



SUNSHINE ORDINANCE TASK FORCE
Information Technology Committee
CITY AND COUNTY OF SAN FRANCISCO
MINUTES

Hearing Room 408
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

October 22, 2019
SCHEDULED START TIME 5:00 PM

Regular Meeting

Members: Matthew Yankee (Chair), Josh Wolf, and Bruce Wolfe

1. CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES

Chair Yankee called the meeting to order at 5:16 p.m. On the call of the roll, Chair Yankee and Members J. Wolf, B. Wolfe, LaHood and Hinze were noted present.

A quorum was present.

There were no agenda changes.

2. Public Comment: Members of the public may address the Committee on matters that are within the Committee's jurisdiction but not on today's agenda.

Speakers:

Anonymous provided the following public comment, pursuant to Administrative Code, Section 67.16:

"I look forward to your Order in Case 19047 re: non-Prop-G and ICS calendars. Please publish a database of this Task Force's case law and precedent. Inconsistency plagues City agencies' records productions policies. DPW publishes records publicly online using NextRequest, while DT does the opposite. The City Attorney and Mayor don't even have a web portal to publish their records. When 2000+ pages about the Adachi and Carmody incidents were provided to me by the City Attorney, why were these public records not made available to the whole world immediately? Why hide public records?"

Your Task Force should make recommendations to the City in making public records available as widely, efficiently, and safely as possible, using automation to eliminate human error and inconsistencies.”

3. **File No. 19092:** Complaint filed by Justin Barker against the San Francisco Zoo for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (00:03:51 - 00:17:03)

Justin Barker (Petitioner), provided a summary of the complaint and requested the Committee to find a violation. Mr. Barker stated that on August 8, 2019, he sent a public records request to the San Francisco Zoo. Mr. Barker stated that the Zoo claimed that the request was overly broad and voluminous. Mr. Barker stated that this request is an expanded version of Request No. 19048. Mr. Barker stated that he would like to combine both requests and wanted to know what his options were. Mr. Barker stated that he wants the Zoo to provide the requested records.

The San Francisco Zoo (Respondent), was not present for the hearing and the SOTF Administrator was not provided notification of the absence.

Action: Moved by Member J. Wolf, seconded by Member Hinze, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - J. Wolf, Hinze, Yankee
Noes: 0 - None

4. **File No. 19095:** Complaint filed by Anonymous against Dennis Herrera and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25, 67.26 and 67.27 by failing to respond to a public records request in a timely and/or complete manner. (00:17:05 - 00:29:40)

Anonymous (Petitioner), provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that there were two parts to his request: 1) a catalogue from the City Attorney for its enterprise system and cited Government Code, Section 6270.5 - Anonymous stated that this first part of his request was withdrawn and that it would duplicate the issues in his Case File No. 19094 (Anonymous v. Dept. of Technology); and 2) a request for internal memos, directives, Orders, emails, change logs, and annual updates of the catalogue from the City Attorney. Anonymous stated that they are withholding all requested records based on

attorney/client and work product privilege. Anonymous stated that there are no computer science or metadata issues.

John Cote (City Attorney's Office) (Respondent), provided a summary of the Department's position. Mr. Cote asked that the Committee refer to his written response. Mr. Cote stated that the City Attorney responded to the question of privilege and the request for records citing Administrative Code, Section 67.21. Mr. Cote stated that the City Attorney invoked this privilege in response because it is in compliance with the disclosure requirements of Govt Code 6270.5, and that they have fully responded to the record request.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

Action: Moved by Member J. Wolf, seconded by Member Hinze, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - J. Wolf, Hinze, Yankee

Noes: 0 - None

5. **File No. 19105:** Hearing - Review of metadata and what portion can be disclosed as public records, possible security risks, and other related issue. (00:29:50 - 02:24:38)

Public Comment:

Anonymous provided the following public comment, pursuant to Administrative Code, Section 67.16:

“Please read the whitepaper at page 83. The City now argues all metadata is exempt, because some may be sensitive. Agencies don't even provide government email addresses in the To and From of emails. If SOTF bans metadata, you will hide: 911 call timestamps, authors of documents, body cam timestamps. Cost or burden doesn't create exemptions: public-interest balancing is prohibited by SFAC 67.24(g)(i) and withholding must be minimal (67.26). There is no lawful authority to create such a blanket exemption of metadata.

To permit the City to hide public records that are purportedly burdensome creates a perverse incentive for the City to intentionally lack tools to fulfill its

Sunshine responsibilities so it can claim a larger burden at SOTF next time, and thus be free of pesky Sunshine.

If the City terminated Adobe Acrobat licenses, would the public no longer even get redacted PDFs?"

John Cote (City Attorney's Office), provided comments regarding metadata and the City Attorney. Mr. Cote stated that he consulted with the City Attorneys and there is no case law that requires metadata be turned over, reviewed and redacted. Mr. Cote stated that it is the City Attorney's position that this information is not required to be disclosed. Mr. Cote stated that email metadata can provide information that may pose security risks.

Hank Heckel, Mayor's Office, provided comments regarding metadata and the Mayor's Office. Mr. Heckel stated that in his opinion providing metadata poses a security risk and provided cautionary examples as City agencies have been hacked. Mr. Heckel stated that he believes certain types of metadata are a risk and cited Administrative Code, Section 67.21(l), which refers to providing documents in a format that is easily generated by a department. Mr. Heckel stated that Administrative Code, Section 67.21(l), highlights an important issue with regards to a specific review of documents and providing records in easy format. Mr. Heckel referred to an attachment that was an ICS file which was originally provided by Anonymous. Mr. Heckel described the process of redacting materials to be produce into a TXT file as burdensome because a new document is being created.

Linda Gerull, Director (Department of Technology), provided comments regarding metadata and how a department can redact information. Ms. Gerull stated that her Department works to prevent cyber-attacks to the City. Ms. Gerull stated that the City has investments in cyber security and alerts from different companies. Ms. Gerull stated that there are components of metadata that can be used to attack San Francisco. Ms. Gerull stated that email metadata is different from Google and Microsoft in that it needs to be standardized, including having tool sets that would be readable and customizable. This tool would be great but is not currently available.

Michael Makstman, Chief Information Security Officer (Department of Technology), provided comments regarding metadata and the Department's opinion. Mr. Makstman stated that he agrees that there is a risk to the City regarding cyber security. Mr. Makstman stated that he reviewed the sample ICS file that was distributed to the Committee and believes that it reveals a specific version of a program. Mr. Makstman opined that this information could create problems; that someone could program an attack. Mr. Makstman stated that the City needs time to close vulnerabilities. Mr. Makstman stated that it is difficult to identify metadata until you see it and that metadata is not standardized.

Member Josh Wolf stated that he has security concerns using the present version of Microsoft. Member Wolf stated if the City does not reveal the specific version of

Microsoft, the email system would become vulnerable and possibly be taken down. Member Wolf stated that the process for filtering metadata is time consuming.

Chair Yankee stated that there should be a standard identification on what may or may not be disclosable and/or a security risk. Chair Yankee stated that there are instructions for personal information to be redacted, but that the question of metadata is more complex.

Marco Church, Information Officer (Department of Public Health), stated that Anonymous is focusing on calendaring header block information. Mr. Church stated that metadata and header block on an email is much more complicated.

Member Wolf asked if metadata is part of the public record and whether it is a legitimate reason to not produce a document. Member Wolf also asked whether or not the document's nonvisible part of a document is public. Member Wolf opined that there is a consensus among parties that redaction may be burdensome and possibly put the City at risk and, if it is burdensome, how does that come into play with regard to the Sunshine Ordinance? Member Wolf stated that Administrative Code (Sunshine Ordinance), Section 67.26, does allow for redaction. Member Wolf opined that the process of retrieving metadata is burdensome by nature because of the redactions and asked what is the process for those redactions? Member Wolf asked if - when retrieving the metadata information as part of the record - the process of creating the record is overly broad and burdensome.

Chair Yankee concluded that there are two issues to be resolved: 1) ability to identify the IT issue - can the SOTF make a determination to resolve the matter; and 2) have the Committee invite IT Department Heads to discuss unification regarding information and hardware.

Action: Moved by Member Wolf, seconded by Chair Yankee, to send the matter to the SOTF, and address the question of whether metadata is a public record and if the process of retrieving the metadata and redacting that information is burdensome.

Public Comment:

Linda Gerull thanked the Committee for their time and interest in the subject of metadata which is very complicated for security reasons.

Anonymous also thanked the Committee for their time and wanted to make the point that there is some information, called metadata, which is a part of the public record. Anonymous is interested in working with the City on improving the process of retrieving and producing metadata.

The motion PASSED by the following vote:

Ayes: 2 - J. Wolf, Yankee

Noes: 0 - None

6. ADJOURNMENT

There being no further business the meeting was adjourned at 7:40 p.m.

APPROVED: 12/17/19

Information Technology Committee

Sunshine Ordinance Task Force

N.B. The Minutes of this meeting set forth all actions taken by the Sunshine Ordinance Task Force Information Technology Committee on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.