



Adam Whitaker <adam@wakepublishing.com>

Re: Your notice of active data breach

1 message

Adam Whitaker <adam@wakepublishing.com>

Mon, Jan 19, 2026 at 4:40 PM

To: Laurie Hohe <Laurie.Hohe@apexnc.org>

Cc: Randy Vosburg <Randy.Vosburg@apexnc.org>, jacques.gilbert@apexnc.org

Dear Ms. Hohe,

Thank you for your letter of January 16, 2026, responding to my report of exposed personal information. I am writing to respectfully disagree with your legal analysis and to seek clarification on several points.

I. Your Statutory Interpretation Appears Incorrect

Your letter asserts that the exposed information does not constitute 'personal information' under North Carolina law because it does not fall within the definition in N.C.G.S. § 14-113.20.

However, this analysis is incomplete.

N.C.G.S. § 75-61(10) defines 'personal information' for purposes of the breach notification statute as:

'A person's first name or first initial and last name in combination with identifying information as defined in G.S. 14-113.20(b).'

N.C.G.S. § 14-113.20(b)(8) defines identifying information to include:

'Electronic identification numbers, electronic mail names or addresses, Internet account numbers, or Internet identification names.'

The PDF file exposed in the public GitHub repository contained users' first names, last names, and email addresses. Under the plain language of these statutes read together, this combination constitutes 'personal information.'

Your letter appears to read § 14-113.20(b) in isolation rather than as incorporated by reference into the definition in § 75-61(10). The combination test in § 75-61(10) is controlling for purposes of the breach notification statute.

II. The 'Public Records' Exclusion Does Not Apply

Your letter argues that the information is public record and therefore excluded from the definition of personal information. The exclusion in § 75-61(10) applies to:

'[I]nformation made lawfully available to the general public from federal, state, or local government records.'

This exclusion does not apply here for several reasons:

First, the information was not 'made lawfully available' through any government records process. It was exposed through an unsecured public GitHub repository and unprotected API endpoints. There is a significant legal distinction between information that could be obtained through a formal public records request and information that was negligently exposed.

Second, your own letter characterizes my access as 'apparent unauthorized access.' If the information was truly public record 'available to anyone,' how could access be 'unauthorized'? This internal contradiction undermines the public records defense.

Third, the other exclusion in § 75-61(10) - for information an individual 'voluntarily consented to have publicly disseminated' - cannot apply where there was no privacy policy, no consent mechanism, and no notification that user data would become public record.

Fourth, your comparison to "personal property records and voting records" is inapt. Property records are public by long-established statutory design, and individuals are on notice when purchasing property that the transaction becomes public record. Voting records reveal that someone voted, but crucially, not how they voted - the ballot itself is secret precisely

because we recognize that people's political opinions deserve protection. Mayor Pro Tem Mahaffey's survey, by contrast, exposed residents' names, email addresses, and their specific opinions on budget priorities - with no notice that this information would become public. If anything, the comparison to voting records underscores why this data should have been protected, not why its exposure is acceptable.

III. The Town's Position Is Internally Contradictory

The Town's response contains several contradictions:

- You assert the data is 'public record available to anyone,' yet you characterize my access as 'apparent unauthorized access'
- You assert there was no breach, yet the Town took remedial action (taking the application offline, making the GitHub repository private)
- You assert no changes were needed, yet your letter states you will address 'potential adjustments in controls' with Mayor Pro Tem Mahaffey
- Mayor Pro Tem Mahaffey described this as his 'independent effort,' yet you characterize it as official Town business subject to public records law

These positions cannot all be true simultaneously.

IV. Questions Requiring Clarification

I respectfully request written answers to the following questions:

1. What specific factual statements in my reporting do you contend are incorrect? Your letter asks me to issue a 'correction' but does not identify any factual error.
2. If the survey data was always properly public, why was the GitHub repository changed from public to private after my report?
3. If the survey data was always properly public, why was the application taken offline immediately after my notice?
4. If no adjustments were needed, why did you state you would address 'potential adjustments in controls' with Mayor Pro Tem Mahaffey?
5. On what basis do you characterize my access as 'apparent unauthorized access' if the data was public record akin to voting records and property records?
6. Does the Town authorize or condone Mayor Pro Tem Mahaffey's public statements that my reporting is 'misinformation' and 'a stunt by the Wake GOP'?
7. Did the Town authorize Mayor Pro Tem Mahaffey to publicly share your correspondence with me, including my personal information?
8. Does the Town have evidence of any connection between me and the Wake County Republican Party?
9. Mayor Pro Tem Mahaffey promoted this survey on his personal page which contains a pinned disclaimer stating it is a "personal page operated solely by me" that "is not owned or operated by the Town." His web tool was hosted on his server, in his personal Github, from his personal domain name, with his personal branding, without any Town branding and without any privacy policy. How were users supposed to know they were submitting information to become public record?

V. Questions Regarding the \$15,000 Investigation

Mayor Pro Tem Mahaffey has publicly stated that the Town spent approximately \$15,000 on an outside investigation of this matter. I have several questions:

1. What firm conducted this investigation, and what was the scope of their inquiry?
2. Did the investigation examine whether the exposed data constitutes "personal information" under N.C.G.S. § 75-61(10)?

3. Did the investigation make any findings regarding my political affiliations or motivations?
4. Did the investigation conclude that this was "a stunt by the Wake GOP," as Mayor Pro Tem Mahaffey has publicly claimed?
5. If Mayor Pro Tem Mahaffey's survey was his "independent effort" (as he publicly stated), why were public funds used to investigate or defend it?
6. How was this expenditure authorized, and from which budget line item?
7. Will the Town be releasing the complete investigation report to the public?

Mayor Pro Tem Mahaffey cited this investigation while making claims about Wake GOP involvement. If the investigation supports that claim, I would like to see the evidence. If it does not, then he has misrepresented a taxpayer-funded investigation to defame a private citizen.

VI. Defamatory Statements

I must put the Town on notice that Mayor Pro Tem Mahaffey has made public statements that are demonstrably false:

- He publicly stated my reporting is 'a stunt by the Wake GOP'
- He publicly characterized me as a 'political actor'
- He accompanied these statements with my personal information from Town correspondence

I have no affiliation whatsoever with the Wake County Republican Party or any political organization. These false statements, made publicly by an elected official about a journalist's reporting on government conduct, raise serious concerns.

Please confirm whether the Town stands behind these statements or whether they were made solely in Mayor Pro Tem Mahaffey's personal capacity.

VII. Public Safety Implications

I must also note that Mayor Pro Tem Mahaffey's false statements carry implications beyond reputational harm.

By publicly labeling me a "political actor" engaged in a "stunt by the Wake GOP" - with my name and contact information attached - he has potentially endangered my safety. This is not hyperbole.

According to data from the University of Maryland, the first half of 2025 saw 150 politically motivated attacks in the United States, nearly double the rate of the same period in 2024. The Center for Strategic and International Studies reports that political violence is at its highest level since the 1970s. Eighty-five percent of Americans, across party lines, believe political violence is increasing.

In this environment, an elected official falsely branding a private citizen as a partisan political operative - and publishing that citizen's contact information alongside the accusation - constitutes reckless conduct with potentially serious consequences.

I ask the Town to consider whether it wishes to be associated with, or seen as endorsing, statements that may have put a resident at risk.

VIII. Preservation of Evidence

Please ensure that the Town and Mayor Pro Tem Mahaffey preserve all documents and communications related to this matter, including but not limited to: the survey application and its data, all versions of the GitHub repository, all communications about the survey or my complaint, and the complete investigation report.

I also want to make you aware that I have notified the Wake County Republican Party that their organization has been falsely invoked in Mayor Pro Tem Mahaffey's reckless public statements. I have also filed a complaint with the North Carolina Attorney General's Office regarding the data exposure and the Town's statutory interpretation, as well as a complaint with the ACLU regarding the First Amendment violation of the Town hiding my comment on its Facebook page.

I remain committed to accurate reporting on matters of public concern in the Apex community. I would welcome the opportunity to discuss these issues further and to correct any specific factual errors you can identify in my reporting.

IX. Demand for Immediate Town Statement

I want to be extremely direct and clear about something that requires urgent attention.

Your letter establishes that Mayor Pro Tem Mahaffey's survey - conducted on his personal domain and promoted through his personal social media - constitutes official Town business, which is why you claim the data is public record.

By that same logic, Mayor Pro Tem Mahaffey's public statements defending the survey and attacking me - made on those same personal platforms - were also made in his official capacity as a Town official.

His statement that my reporting is "a stunt by the Wake GOP" was posted on Facebook in direct reference to the survey you have deemed Town business. He cannot be acting as the Town when collecting data but as a private citizen when defaming residents who report problems with that data collection.

The Town has two options:

1. Acknowledge that his statements were made in his official capacity and take responsibility for them - including issuing an immediate correction and apology, or
2. Publicly disavow his statements and make clear that his false claims about Wake GOP involvement do not represent the Town's position

Silence is not acceptable. Every hour that passes without a Town statement is an hour that a dangerous lie - told by someone you have established speaks for the Town with significant power and influence - continues to spread.

Given the climate of political violence I have described, I urge you to treat this with the urgency it deserves. You need to address this now.

Adam Whitaker | Publisher

The Peak Weekly

www.ThePeakWeekly.com

On Fri, Jan 16, 2026 at 3:08 PM Laurie Hohe <Laurie.Hohe@apexnc.org> wrote:

Mr. Whitaker,
Please see attached correspondence.
Regards,



Laurie Hohe
Town Attorney
Town of Apex, NC
(919) 249-3376

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