

City of Bainbridge Island Ethics Board

Case # 2019-04

Date Filed: 11 February 2019

Requestor: Councilmember Peltier

Advisory Opinion Issued: 15 April 2019

Advisory Opinion issued per COBI Code of Ethics Article III, Section F

The purposes of Article I, the Core Values section of the City of Bainbridge Island Ethics Program, are set out in the preamble:

“The City of Bainbridge Island has adopted the following Core Values and Ethics Principles to promote and maintain the highest standards of personal and professional conduct among all the people who comprise the City’s government. The optimal operation of democratic government requires that all of its decision-makers be fair and accountable to the people they serve.”

In addition to the COBI stated reasons, it is clear from materials related to municipal government, such as the America Society of Public Administrators (ASPA) Code of Ethicsⁱ, that there are further purposes, among them:

1. To advance the public interest
2. To promote democratic participation
3. To strengthen social equity
4. To demonstrate personal integrity

The efficacy of government and its ability to deliver on the needs of the community is founded in the trust that a community has in that body. Trust is hard to earn and very easy to lose. Particularly in current times, it can be difficult to define tightly what behavior reflects the Core Values, and we do not propose a static definition of this behavior, yet instead we look towards what promotes trust and what erodes it. In an article by Williamsⁱⁱ, the matter of civility in political discourse is examined. “[H]ow do we define civility? Especially if we accept the notion that it cannot be static – as technology and innovation are constantly redefining the means and manner in which we communicate. In this sense civility is a lot like obscenity, at least in the way the late Supreme Court Justice Potter Stewart chose to define it in his famous opinion in *Jacobellis v. Ohio* (1964), ‘I know it when I see it.’”

We can look towards rules of etiquette established by governing bodies to provide greater definition. The U.S. House of Representatives Republicans’ rules of decorum include several categories of unacceptable speechⁱⁱⁱ:

- Defaming or degrading the [House] – in our case, the City
- Criticism of personal conduct
- Impugning the motives of another member
- Charging falsehood or deception
- Claiming lack of intelligence or knowledge

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While not as precisely articulated, the City of Bainbridge Island Ethics Board believes our Code of Ethics Core Values were promulgated to engender trust by the public in our city government. While the First Amendment protects speech, including that of elected officials, “it does not remove the individuals’ responsibility to be respectful in their use of language. With a far greater means of amplifying their message, elected officials have an even greater responsibility to be judicious in their communication respecting the rules of . . . civil discourse for the benefit” of the council and the community.^{iv} In other words, elected officials are held to a higher standard than their constituents who do not purport to represent the community. This is with the intent to engender trust in government and the representatives who are elected.

The Ethics Board recognizes that people are human, and mistakes and misjudgments will be made. Where the Ethics Board has a responsibility, it is to recognize the problematic actions, particularly when they seem to become a pattern of behavior that causes citizen concern and thus weaken the public trust. The role of the Ethics Board is to educate when we observe inappropriate behavior, or it is called to our attention, and to recommend behavior that comports with our shared values and principles, while understanding there is not a static definition of acceptable behavior. In issuing advisory opinions, we are guided by other democratic bodies which deal with similar issues of behavior.

In developing an Advisory Opinion for this request, the Ethics Board reviewed Mr. Peltier’s email of February 11, 2019. *The Ethics Board also reviewed the initial complaint and response.* This Advisory Opinion stems from that considered review.

Mr. Peltier specifically requests that the Ethics Board issue an advisory opinion related to his use of the term “with all due respect” which he used in email communication with David Johnson in May, 2016.

Findings:

The phrase, “with all due respect” standing alone, has a neutral meaning. The context in which it is used is what makes this phrase meaningful. As a modifying prepositional phrase, it generally precedes another statement, which then determines the tenor of the phrase in question.

The traditional and formal meaning of the phrase in conjunction with a following statement has been used as a polite means of communicating, intended to mitigate the effect of an expression of disagreement or criticism. However, in more current vernacular, the expression is used in an argument to indicate that there is no respect and that in any case it is not due^v. Like many phrases that formerly bore no hidden subtext, this particular phrase now can be heard as something less than respectful.

In context, what follows Mr. Peltier’s use of the phrase “with all due respect” suggests a level of criticism and disdain. Specifically, the tenor of “with all due respect” is determined by what follows – “you must be working for PSE.”

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Advisory Opinion:

While there are times when an official may feel frustrated by a member of the public, responding in anger is not appropriate in any circumstance, particularly using phrases easily mis-interpreted. In such a situation, the responsible and respectful behavior is to refrain from using such phrases. Words are powerful tools and should be used with a more thoughtful response, or to offer a constructive reply and establish a culture of open discourse. Otherwise such action degrades trust in government and unchecked, can lead to rapid erosion of all trust built over time, especially in highly public forums.

ⁱ Practices to Promote the ASPA Code of Ethics, approved 3/16/13.

ⁱⁱ Williams, Yohuru, "A Matter of Integrity: Civility and Political Discourse." Insights on Law and Society, 13 Winter 2013

ⁱⁱⁱ Williams, *ibid*, p. 4

^{iv} Williams, *ibid.*, p. 5

^v Urban Dictionary.com