

**RECOMMENDATIONS/DISCUSSION OF BEST PRACTICES FOR CITY OF CREST  
HILL CONFIDENTIALITY/CLOSED SESSION POLICY**

- a. Cell phone use during meetings (including executive sessions) shall be virtually eliminated by any elected official, appointed official, staff member, or any other person that is a part of the meeting, except for emergency situations where that person should step out of the meeting to handle the emergency. These communications are subject to FOIA and could also cause legal issues-especially if made during a meeting subject to the Open Meetings Act.
- b. No photos or videos shall be taken during any executive session held by the City Council, any committee or commission of the City.
- c. Going forward, all confidential materials (handouts or documents) that are distributed during an executive session shall be collected at the end of executive session by the City Attorney or any other specially designated counsel and destroyed.
  - i. However, the City Attorney/designated special counsel shall keep a copy of any handout or document in the event it needs to be referenced later. This will help maintain the attorney client privilege and ensure no documents are later disseminated.
  - ii. As a reminder, when there are conversations that need to be protected by the attorney client privilege (such as legal issues), these conversations should occur only between the City Attorney and the city council members and not with other council members.
- d. Any discussion regarding specific breaches of confidentiality or attorney/client privilege, must be discussed during an open meeting, as there is no exception to discuss these topics during closed session. The following are potential actions that may be taken in the event it is determined there was a breach of confidential information or a breach of the City's attorney/client privilege: public censure; referral of the case to the Will County State's Attorney's Office for prosecution; referral of the case to the Illinois Attorney General's Office.
  - i. It should be noted that Section 3.5-55-15 of the Illinois Municipal Code (65 ILCS 5/3.1-55-15), provides a penalty for misconduct by a City Officer:

“Every municipal officer who is guilty of a culpable omission of duty, or who is guilty of willful and corrupt oppression, misconduct, or misfeasance in the discharge of the duties of office, shall be guilty of a business offense and, on conviction, shall be fined not less than \$501 nor more than \$1,000. The court entering the conviction shall enter an order removing the convicted officer from office.”
- e. We are also recommending annual training sessions for the elected officials, with an organization such as the Will County Governmental League, to review the duties and responsibilities of each elected office (Mayor, City Council, City Clerk, and City Treasurer). This will be beneficial and should also be extended to City Staff

who are responsible for handling confidential matters as part of their job duties. Once completed, the annual training certificates should be submitted to HR for record-keeping purposes.

- f. Similarly, at least every other year, we believe that it would also be beneficial to have a training session to refresh all elected officials and appointed officers on the topic of attorney/client privilege. The City holds the privilege and thus, the elected and appointed officers of the City are covered by the privilege when they have protected conversations with the City Attorneys. If an elected official or appointed officer communicates privileged information to certain unprotected staff members, the privilege can be broken, making the communication subject to general disclosure or even FOIA. Further, while certain information discussed in executive session may not be protected under the attorney/client privilege, even when the attorney is present, that information remains confidential and should not be disclosed beyond the executive session. This includes personnel issues, the purchase and/or sale of property, negotiations of CBAs and other contracts, etc. Thus, it is imperative that all elected officials and appointed officers understand how the attorney/client privilege works.
- g. Although staff report to their respective department heads, when an elected official ask them to do something, many staff feel like they do not have an option to decline the task, even if they do not have the time to perform the task. To avoid potential conflict, our office recommends that elected officials make requests directly to the department head, who can then delegate the tasks to his/her staff accordingly. This will streamline productivity and avoid any feeling that the staff must prioritize the request directly from the elected official over their normal work. This would exclude instances where the elected official is merely asking the staff to answer a specific question.
- h. As a general rule, public business must be conducted in public. However, the Illinois Open Meetings Act (“OMA”) authorizes specific topics to be discussed in closed session. The OMA provides exceptions to the general rule and does not require a public body to go into closed session for said exceptions. Thus, if members of the City Council are going to share the information discussed in executive session with the citizens of the City or staff members, then our office would recommend that the City Council does not go into an executive session for said topic and instead discuss the topic in open session for the public to hear. This will remove any potential breach issue and also will not involve the attorney client privilege.
- i. We continue to recommend that all elected officials and appointed officers complete the required Open Meetings Act, Freedom of Information Act, ethics, harassment, and cyber training annually and provide the City Administrator or HR Director with certificates of completion for record keeping purposes.

- j. All elected officials are reminded that they do not have individual authority to bind the City to financial obligations without prior approval of the City Council. All city funds spent should be allocated and approved by the City Council. For example, an event should have an itemized budget which is presented to the City Council for approval beyond a line-item budget amount. It is further recommended that within 60 days of the event, that a report is provided to City Council to disclose the actual costs.
- k. Lastly, the City should implement multi-factor authentication (MFA) for all employees and elected officials who have access to the City's email. Further, the City should also explore the ability to encrypt certain email and potentially password protect confidential and privileged information and documents.