TO: Mayor and Council for September 8, 2015 Council meeting

FROM: Carla Holzworth, City Recorder

DATE: September 1, 2015

THROUGH: Mark W. Shepard, P.E., City Manager MWS

SUBJECT: Council Policy 2.01, "Use of Electronic Mail by Mayor and City Council"

CORVALLIS
ENHANCING COMMUNITY LIVABILITY

Action Requested:

Staff recommends Council approval of proposed updates to the Mayor and City Council email policy to reflect current practice.

Discussion:

The City provides public email accounts for City Councilors to use for City business. Messages sent to/from these accounts are automatically posted to the City's website so they may be shared with the public. In instances when it is not appropriate to publicly share information contained in an email, Councilors have used their personal email accounts to conduct City business.

To ensure appropriate retention of email messages as City records, Council members reached consensus at their March 30 work session for staff to establish a City email account for each Councilor. Councilors were to forward City business emails from their personal accounts to their respective City email account for archiving and retention purposes only; the accounts were not configured to send and receive emails.

Councilors recently decided they preferred to make their City email accounts fully interactive so they could be used for City business in lieu of using their personal email accounts. At Council's August 17 meeting, Councilors were provided with login and password information so they could immediately begin using these City email accounts. The attached Policy updates reflect this new practice.

Budget Impact:

None

Policy: Email use by the Mayor and Councilors will comply with the requirements of the Oregon Public Records Law, Oregon Revised Statutes (ORS) 192.410 through 192.505 and the State Archivist public records retention schedule adopted pursuant to ORS 327.825 and the related administrative rules.

Purpose: To establish the use and retention requirements for email for the Mayor and City Council, the training provided by the City, and the management of electronic devices used for City business.

To promote and maintain transparency in City of Corvallis decisions by making available email communications by, between, or to the Mayor and/or City Councilors on the City's website.

To provide guidance to the Mayor and City Council on the proper use of email.

Definitions: Archive email - A paper or electronic file of emails which have been sent to, from, and/or between, the Mayor and/or Councilors.

~~Archive email address – The email address established by the City for each City Councilor to use for archiving emails related to City business~~.

City email address - The email address established by the City for the Mayor and each City Councilor to use during their term of office to conduct City business. Emails sent to and from this account are not automatically posted on the City's website.

Email - Electronic mail is a method of exchanging information in a digital format, including various attachments from one author to one or more recipients.

Electronic devices (ED) – EDs include desktop and laptop computers, smart phones, or tablets the Mayor and City Council use for City business.

Mayor and City Council – The Mayor and City Council elected to serve the community during the current term of office.

Public Record – "Includes, but is not limited to, a document, book, paper, photograph, file, sound recording or machine readable electronic record, regardless of physical form or characteristics, made, received, filed, or recorded in pursuance of law or in connection with the transaction of

public business, whether or not confidential or restricted in use" (ORS 192.005 (5)). In addition, a public record includes ". . . any writing containing information relating to the conduct of the public's business . . . prepared, owned, used or retained by a public body regardless of physical form or characteristics." (ORS 192.410 (4)).

Retention – The length of time a public record must be kept to satisfy the administrative, legal, fiscal, and/or historical needs of the City. Retention periods are tied to the content of the record, not the form.

Standing committee – A sub-committee of the City Council consisting of three Council members. The Council has three standing committees: Administrative Services, Human Services, and Urban Services. Areas of responsibility for each of the standing committees are outlined in Council Policy 2.02, "Council Process."

Guidelines:

1. **General:**
   a. All persons have the right to inspect public records, including emails created by or sent to local elected officials.
   b. Email from the Mayor and/or Councilors to City staff will be to the City Manager, the City Recorder or Department Directors, unless otherwise authorized by the City Manager or Department Director.
   c. Email may not be used to discuss policy, quasi-judicial, or administrative issues with a majority of the Council and/or the Mayor, or two or more members of a standing committee on an item coming before it for discussion, or to make policy decisions or carry on deliberations.
   d. Email by, between, or to the Mayor and/or Councilors must be retained according to the Oregon Public Records Laws.
   e. The City shall establish a public email account for the Mayor and each City Councilor using the naming convention WardX@council.corvallisoregon.gov or mayor@council.corvallisoregon.gov.
   f. Email from, to, or between the Mayor and/or Councilors **that is** sent to the public email account will be displayed on the City's website for eight weeks and archived by the City for ten years to meet general retention requirements.
   ~~g~~. The City shall establish a City email account for the Mayor and **each City Councilor to use for conducting City business**. Emails sent to **and from** this account shall be automatically archived by the City for ten years to meet general retention requirements.
   h. **Email from, to, or between the Mayor and/or Councilors sent to the public email accounts will be displayed on the City's website for eight weeks and archived by the City for ten years to meet general retention requirements.**

~~h. The City shall establish for each City Councilor an archive use as an electronic filing cabinet. The archive email account is for record retention purposes only and will not be used to send or receive email messages.~~

i. Email from, to, or between the Mayor and/or Councilors not posted on the Mayor/Councilor's public email account **or sent to/from from private email addresses** shall be forwarded to the Mayor/Councilor's **City** ~~archive~~ email account. These emails will be automatically retained by the City for ten years to meet general retention requirements.

j. Email sent to/from Mayor and/or Councilor's personal **or City** email addresses can be displayed on the City's website by responding and including the Mayor/Councilor's public email address or by forwarding the message to the Mayor/Councilor's public email address.

k. A request for email records is subject to Oregon Public Records law and must comply with Administrative Policy 1.14, "Public Records Requests."

~~l.~~ Email that is associated with a decision the City Council is considering should be forwarded to the City Recorder or responsible Department staff to include in the public record for that decision. This allows the entire City Council to hear the same public feedback about decisions the Council is making.

m. As required by State law and except as may specifically be exempted by ORS 192.501 and 192.502, the City Manager shall, upon request, make available emails created or received by elected officials. The Mayor and/or Councilors who receive email from constituents regarding land use or other quasi-judicial issues should inform the sender that a copy of the email will be entered into the public record, and, if necessary, that they are unable to discuss such matters outside of the public hearing.

~~n. Should the City be a party in litigation that requires a litigation hold on City records, a Mayor or City Councilor using a personal email account for City business shall be notified by the City Recorder or the City Attorney of the litigation hold. As the custodian of the public records on the personal email account, the user of that personal account shall be responsible for holding, saving from destruction or deletion, and providing to the City or parties to the litigation, all emails on that account for potential discovery purposes in litigation. Costs, penalties, fines, or damages awarded associated with the destruction of records subject to a litigation hold shall be considered to be the result of malfeasance and shall be the personal responsibility of the user of the account.~~

n. **Should the City be a party in litigation that requires a litigation hold on City records, the City Recorder or City Attorney shall notify the Mayor and City Councilors. Any City-business emails on the Mayor or Councilors' private email accounts that had not been previously**

forwarded to the Mayor and Councils' City email account shall be forwarded to their City email account within the time reasonably needed to comply with the litigation hold, considering any required review, redaction, duplication or any other task required of the City staff or City Attorney to comply with the requirements of the hold. As the custodian of a public record on a personal email account, the user of that personal account shall otherwise be responsible for holding, retaining (saving from destruction or deletion), and providing to the City and/or parties to the litigation, those City-business emails for potential discovery purposes in litigation. Costs, penalties, fines, or damages awarded associated with the destruction of records subject to a litigation hold shall be considered to be the result of malfeasance and shall be the personal responsibility of the user of the account.

2. Training
   a. The City's MIS Division will provide training on email and internet access for the Mayor and Councilors at the beginning of each Council term.

3. Equipment
   a. The Mayor and Councilors may use their own EDs for access to the internet and email, use a City-provided ED for their use while on the Council, or may choose not to use email as a form of communication.
   b. If the Mayor or Councilor chooses to use her/his own ED, the ED may be subject to public records law requirements.
   c. If the Mayor or Councilor chooses to use a City-owned ED, MIS Division staff will ensure the ED is configured appropriately for use. The ED will remain the property of the City and must be returned at the end of the Mayor's and Councilor's tenure.
   d. It is the responsibility of the Mayor and Councilors to return the ED to the City Manager's Office for service or repairs.
   e. The MIS Division will provide technical support for the Mayor's and Councilors' ED and training between 8:00 am and 5:00 pm Monday through Friday. Service can be coordinated through the City Recorder.

Responsibility: The Mayor and City Council members are responsible for their use of EDs and ensuring public records requirements are met for the public records each individual has.

The City's MIS Manager is responsible for technical support of the City-owned Mayor and City Council EDs, and for providing advice and information to the Mayor and City Councilors on the use of personal EDs.

The City Recorder is responsible for maintaining the archives of the City's records and coordinating filing and retention of Mayor and City Councilor email.

Review/Update: The MIS Manager and City Recorder will prepare this Council Policy review every two years for Council approval.

Rev #	Name	Change Date	Character of Change
0		02-02-1998	Adopted
1		12-07-0998	Revised
2		10-18-1999	Revised
3		03-05-2001	Revised
4		12-01-2003	Revised
5		11-07-2005	Revised
6		12-17-2007	Revised
7		11-02-2009	Revised
8		02-06-2012	Revised
9	C. Holzworth	05-04-2015	Revised
10			