

**City of Bainbridge Island Ethics Board
2020 Annual Report and 2021 Workplan**

February 9, 2021

Pursuant to Article V, § D of the City of Bainbridge Island Code of Conduct and Ethics Program (the “Program”), the Bainbridge Island Ethics Board hereby provides its annual report and workplan to the Bainbridge Island City Council.

I. Complaints and Advisory Opinions

The newly reconstituted Ethics Board began meeting in September 2020. Since that time, the Board has received and considered five complaints and one request for an advisory opinion. The Board has issued determinations on four of those complaints and is currently drafting a determination letter on the fifth complaint and the requested advisory opinion.

In addition, the Board is drafting a comprehensive training program for the City Council and its subcommittees on the Program.

The Board’s work plan for 2021 is to continue to consider complaints and requests made of it throughout the year, and to implement our training program.

II. New Ethics Board Members

In 2020, the Ethics Board welcomed Karen Anderson, Dominique Cantwell, Jim Cash, Doña Keating, David Mallon, and Tyler Weaver. A pre-existing member and chair, Jennifer Hodges, left the Board in December 2020. Dominique Cantwell left the Board in January 2021.

III. Requests and Recommendations

As the Board has implemented the current version of the Program, there are several areas we have identified where the Board believes action by the Council would assist the Board in fulfilling its duties under the Program.

The Board discusses each of these areas below, but also believes it might be efficient and beneficial to have a joint work session of the Board and Council to discuss these issues, and any others identified by Council.

A. Board Vacancies

Due to recent resignations, the Board currently has two of its seven positions vacant. Especially as the Board embarks on a comprehensive training program, it would assist us greatly in performing our duties for the Council to fill those vacancies as soon as possible.

In addition, the terms of two current members, David Mallon and Karen Anderson, end in June 2021. These members will also need to be reappointed or replaced this year in order for the Board to continue to carry out its functions.

B. Ongoing Communications with Council

It has become evident during the first few months under the new Program that it would likely benefit both Council and the Board to have an established avenue of communication between the two bodies so that any concerns or questions about the Program can be exchanged without affecting the Board's independence and neutrality.

The Board recommends that we establish a limited but open avenue of communication between the Board Chair and the Mayor, or another Council designee, for the purpose of communicating changes to the Board rules, requests for input, requests for clarification, or other matters related to the efficient and clear operation of the Program.

C. Board Operating Rules and Issues for Clarification

The Board is aware that in recent months, the Council considered and at least temporarily tabled amendments to Board's operating rules. The Board requests clarification as to the status of those amendments, and the substantive answers to questions that some of those amendments would have addressed.

In particular, the Board understands Council considered revising the operating rules as to each of the following areas, on which the Board requests clarification and comments on below:

- Complaints made by an attorney on behalf of an unnamed client. One of the complaints the Board considered was filed by an attorney on behalf of a client who remained anonymous. The Board dismissed this complaint on its merits but concluded that it could not dismiss the complaint under the Program just because the client was anonymous. The Council may have intended otherwise, but the Board requests clarification of the rules

if the Council expects the City Clerk or the Board to dismiss similar complaints for this reason in this future.

- Publishing of City emails for all Board members. The full Board has received complaints and other comments from the public via emails sent to their collective emails, which are published on the City website. Given the narrow range of what the Board may consider for any given complaint, and out of a desire to avoid the appearance of undue influence, the Board believes it is appropriate to only publish the email of the Board Chair on the City website, and requests that Council adopt this change.
- Manner of notice to respondents. The Board's customary method of notifying respondents of complaints against them is to send an email with the complaint to the respondent at the respondent's city email address with a copy of the complaint and a deadline for either responding or requesting additional time to respond. The Board believes this is adequate and appropriate notice. However, the Board requests clarification as to whether Council wants the Board to provide additional or different forms of notice of complaints.

D. Complaints Against Departing Councilmembers

The Board received four complaints against a Councilmember who has since resigned. He announced his resignation after the Board had received two of those complaints but had left the Council before the Board's review of the complaints were completed. The other two complaints were received after the Councilmember had announced his resignation, but before it took effect.

The Board's interpretation of the Program in its current form is that the Board could not dismiss those complaints on the basis that the Councilmember would be gone before the Board completed its review of the complaints.

The Board believes there is value in considering complaints even if an official resigns before the review of the complaint is complete, particularly in cases involving confidentiality. However, the Board also recognizes that a post-resignation finding that an official violated the Program might be ineffective and a waste of resources.

The Board will continue to treat future complaints as it has treated these prior complaints absent further guidance from Council. However, the Board wanted to raise this issue for Council's consideration given the number of complaints we have received that touch on this issue.

E. Complaints Filed Years After Alleged Violation

The Board received a Complaint against a Councilmember based on activities which allegedly occurred years prior.

The Board's interpretation of the Program in its current form is that the Board could not dismiss the Complaint on this basis.

The Board discussed the potential challenge in reviewing information or facts that may be outdated or unavailable, or situations where the sitting Board may not have the power to hear or adequately address some of the allegations.

The Board wanted to raise the issue for Council's consideration and request further guidance.

F. Recording of Ethics Board Meetings

The Board requests that its public meetings be recorded and available to the public. This would assist the Board in reviewing past meetings as needed, and also increase our visibility and accessibility to residents of the City.

G. Training

The Board has devised its plan for conducting its training and educational duties under the Program and seeks to both inform the Board as to its plan and request the appointment of logistical and technical support from the City staff to assist the Board.

In order to accommodate the realities of the pandemic, the number of City Committees and Commissions, and the reduced number of current Board members, the Board plans to do the following:

1. Hold a remote, Zoom-based training and informational session for Council at a designated Council meeting. We anticipate this could be completed in 15 minutes, depending on the questions and discussion generated by the presentation.

2. Hold three remote, Zoom-based training and informational sessions open to the public and all members of City Committees and Commissions. We anticipate scheduling these for different times, such as a weekday session, a weekday evening session, and a weekend session. Again, we would anticipate each of these to run about 15 minutes, depending on questions and discussion.
3. In lieu of a physical pamphlet, given the current remote nature of City meetings, a recording of at least one of these presentations and the related materials would be available for review on the City's web page for the Ethics Board.

In order to complete this training, the Board needs technical assistance from Council and the City with the following:

- Sending notices of the training sessions to all current members of City Committees and Commissions.
- Scheduling the training sessions and providing the Board with the necessary tools and permissions to host the Zoom meetings.
- Scheduling the joint session with the Council.
- Recording the training sessions and posting at least one recording on the Ethics Board website.
- If desired, keeping track of which Committee and Commission members have attended or viewed a training session.

The Board looks forward to hearing who they should work with on these tasks.

IV. Work Plan for 2021

A. Continue Ethics Code education for Councilmembers, Committees and Commissions, with a focus on including new members (see III.G, above).

- B. Submit proposed changes to the COBI Ethics Code to the City Council; participate as requested in discussions with the Council and public regarding the proposed changes.
- C. Update documentation as applicable to reflect Ethics Code changes.
- D. Continue to respond to Ethics Complaints and Requests for Advisory Opinions. As of February 9, 2021, the Ethics Board has three advisory opinion requests/complaints in queue.
- F. Continue Board member education through webcasts, seminars and independent study.
- G. Select new Ethics Board members to replace outgoing members Jennifer Hodges and Dominique Cantwell. In addition, the terms of two current members, David Mallon and Karen Anderson, end in June 2021, and new members will be needed to replace them. Tyler Weaver is currently the Chair and David Mallon is Deputy Chair.