



**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**

**December 17, 2019**  
**7:00 PM**

**Regular Meeting**

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

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

Chair Yankee called the meeting to order at 7:01 p.m. On the call of the roll Chair Yankee and Members Rodman Martin and Josh Wolf were noted present. A quorum was present.

There were no agenda changes.

**2. Approval of the October 22, 2019, Sunshine Ordinance Task Force Information Technology Committee meeting minutes.**

**Action: Moved by Chair Yankee, seconded by Member Martin, to approve the October 22, 2019, meeting minutes.**

Public Comment:  
None.

**The motion PASSED by the following vote:**

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

3. **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 stated that he had been in communication with Linda Gerull of the Department of Technology regarding the various redaction tools used.

4. **File No. 19105:** Hearing - Review of metadata and what portion can be disclosed as public records, possible security risks, and other related issues. (00:04:32 – 00:48:29)

The following issues were discussed and resolved:

1. Is metadata a public record?

Chair Yankee stated that the issue is whether metadata is a public record and is it burdensome. There needs to be a resolution to forward to the SOTF on metadata. Chair Yankee stated that given the unique nature and wide variety of metadata there cannot be one rule that applies.

Member J. Wolf stated that this question is too broad to address, and that some metadata is a public record and other metadata that is less clearly a public record. Member J. Wolf stated that the process of retrieving and redacting metadata is time consuming given the wide variety of metadata. Member J. Wolf also stated that given the wide variety of metadata, there may be more than one rule that can apply to the nature of metadata. Member J. Wolf asked if the process of retrieving and redacting metadata getting a full disclosure? Member J. Wolf addressed the argument of whether metadata is a public record.

Member Martin stated that to just assume that metadata is a public record and that there are exceptions or reasons for redactions. Member Martin stated that the government is required to show reasons for redactions.

Anonymous referred to page 84 of the Agenda packet, *Sierra Club v. Superior Court* and stated that there is a definition from the Superior Court that outlines every conceivable definition of metadata. Anonymous also stated that the fact that metadata is not visible does not mean that it is not a record and that it is not relevant.

Hank Heckel, Office of the Mayor, questioned if this matter was already presented to the SOTF. Mr. Heckel stated that definitively metadata is too broad. Mr. Heckel stated that those who have offered a definition of metadata may not be correct due to the nonhuman readable portions of metadata.

Member Martin stated that the City needs to cite an exemption or reason for not providing a record and could possibly cite that it is not human readable.

Member J. Wolf stated that the Committee's recommendation to the SOTF is that they have heard no evidence metadata is not a public record.

2. If yes, is the process of retrieving and/or redacting metadata so burdensome as to warrant a full exemption for its disclosure?

Chair Yankee referred to the October 22, 2019, Information Technology Committee hearing and stated that there are some security concerns, that there are things that could be overlooked and possibly get released putting the City in jeopardy. Chair Yankee stated that there are broad definitions of metadata and that there should be full disclosure.

Anonymous referred to the packet and the case of *The Sierra Club v. Superior Court*, where Orange County wanted to produce its mapping database in only pdf format and that the Court found that the original format was a public record. Anonymous stated that there are tools used for redacting.

Hank Heckel, Office of the Mayor, readdressed the first question. Mr. Heckel stated that the broad definition of metadata is often times only when a machine detected item. Mr. Heckel stated that the species of data are created by machines which segways to the second issue; that we may not talking about an exemption, but the burden in defining all categories of metadata. Mr. Heckel stated there is no encompassing definition of metadata. Mr. Heckel stated that the City can address the specific type of information sought. Mr. Heckel stated that the Sierra Club case was specifically about metadata. Mr. Heckel stated that security risks, including cyber security, need to be addressed completely.

Chair Yankee stated that from the prior Information Technology meeting on October 22, 2019, there was a discussion amongst security experts. Chair Yankee stated retrieving metadata can be done, that the mechanisms exist but the burden of redacting information is real.

Member Martin stated that departments within the City have released metadata. Member Martin stated that there are tools that can make retrieving the information easier, however cyber security and the pain staking process to provide metadata make this a difficult issue to address.

Member J. Wolf stated that the IT Committee doesn't recognize where the Sunshine Ordinance allows for the exemptions due to the potentially difficult and burdensome nature of retrieving and redacting data from government records.

3. If metadata is both a public record and not subject to a full exemption for its disclosure, are there any portions that should be redacted due to cyber security concerns?

Chair Yankee stated that there are portions of metadata that should be redacted because of cyber security concerns.

Public Comment:

Anonymous stated that he agrees with the City that some metadata information may be a security threat, but not all metadata is a threat but that some metadata you can safely disclose. Anonymous stated that he has been working with Linda Gerull of the Department of Technology and there are some tools that can be used for metadata redacting. Anonymous stated that security information will be kept exempt.

Hank Heckel, Office of the Mayor, stated that this item seems to be a restatement of a basic principle of public records. Mr. Heckel stated that the basic principle of metadata, there are portions that are exempt or could be private information. Mr. Heckel stated that the cyber security concerns have been already addressed by this Committee and that no one has mentioned a balancing test. Mr. Heckel stated that the Public Records Act 6253(a) refers to the concept of burden in metadata formats. Mr. Heckel stated that there is still skepticism on the challenges of making this workable for City Departments.

Chair Yankee stated the SOTF should be looking at concrete examples and the Information Technology Committee recommendations for various redactions of metadata. Chair Yankee posed the question is this cyber security or not? Chair Yankee stated that a possible starting point for the SOTF is universal agreement that there are certain things that are not cyber security concerns and certain lines should be redacted which can all vary from case to case.

Member Martin stated that if there is a dispute as to what is redacted, Complainant should have issues heard before SOTF because redactions need to be cited with a legal reference. Member Martin stated that the only enumerated redaction reason would be cyber security.

**Action: Moved by Member J. Wolf seconded by Member Martin, that the IT Committee has heard no compelling testimony that metadata is not a public record, the Information Technology Committee doesn't recognize a circumstance where the Sunshine Ordinance allows for exemptions due to the potentially burdensome nature of retrieving and redacting public data from government records. Metadata may require redactions made prior to being provided to the public and each-and-every redaction must be clearly identified along with an appropriate citation for that redaction and to refer the matter to the SOTF for hearing.**

Public Comment:

Anonymous stated that he agrees with the Motion and understands where Mr. Heckel is coming from. Anonymous also stated that the first issue is

to have a policy on releasing metadata to the public. Anonymous also stated that there should be experts to advise on the best practice and move forward with tools which exist commercially.

Hank Heckel, Office of the Mayor, stated that he objected to the broad statement of what is metadata and the public record. Mr. Heckel does recognize the position of the SOTF and Anonymous, regarding the Public Records Act and the Sunshine Ordinance. Mr. Heckel stated that the Committee does not have a definition of metadata for Anonymous' or anyone else's purposes. Mr. Heckel also addressed the issue of burden and stated that there are certain things that are impossible to comply with and adds to the burdensome problems for these types of records. Mr. Heckel stated that he agrees that certain types of metadata that need to be withheld.

**The motion PASSED by the following vote:**

Ayes: 3 - J. Wolf, Martin, Yankee

Noes: 0 - None

4. Public Correspondence.

Anonymous provided the following written comments.

- Metadata is a public record because it's a "record thereby created" when a person types documents or sends email, and it is "retained" and "used" by City.
- *San Gabriel Tribune v. Superior Court*: "This definition is intended to cover every conceivable kind of record that is involved in the governmental process and will pertain to any new form of record-keeping instrument as it is developed." (internally quoting AG and Assembly)
- City is unable to cite law or case excluding records from public records when they are computer-generated or encoded.
- The burden in redacting or retrieving metadata cannot make it exempt (because there is no such explicit exemption, and this would be a prohibited use of a balancing test).
- DT has a good draft of which email headers are not security risks, let's start there.
- SOTF must rule so that the City starts producing this metadata.

**5. ADJOURNMENT**

There being no further business the meeting was adjourned at 7:51 p.m.

**APPROVED: 3/3/21**

**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 on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.