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# News Council Rules On Complaints Brought by Government Bodies

During the summer of 2001, the Minnesota News Council (MNC) heard two complaints brought by government bodies against local newspapers. The Ely City Council submitted a complaint against the *Ely Echo* regarding an April 30 story on a closed meeting held by the council. The Winona County Board of Commissioners filed a complaint against the *Winona Post*, claiming that one of its editorials unfairly accused the board of conducting an illegal meeting and that the newspaper's response to the board's complaint was inadequate. In the *Ely Post* case, MNC members unanimously voted in favor of the paper; in the *Winona Post* case, the MNC narrowly sided with the Winona County Board of Commissioners.

On January 9, 2001 the Winona Committee of the Board convened after a regular Winona County Board meeting. According to the complaint, the *Winona Post* was sent a notice that these meetings would be held. During the committee meeting, exploration of the purchase of a former school building for extra office space was authorized. The story ran in another newspaper, *The Winona Daily News*, in an article that did not make entirely clear whether the decision to buy the school was finally authorized or not at the Committee's meeting. The *Winona Post's* editor John Edstrom interpreted it to mean that the acquisition had been approved. When the board chair explained that this was not the case, that the acquisition was not finalized, the editor concluded that if any such decision (to buy the school) had been made, it would have been at an illegal, closed meeting.

In his editorial which ran on January 14, Edstrom wrote: "The Chairman of the County Board, Dave Stoltman, denies that any such decision was made [to buy the school]. And well he should, since it would probably have been illegal to do so at a meeting that almost certainly took place in violation of Minnesota's open meeting laws." After the editorial, the board wrote the *Winona Post* seeking a public correction to clear the board's members of the accusation that they had held an illegal meeting. In his editorial of January 21, Edstrom wrote that he never made a direct assertion that an illegal meeting had taken place.

On June 21, 2001, the MNC voted 10-9 that the *Winona Post's* editorials unfairly accused the County Board of conducting an illegal meeting. Council member Don Shelby argued that the tense of the word "took" instead of "would have taken" in the editorial suggested that such a meeting actually did take place, and was not, as Edstrom argued, "a hypothetical situation." In its press release, the MNC stated it subscribes to the standard of the National Council of Editorial Writers, which says that if an editorial includes facts, those facts must be accurate. The MNC also decided 12-7 that the newspaper's response to initial requests for retractions had been inadequate.

The *Winona Post* did not take part in the hearing, because it said that the situation had nothing to do with ethics or facts, but was personal and political in nature. In a letter dated May 31 and sent to MNC Executive Director Gary Gilson, Edstrom stated that he had never directly accused the board members of holding a closed or illegal meeting: "The decision [to buy the school] was never made in the first place...but if it were, it would have had to have been made at a meeting unknown to the Chairman [since he denied such a decision being made], the public, and me, almost certainly illegal, had it taken place, which I never asserted." Edstrom also argued, "Having no status in law, the News Council can derive authority to sit in judgement only from the consent and voluntary participation of the parties involved, which it certainly does not have from me or my paper." In the same letter he also stated that the News Council is too willing to take claims and expressed concern that "government types hoping to avoid scrutiny in the press are catching on to that."

There is indeed a concern that government agencies and politicians, who bear a very heavy burden of proof when taking a press outlet to court, would exploit the MNC to harass the media. Of course, media outlets can always decline to participate, but the hearings will go on without them. When asked for a reaction, Gilson dismissed those concerns. "Our records show that in the past four years, covering about 25 cases, only four or five came from government bodies." He also referred to a later case, *Ely City Council v. Ely Echo*, to make the point that the MNC cannot be exploited by government agencies to harass the media.

In that case, the Ely City Council complained that the *Ely Echo* had acted unethically by publishing a truthful account of a closed door meeting of the Ely City Council with its attorney involving a strategy for reducing a possible fine from the Environmental Protection Agency. The council complained that the language used in the article implied that the meeting was illegal and inaccurately suggested that the city was not threatened with a lawsuit, which was the justification for holding the meeting behind closed doors because of attorney/client privilege. The MNC, in a hearing on August 16, unanimously sided with the newspaper on the first count, and also ruled in favor of the newspaper on the other two counts (13-1 and 11-3 respectively), in what Gilson calls "a ringing endorsement of the independence of the press."

Rather than considering a MNC complaint from a government agency as some kind of "press harassment," Gilson asks, why not consider such an experience "as a great opportunity for the press to educate the public — and the complainant — about the role of a free press in a democracy?" Gilson hopes that newspapers would continue to take this opportunity to inform the public about their decision-making processes and to "explain their value to the community by participating in News Council proceedings."

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