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Planning Council and MGDPA

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Thank you, Mr. Rogan, for coming to the Planning Council meeting this morning! I thought the information you presented was informative, and I appreciate you taking time out of your busy schedule to be there in person. I wanted to follow up on the questions I asked -- I'm disappointed there wasn't more time, and I realized afterwards that I should have forwarded you questions in advance.

As I mentioned in the meeting, I'm concerned that the Planning Council is promising a level of privacy that can't actually be fulfilled, and to an extent not complying with portions of the Open Meeting Law (although not necessarily intentionally). I definitely support privacy where applicable, and am not advocating that all information be publicly posted, for example, on the internet -- I just like people (both consumers and Council Members) to be well informed about what can/can not be done with data they provide (e.g., CM Pfeil should not be caught off-guard when her lab results are released to MDH, as was a concern in this morning's meeting). So, each of these questions comes from something specific I noticed related to what we do.

Are residential addresses of appointed officials (e.g., Planning Council Members) considered public information? Planning Council Members were given lists of addresses of fellow members, but were assured this was completely confidential (colloquial definition) and would never be shared. However, Minn. Stat. §13.601 subd. 3(b) states: "(b) Once an individual is appointed to a public body, the following additional items of data are public: (1) residential address."

What portions of our application are considered public information? This was briefly discussed -- my understanding is that just because a portion of the application is private does not mean the entire application can be made such. Is that correct? Additionally, are applications (or portions thereof) considered public before an appointment occurs? Our application currently states, "Applications are not made available to the public": <http://bit.ly/gTYfqp> ... I can't imagine that's a promise that can be fulfilled while remaining in compliance with the MGDPA. As an example, I appreciate how the City of Minneapolis delineates public and private portions of applications: <http://bit.ly/dSWY0m>

Are emails relating to Planning Council business considered public (both emails sent/received by County staff, and emails sent/received by Council Members)? Additionally, if we do portions of voting via email, is the way an individual votes also considered public? There

have been a few instances where we've conducted business via email (e.g., prioritization, assessment of administrative mechanism), and individual results were alluded to with an air of privacy (e.g., "...having the privilege of knowing who responded that way, I think they intended...") when I assume that'd actually be public.

Are secret ballots to elect members for appointment compliant with OML? The Minnesota Appeals Court opined in *Mankato Free Press Co v City of North Mankato* (C9-96-2277): "A city council meeting is not really "open" to the public if the council is conducting its voting in secret. [...] Secret voting denies the public an opportunity to observe the decision-making process, to know the council members' stance on issues, and to be fully informed about the council's actions."

You touched on this briefly today, but what circumstances are appropriate for a public body to go into a closed session? For example, in the meeting this morning, I raised concerns about electing members for appointment via secret ballot. It was proposed that we, instead, go into closed session to discuss appointments, as at least one applicant had voluntarily disclosed their HIV status. Would that be an appropriate situation to go into closed session? What qualifies as health data that would allow us to do such?

Are de-identified, underlying results of aggregate survey data considered public data (assuming they can not be traced back to the individual)? In our most recent needs assessment, we assured consumers that their individual level responses would not be released to anyone. Additionally, we have assured agencies that other organizations can not view their consumer satisfaction survey results. Are both of these appropriate assurances?

As part of our consumer satisfaction survey, we allow people to register an account using just their email address. Are email addresses volunteered in that process considered public (IPAD 01-093, 08-024)? I assume this would be classified as private somewhere in the MGDPA but am unclear as to exactly where, so I'd like to make sure before we actually allow people to submit email addresses.

Just as a side note, someone asked today about where notice is posted for public bodies. This is actually an interesting issue for the Gov 2.0 world. There are two organizations (one of which I'm a board member of) in Minneapolis that are working on streamlining how citizens can access information about public meetings. So, I think 2011 will be an interesting year in that area – hopefully there'll be a more centralized, internet-based solution for finding out what public bodies are doing and what meetings are relevant to an individual.

Thanks again for your time today! I apologize for my verbose email – I'm one of those crazies who feel strongly about open government and, more importantly, want to be sure that we're compliant with laws and striking the appropriate and legal balance between privacy and public data.

Thanks,
John
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