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# City of West Allis Matter Summary

7525 W. Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
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R-2007-0212 Resolution In Committee

Resolution relative to the transfer of \$75,000 from the City's Contingency Fund to the Information Technology Division Equipment Account for an Archiving System for Electronic Document Retrieval.

Introduced: 9/4/2007

Controlling Body: Administration & Finance Committee

Sponsor(s): Administration & Finance Committee

### COMMITTEE RECOMMENDATION adopt

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
SEP 04 2007	<input checked="" type="checkbox"/>		Barczak	<input checked="" type="checkbox"/>			
			Czaplewski	<input checked="" type="checkbox"/>			
			Dobrowski				
			Kopplin				
	<input checked="" type="checkbox"/>		Lajsic	<input checked="" type="checkbox"/>			
			Narlock				
		<input checked="" type="checkbox"/>	Reinke	<input checked="" type="checkbox"/>			
			Sengstock				
			Vitale				
			Weigel	<input checked="" type="checkbox"/>			
			TOTAL	5	-		

### SIGNATURE OF COMMITTEE MEMBER

[Signature] Chair      Vice-Chair      Member

### COMMON COUNCIL ACTION adopt

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
9-4-07	<input checked="" type="checkbox"/>		Barczak	<input checked="" type="checkbox"/>			
			Czaplewski	<input checked="" type="checkbox"/>			
			Dobrowski	<input checked="" type="checkbox"/>			
			Kopplin	<input checked="" type="checkbox"/>			
			Lajsic	<input checked="" type="checkbox"/>			
			Narlock	<input checked="" type="checkbox"/>			
		<input checked="" type="checkbox"/>	Reinke	<input checked="" type="checkbox"/>			
			Sengstock	<input checked="" type="checkbox"/>			
			Vitale	<input checked="" type="checkbox"/>			
			Weigel	<input checked="" type="checkbox"/>			
			TOTAL	10	-		

Finance  
IT

**STANDING COMMITTEES OF THE  
CITY OF WEST ALLIS COMMON COUNCIL  
2004**

**ADMINISTRATION & FINANCE**

Chair: Michael J. Czaplewski  
Vice-Chair: Martin J. Weigel  
Gary T. Barczak  
Thomas G. Lajsic  
Rosalie L. Reinke

**PUBLIC WORKS**

Chair: Richard F. Narlock  
Vice-Chair: Linda A. Dobrowski  
Kurt E. Kopplin  
Vincent Vitale  
James W. Sengstock

**SAFETY & DEVELOPMENT**

Chair: Thomas G. Lajsic  
Vice-Chair: Vincent Vitale  
Gary T. Barczak  
Martin J. Weigel  
Rosalie L. Reinke

**LICENSE & HEALTH**

Chair: Kurt E. Kopplin  
Vice-Chair: James W. Sengstock  
Linda A. Dobrowski  
Richard F. Narlock  
Michael J. Czaplewski

**ADVISORY**

Chair: Rosalie L. Reinke  
Vice-Chair: Gary T. Barczak  
Linda A. Dobrowski  
Vincent Vitale  
Martin J. Weigel



# City of West Allis

7525 W. Greenfield Ave.  
West Allis, WI 53214

## Resolution

**File Number:** R-2007-0212

**Final Action:**

**Sponsor(s):** Administration & Finance Committee

**SEP 04 2007**

Resolution relative to the transfer of \$75,000 from the City's Contingency Fund to the Information Technology Division Equipment Account for an Archiving System for Electronic Document Retrieval.

WHEREAS, numerous federal regulations require the City to keep and reproduce any and all electronic documents; and,

WHEREAS, the City Attorney has advised the Information Technology Division that archiving (retaining) all emails is necessary; and,

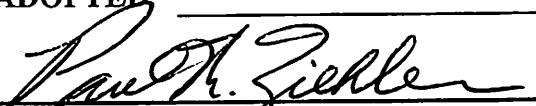
WHEREAS, the archiving system must allow for a quick, complete, and efficient method of retrieval; and,

WHEREAS, the City's current email and network operating system is not capable of completely retaining and efficiently retrieving any and all electronic documents; and,

WHEREAS, a new archiving system for electronic document retrieval is therefore essential and urgent.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the City of West Allis that \$75,000 is hereby authorized to be transferred from the City's Contingency Fund to the Information Technology Division's Equipment Account for the acquisition and installation of a new archiving system for electronic documents.

ADM\ORDRES\ADMR342

ADOPTED SEP 04 2007  
  
Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED September 7, 2007  
  
Jeannette Bell, Mayor



Date: June 5, 2007

To: Paul Ziehler  
Scott Post

From: Jim Jandovitz

Re: Email Archiving Policies

Numerous federal regulations such as the Sarbanes-Oxley Act of 2002 and the new e-discovery rules effective Jan 1, 2007 require the city to keep and be able to reproduce any electronic documents produced in the city. Also, according to Scott Post we are required to be retaining (archiving) all e-mails within the city. This is commonly done using an email archiving system. An archiving system will save all incoming and outgoing emails automatically without user intervention regardless of content or sender and taking the responsibility out of the employee domain. I am including the memorandum by Scott Post in regards to the severity of this matter along with some information on the Sarbanes-Oxley Act

This archiving system will also allow us to retrieve employee's email for investigative actions quickly and easily. The Chief of Police recently asked me for copies of email from a certain employee. I told him this would require many hours, even weeks, to retrieve all the email of a specific individual as we will have to go through every backup tape one by one retrieve the days emails.

In order to come into compliance with these regulations our current email and network operating system must be upgrade. Our current email system Microsoft Exchange 5.5 and NT servers are over 10 years old and have been out-of-date for some time now. Microsoft had ceased supporting both our email server and the NT operating a while ago. Current email archiving solution will not work with Exchange 5.5 and even most AntiVirus software vendors will not support this platform anymore. In a costs saving measure we previously elected to skip the Exchange 2000 and the Exchange 2003 mail server upgrades.

The following is a list of unbudgeted items we will need to perform this upgrade and install a new email server with archiving:

8	Microsoft 2003 Server Licenses	\$3,600
300	Microsoft Server Client Access Licenses	\$5,500
2	Microsoft Exchange Server 2007	\$1,000
350	Microsoft Exchange Users CALS	\$14,710
300	Microsoft Outlook 2007 Email Clients	\$16,000
1	Enterprise Vault for Exchange 2007	\$8,000
1	Server for archiving emails	\$10,000
		<hr/> <hr/>
		\$58,810

We may also require some 3<sup>rd</sup> party utilities to migrate from our existing system to the new system. This software will save months of staff time to convert all the employees' account, files, and emails to the new system. This software will cost around \$10,000 - \$15,000.

Email is a very important and necessary aspect of most of our employees and Information Technology needs to provide an up-to-date and reliable email system for their use.



Some excerpts found on the Web on the The Sarbanes-Oxley Act

The Sarbanes-Oxley Act of 2002 was passed following the numerous high-profile corporate scandals over the past few years. This legislation was designed to improve the accountability and transparency of public companies and their auditors. It requires the implementation of sound information and records management practices that ensure the trustworthiness of business records and financial statements.

The Sarbanes-Oxley Act tightened security disclosure requirements, increased regulatory oversight of auditing firms, and has created new federal crimes and increased penalties for existing federal crimes.

Although the Sarbanes-Oxley Act is targeted at public companies and their auditors, it is advisable that all organizations should institute and adhere to systematic records management, including email retention policies and practices. Companies should therefore ensure that all inbound and outbound emails particularly those pertaining to an audit or review be kept for a period of seven years, during which time these records must be non-erasable and non-rewritable.

Section 802 of the Sarbanes-Oxley Act requires auditors to retain auditing information for a period of 7 years. The information refers to all records relevant to the audit or review; this includes workpapers, memoranda, correspondence, communications, and electronic records (including email). In fact, Section 802 makes it a crime, punishable by up to 10 years in jail, if auditors of public companies fail to maintain such correspondence.


Section 302 of the Sarbanes-Oxley Act requires the CEO and CFO of a public company to personally certify and attest to the accuracy of their company's financial statements contained in periodic reports. Section 404 requires auditors to certify the underlying controls and processes that companies use to reach financial results. Both sections require proof that a company's reported financial information can be relied on - and require companies to invest in procedures that ensure information is recorded and managed in a trustworthy manner, including email. As an organization's dependence on electronic mail continues to grow, the mismanagement of email provides a growing target for litigators and regulators. Companies must ensure that records in digital form are managed with the same care and attention as records in paper form.

Business records must be protected at all times from unauthorized tampering and deletion, more so when a company is involved in audits, investigations, litigation or other formal proceedings. It is therefore of primary importance to copy and archive data before a user has a chance to manipulate it or delete it. Companies must ensure that directors, management and accounting personnel in particular, are informed of their obligation to preserve business records.



Therefore, you are legally required to ensure that you archive a copy of all your email communications (particularly those of departments dealing with accounting, auditing, orders and so on), including both internal and external mail for a period of up to 7 years.

# MEMORANDUM

**TO:** Jim Jandovitz, Manager, Information Technology  
**FROM:** Scott E. Post, City Attorney   
**DATE:** May 7, 2007  
**SUBJECT:** E-Mails

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I know that I am beginning to sound like a broken record on this topic, but I believe it is imperative that the City, sooner rather than later, adopt a policy whereby we retain all e-mails. I am attaching information from the last Municipal Attorney's Institute on this topic. There is a presentation from a Madison Assistant City Attorney on Madison's system and their retention of all e-mails, as well as, materials from the Wauwatosa City Attorney. Wauwatosa also retains all of its e-mails in order to be able to respond to Open Records requests.

Please contact me if you have any questions regarding this topic or if I can be of any assistance in adopting an e-mail system that is similar to the Madison/Wauwatosa model.

SEP:da

Attachment

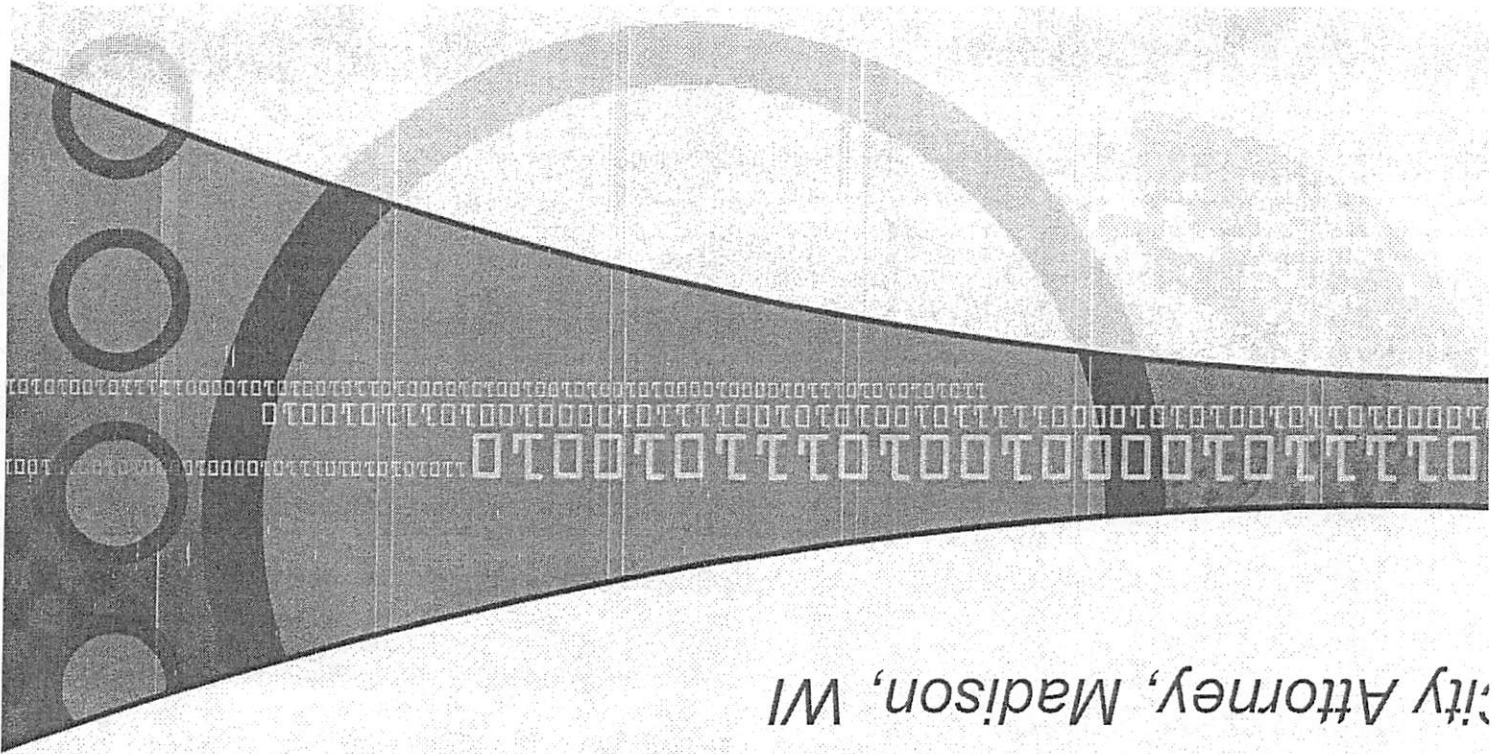
H/Scott/Memo/Email RetentionJandovitz

cc: Paul M. Ziehler ✓

# Friend or Foe

Atty. Roger A. Allen

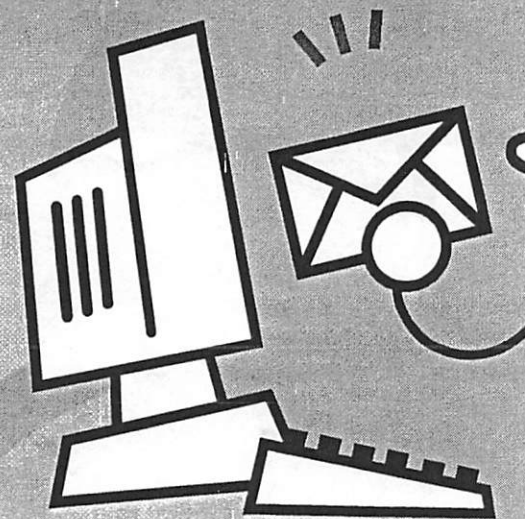
City Attorney, Madison, WI





# Two Basic Rules Apply to

- *Emails can be Public Records*
  - *Exceptions apply, i.e. personal records - “Dad, I need two hundred dollars because...”*
  - *Drafts are drafts – “Mike, is this the ordinance revision you were looking for...”*
- *Public Records Must Be Retained. Retention Periods Determined by Content Not Format*



# ns With Those Two Rules

- *1<sup>st</sup> Approach – Print important emails, place in file*

- *Loss of header data*
- *Loss of Metadata*
- *Individual employees determined if “important enough” to be a record*
- *Very Few Emails Retained*



# More Problems



- *Second Approach*  
*XX Files*
  - *Header & Metadata preserved*
  - *Recipient deleted record*
  - *Very Few Errors Retained*
  - *Had to restore*
    - *Expensive*
    - *Time-Consuming Response*
    - *Not archived immediately*



# ed Approach

Archiving

each & Every  
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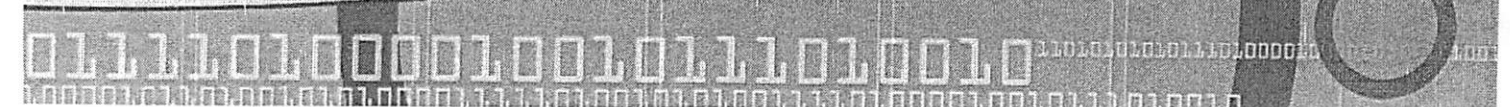
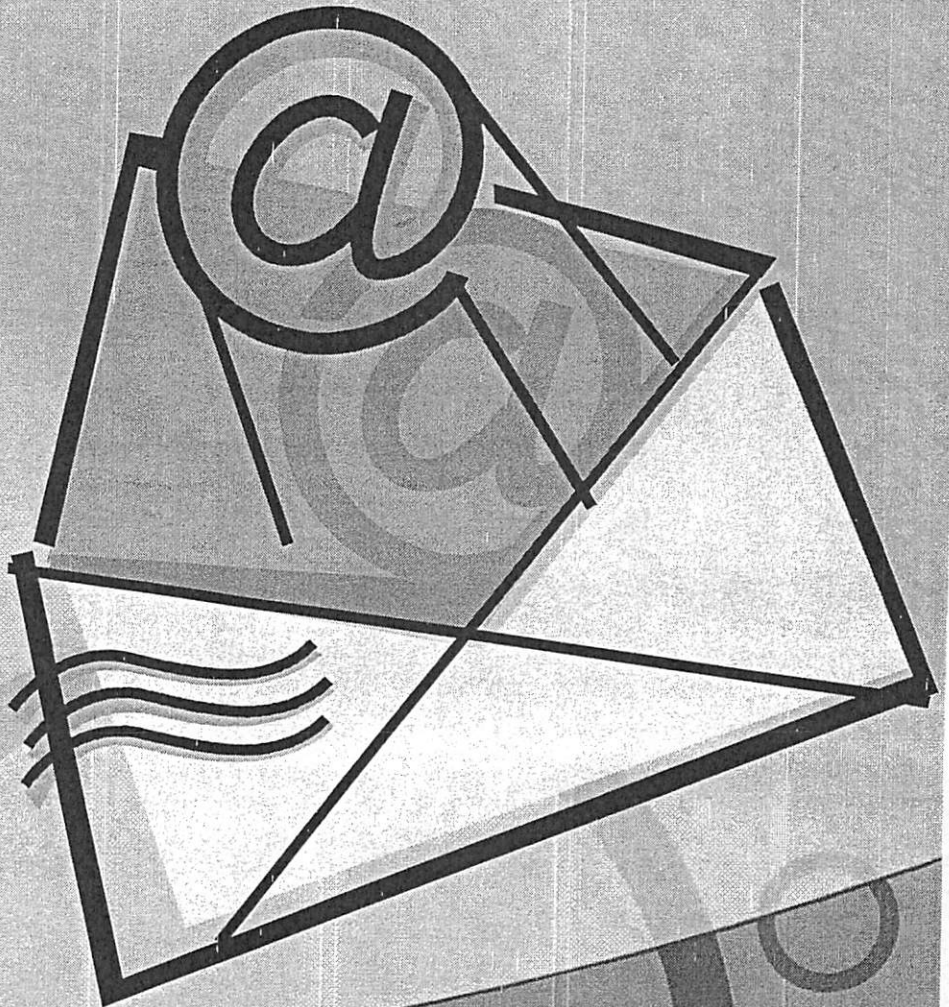
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abilities



# New Policies

- *Archive – limited access policy.*
- *Employee notification at sign-on.*
- *Privacy & Ownership of Data.*



# Policy

## Policy of data.

Electronic data, communications and information, including information transmitted or received on the electronic systems of the city, are the property of the city. The city retains the right to access, inspect, monitor or disclose any material transmitted or received on its electronic systems, including information received from the internet or received or transmitted via e-mail.



# Data Policies

- *Privacy rights waiver.*

*Employees should not expect privacy respect to information transmitted, received, stored on the city's computing resources. By accepting the grant of access to city electronic systems, the employee shall be deemed to have authorized the city to inspect, monitor and disclose material. Consequently, an employee's manager and other authorized individuals shall have the right to know employees' passwords.*



# Unintended

## quences



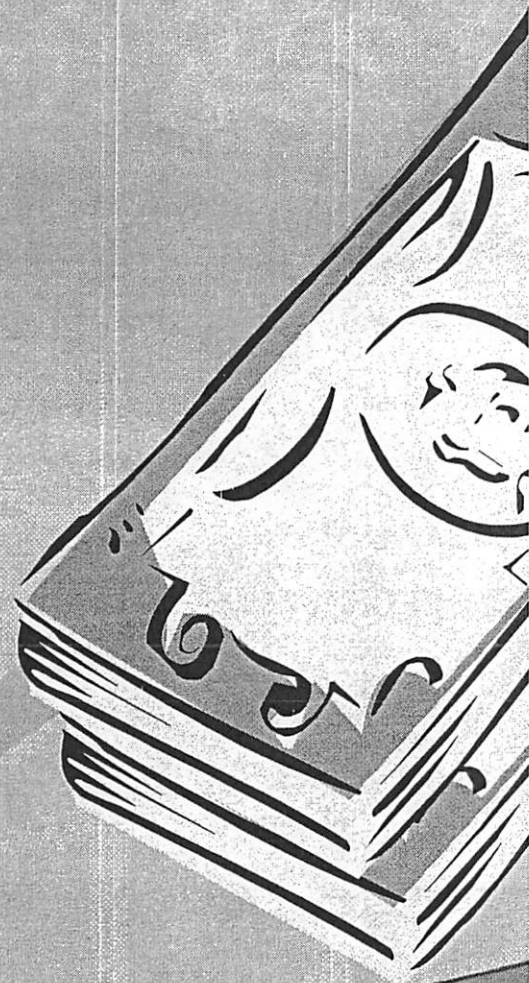
- *More Requests for Email Records.*
- *Employee created disclaimers – “head’s up, my boss is reading this.”*
- *Less institutional resolve to charge location fees for records searches.*
- *Helpful in locating silver BB’s in at least one lawsuit.*





# Vendor & Costs

- *Vendor*
- *Annual Cost to Implement –*
- *Software upgrades*
- *Software/Hardware migration issues*



# o the Future

- *Current Concerns*
  - *Emails of Boards, Commissions, Committees are "off-line"*
    - *See Texas OR2001-1790 & OR2003-0951*
  - *Failure to collect location costs=using public records law as a weapon*
  - *Open Meetings Concerns*
    - *My world – wireless*
    - *Common Council chambers*
    - *Board/Comm/Comm.*
    - *personal emails*
- *BLOG's*



# Thank You

*For more info:*

*Mail:*

*ACA Roger Allen  
Office of the City Attorney  
210 M.L. King, Jr. Blvd.  
Madison, WI 53703-3345*

*Phone:*

*(608) 266-4511*

*Email:*

*[rallen@cityofmadison.com](mailto:rallen@cityofmadison.com)*



# WISCONSIN'S PUBLIC RECORDS LAW: EMAIL AS A PUBLIC RECORD

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violations may occur when the email is shared with enough members of a governmental body that a quorum or negative quorum engages in a discussion of the emails topic. These are only a few of the concerns that have led the Attorney General's Office to strongly discourage public officials from using email to communicate on matters within the realm of their authority.

## WHO MAY I TURN TO FOR HELP?

All records custodians are regularly trained in public records law and may help you with basic records issues. Additionally, every Assistant City Attorney is responsible for advising agencies and public officials on both Public Records Law and Open Meetings Law requirements. Several Assistant City Attorneys are charged with maintaining advanced knowledge of these legal requirements.

**City of Madison**

**City Attorney's Office**

**Room 401**

**210 Martin Luther King, Jr. Blvd.**

**Madison, WI 5303-3345**

**(608) 266-4511**



# WHAT CONSTITUTES A RECORD?

The Madison General Ordinances adopt the statutory definition of a public record:

**19.32(2) Wis. Stats:** "record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority.

"Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks..."

# IS EMAIL A PUBLIC RECORD?

Generally speaking, yes. But it is important to note that it is the content of the record, not the format of its transmission or its storage, that determines whether any particular communication must be maintained as a public record. The public records ordinance and statute provide a number of exceptions to the definition of what constitutes a public record: Drafts (not

circulated outside of the approving officer's authority); personal notes, copyrighted materials; published materials, materials available for inspection at a public library, etc.

# DOES THE PUBLIC HAVE A RIGHT TO SEE EVERY EMAIL I SEND OR RECEIVE?

No. Determining that a record exists is only the first step in processing a public records request. There are a number of statutory and common law limitations on access to public records. These limitations are legislative and court determinations that the public interest in access to certain types of information/communications is outweighed by the substantial harm to other public interests that would occur by providing access to these records. Our public records custodians receive regular training in applying these limited exceptions to public access. These records custodians routinely consult with the City Attorney's Office to ensure full compliance with this important law.

HOWEVER, you should be aware that the law creates a presumption in favor of

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**CITY OF WAUWATOSA**

**ADMINISTRATIVE POLICY AND PROCEDURE MANUAL**

**Subject:** Computer, Electronic Mail (Email) and Internet Use      **Date:** 10/25/2002  
Revised: 8/1/2004

**Overview:** The City provides employees with access to a wide variety of computer systems including application servers, personal computers, notebook computers, Personal Digital Assistants (PDA's), digital cameras, Internet and email. These systems represent a substantial investment in technology.

This document outlines the City's policy regarding that investment and employees' use of it. This policy will be enforced City wide. Department Heads and Supervisors have the responsibility to ensure that staff understand and adhere to this policy. If employees have any question regarding this policy, they should contact their supervisor immediately. Violations of this policy will be handled in a manner consistent with the City's established disciplinary process up to and including termination. Criminal violations may also be subject to prosecution by local, state and federal law enforcement authorities.

**General Policy**

- The City's computer systems, including application servers, personal computers, notebook computers, PDA's and digital cameras are provided by the City for employees to conduct City business using software applications approved by the Manager of Information Systems.
- All electronic data, regardless of purpose, file type or storage media is considered the property of the City.
- The word "personal" when used to refer to personal computers, notebook computers or Personal Digital Assistant (PDA) does not imply any degree of personal privacy or personal ownership of data.
- Password protection and/or encryption, does not imply that the user's email, memos, documents or any other files, either active or deleted, are private.
- Employees are expected to act professionally and responsibly when using any computer system.
- Employees shall use their assigned computer with care in a responsible manner to reduce damage to keyboards, mice, printers, etc.
- Employees may temporarily use another user's computer with authorization from their department head or supervisor.
- Employees shall not install or delete peripherals such as digital cameras, printers.

### **Digital Cameras**

- Use of City digital cameras for personal use is strictly prohibited.

### **Email**

- Electronic mail is provided by the City for employees to conduct City business.
- Email is an additional means of communication and, as with telephones; any personal use of email shall be kept to a minimum.
- Employees shall not use or access another user's email account.
- Employees shall not transmit confidential information via email.
- As with any form of official communication, forwarding inappropriate email or use of inappropriate or inflammatory language in email is strictly prohibited.

### **Email Retention**

- In order to facilitate Open Records requests, all sent and received email is archived within the wauwatosa.net mail store; therefore users do NOT have to save and retain email within their individual email account.

### **Internet: Access**

- Employees shall only use Microsoft's Internet Explorer browser to access the Internet.
- Internet access and the level of access must be approved by the respective department head and the Manager of Information Systems or his/her designee.
- The City Administrator will act as arbitrator if a disagreement exists regarding Internet access that can not be resolved. The decision of the City Administrator is final.
- Employee use of the City's Internet facilities shall be limited to City related business with the following exception. Employees may use the City's Internet facilities for incidental, non-business research or browsing during approved breaks provided that all other usage policies are adhered to.
- Access to any inappropriate or offensive site is strictly prohibited.
- Employees with Internet access may not use City Internet facilities to download entertainment software or games, or to play games against opponents over the Internet.

### **Internet: Access to M&I Bank Treasury Management Services**

- Access to M&I Bank Treasury Management Services from outside of the City's wide area network is strictly prohibited.

### **Internet: Audio/Video Downloading**

Computer, Electronic Mail (Email) and Internet Use  
August 1, 2004

- Audio and video downloading for city business must be approved in advance by the Manager of Information Systems or his/her designee. Video and audio streaming and downloading technologies represent significant data traffic which can cause local network congestion.

**Internet: Downloading/Uploading of Files**

- Downloading of any file via ftp without the approval of the Manger of Information Systems or his/her designee is strictly prohibited.
- Uploading of any file via ftp without the approval of the Manager of Information Systems or his/her designee is strictly prohibited.
- Any file downloaded via the Internet into the City network or any City computer becomes the property of the City.

**Internet: File Sharing**

- Internet file sharing applications such as Bearshare, Kazaa, WinMX, etc. are strictly prohibited.

**Internet: WEB Mail**

- Limited use of WEB Mail for personal use is at the discretion of the department head and shall be monitored by the department head to ensure compliance with this policy. The City reserves the right to discontinue access to WEB Mail either globally or by individual if abuses occur or security issues become a concern.

**Modems**

- Use of a modem is strictly prohibited unless approved by the Manager of Information Systems.

**Passwords**

- Users shall not share network login and passwords with other users.
- Users shall not attach network login or passwords to monitor or hide same in work place.
- The use of "boot" or "screen saver" passwords without authorization from the Manager of Information Systems is strictly prohibited.

**Virus Protection**

- Employees shall NOT disable virus protection on any computer at any time.
- Employees shall notify the Information Systems Department immediately upon detecting the intrusion of a virus.



- Copyright material.
10. Knowingly downloading or distributing pirated software or data.
  11. Knowingly distributing viruses or bypassing any detection system in place.
  12. Downloading software without authorization from the Manager of Information Systems or his/her designee. Employees must arrange to have such software properly licensed and registered. Downloaded software must be used only under the terms of its license.
  13. Representing the City without authorization to any newsgroup or in any chat room.
  14. Uploading any software licensed to the City or data owned or licensed by the City without explicit authorization from the Manager of Information Systems or his/her designee.
  15. Using news briefing services or any other "pushed" information software without approval of the Manager of Information Systems or his/her designee.
  16. Using chat rooms and instant messaging services without approval of the Manager of Information Systems or his/her designee.

Each employee who has access to the City's computer system shall be provided with a copy of this policy and shall and return a copy of the following acknowledgement to the Personnel Department at the time of appointment or within 60 calendar days of the date of this policy, whichever is sooner. If the policy is not signed or otherwise formally acknowledged by an employee, their user ID and password (and thus access to the computer network) will be disabled:

"I have read and understand the City's Electronic Mail (Email), Computer and Internet Use Policy dated August 1, 2004. I fully understand the terms of this policy and agree to abide by them. I realize that the City's security software may record for management the Internet address of any site that I visit and keep a record of any network activity in which I transmit or receive any kind of file. I acknowledge that any message I send or receive may be recorded and stored in an archive file for management use. I know that any violation of this policy could lead to dismissal or even criminal prosecution."

Employee Signature \_\_\_\_\_

Date \_\_\_\_\_

/s/ Thomas J. Wontorek  
Thomas J. Wontorek  
City Administrator

DISTRIBUTION: DEPARTMENT DIRECTORS  
POLICY AND PROCEDURE MANUALS  
Applicability: All City of Wauwatosa Employees



**CITY OF WAUWATOSA  
ADMINISTRATIVE POLICY AND PROCEDURE MANUAL**

**Policy: E-mail Retention and Public (Open) Records**

Date: June 1, 2006

State law requires governments to preserve public records, *including e-mail messages*. Public Records Law also gives the public rights to view and copy certain "open" records.

There are two levels of analysis under the public records law:

The first issue is whether the City is required to save a particular document. Since the City electronic mail ("e-mail") system is configured to save a copy of each and every e-mail message sent through the server, all messages are saved without any action being required of the end user. While the City is not required to save every single message, this option has been selected as the most effective means to assure the City's compliance with the law. Other available methods would have a high risk of messages being lost or destroyed, or require a costly review of each and every message.

By saving every message, the City avoids the problem of individual users being required to make the legal judgments on what is a "record" and what is not, and avoids the necessity that each user save messages individually. It also allows all saved messages to be preserved in a manner that helps to avoid the threat of intentional or inadvertent destruction. Finally this system allows messages to be searched through a single search operation, avoiding the necessity that each individual user search their own archives in response to every open records request received by the City.

The second issue, as to those documents that we save, is whether the law requires that they be disclosed pursuant to a public records request. Just because an e-mail is saved does not automatically mean that it must be open to public inspection. Questions regarding what should be released pursuant to open records requests can be answered on a case-by-case basis by the City Attorney's office.

**What are "records"?**

Records include any form of information "created or kept by" the City, with a few specific exceptions. The Public Records Law applies to e-mail in the same manner as any other "record" of the City. When the City is responding to a request for "all records" meeting a certain description, e-mail will be searched just as paper files are searched, even if the

questions about these policies, or how they apply to a particular person, should be directed to the Office of the City Attorney.

---

Alan R. Kesner, Interim City Administrator

**DISTRIBUTION:**

All Supervisors  
Policy and Procedure Manuals