

UTAH TRANSPARENCY ADVISORY BOARD MINUTES

January 6, 2016
State Capitol Building
Room 415 – 2:00 p.m.

Board Members Present:

John Reidhead Chair, Director, Division of Finance, Dept. of Administrative Services
Patricia Smith-Mansfield, Vice-Chair, Utah State Archivist
Senator Deidre Henderson – Utah State Senate
Representative Steve Eliason, Utah State House of Representatives (absent)
Jonathan Ball, Legislative Fiscal Analyst, Utah State Legislature
Rick Little, Utah Governor's Office of Management and Budget
Mike Hussey, Utah Department of Technology Services, CIO
Gary Williams, League of Cities and Towns, Attorney for Ogden City
Arlyn Bradshaw, Salt Lake County, Council Member (absent)
Marie Cornwall, State Records Committee Representative
Phillip Windley, Public Board Member
Jason Williams, Public Board Member
Michelle Larsen, Senior Legal Support and Records Officer, representing special districts

Note: A copy of meeting materials, and an audio recording of the meeting can be found on the Public Notice Website.

1. a. Welcome:

John Reidhead called the meeting to order and welcomed everyone to the meeting; he introduced himself and Patricia Smith-Mansfield, the vice-chair for the Board.

b. Status of board appointments.

Mr. Reidhead introduced the new board members; Mike Hussey, CIO for DTS, Rick Little, Governor's Office of Management and Budget, and Marie Cornwall, the citizen representative for the State Records Committee, and Arlyn Bradshaw, a council member from Salt Lake County. Gary Williams from Ogden City was reappointed by the Governor.

c. Vote on public board members.

The at large public members of the Board are Phillip Windley, and Jason Williams, their appointments to the Board have expired. Both Mr. Windley and Mr. Williams expressed an interest in continuing to be board members; there have been no other applications from the public to be considered as board members.

John Reidhead proposed that the Board vote to have them continue on the Utah Transparency Advisory Board.

Senator Henderson moved that there be a vote to have Phil Windley, and Jason Williams, be reinstated on the committee.

Patricia Smith-Mansfield wanted to make sure the vote was appropriately noticed. The agenda that the Board members have did not have this as an agenda item. The correct agenda was posted on the Public Notice Website and she was fine to have the vote go forward.

There was no other discussion to the motion.

John Reidhead asked for a vote to reinstate Mr. Windley, and Mr. Williams on the Board for another term. A vote was taken and passed unanimously.

2. Review of review of July 7, 2015 meeting minutes.

Mr. Reidhead asked for comments or motions on the July 7, 2015, minutes.

Patricia Smith-Mansfield moved to accept the minutes. A vote was taken and the motion passed.

3. Open Records Update.

Renee Wilson the Open Records Portal administrator presented to the Open Records Portal Update. She showed a month by month graph of agency requests and the status of the requests. There were 252 requests for 2015. Many of the requests were handled outside of the portal, but they are working to implement additional features so all records officers will be able to answer requests through the portal.

The local agencies are now live; there are 1,125 local agencies on the Portal. They had nine requests in December and two so far in January. Training for local agencies is scheduled in January-March.

Ms. Wilson demonstrated the Portal. She said the Open Records Portal is to provide access to online records. She discussed a few of the challenges and solutions.

Challenge #1: Records on Agency Websites. Solution: They will include links to agency websites. The links are completed.

Challenge #2: Keeping links to online records maintained. Solution 2a: Integrate URLs into their system. Solution 2b: Allow records officer to maintain their own records via Dashboard.

Next year the special districts will be coming online, and they are wondering about interlocal agencies. These are not listed in the law, and they are wondering what to do about them.

Patricia Smith-Mansfield asked if there were questions or comments on adding the interlocals.

Gary Williams had a concern about records that have retention schedules. He asked if records officers can set the limit for how long non-permanent records remain on the website.

Renee explained that a records officer sends a records series to the website; it will then identify the retention and the period of time the records need to be kept.

Phil Windley asked if the committee should be educating local government agencies in Utah, about URLs and how URLs should be created, and when they could be deleted. He feels that this should be addressed with government records keepers. You never change a URL, but they can be deleted.

Renee said she will talk with the Archives Records Analyst Manager about this issue.

Jonathan Ball said that the statutes are in a data system that changes every time a bill passes. The URL doesn't change but the content at the URL changes. How will you know if a change has occurred? He also asked when a change occurs is the old permanent record kept, or is a new one created?

Ms. Smith-Mansfield said that Archives deals with all types of electronic records, you also have a URL.

If an ordinance changes, it is required that Archives is notified. There are also regularly scheduled prompts. Ordinances are permanent, and there are links to other records. Archives will gather the entire page of an ordinance, and put it in an archival format, and that is how the user sees it. Archives works with each agency directly to get their records.

Jon Ball asked how they capture all the views every time there is a change on a record.

Ms. Smith-Mansfield explained that Archives does not gather every website at every point in time. They take a snapshot at different points of time. That shows how the record changes. The information on the website is generated from different entities, and that is where Archives get the information.

4. Open Records – Discussion of impact on Dept. of Commerce and counties providing free access to public records online. Records requests, fees, and costs may be discussed. Yvonne Christensen, Davis County Records Supervisor; Julie Dole, Salt Lake County Chief Deputy Recorder; and Karmen Sanone, Salt Lake County Recorder's Office Government Affairs Liaison to address the board and answer questions.

Yvonne Christensen, Davis County Records Supervisor addressed the Board. She said Davis County has a limited budget and large requests for bulk information tie up their IT staff. The large data requests are used for marketing purposes. Companies that purchase these records are charged a minimal fee. For a large data dump (130,000 parcels from the county) charge is \$100, and for a smaller one the cost is \$20. Ms. Christensen said the fees are reasonable when the companies requesting the data are using it for profit.

The Davis County Recorder's Office has a program called "Ready". The subscribers are title companies; they are the ones who benefit from the continual access to the records. There is also a hook-up fee and a monthly fee. They pass the cost on to the customers that benefit from the information. This helps recoup some of the costs of running the Recorders Office. If the county loses the ability to collect these fees, the cost would then go to the taxpayers.

Julie Dole and Karmen Sanone from the Salt Lake County Recorder's Office are the custodians of property records for Salt Lake County. These records are always changing, so their database and website would constantly change. They are concerned about the labor to keep these records updated. They record an average of 1,000 documents a day. They have assessment data that is public information. The public can access this information for free on the Salt Lake County Assessors website.

Ms. Dole explained that the Recorder's Office's data has fees. They have a subscription site that is set by county ordinance. Their office brings in around 5 million in revenue each year and 1

million of that amount is from the subscription site. That amount would have to come from taxpayers if they did not have the subscription site. The people who subscribe to their site are people who use the data to help them make money.

Karmen Sanone, said the fees are relatively low. They have a flat fee of \$25 per month. That allows the users a certain amount of hits, everything over that amount the user is charged per view. When someone subscribes to the website, an agreement is signed that says you will not resell the information and you will not inappropriately use the information.

Senator Henderson is concerned if individuals have to pay to access to their information.

Yvonne Christensen said that Davis County charges the public 25 cents a sheet. The fees are often waived.

Ms. Sanone said that the public can get almost anything record free of charge by calling the Salt Lake County's Recorders Office between 8:00-5:00. They also have computers available for the public to access records. County public records are available to the public at no cost in their office. If copied there would be a fee for the records.

Julie Dole said Salt Lake County has the information available online, and those that get it pay a minimal cost for the information. They are working with the state to be able to use credit cards and perhaps have a 24 hour fee, so people could access information at home.

There are a number of the counties that do not have the revenue to make the data available digitally. There are counties that do make the data available and some that offer the data for free at the cost of their taxpayers. Property records change frequently so they could not provide the transparency website with continually updated records. These records also use a huge amount of storage.

Mr. Windley stated that if the government chooses to keep these public records then they have an obligation to make the data transparent if it is a public record. He feels if there is a public record it should be available online to the public.

Gary Williams explained that he has been a real estate attorney, and represented many title companies. He explained how the process for property records has taken place over the years. They did not have a government purpose in the past, but did have a commercial purpose.

Mr. Williams stated that there has been a private public partnership between the recorder's offices and title companies. The county recorder's offices understand what the title companies need. The Recorder's Office has already recorded the documents for public purposes. So the title company's partners with the recorder's office and pay a subscription fee to get the documents processed in a commercial way and get the documents minutes after they are recorded. After the recorder's office has taken the time and expense to create this commercial service it would be inconsistent to have them not pay for it with a non-commercial source.

Jason Williams asked what the counties plans are if the public demand is to go in this direction and have access to this data online.

Julie Dole said the plan would have to be funded by some other source. Their revenue covers the cost of their office. She said that this has been discussed with the council. It happens at every budget session. They have Mayor McAdams support on the way their office is run.

Ms. Dole said they will still see recording fees because you cannot record by viewing on a website. Recording requires a document coming into the Recorders Office either digitally or online.

Jonathan Ball feels the legislature needs to start treating data streams differently. Electronic data created by a governmental entity is a record, by the definition. They may need to start thinking about the fields within the data systems, talk about what is private, and what is public in those fields. That may resolve this issue. He suggested to Senator Henderson that this may be one way to deal with this. Look at the difference between a record and a data system.

Patricia Smith-Mansfield explained that GRAMA's basic principle is that every person has a right to inspect a public record free of charge during normal business hours. When you pull it from a database are you tailoring the record? Many agencies feel they do not have to provide people an electronic record because it requires them to tailor the record and they are not required to tailor records to provide access. She feels that these are things that should be addressed in GRAMA. It is one thing to have a record, and another thing do decide what is public in GRAMA, and then also to consider if it should be publicly online. Maybe this Board should provide some governance to counties to determine what is public online.

Jonathan Ball said this is where they need to look at this in multiple dimensions. Look at what information that is contained within the record, what data fields are protected. Do elected officials intend that a record is public or a series of records are public?

Ms. Smith-Mansfield said that GRAMA does allow for that. You will have a record that has multiple classifications, public and private together.

Jon Ball said you can create public access to information, but you can't create a title search. People would have to go to the Recorder's Office for that information or you could get it through a subscription.

Michelle Larsen commented on the example Ms. Smith-Mansfield had given about whether records requests should be put online. Sometimes the requests have personal information on them. She said that some of those things should not be public.

Gary Williams feels that we are beating up the people who have been at the cutting edge of trying to get these documents in a form that can be used by the public and in this case commercial entities. They have been leading the cause about where you want them to go and now it is not good enough. When they are willing to do more than their government duty, they just need a means to finance it. These are the leaders to where we want to go.

Jason Williams apologized to the Recorder's Office representatives if they felt beat up today. He asked the Board if this is something that needs to be looked at, maybe a separate board group that would work with the County Recorder's Offices to learn more about this application.

John Reidhead's asked how much power the Board wants to wield, are we the right people to be thinking of changing GRAMA? He thanked the county representatives from Salt Lake County and Davis County Recorder's Offices for coming to the meeting.

Tom Brady Deputy Director, of the Department of Commerce, and Peter Anjerwierden, Financial Officer with the Dept. of Commerce, addressed their fee schedule. The request for the fee information was specific for the Division of Corporations. Everything is public information and is provided in hard copies and online searches. Most of their searches are free online searches for the public, but they also have subscription lists that are used by law firms, marketing companies, and other companies. There are fees associated with those requests.

Peter Anjerwierden gave a summary of the Department of Commerce fee schedules. Most of the fees apply to entities that are looking for a deeper search, usually a corporate entity looking for commercial gain. Many of the searches are free if they are a basic search. He said that Commerce is not unlike the Counties, when someone asks for a customize document or an official document those requests come at a cost, and that cost generates revenue to provide the free access to the public at large.

John Reidhead asked if the subscription fee for Utah Interactive was a monthly fee or yearly fee.

Mr. Anjerwierden said it is an annual fee.

Senator Henderson asked if the fees cover the costs or is it a revenue source for a state agency.

Mr. Anjerwierden talked about the fee for Utah Interactive, which is \$75 per year. They are contractually obligated to do business with UI, but part of their usage of the information does include some of the premium services that Commerce is not statutorily obligated to provide. This does create a revenue stream, that helps recover cost for new filings.

Tom Brady said without the fees they would require a sizable appropriation from the Legislature to accomplish the things they are doing and make the information available to the public online.

Senator Henderson asked if most the information requested from individuals is available at no cost, they are all taxpayers including the businesses. Her concern is for them to pay extra for something they have already paid for. She understands covering costs for users that need extra information that requires more work from the staff to provide the information. She asked if these fees are an added revenue stream for entities above the cost of providing the information.

Mr. Brady responded that businesses are making a profit based on the subscription lists. The information they receive helps them make a living, and then in turn those fees help the general public access the information.

Senator Henderson asked Ms. Smith-Mansfield if the fees they are collecting are only allowed to cover costs.

Mr. Brady said that those are GRAMA related fees related to public access. The filing fees are not technically GRAMA fees, but are subject to the Budgetary Procedures Act. for the cost recovery.

Patricia Smith-Mansfield stated that GRAMA requires charging for administrative costs, but it also allows entities to charge for other related costs.

Phil Windley asked how many searches the Department Commerce has that are available through API's.

Mr. Brady referred Mr. Windley to DTS or Utah Interactive to discuss API's.

There were no other questions or comments from the Board.

5. Open Data Website update.

Dave Fletcher, and Drew Mingl from the Department of Technology Services, presented an update of the Open Data Portal.

It's been one year since the Open Data Website went live. There are 1810 open data sets and over 700 other items, such as graphs, charts and maps, available. There are 4 microsites for Education, Salt Lake City, Salt Lake County, and Health. There have been 3,266,375 page views of the site.

They have had positive and negative comments from the public about the site.

Every dataset has an API that enables users to develop applications.

Since the last meeting Drew Mingl has been meeting with agencies, public groups, students and others, to share information about the Open Data Portal.

They met with Utah Interactive, Socrata, and Finance to see if there was another way to show the public employee salary and expense data. Mr. Fletcher said they are not in a position to recommend that all the employee information be put in Socrata, because of the difficulty in updating the private personal data. He feels that it is better to maintain this information on the transparency website. Their recommendation is to leave the personal data regarding employees' salaries and expenses in transparency.

There were not questions or comments from the Board.

6. Financial Transparency Website update.

Brenda Lee and Darrell Swensen from the Division of Finance.

The State Auditor found that there was some private information on students, in description fields and transactions for school districts on the website. The Division of Finance has worked with UI to remove the information. While it was a serious issue, it was taken care of quickly.

They worked with UI to provide the bulk data access for the State Auditors. There is now an improved process for the auditors.

PIRG is the group that rates websites. They have an annual survey that comes out January 20th. Brenda Lee will answer the survey. She is working with some issues with GOED that should improve the transparency websites score.

Finance will work with UI to update and improve the website.

Alpine School District sent a file that contained more detailed information, and it slowed the site down. They are working with UI to see how this can be fixed.

7. Discuss complaint received about employee compensation data.

John Reidhead explained the complaint that the Division of Finance from a Utah State University Professor on compensation; he was concerned that there were not time-frames on the website when salaries and benefits were paid. The information on the site is posted for a year. His concern was that the amount would be lower than it actually is for new employees. Hourly wages are also not listed on the website. It would be difficult for all the entities to provide that information.

Darrell Swensen, Transparency Coordinator, explained that this individual threatened a possibility of a lawsuit. He is concerned that a potential employer looking at the compensation data on the website would not know it was for a fraction of the year, because the person may have only been employed for a portion of the year. If they were trying to figure out a periodic rate of salary or benefits, they would not have that information from looking at the website. The following employee compensation disclaimer language has been added to the transparency website:

The salaries or wages shown in the Employee Compensation transaction type are the actual amounts paid to an employee during the annual reporting period and may only reflect a portion of the reporting period due to timing of hiring or leaving employment or other reasons. The actual amount paid may also only be for part-time employment, job sharing (multiple positions), or for a position occupied only a portion of the annual report period due to a change in status such as a promotion. The amounts shown should not be construed to represent the budgeted, contracted, or negotiated wage or salary for an employee. The amount should also not be used in an attempt to determine weekly, monthly or other periodic payments made to an employee.

Jon Ball asked if every payroll could be added to the compensation data. He feels that it is a valid request, it would be nice to have the number of pay periods listed.

John Reidhead feels that this may labor the system, but they will look into adding the pay periods.

There were no other questions from the Board.

8. Follow up on any items from July 7, meeting not addressed by previous agenda items. Nothing was addressed from the past agenda.

9. Public Comment. There were no comments from the public.

10. Discuss date for next Board Meeting.

It was decided to have the next Board Meeting in the first part of April. Some potential dates will be sent out to the Board. When a date has been set, an appointment will be sent to the Board and posted on the Public Notice Website.

Jonathan Ball stated that the scope of work for the Board has gotten broader; he would like to consider formal sub-committees to address financial transparency, open data, and records access. He would like this to be an agenda item for the next meeting.

Jon Ball made a motion to adjourn. There was a vote on the motion, it passed unanimously. Meeting adjourned at 4:12 p.m.

Assignments:

Renee Wilson will talk with Archives, Records Analyst Manager, about educating government agencies about URL's

Consider separate board group to meet with County Recorder's Offices to learn more about their fees and applications.

Finance will work with UI to update and improve the transparency website. Finance will also look into adding all payrolls into the website.

UI working to fix the issue with the Alpine School District detailed file information slowing the website.

Barbara will send potential dates for the next meeting to the Board in March.

Agenda item for next meeting: consider forming sub-committees to address financial transparency, open data, and records access.