

STATE OF MINNESOTA
COUNTY OF RICEDISTRICT COURT
CIVIL DIVISION
THIRD JUDICIAL DISTRICT

David L. Ludescher,

Case Type: Other/Civil
Court File No.: 66-CV-23-2091

Plaintiff,

v.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER TO DISMISS**Rhonda Pownell, individually, and as
Mayor of the City of Northfield,

and

Lynette Peterson, individually, and as
City Clerk of the City of Northfield,

Defendants.

The above-entitled matter came on for a motion hearing before the Honorable Karie M. Anderson, Judge of District Court, on November 22, 2023, at the Rice County District Court. Plaintiff David L. Ludescher appeared pro se as a self-represented litigant. Defendants Rhonda Pownell and Lynette Peterson, City Officials of the City of Northfield, appeared through legal counsel, Mr. Robert T. Scott, Esq., Flaherty & Hood, P.A.

FINDINGS OF FACT

1. During the November 15, 2022, meeting of the Northfield City Council, the consent agenda included consideration of a proposed Ordinance (“Ordinance 1048”) to amend Section 4.5 of the Northfield City Charter. As required by Sec. 4.7 of the Northfield City Charter, this was the second reading of the proposed Ordinance prior to final passage. Consent Agenda items are approved by one motion unless a Council member requests separate action.¹
2. On September 1, 2023, Plaintiff filed a Summons and Complaint with the Court establishing the instant case. The Complaint alleges that Defendant Pownell and at least two other City Council members did not cast affirmative votes for the consent agenda at the November 15, 2022, Northfield City Council meeting in that they did not vote at all. Therefore, Plaintiff argues, counter to Defendant Peterson’s recording of a unanimous affirmative vote that the

¹ Northfield City Council Meeting Agenda (November 15, 2022), Agenda PDF accessible at <https://northfield.legistar.com/Calendar.aspx>.

measure was passed, Ordinance 1048 could not have passed and did not pass.

3. Meetings of the Northfield City Council are recorded and archived for viewing by the public on the City of Northfield's website. Plaintiff bases his allegation that Defendant Pownell did not cast an affirmative vote, or any vote at all, on his viewing of the video and audio recording of the meeting posted on the City of Northfield's website. Plaintiff further indicates that he brought his concerns to the attention of Defendant Pownell and Defendant Peterson, asking each of them to change the official record to indicate "Present – Not Voting" with regard to Defendant Pownell. Plaintiff's Complaint states that neither of the Defendants have complied with his request.
4. Plaintiff's Complaint requests: (1) a Writ of Mandamus ordering that Defendant Peterson make the requested correction to the official voting record of the November 15, 2022 meeting; (2) a Declaratory Judgment that Ordinance 1048 did not pass; (3) a Writ of Mandamus that Defendant Peterson change the official record to reflect that Ordinance 1048 did not pass; (4) for such other and further relief as the Court deems just and equitable including an award of attorney's fees personally against Defendant Rhonda Pownell and Defendant Lynette Peterson; (5) if appropriate, an order for an award under Minn. Stat. § 549.211; (6) appropriate sanctions for Attorney Hood in the event that he provided advice to either Rhonda Pownell or Lynette Peterson stating or implying that they were permitted to record a vote other than the actual vote.
5. At issue here is Defendants' Amended Notice of Motion and Motion to Dismiss filed with the Court on September 18, 2023. Defendants request dismissal with prejudice of all claims outlined in the Complaint based on an argument that, as a threshold matter, Plaintiff lacks standing to bring this suit and as such the Court does not have jurisdiction to hear the matter under Minn. R. Civ. P. 12.02(a).

Based upon the arguments of counsel, the records, files, proceedings herein this Court being fully advised makes the following:

CONCLUSIONS OF LAW

1. "Standing is the requirement that a party has a sufficient stake in a justiciable controversy to seek relief from a court." *Rukavina v. Pawlenty*, 684 N.W.2d 525, 531 (Minn. Ct. App. 2004) (quoting *State by Humphrey v. Philip Morris Inc.*, 551 N.W.2d 490, 493 (Minn. 1996)). "A sufficient stake may exist if the party has suffered an injury-in-fact or if the legislature has conferred standing by statute." *Olson v. State*, 742 N.W.2d 681, 684 (Minn. Ct. App. 2007) (internal quotations omitted). "Persons who wish to bring suit on a matter of public interest must demonstrate either (1) damages distinct from the public's injury, or (2) express statutory

authority.” *Stansell v. City of Northfield*, 618 N.W.2d 814, 818 (quoting *Conant v. Robins, Kaplan, Miller & Ciresi, L.L.P.*, 603 N.W.2d 143, 146 (Minn. Ct. App. 1999)), review denied (Minn. Mar. 14, 2000). In *Stansell*, the court noted “[a]lthough the Northfield residents’ complaint alleges that they are ‘individuals . . . who have been injured by and have standing to challenge illegal actions by the Northfield City Council,’ they do not allege that they have suffered any specific injuries as the result of the city council’s actions. Instead, they seem to be litigating a matter of public interest . . . [t]he Northfield residents have alleged no distinct damages. As a result, absent statutory authority to sue, they would lack standing.” *Id.* at 818.

2. In his responsive brief of November 7, 2023, Plaintiff explains that his suit does not challenge the substance of Ordinance 1048. Plaintiff’s Br. at 3, n. 3 (“Plaintiff is not alleging that Ordinance was defective in form or substance.”); *Id.* at 6 (“The substance of the Ordinance is not at issue.”) Plaintiff indicates that his “request for relief in this case is centered around a request for declaratory relief” and cites to the Uniform Declaratory Judgments Act to refute Defendant’s argument that he lacks standing to bring suit. Plaintiff points to Minn. Stat. § 555.02, which states: “Any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.” Plaintiff goes on to state: “[t]his action is, in reality, for the benefit of the people and ‘the City.’ It goes to the very heart of government, namely, whether or not the Mayor and City Clerk have the power to interpret votes.” Plaintiff’s Br. at 5.
3. Irrespective of whether Plaintiff’s challenge is to the substance of the Ordinance or the manner in which the vote was taken, Minnesota law makes clear that, absent express statutory authority, a plaintiff must articulate specific damages or an injury that he or she has suffered as a result of the action in question in order to have standing to bring suit in a matter of public interest. *Id.* at 818. Plaintiff has failed to identify specific damages or injury suffered. Furthermore, nothing Plaintiff has cited from Chapter 555 provides him with the express statutory authority necessary to bypass the requirement for an articulation of specific injury or damages to establish standing.
4. Dismissal under Rule 12.012(a) is proper if a party has failed to establish standing to seek relief from the Court. “When a party does not have standing, a court does not have jurisdiction to hear the matter.” *Citizens for a Balanced City v. Plymouth Congregational Church*, 672 N.W.2d 13, 18 (Minn. Ct. App. 2003). Accordingly, this Court finds no jurisdiction to hear the instant matter and, as such, dismissal of the matter is appropriate.

Based on the foregoing, this Court makes the following:

ORDER

1. Defendants' Motion to Dismiss is **GRANTED**.
2. Plaintiff's Complaint is **DISMISSED WITH PREJUDICE**.
3. Defendant is entitled to costs, disbursements, and fees.

BY THE COURT:

Anderson, Karie

2024.02.11

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**The Honorable Karie M. Anderson
Rice County District Court**

DATE: February 11, 2024.

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