

City of Bainbridge Island  
Ethics Board  
Advisory Opinion

Case # 2018-03

Date Filed: 4 September 2018

Complainant: David S. Johnson

Respondent: Ron Peltier, Council Member

**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 Ethics<sup>i</sup>, 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. 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 Williams<sup>ii</sup>, 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 speech<sup>iii</sup>:

- 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

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. The First Amendment protects speech, including that of elected officials, however “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.<sup>iv</sup> In other words, elected officials are held to a higher standard when acting in their official capacity 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 this advisory opinion, we are guided by other democratic bodies which deal with similar issues of behavior.

In developing an Advisory Opinion in this Article I complaint, the initial complaint and response were reviewed. This Advisory Opinion stems from that considered review.

This is an email situation where the language of the City Council member moves beyond a neutral, respectful response to a constituent to something that challenges the boundaries of civil discourse. One method to judge this, post facto, is when citizens go to the trouble of writing and submitting an ethics complaint stimulated by an official communication, as was the case in the Johnson complaint. Skeptics may argue that any citizen can find something about which to take offense, however few are troubled to the point of preparing a complaint, outlining their concern with the behavior and providing supporting documents.

In the instant case, Mr. Peltier articulates doubts about the motives of the citizen communicating with him. This is dangerous territory in any conversation, and particularly so when an elected official responds to a citizen.

***Recommendation:*** As an elected official of the city, the appropriate response to any engagement is to be grateful for efforts of citizens to communicate with their elected officials and thank them for their correspondence. In this instance the council member needs to utilize the previously stated principles and refrain from questioning the motives of citizens.

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

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

<sup>iii</sup> Williams, *ibid*, p. 4

<sup>iv</sup> Williams, *ibid.*, p. 5