

Legislator Wright questioned where in the proposed policy it states that Elected Officials are considered County employees.

Deputy County Attorney Harvey stated by virtue of stating that Putnam County employees; it does not specifically say County Elected Officials.

Chairwoman Addonizio questioned if Deputy County Attorney Harvey was referring to the first section of the policy that reads “This policy applies to all Putnam County employees...” She questioned if this included Elected Officials.

Deputy County Attorney stated that is his understanding.

Chairwoman Addonizio stated Elected Officials are not considered employees.

Legislator Wright questioned during Deputy County Attorney Harvey’s examination of other counties’ policies, how Elected Officials were described.

Deputy County Attorney Harvey stated he did not have the exact policies with him.

Legislator Wright questioned when Deputy County Attorney Harvey looked into the other counties’ policies and which counties he looked into.

Deputy County Attorney Harvey stated he has been looking into other policies within the past year. He stated he looked into Westchester and Rockland Counties’ policies and sample policies provided through various legal sources. He stated his understanding would be that “Putnam County employees” would include Elected Officials.

Legislator Wright stated the policy is carving out some employees.

Deputy County Attorney Harvey stated union members have their own Collective Bargaining Agreement (CBA). He stated the policy would need to be bargained with each member.

Legislator Wright questioned if there is an existing policy for union members.

County Attorney Jennifer Bumgarner stated there is no existing policy for union members.

Legislator Wright questioned if the County has an existing policy.

Deputy County Attorney Harvey stated the County does not, which is why this policy is being proposed.

Legislator LoBue stated this policy has been worked on for the past year and it was given to the Legislature with little time for it to be vetted. She stated she is supportive of having a strong IT policy, however there is currently a lot of ambiguity surrounding this

proposal. She stated the Legislature and Administration are co-equal branches of government and she questioned if the Administration is included under “Putnam County employees.”

Deputy County Attorney Harvey stated the Administration would be included under “Putnam County employees.” He stated in terms of enforcement, it would fall under the CBA for the unions. He stated the Civil Service Law includes disciplinary actions for employees who are involved in acts of incompetence or misconduct.

Legislator LoBue questioned who would determine what is considered misconduct. She stated in terms of a union employee, the employee would have the opportunity to defend themselves. She questioned how this would apply to Elected Officials in terms of enforcing the policy. She stated she also has concerns regarding FOIL (Freedom of Information Law) requests. She referenced page five (5) of the proposed policy under Section IX entitled “Encryption & Removal of County Owned Data.” She questioned if FOIL requests would fall under Section IX as an area of concern.

Deputy County Attorney Harvey stated anything that goes through the Legislature is subject to FOIL. He stated this specific section is referencing employees taking work home with them via a flash drive or CD. He stated there is a process to ensure there will be no issue when returning the information.

Legislator LoBue stated some work is conducted and email is checked on personal devices. She questioned if the County would be able to seize personal devices in order to view “County owned data.” She questioned what the definition of “County owned data” is.

Deputy County Attorney Harvey stated anything owned by the County would be subject to this policy, including data on a personal device.

Director Lannon clarified that the question being asked is regarding a situation where an employee may access their email through webmail via their personal device.

Deputy County Attorney Harvey stated the encryption provision is more related to taking information from the County and bringing it home.

Legislator LoBue questioned if someone was in breach of this policy, if the County has the authority, based on this policy, to look at an employee’s personal device.

Deputy County Attorney Harvey stated accessing email through a personal device does not seem to fall under this provision. He stated this provision is covering a circumstance where an employee would be removing information from the County and taking it home. He stated what Legislator LoBue is describing is accessing email from a personal device, and this policy does not give the County any leeway into looking in that device.

Legislator LoBue questioned if the policy specifies that information that Legislators are privy to as an Elected Official is allowed to be viewed through a personal device. She questioned if someone is suspected of breaching the policy, if their personal device could be seized and looked through.

Deputy County Attorney Harvey stated he does not believe breaching the policy would trigger the seizure of a personal device. He stated if the policy is violated, there is a disciplinary process that would ensue.

Legislator LoBue stated the policy states that having a personal password to protect information does not mean that information is private to that specific employee.

Deputy County Attorney Harvey stated anything done on the Putnam County network can be investigated, even though a personal password may be required to access the information. He stated the information is still on the Putnam County system.

Legislator Nacerino stated an IT policy is long overdue and it is a definite need. She stated Elected Officials should be held to the same standard as everyone else. She stated Putnam County owns the domain and anything done on that domain belongs to Putnam County and not personally to the employee. She stated this issue came up when she was a Councilwoman on the Patterson Town Board. She stated private email addresses and private cell phones were being used to conduct official business. She stated therefore, they can be FOILed. She stated the email address provided by the County is the address that should be used for official business.

Deputy County Attorney Harvey stated there are also better protections in using the Putnam County email address.

Legislator Nacerino stated personal email addresses should not be comingled with official business, especially if one is afraid of having their personal property seized.

Director Lannon stated when asked, the advice he always gives is to conduct County business on County equipment using the County identifier because if personal accounts or equipment are utilized, they can be subject to a subpoena or FOIL.

Legislator Nacerino stated she works at Brewster High School and their IT Policy is very strict. She stated retail websites are blocked and personal emails cannot be logged into via the school computers on the school system. She stated Brewster High School also requires frequent password changes. She stated upon logging onto the computer, a provision pops up that informs the user that the computer and network belong to the Brewster Central School District.

Legislator Gross stated he believes the main concern for the Legislators is their expression of personal opinion in emails regarding County business and if the Administration has the ability to look at the content of their emails. He read from Section VIII of the policy entitled "No Harassment, Discrimination or Other

Illegal/Improper Uses of County IT Equipment, Domains and Emails”, on page 3 that states that the County can periodically access messages or communications created or stored on County owned systems or devices without notice. He stated this section does not mention anything about privately owned devices. He questioned if private accounts or devices were mentioned in another section of the policy.

Deputy County Attorney Harvey stated the way the law works is that if a private email is being used, there are some cases that say it is off limits to something like this. He stated this policy is created so that if there is an issue with something done through a private email address, the County would be able to look into it.

Legislator Nacerino stated she received an email from a fellow Legislator asking a question about a topic that was discussed in executive session. She stated she responded by saying since it was discussed in executive session, she would like to speak about it in person rather than in email form. She stated confidential matters should not be circulated through email because it belongs to Putnam County.

Legislator Gross stated opinions should be kept out of emails as well since they can be accessed.

Legislator Nacerino agreed. She stated it is standard policy that the employer can look into emails. She stated the employee does not own the emails.

Legislator Gross stated the question is: Are Legislators employees?

Legislator LoBue stated the Legislature is not looking into the Administration’s emails.

Legislator Nacerino stated there needs to be protection and standards for the Elected Officials as well.

Legislator Wright stated if County data is public domain, the media would have access to all Management emails.

Director Lannon stated if the media wanted to access Management emails that would need to be done through a FOIL request, through the Law Department, or through a subpoena.

Legislator Wright questioned if an email could be accessed that was sent from a personal email through a County device.

Deputy County Attorney Harvey stated the policy is not for there to be consistent watch. He stated it would be utilized as a result of a suspicion.

Legislator Wright stated certainly the Legislature, as an equal branch of government, would have the periodic right to examine email traffic among all members of the Executive Branch. He stated this policy has been in the works for a year and there

does not seem to be much knowledge about it. He stated he has seldom been so perplexed by the absolute folly of this kind of thing to try to stick this in the face of the Legislature. He questioned if the Legislature, under the proposed resolution, has the absolute right to periodically examine, for compliance purposes, all matter of the Executive Branch email traffic.

Deputy County Attorney Harvey stated that is not the point of the policy.

Legislator Wright questioned why the Executive Branch would have the unfettered discretion, from time to time, to examine all Legislative mail that goes through this system for purposes of compliance. He stated he would like to know the distinction between those two (2) forms of compliance examination. He requested that Deputy County Attorney Harvey use his example of him writing an email to a Legislator when answering his questions.

Deputy County Attorney Harvey stated the policy is not meant for one (1) branch to be checking on another.

Legislator Wright stated in that case, the Legislature should have the same right as the Executive Branch to periodically inspect all emails. He stated this policy was been in the works for a year and the Legislature received a revised version a few hours prior to this meeting to be voted on by the Committee. He stated he is astounded that an IT policy is not already in place within Putnam County. He stated he has trouble with being asked to accept this policy with just a couple of days' notice.

Deputy County Attorney Harvey stated the policy has been in discussion over the past year.

Legislator LoBue stated the policy was given to the Union for their comments. She questioned why the Legislature was not involved until now.

Legislator Wright stated as an Elected Official, he is not a County Employee and the policy should spell this out. He stated Elected Officials should be included in the policy in a more definitive way. He questioned if the Legislature has the right to periodically check email traffic.

Deputy County Attorney Harvey stated an employee's email traffic could only be accessed by whoever has administrative authority over that employee.

Legislator Wright stated there are employees who fall under the administrative authority of the Legislature.

Deputy County Attorney Harvey stated the Legislature could then enforce this policy against those employees.

Legislator Wright questioned if, as a Legislator, it was his responsibility to oversee and supervise the activities of all of the employees who work for Putnam County.

Legislator Albano stated the County needs an IT policy and this has been looked into by the Law Department and the IT Department. He stated he would like this policy to be moved to the Full Legislative Meeting for a vote. He stated if changes need to be made from that point on, they can be made. He stated he uses a personal email address for County business and understands that if the County needed to look into those emails, they have the right to. He stated if there is a matter that should not be discussed in writing, he will discuss it over the phone instead.

Chairwoman Addonizio stated she would like to table this policy as the Legislature has not had the chance to thoroughly vet it.

Legislator Castellano questioned what would trigger the event of looking into an employee's email, in terms of the non-union employees that this policy would affect, not including the Legislature.

Deputy County Attorney Harvey provided an example of an employee writing a discriminatory email to another employee. He stated the supervisor would then contact the IT Department to obtain a copy of that email.

Legislator Castellano clarified that if an employee received a belligerent email, that employee would notify their supervisor. He questioned what the next step would be.

Deputy County Attorney Harvey stated if it was a non-union employee, charges would be put together outlining the situation. He stated they would then have a right to a hearing and representation.

Legislator Castellano questioned at what point would that person's emails be looked into.

Deputy County Attorney Harvey stated the supervisor would have the right to see the email right away. He stated this would be the basis of the charges.

Legislator Castellano questioned what would happen if the employee was using a personal email account and sent a derogatory email to a Putnam County email.

Deputy County Attorney Harvey stated the IT Department could pull that particular email from their private account.

Legislator Castellano questioned what would happen if the same work related email was sent from a private email account to another private email account.

Deputy County Attorney Harvey stated if the email was sent on a County device, IT would be able to access the email.

Legislator Castellano questioned what would happen if the email was sent from a private email account to another private email account through a personal device.

Legislator Wright stated he sends email from his private account to the Legislators and Legislative Staff. He stated he has no issue with the County looking at these emails or having them be FOILED. He stated he never says anything in an email that he would not be proud to have written in a newspaper. He stated it was mentioned earlier that the trigger for emails to be looked into would be if the County had a suspicion.

Ann Fanizzi, Constituent, stated Deputy Attorney Harvey mentioned that he reviewed the IT Policy in place in Westchester County. She stated Legislator Castellano works for Westchester County and questioned if the proposed policy for Putnam County resembles the policy in Westchester.

Chairwoman Addonizio stated she tried to get information from Westchester and Dutchess Counties about their IT policies, however she has not heard back.

Legislator Castellano stated in his office, the Internet cannot be used for anything other than work, however, employees are allowed to go onto websites during their lunch break. He stated employees are also not supposed to use their “.gov” email for personal use.

Ms. Fanizzi questioned if this policy would affect the public in any way. She stated for example, she writes emails and makes requests to the Legislature.

Deputy County Attorney Harvey stated the County could not enforce this policy against a member of the public.

Legislator Nacerino stated the discussion has begun tonight and the Legislators must all be clear and on the same page in order to adopt this policy. She stated she has no issue with tabling the proposed policy to ensure everyone is comfortable with it. She stated the concerns raised tonight seem to be that employee’s emails will be arbitrarily checked. She stated this is not the intent of the proposed policy, rather it is for if and when a situation may arise that an employee is misusing anything related to IT.

Legislator LoBue stated Section VIII of the policy entitled, “No Harassment, Discrimination or Other Illegal/Improper Uses of County IT Equipment, Domains and Emails” on page 3 that states that the County can periodically access messages or communications created or stored on County owned systems or devices without notice. She stated she is uncomfortable with this section. She stated the Legislature and Administration are equal branches of government and her concern is with one (1) branch of government overseeing another.

Legislator Nacerino stated Putnam County owns the domain and emails do not belong to any specific person.

Chairwoman Addonizio made a motion to table Approval/ County IT Use Policy;
Seconded by Legislator Scuccimarra. All in favor.

Item #4 – Adjournment

There being no further business at 7:32 P.M. Chairwoman Addonizio made a motion to adjourn; Seconded by Legislator Scuccimarra. All in favor.

Respectfully submitted by Administrative Assistant Beth Green.