

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

DISTRICT

Resolution or Ordinance (Blue) _____
Recommendations of Boards, Commissions & Committees (Green) _____
Other Business (Pink) X
Waiver of First Requested _____

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE : January 8, 2008

B o f T January 17, 2008

SUBJECT: Village Board Electronic Messaging Policy

SUBMITTED BY: William T. Lichter, Village Manager

BACKGROUND/POLICY IMPLICATIONS:

Motion to approve the revised Village Board Electronic Messaging Policy.

Fiscal Impact/Funding Source:

Review (as necessary):

Finance Director _____
Village Manager _____
Date 1/17/08 Date 1/17/08

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda distribution.

encl.

If there are any questions, please feel free to call.

Per the direction given at the January 3, 2008 Village Board meeting, relative to the above-captioned matter, enclosed please find a revised Policy for review by the Village Board. As directed, although the Policy remains general in nature, the third to last paragraph has been revised to better reference the Freedom of Information Act exemptions.

Subject: Revised Village Board Electronic Messaging Policy

Date: January 7, 2008

From: Tom Bayer, Village Attorney
Via e-mail only

To: William T. Lichter, Village Manager, Village of Lombard

MEMORANDUM

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LAW OFFICES

1. Messages from any one member of the Village Board to the other members of the Village Board where the receiving recipients respond only to the message originator, and do not "reply to all";
2. Messages between members of the Village Board where the discussion involves less than a majority of the Village Board (it should be noted that a violation of the Open Meetings Act can occur if a message is passed sequentially and contemporaneously from one member of the Village Board to another in a number equaling a majority of a quorum or more);
3. Messages between the Village Manager and/or Village Staff/employees and a member of the Village Board;

As elected public officials, members of the Village Board shall exercise caution when communicating between and among themselves via electronic messaging services, including but not limited to electronic mail (email), internet web forums, and internet chat rooms. Electronic messaging is a form of communication that may conflict with the Open Meetings Act, which prohibits the discussion of public business by a majority of the members of a public body outside of a public meeting. Therefore, electronic messaging should only be used in the following circumstances:

POLICY STATEMENT

To provide a written procedure that will guide members of the Village Board in complying with the requirements of the Open Meetings Act, Freedom of Information Act and Local Records Act when using electronic messaging.

RATIONALE

To establish guidelines for electronic messaging usage in light of the Open Meetings Act, Freedom of Information Act and Local Records Act.

PURPOSE

**VILLAGE BOARD
ELECTRONIC MESSAGING POLICY –
OPEN MEETINGS ACT, FREEDOM OF INFORMATION ACT
AND LOCAL RECORDS ACT**

VILLAGE OF LOMBARD

4. Responses to questions posed by members of the public, the Village Manager or Village Staff/employees; or

5. The communication of times, dates and places of regular or special Village Board or committee meetings or other housekeeping matters.

Under the Freedom of Information Act (FOIA), electronic messages that have been prepared, or have been or are being used, received, possessed or under the control of any public body are generally deemed to be public records. As such, the messages may, absent an exemption from disclosure, be subject to disclosure in response to a FOIA request. In this regard, it is the Village Board's intent to rely upon the exemptions to the inspection and copying of electronic messages, as set forth in 5 ILCS 140/7 and as permitted by law, especially in regard to electronic messages solely between a member of the Village Board and his/her constituent(s). Electronic messages may also be subject to disclosure in the context of litigation or in response to a court order.

Under the Local Records Act, any electronic message that is in the possession of a member of the Village Board that includes evidence of the Village's business is to be retained in accordance with the Village's records retention/destruction schedule.

Users should not have an expectation of privacy in any electronic messages that involve Village business. Electronic messages may be subject to inspection or examination when required by and consistent with the law, in response to a subpoena or discovery request in litigation, when there is a substantiated reason to believe that a violation of the law or Village policy has taken place, or when compelling or emergency circumstances require inspection or examination.