

City of Bainbridge Island Ethics Board
2018-04 Peltier Determination Remand

I. Summary of Determination

- a. The complainant (Chip McDermott) filed a complaint alleging that Councilmember Ron Peltier (respondent) has a conflict of interest related to speed limits on Grow Avenue and Lovell Avenue. Specifically, complainant notes respondent would support the speed limit reduction on Grow Avenue on the condition that the effort be expanded to Lovell Avenue where respondent owns residential property.

II. Procedural History

- a. Complainant Chip McDermott filed Code of Ethics violation complaint on September 14, 2018
- b. Respondent Councilmember Peltier provided Ethics Board with a response to the complaint on November 14, 2018
- c. The Ethics Board reviewed the complaint and response. On December 17, 2018, the Ethics Board issued a determination that a material violation of the Code of Ethics had likely occurred.
- d. The Ethics Board forwarded this determination to City Council for review on December 19, 2018
- e. City Council considered this complaint during its January 22, 2019 meeting.
- f. City Council's direction on remand to the Ethics Board was to provide more details and/or background on the basis for the determination.

III. Findings and Conclusions:

To address a complaint like this, the board is tasked with determining whether a material violation likely occurred (Article III-D-5-g). Likely, not definitively. The Ethics Board carefully reviewed the complaint and the response.

Councilmember Peltier does not dispute the claim that he agreed to support a lower speed limit on Grow on the condition that the speed limit be similarly lowered on Lovell. He also confirms that he owns real property on Lovell. Those facts are not in dispute. The only thing in dispute is Councilmember Peltier's motivation.

Mr. McDermott claims that Councilmember Peltier's actions were motivated by personal gain and Councilmember Peltier claims he was thinking about the larger community. Other than each person's word, the Board has no evidence to support either claim. Councilmember Peltier's motivation is not a determining factor when considering whether a conflict of interest likely occurred or not.

Conflicts of interest are covered under Article II, Section D, Subsection 1 of the Code of Ethics. The section reads in relevant part, "...an elected official...shall not directly...take any direct official action on a matter on behalf of the City if he or she...is...the owner of an interest in real or personal property that would be significantly affected by the action." The existence of a conflict of interest does not rely on the elected official's motivation or lack thereof.

The questions then become:

1. Did Councilmember Peltier take direct official action? and
2. Would his real property be significantly affected by the action?

For the first question, Article VI of the ethics program provides a definition of "direct official action". In part, it reads: "...**any action** (emphasis added) which involves ...enforcing laws or regulations." Councilmember Peltier met with Mr. McDermott in his official capacity as a member of City Council at City Hall and negotiated terms for his support of a proposed change to the law. The Ethics Board believes this is direct official action.

For the second question, the ethics program does not provide a definition of "significantly affected". However, the Board thought it was clear that Councilmember Peltier's property on Lovell would be more significantly affected than property on any other street.

The Ethics Board is not charged with proving likely ethics violations by clear and convincing evidence. That is the job of City Council (Article IV-A-2). We do, however, have the responsibility to "interpret and apply the Code of Ethics in favor of promoting the City's Core Values and Ethics Principles, protecting the public's interest in full disclosure of conflicts of interest, and promoting ethical behavior." (Article III-A-1). We have done our best to uphold that responsibility in this case.