



## Office of the City Attorney

### ASSISTANT CITY ATTORNEYS

Michael P. May, City Attorney

Room 401  
210 Martin Luther King, Jr. Boulevard  
Madison, Wisconsin 53703-3345  
(Phone) 608-266-4511  
(TTY/Textnet) 866-704-2340  
(Fax) 608-267-8715  
[attorney@cityofmadison.com](mailto:attorney@cityofmadison.com)

Roger A. Allen  
Steven C. Brist  
Carolyn S. Hogg  
Lana J. Mades  
Lara M. Mainella  
Katherine C. Noonan  
Maureen S. O'Brien

Marci A. Paulsen  
Adriana M. Peguero  
Jaime L. Staffaroni  
John W. Strange  
Doran E. Viste  
Anne P. Zellhoefer  
Jennifer A. Zilavy

LITIGATION ASSISTANT  
Patricia Gehler

July 30, 2010

Bill Lueders, Editor  
Isthmus Publishing Company  
101 King Street  
Madison WI 53703

RE: Records Request Regarding "Personal" Emails

Dear Mr. Lueders:

I am writing in response to your public records request, originally sent to me via email on July 23, 2010, and subsequently modified in our conversations.

You originally requested all of the emails that I sent or received for a full week. In our conversations, you agreed to restrict it to a single day, July 16, 2010. You also indicated that you were not interested in seeing any of the emails except those that I might deem to be "personal" emails and potentially exempt from disclosure under the recent Supreme Court ruling in *Schill v. Wisconsin Rapids School District*, 2010 WI 86 (issued July 16, 2010). As for the balance, you simply wanted a count as to the number.

Your request arose out of our joint appearance on a program taped at Wisconsin Eye regarding the *Schill* decision, and you chose the date of July 16 because it was the date the decision was released. You were primarily interested in what percentage of emails might be deemed "personal" under that decision and what my response would be to a request to see those emails.

Because you so graciously limited the nature of your request, my response is relatively simplified. I am not certain if July 16, 2010, was a typical day – my recollection is that it was one of those summer days with some staff away on vacation. Nonetheless, I can tell you that by my best count I either sent or received 84 emails on July 16. I would estimate that 60 or more of those emails, if you actually requested to see them, would be protected by attorney-client privilege and I would either decline to release them, or at least they would be heavily redacted.

Of the remaining 24 or so emails, I identified 5 that might qualify as being "personal" emails and thus possibly subject to the nondisclosure or exemption provided in the *Schill* case. These were all emails that I received; I sent no personal emails that day. I will describe each of those below and give you my response to your request.

I should tell you that my test in determining whether something is "personal" is whether it is an email that, in whole or in part, has no relationship to my role and duties as City Attorney. Very few of my emails meet this test.

1. Rotary Club Newsletter

I am a member of the downtown Rotary Club. I use my City email account to receive their announcements.

I consider my membership in Rotary to be in some ways related to my official duties and in some ways entirely personal. I believe it is important for City officials to be engaged in groups like Rotary, and the Rotary meetings are often televised. Although a private club, many members of the public attend Rotary as guests of Rotary members. Some important public presentations, such as the Mayor's annual State of the City speech, take place at Rotary. On the other hand, Rotary is a private club, the City does not pay for any of my costs for Rotary, and some of the time I spend attending Rotary meetings has no relation to my duties as City Attorney.

On Friday, July 16, I received a weekly electronic newsletter from Rotary Club. While I think some argument could be made that this is a "personal" email, on balance I think it is enough related to my duties and the Rotary Club has significant enough public and community involvement, such that I would release the email in its entirety. A copy of that email is enclosed.

2. Emails 2 and 3: Rotary Button Box

I also received two emails related to the Rotary "Button Box." This is a task that Rotary members take on to hand out name buttons as members arrive. When a member has a conflict, they will contact other members who have agreed to do this to get a replacement. On July 16, I received both an email looking for a replacement and a copy of a response accepting that replacement.

I consider this to have some of the same mix of public-personal combination as the Rotary newsletter, with one exception. I would not include in the document released the names and email addresses of all the Rotary members who have volunteered for button box duties and whose email addresses appear on the emails I received. Thus, you will see only the names of the person sending and the person responding to the emails. I include a copy of these redacted emails, copied as one document.

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I am deleting those other names not only because I believe there is no public interest in obtaining the names and email addresses of all those other members, and a strong public interest in not releasing them to protect the privacy of those involved, but also because I believe that this function of Rotary is much less related to my public duties than the Rotary newsletter.

3. Email 4: Viagra Ad

I received a spam asking me to purchase the wonder drug Viagra. I found this unusual, because the City's spam filter is usually quite efficient at stopping this type of advertisement. However, on July 16, one of them slipped through.

This email has no relation to my official duties. As such this email – and other spam unrelated to my duties – likely qualifies as purely personal and need not be produced under the *Schill* ruling. Just for fun, I am giving you a copy anyway – so long as I do not see an Isthmus headline "City Attorney Declines Viagra Offer!"

4. Email 5: Social Invitation from Chief of Staff Piraino

The fifth email is an invitation to a social function from Janet Piraino, the Mayor's Chief of Staff. Ms. Piraino was actually supposed to be on vacation that day, but ended up putting in several hours of work.

Her email was a social invitation for cocktails after work. I think that in normal circumstances, I would probably consider this totally personal and would not release it. However, after consulting with Ms. Piraino, we determined that we would provide it anyway, so you do not speculate on what it said. I have redacted from the email her personal cell phone number and the proposed location of the cocktails, because I believe there is no public interest in providing that information and a strong public interest in protecting her privacy on those matters.

Unfortunately, I was unable to respond positively to Ms. Piraino's invitation, and later found out that nobody was able to partake of Friday happy hour.

Nor did I respond to any of the other emails provided to you with this letter, which may be fortunate or unfortunate with respect to email number 4.

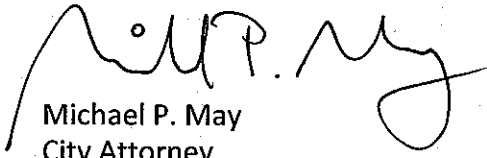
I have reached the above conclusions after weighing the reasons for nondisclosure against the public interest in disclosure. Pursuant to Sec. 19.35(4)(b) Wis. Stats., I advise you that this determination not to disclose certain portions of the requested emails may be subject to review by Mandamus under Sec. 19.37(1) Wis. Stats., or upon application to the Wisconsin Attorney General or the Dane County District Attorney.

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Then again, if a court determined that these truly are personal emails, my decisions may not be subject to review under the *Schill* case.

Sincerely,

A handwritten signature in black ink, appearing to read "M.P. May", with a stylized flourish at the end.

Michael P. May  
City Attorney

Enclosures

cc: Janet Piraino

## May, Michael

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**From:** Rotary Club of Madison [office@rotarymadison.org]  
**Sent:** Friday, July 16, 2010 8:34 AM  
**To:** May, Michael  
**Subject:** Rotary New for July 16, 2010

### Good Morning!

Our July 21 meeting will be held at Inn on the Park. Guest Speaker Laura Heisler will join us, and the title of her presentation is:  
***The Town Center at the Wisconsin Institutes for Discovery: A Place to Explore, Engage and Discover***

### Something New!

President Juli Aulik has launched a president's blog for our Rotary Club. To read it, please visit:  
<http://president.rotarymadison.org>

Note: You have the option to subscribe to this blog by email or RSS feed, and you should do that if you would like to automatically receive posts versus having to manually visit the blog.

Click on the following link to read this week's newsletter:  
[Rotary News for July 16, 2010](#)

### Rotary News Highlights:

- **Welcome New Members!** Sam Adams, Jennette Bradley, Tim Conroy, Brian Donley, Paul Karch, Dave Martin and Mike Telzrow joined our club this week. Please make them feel welcome when you sit next to them at a coming Rotary meeting.
- **Welcome Back Chad Koplien!** Chad returns to Rotary after 4 months of active duty in the Army for Judge Advocate training.
- **Service Club Olympics on July 26 & 27.** Tickets are still available for the picnic-style banquet on July 27 at 5:30pm. Cost is \$6 for pre-paid members and \$20 other members and guests. Note that attendance in any sporting event and/or the dinner counts as meeting attendance for the week. If you choose not to attend this event, please plan a make-up.



**CALLING ALL GOLFERS AND BASKETBALL PLAYERS!** We still need one club member to play golf in the Service Club Olympics to post a full roster –Tuesday, July 27, 7:30AM at The Bridges Golf Course for 18 holes of golf. We also need one basketball player for 3V3 basketball, July 27, 1:30PM at Keva Sports Center. Let's go out there and support our Madison Downtown Rotary and have fun!!! I AM SO EXCITED!  
-- John Bonsett-Veal

### Upcoming Rotary Meetings

*Tentative listing, subject to change -- continue checking this listing weekly for updates:*

- |                |  |
|----------------|--|
| • July 26 & 27 | Annual Service Club Olympics Event at Keva Sports Center. No meeting on July 28 at Inn on the Park. Make-Up required if not attending. |
| • August 4     | Sr. Joanne Kollasch & Neal Smith; <i>Holy Wisdom Monastery; 50 Years of Care for the Earth</i>   |
| • August 11    | UW-Madison Football Coach Bret Bielema   |
| • August 18    | Martha Selzer; <i>Update from Waisman Center</i>   |

*Enjoy your weekend! Jayne*

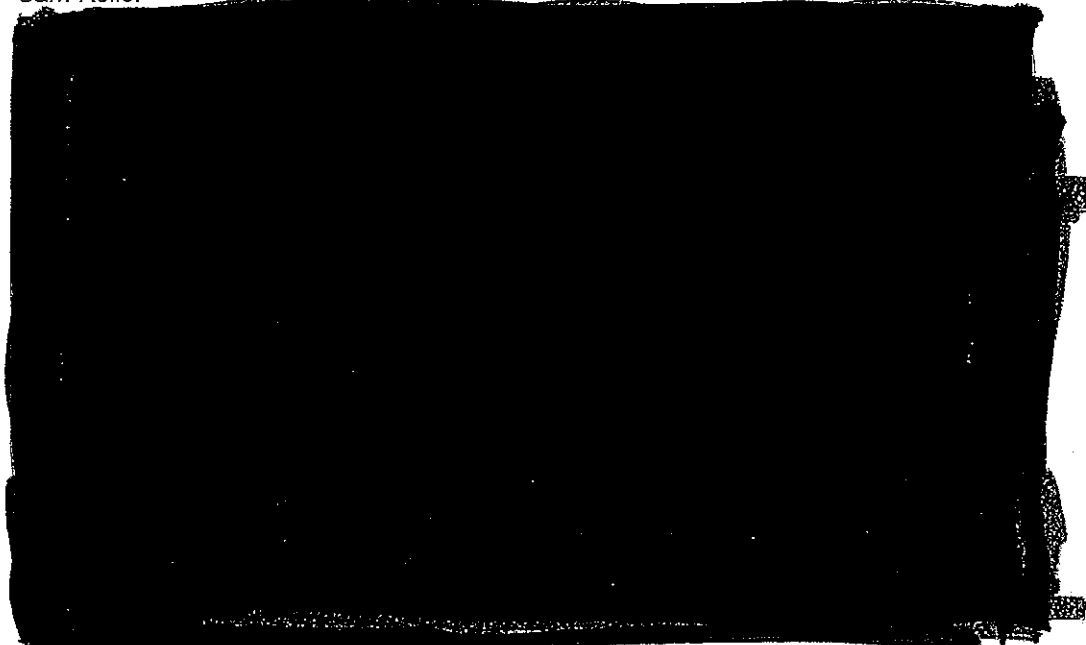
Jayne E. Coster  
Executive Assistant  
Rotary Club of Madison

22 N. Carroll St. Ste. 202  
Madison, WI 53703  
Phone: 608.255.9164  
Fax: 608.255.9007  
Email: [office@rotarymadison.org](mailto:office@rotarymadison.org)  
[www.rotarymadison.org](http://www.rotarymadison.org)

May, Michael

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From: Peggy Robbins [probbins@flad.com]  
Sent: Friday, July 16, 2010 4:03 PM  
To: Sam Keller  
Cc:



Subject: Re: Button box duty switch?

Sam - I can do it.  
Peggy

Peggy Robbins  
Principal  
608 232-1280  
Flad Architects

644 Science Drive  
Madison, WI 53711  
P 608 238-2661  
F 608 238-6727  
flad.com

On 7/16/2010 3:59 PM, Sam Keller wrote:  
Hello to fellow Button Box volunteers:

I have had a family matter develop that will prevent me from my button box duties on August 18. So, I am looking for someone who would be willing to switch with me either just that day or trade some future month in total. Any volunteers?

Thanks in advance -

Best regards,

Sam Keller  
TEC 62 Chairman  
Phone: 608-877-1176  
Cell: 608-358-5155  
Fax: 608-877-1193  
e-mail: [jsamkeller@hughes.net](mailto:jsamkeller@hughes.net)

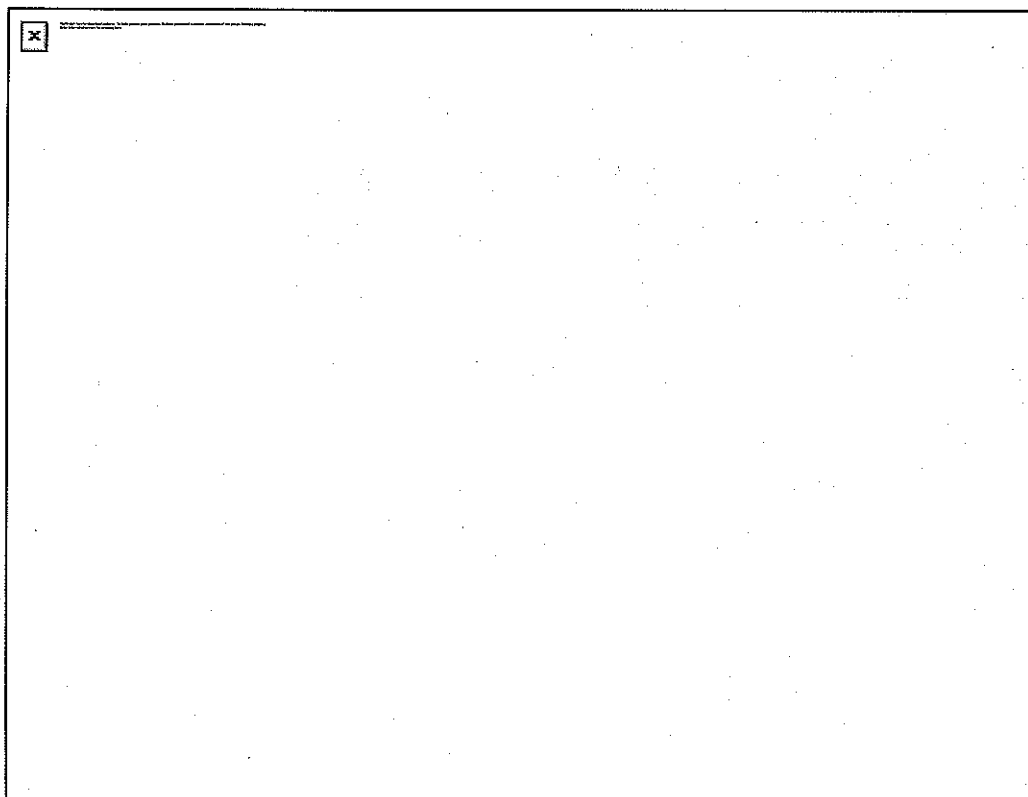
TEC is dedicated to increasing the effectiveness and enhancing the lives of CEO's

**May, Michael**

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**From:** Cheap+Original+Viagra [auatukuuvi9767@evergreen.edu]  
**Sent:** Friday, July 16, 2010 5:51 PM  
**To:** May, Michael  
**Subject:** mmay, order on -70% today. narrow a our it

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**May, Michael**

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**From:** Piraino, Janet  
**Sent:** Friday, July 16, 2010 1:21 PM  
**To:** Strauch-Nelson, Rachel; Klein, Chris; May, Michael; Statz, Andrew; Mendoza, Mario  
**Subject:** Cocktails?

Anybody up for a cocktail after work to celebrate surviving the week from hell? (we're not leaving till tomorrow) I'll buy the first round at [REDACTED] if anyone's interested. Call or text me at [REDACTED] if there are any takers, as I'm now off to the pool and won't checking email.

J.