

The City of Cromwell Plays Games with Data Requests and Fail to Account for Numerous Transactions

Date: 3/27/16

By Marvin Pirila

Endless Missing Items of Council/City Business

As I have made data requests over the last two years, one thing has become glaringly obvious, information is missing or intentionally withheld. This includes:

- No information on Warren Peters Chlorine claim other than the “Acknowledgment of Claim”
- Minimal information on the POS purchase
- No information on the Video System purchases
- No handwritten login sheet for Video Review. Certainly, not everyone is updating the electronic log provided by Ms. Friermuth
- No record of receiving a router from Warren Peters or its return (other than oral discussions in a city council meeting)
- No record of video’s being destroyed (“No data available for destruction of videos” – 11/18/14 letter). No update to the video review log, per Ms. Friermuth from 6/17/14 – 4/22/15. On 10/26/15, the log still was reported as having no additional entries.
- No record of the private IP address stealing video footage from the bar from a separate router
- No copy of a resolution allowing Mr. Peter’s to purchase a P.O.S. system as a sitting city councilor
- No copy of an estimate or invoice for the cost of the P.O.S. being purchased

This may benefit some individuals who are behaving in inappropriate ways, but it is not in compliance with transparency laws.

Failure to Follow Data Practices Act

The failure of the city to properly follow the Data Practices Act is outlined herein.

Directly from the League of Minnesota Cities website regarding the Data Practices Act

IV. B. 2. “When it comes to classifying, maintaining, and disseminating data, accountability begins and ends with the responsible authority. While specific duties are outlined in the MGDPA, a responsible authority must really be aware of all facets of the MGDPA and other applicable state and federal laws in order to ensure the city is in full compliance.” [Minn. R. 1205.1000. Minn. Stat. § 13.02, subd. 16. See Section IV-D *Duties of the responsible authority.*]

[Pursuant to the April 17, 2013 ‘Data Access Policy’ that was approved by the council, Ms. Friermuth is the responsible authority, data practices designee, and data practices compliance official.]

IV. D. When it comes to classifying, maintaining, and disseminating data, accountability begins and ends with the responsible authority. While specific duties are outlined in the MGDPA, a responsible authority must really be aware of all facets of the MGDPA and other applicable state and federal laws in order to ensure the city is in full compliance.

[On 4/22/15 Luann Friermuth attempted to charge me \$37.50 for consulting with the city attorney regarding a data request. This does not qualify as a billable charge. She may consult with an attorney, but may not charge the person requesting information that is clearly public in nature. “An individual may not be charged for costs related to separating public from not public data.”]

IV. D. 2. C. Requests for government data must be responded to in an “appropriate and prompt manner.” If the responsible authority or designee is unable to provide copies at the time a request is made, they must be supplied as “soon as reasonably possible.” Because there is no specific number of days for responding to all requests for public data, the responsible authority has some discretion, based on the scope of the request and the time it will take to respond. [Minn. Stat. § 13.03, subd. 2(a). Minn. Stat. § 13.03, subd. 3(c). IPAD 03-025. IPAD 95-006. *Northwest Publications, Inc. v. City of Bloomington*, 499 N.W.2d 509 (Minn. Ct. App. 1993)].

[On 7/27/15 Mr. Pirila made a date request that specifically asked for “Copy of claim related to ‘spike in Chloring levels’ killing bait” and “All supporting do1cuments [sic] related to the Chlorine claim.” It wouldn’t be until 10/26/15 that Ms. Friermuth responded with “Not an ALLEGED Chlorine spike.” This was in response to the request on 10/7/15 asking for “Information regarding Warren Peters insurance claim for alleged Chlorine spike. **“As Ms. Friermuth so adamantly stated, if this was not an alleged Chlorine spike, there must certainly be evidence to support it.** As the 7/27/15 request stated, “all supporting do1cuments [sic].” Once again, on 2/12/16, Mr. Pirila asked for “All written correspondence, including emails, regarding Warren Peters insurance claim for a Chlorine spike.” On 3/16/16, a month after the last request, the intervention by the state commissioner, and nearly eight months after the first request, Ms. Friermuth provided an “Acknowledgment of Claim” dated June 5, 2015.” Still, no evidence or initial claim shown.]

[It is evident that the hours charged by Ms. Friermuth have been made over and over again for the same information she is withholding, such as the Chlorine spike situation. Secondly, the length of time and incomplete information being provided is prima facie evidence of lack of transparency as mandated by the Data Practices Act.]

CITY OF CROMWELL
Data Access Policy — Members of the Public
Date Council Approved: April 17, 2013

Right to Access Public Data

The Data Practices Act (Minnesota Statutes, Chapter 13) presumes that all government data is public unless a state or federal law says the data is not public. Government data is a term that means all recorded information a government entity has, including paper, email, CD-ROMs, photographs, etc.

The Data Practices Act also provides that the City of Cromwell must keep all government data in a way that makes it easy for you, as a member of the public, to access public data. You have the right to look at (inspect), free of charge, all public data that we keep. You also have the right to get copies of public data. The Data Practices Act allows us to charge for copies. You have the right to look at data, free of charge, before deciding to request copies.

How to Make a Data Request

To look at data or request copies of data that the City of Cromwell keeps, make a written request. Make your written request for data to the appropriate individual listed in the Data Practices Contacts document on page 3. You may make your written request for data by mail, fax, or email, using the data request form on page 5.

The City of Cromwell cannot require you, as a member of the public, to identify yourself or explain the reason for your data request. However, depending on how you want us to process your request (if, for example, you want us to mail you copies of data), we may need some information about you. If you choose not to give us any identifying information, we will provide you with contact information so you may check on the status of your request. In addition, please keep in mind that if we do not understand your request and have no way to contact you, we will not be able to begin processing your request.

How We Respond to a Data Request

Upon receiving your written request, we will work to process it.

- If we do not have the data, we will notify you in writing as soon as reasonably possible. **[Has not occurred]**
- If we have the data, but the data is not public, we will notify you in writing as soon as reasonably possible and state which specific law says the data is not public.
- If we have the data, and the data is public, we will respond to your request appropriately and promptly, within a reasonable amount of time by doing one of the following: **[Neither appropriate, promptly, or within a reasonable amount of time.]**
- arrange a date, time, and place to inspect data, for free, if your request is to look at the data, or provide you with copies of the data as soon as reasonably possible. You may choose

to pick up your copies, or we will mail or fax them to you. If you want us to send you the copies, you will need to provide us with an address or fax number. We will provide electronic copies (such as email or CD-ROM) upon request if we keep the data in electronic format. Information about copy charges is on page 4. The City of Cromwell will arrange for you to pre-pay for the copies.

If you do not understand some of the data (technical terminology, abbreviations, or acronyms), please let us know. We will give you an explanation if you ask.

The Data Practices Act does not require us to create or collect new data in response to a data request if we do not already have the data, or to provide data in a specific form or arrangement if we do not keep the data in that form or arrangement. (For example, if the data you request is on paper only, we are not required to create electronic documents to respond to your request.) If we agree to create data in response to your request, we will work with you on the details of your request, including cost and response time.

In addition, the Data Practices Act does not require us to answer questions that are not requests for data.

Requests for Summary Data

Summary data consists of statistical records or reports that are prepared by removing all identifiers from private or confidential data on individuals. The preparation of summary data is not a means to gain access to private or confidential data. The City of Cromwell will prepare summary data if you make your request in writing and pay for the cost of creating the data. Upon receiving your written request — you may use the data request form on page 5 — we will respond within ten business days with the data or details of when the data will be ready and how much we will charge.

Data Access Policy — Members of the Public

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Data Practices Contacts City of Cromwell

Responsible Authority

LuAnn Freiermuth, City Clerk-Treasurer

1272 Hwy 73, PO Box 74

Cromwell, MN 55726

Phone: 218-644-3570 ext. 10 Fax: 218-644-3204 cityofcromwell@fontiernet.net

Data Practices Designee

LuAnn Freiermuth, City Clerk-Treasurer

1272 Hwy 73, PO Box 74

Cromwell, MN 55726

Phone: 218-644-3570 ext. 10 Fax: 218-644-3204 cityofcromwell@fontiernet.net

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Copy Costs — Members of the Public City of Cromwell

The City of Cromwell charges members of the public for copies of government data. These charges are authorized under Minnesota Statutes, section 13.03, subdivision 3(c). You must pay for the copies before we will give them to you.

For 100 or Fewer Paper Copies — 25 Cents Per Page

100 or fewer pages of black and white, letter or legal size paper copies cost 25C for a one-sided copy and 50C for a two-sided copy.

Most Other Types of Copies — Actual Cost

The charge for most other types of copies, when a charge is not set by statute or rule, is the actual cost of searching for and retrieving the data, and making the copies or electronically transmitting the data (e.g. sending the data by email).

In determining the actual cost of making copies, we factor in employee time, the cost of the materials onto which we are copying the data (paper, CD, DVD, etc.), and mailing costs (if any). If your request is for copies of data that we cannot reproduce ourselves, such as photographs, we will charge you the actual cost we must pay an outside vendor for the copies.

The cost of employee time to search for data, retrieve data, and make copies is \$25.00 per hour.

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Data Request Form — Members of the Public City of Cromwell

Date of request:

I am requesting access to data in the following way: Note: inspection is free but we charge for copies.

Inspection Copies Both inspection and copies

These are the data I am requesting:

Note: Describe the data you are requesting as specifically as possible. If you need more space, please use the back of this form.

Contact Information

Name:

Address:

Phone number:

Email address:

You do not have to provide any of the above contact information. However, if you want us to mail you copies of data, we will need some type of contact information. In addition, if we do not understand your request and need to get clarification from you, without contact information we will not be able to begin processing your request until you contact us.

The City of Cromwell will respond to your request as soon as reasonably possible.

This policy shall be formally approved and adopted by the City Council.

Data Access Policy — Members of the Public