

September 3, 2013

FOR YOUR INFORMATION

This section is to highlight projects and events that do not require Council action but are necessary to keep you informed. Commission/Committee minutes will be contained in this section when they are available.

City Administrators Report

This will be included in the first Council Packet of each month.

Planning Commission Agenda Packet

EDA Agenda Packet

Public Works Commission Agenda

Cable Commission Agenda Packet

Library Board Agenda Packet

LGA Distribution Article

Click on this link to see the article with an interactive map -

<http://www.minnpost.com/data/2013/08/which-minnesota-cities-will-receive-largest-lga-payouts>

Driver's License Access Article

ICMA Credentialing Notice

I will receive certification from ICMA in September as a Credentialed City Manager.

More information can be found here - <http://icma.org/en/icma/members/credentialing>

ADMINISTRATORS REPORT

September 3, 2013

Following is a brief update on the main projects I have been working on:

South of School Project: The project is moving forward and work should start in early September.

Mulvihill Development: The former Tanner's Grove development site across from the school is looking at getting started with a phase one of six homes to be located off of 72nd Avenue. Staff is reviewing the initial plans now and it will be referred to Planning Commission and Council for final approvals. If approved the developer will pay the same \$15,000 per lot assessment as the South of School project residents which will help lower the City's share of that projects costs.

Road Renaming: The City, County, and Township have met and decided on names for all the roads in the 52 interchange project area. Goodhue County is working on creating a map now and I will share that with the Council when available.

Illegal Access to Driver's License Data Base: The City along with numerous other cities and counties is being named in lawsuits by people alleging that their driver's license data was accessed illegally by law enforcement officials. I have attached a newspaper article in the FYI with more information. At this time we are not sure if it was City staff or staff from one of the other agencies that use our facility that allegedly accessed this information. If we find that it was any of our existing staff proper disciplinary steps will be taken.

Hwy. 19 Project: The portion of the project in town should be wrapping up soon. It has been an inconvenience for citizens and downtown businesses and the City has done all we can to help minimize the impact. The crosswalk at the Park n Ride lot will be bid this winter for construction in the spring. At this time contractors are too busy to even give us bids.

- CSAH 24 Project:** This project continues to move forward with road construction starting soon.
- New Hospital Update:** Construction is on schedule and going well. In addition Dave has been working with Mayo and other interested parties on the reuse/future plans for the current hospital site.
- Economic Development:** Dave and the EDA continue doing a great job in growing our Commercial/Industrial base with more projects in the works at this time. Another annexation is in the works for the area around the west round-about that will be on the second agenda this month. As the interchange comes closer to completion I think we will continue to see more development proposals come forward.
- Sandstone Ridge:** I believe that a solution has been worked out with the County for the City to acquire these properties for development as a commercial/industrial site. I am working with the County Attorney on the details and hope to have a resolution ready for Council approval at the second meeting this month.
- City Finances:** The 2014 Preliminary Budget with a 2% increase is on the regular agenda for approval. As always we continue to invest City funds and gain whatever interest we can on our reserves.
- East Side I Project:** Construction is going well and is on schedule for completion soon.
- Highway 52 Project:** The project is moving forward very quickly and is on schedule. Monthly meetings continue being held to keep everyone involved up to date on the project status.
- Cooperation Efforts:** As always we continue to work with our neighboring Cities, the County, School District, and area businesses to see what can be developed for sharing of services.

The above are brief descriptions of the main projects I have been working on. There have been numerous smaller projects and the everyday activities of City Hall that have been keeping me busy. Please let me know if you would like further information on any of the above projects or if you would like me working on anything else. I always appreciate input and direction from the City Council.

StarTribune

Driver's license snooping gets costly for taxpayers

Article by: ERIC ROPER

Star Tribune

August 18, 2013 - 12:19 PM

Widespread misuse of the state's driver's license database by public employees has spurred an unprecedented wave of litigation against cities and counties across Minnesota, potentially costing taxpayers millions if the lawsuits are successful.

Already about 18 individual suits wading through federal court claim that public employees — mostly in law enforcement — snooped into the sensitive records, while at least another 23 people have alerted governments they intend to sue. More are likely on the way.

"We haven't seen anything like this in the city's history," said St. Paul City Attorney Sara Grewing. The city is named in six lawsuits and 16 notices of claim — an alert that typically precedes a lawsuit — seeking \$3.5 million in damages.

The claims target about 200 governments in all corners of the state, from the Twin Cities to small towns like Slayton. The largest cities and counties would be on the hook for their own damages, while most others are covered under joint insurance plans that would likely grow more expensive.

Attorneys are eagerly anticipating key rulings from federal judges later this year that could determine whether cases move forward and more are filed.

One central question is whether merely viewing someone's driver's license data without an official purpose qualifies as misuse under federal law, which provides for at least \$2,500 in damages per violation. The one known Minnesota ruling on that question so far, issued in June, said it does.

The Driver and Vehicle Services (DVS) database contains historical photographs, addresses and driving records on Minnesotans with a license. It is protected by federal law against misuse, but a [state audit in February](#) found it has been routinely abused by law enforcement personnel.

A Star Tribune survey of major cities and counties and the insurers for smaller government bodies show the total number of inappropriate lookups being claimed now surpasses 8,400. That count excludes a lawsuit seeking class-action status against the state involving a Department of Natural Resources employee who allegedly made about 19,000 lookups.

"This is unprecedented for us, both in terms of magnitude, in terms of number of departments, and, frankly, in terms of the potential financial exposure," said Tom Grundhoefer of the League of Minnesota Cities Insurance Trust, which is representing about 148 cities in DVS suits.

New claims come in daily. Some seek damages of \$10,000 per violation, while some suits seek more than \$1 million



Attorneys from Sapiaientia Law Group — Kenn Fukuda, Larry Fett, Sonia Miller-Van Oort and Mark Zitzewitz. The files on the table are from a case that had more than 750 DVS lookups.

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Larry Fett is an attorney from Sapiaientia Law Group, one of the main law firms driving litigation against local governments.

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altogether. “The single greatest factor driving the cost of these claims is the plaintiff’s attorneys fees, which will only increase as litigation continues,” said Robyn Sykes with the Minnesota Counties Intergovernmental Trust, which is representing 45 counties. Sykes said the expenses could be passed along to governments as higher rates.

The plaintiffs, most of them women, include former police officers, TV news personalities and ex-partners of public employees. Many requested audits of their driver’s license files and were shocked to find hundreds of lookups, despite few if any run-ins with the law. More than 650 people have asked for audits of their files, according to the Department of Public Safety.

The rash of litigation began in 2012 with former cop Anne Marie Rasmusson, who eventually [won more than \\$1 million in settlements](#) — plus reforms to the database — in an ongoing case. Her law firm, Sapiaientia Law Group, said last week it is now handling upward of 30 DVS matters.

One Sapiaientia attorney, Larry Fett, said he was surprised that few employees were disciplined in the wake of the Rasmusson case and hopes that civil damages will act as a deterrent. He asserted that officers are already wasting taxpayer dollars by spending public time misusing the database. “We want to change that.”

What is a violation?

The civil complaints follow a similar script, alleging that employees violated the [Driver’s Privacy Protect Act \(DPPA\)](#), a federal law passed in 1994 after an actress was murdered by a stalker who located her using driver records. The law outlines permissible uses of the data and says users cannot “knowingly ... obtain or disclose personal information, from a motor vehicle record” without a permitted use.

Government defendants argue that merely viewing the data without a permitted purpose does not violate the act, and that plaintiffs should have to prove they were injured. Finding otherwise would subject Minnesota governments to “potentially overwhelming financial exposure” and have a chilling effect on normal use of the database in law enforcement work, attorneys wrote in a recent case involving a former police union attorney.

A federal judge recently weighed in in an ongoing suit involving a man who says the Onamia police chief accessed his DVS data inappropriately and provided it to a third party who harassed him. Harassment or not, “a person may still violate the DPPA if he retrieves motor vehicle records and does not misuse the information; simply retrieving records without a permitted purpose is a violation,” Judge Ann Montgomery wrote in an order denying a motion to dismiss.

The Onamia ruling could offer a preview of other DVS cases. “It’s the first that I’m aware of that a federal judge in Minnesota has had to actually issue a substantive decision in a [DVS] case against a law enforcement officer,” said Brandon McDonough, the plaintiff’s attorney. The league countered that the ruling is unique to that case and “we don’t learn much from it that will impact any other cases.”

‘Proving a negative’

Even if the plaintiffs’ legal arguments are upheld, proving whether DVS queries from years ago were not police work could be a herculean task.

“It becomes very burdensome to try to ... be proving a negative on something that happened a long time ago that may not be easy to prove either way,” said Duluth City Attorney Gunnar Johnson.

Attorneys at Sapiaientia say they’ve done all they can to eliminate legitimate lookups, such as only including lookups of a name — rather than license plate. “Beyond that, though, it’s the state ... or individual officers who ... have the information of whether or not it was looked up for a permissible purpose,” said Sapiaientia attorney Mark Zitzewitz. “That’s why the burden is on them.”

Other questions involve how lookups should be counted and whether older incidents qualify under the statute of limitations. Government attorneys say the suits have so far taken the most expansive view.

“We’re asking ourselves, ‘\$2,500 per lookup, plus attorneys fees, is that really what Congress intended when it set out to

protect people's very legitimate privacy interests?' " Grewing said. "I think we want to clarify what 'lookup' means."

What appears likely is that the issue will be playing out for some time.

"It's the tip of the iceberg," Johnson said. "If there's some money to be made here, it's going to dredge up a lot of claims."

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ARTICLE

Members Recommended to Receive Credential in September

August 8, 2013

The [ICMA Credentialed Manager \(ICMA-CM\) designation](#) has become widely respected, frequently requested in recruitment of positions, and cited in positive media coverage of public stewardship.

Congratulations to the following members, who have been recommended by the ICMA Credentialing Advisory Board to receive ICMA Credentialed Manager or Candidate status on September 20, 2013.

ICMA Credentialed Managers are professional local government managers qualified by a combination of education and experience, adherence to high standards of integrity, and an assessed commitment to lifelong learning and professional development. Objections must be filed in writing to the ICMA executive director at credentialing@icma.org and received by September 10, 2013.

ICMA Credentialed Managers

Angela Dawson Christian, Onslow County, NC

Michael W. Doss, Buckhannon, WV

E. Jay Ellington, VA

Charles S. Funderburk, Tega Cay, SC

Riccardo F. Ginex, Brookfield, IL

Robert D. Hill, Centralia, WA

Kevin Hugman, Wichita Falls, TX

Timothy M. Hults, San Jacinto, CA

Cynthia D. Johnson, Richland, WA

Shawn Kessel, Dickinson, ND



Linda K. Kutchenriter, Omro, WI

Robert E. Lee, Plainville, CT

Daniel Adam Miles, Hewitt, TX

Michael J. Mornson, Hopkins, MN

Benjamin I. Myers, Madison Heights, MI

John B. Nagel, Whitpain Township, PA

Aaron S. Reeves, Cannon Falls, MN

Rebecca Rhodes, Cayce, SC

Curtis A. Schrader, Jal, NM

Andrea Surratt, Hickory, NC

James T. Wickman III, Hartland Township, MI

Rodger S. Worthen, South Weber, UT

Judith Ann Zimomra, Sanibel, FL

ICMA Credentialed Manager Candidates

Julia A. Cedillo, La Grange Park, IL

Amanda DeGan, Westlake, TX

Shelly Enderud, Post Falls, ID

Eric J. Palm, River Forest, IL

David Shawn Purvis, Clinton, NC

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