduction for Lowe's because they were concerned the company would dispute the larger charge. Robinson arrived at the \$7,000 fee by reducing the hourly rate his law firm charged to \$30 -- the cost of having a paralegal do work actually performed by Nelson Hesse lawyers. This had no impact on the bills sent to North Port, which paid a \$175-an-hour rate.

Since the Lowe's discount in 2009, Robinson has offered discounts while billing the city at least three additional times. In each case, Robinson had the option of reporting the hours as routine business covered by his retainer.

Instead, he categorized the records request work under ongoing or past legal battles for which he is allowed to bill outside his retainer. The Lowe's bill was charged as part of the ongoing dispute between the city and the company over impact fees.

But in at least two cases, the extra fees billed to the city were tied to legal disputes that had already been resolved or involved parties not involved in litigation, billing records show.

Sarasota paralegal Michael Barfield, whose firm has become known as a public records watchdog, asked for documents relating to a land deal he was not party to. Nelson Hesse provided emails regarding the city purchase of Warm Mineral Springs in North Port, along with a bill to Barfield for \$800 on behalf of the city.

North Port, meanwhile, paid Nelson Hesse \$3,280 for the public records work. Instead of being categorized as a routine records request, the bill to the city was grouped with charges related to the purchase negotiations, which fell outside Robinson's retainer agreement.

The Herald-Tribune received a similar, unsolicited discount for access to a files relating to a personnel dispute. In that case, the newspaper paid \$800 and later learned Nelson Hesse had billed the city nearly \$4,000.

North Port city officials do not have a policy stating when a discount should be offered. Although Robinson is not a city employee and his firm charges by the hour for its work, Robinson continues to decide when it is appropriate to bill taxpayers for others' public records requests.

Schult said the city supports Robinson's decision to discount the Lowe's bill.

"You're calling it a discount, I'm calling it reasonable," he said.

City commissioners are divided on whether taxpayers should have paid public records bills Robinson deemed too unreasonable to charge to the requestor.

"These inconsistencies as you are finding are troublesome to me," said Commissioner Linda Yates, who has been a lone voice of dissent on the board against Robinson's billing practices.

Commissioner Tom Jones and the other three commissioners have supported Robinson, voting to approve a new contract for the firm despite public outcry.

"I believe that everything we've been billed has been proper and properly reviewed," Jones said.

Robinson's billing practices have been under fire for months following a Herald-Tribune report that showed North Port was paying more for legal work than other cities of similar tax base in Florida.

The story and the backlash that followed prompted changes to the contract with Nelson Hesse that takes affect in September. It includes a \$450,000 retainer, the largest government legal retainer in the area, in exchange for a reduction in billable hours. North Port's legal bills have roughly doubled since 2006 to about \$1 million annually.

North Port budgeted \$864,000 for Nelson Hesse's services this year.

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