


City Council Meeting

Item #4
Grand Jury Response: City of Santa Clara: Public Records Access

September 4, 2019



City of Santa Clara
The Center of What's Possible

Background

- Santa Clara County Grand Jury (Grand Jury) Investigation
 - Resulted from a resident complaint about City of Santa Clara (City) and Santa Clara Stadium Authority's contracting procedures
- Grand Jury Exit Interview on May 28, 2019:
 - Found no wrongdoing re contracting procedures
 - Changed focus of investigation to City's handling of requests of records under the California Public Records Act (CPRA)



Background

- Grand Jury published report on June 18, 2019: "City of Santa Clara Public Records Access: The Paper Chase"
 - 4 Findings and 6 Recommendations
 - City must respond by September 16, 2019
 - Approval of this item today will satisfy the 90-day response requirement

FLOWCHART OF CPRA REQUEST



PRA REQUEST RECEIVED

Responsive Public Records?

Yes

No

Respond that no responsive records exist

10 Days

California Government Code 6253 (c)

PROMPTLY


1. Provide responsive records
- or
2. Provide responsive records as they become available, commonly referred to by the League of California Cities as a 'rolling' basis

OR

IF MORE TIME IS NEEDED, IN WRITING, REQUEST 14-DAY EXTENSION for following reasons per California government code 6253 (c):

1. Search and collect records from offsite facilities;
2. Search, collect and examine voluminous amounts of separate and distinct records;
3. Consult with another agency, or among 2 or more departments;
4. Compile data, write programming or develop a computer program to extract data.

RIGHT TO ACCESS PUBLIC RECORDS IS NOT WITHOUT LIMITS		
Issues	Options	Reference
Voluminous	Ask requester to narrow the request, consent to a later deadline for responding to the request or to provide records on a “rolling” basis	The League of California’s Cities: <i>California Public Records Act publication entitled The People’s Business, A Guide to the California Public Records Act</i> [Revised April 2017] Pg. 22
Needle in a Haystack	Local agency is not required to perform a “needle in a haystack” search	Cal. First Amend. Coalition v. Superior Court (1998) 67 Cal.App.4th 159, 166.


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Response to Finding and Recommendation #1

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Finding #1	City Response to Finding #1
<p>The City does not properly respond to CPRA requests because it:</p> <ul style="list-style-type: none"> (a) does not indicate if it will respond (b) does not respond within 10 days (c) overutilizes the 14-day extension (d) invokes the need for a 14-day extension for reasons beyond those permitted in the statute (e) fails to provide all documentation responsive to the request 	<p>The City Disagrees in Whole with Finding #1</p>

Finding #1 Subparts	City Responses to Subparts
(a) does not indicate if it will respond	<p>Guideline/Law: CPRA does not require a public agency to indicate if it will respond; the law requires for the public agency to determine if it has responsive documents by the 10th day and communicate accordingly to the Requestor.</p> <p>City Practice: City uses a standard response when acknowledging a public records request as a customer service courtesy.</p>
(b) does not respond within 10 days	<p>Guideline/Law: City responds to public records requests within the 10-day period in compliance with Government Code 6253 (c).</p> <p>City Practice: City responds to public record requests within required 10-day period. In complex requests, the City provides responses on a “rolling basis” with estimated dates for additional records</p>

Finding #1 Subparts	City Responses to Subparts
(c) overutilizes the 14-day extension	Guideline/Law: City follows Government Code 6253 (c)
(d) invokes the need for a 14-day extension for reasons beyond those permitted in the statute	<p>City Practice: City utilizes the 14-day extension only as dictated by the CPRA. Responses state the reason for the extension for each request. Invoking the 14-day extension is compliant with Government Code 6253 (c).</p> <p>The Grand Jury's use of the word "overutilizes" the 14-day extension is subjective</p>
(e) fails to provide all documentation responsive to the request	City complies with its legal duty to provide all responsive records, as noted in the City's responses to Findings 1(a-d)

Recommendation #1	City Response to Recommendation #1
The City should train staff responsible for responding to CPRA requests to timely indicate if the City will respond to the request and, further, only invoke the 14-day extension where permissible	<p>The Recommendation has been implemented</p> <p>Trainings have been held on:</p> <ul style="list-style-type: none"> • March 8, 2019 - a joint workshop was held for Agenda Coordinators and Public Records Liaisons from each department to review the agenda management process and public records process. • August 5 and 7, 2019 to review the public records process. • August 13, 2019 user training for the new NextRequest software, which is anticipated to launch in mid-October 2019. • At these trainings, the California Public Records Act was reviewed in detail, including the 10-day requirements, as well as the 14-day permissible



Response to Finding and Recommendation #2

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Finding #2	City Response to Finding #2
The City lacks a written policy to guide staff in responding to CPRA requests in a manner that complies with the law	<p>The City Disagrees in Whole with Finding #2</p> <p>The City maintains the following written policies to guide responding to CPRA:</p> <p>(1) The City has had a written policy for staff to respond to CPRA requests, compliant with the law, since June 1999 (CMD 013: Public Records Requests)</p> <p>(2) City Council Policy Manual (P&P 046: Mayor and Council Public Records Policy, eff. 2017)</p>



Response to Finding and Recommendation #3

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Finding #3	City Response to Finding #3
The City's disorganized recordkeeping and lack of a functional records management system hinders its ability to timely and accurately comply with CPRA requests. Although the City purchased records and CPRA management systems 18 months ago, it has yet to implement those systems	<p>The City Disagrees in Whole with Finding #3</p> <p>The report outlines several significant actions taken over the past 18 months, while concurrently implementing and preparing for additional technology.</p> <p>On April 5, the City shared a draft powerpoint presentation of the proposed plan for implementation of both LaserFiche and NextRequest. This powerpoint presentation was planned for discussion with the Executive</p>

City Workload to Support Access to Public Records													
	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	
FY 2016/17							Assessment of Laserfiche, NextRequest, and Granicus systems						
										Council Policy Manual			
FY 2017/18	Assessment of Laserfiche and NextRequest systems												
	Implemented a Council Agenda Management System (Granicus)												
			Resolved financial debt & achieved financial stability										
								Established Public Records Manager position & funding					
FY 2018/19	Resolve financial deficit												
	Assessment of Laserfiche and NextRequest systems												
	Developed Public Records Manager job description, recruit, and hire							Implemented log to track CPRA Requests					
		Relocate records for storage						Assessed current CPRA request processes & work to establish new practices					
								CPRA training development					
								Improve records query on emails					
									Laserfiche Workplan & Soft Launch				
			SB 1421 and AB 748 compliance (ongoing)										
		Data tracking of CPRA requests (ongoing)											
		SB 1421 and AB 748 compliance (ongoing)											
FY 2019/20	Assessment of Laserfiche and NextRequest systems												
		Meet & confer requirements with Unit 9											
			Recruit and hire for Public Records Manager position										
	Laserfiche Workplan & Soft Launch												
	CPRA training development												
	CPRA & NextRequest training												

Recommendation #3	City Response to Recommendation #3
(a) The City of Santa Clara should implement its records management and CPRA management systems by December 31, 2019	The recommendation has not been implemented ; but is anticipated to be implemented by mid-October 2019 <ul style="list-style-type: none"> NextRequest – Online Portal
(b) In the absence of an operational CPRA and records management system, the City of Santa Clara should create and immediately implement interim procedures to comply with the CPRA	The recommendation has been implemented . The City is currently using a manual logging system to keep track of its incoming public record requests and is transitioning to NextRequest by mid Oct. 2019




Response to Finding and Recommendation #4

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Finding #4	City Response to Finding #4
The City's Public Records Manager is the only staff member trained to respond to CPRA requests, yet the records are decentralized requiring the Records Manager to rely on other staff within multiple departments to search for and obtain the documents responsive to the CPRA requests	<p>The City Disagrees in Whole with Finding #4</p> <ul style="list-style-type: none">• The Assistant City Clerk, Deputy City Clerk, key staff in the City Manager's Office as well as the City Attorney's Office are all trained to respond to CPRA Requests• Each Department also has one or more departmental staff assigned and trained to coordinate the City's responses to CPRA requests. Staff relies on subject matter experts to respond accurately to requests

Recommendation #4	City Response to Recommendation #4
<p>The City should identify and train necessary staff on compliance with the CPRA by October 31, 2019</p>	<p>The recommendation has been implemented</p> <ul style="list-style-type: none"> • As noted previously, several trainings have taken place this year. • The Assistant City Clerk and the Deputy Clerk as well as key staff in the City Manager's Office are fully trained on the CPRA and provide guidance and assist in fulfilling public records requests. • In addition, the City Attorney's office provides legal support when necessary in responding to public records requests

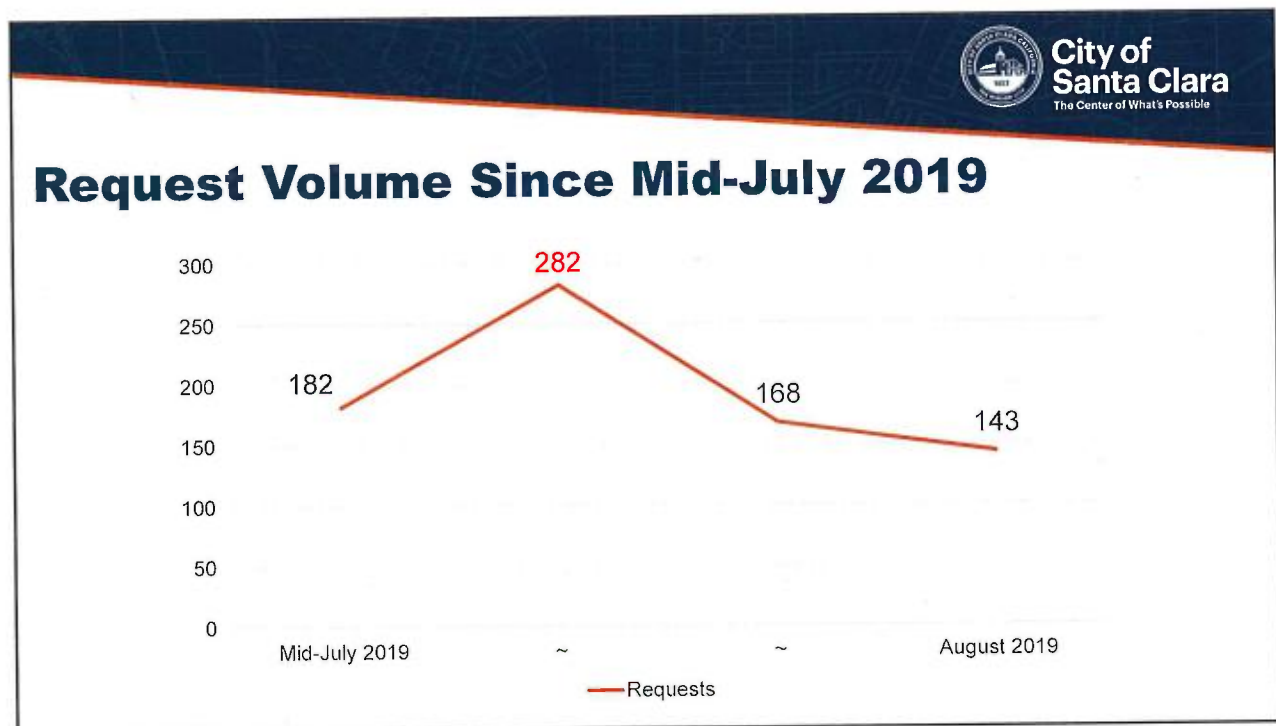


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Benchmarking

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CITY	POPULATION	RECORDS DIGITIZED	# of MONTHLY REQUESTS	# of ANNUAL REQUESTS
Cupertino	58,302	Many records, but not all are digitized	10-12	Over 100
Fremont	234,962	Some records, but not all are digitized	25-30	300 +
Milpitas	78,106	No records are digitized	+/-5	+/- 55-60
Mountain View	76,260	Some records, but not all are digitized	Varies, average of 34	Approx. 407
Sunnyvale	153,655	Some records, but not all; Implementation of Electronic Mgmt System in 2020 planned	5	Approx. 60
Santa Clara	127,134	Some records, but not all are digitized	~100/month	1300 (based on 2018 numbers including public)





Benchmarking

- City Staff requested the Grand Jury benchmark Santa Clara against other cities; it failed to include this informative data in its report
- City took the time to conduct benchmarking, so it could understand how Santa Clara compares to its regional neighbors
- City is similar to cities in that part of our records are manually maintained and part are digitized.
- City is an outlier when comparing # of requests: Over 1300 public records requests in 2018
- In 2019, at peak (July/August) over 282 unique record requests at once



RECOMMENDATION

City Council approve this response and authorize Mayor Gillmor to submit the City's Response to the Civil Grand Jury Report to the Honorable Deborah A. Ryan, Presiding Judge, Superior Court of California, County of Santa Clara, 191 North First Street, San José, California 95113, no later than **Monday, September 16, 2019.**



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Clara: Public Records Access**

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