

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
MAY 11, 2010 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Freedom of Information Act Implementation Report	Resolution Ordinance Motion ✓ Discussion Only	April Holden Village Clerk

SYNOPSIS

A report outlining the implementation of the amendment to the Freedom of Information Act has been prepared.

STRATEGIC PLAN ALIGNMENT

Freedom of Information Act Implementation was identified as a 2010 Strategic Planning project.

FISCAL IMPACT

The total cost and time commitment for implementing the new law and the cost of the day-to-day operations is estimated to be \$57,730 (979.75 hours) through March 2010.

RECOMMENDATION

Staff recommends that staff continue to monitor requests and staff impact through June 30, 2010. Based on the results, staffing and workload adjustments for the Police Department, Clerk's Office and the Legal Department may be considered.

BACKGROUND

Public Act 96-0542 was signed into law on August 17, 2009 and became effective January 1, 2010. Significant Changes in the Law include:

- Changes in the public policy – all records are open to inspection or copying. “...(A)ccess to public records is a fundamental obligation of government and...compliance with the Act is a primary duty of public bodies, regardless of fiscal impact.”
- Time for response – the timeline for response has changed from seven to five business days.
- The Freedom of Information Officer is now required to keep copies of all requests and all responses.
- A formal system for processing FOIA requests is required under the Act.
- Fees and costs were revised to provide the first 50 standard black and white copies at no charge.
- Exemptions were revised and the Act provides for a new, substantial process if a public body intends to withhold parts of records from disclosure.

A number of steps have been taken to comply with the Law, as follows:

- The Village ordinance regulating FOIA was revised, presented and approved by Council to comply with the Act.
- Between August and December 2009, staff established a new record-keeping system to comply with the terms of the law.
- Transition to the new system began in December 2009 with all requests submitted to the Village Clerk's office.

- Staff from the Clerk’s Office, Police Department, Attorney’s Office, Fire Department and Public Works were trained to use the new system.
- One staff member from the Clerk’s Office, was reassigned from e-permit and Community Development scanning responsibilities to work on the implementation of the new system and to coordinate day-to-day FOIA requests.
- The Assistant Village Attorney was assigned responsibility for FOIAs from the Legal Department.
- Staff from the Clerk’s Office completed training, as required and provided by the Attorney General’s office

Experience and Staffing Impact of New Law

The new law has resulted in a marked increase in FOIA requests. This is because in past years many requests for records were not treated as FOIAs. Prior to January 1, 2010, a request for records was only considered a FOIA request when submitted via a Village FOIA form. Thus, written and oral requests for records were received and honored, but often not tracked as FOIAs. Now all written requests for records are considered FOIA requests and a form is not required (oral requests must be in writing) and the Village is bound by the terms of the new law in answering each request. The Village is also now required to keep a centralized filing system which tracks all requests. In the past, some requests may not have been reported by staff but our new tracking system will provide us more accuracy in tracking our numbers.

The total number of FOIAs for 2009 was 472, of which 79 were requests for records in the Police Department. By comparison, through March 31, 2010 a total of 331 FOIAs have been processed; 133 for records in the Police Department.

Number of FOIAs in 2010 vs. 2009 January through March

	2010	2009	Difference
January	85	55	30
February	87	31	56
March	159	37	122
Total	331	123	208

Staff has seen nearly three times as many FOIA requests in 2010 as compared to the same period in 2009. The Police Department has nearly doubled the number of FOIAs through March 31, 2010 (133) as compared to all their FOIAs for 2009 (79).

Estimated Cost/Workload Impact

The impact of the new legislation in terms of cost and workload is twofold: 1) The impact of establishing the system to administer the program such that it complies with the law; and 2) the impact of the day-to-day operations.

The cost and staff time to establish the system, train staff and trouble-shoot is calculated to be \$19,305.25 representing 240 hours in Information Technology and 80 hours in the Clerk’s Office. Staff considers this to be a one-time cost. Information Services staff and the Clerk’s Office analyzed the requirements of the statute to develop a business application that would comply with the terms of the law. The business application used is OnBase. It is a document management system that has the ability to track all requests and responses, redact information as required, provide information to the Attorney General’s office as required, and generate reports.

The impact in terms of day-to-day operations from January through March 2010 is 659.75 hours and \$38,424.74 as follows:

- Records Manager, Police Department – 223.5 hours (\$14,762)
- Assistant Village Attorney – 78 hours (\$5,418)

- Clerk's Office – 310 hours (\$12,942.50)
- Public Works – 16 hours (\$631)
- Fire Department – 9.75 hours (\$377)
- Community Development – 22.5 hours (\$954.24)

The total cost and time commitment for implementing the new law and the cost of the day-to-day operations is estimated to be \$57,729.99 and 979.75 hours through March 2010.

The implementation of the new FOIA legislation was accomplished with no designated funding. The Village recognized its obligation and diverted resources to comply with the law. Priorities and staff work assignments were re-evaluated based on this unfunded mandate. For example, a staff member from the Clerk's Office was reassigned from scanning to devote most of her time to this task and Information Systems work priorities were shifted to develop the business application. The Assistant Village Attorney has had to absorb this assignment as an additional duty with no reduction in other assigned duties. The Records Manager in the Police Department has also had to absorb this assignment as an additional duty. Beginning in June, an Administrative Assistant will begin assisting with the OnBase processing of immediate release reports.

Recommendations

In early January, the Village saw an increase in requests from attorneys looking to use FOIA instead of a subpoena. That has since decreased, but there has been a large increase in requests for bid documents, proposals, tabulations, etc. and we have seen an increase in commercial requests.

Based on preliminary counts for April 2010, FOIA's are tracking slightly below the March 2010 numbers. While there is only three months of experience, staff does not anticipate that the requests will drop significantly. Staff recommends that we continue to monitor requests and staff impact through June 30, 2010. Based on the results, we may need to consider staff and workload adjustments for the Police Department, Clerk's Office and the Legal Department.

ATTACHMENTS