

**CITY OF BRIDGEPORT
ORDINANCE COMMITTEE
REGULAR MEETING
AUGUST 24, 2021**

ATTENDANCE: Marcus Brown, Co-chair; Eneida Martinez, Co-chair;
Ernest Newton, Michelle Lyons, Avelino Silva

OTHERS: Council Member(s): M. E. Brantley, M. McCarthy, M. Pereira &
M. McBride-Lee; Thomas Gaudett, Mayoral Aide, Atty. M. Anastasi, City
Attorney's Office; Barbara, Call-In User 1; Galaxy 59c; 203-209-1058;
929-436-2866

CALL TO ORDER

Co-chair Brown called the meeting to order at 6:03 p.m. A quorum was present.

APPROVAL OF COMMITTEE MINUTES:

• June 22, 2021 (Regular Meeting)

**** COUNCIL MEMBER MARTINEZ MOVED THE MINUTES OF THE JUNE 22, 2021 MEETING.**

**** COUNCIL MEMBER NEWTON SECONDED.**

**** THE MOTION TO APPROVE THE MINUTES OF THE JUNE 22, 2021 MEETING AS SUBMITTED PASSED UNANIMOUSLY.**

109-20 Proposed Amendments to the Municipal Code of Ordinances, Chapter 2.06 – Common Council, amend to add New Section 2.06.080 – Mandatory use of city assigned web address for city council business emails.

Attorney Anastasi then summarized the Municipal Code of Ordinances, Chapter 2.06. The first section reports legal obligations with regards to record retention, and records production on point to the Connecticut fly retention schedule. The fact that in civil litigation, evidence is not available, there's a document called spoliation of evidence where assumptions are made against the interests of the party that cannot produce records in a timely fashion or at all, destroyed or unavailable. And also, as you've seen over the years the need to produce documents in response to both civil and criminal subpoena duces tecum. So as to Section A, Section D provides that all City Council Members would be assigned by ITS. A City website to be used for city business and records transmission with regards to City business. Subsection C obligates the City Clerk and other City departments to communicate with City Council Members in their official capacity the same way that City employees communicate amongst themselves, which is with regards to city business. It's done via city email addresses not personally. City Council Members are no different than they have an obligation under the law now retain all city records in emails and section. Notwithstanding this ordinance, City Council Members like any other citizen, retain

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their rights as members of the public to request and receive council agendas and any other non-exempt public records of the City Clerk or any other department via email or wherever. And they're also entitled to request documents via a personal email address.

This ordinance is geared towards the conduct of official business, not the city council members wearing their individual. When an individual is elected to office, the individual doesn't give up their rights as a citizen. But just as City employees operate under the City's web system for the reasons stated here in City Council Members would be obligated by this ordinance to conduct official business in the same manner.

Council Member Newton said this was being presented for a reason and purpose. He reminded everyone about Hillary Clinton using her personal server and being allowed to delete documents that she wished to. He added that there was a Council Member who was using their personal phone for official business. This Council Member also objected to any emails being sent to that personal server.

Council Member Newton said that Atty. Anastasi made it clear that this was not acceptable and Council Member Newton asked his fellow Council Members to support this.

Council Member Brown asked if City staff would be obligated to use only the City emails to communicate with the Council Members.

Atty. Anastasi said that the communication goes both ways with respect to official city communications, other than the types of communications that a member of the public could submit. He noted that there was certain members of the public that have registered with the City Clerk's office to routinely receive agendas. That would be appropriate, as well as there are opportunities for members of the public to request to submit a FOIA request. The registering to receive agendas, city business between Council Members, and City staff, including the City Clerk's office would have to be conducted in the same manner that City business is conducted amongst city employees. That is, the city provided email and website system.

Council Member Brown asked whether a staff member would be obligated to reply if he sent an email to a staff member from his personal phone. Atty. Anastasi said that he did not understand why the Council Members would not have access to their city email, but said he would check with IT about access.

Council Member Brown said that he was concerned that a Council Member could continue to ignore the ordinance. Discussion followed.

Atty. Anastasi said that he believed that Council Members would be treated in the same fashion as a City employee. This would only apply to City emails and they were not looking to diminish access for the Council Members.

Council Member Pereira asked if the intention of this ordinance was to bind City Council Members who are not a member of the administration on like Hillary Clinton, who was a

member and a compensated member of the federal government and was getting highly classified information on the person server. She asked if it was the intention of this order then require the City Council people do this? That would include the Board of Education Members, Sheriffs, Registrar', City Clerk's, Town Clerk's, Mayor's and every single Commissioner appointed to a Board or Commission. She asked if it was the intent of this ordinance to carve out a special rule for City Council Members who are elected by the people of Bridgeport and not compensated. Council Members are not members of the government and municipalities administration.

Atty. Anastasi said that it would raise an interesting question about whether the City provides email addresses to the Board of Education and other appointed Commissioners. He said the intent is obviously not to apply it to appointed or elected officials that do not arrive not assign a city website. The view is being assigned to city website is obviously not only beneficial to the municipality in terms of retaining records, but it's also certainly a convenience for the members as well. However, it was a good point regarding whether or not the City should be assigning website addresses to all members. that something should be considered.

Council Member Pereira stated that target a certain category because that's illegal. She asked if they understood that whenever a municipal employee uses their city email to send something to anybody on their personal email, or when somebody else uses a personal email, to send something to a municipal employee, that the City already have a record of it in the hard drive. It would be easy to pull that email up through keyword searches.

Atty. Anastasi said that he was not aware that it's easy to retrieve. Because the department has been through extraordinary expensive efforts in order to retrieve documents as of late in response to various subpoenas. And it is an extraordinarily expensive and complicated process. The easiest way to do that is through a city website.

Council Member Pereira stated that she does keyword searches on municipal employees all the time.

Council Member Newton said that he was not concerned with what the Board of Education or what other Commissions do, but was concerned about individuals pulling information from a private phone and deleting it. He repeated that one Council Member objected to him sending an email to them on their private phone since it went to all of the Council Members.

Council Member Martinez requested that this question be moved so it can go to the full Council and Atty. Anastasi will have an opportunity to research the questions.

Council Member Martinez then said is that as an elected official, if they can accept stipend cards, and utilize them for community business, they should be able to accept the City phone and utilize our City phone for City business. Using a personal email allows the individual to delete emails from that personal email. Whereas using a City phone means it is managed and controlled by the IT department, so a Council Member can't destroy any emails or anything that is sent out or received from within our city phone. Council Member Martinez stated she was going to make a

motion to move this to the Council floor and ask that Attorney Anastasi provide the Council Members with the responses to the questions that were asked.

**** COUNCIL MEMBER MARTINEZ MOVED AGENDA ITEM 109-20 PROPOSED AMENDMENTS TO THE MUNICIPAL CODE OF ORDINANCES, CHAPTER 2.06 – COMMON COUNCIL, AMEND TO ADD NEW SECTION 2.06.080 – MANDATORY USE OF CITY ASSIGNED WEB ADDRESS FOR CITY COUNCIL BUSINESS EMAILS AND REQUESTED THAT ATTY. ANASTASI PROVIDE THE COUNCIL MEMBERS WITH RESPONSES TO THE QUESTIONS ASKED.**

**** COUNCIL MEMBER NEWTON SECONDED.**

Council Member Pereira asked if that was a stated position. She said that they could not harass anyone on their personal emails, whether it's a personal or business email, you can send slanderous, disgusting, hateful emails, whether it's personal, or business harassment is harassment.

Secondly, she asked if it was the position of the consulting attorney, who is a 1099 employee, if he was determining that if Council Member Pereira did not use her city email, as a duly elected official, the City would have the right to deny her the City Council packet with all the information.

She repeated her questions as to whether this was the position that the Council was taking with this ordinance that if she did not receive it on a City Council email, that she would be denied access to the documents that she was lawfully entitled to as a duly elected official.

Atty. Anastasi replied that it was not his position. More importantly, Atty. Anastasi reiterated that he wanted to consult with ITS regarding the concern whether ITS has the capacity to do a search. If something comes in from a private email, that needs to be confirmed with ITS because they would be the experts.

Council Member Pereira said that she had been doing this for 10 years and the emails were in the cloud. She can find any email she needs to from a government email.

Council Member Pereira asked if they would deny someone the ability to receive documentation if she was legally blind, or computer illiterate. computer illiterate, or wanted to get the packets picked up. The City wouldn't have any records of that. She asked if they were saying they can deny somebody who's legally blind or someone who is a City Council Member or somebody whose computer illiterate. This would be saying the City could deny them the information needed to perform their abilities because of a disability? She wished to know because of possibly not being the most savvy at computers or emailing what the City's position was.

Council Member Martinez pointed out that there was a motion on the floor. Instead of Council Member Pereira attacking the City Attorney, the Council needs to let the City Attorney do his job and come back with the new information.

Atty. Anastasi said that until the discussion has been concluded, he thought that the Committee should not vote. Atty. Anastasi also said that he believed that the Council Members received hard copies of the documentation.

Council Member Pereira asked if she was correct that there was no requirement in the Freedom of Information Act to have a public email. She stated that was not required at the Freedom of Information Act. She asked if she was correct that under Connecticut State statute, whenever any special meeting is called that the person who was required to have the right to not even accept an email and required they can request every single thing be hand delivered to their residence, under the Freedom of Information Act for any special meeting.

Atty. Anastasi said that Freedom of Information Act provides for delivery to the place of abode but did not know whether it says it has to be in person versus via email. He presumed that when the Act was written, email probably didn't even exist but would have to look at that someday also.

Council Member Pereira said that she was confused why people were concerned about this since she had never been accused of corruption. She has never been involved in a subpoena, knows the Freedom of Information Act inside out and complies with it 100%. She does not delete emails, not even the most simple ones. She said that every email she ever sent to anybody on Bridgeport Education or they sent her, the City has a record of it. It is in their database. This is so absurd and if it's passed, she will challenge it in a court of law.

Council Member McBride-Lee asked why a Council Member would not want to use the City phone. She asked what the reason was. She suggested that the Council Member didn't want to follow the rules, that Council Member should run for office to change the rules. It is the Council Members' job is to make the City a better place to live.

Council Member Newton said it was the City Council's right to change ordinances. He did not care about the courts, the FBI, FOI and anyone else. The Council has a right to make changes if they wish to.

Council Member Newton noted that Atty. Anastasi had said that before the City Attorney files a legal opinion, they must discuss this with ITS about their capacity to maintain their ability to store and restore emails. Council Member Newton said that the City Attorney will follow through on this and provide the information to the Council.

**** THE MOTION TO APPROVE AGENDA ITEM 109-20 PROPOSED AMENDMENTS TO THE MUNICIPAL CODE OF ORDINANCES, CHAPTER 2.06 – COMMON COUNCIL, AMEND TO ADD NEW SECTION 2.06.080 – MANDATORY USE OF CITY ASSIGNED WEB ADDRESS FOR CITY COUNCIL BUSINESS EMAILS PASSED WITH THREE (3) IN FAVOR (NEWTON, MARTINEZ AND BROWN) AND ONE (1) OPPOSED (SILVA).**

- ** COUNCIL MEMBER MARTINEZ MOVED TO HAVE A PUBLIC HEARING SCHEDULED AT AUGUST 31ST AT 6 PM.**
- ** COUNCIL MEMBER NEWTON SECONDED.**
- ** THE MOTION PASSED UNANIMOUSLY.**

Council Member Brantley announced that she had been present on the call. Council Member McCarthy also announced his presence on the call.

ADJOURNMENT

- ** COUNCIL MEMBER MARTINEZ MOVED TO ADJOURN.**
- ** COUNCIL MEMBER NEWTON SECONDED.**
- ** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 6:38 p.m.

Respectfully submitted,

Telesco Secretarial Services