



CITY OF KEENE

R-2008-06-A

In the Year of Our Lord Two Thousand and Eight

A RESOLUTION Council Policy: Written Electronic Communications

Resolved by the City Council of the City of Keene, as follows:

WHEREAS: The Keene City Council has consistently pursued openness in the conduct of public business, which is essential to a democratic society and compliance with the letter and spirit of the Right to Know Law, RSA 91-A; and

WHEREAS: The Keene City Council is committed to ensuring both the greatest possible public access to the actions, discussions and records of the Keene City Council, and their accountability to the people; and

WHEREAS: The City of Keene, New Hampshire provides Keene City Councilors with electronic communication resources to provide a convenient and useful means of conducting City business but offers the potential for misuse in ways that negate the right of Keene citizens to know how their government works during public meetings, between public meetings and how decisions are made.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND KEENE CITY COUNCIL THAT:

The City of Keene's electronic communication resources are the property of the City of Keene. Therefore, the City of Keene has the legal right to monitor and audit all use regardless of where such use is initiated. Although the use of passwords and other forms of security are provided for confidentiality, no authorized user has any personal right of privacy with respect to the use of electronic communications resources; and

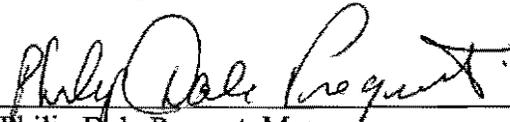
The Keene City Council acknowledges that communications among a quorum of the City Council upon a matter or matters over which the City Council has supervision, control, jurisdiction or advisory power, whether sequential or not, outside of a meeting, in any form including but not limited to, written electronic communications is prohibited; and

The Keene City Council acknowledges that written communications among a quorum of the City Council concerning purely administrative matters such as the delivery of materials for a meeting is not prohibited; and

The Keene City Council acknowledges that written electronic communications received by a City Councilor regarding legitimate city business shall be forwarded to the City Clerk with instructions directing that the electronic communication be filed into the record.

AND BE IT FURTHER RESOLVED THAT:

The City Clerk shall be given the authority to monitor, audit and access electronic communications involving Keene City Councilors to ensure compliance with this policy and to efficiently respond to any right to know or discovery requests.


Philip Dale Pregent, Mayor

Passed: September 18, 2008

A true copy; attest:


City Clerk



CITY OF KEENE

R-2008-06

In the Year of Our Lord Two Thousand andEight.....

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Philip Dale Pregent, Mayor

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City of Keene
NEW HAMPSHIRE

September 11, 2008

In City Council September 18, 2008
The report was filed into the record.

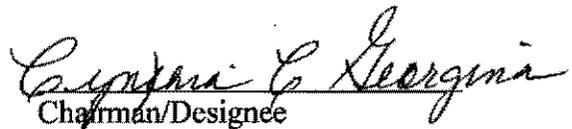
TO: Mayor and City Council

FROM: Finance, Organization and Personnel Committee


City Clerk

SUBJECT: **RESOLUTION – R-2008-06-A: Council Policy – Relating to Electronic Communications**

On a vote of 5 – 0, the Finance, Organization and Personnel Committee recommends the adoption of Resolution R-2008-06 A.


Chairman/Designee

Background Notes:

Mr. Dow stated that this Resolution was introduced because of the recent changes in the State's right to know law in application to legislative bodies. This policy shows support for open government and acts as a framework for the City Councilors to understand the acceptable use of written electronic communications with City business. This policy gives the authority to the City Clerk to monitor, audit and access email communications involving the City Councilors to ensure that City business is properly filed to ensure compliance with the open meeting laws. It is their intent to provide Councilors with City email accounts and to have training for the City Council on the City's acceptable use policy as soon as they have those accounts established and in sync with the proposed email archive application which is to be deployed by December 2008. This policy is coming back with some minor language changes by the City Attorney. Mr. Mullins stated that effective July 1, 2008, there was a significant rewrite to 91-A specifically with respect email communications among the members of the Board. They changed the language in the policy to reflect the statutory changes. He stated that it was designed to remind public bodies that email communications are a fact, here to stay and that 91-A had to be adjusted to make sure that there was openness in the process. This policy deals with the question of communications among the Board and that anything that they do here in an electronic format is recognized by the members of the Board to be public documents. Councilor Stout pointed out the enforceability requiring an elected City official to actually file email messages. He asked if there would there be a penalty ensuing. Mr. Mullins stated that if it was coming through the City's electronic resources it will be captured by the city system

and they will have it one way or the other. Councilor Stout stated that many of them have multiple email accounts. Mr. Mullins stated that the Statue applies within the context of the communications among the Board primarily and that they can still have communications either by email, phone, and letter, in person and that the purpose of this was to coordinate what happens when they were acting as a public body. If they receive email at one of their personal email accounts which relates to City business, they should forward the email to the City Clerk. Councilor Stout stated that it sets up an elected official with a possible liability in the event that said official gets an email, doesn't forward it, and the person claims neglect on the part of the official. Mr. Mullins stated that generally the City Council is acting in a legislative capacity and not in a quasi judicial capacity and that it was important to keep the distinction in mind. He stated that it wasn't any different than being at the transfer station and someone comes up and orally communicates to them. Council Lane asked how it would work if one Councilor asks him a question and he responds and then another Councilor asks in a separate email the same question and he answers it wouldn't this violate the quorum. Mr. Mullins stated that if he sent out his response to everyone, everyone is involved in that discussion but if he is emailing each one individually it was no different than the 2 of them talking on the phone. He stated that if he started having sequential conversations then it begins to look like a quorum. Councilor Stout asked if a string of messages could constitute a violation. Mr. Mullins stated that it could and that part of the training involved in the process was to train people how to use it.

Councilor Lane made the following motion which was seconded by Councilor Bendzinski.

On a vote of 5 – 0, the Finance, Organization and Personnel Committee recommends the adoption of Resolution R-2008-06 A.

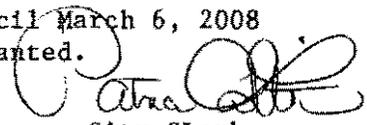
City of Keene
NEW HAMPSHIRE

301

February 28, 2008

In City Council March 6, 2008
More time granted.

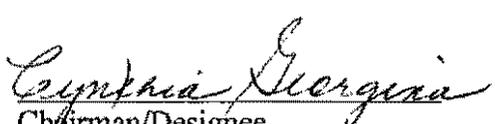
TO: Mayor and City Council


City Clerk

FROM: Finance, Organization and Personnel Committee

SUBJECT: MEMORANDUM Records Manager/Deputy City Clerk and
RESOLUTION: R-2008-06: Council Policy – Email Use.

On 3-0 vote, the Finance, Organization and Personnel Committee recommends putting this item on more time.


Chairman/Designee

Background Notes:

Mr. Dow addressed the Committee again and stated that at the last operating budget funding for an email archive system, which also includes email accounts for the Councilors, was put in place. He stated that staff was in the process of working out this contract with a vendor and wanted to get a policy relative to Councilor's use of this resource in place.

Councilor Bendzinski stated that he keeps getting emails about his account having to be activated and asked for clarification. Mr. Dow stated that his understanding is that the accounts have not yet been activated and asked the Councilor to print out a copy of the email so staff could verify the issue.

Chair Georgina asked whether this email system would permit constituents to get in touch with her via the City email address. Mr. Dow answered in the affirmative and added that the email would be disseminated through the City Clerk's office. Councilor Stout asked whether this would mean that with this new system in place, the Clerk's office would not be acting on Councilors' behalf. Mr. Dow stated that the emails would be captured in an archive system that the Clerk's office can access but it would not be acted on by staff.

The City Manager stated Councilors would be encouraged to use the email accounts provided by the City and not use their personal accounts, but by using the City accounts it creates a permanent record which would be subject to scrutiny by anyone and felt the Council should be aware of this. He also added that the manner in which the Council discusses issues between each other, which should be part of the public process could place a Councilor in a difficult position. The Manager as a result suggested that staff give a presentation on this issue to the City Council so that the Council is aware of what this process is all about.

Mayor Pregent stated that the reason this process was put in place was because of an issue that came up last year in Rochester where they did not have the record and it was a long process to be able to obtain this record.

City of Keene
NEW HAMPSHIRE

February 26, 2008

TO: Finance, Organization and Personnel Committee

FROM: William S. Dow, Records Manager/Deputy City Clerk 

SUBJECT: Council Policy Relative to Electronic Resources

Recommendation:

That the Finance, Organization and Personnel Committee recommend the adoption of Resolution R-2008-06, which would establish a policy regarding the use of electronic communications resources between City Councilors.

Background:

In preparation for the release of email accounts for City Councilors, a policy relative to the use of the email accounts should be adopted. These email accounts are being provided for the public's convenience in communicating with their representatives. The email accounts will also be helpful for the staff in communicating administrative matters. Only the official email address of the Councilor will be published in all official publications and web site of the City of Keene.

The policy requires that Councilors acknowledge that electronic communications that involve a quorum of the Councilors and regarding an item of business violates the right-to-know law and is prohibited.

In keeping with the current practice, the policy requires that an electronic communication received by a City Councilor regarding an item of business be forwarded to the City Clerk with instructions that the email be filed into the public record.

The proposed policy also provides that the City Clerk shall be given the authority to monitor, audit and access electronic communications between City Councilors to ensure compliance with the adopted policy and to efficiently respond to any right-to-know or discovery requests. All Councilors will be required to sign the Electronic Resources Acceptable Use Policy, which defines the parameters within which the email accounts may be used.