

AGENDA

RULES MEETING OF THE BOARD OF TRUSTEES  
VILLAGE OF PARK FOREST, COOK AND WILL COUNTIES, ILLINOIS

Village Hall

8:00 p.m.

February 1, 2010

Roll Call

1. A Resolution Adopting Administrative Procedures for Compliance with the Illinois Freedom of Information Act
2. A Resolution Authorizing an Easement between the Village and Calvary United Protestant Church
3. An Ordinance Amending Chapter 42 (“Fire Prevention and Protection”) (Foreign Fire Insurance)

Mayor’s Comments

Manager’s Comments

Trustee’s Comments

Attorney’s Comments

Audience to Visitors

Adjournment

Agenda Items are Available in the Lobby of Village Hall

## VILLAGE OF PARK FOREST

### MEMORANDUM

**TO: John A. Ostenburg, Mayor  
Village Board of Trustees**

**FROM: Thomas K. Mick,  
Village Manager**

**DATE: January 11, 2010**

**RE: A RESOLUTION ADOPTING ADMINISTRATIVE PROCEDURES FOR  
COMPLIANCE WITH THE ILLINOIS FREEDOM OF INFORMATION  
ACT**

#### **BACKGROUND/DISCUSSION:**

In mid-2009, the Illinois General Assembly approved substantial changes the Illinois Freedom of Information Act. These changes took effect January 1, 2010. Attached to this memo is 1) a cover letter from Village Attorney Paul Stephanides; 2) a thorough set of administrative procedures for complying with the FOIA changes; and 3) the associated enabling resolution establishing designated FOIA Officers for the Village while officially putting the administrative procedures in place.

While the revisions to the FOIA are comprehensive, the highlights of what has changed are as follows:

- The Village must appoint one or more FOIA Officers. The attached resolution designates the Deputy Village Clerk and Village Manager as FOIA Officers for the Village of Park Forest. Within 30 days of appointment, and by no later than July 1, 2010, the FOIA Officers must complete electronic training as set forth by the Illinois Attorney General.
- FOIA responses now have to be provided within five business days versus the previous standard of seven business days.
- The governing body can have an extension of five business days to provide an FOIA response whereas the former standard was seven business days. Additionally, the public body is allowed 21 days to respond to FOIA requests made for commercial purposes. The designated FOIA form includes a component requesting the applicant note (voluntarily) whether the request is for commercial purposes.
- FOIA requests processed must be done so without the requester being required to pay for administrative costs such as copying and paper (for the first 50 pages). After the first 50 pages, the governing body can charge fifteen cents (15¢) per page for black and white copies. For electronic files, the governing body can charge the actual cost incurred for whatever storage medium (disk, flash drive, etc.) the files are conveyed on. The fee/cost waiver of fees does not apply to commercially-related FOIA requests.

- A Public Access Counselor (PAC), under the general direction of the Illinois Attorney General, will now preside over FOIA procedures across the state. According to the web site for the Illinois Attorney General, the PAC's duties will include
  - Educating the public on FOIA guidelines
  - Issuing advisory opinions on the interpretation of the FOIA
  - Mediating disputes between the public and public bodies
  - Investigating and issuing opinions (some of which may be binding on the governing body) in instances when an FOIA request has been denied by a public body
  - Facilitating designated FOIA Officer training
  
- The public body can still deny FOIA requests under the new act. Many of these "exemptions" from FOIA mandates are carried over from the previous FOIA standards. Exemptions include unduly burdensome requests, though the ultimate determination of what is burdensome may have to be decided by the PAC. Personnel records are also exempt where the information requested deemed to be an unwarranted invasion of personal privacy. The determining factor for personal privacy exemptions revolves around "unique identifiers" such as date of birth, social security number, financial information and medical records.
  
- While the public body can still deny FOIA requests based on its interpretation of allowable exemptions within the Act, such denials must also be forwarded to the PAC for a final determination. The PAC's written decision could include compelling a public body to provide the requested information.

The attached resolution and administrative procedures have been drafted and/or reviewed by Village Attorney Paul Stephanides. Several members of the Board have expressed interest in attending as an educational session on FOIA revisions. As such, when this matter is brought before the Village Board at its February 1<sup>st</sup> Rules Meeting, Attorney Stephanides will provide a thorough presentation on the changes and the potential ramifications for Village operations.

**SCHEDULE FOR CONSIDERATION:**

This issue will be on the agenda of the February 1, 2010 Rules Meeting for Board discussion.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION ADOPTING ADMINISTRATIVE PROCEDURES  
FOR COMPLIANCE WITH THE ILLINOIS FREEDOM OF INFORMATION ACT**

WHEREAS, the Illinois General Assembly has passed Public Act 96-0542, which amends certain sections of the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*; and

WHEREAS, the provisions of Public Act 96-0542 take effect on January 1, 2010; and

WHEREAS, the Mayor and Board of Trustees of the Village of Park Forest seek to adopt Administrative Procedures for compliance with the Illinois Freedom of Information Act and incorporate these provisions in the spirit of transparency and accountability at all levels of government.

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE BOARD OF TRUSTEES OF THE VILLAGE OF PARK FOREST in the exercise of their home rule powers as follows:**

**Section 1. Village Policy Regarding Access to Public Records.** The Village recognizes the right of members of the public to have access to public records in accordance with the provisions of the Illinois Freedom of Information Act (“Act”), and affirms that it is the policy of the Village to comply with the Act.

**Section 2. Designation of Freedom of Information Act Officers.** The Deputy Village Clerk and Village Manager are designated as the village’s Freedom of Information Act officers. The Village Manager shall designate additional employees as Freedom of Information Act officers in his discretion.

**Section 3. Adoption of Administrative Procedures.** The Village hereby adopts the “Administrative Procedures for Compliance with the Illinois Freedom of Information Act,” attached hereto and incorporated herein by reference.

**Section 4. Effective Date.** This Resolution shall be in full force and effect upon its passage and approval.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 2010.

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
John A. Ostenburg, Mayor

\_\_\_\_\_  
Village Clerk

**ROBBINS SCHWARTZ**  
**NICHOLAS LIFTON & TAYLOR, LTD.**

Attorneys at Law

CHICAGO ■ DECATUR ■ COLLINSVILLE ■ JOLIET

24 West Cass Street  
5th Floor  
Joliet, IL 60432  
P: (815) 722-6560  
F: (815) 722-0450  
www.rsnlt.com

Paul L. Stephanides  
[pstephanides@rsnlt.com](mailto:pstephanides@rsnlt.com)

January 7, 2010

**ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

Mr. Thomas K. Mick  
Village Manager  
Village of Park Forest  
350 Victory Drive  
Park Forest, Illinois 60466

**VIA E-MAIL AND U.S. MAIL**

**RE: MODEL FOIA POLICY AND PROCEDURES**

Dear Tom:

Enclosed please find our firm's model policy, administrative procedures, and forms to facilitate compliance with the *Illinois Freedom of Information Act* ("FOIA" or the "Act"), 105 ILCS 140/1 *et seq.*, as amended by Public Act 96-542 effective January 1, 2010.

**A. INTRODUCTION**

The enclosed Resolution is brief, by design. After affirming the Village of Park Forest's ("Village") obligation and intent to comply with the FOIA's requirements, the Resolution designates the Village Clerk and the Deputy Village Clerk as the Village's FOIA officers and authorizes the Village Manager to designate additional Freedom of Information Officers as required by the amended FOIA. The Resolution also adopts the administrative procedures to implement compliance.

The administrative procedures serve as a guide to the requirements of the amended Act. The administrative procedures include as Appendix A a list of "FOIA Exemptions Of Primary Relevance," including cites to pertinent sections of the amended statute. FOIA Forms 1 through 7 in Appendix B are designed to standardize and guide the FOIA Officer in implementing the procedures required to comply with the Act.

As you will see from reading the administrative procedures, FOIA as rewritten by P.A. 96-542 prescribes more explicit steps for responding to requests for public records. It

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Attorneys at Law  
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also shortens the deadlines for FOIA responses to five business days with a potential five-day extension, except that public bodies are given 21 days to respond to records requests made for commercial purposes. A requester and a public body may also agree in writing to extend the time for compliance for a mutually acceptable period.

The amended Act reorganizes and amends FOIA's long list of exemptions, changes or adds other substantive provisions in the law, and expands and stiffens penalties for failing to comply with FOIA requirements. In addition, the legislation formally establishes and places broad new enforcement powers in the Public Access Counselor (PAC), a position originally created by administrative action of the Illinois Attorney General. The PAC's powers and duties under the amended FOIA are discussed further below.

There is little doubt that the amended statute will increase the cost of complying with FOIA for public bodies, and that compliance may at times come at the expense of other governmental priorities. One of several new declarations embedded in FOIA § 1 provides:

The General Assembly recognizes that this Act imposes financial obligations on public bodies to provide adequate staff and equipment to comply with its requirements. The General Assembly declares that providing records in compliance with the requirements of this Act is a primary duty of public bodies to the people of this State, and this Act should be construed to this end, fiscal obligations notwithstanding.

The Illinois Attorney General has posted FAQs on complying with the amended FOIA. These guidance documents, which we are advised will be updated on an ongoing basis, are posted on and can be downloaded from [www.illinoisattorneygeneral.gov](http://www.illinoisattorneygeneral.gov).

## **B. PRELIMINARY CAUTIONS REGARDING EXEMPTION CLAIMS**

FOIA Forms 1 through 7 in Appendix B should enable the Village to fulfill its obligations under the FOIA in a routine manner in many cases. However, although routine responses will be possible for many records requests, *changes in the law make it advisable to consult legal counsel when questions arise as to whether one or more exemptions from disclosure apply to allow the Village to deny a request in whole or part, and/or to redact specific information from records which are being provided to a requester.*

In the amended FOIA, exemptions are grouped into two separate categories. One category consists of 24 "general" exemptions, listed in § 7(1). The second, covered in new § 7.5, lists a total 14 exemptions each of which relates to disclosure prohibitions in specific statutes other than the amended FOIA (the "statutory" exemptions). For

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example, information prohibited from disclosure by the Personnel Records Review Act is expressly protected under § 7.5's catalog of "statutory" exemptions.

Many of the exemptions included in "old" FOIA have been carried over into the reorganized treatment of exemptions in the amended statute – but with significant wording changes, in some cases. For example, the "general" exemptions in amended § 7(1) include one which continues to permit a public body to withhold personal information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the individual subjects of the information consent in writing to the disclosure. However, "unwarranted invasion of personal privacy" is newly defined to mean "the disclosure of information that is highly personal or objectionable to a reasonable person *and* in which the subject's right of privacy outweighs *any* legitimate public interest in obtaining the information." 5 ILCS 140/7(1)(c) (emphasis added). This same exemption preserves the caveat that "disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy."

The group of general exemptions include a new one in § 7(1)(b) for "private information". Amended FOIA § 2(c-5) specifically defines "private information" to include "unique identifiers", including a person's social security, driver's license, and employee identification numbers; biometric identifiers; personal financial information; passwords or other access codes, medical records; home or personal telephone numbers and addresses; and personal e-mail addresses.

**Personnel records:** Controversy is anticipated over the extent to which employee evaluations and other types of personnel records are subject to inspection and copying. The legislature's revamp of the exemptions provisions has injected additional uncertainty into this aspect of public records disclosure.

The familiar exemption for "personnel files and personal information maintained with respect to employees, appointees or elected officials of any public body", formerly found in § 7(1)(b)(ii), has been deleted. The amended FOIA has no blanket exemption for personnel file records. Instead, a record maintained in a personnel file will need to qualify under a separate exemption, most likely the newly defined "unwarranted invasion of personal privacy" exemption noted above. And as discussed next, invoking *that* exemption raises new procedural issues.

**Public Access Counselor advance review of certain exemption claims:** Under the amended FOIA, any time a public body intends to assert the "unwarranted invasion of privacy" or "preliminary drafts" exemptions provided for in the statute in response to all or part of a FOIA request, it must so inform the Public Access Counselor. The response period for those aspects of the records request is then put on "hold", while the PAC exercises his or her newly conferred statutory jurisdiction to determine whether or not

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the public body may properly invoke the exemption(s). This feature of the amended FOIA, discussed further below in connection with Section 12 of the administrative procedures, may affect public bodies' FOIA response strategies: if requested records are clearly exempt under other provisions of FOIA, a public body which does not want to trigger advance review of its FOIA response by the PAC may choose *not* to invoke the privacy or preliminary drafts exemptions as alternative grounds for declining to disclose the information involved.

### **C. ADMINISTRATIVE PROCEDURES, INCLUDING FORMS**

The Table of Contents to the Administrative Procedures provides a quick overview of the elements and requirements of the amended FOIA which they address. This cover letter will not reiterate the contents of the enclosed administrative procedures ("AP"). We will instead use this opportunity to call your attention to key points and offer additional legal perspective on certain compliance and strategy issues related to particular procedures.

#### **Section 1 – Definitions (AP pp. 1-4)**

In addition to its broad general definition of "public records", the amended FOIA goes on to specifically identify five categories of documents that qualify as such – among them, all records relating to the receipt or use of public funds, and settlement agreements entered into by public bodies.

#### **Section 2 – FOIA Officers (AP pp. 5-6, and implementation procedures per other Sections)**

The Village must appoint one or more Freedom of Information Officers to coordinate its FOIA compliance. Each FOIA Officer must complete an electronic training course prescribed by the Illinois Attorney General within 30 days of his or her appointment (or by July 1, 2010, in the case of those appointed to serve effective on January 1, 2010) and annually thereafter. Due to the shorter response times and additional procedural requirements dictated by the amended FOIA, it may be advisable to designate more than one individual to serve as FOIA Officer, so as to avoid coverage "gaps" which may otherwise occur due to vacation, illness, the press of other work, and so on.

In light of the shorter FOIA response periods, all municipal employees should be made aware of the need to immediately route public records requests to the FOIA Officer – keeping in mind that in order to prepare a response, the FOIA Officer may need time to consult other persons in the Village or outside parties (such as contractors) in order to identify records responsive to particular requests, and to gather those records. There are significant adverse consequences for untimely responses. Under § 3(d) and –(f) of the amended FOIA, a public body which does not comply with response deadlines

forfeits the opportunity to assert that compliance is “unduly burdensome”, or to charge copying fees. The public body may also be deemed to have denied the FOIA request.

### **Section 3 – General notices to public required by FOIA (AP pp. 6-7)**

These include a description of the Village including its organization, operating budget, office locations, number of employees, and any advisory bodies; and the types of public records maintained by the Village and those records that the Village will disclose immediately upon request. See FOIA Form 1, which should be adapted to accurately reflect the circumstances of the Village.

The Village must also post and/or prominently display at the municipal office a description of the procedure for submitting records requests. FOIA Form 2 may be completed and/or adapted for this purpose. Individuals who make records requests *may* be required to do so in writing, submitted by personal delivery, regular mail, facsimile transmittal or e-mail. They may be encouraged but *not required* to use the Village’s standard form of “Request To Inspect And/Or Copy Records” (FOIA Form 3) for this purpose.

### **Section 4 – Copying fees; requests for fee waiver or reduction (AP pp. 7-8)**

We note that the Illinois Attorney General interprets the Act as requiring public bodies to provide the first 50 pages of copied documents at no charge in responding to requests which are made for commercial purposes, as well as requests for non-commercial purposes.

The standard form records request (FOIA Form 3) includes a question asking whether the request is being made for a commercial purpose, to enable the Village to identify whether the 21-day time period for response applies. Form 3 also includes an (optional) inquiry asking whether the requester is seeking a waiver or reduction of copying fees and if so, to identify the purpose of the request. Note that these are the only situations in which the FOIA permits a public body to inquire as to the purpose of a records request.

### **Section 5 – Time periods for response to records requests (AP pp. 8-10)**

Per the amended FOIA, Section 5 of the administrative procedures specifies a period of five business days to respond to requests for records generally, and 21 days to respond to records requests made for commercial purposes. It refers the reader to the accompanying Appendix of FOIA Exemptions of Primary Relevance to Municipalities, which may be consulted in preparing a response. FOIA Forms 4, 5 and 6 – respectively, a “Notice For Records Inspection And/Or Copying”, a “Notice Of [Denial] [Partial Denial] Of Records Request”, and a “Notice Of Intent To Deny Records Request Based On Certain Statutory Exemptions” – have been written to facilitate complying with FOIA’s

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NICHOLAS LIFTON & TAYLOR, LTD. ■  
Attorneys at Law  
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detailed requirements for responding to records requests, and should be reviewed carefully. These forms may be used singly or in combination, as may be appropriate, to notify the requester of the Village's response.

As also explained in Section 5, FOIA Form 7 ("Notice Of Need For Additional Time To Respond To Records Request") concludes with an (optional) invitation to the requester to consent to a specified longer period for response, as allowed by the statute. *The FOIA Officer should always confirm any such agreement to extend the time for response in writing.*

### **Section 6 – Unduly burdensome requests (AP p. 10)**

FOIA Form 7's list of the grounds which may, under the statute, be cited to explain the need for more than five business days to respond includes the reason that the request is "made in categorical terms" and cannot be complied within that period without "unduly burdening the [Village's] operations." In italics next to that reason, Form 7 invites the requester to reduce the request to manageable proportions, and to call the FOIA Officer to discuss how the Village can work with the requester to accommodate the records request. This offering of an opportunity to narrow an otherwise "unduly burdensome" request is required by the statute.

### **Section 7 – Records requests for commercial purposes (AP pp. 11-12)**

This section delineates special considerations which apply to commercial purposes requests, and notes that the Village may give priority to responding to records requests made for non-commercial purposes.

### **Section 8 – Producing records with exempt information redacted (AP p. 12)**

Before and after the latest amendments, the FOIA has required that when a requested public record contains both exempt and non-exempt information, the record must be provided for inspection and copying, with the exempt information redacted at the public body's option. As noted in Section 8, the Village's response must identify the exemption(s) relied upon in withholding the redacted information from disclosure.

### **Section 9 – Procedures for denial or partial denial of request (AP p. 12)**

As Section 9 and FOIA Form 5 make clear, the amended FOIA requires not only that a public body identify the specific exemption(s) relied upon in denying all or part of a records request, but also that the public body provide a written explanation of the factual basis and legal authority supporting the denial.

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NICHOLAS LIFTON & TAYLOR, LTD. ■  
Attorneys at Law  
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In keeping with the amended statute, Form 5 also notifies the FOIA requester of the right to seek review of the denial by the Public Access Counselor (providing the PAC's contact information), and of the right to administrative review in court.

As discussed further below in connection with Section 12 of the Administrative Procedures, invoking the "privacy" and "preliminary drafts" exemptions means a *pre-response* detour to the Public Access Counselor.

### **Section 10 – Review of denials by Public Access Counselor (AP pp. 12-13)**

The amended FOIA prescribes new procedures under which a FOIA requester may seek review by the PAC of a public body's denial of a records request. On receiving such a review request, the PAC has several options. After receiving and evaluating submittals from the public body and the FOIA requester concerning the disputed records, the PAC may issue a binding opinion as to whether the denial of records violated FOIA. If the PAC issues a binding opinion that a FOIA violation occurred, the public body involved must promptly comply with any directives in the opinion or in the alternative, file an action for administrative review of the opinion. Such an action may be filed only in the circuit courts of Cook or Sangamon Counties.

### **Section 11 – The Village's right to request opinion from the PAC (AP p. 13)**

The Public Access Counselor may but is not required to issue advisory opinions to public bodies which seek guidance from the PAC regarding the inspection or release of particular public records.

### **Section 12 – Asserting "privacy" and "preliminary drafts" exemptions (AP pp. 13 14)**

Municipalities and their FOIA Officers should be aware of the special procedures which apply to claims that particular records (or parts of records) are covered by FOIA Section 7(1)'s provisions which exempt information, the disclosure of which would result in an unwarranted invasion of personal privacy, or which constitute preliminary policy drafts. A public body which intends to assert these exemptions must provide written notice of its intent to the FOIA requester and the Public Access Counselor, and backup documentation as specified in Section 12. See FOIA Form 6. The PAC then considers whether further inquiry is warranted, and if so, conducts a review to determine whether or not the exemptions may properly be relied on in the case at hand.

## **CONCLUDING COMMENTS**

Compliance with the amended FOIA will entail a significant learning curve. The approaches taken by the Office of the Illinois Attorney General in implementing the new powers of the Public Access Counselor will undoubtedly have an impact on the measures and strategies which public bodies develop to comply with the Act. Along

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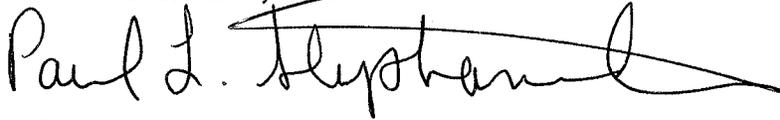
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with our clients, we will be following developments under the amended FOIA closely, and will provide updates to these policy materials which may be needed or useful as these developments occur.

If you have any questions concerning the amended FOIA or the enclosed materials, please do not hesitate to contact me.

Very truly yours,

**ROBBINS, SCHWARTZ, NICHOLAS,  
LIFTON & TAYLOR, LTD.**

A handwritten signature in cursive script, reading "Paul L. Stephanides", written over a horizontal line.

By: Paul L. Stephanides

PLS:mmm  
Enclosures

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**ADMINISTRATIVE PROCEDURES  
FOR COMPLIANCE WITH  
THE ILLINOIS FREEDOM OF INFORMATION ACT**

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**SECTION 1. DEFINITIONS**

**A. Business Day**

A regular day of the week (Monday through Friday) when public offices are open. Saturdays, Sundays, and State holidays are not business days and are not counted in calculating time periods for response. Time periods for responses under FOIA are calculated in business days.

**B. Commercial Purpose**

The use of any part of a public record or information derived from public records for sale, resale, solicitation, or advertisement for sales or services.

Requests made by news media and non-profit, scientific, or academic organizations are not “made for a commercial purpose” when the principal purpose of the request is: 1) to access or disseminate information concerning news and current events, 2) for opinion or feature articles of public interest, or 3) for scientific, academic, or public research or education.

**C. Copying**

The reproduction of any public record by means of any photographic, electronic, mechanical or other process, device or means now known or hereafter developed and available to the public body.

**D. Exemptions**

Provisions of FOIA which allow a public body not to make certain categories of information available for inspection and copying.

## **1. General Exemptions**

FOIA Section 7(1) provides 24 exemptions relating to general categories of information which may be withheld from disclosure, such as information specifically prohibited from disclosure by law, statutorily defined “private information,” and minutes of closed meetings of the public body’s governing board which have not been approved for release to the public.

## **2. Exemptions Related to Other Statutes**

FOIA Section 7.5 provides 14 exemptions related to enumerated Illinois statutes. For example, disclosures prohibited by the Personnel Records Review Act are statutorily exempt by FOIA Section 7.5.

FOIA exemptions of primary relevance are listed in Appendix A to these Administrative Procedures.

### **E. Freedom of Information Act or “FOIA”**

The Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*, as amended

### **F. Freedom of Information Officer**

The official(s) or employee(s) formally designated by the Village to be primarily responsible to receive and to coordinate timely responses to FOIA requests.

### **G. Head of the Public Body**

The Village Manager of the Village of Park Forest (“Village”).

### **H. News Media**

Newspapers or other periodicals issued at regular intervals in print or electronic form, news services, radio stations, networks, community antenna television services, or individuals or corporations which make news in film formats for public showing.

## **I. Person**

Any individual, corporation, partnership, firm, organization or association which acts individually or as a group.

## **J. Private Information**

Unique identifiers, such as a person's social security number, driver's license number, employee identification number, biometric indicators, personal financial information, passwords, medical records, personal telephone numbers, and personal email addresses. Home address and personal license plates are also considered private information unless otherwise provided by law or when they are compiled without the possibility of being identified with any person.

## **K. Public Access Counselor**

The official in the Illinois Attorney General's office who is responsible to (among other functions) develop an electronic training curriculum for FOIA officers, review denials of FOIA requests, and issue binding and non-binding decisions and advisory opinions concerning compliance with FOIA and the Illinois Open Meetings Act.

## **L. Public Interest Purpose**

A FOIA request is "in the public interest" if its principal purpose is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public, and not for the principal purpose of personal or commercial benefit.

## **M. Public Records**

FOIA generally defines public records to include all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of the public body.

FOIA specifically identifies the following as public records:

1. All records relating to the obligation, receipt, and use of public funds.

2. Certified payroll records submitted to a public body under Section 5(a)(2) of the Prevailing Wage Act (but contractors' employees' personal information must be redacted prior to disclosure).
3. Arrest reports and criminal history records.
4. Settlement agreements entered into by or on behalf of a public body, provided that information exempt from disclosure under FOIA Section 7 may be redacted.
5. Certain documents in the possession of government contractors. Specifically, the Act exempts records in the possession of a party with whom the public body has contracted to perform a governmental function on its behalf that directly relate to the governmental function, and are not otherwise exempt under FOIA. See FOIA Section 7(2).

#### **N. Unduly Burdensome**

A FOIA request may be considered unduly burdensome if:

1. It calls for all records falling within a category, there is no way to narrow the request, and the burden on the public body of responding outweighs the public interest in the information.
2. Repeated requests have been received from the same person for the same records that are unchanged or identical to records previously provided or properly denied under FOIA.

#### **O. Unwarranted Invasion of Personal Privacy**

The disclosure of information that is highly personal or objectionable to a reasonable person, and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information.

Information that bears on the public duties of public employees and officials is not considered an invasion of personal privacy.

#### **P. Village**

The Village of Park Forest.

## **SECTION 2. FOIA OFFICERS**

### **A. Designation of FOIA Officers**

The Deputy Village Clerk and Village Manager are designated as the Village's Freedom of Information Act ("FOIA") Officers, who will be referred to as the "FOIA Officer" in these procedures. The term "FOIA Officer" shall also include other Village employees who are designated as FOIA Officer's by the Village Manager.

### **B. Responsibilities of FOIA Officer, Generally**

#### **1. Summary of duties**

The FOIA Officer shall receive requests for records submitted by members of the public, shall ensure that the Village responds to records requests in a timely manner, and shall perform other responsibilities as delineated in these Administrative Procedures.

**FOIA Forms 1 through 7** appended to these Administrative Procedures shall be used whenever possible to facilitate processing of requests for public records, and compliance with the FOIA.

#### **2. Requests to inspect / copy records to be made in writing to FOIA Officer**

The FOIA Officer shall require records requests to be made in writing, and shall encourage (but may not require) the requester to use **FOIA Form 3** for that purpose. Written requests may be submitted to the Village by personal delivery, mail, facsimile, or other available means.

Public records shall be made available for inspection or copying only during regular business hours at the Village Hall.

All requests for inspection and copying received by the Village shall immediately be forwarded to the FOIA Officer, who shall communicate with municipal administrators and employees as needed to ensure that any request for public records of the Village is routed in this manner.

#### **3. Steps to document receipt and processing of records requests**

On receiving a written request to inspect and/or copy public records, the FOIA Officer shall:

- a. Note the date on which the Village received the written request;

- b. Compute the date on which the period for response will expire and note that date on the written request;
- c. Maintain an electronic or paper copy of the request, including all documents submitted with the request;
- d. Create a file for the retention of the original request and a copy of the Village's response and of all written communications with the requester, as well as a record of all other communications related to the request.

#### **4. Processing of records requests**

The FOIA Officer shall process requests for public records of the Village in accordance with Sections 4 through 12 of these Administrative Procedures.

#### **5. Completion of Illinois Attorney General's training course; annual training**

Each FOIA Officer designated by the Village shall successfully complete an electronic training curriculum provided by the Illinois Attorney General's Public Access Counselor shall within 30 days of his or her appointment (or by July 1, 2010, in the case of the FOIA Officer appointed by the Village to serve effective on January 1, 2010), and shall successfully complete an annual training program.

The FOIA Officer shall maintain records documenting compliance with these training requirements.

### **SECTION 3. GENERAL NOTICES TO PUBLIC REQUIRED BY FOIA**

The Village shall prominently display at the Village Hall, post on the Village's website, make available for inspection and copying, and send through the mail if requested, each of the following:

#### **A. Description of the Village**

This description shall consist of a brief description of the Village, including a short summary of its purpose, a block diagram giving its functional subdivisions, the total amount of its operating budget, the number and location of all of its separate offices, the approximate number of full and part-time employees, and the identification and membership of any advisory board, commission, or committee.

**B. Types of public records maintained by the Village, including records that the Village will disclose immediately upon request.**

*See FOIA Form 1*, which the FOIA Officer shall review and supplement as may be needed from time to time.

**C. Description of procedure for submitting FOIA requests**

In addition to briefly describing the procedure for making FOIA requests, this document should include a directory designating the FOIA Officer(s), the address to which requests for public records should be directed, and information about copying fees which may be charged. *See FOIA Form 2.*

The FOIA Officer shall be responsible to ensure that the Village is in compliance with the requirements of this Section 3.

**SECTION 4. COPYING FEES; REQUESTS FOR FEE WAIVER OR REDUCTION**

**A. Copies and certification of records, generally**

The Village shall charge 15 cents per page for black and white, standard-sized copies, except that no fees shall be charged for the first 50 pages. If the Village provides copies in color or in a size other than letter or legal, the Village shall charge its actual cost for reproducing the records. The calculation of actual cost shall not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records.

The Village shall charge \$1 for certifying a record.

**B. Records in electronic format**

When a person requests a copy of a record maintained in an electronic format, the Village shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the public record in the specified electronic format, then the Village shall furnish the record in the format in which it is maintained by the Village, or in paper format at the option of the requester. The Village shall charge the requester the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium.

Except where provided by the FOIA or other state statutes, fees applicable to copies of public records furnished in a paper format shall not be applicable to those records when furnished in an electronic format.

### **C. Requests for waiver or reduction of copying fees**

The FOIA Officer shall determine, on a case-by-case basis, whether documents shall be furnished to a FOIA requester without charge or at a reduced charge, upon request, when it is in the public interest to do so and when the records request is not for the principal purpose of personal or commercial benefit. See Section 1 of these Administrative Procedures (definition of “Public Interest Purpose”) and **FOIA Form 3**. In setting the amount of the waiver or fee reduction, the FOIA Officer may consider the amount of materials requested and the cost of copying them.

## **SECTION 5. TIME PERIODS FOR RESPONSE TO RECORDS REQUESTS**

### **A. Generally: five business days to respond**

Except as provided in Section 7 below (concerning requests for commercial purposes), the Village shall either comply with or deny a request for public records within five business days after its receipt of the request, unless the time for response is properly extended as described in Section 5.C. below. Any denial shall be in writing, specifying the responsive documents which are being withheld, the exemption(s) being asserted to support non-disclosure, and factual and legal basis for the denial.

**FOIA Forms 4, 5 and 6** are designed to facilitate compliance with FOIA’s requirements for responses to records requests, and may be used singly or in combination, as may be appropriate, to notify the requester of the Village’s response.

***An Appendix listing the exemptions of primary relevance provided for in the FOIA is included at the end of these Administrative Procedures. Consultation with legal counsel is recommended prior to asserting exemptions in the course of responding to a FOIA request.***

Exemptions asserted under FOIA Section 7(1)(c) and / or FOIA Section 7(1)(f) shall be processed using **FOIA Form 6**, in consultation with legal counsel as may be appropriate, and shall be subject to the review process described in Section 12 of these Administrative Procedures.

## **B. Consequences of untimely response**

1. The Village will be deemed to have denied a records request if, within five business days of receiving the request, it fails to do one or more of the following: comply with a written request, notify the requester that the Village is extending the time for response, and/or deny the request in writing.
2. If the Village fails to respond to a request within the requisite periods in this Section, but thereafter provides the requester with copies of the requested public records, the Village shall not impose copying fees for the records.
3. The Village shall not treat a records request as unduly burdensome, if it fails to respond to the request within the time period required by the FOIA.

## **C. Extension of time for response**

The Village may extend the time period for response by not more than five business days from the original due date, for one or more of the following reasons:

1. The requested records are stored in whole or in part at other locations than the office having charge of the requested records;
2. The request requires the collection of a substantial number of specified records;
3. The request has been made in categorical terms and requires an extensive search for the records responsive to it;
4. The requested records have not been located in the course of routine search and additional efforts are being made to locate them;
5. The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under FOIA, or should be disclosed only with appropriate deletions;
6. The request for records cannot be complied with in five business days without unduly burdening or interfering with the operations of the Village;

7. The Village needs to consult with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request.

When additional time is required for any of the above reasons, the Village shall, within five business days after receipt of the request, notify the FOIA requester of the reasons for the extension and the date by which the response will be forthcoming. **See FOIA Form 7** which should be used to provide such notice.

Form 7 concludes with an (optional) invitation to the requester to consider consenting to a longer period for response, as allowed by FOIA, and asks the requester to contact the FOIA Officer if the requester is willing to agree to a longer period for response. *In any case in which agreement is reached regarding a longer period for response, the FOIA Officer shall promptly confirm such agreement to the requester in writing.*

## **SECTION 6. UNDULY BURDENSOME REQUESTS**

The Village shall comply with requests which call for all records falling within a category, unless compliance would be unduly burdensome and there is no way to narrow the request. Before invoking this exemption, the Village shall allow the FOIA requester an opportunity to reduce the request to manageable proportions. **See FOIA Form 7.**

If the Village responds to a categorical request by stating that compliance would unduly burden its operation, and the conditions described above are met, the Village shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the Village. Such a response shall be treated as a denial of the request for information.

Repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied by the Village shall be deemed unduly burdensome.

## **SECTION 7. RECORDS REQUESTS FOR COMMERCIAL PURPOSES**

### **A. Written confirmation of commercial purpose may be requested**

All FOIA requests made for commercial purposes shall be submitted in writing on the Village's standard FOIA request form (**see FOIA Form 3**), and shall disclose that the request is being made for a commercial purpose. It is a violation of the FOIA for a person to knowingly obtain a public record for a commercial purpose without disclosing that it is for a commercial purpose.

### **B. Time period of 21 days for response to commercial purposes requests**

The Village shall respond to a request for records to be used for a commercial purpose within 21 business days after receipt, unless the requester agrees to a specified longer period for response. Any such agreement must be confirmed in writing.

### **C. Content of response**

The response shall:

1. Provide an estimate of the time the Village will require to provide the requested records requested and an estimate of the fees to be charged, which the Village may require the person to pay in full before copying the requested documents;
2. Deny the request pursuant to one or more of the exemptions provided for in the FOIA (after consultation with legal counsel, as may be appropriate);
3. Notify the requester that the request is unduly burdensome and extend an opportunity to attempt to reduce the request to manageable proportions (**see FOIA Form 7**); and/or
4. Provide the records requested.

Unless the records are exempt from disclosure, the Village shall comply with a request within a reasonable period considering the size and complexity of the request, and giving priority to records requests made for non-commercial purposes. The time periods for compliance or denial of a request to inspect or copy records set out in these Administrative Procedures shall not apply to requests for records made for a

commercial purpose.

## **SECTION 8. PRODUCING RECORDS WITH EXEMPT INFORMATION REDACTED**

In consultation with legal counsel as may be appropriate, the Village shall redact from public records which it makes available for inspection or copying, all information that is exempt from disclosure under the FOIA, as amended. The Village's response shall identify the exemptions under which the redacted information has been withheld.

## **SECTION 9. PROCEDURES FOR DENIAL OR PARTIAL DENIAL OF REQUEST**

### **A. Denials, generally**

When denying a request for public records in whole or part, the Village shall notify the requester in writing of the decision to deny the request; the reasons for the denial, including an explanation of the factual basis for the denial, exemptions invoked, and other legal authority for the denial. The notice shall also state the names and titles or positions of each person responsible for the denial.

Each notice of denial shall also inform the requester of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor. Each notice of denial also shall inform such person of his right to judicial review under the FOIA. ***See FOIA Form 5.***

### **B. Record of denials of FOIA requests**

Copies of all notices of denial shall be retained by the Village, shall be open to the public, and shall be indexed according to the type of exemption asserted and, to the extent feasible, according to the types of records requested.

## **SECTION 10. REVIEW BY PUBLIC ACCESS COUNSELOR**

### **A. Procedure on notice of a request for review by the PAC**

On receiving notice of a request for review from the Illinois Attorney General's Public Access Counselor (PAC), the Village shall within seven business days provide copies of records requested by and shall otherwise fully cooperate with the PAC. The Village

shall also answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Village may furnish affidavits or other records concerning any matter germane to the review.

#### **B. Procedure on receipt of binding opinion from PAC**

On receipt of a timely issued binding opinion from the Public Access Counselor concluding that a violation of the FOIA has occurred, the Village shall either take action immediately to comply with the directive of the opinion, or in the alternative file a complaint for administrative review of the opinion in the circuit court of either Cook or Sangamon County as specified in the FOIA.

The Village shall be immune from liability for any disclosure of records in compliance with an opinion of the Attorney General.

### **SECTION 11. VILLAGE'S RIGHT TO REQUEST OPINION FROM PAC**

The Village Manager or, at the direction of the Village Manager, the Village Attorney may submit a written request to the Public Access Counselor for an advisory opinion on a matter germane to the inspection or release of public records. The written request shall contain sufficient accurate facts from which a determination can be made. If the Village obtains and relies in good faith on an advisory opinion of the Attorney General in responding to a request, it shall not be liable for penalties under the FOIA.

### **SECTION 12. ASSERTING "PRIVACY" AND "PRELIMINARY DRAFTS" EXEMPTIONS**

#### **A. Notice of intent to assert exemptions**

If the Village intends to assert that certain records are exempt under Section 7(1)(c) (pertaining to records, disclosure of which would result in an unwarranted invasion of personal privacy) or 7(1)(f) of FOIA (pertaining to preliminary policy drafts), the Village shall within the time periods provided for responding to a request, provide written notice to the FOIA requester and to the Public Access Counselor of its intent to deny the request in whole or in part on such grounds.

## **B. Content of notice**

The notice shall include:

1. A copy of the request for access to records;
2. A copy of the Village's proposed response; and
3. A detailed summary of the basis for asserting the exemption.

## **C. PAC determination as to whether further inquiry is warranted**

If the PAC determines that further inquiry is warranted, based on the Village's assertions, the procedures set out in Section 10 above regarding the PAC's review of denials, including the production of documents, shall also apply to the inquiry and resolution of the Village's notice of intent to deny a request in whole or part based on FOIA Section 7(1)(c) or 7(1)(f).

The time within which the Village is required to respond to or comply with the FOIA request is tolled (stops running) during the PAC's review of whether the Village may assert the exemptions.

# # #

## **APPENDIX A: FOIA EXEMPTIONS OF PRIMARY RELEVANCE**

FOIA expressly presumes that all records in the custody or possession of a public body are open to inspection and copying, and a public body which asserts a record is exempt from disclosure must prove the exemption by clear and convincing evidence.

FOIA requires that public records which contain exempt information must be available for inspection and copying, but permits the public body to redact the exempt information. The public body must identify the exemptions which permit the redactions.

Unless the applicability of a FOIA exemption or exemptions is clear, consultation with legal counsel is recommended when the Village contemplates denying a request in reliance on one or more FOIA exemptions.

FOIA exemptions are split into two categories: general exemptions and statutory exemptions.

### **A. General Exemptions**

FOIA Section 7(1) provides 24 exemptions relating to general categories of information which may be withheld from disclosure.

General exemptions of primary importance to local governmental entities include:

1. Section 7(1)(a) – Information specifically prohibited from disclosure by federal or state law, rules or regulations;
2. Section 7(1)(b) – “Private information,” as defined in FOIA Section 2(c-5) to include “unique identifiers” such as an individual’s:
  - a. Social security number
  - b. Driver’s license number
  - c. Employee identification number
  - d. Biometric identifiers
  - e. Personal financial information
  - f. Passwords or other access codes

- g. Medical records
  - h. Home or personal telephone numbers
  - i. Personal electronic mail addresses
  - j. Home addresses, except where provided by law
  - k. License plate numbers, except where provided by law
3. Section 7(1)(c) – Personal information contained in public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless disclosure is consented to in writing by the individual subjects of the information.

Note: The disclosure of information that bears on the public duties of public officials shall not be considered an invasion of personal privacy.

4. Section 7(1)(d) – Records in the possession of any public body created in the course of administrative enforcement proceedings, subject to additional conditions set out in this section.
5. Section 7(1)(f) – Preliminary drafts, notes or memoranda in which opinions are expressed or policies/actions are formulated, except when a specific record is publicly cited and identified by the head of the public body.
6. Section 7(1)(g) – Trade secrets and commercial or financial information obtained from a person or business, when such information has been furnished to the public body under a claim that it is proprietary, privileged, or confidential and that disclosure of the information would cause competitive harm to the person or business.
7. Section 7(1)(h) – Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contract or agreement with the body, until an award or final selection is made. Information prepared by or for the public body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

8. Section 7(1)(i) – Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss.
9. Section 7(1)(k) – Architects’ plans, engineers’ technical submissions, and other construction-related technical documents for projects without regard to whether such projects were constructed or developed with public funds, to the extent that disclosure would compromise security.
10. Section 7(1)(l) – Minutes of meetings of public bodies which are closed to the public under the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.
11. Section 7(1)(m) – Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared by or for the public body in anticipation of a criminal, civil, or administrative proceeding at the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.
12. Section 7(1)(n) – Records relating to the adjudication of employee grievances or disciplinary cases; however, this exemption does not extend to the final outcome of cases in which discipline is imposed.
13. Section 7(1)(o) – Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under the Section.
14. Section 7(1)(p) – Records relating to collective negotiating matters between a public body and its employees, except that any final contract or agreement shall be subject to inspection and copying.
15. Section 7(1)(q) – Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment.

16. Section 7(1)(r) – The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.
17. Section 7(1)(s) – Proprietary information and records related to the operation of an intergovernmental risk management association, self-insurance pool, or jointly self-administered health and accident cooperative pool. Insurance or self insurance claims, loss or risk management information, records, data, advice or communications.
18. Section 7(1)(v) – Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community’s population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.

## **B. Exemptions Related to Other Statutes**

FOIA Section 7.5 provides 14 exemptions related to enumerated Illinois statutes.

Statutory exemptions of primary importance to local governmental entities:

1. Section 7.5(k) – Law enforcement officer identification information or driver identification information compiled under Section 11-212 of the Illinois Vehicle Code.
2. Section 7.5(q) – Information which the Personnel Records Review Act prohibits from disclosure.

## **APPENDIX B: MODEL FOIA FORMS**

### **Index of Model Forms**

FOIA Form 1 – Types of Public Records Maintained by the Village

FOIA Form 2 – Notice of Procedure for Requesting Records

FOIA Form 3 – Request to Inspect and/or Copy Records

FOIA Form 4 – Notice For Records Inspection and/or Copying

FOIA Form 5 – Notice of Denial or Partial Denial of Records Request

FOIA Form 6 – Notice of Intent to Deny Records Request Based on Certain  
Exemptions

FOIA Form 7 – Notice of Need for Additional Time to Respond to Records Request

**TYPES OF PUBLIC RECORDS MAINTAINED BY THE VILLAGE\***

The types of public records maintained by the Village of Park Forest and available for inspection include the following:

**GENERAL**

- Ordinances\*
- Meeting schedules\*
- Meeting agenda, minutes and resolutions\*
- Village policies and administrative procedures\*
- Legal notices
- Employee names, titles, and dates of employment
- Official bonds
- Records of Village ownership of real or personal property
- Contracts
- Contractors' records of their employees on public works of the Village

**FINANCIAL**

- Annual budgets\*
- Tax levies\*
- Audit reports\*
- Annual financial statements\*
- Bills or invoices issued and received by the Village
- Receipts for revenue

Note:

Exemptions under the Illinois Freedom of Information Act may allow non-disclosure of some parts of public records maintained by the Village.

\* Asterisked items describe types of records which will be made available immediately upon request.

**NOTICE OF PROCEDURE FOR REQUESTING RECORDS**

Requests for public records must be in writing and may be submitted on FOIA Form 3, available at:

Village of Park Forest  
350 Victory Drive  
Park Forest, Illinois 60466

[www.villageofparkforest.net](http://www.villageofparkforest.net)

Requests for records should be directed to:

[Freedom of Information Officer]

Village of Park Forest  
350 Victory Drive  
Park Forest, Illinois 60466

[Phone Number]

[E-mail Address]

No fees shall be charged for the first 50 pages of black and white, letter or legal sized copies requested. After the first 50 pages, the fee for black and white, letter or legal sized copies shall be 15¢ per page. Actual cost will be charged for other documents not of standard size and for the recording medium (e.g. compact disk, tape, DVD). The Village may waive or reduce fees if the person requesting the records states the specific purpose for the request and indicates that a waiver or reduction of fees is in the public interest.

The Village shall charge \$1 for certifying a record.

**REQUEST TO INSPECT AND/OR COPY RECORDS**

Date: \_\_\_\_\_

To: [FOIA Officer Name]

[Freedom of Information Officer]

Village of Park Forest  
350 Victory Drive  
Park Forest, Illinois 60466

[Phone Number]

[E-mail Address]

I hereby request to inspect  copy\*  the following records:  
*(Please describe requested records as specifically as possible, attaching additional page if necessary.)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* There is no copying fee for the first 50 black and white standard-sized copies. The fee for additional copies is 15¢ per page. Actual cost will be charged for copies of documents not of standard size, and for the recording medium (e.g., compact disk, tape, DVD), when applicable. The Village shall charge \$1 for certifying a record.

Is this request for a commercial purpose?  Yes  No

Are you requesting a waiver or reduction of copying fees?  Yes  No

If yes, what is the purpose of this request? \_\_\_\_\_  
\_\_\_\_\_

**DO NOT WRITE IN THIS SPACE**  
\_\_\_\_\_  
DATE RECEIVED BY VILLAGE

\_\_\_\_\_  
Requester's (Printed) Name

\_\_\_\_\_  
Requester's Signature  
[Address]

[Phone Number]

[E-mail Address]

**NOTICE FOR RECORDS INSPECTION AND/OR COPYING**

Date: \_\_\_\_\_

To: [Requester] \_\_\_\_\_

[Address] \_\_\_\_\_

[Address] \_\_\_\_\_

This will confirm the Village of Park Forest's receipt on \_\_\_\_\_ [date of receipt] of your request dated \_\_\_\_\_ to inspect and/or copy the record(s) described in that request.

The following record(s) responsive to your request are posted and may be reviewed on and downloaded from the Village's website at [www.villageofparkforest.net](http://www.villageofparkforest.net):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The following additional record(s) responsive to your request may be inspected and/or copied during business hours at \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please contact me to schedule your visit to inspect and/or copy the records, or if you have any questions.

[FOIA Officer Name] \_\_\_\_\_

[Freedom of Information Officer] \_\_\_\_\_

Village of Park Forest  
350 Victory Drive  
Park Forest, Illinois 60466

[Phone Number] \_\_\_\_\_

[E-mail Address] \_\_\_\_\_



The name of the person responsible for the denial is [*Name and Title*].

You may ask the Illinois Attorney General's Public Access Counselor (PAC) to review this decision concerning your records request, by submitting a Request for Review to the PAC by electronic mail or U.S. Mail within 60 days after this denial or partial denial of your request. A Request for Review by the PAC should be directed to:

Public Access Bureau  
Office of the Attorney General  
500 S. 2nd Street  
Springfield, Illinois 62706  
[publicaccess@atg.state.il.us](mailto:publicaccess@atg.state.il.us)

The PAC's telephone number is (217) 558-0486.

You also have the right to administrative review by a court of law pursuant to Section 11 of the Illinois Freedom of Information Act.

[*FOIA Officer Name*]\_\_\_\_\_

[*Freedom of Information Officer*]\_\_\_\_\_

Village of Park Forest  
350 Victory Drive  
Park Forest, Illinois 60466

[*Phone Number*]\_\_\_\_\_

[*E-mail Address*]\_\_\_\_\_

Enclosure: Explanation of Factual Basis and Legal Authority for Denial

**NOTICE OF INTENT TO DENY RECORDS REQUEST  
BASED ON CERTAIN STATUTORY EXEMPTIONS**

Date: \_\_\_\_\_

To: [Requester] \_\_\_\_\_

[Address] \_\_\_\_\_

[Address] \_\_\_\_\_

This will confirm receipt on \_\_\_\_\_ [date of receipt] of your request dated \_\_\_\_\_ to inspect and/or copy the records described in that request.

Please be advised that the Village of Park Forest intends to deny your request as to certain of the responsive records involved, for the reason that they are exempt under from inspection and copying under one or both of the following sections of the Illinois Freedom of Information Act ("FOIA"):

Section 7(1)(c) – pertaining to records, the disclosure of which would result in an unwarranted invasion of personal privacy

Section 7(1)(f) – pertaining to preliminary policy drafts

The records involved are listed in the Detailed Summary of Basis for Asserting Exemption(s) which is enclosed with this Notice.

A copy of this Notice has been provided to the Illinois Attorney General's Public Access Counselor (PAC) as required by the FOIA. Within five (5) working days after receipt of this Notice, the PAC will notify you whether further inquiry is warranted. The time within which the Village is required to respond to your request is tolled (stops running) during the PAC's review of whether the Village may assert the exemption(s).

[FOIA Officer Name] \_\_\_\_\_

[Freedom of Information Officer] \_\_\_\_\_

Village of Park Forest  
350 Victory Drive  
Park Forest, Illinois 60466

[Phone Number] \_\_\_\_\_

[E-mail Address] \_\_\_\_\_

Enclosure: Detailed Summary of Basis for Asserting Exemption(s)

**NOTICE OF NEED FOR ADDITIONAL TIME TO RESPOND TO RECORDS REQUEST**

Date: \_\_\_\_\_

To: [Requester][Address][Address]

This will confirm receipt on \_\_\_\_\_ [date of receipt] of your request dated \_\_\_\_\_ to inspect and/or copy the record(s) described in that request.

Please be advised that the Village of Park Forest is extending the time period for response by an additional five business days from the original due date of [ insert date which is five business days after date of receipt ].

We are unable to comply with the request within five business days of receipt because:

- \_\_\_ The requested record(s) are stored in whole or part in another location.
- \_\_\_ A substantial number of records must be collected.
- \_\_\_ The request has been made in categorical terms and an extensive search for records responsive to the request is required.
- \_\_\_ The requested record(s) have not been located in the course of routine search and additional efforts are being made to locate them.
- \_\_\_ The requested record(s) must be examined and evaluated by personnel having the necessary competence and discretion to determine if they are exempt from disclosure or should be disclosed only with appropriate deletions.
- \_\_\_ The request for records is made in categorical terms and cannot be complied with in five business days without unduly burdening the operations of [ insert name of public body ]. *The Village hereby extends an opportunity to you to reduce the request to manageable proportions. Please call the undersigned to discuss how we may work with you to accommodate your request.*
- \_\_\_ The Village needs to consult with another public body or among two or more components of a public body having a substantial interest in the subject matter of the request.

A response will be provided on [insert date which is 10 business days after date of receipt], unless you agree to allow the Village to have until [insert preferred date of response] to respond, by contacting the undersigned at your earliest convenience. Your consent to this longer period for response would be appreciated.

[FOIA Officer Name]

[Freedom of Information Officer]

Village of Park Forest  
350 Victory Drive  
Park Forest, Illinois 60466

[Phone Number]

[E-mail Address]

## **AGENDA BRIEFING**

**DATE:** January 28, 2010

**TO:** Mayor Ostenburg  
Board of Trustees

**FROM:** Hildy L. Kingma, AICP  
Director of Economic Development and Planning

**RE:** Resolution Authorizing an Easement between the Village and Calvary United Protestant Church

### **BACKGROUND/DISCUSSION:**

In October 2009 the Village Board approved funding for a new sign at US30 and Orchard Drive. This sign is currently being manufactured and we expect that construction on the site will begin in the next few weeks. The new sign will be located slightly south and east of the existing sign location, and it will now be located on the Church's property. The existing sign is located on a small strip of Village owned property. Village Staff and Church representatives have negotiated an easement agreement for the new sign that includes the following key elements:

- The Village has prepared the easement document and will record it with Cook County.
- The recorded sign easement commits to continued maintenance of the sign and landscaping at the base of the sign, as well as repair of any damage to Church property which might occur during the installation and ongoing maintenance of the sign.
- The recorded sign easement also states that if the sign is removed and not replaced then the easement will dissolve.
- The Church will be permitted use of the LED display on the new sign under the same terms as other users, free of charge, for promotion of up to four (4) special events that occur at the Church each year.
- The Church will be granted the permanent use of the lower, right hand static panel, under the same terms as other users, but free of charge. The Village will pay for the cost of production and installation of the original panel. Any changes in future years to the panel will be the responsibility of the Church.
- In order to enhance visibility of the new sign, the Village removed the Ash trees located directly to the east and the west of the proposed new sign location. At the Church's request, the Village also removed the tree located directly south of the proposed new sign. The Village also removed all the overgrown shrubs within its strip of property adjacent to the right-of-way of US30/Lincoln Highway.

The Church's representatives are currently reviewing this sign easement.

**SCHEDULE FOR CONSIDERATION:** This item will appear on the Rules Agenda of the February 1, 2010, meeting, for discussion.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE EXECUTION OF AN EASEMENT  
AGREEMENT BETWEEN THE VILLAGE OF PARK FOREST AND  
CALVARY UNITED PROTESTANT CHURCH**

**WHEREAS**, the Village of Park Forest (“Village”) has previously approved funding for the construction and installation of a sign and related landscaping, which will be placed on the property of Calvary United Protestant Church (“Church”); and

**WHEREAS**, pursuant to this Resolution, the Village approves the attached Easement Agreement for the placement of the sign on Church property.

**NOW THEREFORE, BE IT RESOLVED** by the Mayor and Board of Trustees of the Village of Park Forest, Cook and Will Counties, Illinois, in the exercise of their home rule authority, as follows:

**Section 1. Recitals Incorporated.** The above recitals are incorporated herein as though fully set forth.

**Section 2. Approval of Easement Agreement.** The Easement Agreement between the Village of Park Forest and the Calvary United Protestant Church (“Agreement”), attached hereto and incorporated herein by reference as Exhibit A, is hereby approved in substantially the form attached.

**Section 3. Execution of Easement Agreement.** The Village Manager and the Village Clerk are directed and authorized to sign the Agreement in substantially the form attached and any and all other necessary documents to be executed in connection with the Agreement.

**Section 4. Effective Date.** This Resolution shall be in full force and effect from and after its passage and approval.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 2010.

**APPROVED:**

\_\_\_\_\_  
John A. Ostenburg, Mayor

**ATTEST:**

\_\_\_\_\_  
Sheila McGann, Clerk

**PROPERTY ADDRESS:**  
425 N. Orchard Drive  
Park Forest, IL 60466

**P.I.N. 1-24-316-001-0000**

**Return to:**

**Village Clerk  
Village of Park Forest  
350 Victory Drive  
Park Forest, Illinois 60466**

(for recorder's use only)

**EASEMENT AGREEMENT BETWEEN  
CALVARY UNITED PROTESTANT CHURCH  
AND THE VILLAGE OF PARK FOREST**

**THIS EASEMENT AGREEMENT** is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the Calvary United Protestant Church (hereinafter referred to as "GRANTOR"), and the Village of Park Forest, an Illinois Municipal Corporation (hereinafter referred to as "GRANTEE").

**RECITALS**

**WHEREAS**, GRANTOR is the owner of certain real property legally described in Exhibit A and depicted in Exhibit B, both attached hereto and incorporated herein by reference (hereinafter referred to as the "EASEMENT PREMISES"); and

**WHEREAS**, GRANTEE has determined that it is in the public interest to acquire easement rights on, over and across the EASEMENT PREMISES in order to install, maintain, repair and replace a sign and related landscaping (hereinafter referred to as the "IMPROVEMENTS") as illustrated in Exhibit C; and

**WHEREAS**, GRANTOR has agreed to grant GRANTEE a permanent easement for the purpose of construction, installation, maintenance, repair and replacement of the IMPROVEMENTS located on the EASEMENT PREMISES.

**NOW, THEREFORE**, in consideration of the premises and the mutual promises contained herein, the parties hereby agree that:

1. RECITALS INCORPORATED. The foregoing recitals are incorporated herein by reference as though fully set forth.

2. EASEMENT GRANT. GRANTOR grants to GRANTEE a permanent easement over, upon, along, under, through, and across the EASEMENT PREMISES, legally described in Exhibit A and depicted in Exhibit B for the purpose of construction, installation, operation, maintenance, repair, and replacement of a sign as illustrated in Exhibit C. GRANTOR shall honor the easement rights of the GRANTEE provided for in this Agreement, and the GRANTOR and its officers, employees, agents or independent contractors shall not harm or damage the IMPROVEMENTS of GRANTEE located within the EASEMENT PREMISES. Any construction work, maintenance or repairs undertaken pursuant to this paragraph by GRANTEE shall not interfere with GRANTOR'S operations to the maximum practicable extent. GRANTOR shall not unreasonably restrict or withhold the grant of temporary construction easements to GRANTEE for the purposes of construction, installation, operation, maintenance, repair, and replacement of GRANTEE'S IMPROVEMENTS.

3. EASEMENT USE. GRANTOR further grants to GRANTEE or any of its officers, agents, representatives, employees, licensees, successors, or assigns the perpetual right, privilege and authority to enter upon the EASEMENT PREMISES, either by vehicle or on foot to survey, install, construct, reconstruct, test, repair, inspect, maintain, renew, operate, relocate and remove its IMPROVEMENTS, together with the right of access across GRANTOR'S property for necessary workers and equipment to do any of the required work.

4. EASEMENT CONDITIONS. This grant of easement shall be subject to the following conditions:

a) No permanent buildings shall be constructed or placed on said EASEMENT PREMISES without GRANTEE'S express permission.

b) No landscaping, gardens, shrubs, driveways, parking lots, ingress and egress roadways on the EASEMENT PREMISES shall be constructed by GRANTOR that would now or later conflict with the aforesaid uses or rights of GRANTEE or the general public.

c) GRANTEE shall ensure that the IMPROVEMENTS remain in good repair at all times.

d) GRANTOR shall have the right to use of the LED display on the sign set forth herein under the same terms as other users, but free of charge, for promotion of up to four (4) special events that occur at GRANTOR'S church each calendar year this Agreement is in effect.

e) GRANTOR shall be granted the permanent use of the lower, right hand static panel of sign, under the same terms as other users, but free of charge. GRANTEE shall pay for the cost of production and installation of the original panel and GRANTOR shall be responsible for any costs incurred for the future replacement of the original panel.

5. GRANTEE or its designees shall, upon completion of any work authorized by this grant, restore the surface(s) of the EASEMENT PREMISES and any other property owned by GRANTOR that may have been disturbed by said work to the same or better condition than that which existed prior to the beginning of any work, including the replacement of any turf areas, driveways, sidewalks, parking lot pavement and ingress and egress roadway pavement.

6. NOTICE. Any notice required to be given pursuant to this Agreement shall be by personal delivery, a nationally recognized overnight delivery service, or facsimile as follows:

To GRANTOR: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Facsimile: \_\_\_\_\_

To GRANTEE: Thomas K. Mick, Village Manager  
Village of Park Forest  
350 Victory Drive  
Park Forest, Illinois 60466  
Facsimile: (708) 503-8560

All notices shall be deemed given upon the time of delivery or transmission by facsimile. Either party by notice to the other may change or add persons and places where notices are to be sent or delivered pursuant to the provisions of this paragraph.

7. HOLD HARMLESS. GRANTEE shall indemnify, defend and hold GRANTOR harmless from any and all claims, causes of actions, damages, lawsuits and/or administrative proceedings, including attorney's fees, costs and expenses, now or hereafter existing and resulting from GRANTEE'S construction, installation, operation, maintenance, repair, replacement, and removal of GRANTEE'S IMPROVEMENTS on the EASEMENT PREMISES or any modification of the EASEMENT PREMISES. Further, GRANTEE will not permit any liens to be placed on the EASEMENT PREMISES or other property of GRANTOR resulting from the installation, repair, replacement, modification, or maintenance of the IMPROVEMENTS on the EASEMENT PREMISES, and will immediately cause such liens to be extinguished.

8. ENTIRE AGREEMENT. This instrument contains the entire agreement between the parties relating to the rights granted herein and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect, and modifications to this Agreement must be in writing and must be signed by all parties to this Agreement.

9. COVENANT RUNNING WITH THE LAND. This easement and the promises contained in this Agreement shall be a covenant running with the land and shall be binding upon

GRANTEE, GRANTOR and any of their lessees, successors in interest, heirs, tenants, devisees and assigns from and after the date of execution by the parties hereto.

10. LAW GOVERNING. The laws of the State of Illinois shall govern the terms of this Agreement both as to interpretation and performance.

11. TERMINATION. The easement granted by this Agreement and the promises and obligations contained herein shall terminate and expire if for any reason GRANTEE serves notice upon GRANTOR pursuant to paragraph six (6) above that it no longer intends to use the EASEMENT PREMISES for the purposes herein set forth. This EASEMENT shall automatically terminate and expire within six (6) months after the IMPROVEMENTS are removed and not replaced with substantially similar IMPROVEMENTS.

**[REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK  
SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**GRANTOR – CALVARY UNITED PROTESTANT CHURCH**

Attest:

By: \_\_\_\_\_  
(Print Name)  
(Title)

By: \_\_\_\_\_  
(Print Name)  
(Title)

State of Illinois )  
County of Cook )

The foregoing instrument was acknowledged before me by \_\_\_\_\_ and \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 2010, A.D.

- NOTARY SEAL -

Notary Public

**GRANTEE – VILLAGE OF PARK FOREST**

Attest:

By: \_\_\_\_\_  
Thomas K. Mick  
Village Manager

By: \_\_\_\_\_  
Sheila McGann  
Village Clerk

State of Illinois )  
County of Cook )

The foregoing instrument was acknowledged before me by Thomas K. Mick and Sheila McGann, this \_\_\_\_\_ day of \_\_\_\_\_, 2010, A.D.

- NOTARY SEAL -

Notary Public

This instrument was prepared by: Robbins, Schwartz, Nicholas, Lifton & Taylor, Ltd, 24 West Cass Street, 5<sup>th</sup> Floor, Joliet, Illinois 60432.

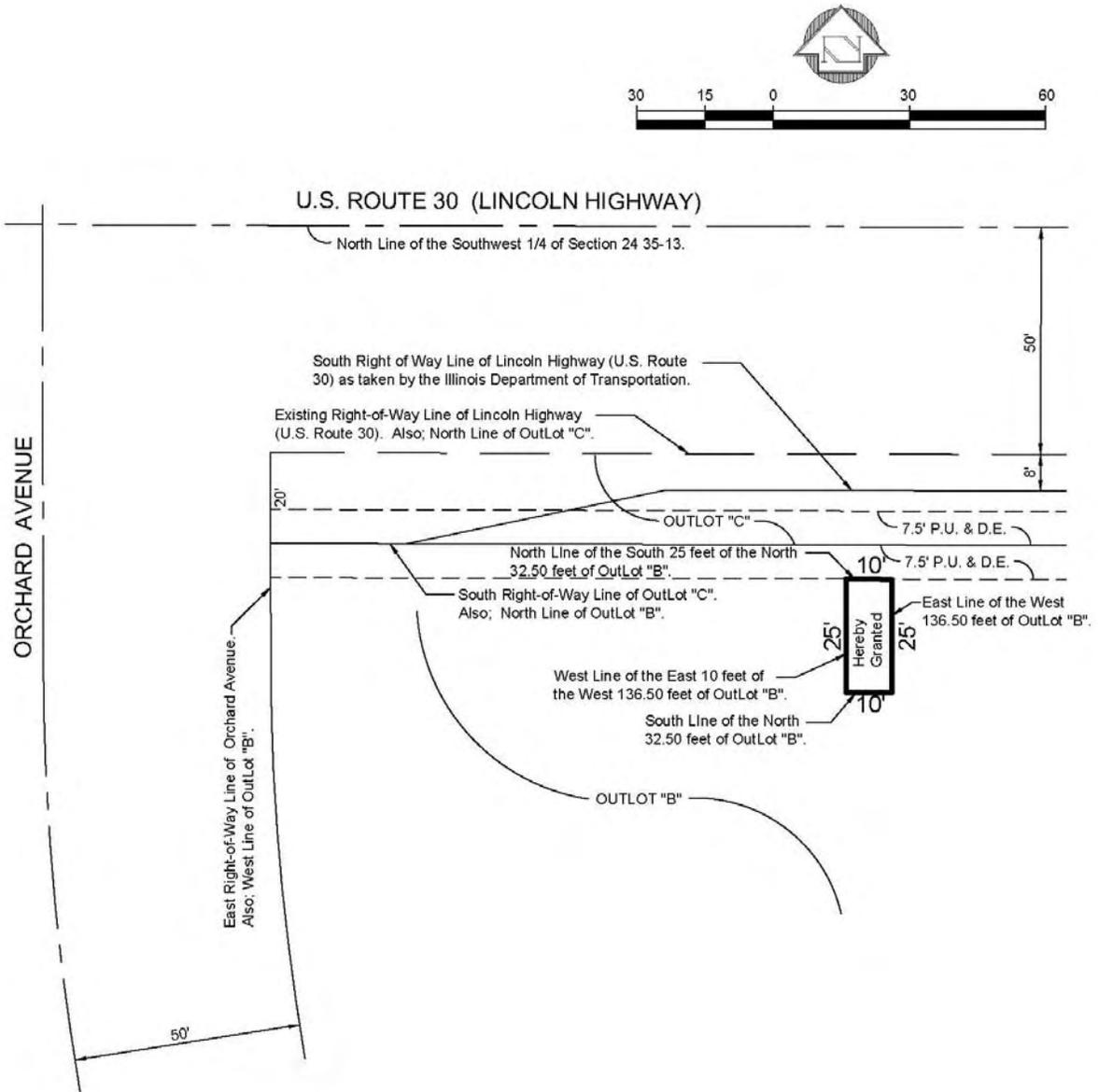
**EXHIBIT A**

**LEGAL DESCRIPTION**

THE EAST 10 FEET OF THE WEST 136.50 FEET OF THE SOUTH 25 FEET OF THE NORTH 32.50 FEET OF OUTLOT "B", BLOCK 16 IN LINCOLNWOOD CENTER, BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 AND PART OF THE SOUTHWEST 1/4 OF SECTION 24, TOWNSHIP 35 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN AS PER PLAT THEREOF RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, COOK COUNTY, ILLINOIS ON JUNE 26, 1958 AS DOCUMENT NUMBER 17245364, ALL IN COOK COUNTY, ILLINOIS.

# EXHIBIT B

## DEPICTION OF EASEMENT PREMISES



**EXHIBIT C**

**SIGN ILLUSTRATION**



**PROJECT:** VILLAGE OF PARK FOREST  
**DATE:** 09.18.09  
**SCALE:** 3/16" = 1'  
**PAGE:** 1 OF 2

## AGENDA BRIEFING

**DATE:** January 26, 2010

**TO:** Mayor John Ostenburg  
Board of Trustees

**FROM:** Bruce Ziegler, Deputy Fire Chief  
Robert H. Wilcox, Fire Chief

**RE:** Proposed Revisions to Chapter 42: Fire Prevention and Protection

### **BACKGROUND/DISCUSSION:**

The foreign fire insurance board was created under ordinance by the Village of Park Forest in 1995 as the result of a Public Act for the purpose of expending funds for the maintenance, use and benefit of the Fire Department. The funds in question are derived from a tax placed on insurance underwritten outside of the State of Illinois, collected on behalf of the recipients by the Illinois Municipal League, for a percentage fee. By Public Act and subsequently by ordinance the expenditure of the funds collected can only be directed by the foreign fire insurance board for appropriate expenses.

Through the years the foreign fire insurance board has used these funds to purchase furniture and equipment for the fire station, firefighting equipment, EMS equipment, safety equipment, training materials and staples for the fire station. These purchases, as suggested by members of the department, have offset purchases that may have been required by the Village; at times reducing budgetary expenditures of the Fire Department in various areas. One example of such a purchase was the recent replacement of all of the bed frames, mattresses and box springs in the fire station sleeping quarters.

On August 14, 2009 Public Act 96-505 went into effect in the State Of Illinois which included an amendment to Section 11-10-2 of the Illinois Municipal Code (65 5/11-10-2) regarding fire insurance boards. Pursuant to this Public Act, the Village of Park Forest must amend certain provisions of Chapter 42 ("Fire Prevention and Protection"), specifically Article III ("Foreign Fire Insurance Board") of the code to be consistent with Public Act 96-505.

The most significant change in the ordinance addresses the increase in board members from three (3) to seven (7) and the inclusion of the fire chief as a defined and voting member of the board. Other changes primarily focus on terminology and title changes as reflected in the updated Public Act or the Village's own processes. This includes changing village president to mayor, foreign fire tax board president to chairman and the elimination of the position of board secretary. Additionally, these positions are elected every year, rather than every two years.

**Recommendation:** We are recommending the amendment of the 1995 ordinance under Chapter 42, Article III as proposed in the attached document prepared by the Village's attorney. The bulk of these changes are minor in nature and we anticipate no significant changes in the function of the foreign fire insurance board.

**SCHEDULE FOR CONSIDERATION:** This item will appear on the agenda of the Rules Board meeting of Monday, February 1, 2010 for discussion.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 42 (“FIRE PREVENTION AND PROTECTION”), ARTICLE III (“FOREIGN FIRE INSURANCE BOARD”) OF THE CODE OF ORDINANCES OF THE VILLAGE OF PARK FOREST, COOK AND WILL COUNTIES, ILLINOIS**

**WHEREAS**, the State of Illinois has adopted Public Act 96-505, which includes an amendment to Section 11-10-2 of the Illinois Municipal Code, 65 5/11-10-2 (“Section 11-10-2”), regarding foreign fire insurance boards; and

**WHEREAS**, Section 11-10-2 is preemptive of the Village’s home rule authority with regard to those matters addressed by Section 11-10-2; and

**WHEREAS**, pursuant to Public Act 96-505, the Village of Park Forest (“Village”) must amend certain provisions of Chapter 42 (“Fire Prevention and Protection”), Article III (“Foreign Fire Insurance Board”) of the code of Ordinances of the Village of Park Forest, Cook and Will Counties, Illinois (“Village Code”), so that the Village Code is consistent with Public Act 96-505.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Board of Trustees of the Village of Park Forest, Cook and Will Counties, Illinois, in the exercise of the Village’s home rule powers, as follows:

**Section 1. Recitals Incorporated.** The recitals set forth above constitute a material part of this Ordinance as if set forth in their entirety in this Section 1.

**Section 2. Village Code Amended.** Chapter 42 (“Fire Prevention and Protection”), Article III (“Foreign Fire Insurance Board”) of the Code of Ordinances of the Village of Park Forest, Cook and Will Counties, Illinois, is amended by adding the underlined language and deleting the overstricken language to read as follows:

**ARTICLE III. FOREIGN FIRE INSURANCE BOARD**

**Sec. 42-71. Officers and board members.**

The foreign fire insurance board is established and shall consist of the ~~administrator~~ fire chief of the fire department and ~~three~~ six ~~officers~~ trustees elected by members of the fire department; ~~provided, however, that not more than one paid on call firefighter shall serve as an officer during any term. The fire administrator, as ex officio member of the board, shall attend all meetings, make recommendations, provide advice but shall not have a vote. If there is an insufficient number of candidates to fill all these positions, the number of board members may be reduced, but not to fewer than three (3) trustees pursuant to 65 ILCS 5/11-10-2, as amended.~~ The elected officers shall include the following:

- (1) ~~President~~ Chairman; and
- (2) ~~Secretary~~; and Treasurer.
- ~~(3) Treasurer.~~

**Sec. 42-72. Elections.**

Elections for the foreign fire insurance board shall take place during the month of June of every odd-numbered year.

**Sec. 42-73. Firefighter employment status required.**

The ~~president, secretary chairman and treasurer~~ trustees of the foreign fire insurance board shall be members of the fire department at the time of their election and during the entire term. For purposes of this article, the phrase "members of the fire department" shall mean all firefighters employed by the village, whether full-time, part-time or paid-on-call. Any member of the fire department who has not completed the applicable probationary period or is not in good standing in accordance with department regulations shall not be eligible to be an officer of ~~this~~ the board.

**Sec. 42-74. Duties and powers.**

(a) *Chairman* ~~President~~. The ~~president~~ chairman of the foreign fire insurance board shall preside at all meetings of the officers. The ~~president~~ chairman shall have such other powers as he or she may be given from time to time by action of the ~~village president~~ mayor and board of trustees, consistent with the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*, as amended.

~~(b) Secretary. The secretary of the foreign fire insurance board shall take minutes at any and all meetings of the officers. The secretary shall keep these minutes in a manner identical to the manner in which village board minutes are kept. The secretary shall also perform any other such duties and functions as are assigned from time to time by the president or the village president and board of trustees.~~

~~(c)~~ (b) *Treasurer*. The treasurer of the foreign fire insurance board shall:

(1) Receive from the village treasurer an annual accounting of all funds collected by the village from the foreign fire insurance company fees as described in 65 ILCS 5/11-10-1, as amended, and article X of chapter 98 of this Code, as amended;

(2) Direct the village treasurer to deposit all such monies in the name of the Village of Park Forest Fire Department in such banks, savings and loan

associations or other depositories as shall be approved by the ~~Village President~~ mayor and Board ~~board~~ of ~~Trustees~~ trustees;

(3) On the order of the foreign fire insurance board, direct the village treasurer to expend such monies for the maintenance, use and benefit of the department, including the purchase of safety equipment and materials, the purchase of training equipment and materials, the purchase of the Fire and Emergency Television Network, the costs of attendance at training schools as approved by the fire ~~administrator~~ chief, the purchase of station furniture and furnishings, the purchase of emergency medical and fire suppression equipment, and the purchase of fire equipment; ~~and~~

(4) Review the investment policy of the village treasurer for the funds held by the village treasurer on behalf of the foreign fire insurance board and determine that all funds are invested in accordance with the applicable law; ~~and~~

(5) Give a sufficient bond to the village to be approved by the mayor conditioned upon the faithful performance of the treasurer of his or her duties pursuant to this article and the rules and regulations of the foreign fire insurance board pursuant to 65 ILCS 5/11-10-2, as amended.

**Sec. 42-75. Terms of office.**

The ~~president, secretary~~ chairman and treasurer of the foreign fire insurance board shall serve ~~two-year~~ one-year terms without compensation and shall be elected by the foreign fire insurance board ~~members of the fire department. The terms of office for each officer shall be from July 1 of an odd-numbered year to June 30 of the next odd-numbered year or until a successor has been elected and qualified.~~ If any officer resigns for any reason, the ~~remaining officers~~ foreign fire insurance board shall appoint a member of the fire department to fill the office until the expiration of the term and the election and qualification of a successor. ~~No officer shall serve for more than two consecutive terms.~~

**Sec. 42-76. Rules and regulations.**

The foreign fire insurance board shall make all needful rules and regulations with respect to the management of the foreign fire insurance tax to be paid to the village treasurer. Three members shall constitute a quorum. All such rules and regulations promulgated by the board must be passed by the affirmative vote of at least two of the three members.

**Sec. 42-77. Payment of funds.**

The village treasurer shall hold and invest the sums received from the insurance companies specified by law and account for such funds to the treasurer of the foreign fire insurance board.

**Sec. 42-78. Budget.**

The foreign fire insurance board shall, by April 1 of each year prior to the start of each fiscal year, adopt a final budget for the collection and payment of the foreign fire insurance company fees which shall provide for the expenditure of funds for the maintenance, use and benefit of the fire department as provided in this article. The final budget shall be included as a part of the village's annual budget and shall be approved by the mayor ~~village president~~ and board of trustees.

**Sec. 42-79. Expenditure of funds.**

All funds received by the village treasurer for the benefit of the foreign fire insurance board shall be expended in accordance with all applicable sections of this Code or village ordinances and procedures pertaining to the expenditure of public funds.

**Sec. 42-80. Annual audit.**

The foreign fire insurance board shall direct the village treasurer to provide to the ~~village~~ mayor and board of trustees an annual audit of the financial affairs of the foreign fire insurance board ~~fire department~~ to be made by a certified public accountant at the end of each fiscal year in accordance with the generally accepted auditing principles. The audit shall be paid for from the funds collected by the foreign fire insurance board.

**Section 2. Severability and Repeal of Inconsistent Ordinances.** If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

**Section 3. Effective Date.** This Ordinance shall be take effect from and after its passage and approval and publication as required by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_ 2010.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2010.

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
John A. Ostenburg, Mayor

\_\_\_\_\_  
Sheila McGann, Village Clerk

## **AGENDA BRIEFING**

**DATE:** January 26, 2010

**TO:** Mayor John Ostenburg  
Board of Trustees

**FROM:** Bruce Ziegler, Deputy Fire Chief  
Robert H. Wilcox, Fire Chief

**RE:** Proposed Revisions to Chapter 42: Fire Prevention and Protection

### **BACKGROUND/DISCUSSION:**

The foreign fire insurance board was created under ordinance by the Village of Park Forest in 1995 as the result of a Public Act for the purpose of expending funds for the maintenance, use and benefit of the Fire Department. The funds in question are derived from a tax placed on insurance underwritten outside of the State of Illinois, collected on behalf of the recipients by the Illinois Municipal League, for a percentage fee. By Public Act and subsequently by ordinance the expenditure of the funds collected can only be directed by the foreign fire insurance board for appropriate expenses.

Through the years the foreign fire insurance board has used these funds to purchase furniture and equipment for the fire station, firefighting equipment, EMS equipment, safety equipment, training materials and staples for the fire station. These purchases, as suggested by members of the department, have offset purchases that may have been required by the Village; at times reducing budgetary expenditures of the Fire Department in various areas. One example of such a purchase was the recent replacement of all of the bed frames, mattresses and box springs in the fire station sleeping quarters.

On August 14, 2009 Public Act 96-505 went into effect in the State Of Illinois which included an amendment to Section 11-10-2 of the Illinois Municipal Code (65 5/11-10-2) regarding fire insurance boards. Pursuant to this Public Act, the Village of Park Forest must amend certain provisions of Chapter 42 ("Fire Prevention and Protection"), specifically Article III ("Foreign Fire Insurance Board") of the code to be consistent with Public Act 96-505.

The most significant change in the ordinance addresses the increase in board members from three (3) to seven (7) and the inclusion of the fire chief as a defined and voting member of the board. Other changes primarily focus on terminology and title changes as reflected in the updated Public Act or the Village's own processes. This includes changing village president to mayor, foreign fire tax board president to chairman and the elimination of the position of board secretary. Additionally, these positions are elected every year, rather than every two years.

**Recommendation:** We are recommending the amendment of the 1995 ordinance under Chapter 42, Article III as proposed in the attached document prepared by the Village's attorney. The bulk of these changes are minor in nature and we anticipate no significant changes in the function of the foreign fire insurance board.

**SCHEDULE FOR CONSIDERATION:** This item will appear on the agenda of the Rules Board meeting of Monday, February 1, 2010 for discussion.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 42 (“FIRE PREVENTION AND PROTECTION”), ARTICLE III (“FOREIGN FIRE INSURANCE BOARD”) OF THE CODE OF ORDINANCES OF THE VILLAGE OF PARK FOREST, COOK AND WILL COUNTIES, ILLINOIS**

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**WHEREAS**, Section 11-10-2 is preemptive of the Village’s home rule authority with regard to those matters addressed by Section 11-10-2; and

**WHEREAS**, pursuant to Public Act 96-505, the Village of Park Forest (“Village”) must amend certain provisions of Chapter 42 (“Fire Prevention and Protection”), Article III (“Foreign Fire Insurance Board”) of the code of Ordinances of the Village of Park Forest, Cook and Will Counties, Illinois (“Village Code”), so that the Village Code is consistent with Public Act 96-505.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Board of Trustees of the Village of Park Forest, Cook and Will Counties, Illinois, in the exercise of the Village’s home rule powers, as follows:

**Section 1. Recitals Incorporated.** The recitals set forth above constitute a material part of this Ordinance as if set forth in their entirety in this Section 1.

**Section 2. Village Code Amended.** Chapter 42 (“Fire Prevention and Protection”), Article III (“Foreign Fire Insurance Board”) of the Code of Ordinances of the Village of Park Forest, Cook and Will Counties, Illinois, is amended by adding the underlined language and deleting the overstricken language to read as follows:

**ARTICLE III. FOREIGN FIRE INSURANCE BOARD**

**Sec. 42-71. Officers and board members.**

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- (1) ~~President~~ Chairman; and
- (2) ~~Secretary~~; and Treasurer.
- ~~(3) Treasurer.~~

**Sec. 42-72. Elections.**

Elections for the foreign fire insurance board shall take place during the month of June of every odd-numbered year.

**Sec. 42-73. Firefighter employment status required.**

The ~~president, secretary, chairman and treasurer~~ trustees of the foreign fire insurance board shall be members of the fire department at the time of their election and during the entire term. For purposes of this article, the phrase "members of the fire department" shall mean all firefighters employed by the village, whether full-time, part-time or paid-on-call. Any member of the fire department who has not completed the applicable probationary period or is not in good standing in accordance with department regulations shall not be eligible to be an officer of ~~this~~ the board.

**Sec. 42-74. Duties and powers.**

(a) *Chairman* ~~President~~. The ~~president~~ chairman of the foreign fire insurance board shall preside at all meetings of the officers. The ~~president~~ chairman shall have such other powers as he or she may be given from time to time by action of the ~~village president~~ mayor and board of trustees, consistent with the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*, as amended.

~~(b) Secretary. The secretary of the foreign fire insurance board shall take minutes at any and all meetings of the officers. The secretary shall keep these minutes in a manner identical to the manner in which village board minutes are kept. The secretary shall also perform any other such duties and functions as are assigned from time to time by the president or the village president and board of trustees.~~

~~(c)~~ (b) *Treasurer*. The treasurer of the foreign fire insurance board shall:

(1) Receive from the village treasurer an annual accounting of all funds collected by the village from the foreign fire insurance company fees as described in 65 ILCS 5/11-10-1, as amended, and article X of chapter 98 of this Code, as amended;

(2) Direct the village treasurer to deposit all such monies in the name of the Village of Park Forest Fire Department in such banks, savings and loan

associations or other depositories as shall be approved by the ~~Village President~~ mayor and Board ~~board~~ of ~~Trustees~~ trustees;

(3) On the order of the foreign fire insurance board, direct the village treasurer to expend such monies for the maintenance, use and benefit of the department, including the purchase of safety equipment and materials, the purchase of training equipment and materials, the purchase of the Fire and Emergency Television Network, the costs of attendance at training schools as approved by the fire ~~administrator~~ chief, the purchase of station furniture and furnishings, the purchase of emergency medical and fire suppression equipment, and the purchase of fire equipment; ~~and~~

(4) Review the investment policy of the village treasurer for the funds held by the village treasurer on behalf of the foreign fire insurance board and determine that all funds are invested in accordance with the applicable law; ~~and~~

(5) Give a sufficient bond to the village to be approved by the mayor conditioned upon the faithful performance of the treasurer of his or her duties pursuant to this article and the rules and regulations of the foreign fire insurance board pursuant to 65 ILCS 5/11-10-2, as amended.

**Sec. 42-75. Terms of office.**

The ~~president, secretary~~ chairman and treasurer of the foreign fire insurance board shall serve ~~two-year~~ one-year terms without compensation and shall be elected by the foreign fire insurance board ~~members of the fire department. The terms of office for each officer shall be from July 1 of an odd-numbered year to June 30 of the next odd-numbered year or until a successor has been elected and qualified.~~ If any officer resigns for any reason, the ~~remaining officers~~ foreign fire insurance board shall appoint a member of the fire department to fill the office until the expiration of the term and the election and qualification of a successor. ~~No officer shall serve for more than two consecutive terms.~~

**Sec. 42-76. Rules and regulations.**

The foreign fire insurance board shall make all needful rules and regulations with respect to the management of the foreign fire insurance tax to be paid to the village treasurer. Three members shall constitute a quorum. All such rules and regulations promulgated by the board must be passed by the affirmative vote of at least two of the three members.

**Sec. 42-77. Payment of funds.**

The village treasurer shall hold and invest the sums received from the insurance companies specified by law and account for such funds to the treasurer of the foreign fire insurance board.

**Sec. 42-78. Budget.**

The foreign fire insurance board shall, by April 1 of each year prior to the start of each fiscal year, adopt a final budget for the collection and payment of the foreign fire insurance company fees which shall provide for the expenditure of funds for the maintenance, use and benefit of the fire department as provided in this article. The final budget shall be included as a part of the village's annual budget and shall be approved by the mayor ~~village president~~ and board of trustees.

**Sec. 42-79. Expenditure of funds.**

All funds received by the village treasurer for the benefit of the foreign fire insurance board shall be expended in accordance with all applicable sections of this Code or village ordinances and procedures pertaining to the expenditure of public funds.

**Sec. 42-80. Annual audit.**

The foreign fire insurance board shall direct the village treasurer to provide to the ~~village~~ mayor and board of trustees an annual audit of the financial affairs of the foreign fire insurance board ~~fire department~~ to be made by a certified public accountant at the end of each fiscal year in accordance with the generally accepted auditing principles. The audit shall be paid for from the funds collected by the foreign fire insurance board.

**Section 2. Severability and Repeal of Inconsistent Ordinances.** If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

**Section 3. Effective Date.** This Ordinance shall be take effect from and after its passage and approval and publication as required by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_ 2010.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2010.

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
John A. Ostenburg, Mayor

\_\_\_\_\_  
Sheila McGann, Village Clerk