

# Roseville Ethics Task Force Report

April 23, 2002

## Background

Upon recommendation by Roseville Mayor John Kysylyczyn and subsequently by a February 4, 2002 motion of the Roseville City Council, the Ethics Task Force was created to undertake an independent review of the Ethics Commission Resolution. Its review would include an examination of the Commission's history, its goals and procedures, and result in recommendations regarding its operations.

The Ethics Task Force met on March 12, April 2, and April 23, of 2002. All five members of the Task Force were present at each meeting: Chair David Schultz, Ann Berry, Craig Klausung, Connie Pease, and Deon Stuthman. The minutes of those meetings are attached as Exhibit A.

Although receiving general public comment was not part of the Task Force's charge from the City Council, the Task Force did hear from the Mayor and from all members of the Roseville Ethics Commission, the standing ethics citizens' advisory commission.

In addition, the Task Force reviewed a notebook of material dealing with public ethics and municipal ethics codes and structures.

This report, its findings and recommendations are endorsed by all of the Task Force's members.

## Findings

Based upon this input and our deliberations, the Task Force makes the following findings [references in parentheses ( ) refer to the meetings at which the topics were discussed, or describe authority for the finding]:

- A. Roseville has had an Ethics Commission since July 23, 1990. (Resolution 8593)
- B. In the first five years of its existence, that is from 1990 through 1995, the Commission received two ethics complaints: one dealt with the decision process associated with the construction of the John Rose Minnesota OVAL and was dismissed by the Commission; the second complaint dealt with a political concern and was withdrawn by the complainant. (March 12, 2002 Meeting)
- C. In the last year, the Ethics Commission received six ethics complaints:

- the Commission dismissed summarily as lacking merit four complaints dealing with allegations of unethical expenditures of city funds;
- the Council dismissed due to insufficient evidence one complaint dealing with allegations of unethical use of influence;
- the sixth complaint dealing with allegations of abuse of power was withdrawn by the complainant.

There were no ethics complaints filed with the Commission between 1995 and 2001. (March 12 and April 23, 2002 Meetings)

- D. The Ethics Commission plays a valuable educational and informational role in the community. It raises awareness of the fundamental importance in our democracy of government officials and citizen advisory commission members understanding and practicing good ethics. (All Meetings)
- E. The Ethics Commission plays an important role in financial disclosure. Through the ethics resolution, many public officials are required to report significant financial interests each year. Such reporting helps avoid conflicts of interest and builds public trust in their public officials. (All Meetings)
- F. The Ethics Commission plays an important role in reviewing periodically the standards of ethical conduct with which public officials must comply. (All Meetings)
- G. The investigatory role of the Ethics Commission is problematic because it is a volunteer body that lacks subpoena power. However, the Task Force does not recommend granting the Commission subpoena power. (All Meetings)
- H. The Ethics Commission presently has the capacity to differentiate complaints made to it that are substantive from those that are political in nature. However, its ability to judiciously and fairly review all complaints it receives could be enhanced by clarification of the requirements of the ethics code and the procedures employed to review complaints. [April 2, 2002 meeting]

## **Recommendations**

In light of these findings, the Ethics Task Force makes the following recommendations:

1. That the City Council enlarge the enabling authority of the Ethics Commission to authorize the Commission to review

annually and suggest modifications to the ethical standards of conduct applicable to Roseville public officials.

2. That the Commission and City Council consider not only minimum compliance standards of ethical conduct, the violation of which may expose a public official to some form of discipline, but also aspirational ethical goals. In this review, the Commission should clarify the distinction between actions that are “per se” unethical and actions the general public would consider laudatory or would build public trust in government. The Task Force specifically recommends that the Ethics Commission look to the City of Dayton, Ohio’s Ethic’s Code for possible aspirational ethical goals. Further, the Ethics Commission should consider amending page 6 of the Ethics Resolution relating to conflicts of interest arising due to membership in certain organizations.
3. That the Ethics Commission and the City Council consider removing from the list of ethical improprieties those behaviors or activities that can best be described as crimes. Certainly, criminal conduct such as offering or accepting bribes is unethical, but the investigation and punishment of crimes resides with law enforcement agencies and not the Commission.
4. That the Commission not be given subpoena power.
5. That the Commission and the City Council consider making it an ethical violation for the subject of an ethics complaint to refuse to respond in good faith to the Commission’s reasonable requests for information,
6. That the investigatory role of the Commission be made **time-sensitive**. The Task Force recommends that the Commission spend no more than 60 calendar days investigating allegations of ethical misconduct in any single complaint following the meeting at which the Commission determines that an ethics complaint requires investigation. The Ethics Commission may extend its investigation one-time for 30 days unless the City Council expressly rejects such an extension at its next regular meeting.
7. That the Commission decides at an early point in reviewing an ethics complaint whether to appoint one of its own members as an investigator or to appoint an outside investigator. It is difficult and time-consuming for a five-member citizen volunteer body collectively to investigate a matter.
8. That the ethics code of conduct be amended to clarify the standard by which, first, the Commission and, then, the Council

shall decide allegations of ethical misconduct. The Task Force recommends a “clear and convincing evidence” standard as most appropriate for these situations.

9. That the educational role of the Commission be strengthened and broadened by increasing the awareness and understanding of the public as well as public officials to the importance of ethical considerations and behavior and the role of the Ethics Commission.
10. That the relationship between the Commission and city staff during an ethics investigation be clarified such that the respective duties of each are more clearly defined.
11. That the Council adopt the revised standards and procedures for ethical conduct in the form of an ordinance, rather than a resolution, for the sake of consistency with the City’s other citizen advisory commissions. Such an ordinance should expressly provide that violations of the ethical standards in the ordinance are punishable by the City Council under the terms of that ordinance and are not to be deemed criminal misdemeanors or any other type of crime except as those behaviors or activities may separately be determined to be criminal under state or federal law.

Respectfully submitted,

Chair David Schultz  
Ann Berry  
Craig Klausning  
Connie Pease  
Deon Stuthman