

Regular Workshop – December 11, 2013
Agenda Item 12

Agenda Item: Proposed Resolution 2013-41, Town Board and Committee E-Mail Communications

Presenter: Town Manager and Town Attorney

Summary: In 2008, the Town Commission passed Resolution 2008-31 which created a policy establishing e-mail accounts for utilization by Board and Committee members. The Resolution contained provisions for Board and Committee members to use personal e-mail accounts with the requirement to forward all Town related correspondence to the Staff liaison assigned to their Board. In reviewing the policy, Staff has determined it is the best interest to ensure compliance with Public Records and Sunshine Law requirements to amend the policy regarding the utilization of the established e-mail accounts.

Proposed Resolution 2013-41 outlines the requirements for use of the Town e-mail accounts by Board and Committee members for Commission consideration.

Attachments: Memo, Manager to Commission
Resolution 2008-31
Proposed Resolution 2013-41

Recommended

Action: Pending discussion, forward Resolution 2013-41 to the December 11, 2013, Special Meeting for formal action.

M E M O R A N D U M

Date: November 25, 2013

TO: Town Commission
FROM: Dave Bullock, Town Manager
SUBJECT: Proposed Resolution 2013-41, Board and Committee Members
E-Mail Communications

In 2008, the Town Commission passed Resolution 2008-31 which created a policy establishing e-mail accounts for utilization by Board and Committee members. The Resolution contained provisions for Board and Committee members to use personal e-mail accounts with the requirement to forward all Town related correspondence to the Staff liaison assigned to their Board. In reviewing the policy, Staff has determined it is the best interest to ensure compliance with Public Records and Sunshine Law requirements to amend the policy regarding the utilization of the established e-mail accounts.

Proposed Resolution 2013-41 outlines the requirements for use of the Town e-mail accounts by Board and Committee members for Commission consideration.

Please contact me if you have any questions.

RESOLUTION 2008-31

A RESOLUTION OF THE TOWN OF LONGBOAT KEY, FLORIDA, MODIFYING AND ESTABLISHING THE TOWN BOARD E-MAIL POLICY; REPEALING RESOLUTION 06-14, PROVIDING FOR PROCEDURES IN ACCORDANCE WITH STATE SUNSHINE LAW AND PUBLIC RECORDS LAW; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or before January 31, 2009, the Town shall provide Internet e-mail accounts for members of appointed boards; and

WHEREAS, members of the Code Enforcement Board, the Planning and Zoning Board, the Zoning Board of Adjustment, the Firefighters' Retirement System Board of Trustees, the General Employees' Retirement System Board of Trustees, and the Police Officers' Retirement System Board of Trustees (collectively "Board Members," each individual is a "Board Member"), and current and future board and committee and ad-hoc committee members may have personal e-mail addresses which are utilized for matters related to Town business; and

WHEREAS, it may be beneficial for Board Members to utilize electronic mail in the course and scope of their duties and to help preserve communications that may be subject to the Public Records Laws; and

WHEREAS, Chapters 119 and 286, Florida Statutes, mandate open government through the Public Records and Sunshine Laws; and

WHEREAS, it is in the best interests of the Town to develop procedures addressing the use of e-mail accounts for Town business by Board Members in order to ensure understanding and compliance with the Public Records Law and Sunshine Law.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA:

SECTION 1. The Whereas clauses are hereby ratified and confirmed as true and correct.

SECTION 2. This Resolution shall be entitled **Town Board and Committee E-Mail Policy**.

SECTION 3. Board Members are subject to the Sunshine Law as well as the Public Records Law of the State of Florida. Internet transmissions made in connection with the business of the board upon which each member serves are public records and are subject to the requirements of the Public Records Law. To assist in the preservation of e-mail public records as well as to expedite access to public records, the Town Commission establishes this e-mail policy for Town boards.

SECTION 4. The Town shall establish on or before January 31, 2009, an e-mail account for each Board Member for use in connection with official business before that Board Member's Town board. Board Members are encouraged to conduct all e-mail correspondence regarding board related matters through these Town-provided e-mail accounts (the Town Business Account). When a Board Member elects to utilize the Town Business Account, the following procedures shall apply:

A. If a Board Member generates or responds to an e-mail made in connection with business before that member's board, a copy of the e-mail shall be forwarded to the board's staff liaison. (The Town's established e-mail system captures all incoming e-mails to the Town Business Account automatically.)

B. Upon receipt, the board's staff liaison shall distribute and maintain the email in accordance with state law and established departmental procedures. Upon receipt by the Town, it shall be the Town's responsibility to schedule retention and destruction in accordance with the Public Records Law.

C. Any Board Member who generates or responds to an e-mail on the Town Business Account made in connection with official business before that board, and does not provide a copy to the board's liaison in accordance with this Section, shall become the custodian of that record and shall be responsible for its retention and destruction in accordance with State law.

SECTION 5. If a Board Member elects to utilize an e-mail account other than the Town Business Account regarding board-related matters, then the following procedures shall apply:

A. If a Board Member generates, receives or responds to an e-mail in connection with official business of that member's board on an e-mail account other than the Town Business Account, a copy of the e-mail shall be forwarded to the board's staff liaison.

B. Upon receipt, the board's staff liaison shall distribute and maintain the email in accordance with state law and established departmental procedures. Upon receipt of an e-mail forwarded to the Town, it shall be the Town's responsibility to schedule retention and destruction in accordance with the Public Records Law.

C. Any Board Member who generates, receives, or responds to an e-mail made in connection with official business of that member's board on an e-mail account other than the Town Business Account, and does not provide a copy to the board's staff liaison in accordance with this Section, shall become the custodian of that record and shall be responsible for its retention and destruction in accordance with State law.

D. If a Board member receives an e-mail made in connection with official business before that member's board on an e-mail account other than the Town Business Account, the Board Member is encouraged to forward that e-mail to the Board Member's Town Business Account and then follow the procedures set forth in Section 4.

SECTION 6. Nothing herein shall be deemed a waiver of an exemption, attorney client privilege, or exclusion to the State Public Records Law or Sunshine Law. Any e-mail that is subject to an exemption, privilege, or exclusion shall be governed by State Law.

SECTION 7. The Town Manager in his discretion may establish Town e-mail accounts for ad hoc and other boards or committees. If an account is not established, Committee Members and Board Members shall follow the requirements of Section 5 above.

SECTION 8. Resolution 06-14 and any other Resolution in conflict herewith are hereby repealed.

SECTION 9. This Resolution shall become effective immediately upon adoption.

Passed at a meeting of the Town Commission held the 1ST day of December 2008.



Hal Lenobel, Mayor

ATTEST:



Trish Granger, Town Clerk

RESOLUTION 2013-41

A RESOLUTION OF THE TOWN OF LONGBOAT KEY, FLORIDA, MODIFYING THE TOWN'S BOARD AND COMMITTEE E-MAIL POLICY; REPEALING RESOLUTION 2008-31, PROVIDING FOR PROCEDURES IN ACCORDANCE WITH STATE SUNSHINE LAW AND PUBLIC RECORDS LAW; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town established and provides Internet e-mail accounts for members of appointed boards and committees in January 31, 2009; and

WHEREAS, members of the Code Enforcement Board, the Planning and Zoning Board, the Zoning Board of Adjustment, the Firefighters' Retirement System Board of Trustees, the General Employees' Retirement System Board of Trustees, and the Police Officers' Retirement System Board of Trustees and all other current and future board, committee, and ad-hoc committee members (each individual is a "Board or Committee Member," collectively "Board and Committee Members"), have been or will be assigned Town e-mail addresses which are utilized for matters related to official Town business; and

WHEREAS, it is beneficial for Board and Committee Members to utilize electronic mail in the course and scope of their duties and to help preserve communications that may be subject to the Public Records Laws; and

WHEREAS, Chapters 119 and 286, Florida Statutes, mandate open government through the Public Records and Sunshine Laws; and

WHEREAS, it is in the best interests of the Town to develop procedures addressing the use of e-mail accounts for Town business by Board and Committee Members in order to ensure understanding and compliance with the Public Records Law and Sunshine Law.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA:

SECTION 1. The above Whereas clauses are hereby ratified and confirmed as true and correct.

SECTION 2. This Resolution shall be entitled **Town Board and Committee E-Mail Policy**.

SECTION 3. Board and Committee Members are subject to the Sunshine Law as well as the Public Records Law of the State of Florida. Internet transmissions made in connection with the business of the board or committee upon which each member serves are public records and are subject to the requirements of the Public Records Law. To assist in the preservation of e-mail public records as well as to expedite access to public records, the Town Commission establishes this e-mail policy for all Town boards or committees.

SECTION 4. The Town shall provide a Town e-mail account for each Board or Committee Member when appointed for use in connection with official business that may come before that Board or Committee (the Town Business Account). Board or Committee Members shall conduct all e-mail correspondence regarding board or committee related matters through the Town Business Account. The following procedures shall apply for use of the Town Business Account:

A. If a Board or Committee Member generates or responds to an e-mail made in connection with business before that member's board, a copy of the e-mail shall be forwarded to the board's staff liaison.

B. Upon receipt, the board's staff liaison shall distribute and maintain the email in accordance with state law and established departmental procedures. Upon receipt by the Town, it shall be the Town's responsibility to schedule retention and destruction of the e-mail in accordance with the Public Records Law.

C. Any Board or Committee Member who generates or responds to an e-mail on the Town Business Account made in connection with official business before that board, and does not provide a copy to the board's liaison in accordance with this Section, shall be responsible for its retention and destruction in accordance with State law and shall be subject to provide access to their personal computer upon receipt of a public record's request.

D. Any Board or Committee Member who elects to utilize an e-mail account other than the Town Business Account regarding official business of that member's board or committee may be subject to removal from office or other sanction as determined by the Town Commission.

SECTION 5. A Board or Committee Member shall not direct e-mail or any other written correspondence to or have verbal communication with any other Member of their Board or Committee outside of a published meeting that pertains to matters that could foreseeably come before their Board or Committee.

SECTION 6. Nothing herein shall be deemed a waiver of an exemption, attorney client privilege, or exclusion to the State Public Records Law or Sunshine Law. Any e-mail that is subject to an exemption, privilege, or exclusion shall be governed by State Law.

SECTION 7. Resolution 2008-31 and any other Resolution in conflict herewith are hereby repealed.

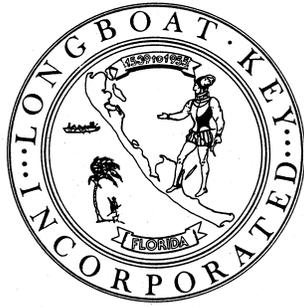
SECTION 8. This Resolution shall become effective immediately upon adoption.

Passed at a meeting of the Town Commission held the ____ day of _____, 2013.

ATTEST:

James L. Brown, Mayor

Trish Granger, Town Clerk



End of Agenda Item