



March 9, 2021

VIA FACSIMILE

Office of the Town Clerk
Town of Malta
2540 Route 9
Malta, NY 12020
Fax: 518-899-4719

Re: Freedom of Information Law Request

Dear Records Access Officer:

Pursuant to the Freedom of Information Law (FOIL), N.Y. Pub. Off. Law §§ 84-90, American Oversight makes the following request for records.

On January 6, 2021, Malta Zoning Board Member Sharon Pineo reportedly participated in the rally outside of the U.S. Capitol, from which a riotous crowd stormed the building.¹ Board Member Pineo has stated that she did not commit violence, nor did she enter the capitol building.² According to *The Times Union*, Board Member Pineo helped organize buses to DC ahead of the rally.³ She has since resigned.⁴

American Oversight seeks records with the potential to shed light on former Board Member Pineo's potential participation, knowledge of, and involvement in attempting to overturn the 2020 election.

Requested Records

American Oversight requests that the Malta Zoning Board of Appeals produce the following records within five business days:

¹ Zachary Matson, *Malta Town Official Sharon Pineo Resigns after Storming Capitol Steps.*, *The Daily Gazette* (Jan. 11, 2021, 8:41 AM), <https://dailygazette.com/2021/01/11/malta-town-official-resigns-after-storming-capitol-steps/>.

² *Id.*

³ Lauren Stanforth & Edward McKinley, *Calls for Resignation of Malta Town Official After Capitol Siege.*, *The Times Union* (Jan. 11, 2021, 4:44 PM), <https://www.timesunion.com/news/article/Call-for-resignation-after-Saratoga-County-board-15859672.php>.

⁴ *Id.*



- 1) All email communications (including email messages, complete email chains, email attachments, calendar invitations, and calendar attachments) sent by Board Member Pineo containing any of the key terms listed below.

Please provide all responsive records from January 1, 2021, through January 14, 2021.

Key terms:

- i. Capitol
- ii. "Stop the steal"
- iii. "Save America"
- iv. Storm
- v. Trump
- vi. Biden
- vii. Congress
- viii. DC
- ix. D.C.
- x. Washington
- xi. RNC
- xii. DNC
- xiii. Patriot
- xiv. Pelosi
- xv. Pence
- xvi. Schumer
- xvii. "Our House"
- xviii. MAGA
- xix. KAG
- xx. "great again"
- xxi. caravan

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited Item 1 of its request to communications sent by Board Member Pineo. However, American Oversight still requests that complete email chains be produced. This means, for example, that both Board Member Pineo's response to an email containing one of the listed key terms and the initial received message are responsive to this request and should be produced.

- 2) All text message threads/conversations, or message threads/conversations on similar applications (such as Signal, WhatsApp, or Facebook Messenger) sent to or received by Board Member Pineo containing any of the key terms listed in Item 1 above.

Please provide all responsive records from January 1, 2021, through January 14, 2021.

American Oversight requests complete text threads/conversations. This means, for example, if Board Member Pineo sent or received a text message containing any of the key terms listed above, the complete text thread/conversation for the timeframe listed above should be produced, and not just the message containing the key term.

- 3) Records reflecting any and all expenditures made and/or reimbursed by the local or state government in connection with Board Member Pineo's trip on or around January 6, 2021 to Washington, DC, including, but not limited to, records of any reimbursements submitted by or on behalf of Board Member Pineo.

Responsive records would include, but are not limited to, hotel or other lodging invoices or receipts; town-issued charge card or travel card reports; receipts from airlines, rental car, or other transportation companies; records reflecting the cost of government transportation; receipts or other records reflecting the cost of meals or refreshments; or records reflecting per diem payments.

Please provide all responsive records from January 1, 2021, through the date a search is conducted.

- 4) All photographs, videos, or audio recordings taken on any device operated by Board Member Pineo between January 4, 2021, and January 7, 2021.

Fee Waiver Request

American Oversight requests that your agency consider waiving any fees associated with processing this request for records pursuant to 21 NYCRR § 1401.8(g). American Oversight is a 501(c)(3) nonprofit with the mission to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses information gathered through research and public records requests, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.⁵

The public has a significant interest in the actions of local officials who participated in the Stop the Steal rally that descended into an attack on the Capitol. Records with the potential to shed light on this issue would contribute significantly to public understanding of operations of the Malta town government, including whether a

⁵ American Oversight currently has approximately 15,600 page likes on Facebook and 105,400 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Mar. 8, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Mar. 8, 2021).

zoning board member spent Town of Malta resources to fund the trip, and whether she organized buses to the rally using her official work email.

Accordingly, American Oversight respectfully requests a fee waiver.

To the extent your agency anticipates charging any fees in connection with this request for records, American Oversight requests that you inform us in advance of doing so.

Guidance Regarding the Search & Processing of Requested Records

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- In conducting your search, please understand the terms “record,” “document,” and “information” in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions.
- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

Conclusion

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact Hart Wood at records@americanoversight.org or (202) 873-1743. Also, if American Oversight's request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

/s/ Hart Wood
Hart Wood
on behalf of
American Oversight