

Ethical Practices Board Rochester, MN

Annual Report 2024



201 4th Street SE
City Attorney's Office – Room 247
Rochester, MN 55904

(507) 328-2100

web address

<http://www.rochestermn.gov/ethics>

Ethical Practices Board 2024

Members

Daniel Borup, Chair 6/1/24 – Present

Appointment: May 1, 2020 – April 30, 2023

Re-appointment: May 1, 2023 – April 30, 2026

Timothy Hornseth, Secretary, 6/1/24 – Present

Appointment: May 1, 2020 – April 30, 2022

Re-appointment: May 1, 2022 – April 30, 2025

Faye Harris, Vice Chair, 6/1/24 – Present

Appointment: May 1, 2024 – April 30, 2027

Robert Haeussinger, Member

Appointment: May 1, 2024 – April 30, 2027

James Rechs, Member

Appointment: May 1, 2022 – April 30, 2025

Christine Moon, Member

Appointment: May 1, 2022 – April 30, 2025

Gloria D DeBusman, Member

Appointment: May 1, 2023 - April 30, 2026

Staff

Michael Spindler-Krage (City Attorney)201 4th Street Room 247

Rochester, MN 55904

(507) 328-2100

Jody L. Houghton (Executive Assistant)201 4th Street SE – Room 247

Rochester, MN 55904

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Ethical Practices Board

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Foreword from the Chair

The year 2024 marked the 16th year of the operation of the Ethical Practices Board ("EPB") established by the City of Rochester, MN. While a code of ethical conduct has long been present in both the Rochester City Charter and Code of Ordinances, an oversight group had not existed prior to the creation of the EPB.

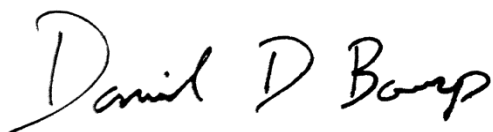
At the meetings of the EPB, we review questions that the City Attorney has received from various city department heads, employees, and elected officials, who may seek guidance on conflicts of interest or other ethical issues.

The EPB also handles formal ethical complaints received throughout the year. In 2024, the Board reviewed eight ethical complaints; as in past years, the majority of these were not relevant to the City's Code of Ethics. To address this issue, we continued our ongoing efforts to improve communication and clarity surrounding the complaint process. Relevant activities in 2024 included amendments to our online complaint form to clarify its purpose and ensure its proper completion, education on the City's new "311" system, and a request that 311 include guidance for citizens regarding potential ethical complaints.

The EPB also held officer elections at its June meeting and elected Daniel Borup as Chair, Faye Harris as Vice Chair, and Timothy Hornseth as Secretary. Executive Assistant Jody Houghton continues to write the meeting minutes with Mr. Hornseth assisting. Former members Peter Amadio and Lin Gentling completed their terms and were thanked for their service. The EPB welcomed new member Robert Haeussinger and returning member Faye Harris, both appointed to three-year terms from May 1, 2024 – April 30, 2027.

In September the Board selected the third Thursday of each month as its target meeting date in an attempt to keep a more predictable schedule. Although our meetings may still be rescheduled as needed, or cancelled due to lack of agenda items, we hope that this change will make it easier for interested individuals to attend. In particular, the Board would like to extend an invitation to the new members of the Common Council to attend one of our meetings in the upcoming year to learn about the Board and its activities.

Finally, the EPB is greatly appreciative of the information and service that City Attorney Michael Spindler-Krage, Executive Assistant Jody Houghton, and the rest of the City staff have provided. Their insights, responses, legal review, and logistical coordination activities are invaluable to the effective operation of the Board. We look forward to a new year fulfilling our role to help safeguard a fair and equitable city for all.



Daniel D. Borup, Chair

Introduction

It is imperative that all people acting in the public service not only maintain the highest possible standards of ethical conduct in their transaction of public business but that such standards be clearly defined and known to the public as well as to the persons acting in public service.

The proper operation of a democratic government requires that public officials be independent, impartial, and responsible to the people. Governmental decisions and policies must be made in the proper channels of the governmental structure. Public office may not be used for personal gain. Citizens must have confidence in the integrity of their government officials.

Public officials are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of the State of Minnesota, and to impartially carry out the laws of the nation, state and municipality so as to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern.

In recognition of these goals, there is an established Code of Ethics for elected or appointed public officials, citizen volunteers, and candidates for public office. The purpose of the Code is to establish ethical standards of conduct for such persons by establishing acts, which are incompatible with the City's best interests and requiring disclosure of private or financial interests in matters involving the City. The provisions and purposes of this Code of Ethics are declared to be in the best interests of the City of Rochester.

Authorization

The purpose of the City of Rochester Ethical Practices Board is to further the goals of the established Code of Ethics and as such the Board was formed via city ordinance in December 2008.

The Board is comprised of seven citizen members who are appointed by a committee consisting of the President of Rochester Community and Technical College, the Chancellor of the University of Minnesota Rochester and the highest-ranking officer of the Olmsted County Bar Association not associated with the Rochester City Attorney's Office. Members serve a three-year term and may serve up to two consecutive terms or six years, whichever is longer.

Organization

The Ethical Practices Board is composed of seven members who are residents of the City of Rochester and serve without compensation. EPB members are appointed by an Appointing Committee (see Authorization paragraph).

The EPB is organized with a chair, vice chair and secretary who are elected by the membership in May of each year. Board members serve a three-year term (which may be shorter if the member was appointed to replace a board member who resigned or otherwise left the EPB before completing their term) and may serve two consecutive full terms.

A member of the EPB may not be an elected official, an appointed official, a city employee, related to a local official or city employee, a candidate for elected public office, a person who, for compensation, represents the private interests of others before the city council or mayor, or a paid campaign worker or political consultant of a current local official.

Board action requires the affirmative vote of at least four members of the EPB.

Code of Ethics

The Code of Ethics is generally covered in Chapter 2-16 of the Rochester City Code of Ordinances and covers a broad range of areas including conflict of interest, use of city property and improper conduct. The intent of the Code is to provide broad overview of expected conduct and in some cases offer specific guidance regarding certain activities. Areas not specifically covered in the Code may be addressed to the City Attorney's office or the Ethical Practices Board for further clarification. In some cases, a topic may arise not previously considered by the Code, which may result in the issuance of a formal opinion by the Board.

Rules and Procedures

In carrying out its duties, several responsibilities for the Board are specified in the ordinance. Among these are the following:

- The Board shall have jurisdiction to review and make findings concerning any alleged violation of RCO Chapter 2-16 by any public official.
- To make notifications, extend deadlines, conduct investigations, make findings of fact, conclusions of law and order, review allegations and conduct hearings as needed to decide specific cases in which a violation of RCO Chapter 16 is alleged.
- To report its findings regarding any complaint to the person's Appointing Authority and to the City Administrator.

- To issue ethics opinions to public officials regarding the propriety of any matter within the Board's jurisdiction.
- To conduct a preliminary investigation of a filed complaint, or of any circumstance or situation which the Board may become aware that appears to violate any provision of RCO Chapter 2-16.
- To cooperate with the human resources department in the design of ethics education seminars, and to promote the city's ethics program and high ethical standards in city government.
- To make recommendations for changes to the Code of Ethics or the governing ordinance, which the Board believes, would enhance their purpose.

Except as provided elsewhere in city ordinances, a Public Official who violates the Code of Ethics may be subject to disciplinary action up to and including termination of city employment/city volunteer duties.

An elected official or an appointed member of any board or commission, whose discipline is addressed by the City of Rochester Home Rule Charter or the Rochester Code of Ordinances and who violates the Code of Ethics may be subject to such disciplinary action as is provided by the Home Rule Charter or the Code of Ordinances. The EPB is not involved in determining whether disciplinary action should occur.

Jurisdiction

The Code of Ethics pertains to and is applicable to public officials including elected officials and city employees as defined in RCO 2-16-4. Also included, but not limited to, are members of the following boards and commissions:

- Airport Commission
- Board of Appeals
- Citizens Advisory on Transit
- Ethical Practices Board
- Fire Civil Service Commission
- Heritage Preservation Commission
- Library Board
- Mayo Civic Center & Rochester Convention and Visitors Bureau Board
- Music Board
- Park Board
- Pedestrian & Bicycle Advisory Commission
- Planning and Zoning Commission
- Police Civil Service
- Police Policy Oversight Commission
- Public Utility Board
- Sustainability and Resiliency Commission
- Zoning Board of Appeals

The Board has jurisdiction to review and make findings concerning any alleged violation of this chapter by any public official. All members of Boards, Commissions and Committees created by ordinances passed by the City Council, City of Rochester, will fall under the requirements set forth in the Code of Ethics, City of Rochester. Therefore, all boards and commission members must complete the Disclosure Form.

In our 2023 report, the Board included the following language and recommendations regarding the Common Council's treatment of "quasi-judicial" issues; these are included again in this year's report for the benefit of this year's newly elected Councilmembers:

The Ethical Practices Board does not recommend adopting any changes to Chapter 2-16 of the Code of Ordinances at this time. However, the EPB does wish to emphasize the importance of maintaining impartiality, as well as public trust in that impartiality, in the handling of quasi-judicial matters. It is thus the recommendation of the Ethical Practices Board that the following actions be taken:

- 1. Members of the Common Council and other city boards and commissions should continue to receive regular education on which matters fall (or may fall) under the umbrella of "quasi-judicial", as well as the members' expected behavior when handling such matters.*
- 2. Members of the Common Council should continue to be conscientious in updating conflicts of interest regularly, as required by Section 2-16-6 of the Code of Ordinances.*
- 3. The Common Council should adopt standardized language to be read publicly when a quasi-judicial matter is raised for discussion and/or a vote. This language should state that the issue being raised is of a quasi-judicial nature, and (briefly) remind the council and members of the public of all relevant expectations. For example: 'The next item pertains to a quasi-judicial matter. As a reminder for Council members [or board members, etc.] and the public, quasi-judicial matters are distinct from legislative issues and require impartial judgment against a legal standard. Council members/board members receive training from city staff on potential conflicts (such as financial conflicts) and must recuse themselves from discussion and/or voting on this issue if unable to maintain impartiality'. If multiple quasi-judicial issues are raised in a single meeting, the first sentence could be repeated when the second and subsequent issues are raised.*
- 4. The Common Council should continue to devote attention to the issue of impartiality in quasi-judicial matters. If desired, the Council as a whole, or any Councilmember individually, may submit additional inquiries to the Ethical Practices Board. The EPB would be happy to engage in further study of the topic and/or to make further recommendations to the Common Council.*

2024 Complaint Disposition

Two ethics-related complaints were reviewed in 2024. Both complaints were formally received at the EPB's April 30, 2024 meeting. At that time, the complaints were tabled to allow time for the complaint subjects to submit written responses and to transition between the Board's outgoing and incoming members. The complaints, along with the responses, were then reviewed during the May 29, 2024 meeting and dismissed after substantial discussion.

A total of six additional, non-ethics complaints submitted through the Board's online complaint form were reviewed at meetings in 2024. These complaints related to other issues, such as parking enforcement and other neighborhood issues. Such complaints were referred to the appropriate city department for disposition and formally dismissed at the next EPB meeting.

Inquiries

Throughout the year, the City Attorney's office receives a variety of inquiries related to ethical issues. The City Attorney is most often able to provide appropriate guidance immediately. For awareness, a summary of those issues is provided to the Board at each meeting and those that require further discussion are addressed as necessary. Inquiries brought to the Board's attention can be found in our meeting minutes located on the EPB webpage located [here](#).

The EPB members are very appreciative of the City Attorney's transparency in sharing these questions and have learned a great deal from the discussion at our meetings.

Administrative Matters

Improvements to the Board website have reduced but have not eliminated submission of non-ethics complaints to the Board. Such complaints are routed to the appropriate city department quite quickly, which we believe has improved the quality of public service. In addition, the Board continues to take action to clarify the intended function and scope of the ethical complaint form for members of the public and, when appropriate, to route them to the appropriate department instead. We welcome additional suggestions to further this goal and ensure that Rochester community members receive the assistance they need as quickly as possible, whether pertaining to a question of ethics or otherwise.