

SRC APPROVED
Date June 9, 2016
[Signature]

State Records Committee Meeting

Location: Courtyard Meeting Room, 346 S. Rio Grande Str., SLC, UT 84101
Date May 11, 2016
Time 9:00 a.m. to 11:19 a.m.

Committee Members Present:

Patricia Smith-Mansfield, Chair, Governor's Designee
Marie Cornwall, Citizen Representative

Absent: Tom Haraldsen, Media Representative
Cindi Mansell, Political Subdivision Representative
Doug Misner, History Designee
Holly Richardson, Citizen Representative
David Fleming, *Chair Pro Tem*, Private Sector Records Manager

Legal Counsel:

Paul Tonks, Attorney General's Office
Nicole Alder, Paralegal, Attorney General's Office

Executive Secretary: Nova Dubovik, Utah State Archives

Others Present:

Erin Preston, Attorney
Bryan Thatcher, Petitioner
Rebecca Waldron, Attorney General, Department of Public Safety
Rebekkah Shaw, Utah State Archives
Rosemary Cundiff, Utah State Archives

Agenda:

- One Continuance Scheduled
- Other Business
 - Next meeting scheduled for May 12, 2016, 9 a.m. to 4 p.m.

I. Call to Order:

Mr. Tom Haraldsen was absent for the meeting.

**II. *Bryan Thatcher vs. Utah Department of Public Safety (DPS):*
Continuance**

The Chair, Ms. Patricia Smith-Mansfield, called the meeting to order at 9:00 a.m. and introduced the parties for the Continuance: Ms. Erin Preston, representing Mr. Bryan Thatcher, Petitioner, and Ms. Rebecca Waldron, representing the Department of Public Safety. The Chair asked if any Committee members had anything that needed to be discussed in a closed meeting, and if so, make a motion to go *in camera*.

Motion: Mr. Fleming made a motion to go *in camera*, Mr. Misner seconded it. The motion passed, 6-0.

Motion: Mr. Fleming made a motion to go back in session, Mr. Misner seconded it. The motion passed, 6-0.

Deliberation:

The Committee grouped records together and made separate motions based on the type of record.

Group #1: The Committee discussed that all judicial court records, proceedings, actions, decrees, and transcripts are public actions.

Motion: Mr. Misner made a motion that the proceeding records are public pursuant to Utah Code § 63G-2-301(2)(f) and should be released. Mr. Fleming seconded the motion. The motion passed, 6-0.

Deliberation:

Group #2: The Committee agreed that codes and policies are public records.

Motion: Mr. Fleming made a motion that codes and policies are public records under Utah Code § 63G-2-301(2)(a) and Utah Code § 63G-2-301(3)(a). Ms. Mansell seconded the motion. The motion passed, 6-0.

Deliberation:

Group #3: The Committee separated and ruled on the Internal Affairs (IA) investigations (include narrative and witness statements) and reports.

Motion: Mr. Fleming made a motion that the IA investigations are properly classified protected under Utah Code § 63G-2-305(10)(b), (d) and (e). Mr. Misner seconded the motion. The motion passed, 5-1. Ms. Smith-Mansfield opposed the motion because it included Utah Code § 63G-2-305(10)(b) and (e).

Deliberation:

Group #4: The Committee discussed the summaries of the findings of the internal affairs investigation and final executive summaries.

Motion: Mr. Fleming made a motion that the case findings are public under Utah Code § 63G-2-301(2)(c). Ms. Richardson seconded the motion. The motion passed, 6-0.

Deliberation:

Group #5: The Committee discussed whether there is a previous ruling on polygraph records. Some members believed the polygraph test could be classified as a medical record.

Motion: Mr. Fleming made a motion that the polygraph record is private under Utah Code § 63G-2-302(1)(b). Ms. Richardson seconded the motion. The motion passed, 5-0. Ms. Smith-Mansfield abstained.

Deliberation:

Group #6: The Committee determined that access to Driver License records was covered under a different statute.

Motion: Mr. Fleming made a motion that the Driver's License records were not under the jurisdiction of the Committee pursuant to Utah Code § 63G-2-201(3)(b) and Utah Code § 63G-2-201(6)(a). Ms. Mansell seconded the motion. The motion passed, 6-0.

Deliberation:

Group #7: The Committee discussed the Initial Incident reports.

Motion: Mr. Fleming made a motion that Initial incident reports are public under Utah Code § 63G-2-301(3)(g). Ms. Richardson seconded the motion. The motion passed, 6-0.

Deliberation:

Group #8: The Committee discussed the Incident reports.

Motion: Mr. Fleming made a motion that the Incident reports were properly protected under Utah Code § 63G-2-305(10)(b), (d) and (e). Ms. Cornwall seconded the motion. The motion passed, 5-1. Ms. Mansell dissented.

Deliberation:

Group #9: The Committee discussed the investigative notes.

Motion: Ms. Cornwall made a motion that the investigative notes were protected under Utah Code § 63G-2-305(b)(d) and (e). Mr. Fleming seconded the motion. The motion passed, 6-0.

Deliberation:

Group #10: The Committee categorized mixed types of correspondence as letters, emails, memos, and texts messages to which the Petitioner is a party.

Motion: Ms. Cornwall made a motion that the correspondences should be classified private under Utah Code § 63G-2-302(2)(d). Ms. Mansell seconded the motion. The motion passed, 6-0.

Discussion: Mr. Fleming questioned the motion that it did not address the Petitioner being the subject of the records. The Committee agreed to make a second motion.

Motion: Mr. Fleming made a motion that the Petitioner is the subject of the records under Utah Code § 63G-2-202(1)(a). Ms. Cornwall seconded the motion. The motion passed, 6-0.

Deliberation:

Group #11: The Committee asked the Respondent to clarify what are dissemination logs as noted within the records. There is no statutory provision to make these records non-public.

Motion: Ms. Cornwall made a motion that the dissemination logs are classified public under Utah Code § 63G-2-201(2). Mr. Fleming seconded the motion. The motion passed, 6-0.

Deliberation:

Group #12: The Committee identified two groups of email, (1) attorney client privileged, and (2) not restricted.

Motion: Mr. Misner made a motion that the first group of emails were properly classified under Utah Code § 63G-2-305(17). Mr. Fleming seconded the motion. The motion passed, 6-0.

Group #13: The Committee determined the remaining pieces of correspondence that were not restricted. The Chair expressed an opinion that the records are public because they contain general discussions.

Motion: Ms. Cornwall made a motion that the remaining pieces of correspondence were properly classified protected. No second was provided. The motion did not pass.

Motion: Ms. Smith-Mansfield made a motion that the remaining emails are not properly classified as protected and are public under Utah Code § 63G-2-201(2). Ms. Mansell seconded the motion. The motion passed, 6-0.

Deliberation:

Group #14: The Committee discussed the last group of records, consisting of audio recordings of interviews of employees. Mr. Fleming added a friendly amendment to the motion, "clearly unwarranted invasion of personal privacy."


Motion: Ms. Cornwall made a motion that the records were properly classified under Utah Code § 63G-2-302(2)(d) and Utah Code § 63G-2-305(10)(b)(d) and (e). Ms. Richardson seconded the motion. The motion passed, 6-0.

XI. Other Business:

-May 12, 2016, is the next scheduled meeting.

The May 11, 2016, State Records Committee meeting adjourned at 11:19 a.m.

This is a true and correct copy of the May 11, 2016, SRC meeting minutes, which were approved on June 09, 2016. An audio recording of this meeting is available on the Utah Public Notice Website at <http://www.archives.state.ut.us/public-notice.html>.



Nova Dubovik
Executive Secretary