

From: smbisio@gmail.com <smbisio@gmail.com>
Sent: Tuesday, October 29, 2024 6:55 PM
To: 'Jonathan Smith' <smithj@villageofclarkston.org>
Cc: sylvanlawtr@gmail.com; bisiolaw@gmail.com
Subject: RE: Two FOIA Requests

Dear Mr. Smith:

I have two outstanding FOIA requests that I sent on September 14 and 16 and due on October 7 and 8, respectively. You took the ten-day extension you were entitled to take, and I authorized you to take even more time since you advised the city couldn't proceed further due to Nancy Moon's travel absence.

I followed up again on October 17 after I attended an October 13 presentation at the Clarkston Independence District Library that Moon participated in, which meant she was obviously back in town at that point. Shortly after I sent that email (and also on October 17), you sent some information you said came from Moon and advised it was in response to the September 16 FOIA. You also said you would forward to Moon what you characterized as my "follow up" for the September 14 FOIA and said you would respond as soon as possible. Characterizing my correspondence as follow-up suggested I was asking for more or different material, yet everything I requested should have been provided in the city's first response to the requests. The city's response was incomplete with regard to Moon's material, contained redactions that weren't supported by a statutory exemption, and failed to provide a "no records" response from the five HDC commissioners.

Regarding the September 14 request, I asked you to please provide:

1. A no records certification if there were no email exchanges between the HDC commissioners and SHPO regarding the charter proposal (though I would accept a copy of their emails to you confirming they have no responsive records if that's easier for you);
2. The missing correspondence between Moon and Amy Arnold as well as any other correspondence Moon had with anyone else at SHPO regarding the ballot proposal;
3. Any correspondence associated with the copy of the charter proposal that was provided with no indication as to what correspondence it was attached to; and
4. Unredacted records or the legal basis on which the city plans to rely to support redactions.

Regarding the September 16 request, I asked you to please provide:

1. A no records certification if there were no responsive email exchanges involving HDC commissioners (though I would accept a copy of their emails to you confirming they have no responsive records if that's easier for you);

2. The missing correspondence associated with the copy of the charter proposal and/or the Janet Kreger letter;
3. All responsive Moon correspondence;
4. Unredacted records or the legal basis on which the city plans to rely to support redactions.

This delay appears to be deliberate on the part of Moon, the HDC commissioners, and perhaps the city as well given the city's resistance to putting the proposal on the ballot, refusing to provide the status for the clerk's canvass of the petition signatures, holding a televised city council meeting about the proposal fewer than 60 days before an election to allow advocacy against the proposal to be repeatedly broadcast and used by the ballot proposal opposition committee, the fact that Moon and three of the five commissioners have donated to the ballot committee opposing the proposal, and that Moon was (and perhaps still is) using her council-appointed position to solicit ballot opposition material from the State Historic Preservation Office (SHPO) and perhaps from other places. Some of the information Moon purportedly received from SHPO was used at a Historic District Commission [HDC] meeting and dutifully recorded into the minutes by her husband, HDC commissioner and secretary, Michael Moon, yet the original email containing the quotation ostensibly originating from SHPO was not included in the records the city provided on October 17.

I granted an additional extension of time to October 23 for the city to respond. That date has come and gone, and the city has neither responded nor given any explanation why a response wasn't possible. If I don't receive a complete response by the close of business on October 31, then I'll assume the only way to get the material is through a lawsuit. If that is necessary, then please be advised we won't be asking for damages. Unless the city's insurance policy has changed, this means that litigation costs will not be covered by the city's insurance policy.

I think it is everyone's best interest to simply respond to these very overdue requests, since I would prefer not to sue the city, and I assume the city would prefer not to be sued.

I look forward to your complete response.

Kindest regards,
Susan Bisio