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M E M O R A N D U M

TO: Mayor Schneier and Town Commissioners
CC: Howard Tipton, Town Manager
FROM: Maggie D. Mooney, Esq., Town Attorney
Amy Farrington, Esq.
REPORT DATE: September 15, 2025
MEETING DATE: September 22, 2025
RE: Proposed New Ordinance Relating to Email and Communication Policy

Background

The Town Commission directed the Town Attorney, Town Manager, and Town Clerk to develop an ordinance establishing uniform guidelines for the use of electronic communications to ensure ongoing compliance with Public Records and Sunshine laws. This direction followed the Town Attorney's recommendations to modify existing policies and practices relating to the use of electronic communications (emails and text messaging). A copy of an April 15, 2025, Memorandum leading to these recommendations is attached.

Longboat Key Town Resolution 2008-30 is the existing E-Mail Policy governing the Town Commissioners' use of electronic mail in the course and scope of their public duties. The existing Town Policy only addresses the Town Commission's use of email communication based on 2008 technology and does not address Town advisory boards or committees. Resolution 2013-41 (superseding Resolution 2008-31) adopts an email policy for the Town's advisory boards (Planning and Zoning Board, Zoning Board of Adjustments, and Consolidated Retirement System Board of Trustees) and any other created Committees, and requires the use of Town-issued email addresses to conduct Town business.¹ The existing policies adopted by separate Resolutions functionally recommend that all Commissioners and advisory board members use their Town-issued email account to transact all Town business. The rationale behind this policy is that

¹ The term "advisory board" is used because that is the term used in the Charter to refer to the Town's boards. Despite the name, the Town's boards possess final decision-making authority on many decisions pursuant to the specific delegated powers as provided for in the Town Code.

communications made and received on the Town's server can be retrieved and accessed by the Town's IT Department and Clerk's Office in response to public records requests or subpoenas without having to involve the Town Commissioners or advisory board in manually producing such information. Over the years, there have been varying levels of compliance with the above-referenced Resolutions, and we recommend a more formal standard be engrained in the Town Code to ensure that all applicable individuals are aware of their obligations upon taking public office.

Additionally, there has been an unofficial "batch system" of daily email distribution that has evolved over time. The Town Clerk's Office manually reviews all Town Commissioner emails that were sent and received on a daily basis, removes any inadvertent exempt or personal information that may have been transmitted, and then groups all disseminated emails into a "batch" distribution group that gets emailed out to subscribing parties. Such "batched" communications to and from the Town Commissioners' email accounts are time delayed but distributed to all Commissioners, members of the public, press, and Town Staff who subscribe to the Town's batch email distribution system. The administration of this system has placed additional duties on the Town Clerk to gather, review, and compile records from multiple sources on a regular basis. Further, the existing batch system does not safeguard against potential indirect email communications in the batch emails between members of the same board. The draft Ordinance discontinues the batch email system.

Summary of Proposed Ordinance – Email and Communication Policy, Chapter 20 of Town Code

The purpose of this proposed Ordinance is to establish consistent and standardized guidelines for the use of electronic communications by certain elected and appointed officials and others representing the Town in an official capacity. This Ordinance does not in any way replace or supersede the existing obligations set forth in Chapters 119 (Florida's Public Records law) and 286, Florida Statutes (Florida's Sunshine Law). Rather, the purpose of this Ordinance is to codify specific local requirements and practices to ensure that email communications and text message usage relating to Town business are compliant with those laws. This Ordinance is intended to provide clear requirements for those individuals who are subject to the policy. The Town appreciates volunteers who donate their time to the Town's boards and committees, and this Ordinance intends to provide instruction to protect both the individual and the Town's potential liability and exposure.

The proposed Ordinance, as drafted, would be applicable to "Covered Individuals". Covered Individuals include: the Town Commissioners; Advisory Board members (including individuals serving on the Planning and Zoning Board, Zoning Board of Adjustment, and Consolidated Retirement System Board of Trustees); the Town Manager; the Town Attorney; Committee members and Volunteers serving on a Town created committee or board; and any other individual, volunteer, professional consultant, or representative conducting official Town business that works independently or autonomously and is not required to receive annual Town employee training on the Town's employment policies and procedures. All Town Staff (except the Town Manager) are excluded from this policy because they report directly to the Town Manager and are governed by the Town's employment policies (which provide public records compliance requirements and are subject to oversight through the Town Manager's office).

The policy requires Covered Individuals to use Town-issued accounts to conduct Town business so that records may be properly retained and produced. Specifically, the Ordinance provides for the following:

- If communications related to Town business are received on a personal email account, it is to be forwarded to the Town-issued email account.
- If Town business is received on a personal mobile device via text messaging, the message, including the text and associated images, shall be immediately forwarded to a Town-Issued email account, Town-issued device, or the Town Clerk (as applicable).
- Any usage of personal social media accounts for issues related to Town business must similarly be provided to the Town Clerk.

Intentional or repeated violations by Covered Individuals, other than elected officials, are subject to the progressive enforcement measures outlined in the policy.² Intentional or repeated violations of the policy and usage requirements would result in a shifting of liability (from the Town to individuals who intentionally or repeatedly violate the policies) and would also result in removal for certain individuals subject to the new policy.

This includes a first and second written violation that includes documentation outlining the specific violation. For a violation after a second written notice, the individual shall be immediately removed from the position. The policy delegates to the Town Manager or Town Attorney the authority to remove any advisory board member, committee member, or volunteer who intentionally or repeatedly violates the policy a total of three (3) times. The Town Manager administers the violation enforcement provisions except as applied to elected officials, the Town Manager, and the Town Attorney. A removed individual may appeal by filing a written appeal to the Town Clerk within seven (7) days. Appeals will be held at the next Town Commission meeting, and the determination of the Town Commission is final.

This Ordinance would also apply to the Town Manager and the Town Attorney as both are directly appointed by, and accountable to, the Town Commission. Enforcement and penalties associated with violations by the Town Manager or Town Attorney would be subject to direct review by the Town Commission, with the Mayor or designee serving as the administrative contact for notices and documentation.

In addition to these Town policies, an individual subject to the requirements of Public Records and Sunshine Law and who violates those laws remains subject to civil and criminal penalties as provided in Florida law. Intentional or repeated violations specifically eliminate the Town's obligation to indemnify individuals violating the policy.

Cybersecurity Provision

Cybersecurity best practices are also included in the draft Ordinance and include requirements for mandatory training. Regular cybersecurity training requirements will reduce the Town's risk exposure and work to protect Town resources.

² Elected officials may only be removed by action of the Governor. See, Fla. Stat. 112.52.

Civility Standards

Finally, the Ordinance incorporates the Town's existing civility standards into the Town Code. The Town Commission has long adhered to these standards on how public meetings are conducted, the expectations relating to civil discourse, and how officials communicate with the public. This codifies those existing standards and emphasizes the importance of civility throughout the Town's work.

The policies and guidelines provided in this draft Ordinance are intended to align with and reinforce the existing obligations in the Public Records and Sunshine laws by codifying processes, procedures, and guidance for compliance by Covered Individuals. We recommend the adoption of this Ordinance to provide enforceable standards that protect the Town, the individuals serving the Town, and public records. Should the Town Commission forward the Ordinance to the next public meetings for adoption, a corresponding Resolution repealing the existing email Resolutions (2008-30 and 2013-41) would also need to be considered. We are also recommending that an additional Ordinance be considered that specifically incorporates into the relevant sections of the Town Code, the Town Commission's authority to remove members of the advisory boards (Planning and Zoning Board, Zoning Board of Adjustment, and Consolidated Retirement System Board of Trustees). While it is implicit that the Town Commission has the power to remove the members that they appoint from these boards, we recommend specifically enumerating that power in the Town Code to avoid any potential future challenges.

Recommendation

Based upon the foregoing, the Town Attorney, Town Manager and Town Clerk recommend that the Town Commission: a) place the attached draft Ordinance on the regular meeting calendar for first and second reading and public hearing, b) direct the Town Attorney to prepare a Resolution repealing Resolutions 2008-30 and 2013-41 on a future regular meeting agenda, and c) direct the Town Attorney to prepare and place an Ordinance relating to the Town Commission's authority to remove advisory Board members on a future Town meeting agenda for first and second reading and public hearing.

Attachments (Available in the Town Clerk's Office)

- Draft Ordinance 2025-08
- April 15, 2025, Memo regarding Town of Longboat Key E-Mail Policy Update
- Resolution 2008-30
- Resolution 2013-41
- April 21, 2025, Strategic Planning Retreat Minutes
- Business Impact Estimate

End of Agenda Item