




MEMORANDUM
City Manager's Office

DATE: April 12, 2007
TO: Honorable Mayor and Members of the City Council
FROM: Bill Lindsay, City Manager 
SUBJECT: Complaint of Improper Use of City Electronic Mail System

On December 28, 2006, an anonymous e-mail, was sent to member of the City Council alleging improper use of the City's e-mail system by certain city employees (**Attachment 1**). The e-mail stated in pertinent part that, "*We are concerned taxpayer-resident-employees of the City of Richmond. Since July, a number of our city employees have been mis-using (sic) the city's email system and therefore taxpayer dollars for the purpose of promoting a specific slate of candidates for a Labor Union election involving a contentious termination of the Union's Director and election of union officers.*" Councilmember John Marquez forwarded the e-mail to me and I promised to follow up on the matter. On January 8, 2007, a second e-mail was forwarded to me by Councilmember Rodgers. Both of these matters were referred to Leslie Knight, Assistant City Manager/Human Resources Management Director, for appropriate action.

The City hired Karen Kramer, Esq. to perform an investigation into the allegations contained in the two anonymous e-mails. As part of her investigation, Ms. Kramer interviewed the following employees:

1. Theresa Wilkerson, Community Development Program Manager; Local 21 Chapter President.
2. Andy Russo, Principal Personnel Analyst, Local 21 East Bay Vice President.
3. Craig Murray, Development Project Manager; Local 21 Immediate Past President.
4. Sharon West, Assistant to the Parks Superintendent; and Local 21 Member.
5. Wendy Schwartz, Programmer Analyst, Local 21 Representative Member.

In addition to these interviews, Ms. Kramer reviewed the following documents:

1. City of Richmond Administrative Manual Policy #AP 655 (Electronic Mail Policy), dated August 25, 1999;
2. City of Richmond Administrative Manual Policy #AP 656 (Use of Computer Equipment & Systems Policy), dated August 25, 1999;
3. City of Richmond Administrative Manual Policy #AP 12 (Incompatible Activity of City Employees), dated November 24, 1999;
4. SAP User Account and Authorization Change Request Form for Ms. West, dated August 8, 2005;

Honorable Mayor and Members of the City Council
Re: Complaint of Improper Use of City Electronic Mail System
April 12, 2007
Page 2

5. E-mails of Andy Russo, Theresa Wilkerson, Craig Murray, Sharon West and Wendy Schwartz, provided to me by Sue Hartman, Director of Information Technology; and
6. Memos from Ms. Knight notifying employees of investigation.

Ms. Kramer has completed her investigation and submitted a report of her factual findings. A summary of those findings are:

- “The evidence presented during the course of this investigation establishes that the individuals accused of wrongdoing have used the City’s e-mail system for union purposes.”
- Ms. Wilkerson, Mr. Murray and Mr. Russo used the City’s e-mail system to encourage members of Local 21 to vote for a particular slate of candidates, including Mr. Russo.
- Mr. Russo, Mr. Murray and Ms. Wilkerson did so despite receiving notification from the Local 21 Interim Executive Director that “federal law prohibits” utilizing union or employee resources for election purposes.
- Mr. Russo used the City’s e-mail system in his capacity as a member of the search committee for a Local 21 Executive Director.

DETERMINATION

Based upon my review of Ms. Kramer’s report, and the factual conclusions contained therein, I have determined that the use of the City’s e-mail system by the individuals involved was technically a violation of applicable law. Given the limited amount of usage for political purposes, I do not feel that formal disciplinary action is warranted. I am concerned however that the City’s e-mail system was used in such a manner. Therefore, I intend to see that the individuals involved receive a formal written counseling memo instructing them on the proper use of the City’s e-mail system.

Should you have any further questions, please do not hesitate to contact me.

BL/lyc

cc: Leslie T. Knight, Assistant City Manager/Human Resources Management Director

Attachment 1: Anonymous E-mails – 6 pages

ATTACHMENT 1

Leslie Knight

From: Bill Lindsay
Sent: Thursday, December 28, 2006 3:59 PM
To: 'johnmarquez@aol.com'
Cc: Leslie Knight; elirapty@aol.com; gaylemcl@sbcglobal.net; Irma_Anderson@ci.richmond.ca.us; Maria Viramontes; natbates@comcast.net; Richard Griffin; tom.butt@intres.com; tonythurm@aol.com
Subject: RE: Misuse of City Resources

Councilmember Marquez –

We will follow up on this and provide you and Councilmembers with a detailed response.

Bill Lindsay

*Bill Lindsay
City Manager
City of Richmond
1401 Marina Way South
Richmond, CA 94804*

*Phone: 510-620-6512
Fax: 510-620-6542
e-mail: bill_lindsay@ci.richmond.ca.us*

From: johnmarquez@aol.com [mailto:johnmarquez@aol.com]
Sent: Thursday, December 28, 2006 3:54 PM
To: Strum66@comcast.net
Cc: Bill Lindsay; Leslie Knight; John Eastman; mariatv@pacbell.net; elirapty@aim.com; TONYTHURM@aol.com; NatBates@pacbell.net; Tom.butt@intress.com; gaylemcl@sbcglobal.net; Irma Anderson
Subject: Re: Misuse of City Resources

Dear Strumm66:

You are correct. Such activity as you described is a violation of Government Code as I recall. I'm referring this matter to the appropriate Management staff for action with a request for response to me and other Council members as soon as possible. Thank you for you attention to this serious matter.

Councilman John Marquez

-----Original Message-----

From: Strum66@comcast.net
To: Diane_Holmes@ci.richmond.ca.us; GailMcL@sbcglobal.net; johnmarquez@aol.com; Irma_Anderson@ci.richmond.ca.us
Cc: elirapty@aol.com; tony_thurmond@ci.richmond.ca.us; Maria_Viramontes@ci.richmond.ca.us; tom.butt@intres.com; natbates@pacbell.net
Sent: Thu, 28 Dec 2006 8:26 AM
Subject: Misuse of City Resources

We are concerned taxpayer-resident-employees of the City of Richmond.

Since July, a number of our city employees have been mis-using the city's email system and therefore taxpayer

4/12/2007

dollars for the purpose of promoting a specific slate of candidates for a Labor Union election involving a contentious termination of the Union's Director and election of union officers. My co-workers and I here in Richmond are prepared to file a taxpayer lawsuit if this is not immediately addressed. This is not the first complaint we have made.

One party in particular, engaging in this activity has the email address andy_russo@ci.richmond.ca.us and is a department head. Certainly his position demands that he set a better example.

This person has been engaged in 'mass emails' promoting personal viewpoints. This is happening during business hours when I assume this individual has a job to do.

It is our understanding that the labor union advised it's members not to engage in this activity because Department of Labor charges could be filed against the local union. We are considering that action as well if this activity is not addressed followed by appropriate discipline for those involved.

We appreciate your attention to this serious and unauthorized use of city resources and our tax dollars.

Thank you.
Richmond concerned residents and employees.

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Check out the new AOL. Most comprehensive set of free safety and security tools, free access to millions of high-quality videos from across the web, free AOL Mail and more.

Leslie Knight

From: Bill Lindsay
Sent: Monday, January 08, 2007 4:32 PM
To: Leslie Knight
Subject: FW: Misuse of City Resources

FYI

Bill Lindsay
City Manager
City of Richmond
1401 Marina Way South
Richmond, CA 94804

Phone: 510-620-6512
Fax: 510-620-6542
e-mail: bill_lindsay@ci.richmond.ca.us

From: elirapty@aim.com [mailto:elirapty@aim.com]
Sent: Monday, January 08, 2007 3:16 PM
To: Bill Lindsay
Cc: CityCouncil@intres.com
Subject: Fwd: Misuse of City Resources

Bill,

This is extremely frustrating that this is still occurring. Unlike non-political use of a city computer (e.g. confirm a non work related reservation), this is using city property for political purposes, similar to the City being involved in the Chamber and COI politics. Who knows what legal exposure we are accruing, as these emails continue, well after we knew about it. If we have a Plan A , it is not working. We need a Plan B, and we need it ASAP!!11

Jim

-----Original Message-----

From: Strum66@comcast.net
To: Diane_Holmes@ci.richmond.ca.us; GailMcL@sbcglobal.net; johnemarquez@aol.com;
Irma_Anderson@ci.richmond.ca.us; elirapty@aim.com
Cc: elirapty@aim.com; tony_thurmond@ci.richmond.ca.us; Maria_Viramontes@ci.richmond.ca.us;
tom.butt@intres.com; natbates@pacbell.net
Sent: Mon, 8 Jan 2007 11:55 AM
Subject: Re: Misuse of City Resources

FURTHER ACTION REQUIRED

Below is a recent email the party in question has again sent, using City of Richmond email systems, and therefore TAXPAYER resources for his own personal interests and union activity This is abuse by an individual that should be addressed immediately. This is not what our city email system is to be used for and we want this activity halted.

Concerned Richmond Employees
(We wish to remain anonymous at this time due to fear of retaliation)

----- Original Message -----

From: "Andy Russo" <Andrew_Russo@ci.richmond.ca.us>
 To: "Theresa Wilkerson" <Theresa_Wilkerson@ci.richmond.ca.us>, "Alan Wolken" <Alan_Wolken@ci.richmond.ca.us>, "Alfred Ringgold" <Alfred_Ringgold@ci.richmond.ca.us>, "Alfredo Gonzalez" <agonzalez@richmondpd.net>, "Alicia Klein" <Alicia_Klein@ci.richmond.ca.us>, "Ana Cortez" <Ana_Cortez@ci.richmond.ca.us>, "Andrea Miller" <andrea_miller@ci.richmond.ca.us>, <annette.samuel@tnbainc.org>, "Barry Williams" <Barry_Williams@ci.richmond.ca.us>, "Byron Baptiste" <bbaptiste@richmondpd.net>, "Coy Charles" <Coy_Charles@ci.richmond.ca.us>, "Craig Murray" <Craig_Murray@ci.richmond.ca.us>, "Debra Melendez" <dmelendez@richmondpd.net>, "Debra Vaca" <Debra_Vaca@ci.richmond.ca.us>, "Diane Harrison" <Diane_Harrison@ci.richmond.ca.us>, <dwightdale@hotmail.com>, "Elmer DeLeon" <edeleon@richmondpd.net>, "Gary Hembree" <Gary_Hembree@ci.richmond.ca.us>, "Helen Nichols" <Helen_Nichols@ci.richmond.ca.us>, "Hilde Myall" <hilde_myall@ci.richmond.ca.us>, "Jacqueline Vaca" <Jacqueline_Vaca@ci.richmond.ca.us>, "James Richman" <james_richman@ci.richmond.ca.us>, "Janet Harbin" <Janet_Harbin@ci.richmond.ca.us>, "Janet Johnson" <Janet_Johnson@ci.richmond.ca.us>, "Jene Levine-Snipes" <Jene_Levine-Snipes@ci.richmond.ca.us>, "Jill Perry" <jill_perry@ci.richmond.ca.us>, "Jim Branch" <Jim_Branch@ci.richmond.ca.us>, "Kathy Gerk" <Kathy_Gerk@ci.richmond.ca.us>, "Kathy Haug" <Kathy_Haug@ci.richmond.ca.us>, "Kim Currie" <Kim_Currie@ci.richmond.ca.us>, "Kinshasa Curl" <Shasa_Curl@ci.richmond.ca.us>, "Lalo Herrera" <Lalo_Herrera@ci.richmond.ca.us>, "Lamont Thompson" <Lamont_Thompson@ci.richmond.ca.us>, "Latha Ravinder" <Latha_Ravinder@ci.richmond.ca.us>, "Leonie Stern" <Leonie_Stern@ci.richmond.ca.us>, "Lisa Hamburger" <Lisa_Hamburger@ci.richmond.ca.us>, "Lois Silva" <lsilva@richmondpd.net>, "Margaret Hembree" <mhembree@richmondpd.net>, "Margareta Howze" <margaretahowze@ci.richmond.ca.us>, "Maureen Hallisy" <Maureen_Hallisy@ci.richmond.ca.us>, "Michael Lambton" <mlambton@richmondpd.net>, "Mimi Liem" <Mimi_Liem@ci.richmond.ca.us>, "Mitch Taylor" <Mitch_Taylor@ci.richmond.ca.us>, "Natalia Lawrence" <natalia_lawrence@ci.richmond.ca.us>, "Nena Gapasin" <Nena_Gapasin@ci.richmond.ca.us>, "Nickie Mastay" <Nickie_Mastay@ci.richmond.ca.us>, "Norman Chan" <Norman_Chan@ci.richmond.ca.us>, "Pat Little" <Pat_Little@ci.richmond.ca.us>, "Rich Evangelista" <Rich_Evangelista@ci.richmond.ca.us>, "Roger Helbig" <roger_helbig@ci.richmond.ca.us>, "Roscoe Ward" <Roscoe_Ward@ci.richmond.ca.us>, "Rosemary Viramontes-Pineda" <rpineda@richmondworks.org>, "Sharon West" <Sharon_West@ci.richmond.ca.us>, "Stacie Plummer" <Stacie_Plummer@ci.richmond.ca.us>, "Stan Fleury" <sfleury@ci.richmond.ca.us>, "Steve Furtado" <Steve_Furtado@ci.richmond.ca.us>, "Steven Tam" <Steven_Tam@ci.richmond.ca.us>, "Tammi Edwards" <Tammi_Edwards@ci.richmond.ca.us>, "Ted Ferrer" <Ted_Ferrer@ci.richmond.ca.us>, "Terri Simon" <Terri_Simon@ci.richmond.ca.us>, "Thomas Mills" <thomas_mills@ci.richmond.ca.us>, "Tina Harrison" <Tina_Harrison@ci.richmond.ca.us>, "Tina McKenney" <tin!a_mckenney@ci.richmond.ca.us>, "Tom Wilson" <Tom_Wilson@ci.richmond.ca.us>, "Vickie Butler" <Vickie_Butler@ci.richmond.ca.us>, "Wendy Schwartz" <Wendy_Schwartz@ci.richmond.ca.us>, "Nancy Ferguson" <nancy_ferguson@ci.richmond.ca.us>, "Pamela Covington" <pcovington@ifpte21.org>
 Sent: Mon, 8 Jan 2007 09:05:23

The run-off ballots have been sent out to all the members. As you are aware three of the members of the slate supported by our chapter are involved in this election. The result of this run-off election will determine who has control of the executive board. We are working hard to

change the direction of the union and make it more representative and responsive to the needs of the members. This election is critical to these goals. I urge you to support our candidates for election. These candidates are Mary Follenweider, Ron Dicks, and David Herring. Thanks for your support.

Andrew L. Russo

Principal Personnel Analyst

Human Resources Management Department

510-620-6608 - direct

----- Original Message -----

From: elirapty@aim.com

To: Strum66@comcast.net ; Diane_Holmes@ci.richmond.ca.us ; GailMcL@sbcglobal.net ; johnemarquez@aol.com ; Irma_Anderson@ci.richmond.ca.us

Cc: elirapty@aim.com ; tony_thurmond@ci.richmond.ca.us ; Maria_Viramontes@ci.richmond.ca.us ; tom.butt@intres.com ; natbates@pacbell.net

Sent: Tuesday, January 02, 2007 10:23 PM

Subject: Re: Misuse of City Resources

Dear Bill,

Thank you for you earlier email indicating this matter will be appropriately investigated.

Jim

-----Original Message-----

From: Strum66@comcast.net

To: Diane_Holmes@ci.richmond.ca.us; GailMcL@sbcglobal.net; johnemarquez@aol.com; Irma_Anderson@ci.richmond.ca.us

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Check Out the new free AIM(R) Mail -- 2 GB of storage and industry-leading spam and email virus protection.