



Agenda Item Summary

File #: RES 19-52, **Version:** 1

Submitted By

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Reviewed By

CLP

Agenda Item Title

Concur with the Village Clerk and Village Manager's Recommendations to Clarify the Role of the Village Clerk in FOIA and Approve a Resolution Designating FOIA Officers

Overview

Village Clerk Scaman and Village Manager Pavlicek have a joint recommendation that the Village Board formally appoint Freedom of Information Act (FOIA) officers in accordance with State Law. The Village Clerk and Village Manager have reviewed the current process and collectively are implementing the following procedural updates to clarify the FOIA process and the Village Clerk's role in responding to public records requests subject to the approval of the FOIA officers.

Staff Recommendation

Approve the Resolution.

Fiscal Impact

N/A.

Background

The Village Clerk and Village Manager have reviewed the current process and collectively are implementing the following procedural updates to clarify the FOIA process and the Village Clerk's role in responding to public records requests:

1. The Village website will be updated by January 31, 2019 to reflect the FOIA Officers, subject to Village Board approval.
2. The Village website will be updated by January 31, 2019, to direct questions related to FOIA to the Village Clerk.
3. The Village Clerk will receive automatic notification of all electronic FOIA document requests on or before February 10, 2019.
4. All FOIA document responses will include contact information for the Village Clerk in the event the requestor has questions and this will be implemented on or before February 10, 2019.
5. The Village Clerk and Village Manager will review weekly reports of the status of all FOIA to ensure that Village Manager can work with staff related to any FOIA production questions identified by the Clerk.
6. The Village Clerk and Village Manager will conduct staff training on public records requests.

7. The Village Clerk and Village Manager will provide the Village Board with a status update in May/June, unless either recommends a review earlier.
8. It is understood that the current process will remain in which the Village Clerk will assist and provide information if there are questions about the appeal process.

The Village Clerk and Village Manager have reviewed the current process and collectively provide the following background information related to the Village's procedures. In order to clarify and correct any misrepresentation of the Village Code and State Law regarding the Office of the Village Clerk and the Village Manager as it relates to why duties related to FOIA and records are assigned as they are, several documents are attached which provide legislative history since 1957. In summary they are:

1. Excerpts from the Illinois Compiled Statutes, Chapter 65 provides that the municipal clerk shall keep all papers of the Village "which are not given to other officers".
2. The current Code of the Village of Oak Park is unchanged since 1981 as it relates to the responsibility for records.
3. In 1957 the Code of the Village of Oak Park details the responsibility for records assigned to the Village Clerk and the Village Manager, which is very similar to the manner in which they are assigned in the current code.

In regards to the public's request for documents/records under the FOIA, it is noted that on January 1, 2010, a new Public Act (Public Act No. 96-452) went into effect which required the Village to designate one or more officials or employees to act as its FOIA officer or officers. The Public Act does not prescribe which Village employees are to be FOIA officers, nor does the Village Code contain such a provision. Neither Village Clerk Scaman nor Village Manager Pavlicek are aware of why the Village Board has not to date designated FOIA officers.

In the Fall of 2017, as a part of the FY18 budget review process, the Village Board held discussions regarding the use of technology to streamline the fulfillment of FOIAs in light of the retirement of an Administrative Clerk and the elimination of that full-time position in the FY18 budget as a cost savings measure. The Village Board was advised at that time via a legal memorandum from the Village Attorney of the absence of Village Board action related to appointment of FOIA officers and that in the absence of such action, the Village Manager is charged with ensuring the Village is in compliance of State and Local requirements for production of public records. Following adoption of the FY18 budget, software workflow was configured and testing occurred with the Village Clerk and Department Directors in the fall of 2018 and a soft rollout was done in late 2018.

The Village Clerk and Village Manager agree that the Village Board should designate the FOIA officers and agree upon the designation of three - the Village Clerk (primary), Village Attorney and Police Records Supervisor. Additional officers may be recommended in the future. Additionally, the Village Clerk and Village Manager concur that the website and systems should be updated as outlined herein to improve the public process related to FIOA requests. Additionally, the Village Clerk and Village Manager concur on some additional software improvements that would be implemented in the Spring of 2019 in advance of a status update that would be presented to the Village Board in May/June of this year. No additional Village Board

action is requested at this time.

Alternatives

N/A.

Previous Board Action

The Village Board unanimously adopted the FY18 Budget which eliminated the vacant Administrative Clerk position that was assigned to the Office of the Village Clerk in order to reduce expenses.

Citizen Advisory Commission Action

N/A.

Anticipated Future Actions/Commitments

N/A.

Intergovernmental Cooperation Opportunities

N/A.

Performance Management (MAP) Alignment

N/A.