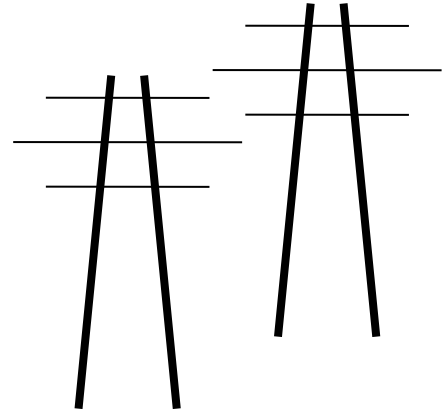


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September 26, 2023

Terri Swanson
City Clerk
City of Red Wing
315 West 4th Street
Red Wing, MN 55066

via email only: teri.swanson@ci.red-wing.mn.us

Amy Mace
Red Wing City Attorney
Squires, Waldspurger & Mace P.A.
333 South Seventh Street, Suite 2800
Minneapolis, MN 55402

via email only: amy.mace@raswlaw.com

RE: **Data Practices Act Request Redux**
“It’s called screenshots” and “there’s been data breach going on”

Dear Ms. Swanson and City Attorney Mace:

I am in receipt of your September 14, 2023 email, and ask that you read the attached transcript and reconsider several statements made in denying this Data Practices Act Request.

While Mayor Wilson used the word “hypothetical,” when reading from notes, his comments were about a specific group which he regularly complains about. His comments were sufficiently specific for Councilor Brown to respond regarding the specific group and for Wilson to challenge that statement. I am also a member of this group, and he not very obliquely referred to me in his rant, as he did regarding Code of Conduct changes.

I’m copying your denial and am highlighting the points that are off base:

On August 30, 2023, you requested screenshots waved by Mayor Wilson at the August 28, 2023, Council meeting and his documents and evidence of data breach. The data you requested are not government data. Instead, **the data constitute personal data** and, thus, are not subject to the Minnesota Government Data Practices Act. First, **Mayor Wilson was not acting in his capacity as the Mayor when he received and maintained the data.** Mayor Wilson received and maintained the data for personal reasons, unrelated to his

duties or role as the Mayor. Second, **the data are not related to the operations of the government.** Mayor Wilson presented a **hypothetical scenario** at the Council meeting. **He did not distribute the data to the Council,** and no Council member relied on the data to make decisions.

First, when the data is waved around at a Council meeting, at the dias, when the Council is discussing and deliberating policy, and used by Wilson to bolster his illusions, innuendo and conclusions, it is no longer private data. Also, when I asked that the screenshots be entered into the record, he stated, “If a complaint goes forward, I guess we will, won’t we.” **OK, consider this a complaint – it’s time to get these “screenshots” in the record and discover what they demonstrate!**

Second, the statement that “Mayor Wilson was not acting in his capacity as the Mayor when he received and maintained the data.” Wilson was acting in his capacity as mayor, sitting at the dias, making an argument regarding official city business, the City’s Social Media Policy, participating in deliberations and discussions on the Social Media Policy before the Council when he waved his “screenshots.”

Third, as Wilson waved the “screenshots, a ton of them,” claiming data breeches, “There’s been data breech going on,” and Attorney Mace confirmed that if there are data breeches, the City would be interested and would investigate.” That’s city business. Wilson also claimed violations of Open Meeting Law, challenged by Councilor Brown’s statements there was no quorum, no official business, no violations of Open Meeting Law, Wilson again waved those “screenshots.” These claims, raised by the Mayor during deliberation and discussion of Social Media Policy, are city business, and where there are claims of breeches and OML violations, the City Attorney had better be interested and must investigate.

Fourth, there are four clear examples demonstrating that his “hypothetical” was anything but... while the word “hypothetical” was used, Wilson made statements and actions referring to offenses within a specific group (Red Wing Snowstorm) identifiable by at least some council members and members of the public, of claimed facts which, if true, are indeed concerning:

- Wilson then replied, “Right, and that’s what’s been going on in the past...” That is NOT a hypothetical.
- Wilson claims, “Some people and their family members are targeted with a personal data breech. And that’s happened, there’s been data breech going on.” That is NOT a hypothetical.
- Wilson goes on to state, “Because what you’re putting out there, ladies and gentlemen, is out there forever, and there’re called screenshots (waving papers), and God only knows we’ve got a ton of them. What goes on out there.” That is NOT a hypothetical.
- After Councilor Brown states with specificity regarding the group Wilson is referring to, “that there’s never been a quorum there...” and “it was not official business in the sense of conducting, violating the open meeting law and you know that and you can’t show it. All you can do is bring innuendo forward,” Wilson then challenges that specific

statement with a claim of proof, “They’re called screenshots, Evan.” That is NOT a hypothetical.

Finally, yes, “Wilson did not distribute the data to the council.” That’s the problem. Wilson is making statements claiming data breeches and violations of Open Meeting Law, waving his papers to support his bizarre notions, and does not provide the evidence that he infers would back up his claims. This is not the first time he has engaged in performative “argument,” and it’s time to see if there is any substance to his claims, or if he’s all hat and no cattle.

At this time, I again request:

- Documents – purported screenshots waved by Mayor Wilson at 53:47¹, referred to and relied on in his statements and argument to the Council regarding the Social Media Policy.



- Documents – purported screenshots waved by Mayor Wilson at 54:28², referred to and relied on before the Council after Councilor Brown’s statement that there is no violation of Open Meeting Law, that there is no quorum discussing official business in that private group.



¹ Online at: <https://redwingmn.portal.civicclerk.com/event/25/media>

² Id.

- Any and all of Mayor Wilson's documents and evidence of data breach as claimed by Wilson in statement to the Council at 53:24 in the video. If there is evidence, please provide it with redaction sufficient to protect individuals and avoid again breaching data protection laws.

If there are no such screenshots, please so state.

I also request that City Attorney Mace investigate Wilson's reports of violations of Open Meeting Law, data breaches, and other violations.

If a file review would be more convenient, please let me know when!

Thanks for your consideration in this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Carol A. Overland".

Carol A. Overland
Attorney at Law

Red Wing City Council Meeting – August 28,2023

Beginning at 50:54 to 54:50, online at <https://redwingmn.portal.civicclerk.com/event/25/media>

Wilson: (quoting deleted language from Rules for Personal Websites, Blogs, and Social Media Accounts, p. 5 of 9) “To avoid the chance of discussing, deciding, or receiving information as a group on issues relating to City business, elected and appointed City officials should not be in private social media groups with a quorum or more of members of the public body.” You want to strike that, correct?

Mace: Well, that was struck based on our discussion last time, that wasn’t clear enough that that was about official city business. So when you look at what was added, the 2nd sentence was aimed at still addressing the concern that if there was a quorum or more of Council members or appointed members in a private social media group, that it’s a concern if they’re discussing official business items.

Wilson: Right, and that’s what’s been going on in the past...and now we’ve got a hypothetical thing, I’ll just read you some stuff here (reading from notes) Let’s say there’s a private political club, which is made up of invited members only, and includes elected and appointed officials of the City, OK? And on the social media site, elected and appointed officials use their personal account page, not their government page here, their political page to add their ideas. The rest of the invited political club members are from all walks of life, including city employees, teachers, school board members, ministers, lawyers, etc. Every member on the page can easily be identified as an elected official on this page, OK? A topic develops on this political page as a controversial. The elected and appointed officials begin to discuss, debate and interject their opinions. The general public is not privy to this because it’s a private club, OK? Right? They do this in their elected or appointed official capacity while using a personal account. A Commissioner who is a lawyer gives advice, opinion, and instruction, now becomes quite clear to all members on the political page where the officials stand on their topic and position and will eventually will take on the matter. The focus then turns to other elected and appointed positions within the city as well as citizens may have offered opinions. These folks are not invited to participate on the political club page. These officials and citizens are ridiculed, vilified, slandered, whatever. **Some people and their family members are targeted with a personal data breach. And that’s happened, there’s been data breach going on.** So, what I’m saying is everybody, here’s my thoughts on this. Everybody goes on their little private little page, type something on, they should have their kids look at it before they hit the send button, or their grandkids, before they hit the send button. Because what you’re putting out there, ladies and gentlemen, is out there forever, and **there’re called screenshots (waving papers),** and God only **knows we’ve got a ton of them. What goes on out there.** So I’m just giving everybody a heads up on this stuff. Pay attention from here on in.

Brown: With that, I will say I know for a fact that there’s never been a quorum there. So, regardless of, you know, your perception of how things operate, that is not a quorum. And it was not official business in the sense of conducting, violating the open meeting law and you know that and you can’t show it. All you can do is bring innuendo forward.

Wilson: (**Waving papers**) They’re called screenshots, Evan.

Brown: That’s fine.

Overland (from back of room): Enter them into evidence, then. Let us know what it is.

Wilson: If a complaint goes forward, I guess we will, won’t we.

Overland: You talked about it, let us know what it is.

Wilson: Is this free legal advice you’re handing out here?

Overland: Well, I could send you a bill!