STAFF REPORT

ITEM NO. 21

CITY OF OCEANSIDE

DATE: October 14, 2009

TO: Honorable Mayor and City Councilmembers

FROM: City Manager's Office

SUBJECT: **RESOLUTION APPROVING A REVISED E-MAIL USAGE AND VAULTING SYSTEM POLICY FOR CITY E-MAIL RECORDS AND ADOPTION OF REVISED CITY COUNCIL POLICY 100-44 CONCERNING E-MAIL USAGE AND STORAGE**

SYNOPSIS

Staff recommends that the City Council adopt a resolution approving a revised e-mail usage and vaulting system policy for City e-mail records and adopt the revised City Council Policy 100-44, concerning City E-mail Usage and Storage.

BACKGROUND

On December 12, 2001, the City Council adopted Resolution 01-R660-1, establishing a minimum retention period of two years for e-mail communications.

City Council Policy 100-44 was originally adopted in 2001 and was revised in January 2002, also establishing a minimum retention period of two years for e-mail communications.

In the intervening years, the routine use of e-mail within and between City Offices, outside agencies and the public has increased dramatically. The need to retain these communications for a two-year period has required an increasingly large amount of electronic storage capacity.

The City Records Management Program (Municipal Code Chapter 2 Article XIV) adopted by the City Council on October 6, 2004, and the Citywide Retention Schedule adopted on November 19, 2008, provide guidelines for the retention of official City records, regardless of media or format and requires employees to distinguish between record and non-record information. E-mail determined by users to be records should be properly preserved outside of the e-mail vaulting system and disposed of as specified in the approved Retention Schedule.

ANALYSIS

Given the wide usage of e-mail within the City and computer storage limitations it is recommended that the storage period for e-mail communications retained in the vaulting system be reduced from two years to 90 days. The contents of the e-mail vaulting system are not meant to be the official City record.

FISCAL IMPACT

Does not apply.

INSURANCE REQUIREMENTS

Does not apply.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving a revised e-mail usage and vaulting system policy for City e-mail records and adopt the revised City Council Police 100-44, concerning City E-mail Usage and Storage.

PREPARED BY:

Michelle Skaggs Lawrence
Deputy City Manager

SUBMITTED BY:

Peter A. Weiss
City Manager

REVIEWED BY:

Barbara Riegel Wayne, City Clerk

Michael L. Sherwood, Chief Information Officer

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE APPROVING A REVISED E-MAIL USAGE AND VAULTING SYSTEM POLICY FOR CITY E-MAIL RECORDS

WHEREAS, the City Council has approved Resolution 01-R660-1 that established a retention period for retaining e-mail communications for a minimum of two (2) years or as required by law;

WHEREAS, Resolution 01-R660-1 states further that this retention schedule is subject to periodic revision as recommended by the City Attorney and where allowed or required by law;

WHEREAS, the City has instituted a Records Management Program with the adoption of Ordinance 04-OR870-1 for the orderly and efficient management of both Record and Non-record documents; and

WHEREAS, the City has adopted a Citywide Records Retention Schedule (08-R0659-1) that defines the retention periods for official City Records, and

WHEREAS, the City Clerk and City Attorney recommend that the City Council approve a revision to the e-mail policy 100-44 reducing the minimum retention period for City's vaulted e-mail communications from two (2) years to ninety (90) days.

NOW, THEREFORE, the City Council of the City of Oceanside does resolve that Resolution No. 01-R660-1 is hereby amended as follows:

SECTION 8. The electronic vaulting system will retain e-mail communications for a minimum of ninety (90) days or as required by law, respecting electronic communications. This retention schedule shall be subject to periodic revision as recommended by the City Attorney and where allowed or required by law.

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PASSED AND ADOPTED by the City Council of the City of Oceanside, California, this _____day of _____, 2009, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
MAYOR OF THE CITY OF OCEANSIDE

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE APPROVING A REVISED E-MAIL USAGE AND VAULTING SYSTEM POLICY FOR CITY E-MAIL RECORDS

DRAFT

	POLICY NUMBER	**100-44**
	ADOPTED	**5-9-01**
SUBJECT:	**REVISED**	**1-16-02**
City E-mail Usage and Storage	**REVISED**	**10-14-09**

It is the policy of the City Council that the City of Oceanside uses e-mail communications as a business tool to promote the efficient exchange of information in the conduct of City business. The use of the City's e-mail system is primarily for communicating information of short-term value and does not allow for the indefinite retention or retrieval of electronic messages. The California Public Records Act states that a public record includes any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by any state or local agency, regardless of physical form or characteristics. Use of the City's e-mail system can generate communications and messages that may be classified as a public record. The purpose of the City's E-mail Policy is to establish guidelines for the usage and retention of electronic communications by City staff on a routine basis during the regular course of business. Further, the Policy establishes guidelines to ensure proper usage of e-mail communications by all City staff.

It is the policy of the City Council that e-mail communications should be considered in the same manner as any other official City correspondence. All electronic data placed on the City's information system is the property of the City. City e-mail is primarily for business-related uses.

Employees should have no expectation of privacy regarding e-mail messages sent or received. E-mail should not be used for confidential information such as personnel matters, attorney-client privileged information, attorney work product, or other matters deemed confidential under Government Code sections 6254(f), 6255 or Evidence Code section 1040.

The City reserves the right for authorized staff to access and review all e-mail messages and data files on the City's information system at any time.

It is the policy of the City that, under the direction of the City Manager, an administrative directive consistent with this Policy regarding e-mail usage and storage by City employees and staff shall be disseminated and shall be in effect at all times so that employees and staff recognize the City's policy regarding e-mail usage and storage. The City Manager, in consultation with the City Attorney is authorized to periodically revise the administrative directive as necessary to comply with legal mandates or other relevant considerations.

Under the California Public Records Act, some e-mail messages, as well as their attachments, may qualify as public records and warrant retention by City employees and staff.

Factors to consider in deciding whether a document is a record are:

1. Is it in connection with the transaction of public business (this eliminates all e-mails which do not relate to public business, i.e., personal notes, etc.)?
2. Is it official documentary material (a draft of a letter versus the letter itself)?
3. Is the material appropriate for preservation by any official or successor thereof as evidence of the organization, function, policies, decisions, procedures or other activities thereof or because of informational data contained therein?
4. Does the document have any historical significance?

Where e-mail communication is between a sender and a recipient within the City, the sender's copy is designated as the copy of record. In other words it is the sender's copy to which retention requirements should apply. This does not apply to cases of e-mail received from other agencies or from the public.

E-mails that require retention in accordance with the Citywide Retention Schedule will be printed and kept in the associated paper file or scanned/imported as part of the electronic file.

City employees and staff shall be mindful of these requirements when utilizing e-mail communications. The offices of the City Attorney, City Clerk, shall be available to assist with any questions regarding e-mail and the Public Records Act.

The City has established an electronic vaulting system for storage of e-mail messages to be administered through the Information Technologies Division. The City Clerk, City Manager and City Attorney shall have full access to communications in the vaulting system. Department Directors or their designees shall have access to vaulted communications generated to, or within, their respective departments.

The electronic vaulting system will retain e-mail communications for a minimum of ninety days or as required by law, respecting electronic communications. This vaulting period shall be subject to periodic review and revision as recommended by the City Attorney and where allowed or required by law.

The usage of the City's e-mail system is primarily for communicating information of short-term value that does not qualify as public records. However, the City recognizes the evolving usage of e-mail for communications that are defined as public records.

The vault system shall retain such records for the ninety-day period; however, it is the responsibility of each user to identify official City records and move them to the appropriate storage medium for retention.

Periodically, the City does receive public record requests and subpoenas for the production of records. In the event that a request or subpoena involves e-mail messages and upon being made aware of the demand for information, the employee(s) and/or department director having control of the communications shall take those steps necessary to ensure that the information is retained and made available upon demand. The City Attorney and City Clerk shall be available to assist in such matters.