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News Council denies all five MnDOT complaints against Star Tribune; state agency alleged imbalance, sensationalism in story on challenges to road - contract award process

Five complaints by the Minnesota Department of Transportation (MnDOT) against the Star Tribune for a March 15, 2002 story on official challenges to the state agency's road-contract award proceeds were denied today by the Minnesota News Council.

The story focused on criticism by a few Department of Administration officials of contract awards, without competitive bidding, for work on the intersection at Hwys. 55 and 62, associated with the development of light-rail transit.

MnDOT contended that the page one headline—"MnDOT contracts called illegal" and the story unfairly implied a widespread pattern of wrong doing. MnDOT also complained that the story did not supply facts to back up charges by Department of Administration officials that MnDOT was not following the law awarding contracts, and that the story did not report the findings of an independent audit that as MnDOT saw it, the agency had committed no legal or ethical violations.

MnDOT Commissioner Elwyn Tinklenberg, speaking at the News Council public hearing in the Roseville Public library, criticized the Star Tribune's reliance on "a few Department of Administration employees with a clearly vested interest" in protection of their power to exercise control over MnDOT contract awards. The State Legislature has gone back and forth in recent sessions on whether to continue the Department of Administration's oversight of MnDOT contract decisions.

Chris Ison, Star Tribune pro-

jects editor, said the newspaper disagreed with MnDOT's interpretation of the independent audit conducted by a law firm hired by the Department of Administration and paid for equally by Administration and MnDOT.

When MnDOT's Tinklenberg cited the audits conclusion that the agency was in the clear, Ison said, he left out the opening phrase that said "generally speaking." MnDOT's activities were above board. Ison said the audit went on to cite allegations that needed investigation of serious problems in the awarding of contracts.

"If that audit was about me," Ison said, "I would not be holding it out as something to be proud of."

MnDOT said quotes from Administration officials were inflammatory and not backed up by facts, especially one from Kent Allin, who was fired by Administration Commissioner David Fisher for saying, in a departmental e-mail: "The culture of MnDOT is to act the bully, throw one's weight around, villainizing anybody who stands in your way and not worry about wasting tax dollars."

Tinklenberg quoted former Star Tribune Editor Tim McGuire, who said on an ABC network television program about media standards, "...you've got to have sources that don't have a vested interest in the case."

Ison said Allin and an Administration colleague were not "ne'er-dowells . . . who grabbed us on the corner, and whispered in our ear their job

was to review MnDOT contracts. We reported on Public documents that any member of the public could have gone and read for themselves. A lot of media people call a day before publication and ask the subject at an investigative story for comment. We did not do that. We went to MnDOT early and repeatedly and got the response to allegations, and were careful to label them allegations."

Tinklenberg insisted that the Star Tribune story emphasized the wrong thing: instead of focusing on a dispute between state agencies over standards for awarding contracts, he said, the story harped on illegal acts that he said never occurred. When Pioneer Press Editor Vicki Gowler asked Tinklenberg to set aside the interdepartmental dispute and address the audit's reference to problems within MnDOT, he did not respond directly, but kept his focus on the dispute between MnDOT and Administration.

Gowler supported MnDOT's challenge to the Star Tribune headline: "The Pioneer Press talks a lot about putting both sides in the headline and the sub-headline. I would have done it differently (from the Star Tribune)." MnDOT's view did not appear in a headline until the continuation of the story on an inside page.

Many News Council members said they felt that readers were quite able to sort out the various contentions in the story. Tony Carideo, a former Star Tribune staff writer now in public relations, said an attorney who represented a public inter-

est group once "gave me a civics lesson on the concept of "capturing the system." Carideo said the Star Tribune story captured the system of MnDOT when it reported that Tinklenberg said he regarded general contractors as MnDOT's "customers."

"My immediate action was. "Wrong," Carideo said. "The state's customers are taxpayers and citizens. The oversight responsibility of the media for an agency spending so much money and dealing with public safety is the overriding factor in my thinking when I look at this story."

Tinklenberg said MnDOT and general contractors were seeking to eliminate contract oversight by the Department of Administration to speed up awards and to keep the system open and competitive.

Most of the five News Council votes were almost unanimous. The closest, on whether the Star Tribune failed to report that the independent audit concluded that MnDOT had done nothing wrong, was decided by a vote of 8-4, in favor of the paper.

The News Council, an independent, nonprofit agency, was founded in 1970. Half the cases it has heard have produced determinations for the complainant, half for the news outlet. Half the members are or have been media professionals. Half are lay persons. The News Council has no authority to impose sanctions, and participation by all parties is voluntary.