From: Patrick Conant <patrick@prcapps.com>
Sent: 5/14/2018 3:44:20 PM
To: esthermanheimer@avlcouncil.com
Cc: brianhaynes@avlcouncil.com, keithyoung@avlcouncil.com, vijaykapoor@avlcouncil.com, juliemayfield@avlcouncil.com, sheneikasmith@avlcouncil.com, gwenwisler@avlcouncil.com, jmatthews@ashevillenc.gov, cball@ashevillenc.gov
Subject: Re: [#108707] Response to Staff Report on Code for Asheville's Petition

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Hi Esther,

Thank you, I greatly appreciate that you will provide me the opportunity to respond to this report.Â

I am clear on the next steps, but I strongly request that Council review the specific concerns outlined in my email. This proposed process is a starting point, and we can get it right. However, if we do not structure this process correctly, this will be a very painful and frustrating process for the community, and it will only increase distrust in our local government.Â

To be clear - I am not willing to participate in a process that does not provide City Council with the final say as to whether a data set will be released. Without that vital decision-making process, I already know what the outcome will be, because it is no secret that APD has not embraced efforts for data transparency.Â

I also want to reiterate my concern around the inclusion of â€œalignment with best practicesâ€ as a criteria in the staff analysis, as well your email stating that staff are â€œbenchmarking other cities.â€ If staff are going to conduct that analysis, Council needs to be absolutely clear that the fact that other cities in NC arenâ€™t releasing this data shouldnâ€™t be a roadblock to prevent transparency of public information in Asheville.

This is critical because I already know that we need to look to cities across the country to find examples for some of these data sets - which is precisely what I did in crafting the content of this petition. In all cases, itâ€™s â€œleadersâ€ that are being transparent with police data, but we already know that itâ€™s not necessarily a â€œcommon practice.â€

My suggestions build upon the proposed process, and ensure that it is one that will be fair to our community, while still allowing important discussion regarding privacy, legal, and logistical concerns. I also feel that is is important for members of Council to participate in these initial meetings - I, as well as other community members, have experienced unprofessional treatment by staff in meetings with a similar format, and itâ€™s critical that we start this process correctly.Â

Finally - I do think itâ€™s important the Council does clearly set the end-goal with the data sets in Code for Ashevilleâ€™s proposal. It seems that both the community and Council want to see this information released, and we just have to figure out how to make that happen; I see a much wider range of outcomes possible from the provided staff report, and I know many members of the community would greatly appreciate clarity and a sense of urgency from Council.Â

I appreciate you calling out 911 calls as a data set that has concerns or questions - I want to emphasize that I find it very frustrating that staff have clearly identified specific concerns with certain data sets, yet have failed to document them for the public and Council to review. At the very least, I would suggest that those concerns are documented and published prior to any working group meeting, so the community can be prepared for the relevant discussion.Â

Thank you,

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On Mon, 14 May at 1:55 PM , Esther Manheimer <esthermanheimer@avlcouncil.com> wrote:
Patrick - I am copying Cathy Ball and Jaime Matthews with your email.Â I am glad to allow you some response time at tomorrow night's meeting.Â Please know that the suggested next step is to create a working group, not just of city staff, but to include folks like you to develop a process and procedure around releasing data.Â This will also include a deep dive regarding what data can and can't be released, for example, information around 911 calls.Â Staff has been studying and bench marking other cities that are more experienced in the open data format.Â At this point, I can say that you have the support of city council and the staff is working hard to develop this program and will need help for you and others to bring this to fruition.

The petition is appreciated and I believe the council is in agreement with your direction.Â We look forward to seeing you tomorrow night.

Esther

On Mon, May 14, 2018 at 1:34 PM, Patrick Conant <patrick@prcapps.com> wrote:
Members of City Council,Â

I am reaching out to regarding the staff report compiled in response to Code for Ashevilleâ€™s proposal. At the time of this email, we have 986 signatures online and in person, along with the endorsements of 30 organizations. We took extensive efforts to ensure that we were looking to local residents for signatures, and you can see the vast majority of signees are based in Asheville or WNC. Many of the signatures outside of NC are friends or relatives of people located here. Our police department has garnered national attention for recent issues, so I find it encouraging to also see wide interest in this community-driven solution to build a 21st Century Police Department in Asheville.Â

Full list of signatures, with statistical analysis by location:Â
https://docs.google.com/spreadsheets/d/1glfFrgcwcPx2h6W-4lQLg-0tJN2c8FLkD4ZiaSXVcwA
[Note: Change.org does not require individuals to provide their location, but most people did.]

Comments from Change.org:
https://drive.google.com/open?id=16cL7_x3RuXbnW1kGSmTTXTvh1T6mV_mQlIt7gjTx2Pk

Endorsements by Organizations:
https://docs.google.com/document/d/17lyHZFENireEBs1T7l8ni4s2WffbZA3qwHsHfZy3UAg/edit

I would like to repeat my request that City Council provide me with the opportunity to respond to tomorrowâ€™s staff report and presentation, and also open the meeting for public comment so that we can hear from all Asheville residents regarding this proposal.Â

I have several concerns with the staff report provided in response to Code for Ashevilleâ€™s proposal.

First, from a logistical perspective, it appears that the IT staff report analyzing the cost of these proposals has disappeared - it was not provided to Council at the last meeting, and it is not included with this report.

Second, the staff report does not include all aspects of Code for Ashevilleâ€™s proposal, and does not outline those items as â€œnext stepsâ€ for follow up. These items are not mentioned in the staff report:Â

- Internal Reports (blank copies of APD forms)
- Internal Audits of Body Worn Cameras
- Recordings of Committee Meetings
- Anti-Retaliation Policy
- Police Data Initiative

There have been inter-departmental meetings between City departments to discuss these data sets. These discussions identified some data sets that require additional discussion - and I find it unacceptable that staff have not documented those concerns for this report.Â

Instead, we now have an entirely new process, created without input from the public or â€œkey stakeholders.â€ As a result, this process provides staff with broad new powers that will actually make it more difficult for data sets to be released as Open Data.Â

For a non-trivial data set to be released, â€œkey stakeholdersâ€ meet with City Staff from 3 or more departments, where they will lay out â€œconcerns.â€ If â€œkey stakeholdersâ€ from the community canâ€™t convince staff to support a method to address each and every concern, the data set doesnâ€™t get released. Talk about an uphill battle.Â

Another issue is that the proposed process lacks any method for conflict resolution. If the community would like to see a data set released, but staff have concerns, there is no process to resolve that difference in opinion - and Council has no role in the process other than nominating a data set.Â

I am also concerned by the inclusion of â€œalignment with best practicesâ€ as a part of the staff analysis for data sets. We need definition as to what this means - I fully support releasing data sets in a method that follows â€œbest practices,â€ but my concern is that City staff could interpret this broadly, to mean that any data set not widely released by other cities in NC will not be released in Asheville. Open data efforts are still an emerging concept across the country, and while I agree it is important to look to other cities for examples that we can build upon, we need to ensure that the methodology for analysis of â€œbest practicesâ€ is clearly defined.Â

Code for Ashevilleâ€™s proposal is designed to make Asheville a leading City in police data transparency, as a response to our state of crisis regarding community trust in the police department. These data sets were identified as those that are desired by individuals and groups in our community, because they see value in using this information to participate in the process of building a 21st Century Police Department.Â

We need City Council to insist on more urgency here. Data sets that are eligible for our Open Data portal are typically public records to begin with - do we really need a multi-month bureaucratic process to determine if City departments feel like making it easy to access this public information?Â

I would like to suggest some next steps that our City Council could take to move this process forward:Â

1. Create a better process for open data evaluation
As part of the staff report, we were provided with a proposal for how the release of data sets should be evaluated. Building off of this initial proposal, I would request that Council consider the following modifications to develop an open data evaluation process that makes sense.Â

While I strongly believe that we should expedite requests for data sets that contain public records, I understand there will be discussions around which â€œfieldsâ€ of information to include, and what does or does not constitute a privacy concern.Â

These are critical discussions, and as a result - the initial staff analysis of the data set should include members of the public as well. There is no reason these discussions have to happen behind closed doors - it is more efficient and equitable to involve our citizens in the process from the start. If we want to be more transparent in our data, letâ€™s be more transparent in our process as well.Â

This process should require staff to clearly document their concerns in writing, and develop a proposal to mitigate those concerns if possible. Members of the public should be allowed to provide their input as well, documenting why they feel the release of this data set would be valuable.Â

There will inevitably be situations where the public values the release of a data set but City staff present concerns that may not be easily resolved. In this situation, we need a decision making process. I propose that a clear report is provided to City Council, allowing them to take an up or down vote regarding the release of a data set. This will ensure that the best interests of the public are preserved, and the decision to release (or not release) data is made in an equitable and inclusive manner.Â

Finally, since this is a new process that we are working to refine, I would request that Council members attend these initial meetings, to ensure the process is conducted in a constructive, fair manner, and to ensure that we have a mechanism that works for everyone involved.Â

Revised Data Release Process

2. Enhance our Open Data Policy
When I met with Council before presenting Code for Ashevilleâ€™s proposal, I stated that I felt clear direction from City Council would be sufficient to prioritize release of the requested data sets, since we already have an Open Data Policy.

The way this process has unfolded has proven me wrong, and I think there are some common-sense improvements we can make to our Open Data Policy to make it easier for citizens to participate in the process of building an â€œOpen Data City.â€Â

The City of Ashevilleâ€™s Open Data Policy has been pivotal in advancing our Cityâ€™s Open Data efforts. The current policy has allowed our City to create an Open Data portal, and many straightforward data sets have been added to it. As we move to create a more transparent and equitable City, however, we increasingly find that many types of public data, especially those related to our police department, are not available on the portal, and community-efforts to request these items have often turned into difficult, protracted processes.Â

One example - Sunshine Request, a public records portal that I operate, received a request for Use of Force data for 2017 on March 1st. City Staff confirmed the data requested was a public record on March 15th - yet two months later, the request has still not been fulfilled.Â

This is not news to anyone who has requested police related data, but itâ€™s important to understand where we are today - an Open Data City in policy, but not in practice.Â

I believe that City Council and the public agree that the intent of the Open Data policy is to make information that is public record easier to access. However, the language of the current ordinance does not specifically spell out this commitment to transparency around public records, and in practice, we leave it to individual departments to decide whether we make our public records easier or more difficult to access. It simply does not make sense for an â€œOpen Data Cityâ€ to operate in this manner.Â

I propose that City Council consider a resolution that makes our Open Data policy better, by specifically indicating that any data set that is a public record and available in a digital format, via a database or API, should be added to the Open Data portal at the request of Council, staff, or the public. This data set will be released with consideration for privacy, legal, and technical concerns, including a standard process to anonymize or generalize sensitive information.

I would recommend that City Council also outline a clear process to ensure that new requests are handled in a timely fashion. I would propose that our Open Data Policy specifies that any new requests for the release of a data set receives analysis from City staff within 30 days, and this analysis is provided to City Council and the public. This analysis should contain a clear list of any concerns, measures that will be taken to address them, and a timeline for release of the data set.Â

3. Provide clear direction to City Staff to release the requested data sets and documents in a timely fashion
I presented Code for Ashevilleâ€™s proposal at the Public Safety Committee on March 26th, and before Council on April 24th. City staff have been provided with ample opportunity to review our proposal and document concerns.Â

While we do need an appropriate process for future Open Data requests, Code for Ashevilleâ€™s proposal has already undergone extensive review by City Staff, Council, and the community. All of the data sets we are requesting contain public records, and there is no reason our City shouldnâ€™t make it easier to access this information in a timely fashion.Â

I am happy to engage in conversations as to how we can protect the privacy of all individuals involved, but these should be straightforward discussions with a clear end goal - releasing the data.Â

I request that Council again provide clear direction for Staff to move forward with the release of the requested data sets, and to provide an action plan for the other items in our proposal. I request that Council be very clear in their direction and, if further staff analysis is required, please provide clarity on the content of those reports and a timeline for when they will be completed.Â

To this point, we have seen one delay after another; we now need our City Council to hold staff accountable for their efforts to move this proposal forward. We need to demonstrate a commitment to transparency and accountability in our police department, and that needs to happen today.Â

In closing, I simply do not feel these staff reports provide us with a clear path to move forward, as requested by Council and expected by the community. As you know, I have reached out to City Council and the City Manager repeatedly over the past few weeks, requesting an update on the content and timeline for these staff reports.Â

I have made myself fully available to City staff to discuss these data sets - yet despite my efforts and specific requests to be included in this process, I have not been provided any opportunity to participate.Â

If our City Council does not demonstrate a clear urgency to move this forward, we risk losing the support of community members who are ready to participate in the process. Please donâ€™t let that happen, and take clear action on Tuesday to move this proposal forward.

Thank you,

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