

Longmont Advocate

Wednesday, April 30, 2008

Can of Worms

At the April 29, 2008 **Longmont City Council** meeting, at the late, nearly eleven o'clock hour, something interesting happened. Quite often, the most interesting things happen during "Council Comments" at the end of every meeting, it's worth Tivo'ing.

In the Times-Call of the same date, there was a story about **LifeBridge Church**. It, according to the paper, " *submitted a massive open records request to the city, asking for public documents spanning 20 years.*" So it sounds as if the attorneys of LifeBridge delivered a mountain of paper (massive) for this request! Oh, the tree's who paid with their lives, er, leaves. I'm sure it was meant that the *result* of this request will be " *massive*".

At the City Council meeting, **Councilmember Karen Benker** asked **City Attorney Clay Douglas** about this and it turned into a fairly long discussion covering emails, phone calls, and the recording and reporting of these. Some of you may not have been aware, but every correspondence you send to city council, and presumably city staff, is of the open record variety. And, when council members receive these, they are to forward them on to city staff for retention.

I got the strong impression this hasn't been followed by some on council. And there seemed to be concern about "personal" emails, and when items are confidential and when they aren't. It sounds like very little is private when it comes to just about any correspondence between constituents and their city council members. If the constituent states that it *is* confidential, there could be some coverage there. But it **doesn't** go the other way, that is, from the councilmember to the constituent, according to Mr. Douglas.

Apparently, the proper way for a councilmember to respond to an email is for them to CC the reply to the appropriate city staff email address so they get a copy of the original email *and* the response. I guess if they don't reply, they should just forward the email on, but that wasn't made clear. And it was also implied that if the councilmember replies and forwards the reply on, it *must* include the original email from the constituent or the Open Records Act was not properly followed.

I email council members from time to time, and not to "fish" for a violation of this act, but for valid questions. I'm sure some of you do as well. Just for fun, in your replies from council, check the "From" area to see if anyone is in the CC list. It's possible it was a blind CC, but why would a councilmember want to hide the fact they followed procedure, and the law for that matter?

The question of recording telephone conversations came up, and Mr. Douglas said " *any communication*", which might be construed as including telephone calls. But something else he said here got my attention: " *A telephone conversation among council members if it involves the requisite three members or majority can become an open meeting, and affording the public access to that can pose its own challenges.*" Catch that?

To me, that says if there is a conference call between 3 or more members, that we the public can and should have access to that conversation. My question is does that apply to **emails sent between council members** to more than one other councilmember? And, how about **get-togethers outside of council meetings** that include 3 or more council members? Especially if they discuss **city business**?

This could get interesting, and I doubt LifeBridge was aware of what that request has and could evolve in to. I've done requests of city records before, usually airport related issues, and have always found the **City Clerks Office** more than helpful in this area. I hope they aren't about to get swamped.

Chris Rodriguez