



July 29, 2014

Mr. Brian McGillivray  
Staff Writer, TC Record-Eagle  
120 W. Front St.  
Traverse City, MI 49686

**via email only: [bmccgillivray@record-eagle.com](mailto:bmccgillivray@record-eagle.com)**

Dear Mr. McGillivray:

Re: FOIA Request

This letter is in response to my telephone conversation with Traverse City Record-Eagle Editor Mike Tyree. As I disclosed in my July 21, 2014, letter, on June 2, 2014, a prior draft version of the Clinch Park Splash Pad Report prepared by Water Technologies, Inc., was uploaded to a cloud storage system by Water Technologies, Inc. That version was automatically deleted and was not downloaded onto any city computer or in the city's records.

Mr. Tyree requested that the City exhaust all efforts to obtain that June 2, 2014, draft and provide it to the Traverse City Record-Eagle. In response, we contacted Water Technologies, Inc., and obtained the June 2, 2014, version, which was received by the City on July 28, 2014 and is provided with this letter.

I want to acknowledge that I misinterpreted the Freedom of Information Act which led me to believe, at the time, that the draft version(s) of the report were exempt from disclosure particularly because they were contained in the City Attorney's records. As City Clerk and as FOIA Coordinator, I have a responsibility for ensuring compliance with the Freedom of Information Act. The City of Traverse City is committed, and I am as a professional, to ensuring transparency in city government operations – and the Traverse City Record-Eagle plays an important part in providing that transparency. I very sincerely regret that my misinterpretation of the statute, and therefore the delay in disclosure, caused a delay in your ability to fully report on this issue, which ultimately delayed the public's ability to be aware of the information contained in the reports.

If the records you have received do not fulfill your request, please let us know as soon as possible. Of course, you are welcome to examine the City's public records at any time during normal business hours.

While we feel we have not denied your request, we are required to advise you that you have the right to seek judicial review of a denial of a request for a public record under the Freedom of Information Act; and if you prevail in such action, you have the right to receive attorney fees and damages under the circumstances described in that law. According to the City's FOIA policy, you may file a written appeal to the City Manager in lieu of a judicial review.

If you have any questions, please do not hesitate to contact our office.

Sincerely,



Benjamin C. Marentette, CMC  
City Clerk/FOIA Coordinator

*Enclosures*