SRC APPROVED
Date June 10, 2010
SLM

State Records Committee Meeting

Division of Archives, Courtyard Meeting Room
May 24, 2010
Salt Lake City, Utah

Members Present:	Scott Daniels, Citizen Representative
	Chris Hansen, State History Designee
	Lex Hemphill, Media Representative
	Betsy Ross, Auditor's Designee
	Patricia Smith-Mansfield, Governor's Designee
	Scott Whittaker, Private Sector Records Manager, Chair
Member not attending:	Gary Ott, Elected Official Representative
Legal Counsel:	Paul Tonks, Attorney General's Office
	Ed Lombard, Attorney General's Office
Executive Secretary:	Susan Mumford, Utah State Archives
Others Attending:	Rosemary Cundiff, Archives staff
	Maren Jeppsen, Archives staff
	Tony Patterson, Attorney General's Office, respondent
	Eric Peterson, SLC Weekly, petitioner

Mr. Scott Whittaker called the meeting to order at 1:10 p.m.
Mr. Whittaker, Chair of the Committee, called the meeting to order. Mr. Whittaker welcomed the parties for the continuation of the hearing.

Hearing – Eric Peterson vs. Attorney General's Office, continuance of hearing
Mr. Eric Peterson, Salt Lake City Weekly, represented himself as the petitioner. Mr. Tony Patterson represented the Attorney General's Office

Deliberation
Mr. Whittaker welcomed the parties for the continuance of the hearing

Closed session 1:15 p.m.
Mr. Hemphill made a motion that the Committee members go *in camera* as a group to view the records. Mr. Hansen seconded the motion. A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. The motion passed. The Committee closed the meeting to review the records.

Open session 1:50 p.m.
Ms. Smith-Mansfield made a motion that the Committee return to open session. Mr. Hemphill seconded the motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross,

Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. The motion passed. The Committee returned to open session.

Motion
Mr. Whittaker made a motion that documents 1-43 of the Johnson log were protected in so far as any actual drafts were included, but public as to the e-mails about the drafts. Ms. Ross seconded the motion. A vote was taken. Mr. Daniels, Mr. Hansen, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. Mr. Hemphill voted against the motion. The motion passed.

Motion
Mr. Hemphill made a motion that documents 44 and 45 were correctly classified as protected and were attorney work products. Mr. Daniels seconded the motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. The motion passed.

Motion
Ms. Ross made a motion that document 46 was properly classified as protected and was an attorney work product. Mr. Whittaker seconded the motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. Mr. Hemphill voted against the motion. The motion passed.

Motion
Mr. Whittaker made a motion that documents 47 and 48 were public and should be released. Mr. Hemphill seconded the motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. The motion passed.

Motion
Mr. Hemphill made a motion that documents 49 and 50 were improperly classified as protected and should be public. Mr. Whittaker seconded the motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. The motion passed.

Motion
Ms. Ross made a motion that documents 51 through 53 were incorrectly classified as private and should be released. Mr. Hemphill seconded the motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. The motion passed.

Motion
Mr. Hemphill made a motion that documents 54 through 56 were private and should not be released. Ms. Ross seconded the motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross, and Mr. Whittaker voted in favor of the motion. Ms. Smith-Mansfield voted against the motion. The motion passed.

Motion
Ms. Ross made a motion that documents 57 through 61 were correctly classified as protected pursuant to UCA 63G-2-305(9) and were investigations. Mr. Hemphill seconded the motion. A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. The motion passed.

Motion
Mr. Daniels made a motion that documents 1 through 13 of the Lawson records should be made public. Mr. Hemphill seconded the motion. There was some disagreement about which records were being discussed. Mr. Daniels withdrew his motion.

Motion
Mr. Whittaker made a motion that the Committee go *in camera* again to review the records. Ms. Ross seconded the motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. Mr. Hemphill voted against the motion. The motion passed.

Closed session 2:20 p.m.

Open session 2:30 p.m.
Mr. Hemphill made a motion to return to open session. Ms. Ross seconded the motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. The motion passed. The Committee returned to open session.

Motion
Mr. Daniels made a motion that documents 1 through 16 of the Lawson records were public with the provision that any private information such as home addresses or social security numbers be redacted. Mr. Hemphill seconded the motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. The motion passed.

Motion
Mr. Hemphill made a motion that the documents 17 through 81 were public with the provision that any private financial information such as contained in documents 18, and 38 through 47 be redacted. Ms. Smith-Mansfield seconded the motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. The motion passed.

Motion
Mr. Hemphill made a motion that documents 82 and 83 were public. Ms. Ross seconded the motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. The motion passed.

Motion
Mr. Hemphill made a motion that documents 84 through 87 were public and documents 88 through 90 were protected as a draft. Mr. Daniels seconded the motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. The motion passed.

Motion
Ms. Ross made a motion that documents 91 and 92 were public with the redaction of private phone numbers. Ms. Smith-Mansfield seconded the motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. The motion passed.

Motion
Mr. Daniels made a motion that document 93 was improperly classified as protected and should be released. Ms. Ross made a substitute motion that the record was properly classified as protected. The substitute motion died for lack of a second. Mr. Hemphill seconded the original motion. . A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, and Mr. Whittaker voted in favor of the motion. Ms. Ross and Ms. Smith-Mansfield voted against the motion. The motion passed.

Deliberation
Ms. Ross opened a discussion of the appropriateness of the fee charged to Mr. Peterson. She said an unreasonable fee could be an effective denial of access in certain circumstances. The Committee discussed their jurisdiction in deciding whether a fee was unreasonable. The law currently states that the Committee has the jurisdiction to hear only an unreasonable denial of a fee waiver.

Cases in District Court
Mr. Tonks said the Attorney General's Office had filed a motion for partial summary judgment in the Maxfield vs. Office of the Lieutenant Governor hearing appeal. The motion challenges the Committee's ability to review fee issues. Ms. Smith-Mansfield made a motion to have Mr. Tonks represent the Committee in the case and file a memorandum on behalf of the Committee. Ms. Ross seconded the motion. A vote was taken. Mr. Daniels, Mr. Hansen, Mr. Hemphill, Ms. Ross, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. The motion passed. Mr. Tonks list of other cases in District Court is attached.

Adjournment
Mr. Whittaker thanked the Committee members for their attendance, and the meeting was adjourned by acclamation.

Next meeting scheduled for June 10, 2010.

May appeals to SRC

1. Lawrence Jackson vs. Corrections. 2 letters submitted with complaint about Corrections partial response to Order 10-3. Matter on agenda for May.
2. Eric Peterson, Salt Lake City Weekly, vs. Utah Attorney General's Office. Mr. Peterson is appeal the denial of records and of a waiver of fees. Scheduled for May.
3. Shawn and Barbara Lewis vs. DCFS. Separate appeals for a hearing for records of Shawn's biological daughter, Ashley. Documentation incomplete. Steven Chen of HS/OFO had denied records. No legal status. Write letter to provide all documentation in order to schedule hearing.
4. Laura Hancock, Deseret News vs. Utah Transit Authority. The authority has adopted a separate ordinance and SRC has no jurisdiction over records issues. Wrote letter denying hearing. David Reymann re-appealed the matter. The new appeal can be seen as an appeal of an unreasonable denial of a fee waiver. Hearing scheduled for June.
5. Steven Onysko vs. DFCM. Mr. Onysko is appealing denial of personnel records from the Division of Facilities and Construction Management. A second request to DEQ for performance plan evaluation reports for employees of DEQ with the exception of his own, which he was given. The records were denied as "private." He was told to appeal to Amanda Smith of DEQ and then to SRC. No records provided of original request or subsequent appeals. E-mailed him to provide same.
6. R.K. Shimabukuro vs. Weber County. Appealing appraisal details and GRAMA request not answered with contact information. Letter from Weber Co. attorney refers petitioner to SRC, but Weber Co. has adopted a separate ordinance. I called Weber Co. to see if ordinance has been updated. Alan McEwan is county clerk/auditor. He will confer with attorney and let me know about ordinance. Possible hearing for June.
7. Nasrulla Khan vs. Department of Public Safety. Nasrulla Khan partially denied records of investigation into terrorist threats made against him/her and a letter from Agent Miller explaining the department's intentions of possible criminal action.

May 2010 Records Committee Case Updates

District Court Cases

Maxfield v. Lieutenant Governor, 3rd Judicial District, Salt Lake County, Case No. 100907599, Judge Iwasaki. Filed April 28, 2010.

Current Disposition: Complaint recently filed, answer to be filed on behalf of Committee shortly.

Utah Dept. Of Public Safety v. Vanocur, 3rd Judicial District, Salt Lake County, Case No. 100904439, Judge Lindberg. Filed March 16, 2010.

Current Disposition: Petition for judicial review filed by Dept. of Public Safety. Answer filed on behalf of State Records Committee on March 26, 2010. Answer has been filed Vanocur and other parties (Salt Lake Tribune & Deseret News). Case scheduling hearing held on May 3, 2010 where court set trial date (May 27, 2010, 10:00 AM) and granted Vanocur's request for a protective order allowing counsel for the defendants to have access to the disputed records prior to the hearing.

Moulton v. State Records Committee, 3rd Judicial District, Salt Lake County, Case No. 100901662, Judge Hansen. Filed February 1, 2010.

Current Disposition: Appeal filed of a decision by the Department of Human Services to not release a record. No appeal was filed with the State Records Committee, so Motion to Dismiss the complaint against the Committee (and the Governor) was filed on March 25, 2010. No memorandum contra filed by Moulton, will be filing notice to submit with court.

Attorney General Office v. McKitrick, 3rd Judicial District, Salt Lake County, Case No. 090917108, Judge Dever. Filed October 13, 2009: June 7 hearing

Current Disposition: Complaint filed by AG's office. Answer filed on behalf of State Records Committee. McKitrick and the Salt Lake Tribune have filed answers. Nothing has been filed since October 22, 2009, so Show Cause hearing scheduled for June 7, 2010.

Utah Appellate Court Cases

Murray City v. Maese, 3rd Judicial District, Salt Lake County, Case No. 080912185, Judge Christiansen. Filed July 11, 2008. Court of Appeals Case No. 20090958 CA.

Current Disposition: Case currently pending before Court of Appeals. No briefing schedule yet. Record has been certified to the appellate court by the trial court.

Other Cases

Vonberg v. Iron Cty. Sheriff, 3rd Judicial District, Salt Lake County. Petition for judicial review allegedly filed April 25, 2010.

Current Disposition: Hand written Petition for Judicial Review sent by mail to Executive Secretary, State Records Committee, for review by the court of the Committee's denial of Vonberg's appeal. Unclear if Petition has been filed in District Court (Petition does not have a case number, case does not show up on Court Exchange). Also, no complaint has been served.