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# MEMORANDUM

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Date: August 3, 2016

To: The Honorable Chair and Members  
Pima County Board of Supervisors

From: C.H. Huckelberry  
County Administrator 

Re: **Public Records Discussion on the June 21, 2016 Board of Supervisors Agenda and Request to Meet with Local Media Regarding their Issues About Same**

As directed by the Board of Supervisors, I met with local representatives of the print media on July 27, 2016. In attendance were Tucson Sentinel's Dylan Smith and Arizona Daily Star's Murphy Woodhouse, Joseph Ferguson and Hipolito Corella. Mr. Jim Nintzel was invited, but did not attend. Deputy County Administrator Jan Leshar and Public Communications Manager Mark Evans also attended the meeting.

During our meeting, the media representatives raised a number of concerns and issues that should be addressed in any policy modification the Board of Supervisors may consider regarding this matter. The overriding concern was the use of personal email accounts to avoid public records disclosure, as well as instructions to publicly-paid County employees to use personal email accounts and other personal means of communication to avoid public scrutiny of their activities. Such is the type of behavior traditional sunshine laws are designed to prohibit. This behavior results in public records requirements noncompliance.

The following general points were also discussed:

- **Conflict Relating to Redaction** – There was general consensus that redaction in accordance with federal and state law should be performed by personnel other than the subject of the public records request, particularly if it is related to an individual employee or elected official.

In many cases, public records requests are related to specific issues such as an accident, arrest, condition of a street or highway or an inspection report. Most of these cases can be redacted without fear of alteration. When a request relates to a specific individual, employee or elected official, there is general consensus the redaction should be completed by another party to ensure the redaction is not for the purpose of obscuring public information within a public record.

- **Cost of Records** – There was general consensus the fees that could be related to a public records request should be significantly simplified and clarified so there is no misinterpretation of the application of fees, particularly for the transfer of electronic records. When a requestor specifically requests a paper copy of a record, then it

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August 3, 2016

Page 2

should be clear the requestor will be charged a per-page fee related to the actual reproduction cost of the document.

- **Information Produced on Public Computers and/or Devices** – It should be clear that any record created on a publicly-owned computer or device that relates to public business is a public record and can be easily and quickly obtained by County Information Technology staff.
- **Public Records Produced on Private Devices Using Private Email Accounts** – This is generally poor practice. An honest person would produce the public record upon request; others may not. Even though compliance is possible for those who use these devices or systems, their use gives the impression the user is attempting to circumvent public records disclosure requirements.
- **Obtaining Public Records Upon Notice of Request** – Some concerns were expressed regarding time lags between collecting electronic information and records and the time the public records request is being made. Individuals who have access to the data files could alter or delete them prior to collection.
- **Use of Encrypted Devices, Files, Memory Sticks, etc.** – There was general agreement the County should prohibit the use of any encrypted devices, files or other data storage instruments that require unique passwords or encryption to open and view. Their use inherently hides public records from public inspection.
- **Specific Education and Training** – There was general agreement there should be more specific education and training, particularly for Elected Officials and their staff so they are fully aware of public records retention and disclosure requirements. Public records and compliance training should be more than simply signing an acknowledgment form; it should be an actual training with qualified staff so compliance obligations are clear.
- **Duty to Redact and Time Requirements.** – It was pointed out to the media members that State agencies have a statutory duty to redact information State law exempts from release and that large requests, i.e., hundreds or thousands of pages, may take longer to process than media might prefer for their competitive news cycles.

Also, as I indicated at the August 2, 2016 Board of Supervisors meeting, I have been reviewing and researching various public records retention and disclosure policies of other counties. They all seem to be somewhat dated and do not reflect current technology or the various devices and platforms used for conducting and communicating public business.

CHH/anc

c: Thomas Weaver, Chief Deputy County Attorney  
Robin Brigode, Clerk of the Board of Supervisors  
Tom Burke, Deputy County Administrator for Administration  
Jesse Rodriguez, Director, Information Technology