



Materials relating to the Minnesota House of Representative's investigation of the conduct of Representative Paul Gardner, 2009.

1. Ethics complaint (includes the tweets) (May 8, 2009)
2. Letter from Rep. Paul Gardner to Representatives Emmer and Buesgens (May 11, 2009)
3. Email from Rep. Paul Gardner to members of the House of Representatives (May 13, 2009)
4. Email from Rep. Tom Emmer to members of the House of Representatives (May 14, 2009)
5. Letter from Rep. Emmer to the Rep. Margaret Anderson Kelliher, Speaker of the House, regarding the Gardner Ethics Complaint (May 15, 2009)
6. Agenda, House Committee on Ethics (June 2, 2009)
7. Minutes, Ethics Committee (June 2, 2009)
8. Committee Document (June 2, 2009)
9. "Gardner Asked to Apologize to the House" Session Daily, Minnesota House of Representative Public Information Office (June 2, 2009)
10. Pugmire, Tim. "Gardner Apologizes for Twitter Gaffe," MPRnewsQ (Minnesota Public Radio)(February 4, 2010)

ETHICS COMPLAINT

Representative Paul Gardner

May 8, 2009

On Friday, May 8, 2009, the Honorable Paul Gardner, State Representative for Minnesota House District 53A, sent an electronic communication during floor debate on HF885 that violates the spirit and letter of Rule 6.10 of the Permanent House Rules. Rule 6.10 provides in pertinent part:

A complaint may be brought about conduct by a member that violates a rule or administrative policy of the House, that violates accepted norms of House behavior, that betrays the public trust, or that tends to bring the House into dishonor or disrepute.

During a spirited debate on whether or not to raise taxes in the State of Minnesota by almost a billion dollars, the Honorable Mark Buesgens, House District 35B, and the Honorable Tom Emmer, House District 19B, strongly debated for the Minority Party in opposition to the massive tax increases proposed by the Majority Party. Several members from the Majority Party similarly debated aggressively in support of the massive tax increase. Representative Gardner did not participate in the debate.

During the spirited debate by both parties, Representative Gardner was "twerking" on Twitter.com. Twitter is a form of instant electronic messaging. In his messaging contemporaneous with the debate, Representative Gardner suggested (in writing) that Representative Emmer was "belittling female colleagues" with "rage" and "sarcasm." Representative Gardner's "twerking" dishonestly suggested that his legislative colleague is harassing female colleagues.

During the spirited debate by both parties, Representative Gardner was "twerking" that Representative Buesgens was wearing sunglasses. Representative Gardner was clearly suggesting that Representative Buesgens had been involved in a violent physical confrontation.

Representative Gardner's communications were clearly designed to suggest that his colleagues are physically violent and prone to harassment of female members of the House of Representatives. Representative Gardner knew or, at the very least, should have known that his written comments were false and injurious to his ALL of his legislative colleagues.

Representative Gardner's communications violate the spirit and letter of the ethical rules of the Minnesota House of Representatives including but not necessarily limited to:

A State Representative * * * shall:

Respect the principles of representative democracy, by exemplifying good citizenship and High personal integrity, and by observing the letter and spirit of laws, and House Rules.

Promote the health of democracy - by fostering openness in government, full public understanding of government actions, and public participation in governmental processes.

Treat everyone with respect, fairness, and courtesy.

Exercise sound judgment.

Be respectful of the House of Representatives as a fundamental institution of civil government.

Use the power and facilities of the House of Representatives only to advance the common good.

Respect and maintain confidential information obtained as a public official or an officer or employee.

By knowingly publishing false and defamatory information about his legislative colleagues, Representative Gardner violated his ethical obligation to “[r]espect the principles of representative democracy” by failing to exemplify good citizenship and high personal integrity. More importantly, his false innuendo flies in the face of the letter and spirit of our laws regarding defamation and libel. One need not be a licensed lawyer to understand the damage that can be caused by knowingly making false statements directly impacting another’s reputation in the community.

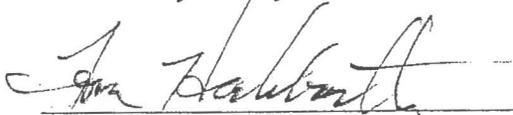
By publishing false and defamatory statements into the public square contemporaneous with an ongoing debate on a high profile and contentious issue, Representative Gardner failed to “[p]romote the health of democracy.” His actions were intentionally designed to cast his legislative colleagues in a less than favorable light and to chill their participation in the debate. Certainly, when members are falsely being accused of sexual harassment and assault, they might refrain from voicing their opinions for fear of having to defend against false information and attacks on their character leveled in the Public Square during the debate.

There can be NO dispute that Representative Gardner’s actions violate his ethical obligation to treat his legislative colleagues with “respect” and “fairness.” Nor can he be said to have exercised “sound judgment” by publishing false statements to the public from the House floor.

For these reasons and others, Petitioners respectfully request Representative Gardner be properly reprimanded and disciplined.

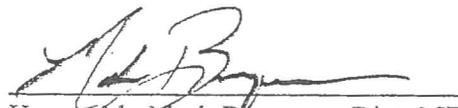
Subscribed and sworn to before me
This 8th day of May 2008.

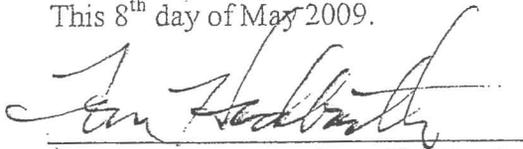

Honorable Tom Emmer, Dist. 19B



A.B., Representative Tom Hackbarth, Dist. 48A
Minnesota, ex officio notary public. My term expires
January 1, 2011.

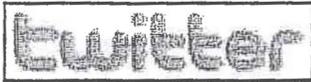
Subscribed and sworn to before me
This 8th day of May 2009.


Honorable Mark Buesgens, Dist. 35B



A.B., Representative Tom Hackbarth, Dist. 48A
Minnesota, ex officio notary public. My term expires
January 1, 2011

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Hey there! Gardner53A is using Twitter.

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Gardner53A

1. Emmer seems to belittle his female colleagues (rage, sarcasm) on the floor more than the men? Great face to the GOP?about 1 hour ago from TweetDeck
2. Four \$1B' options: borrowing, gaming, taxes, or cuts to schools, hospitals, nursing homes in addition to our cuts > than Guvabout 1 hour ago from TweetDeck
3. Why is Buesgens wearing sunglasses? Black eye?about 2 hours ago from TweetDeck
4. I'm sure everyone is thinking that legislators get per diem according to number of words uttered on the floor...about 5 hours ago from TweetDeck
5. Buesgens or Woody Allen? I object..This trial is a travesty..of a mockery of a sham of a mockery of a travesty of two mockeries of a sham.about 21 hours ago from TweetDeck

• Name Paul Gardner

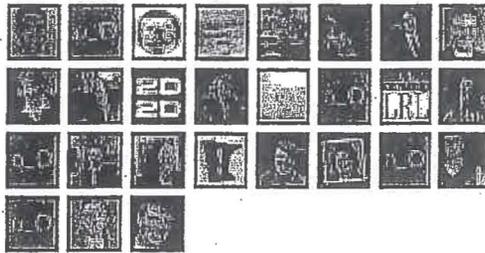
30 Following 58 Followers

• 15Updates

6. Bad night to ask school kids if they ever want to run for office.about 22 hours ago from TweetDeck
7. How long does it take to vote no on messages from the Senate?about 22 hours ago from TweetDeck
8. re: Emmer amdmt see <http://www.bethdin.org/> for U.S. rabinnical courts and <http://tinyurl.com/62wyh7> for article about UK Sharia courts1 1:31 AM May 6th from web
9. shameful Emmer amdmt-Just sent leg colleagues 08 Sndy Times article about UK Sharia courts & link to Jewish rabinnical courts in US11:28 AM May 6th from web
10. House Republicans: "Let's be like France!" On nuclear anyway1:15 PM Apr 30th from web
11. I'm protecting my computer against swine flu with new anti-viral software...11:35 AM Apr 29th from web
12. Speaker thoughtful to suggest reconsideration of amendments. But GOP would be taken more seriously if they mnge time and membership better1:20 PM Apr 28th from web
13. watching debate on House floor--good to see what hppns now rather than at end of session. Begs for better time mgmt by GOP on amendments.12:57 PM Apr 28th from web
14. is de-bunking misinformation about my home heating fuel sales tax legislation in the House tax bill at <http://paulgardner53a.blogs...>5:25 PM Apr 27th from web
15. I gotta get a good fish photo like the Speaker and Rep. Kalin4:54 PM Apr 27th from web

• Favorites

Following



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Paul Gardner
State Representative

District 53A
Anoka and Ramsey Counties



Minnesota House of Representatives

May 11, 2009

The Honorable Tom Emmer
301 State Office Building
St. Paul, MN 55155

The Honorable Mark Buesgens
307 State Office Building
St. Paul, MN 55155

Dear Representatives Emmer and Buesgens:

As the legislative session winds down, tensions often run high. As members of the majority and the minority do their best to stand up for their principles and see the session to a timely and successful conclusion, there will be friction between the caucuses and among individual members. Despite these pressures, it is the responsibility of all members of the Minnesota House of Representatives to conduct themselves with the highest level of professionalism and decorum, and to focus on differences of policy and not on personalities.

On Friday, May 8th, I failed in that responsibility. Using a new social networking framework – Twitter – I sent out two messages that were disparaging of you and Representative Buesgens personally. I apologize for this transgression. We often get emotional during important debate, and tempers can flare, but that can be no excuse. Late Friday, I deleted the offending “tweets” so that they are no longer on the system.

Having reflected on this event for several days, I pledge to do my utmost to comply not just with the letter but the spirit of our House rules and standards of decorum. My hope is that during these final tense days of the session, this incident will help focus all members on the need to elevate the political debate to a higher level.

During these last days of reflection, I also recalled that it was Rep. Emmer who was the first of the Republican House caucus to greet me on the first working day of my first term. You went out of your way, and I at once felt welcome in the House. I hope that we might renew that initial camaraderie and ask for your pardon.

I wish you the best for the remainder of the session.

Sincerely,

Handwritten signature of Paul Gardner in cursive script.
Paul Gardner



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From: Paul Gardner
To: All DFL Representatives; All GOP Representatives
Date: 5/13/2009 11:12 AM
Subject: Colleagues: How not to communicate with each other
Attachments: gardner letter.docx

Dear colleagues,

At this time in the session, the pressure builds, the deadlines loom, and the differences among us start to magnify. We're tired and a little cranky. That said, we still need to maintain high standards in our communications to each other, either with the opposite caucus or within our own.

I recently failed to maintain those high standards in some electronic communications regarding two of our members. I have attached a letter that I shared with Rep. Emmer and Rep. Buesgens.

Members, this is one of the strangest workplaces that you can be in. We are co-equals rather than members of a top-down hierarchy. We pledge to do our best for the state and to work together. And yet, it is our mission when we are not in this building to bring upon the demise of our colleagues from across the aisle! Somehow we usually keep it together, but I hope that we can renew and maintain high standards and then focus on differences in policy and not in personality, particularly in this difficult week to come. Perhaps in the interim, we can take heed of the words of former Rep. Ozment, who said in his retirement speech last year that we need to get to know each other better, so that we can do the people's work in a mature and thoughtful way. I regret that after two years I do not know many of you well, and I hope to rectify this in the months to come.

It is a pleasure and honor to serve with all of you. Have a great day.

Rep. Paul Gardner
Minnesota House of Representatives District 53A
(651) 296-2907
rep.paul.gardner@house.mn
<http://www.house.leg.state.mn.us/members/members.asp?district=53A>
blog: www.paulgardner53a.blogspot.com
Home phone cell line: (612) 227-4582

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From: Tom Emmer
To: All DFL Representatives; All GOP Representatives; Carlos Mariani; Pau...
Date: 5/14/2009 11:27 AM
Subject: Re: Colleagues: How not to communicate with each other

Carlos:

Thank you for your e-mail. I appreciate your thoughts and wisdom. You are right on point.

We are all political. We can and do disagree on many different subjects. The debate can and does spill out of the Capitol and into the public square. When it comes to our differences in political philosophy and solutions to the challenges confronting the citizens of our great state and our country, anything is fair game. By contrast, knowingly publishing false and defamatory statements is not excusable under any circumstance. That is especially the case when the false and defamatory statement is directed to someone's reputation in the community and involves a subtle attempt to silence through intimidation. No one should accept such deceitful behavior.

I acknowledge Rep. Gardner's public statement and I accept his need for absolution and forgiveness. I must say, however, that I was quite surprised that he chose to make this matter public before the leadership and the members involved had reached agreement on how to resolve the pending ethics complaint.

I accept Representative Gardner's apology but I don't think he recognizes this issue or the gravity of his actions. This is NOT an issue of how to communicate WITH your colleagues. This is an issue involving the knowing publication of false and defamatory statements about the character and reputation of two members that are doing nothing more than representing their constituents. Again, while it is always fair game to attack the philosophy or idea - it is not acceptable nor excusable to purposely defame the character of fellow members into a public arena where your false statements can never be fully withdrawn or remedied.

I expect that despite your colleague's public acknowledgment, we will have further discussion about the issue that is personal to myself and Representative Buesgens and I also expect that the members of this body will become acutely aware of the ramifications and consequences of our actions - again, feel free to criticize the philosophy, the votes, the approach, the demeanor, the volume of our debate . . . but no one (on either side of the aisle) should ever knowingly publish false and defamatory statements for no purpose other than to damage another member's reputation in the community and to attempt to silence through public intimidation. More importantly, the false statements Representative Gardner published have an impact on my family and potentially on my ability to provide for my family. Again, this is not an issue of how we communicate with each other - this is an issue of public defamation that goes well beyond the confines of this chamber.

>>> Carlos Mariani 5/13/2009 9:59 PM >>>
Thanks Paul - we often learn best from our mis-steps.

The honor of this institution is paramount - it belongs to the people - and so your frank and open apology is a fitting acknowledgment of your respect of that principle. Thank you.

By the way, we don't work to bring the demise of our colleagues in elections - we work to further the ideas we represent by encouraging one another's voters to vote for those ideas in our candidates. We unfortunately often attack one another's personhood in elections but, I believe we do not make our society a better place for doing so. Our ideas should stand up under their own weight.

We are all only passing through this institution, and as we move through we should leave it a healthy, humanistic place the people can always count on to make the tough decisions that keep us together as a people.

Rep Carlos Mariani

>>> Paul Gardner 5/13/2009 11:12 AM >>>
Dear colleagues,

At this time in the session, the pressure builds, the deadlines loom, and the differences among us start to magnify. We're tired and a little cranky. That said, we still need to maintain high standards in our communications to each other, either with the opposite caucus or within our own.

I recently failed to maintain those high standards in some electronic communications regarding two of our members. I have attached a letter that I shared with Rep. Emmer and Rep. Buesgens.

Members, this is one of the strangest workplaces that you can be in. We are co-equals rather than members of a top-down hierarchy. We pledge to do our best for the state and to work together. And yet, it is our mission when we are not in this building to bring upon the demise of our colleagues from across the aisle! Somehow we usually keep it together, but I hope that we can renew and maintain high standards and then focus on differences in policy and not in personality, particularly in this difficult week to come. Perhaps in the interim, we can take heed of the words of former Rep. Ozment, who said in his retirement speech last year that we need to get to know each other better, so that we can do the people's work in a mature and thoughtful way. I regret that after two years I do not know many of you well, and I hope to rectify this in the

months to come.

It is a pleasure and honor to serve with all of you. Have a great day.

Rep. Paul Gardner

Minnesota House of Representatives District 53A

(651) 296-2907

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blog: www.paulgardner53a.blogspot.com

Home phone cell line: (612) 227-4582

May 15, 2009

HAND DELIVERED

Honorable Margaret Anderson Kelliher
Minnesota House of Representatives
State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

RE: Gardner Ethics Complaint

Madam Speaker:

On Friday, May 8, 2009, Representative Mark Buesgens and I presented you with an ethics complaint. The Complaint addressed false and defamatory statements published by Representative Paul Gardner. After receiving the Complaint, Representative Gardner did provide us with a letter of apology.

On Tuesday, May 12, 2009, you met with us and Representative Gardner, Representative Seifert and Michael Charboneau to discuss a possible resolution of the Complaint. During the meeting, Representative Gardner acknowledged his actions and expressed remorse. We discussed the indelible realities of the internet and real and potential ramifications of publishing false statements on "Twitter" and "Facebook." You referred to the existing House policy addressing electronic communication(s) and you suggested that members probably needed reminding of the policy. You also discussed the possibility of Representative Gardner publishing his written apology on the internet and that he would make a public apology on the House floor if Representative Buesgens and I agreed to withdraw our Complaint. At the conclusion of our meeting, it was agreed that Representative Seifert would discuss the matter with his Executive Board and that we would reconvene to confirm whether we would agree to withdraw our Complaint if Representative Gardner followed through on the proposed publication of his written apology and a public apology on the House floor.

On Wednesday, May 13, 2009, without a conclusion to our meeting (and without warning) Representative Gardner published his written apology to all members by e-mail during a House floor session. Unfortunately, Representative Gardner's e-mail led unaware members to believe that he was apologizing for a mistake he made in his communications with a couple of fellow members. On Thursday, May 14th, in response to an e-mail from Representative Mariani, I attempted to clarify for members that Representative Gardner's conduct went well beyond an excusable mistake in how he communicated with colleagues. Later that evening, the members received an e-mail from you reminding of written policy relating to electronic communication. I responded directly by thanking you for sending the reminder.

Yesterday, in the morning, Representative Buesgens and I met with Mr.

Charboneau at his request. I understood Mr. Charboneau was following up on our earlier meeting. Neither Representative Buesgens, nor I ever received a follow up from Representative Seifert with any direction from House GOP leadership.

During our meeting with Mr. Charboneau, we expressed our concerns with Representative Gardner's publication of the matter without explanation to the members before the parties to our meeting on the 12th had agreed how the matter would best be handled. Despite our concerns, we advised Mr. Charboneau that if Representative Gardner followed through on the public apology (so members understand the gravity of his actions and to eliminate any misunderstanding) we would agree to withdraw our Complaint as you requested. At the conclusion of this meeting, we understood the matter would be resolved before the end of the day Friday.

At approximately 9 pm on Friday night, Representative Buesgens and I were called to a meeting in the Clerk's Office with Mr. Charboneau. At that meeting, Mr. Charboneau advised that Representative Gardner felt he had generally complied with the intent of the proposal for resolution that you had negotiated and that he was not inclined to follow through with his public apology. Considering our discussions and your prompt and good faith handling of this serious matter, I was - to say the least - surprised and disappointed by Representative Gardner's sudden change of heart.

As I explained to Representative Mariani, I accept Representative Gardner's apology but I think it is clear that he fails to recognize the real issue. This is NOT an issue of how to communicate WITH your colleagues. This is an issue involving the knowing publication of false and defamatory statements about the character and reputation of two members that are doing nothing more than representing their constituents. No one will dispute that it is always fair game to attack a philosophy or legislative proposal. Similarly, no one can disagree that it is not acceptable nor excusable to purposely defame the character of fellow members into a public arena where the false statements can never be fully withdrawn or remedied.

I understood your suggested resolution was sincere. I think it extremely unfortunate for the institution and everyone involved that Representative Gardner was unwilling to follow through and now that the matter must move forward. I do hope this is not a foreboding of future dealings between members involved in these matters. Again, we should never hesitate to publically and vigorously criticize the philosophy, the votes, the approach, the demeanor, and the volume of each other's debate . . . but no one (on either side of the aisle) should ever knowingly publish false and defamatory statements for no purpose other than to damage another member's reputation in the community and to attempt to silence a member through public intimidation. When false statements are published that have an impact on any member's family and potentially on a member's ability to provide for his/her family, there must be consequences.

Again, this is not an issue of how we communicate with each other - this is an issue of public defamation that goes well beyond the confines of this chamber.

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Respectfully submitted,

Representative Tom Emmer
District 19B

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**Committee on Ethics
Rep. Mary Murphy, Chair**

MEETING: Tuesday, June 2, 2009
9:45 am
Basement Hearing Room, State Office Building

AGENDA

- I. Approval of Minutes
- II. Introductory Remarks
- III. Presentation by Complainants – 30 minutes
- IV. Presentation by Respondent – 30 minutes
- V. Committee discussion

ETHICS COMMITTEE

MINUTES

Representative Mary Murphy, Chair, called the second meeting to order at 9:47 a.m. on Tuesday, June 2, 2009 in the Basement Hearing Room of the State Office Building.

The Committee Legislative Assistant noted the roll.

Members present:

MURPHY, Mary, Chair
SMITH, Steve, Vice Chair
HOLBERG, Mary Liz
SIMON, Steve
LIEBLING, Tina, Alternate
SHIMANSKI, Ron, Alternate

Chair Murphy called the meeting to order at 9:47 a.m.

A quorum was present.

Representative Smith moved adoption of the minutes

THE MOTION PREVAILED

Representative Murphy explained the purpose of the day's probable cause hearing

Representative Emmer testified to the ethics complaint filed concerning Representative Gardner

Representative Buesgens testified to the ethics complaint filed concerning Representative Gardner

Representative Emmer answered questions from the committee

Representative Buesgens answered questions from the committee

Representative Gardner testified to the ethics complaint filed concerning himself

Representative Hortman testified to the ethics complaint filed concerning Representative Gardner

Representative Winkler testified to the ethics complaint filed concerning Representative Gardner

Representative Gardner answered questions from the committee

Representative Hortman answered questions from the committee

Representative Winkler answered questions from the committee

Representative Buesgens answered questions from the committee

Representative Emmer responded to comments made by Representative Gardner

Representative Buesgens responded to comments made by Representative Gardner

Representative Smith moved that the committee recess to executive session

Representative Gardner responded to comments made by Representative Emmer and Representative Buesgens

Representative Smith renewed his motion that the committee recess to executive session

THE MOTION PREVAILED

ETHICS COMMITTEE
PAGE 2
JUNE 2, 2009

The Ethics Committee reconvened at 1:46 p.m.

Representative Murphy moved that the committee adopt the following statement regarding the complaint:

“Pursuant to Rule 9 of the House Committee on Ethics Rules of Procedure, a majority of the committee finds that this matter is appropriate for informal reconciliation. As Rep. Gardner acknowledged before the House Ethics Committee on June 2, 2009, he did not exercise sound judgment by making statements about his colleagues that were not respectful and courteous and he did not show respect to the House of Representatives. A majority of the committee recommends that Rep. Gardner make an oral apology to the House at the earliest possible date.”

Representative Smith testified to the motion

Representative Simon testified to the motion

Representative Holberg testified to the motion

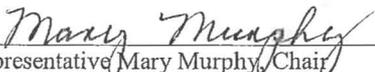
Jeff Diebel, House Research, answered questions from the committee

Representative Simon testified to the motion

Representative Murphy renewed her motion that the committee adopts the statement regarding the complaint

THE MOTION PREVAILED

The meeting was adjourned at 1:52 p.m.



Representative Mary Murphy, Chair
Ethics Committee



Philip Chen, Committee Legislative Assistant
Ethics Committee



Minnesota House of Representatives

June 2, 2009

Pursuant to Rule 9 of the House Committee on Ethics Rules of Procedure, a majority of the committee finds that this matter is appropriate for informal reconciliation. As Rep. Gardner acknowledged before the House Ethics Committee on June 2, 2009, he did not exercise sound judgment by making statements about his colleagues that were not respectful and courteous and he did not show respect to the House of Representatives. A majority of the committee recommends that Rep. Gardner make an oral apology to the House at the earliest possible date.



Session Daily - produced by nonpartisan Public Information Services of the House of Representatives

Gardner asked to apologize to the House

published 6/2/2009

The House Ethics Committee has found no probable cause to move forward regarding an ethics complaint brought against Rep. Paul Gardner (DFL-Shoreview). (Listen to the meeting.)

The allegations from Rep. Tom Emmer (R-Delano) and Rep. Mark Buesgens (R-Jordan) stem from two messages Gardner posted May 8 on Twitter during a heated House floor debate on the omnibus tax bill.

In one post, Gardner questioned the reason for Buesgens wearing sunglasses in the House Chamber. "Black eye?" he wrote. He also posted: "Emmer seems to belittle his female colleagues (rage, sarcasm) on the floor more than the men."

Gardner sent Emmer and Buesgens a letter apologizing for his "disparaging" messages, closed down his Twitter account and posted his apology on his Web site. This was an appropriate response to the level of violation to the House standard of decorum, he said.

After a closed-door meeting, the committee recommended unanimously that Gardner make an oral apology to the House "at the earliest possible date." The statement goes on to say, Gardner "did not exercise sound judgment by making statements about his colleagues that were not respectful and courteous and he did not show respect to the House of Representatives."

Although voting with the committee's recommendation, Rep. Steve Smith (R-Mound) concluded that "a violation of code of conduct" had occurred and that the ethics process should move forward.

Rep. Steve Simon (DFL-St. Louis Park) said this is a discussion of proportionality and that "we are not here to be speech police," but that members should treat each other with respect and dignity.

The decision of the committee does not preclude reconsideration of the complaint if needed.

- Lee Ann Schutz

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Gardner apologizes for Twitter gaffe

Posted at 12:53 PM on February 4, 2010 by Tim Pugmire

Filed under: MN Legislature

Opening day of the 2010 Legislative session included one lawmaker making an apology on the House floor.

Rep. Paul Gardner, DFL-Shorview, ruffled some feathers last session when he made Twitter comments about two GOP legislators. The offended Republicans filed an ethics complaint. Gardner offered personal apologies last spring. He did it again today before the full House.

"In May of last year I made some unkind, disrespectful remarks about two of my colleagues on the social networking tool Twitter," Gardner said. "And I would like to apologize to them today, and thank you for your attention."

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