

From: Caitlyn R. Culbertson <crculbertson@KTJLAW.com>

Sent: Monday, January 27, 2020 12:20 PM

To: Rick Murphy <rmurphy@costellaw.com>

Cc: Michael T. Jurusik <mtjurusik@KTJLAW.com>; Matthew Supert <msupert@wsprings.com>; Elaine Haeske <ehaeske@wsprings.com>; Martin Scott <mScott@wsprings.com>; Ingrid Velkme <ivelkme@wsprings.com>

Subject: RE: Missing FOIA documents

Mr. Murphy-

As a response to your email regarding documents you believe are missing from the Village's FOIA response:

1. Some maps and tentatively proposed sites were withheld pursuant to Section 7(1)(f) of FOIA: Deliberative process exemption: Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. Notes, opinions and other preliminary or draft documents have been redacted or withheld.

I will confirm with Village staff that all final versions of maps and proposed sites that are in the Village's possession were included in the response. If there are any others that were inadvertently not provided, I will send them to you as a supplement to the Village's response.

2. Only a portion of the "ComEd Pole Attachment Agreement" was attached to the email which is why only that portion was provided in response to your FOIA request. I will check with Village staff to see if the Village has a complete version of the agreement and if it does, I will provide it to you.
3. See Response 1.
4. See Response 1.
5. Section 7(1)(f) of FOIA allows documents to be withheld under the deliberative process exemption: Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. Notes, opinions and other preliminary or draft documents have been redacted or withheld.
6. An Agreement for the Village is not in a finalized version and was withheld under:
 - a. Section 7(1)(f) of FOIA Deliberative process exemption: Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. Notes, opinions and other preliminary or draft documents have been redacted or withheld.

- b. Section 7(1)(m): Attorney client privilege exemption (5 ILCS 140/7(1)(m)). See also, People ex rel. Ulrich v. Stukel, 294 Ill. App. 3d 193, 201 (1st Dist. 1997); Illinois Education Ass'n v. Illinois State Board of Education, 204 Ill. 2d 456, 470 (2003). The redacted or withheld records contain communications between Village staff and the Village Attorney in which the Village Attorney was consulted for his opinion and advice and such communications originated in confidence that they would not be disclosed and they have remained confidential.
7. Attached
8. See Response 1.
9. An Agreement for the Village is not in a finalized version and was withheld under:
 - a. Section 7(1)(f) of FOIA Deliberative process exemption: Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. Notes, opinions and other preliminary or draft documents have been redacted or withheld.
 - b. Section 7(1)(m): Attorney client privilege exemption (5 ILCS 140/7(1)(m)). See also, People ex rel. Ulrich v. Stukel, 294 Ill. App. 3d 193, 201 (1st Dist. 1997); Illinois Education Ass'n v. Illinois State Board of Education, 204 Ill. 2d 456, 470 (2003). The redacted or withheld records contain communications between Village staff and the Village Attorney in which the Village Attorney was consulted for his opinion and advice and such communications originated in confidence that they would not be disclosed and they have remained confidential.
10. See Response 9.
11. Any zoning amendment adopted by the Village Board would be a public document available for review on the Village's website or online at https://www.sterlingcodifiers.com/codebook/index.php?book_id=374. To the extent that zoning amendments were discussed or considered by Village staff and its attorneys, any documents relating to those discussions would be exempt under :
 - a. Section 7(1)(f) of FOIA Deliberative process exemption: Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. Notes, opinions and other preliminary or draft documents have been redacted or withheld.
 - b. Section 7(1)(m): Attorney client privilege exemption (5 ILCS 140/7(1)(m)). See also, People ex rel. Ulrich v. Stukel, 294 Ill. App. 3d 193, 201 (1st Dist. 1997); Illinois Education Ass'n v. Illinois State Board of Education, 204 Ill. 2d 456, 470 (2003). The redacted or withheld records contain communications between Village staff and the Village Attorney in which the Village Attorney was consulted for his opinion and advice and such communications originated in confidence that they would not be disclosed and they have remained confidential.

12. I will confirm with the Village that no survey was conducted or it has yet to be completed. If one was conducted and completed, I will provide you with any final version of the survey that may be turned over pursuant to FOIA.

13. See Response 12.

The Village is striving to be as transparent as possible with all issues surrounding 5G. The Village is updating its website on an ongoing basis with documents relating to 5G and I recommend checking the website regularly for the most up-to-date information and documents from the Village relating to 5G.

Please do not hesitate to contact me with any questions

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From: Rick Murphy [<mailto:rmurphy@costellaw.com>]

Sent: Sunday, January 19, 2020 6:26 PM

To: Caitlyn R. Culbertson

Subject: Missing FOIA documents

Hi Ms Culbertson

I have noted the following material missing from the FOIA response.

Material Missing from Response to Murphy FOIA

1) The Village's January 10, 2020 "Statement on Small Cell Wireless Technology in the Village of Western Springs" states that "While some providers [note providers is plural] may have shared preliminary site maps to illustrate tentatively proposed sites for small cell wireless facilities..." The FOIA response contained only one map. Where are the other maps?

2) The FOIA response contained only 4 pages of a 20 page "ComEd Pole Attachment Agreement" (Bates 167 – 170). Where are the missing pages?

3) At the Village Board meeting on January 13, 2020 Mr. Jurusik described a map of proposed 5G small cell antenna/transmitter locations that showed proposed locations in neighboring municipalities. That map was not included in the Response.

4) A Dec. 2, 2019 email from Mr. Scott to Mr. Supert (Bates 782) references a map showing 40 poles in Clarendon Hills. That map was not included in the Response.

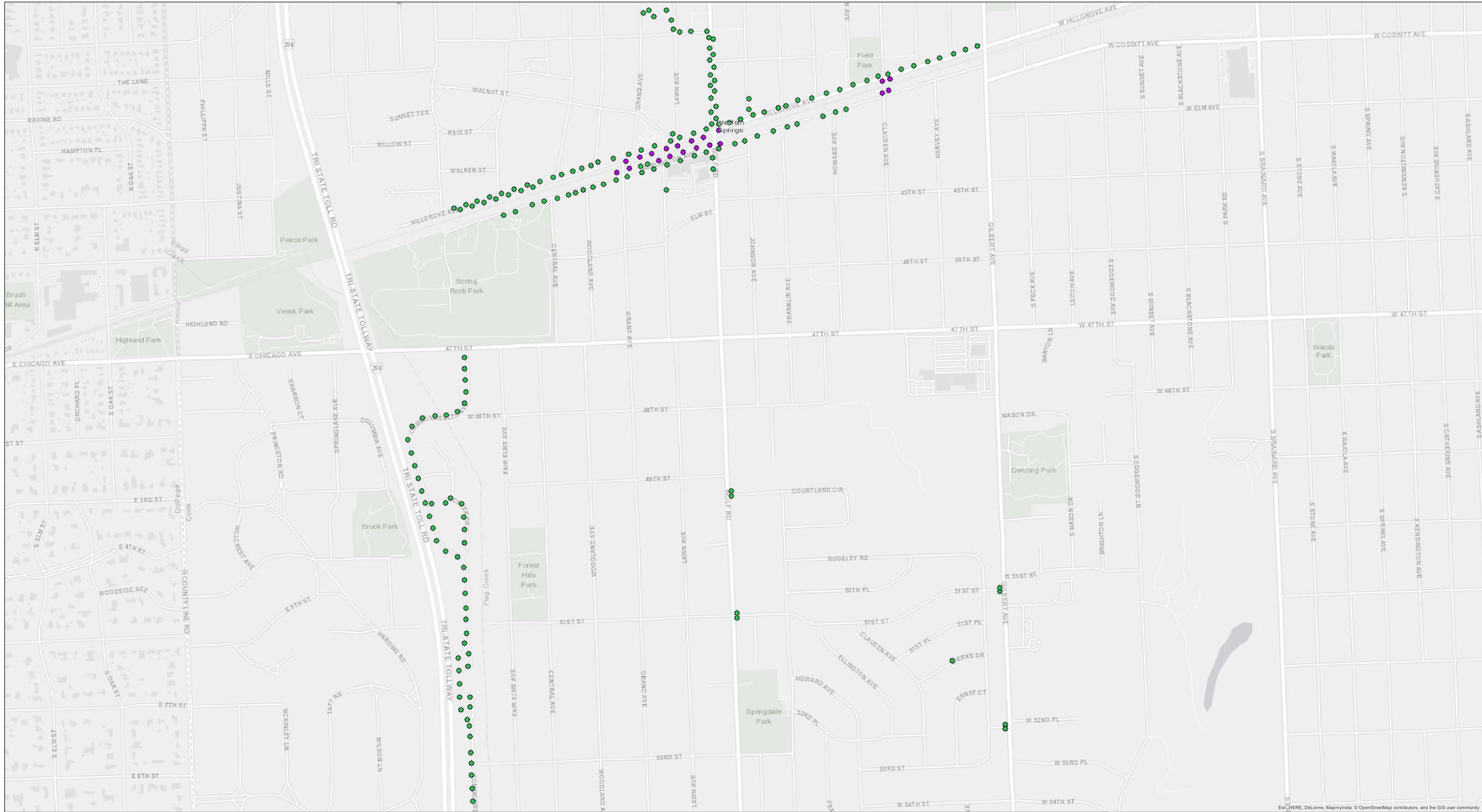
5) Sept. 27, 2019 email from Mr. Ferry to Mr. Supert references a spreadsheet which contains a column for comments. (Bates 841, 842). Both the original spreadsheet, and any later spreadsheet with comments, are missing.

- 6) A July 24, 2019 email from Mr. Supert to Mr. Marrs (Bates 621-622) mentions an agreement. Was that agreement ever provided to the Village?
- 7) On July 13, 2019 Mr. Supert sent an email to Trustees Chen and Tyrell regarding "Small Cell Materials" stating "Attached is a map illustrating the location of Village owned streetlights" (Bates 439). The attachment was not included in the Response.
- 8) The July 13, 2019 email (Bates 440) also said "I will reach out to our Com Ed rep to find out if they can provide us a map." Was such a map provided?
- 9) A May 20, 2019 email from Michael Marrs to Mr. Scott references a "Master Attachment Agreement for KTJ clients to enter into with providers relative to all small cell sites within the community" (Bates 443). That agreement was not included in the Response.
- 10) The May 20, 2019 email states that a "template application form" is being resent. (Bates 622). Such a template is also mentioned in a December 19, 2018 email from Mr. Marrs to Mr. Scott (Bates 624). It does not appear that such templates were included in the Response.
- 11) The May 20, 2019 email also recommends drafting amendments to make "zoning changes relative to small cell placements on private property" (Bates 443). Were such amendments received by the village?
- 12) A July 30, 2018 email between Mr. Jurusik and Mr. Scott (Bates 631) references a "Village owned streetlight survey". The Village-owned streetlight survey was not included in the Response.
- 13) June 27, 2018 emails between Mr. Scott and Mr. Jurusik reference a survey (Bates 624, 625). No survey was included in the Response

Rick Murphy

Sent from my iPhone

Downtown Lighting Audit



There were 229 fixtures in total audited

Type:
 EAO – King External Acrylic Optic
 EAO* - "Other" manufacturer
 SAR – VL2 Optic

A total of 89 EAO fixtures, 116 "Others" and 24 SAR's. Items labeled as EAO & EAO* cannot be retrofitted and must be changed to a completely new LED fixture, while the SAR's can be converted using the KCK56 retrofit kit

Budget numbers are as follows:
 New Fixture K56-C-T-P4AR-III-75(SSL)-7030-120-277-BK \$830.00 ea
 Retro Kit KCK56-P4AR-III-75(SSL)-120-277-BK \$465.00 ea

Legend

Street Lights Type

- Dual Head
- Single Head

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