

To: Ethics Board, City of Bainbridge Island

From: Barry Peters

Date: May 5, 2013

Re: Ethics Complaint Concerning the Perceived or Actual Conflict of Interest of Council Member Blossom

Dear Ethics Board,

I am submitting this Complaint under the terms of the City of Bainbridge Island ethics code, and I am requesting that the Ethics Board, at its earliest convenience, rule on this complaint.

I have attempted twice to resolve my concern without submitting such an ethics complaint. In April, I sent Council Member Blossom a letter expressing my concern about conflict of interest (see exhibit 2), but she did not reply, and proceeded to vote a few days later on the very issue that appeared to me to present a conflict. And, last week, I sent a follow-up letter (see exhibit 1), giving her advance notice that I would submit an ethics complaint unless she could respond with facts or reasons unknown to me that would excuse this conflict. I have received no reply from Council Member Blossom since sending either of those letters. Consequently, I prepared this complaint and sent her a courtesy copy of it concurrent with submitting it to you.

**A. Time Is Of The Essence**

Time is of the essence because City Council members have expressed a desire to vote during this month of May on a City contract with KPUD that, for the reasons stated in this complaint, I believe presents a perceived or actual conflict of interest for Council Member Blossom under the Ethics Code.

**B. My Request to the Ethics Board in this Complaint**

I am asking the Ethics Board to determine whether, under the terms of the City's Ethics Code, there is a reasonable basis for finding that:

1. Council Member Blossom had a perceived or actual conflict of interest when she voted at a Council meeting in April 2013 for the City to pursue negotiations with Kitsap Public Utility District (KPUD) for a multi-year multi-million-dollar contract for water utility services; and/or
2. Council Member Blossom would, in the future, have a perceived or actual conflict of interest if she were to vote to approve the City awarding such a multi-million dollar contract to KPUD, and therefore,

under Ethics Code section II.D.1, she should refrain from voting on the KPUD contract.

### C. Applicable Provisions of the Ethics Code

I believe that the following provisions of the Ethics Code, and perhaps other provisions, are applicable to this complaint:

**I.A Preamble (first sentence):** *“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.”*

**I.B.3 Core Values:** *“We pledge to act with the standard of fairness and impartiality in the application of policies and directives....”*

**I.D.1 Purpose of the Ethics Program:** *“All those associated with City government, including elected officials ... seek to earn and maintain confidence in the City’s services and the public’s trust in its decision-makers.”*

## II. Code of Ethics

### D.1. Conflicts of Interest - General – Application of Conflict of Interest:

“... an elected official ... shall not directly, or indirectly... take any direct official action on a matter on behalf of the City if he or she, or a member of the immediate family:

- a. Has any substantial direct or indirect contractual employment related to the matter;
- b. Has other financial or private interest in that matter (which includes serving on a Board of Directors for any organization); or
- c. Is a party to a contract or the owner of an interest in real or personal property that would be significantly affected by the action. *[emphasis added]*

### D. Relevant Context

For purposes of the Ethics Board making a determination as to whether there is a perceived or actual conflict of interest for Council Member Blossom, I believe it is relevant to consider the following information, which I believe to be true:

1. For reasons stated below, Kitsap Public Utility District (KPUD) would be a very likely bidder, and perhaps the most likely buyer, of the water company owned by

- Council Member Blossom's immediate family, if and when the family wished to sell that property. As described below, the property probably has a value between \$1 million and \$2 million.
2. Kitsap Public Utility District (KPUD) is the agency that the City Council, including Council Member Blossom, is currently considering for a multi-year multi-million-dollar water system management contract for the City's Winslow area water system, as an alternative to having the City continue to manage its own water utility itself, as it has for decades.
  3. In addition to managing water systems, KPUD also buys and owns water companies and districts. KPUD has the authority, and has historically engaged in the practice, of paying to acquire water companies and water systems throughout Kitsap County, including on Bainbridge Island.
  4. "KPUD began providing utility service as a water system manager in the 1970's through the assumption of several small, privately owned water systems and municipal water districts." (<http://www.kitsapwaterdistrict.com/beta/about.php>) Since the 1970s, KPUD has come to own more than 60 water systems, including on Bainbridge. A KPUD official recently told me that the Commissioners of KPUD are currently actively considering two friendly acquisitions of water systems on Bainbridge Island.
  5. For example, in 2002, KPUD purchased the privately owned North Bainbridge water company for approximately \$2 million, in response to a \$2.2 million asking price. The purchase price amounted to more than \$1,200 per current residential utility customer. (see Exhibit 3 – letter from KPUD to Arlene Buetow, former president of the North Bainbridge water company, now a member of the Council's Utility Advisory Committee.).
  6. Council Member Blossom's immediate family owns and controls property in the form of a business named South Bainbridge Water System, Inc. The Washington Secretary of State reports that the President and Chairman is Maurlen ("Morrie") Blossom, the Council Member's father (who has reportedly attained an age at which a majority of Americans are retired), and that the Treasurer of the Board of Directors is Kathleen Blossom, the Council Member's mother. ([http://www.sos.wa.gov/corps/search\\_detail.aspx?ubi=189004043](http://www.sos.wa.gov/corps/search_detail.aspx?ubi=189004043))
  7. I am told that Council Member Blossom herself is an employee of her family's company, or is otherwise compensated by the company for her services.
  8. South Bainbridge Water System, Inc., according to a filing with the state utility commission (UTC), serves 1,211 customers, and lists as the principal business contact Council Member Blossom's father.
  9. South Bainbridge Water is the third largest water district on Bainbridge Island – the largest being the City's water utility, and the second largest being the North

Bainbridge system now owned by KPUD.

10. If the South Bainbridge Water System, Inc. were at any time sold by the Blossom family to KPUD for a purchase price based on a value per customer comparable to KPUD's 2002 purchase of North Bainbridge water company, then Council Member Blossom's family could receive between \$1 and \$2 million (based on approximately 1,200 customers times more than \$1,200 per customer).

**E. The Conflict of Interest: Reasoning**

For purposes of the Ethics Board determining whether there is a reasonable basis to conclude that Council Member Blossom has a perceived or actual conflict of interest, I ask that the Board consider the following reasoning, and related concerns.

1. Based on the context stated above, if and when Council Member Blossom's family wishes to sell their water business, a very likely bidder, and perhaps the most likely buyer, would be the KPUD.
2. Such a sale would be likely to gain Council Member Blossom's family \$1 to \$2 million in the sales price.
3. The City Council is expected to vote soon on whether the City should give KPUD a multi-year, multi-million dollar contract. The Council (including Member Blossom) voted last month to direct the City Manager to negotiate such a contract.
4. If Council Member Blossom in coming weeks votes in favor of a multi-year multi-million-dollar City contract with KPUD, it's reasonable to assume it would be likely to ingratiate her (and, indirectly, her family) with the Commissioners and managers of KPUD.
5. If Council Member Blossom votes against such a multi-million dollar contract for KPUD, it's reasonable to assume that Council Member Blossom (and her family) would not be ingratiated to the same extent with the KPUD leadership.
6. Council Member Blossom therefore has a perceived or actual conflict of interest regarding the KPUD, between making an impartial decision on a multi-million dollar contract to be funded by City ratepayers, versus her immediate family's financial interest in being viewed favorably by KPUD leaders who could be the decision makers on an eventual purchase of their family business.
7. Contrary to the purposes and language of Ethics Code section II.D.1.c (quoted above), there would be a perceived or actual conflict because her immediate family owns very valuable property (the South Bainbridge water company) that could or would be "significantly affected" by Council Member Blossom casting a favorable vote for a multi-million dollar contractual benefit for KPUD that is likely to ingratiate her with the decision makers of KPUD.

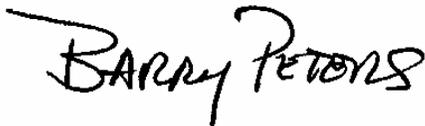
**F. Attempts to Avoid an Ethics Complaint**

In early April, and again last week, I wrote to Council Member Blossom expressing my concern about her conflict of interest. The results were:

- I received no response from Council Member Blossom, and therefore, received no facts or reasoning addressing my concern.
- Shortly after receiving my April letter expressing concerns about Council Member Blossom's conflict, she exacerbated what I believe to be a conflict by voting to direct the City Manager to negotiate a multi-million dollar contract with KPUD.
- Our weekly community newspaper, the Bainbridge Review, published a lengthy news story that detailed my concerns about the Council Member's conflict of interest. That causes me to believe that the perceived conflict was sufficiently credible to warrant a long news story. See exhibit 4.
- Many members of the public who saw the news story or my letter commented to me that they believe the facts present a significant perception of a conflict of interest.
- Six days ago, I sent a second letter, solely to Council Member Blossom (not to the press), re-emphasizing my concern and advising her that I would submit an Ethics Complaint unless the Council Member replied with facts or reasoning that changed my conclusion. I have received no response as of the time of this writing.

My thanks, in advance, to the Ethics Board for considering this complaint at the earliest practical date.

Sincerely,

A handwritten signature in black ink that reads "Barry Peters". The signature is written in a cursive, slightly slanted style.

Barry Peters  
Resident, taxpayer and water utility ratepayer of the City of Bainbridge Island  
610 NE Vineyard Lane, #A304  
Bainbridge Island, WA 98110

**Exhibit 1:**

**Copy of April 29, 2013 LETTER TO COUNCIL MEMBER BLOSSOM  
(not shared with the press)**

**From:** Barry Peters <Barry.Peters@BainbridgeVoter.org>  
**Subject:** Potential Ethics Board complaint: conflict of interest  
**Date:** April 29, 2013 12:45:24 PM PDT  
**To:** "sblossom@bainbridgewa.gov" <sblossom@bainbridgewa.gov>

Dear Councilmember Blossom,

I am sending this email to you, as a courtesy, to let you know in advance that I plan to submit a complaint to the City's Ethics Board later this week.

The subject of the complaint is described in the letter (below) that I previously sent you on April 9th, pertaining to your past (and potentially future) votes to award Bainbridge Island business to KPUD.

The City's Code of Ethics (quoted in my April 9th letter below) requires a Council member to refrain from voting on a matter if there is a personal or financial conflict of interest that involves the Council member or his or her immediate family.

I have heard many people on Bainbridge Island say that there is a widespread perception of a conflict of interest, given your immediate family's ownership of the South Bainbridge water company. Furthermore, I believe the Ethics Board might also find an actual conflict of interest of the kind that should prohibit you from voting in the future on this matter.

If you personally vote to give KPUD a sizable piece of multi-year business on Bainbridge Island, it is likely to ingratiate you with the Commissioners and staff of KPUD. It's reasonable to perceive that such an ingratiating relationship would put you and your family in a stronger position to negotiate a generous purchase price from KPUD if your family decided to sell the South Bainbridge water business at any point in the future, even if there are now no plans to sell the company. In the past, KPUD has proven to be a willing buyer of water companies on Bainbridge -- including their \$2 million purchase of the North Bainbridge water company, and other smaller water systems.

So, for the reasons stated above and below, I propose to send a complaint to the Ethics Board about this.

As a courtesy, before filing the Ethics Board complaint, I want to give you time to let me know if you think there are any factual errors or errors in my reasoning. If there are any such errors, I will consider your response and decide whether there is still a reasonable basis to submit an Ethics complaint.

In the interest of giving you some time to quietly consider this, I will not be telling the press about my proposed Ethics Board complaint before I file it. I will file it no earlier than Wednesday.

Sincerely,  
Barry

Barry Peters  
City Voter and City Water Utility Customer  
Bainbridge Island  
206-963-7701

Exhibit 2:

Copy of April 9, 2013 PUBLIC LETTER TO COUNCIL MEMBER BLOSSOM

On Apr 9, 2013, at 11:59 PM, Barry Peters <[barry.peters@bainbridgevoter.org](mailto:barry.peters@bainbridgevoter.org)> wrote:

Dear Councilmember Blossom,

Experience in recent months indicates that when a citizen wants to express a concern about a Council member's potential conflict of interest, they will be ruled out of order by City Council if they come to a public Council meeting to express that opinion orally, and will be told to put it in writing. So I am doing so.

I am writing this open letter to ask you to recuse yourself from voting on City Council decisions pertaining to Kitsap Public Utility District (KPUD), because I believe you would have a significant conflict of interest if you did not recuse yourself.

COBI's Code of Ethics, at section II.D ("Conflict of Interest - General") says, in part, that:

*"...an elected official shall not directly, or indirectly..., take any direct official action on a matter on behalf of the City if he or she, or a member of the immediate family, is ... the owner of an interest in real or personal property that would be significantly affected by the action." (emphasis added)*

I believe that your Mother, and perhaps additional immediate family members, are owners of South Bainbridge Water System, Inc., which I believe is now the third largest water purveyor on Bainbridge Island, and serves approximately 1,200 customers in the neighborhoods around your home.

If your family were to ever want to cash out its ownership of its water company, KPUD is the most obvious potential purchaser, because it is the publicly chartered water district serving Kitsap County, and because, over the years of its existence, it has acquired dozens of formerly private water systems in Kitsap County – including on Bainbridge Island.

For example, in 2002, KPUD purchased North Bainbridge Water System for approximately \$2 million, in response to a \$2.2 million asking price communicated to KPUD by the then-president of that water company, Arlene Buetow (who is now a member of the City Council's Utility Advisory Committee). That purchase price has subsequently been charged back, over ensuing years, to the North Bainbridge water customers to pay for that purchase from the private owners. I believe that, after the purchase, Ms. Buetow was hired and paid by KPUD as a consultant for a period of time. Perhaps, therefore, to avoid an appearance of conflict, Ms. Buetow also should recuse herself from giving the City Council advice about the City doing business with KPUD.

If the KPUD were to purchase your family's water company at the same price per customer (about \$1,000 per connection) as KPUD paid to the owners of North Bainbridge water in 2002, your family would potentially receive more than \$1 million from KPUD for that personal property – that is, their water company.

It is my understanding that KPUD is chartered to respond to requests, and to acquire certain water systems, when petitioned to do so. For example, I believe that KPUD is currently responding to petitions from two Bainbridge water systems – one near Manzanita and the other in Sunset Hills – to acquire those systems.

If the City Council were to vote to hire KPUD to manage the City's water utility, that decision would put KPUD operations into Winslow and Rockaway Beach, at locations quite close to the operating territory of your family's water business. If such a Council vote occurred, I believe that the proximity of KPUD operations to your family water company territory would increase the awareness of KPUD by your family's customers, perhaps to the point where they might petition the KPUD to consider acquiring your family's company. Whether or not petitioning occurred, KPUD is in any event the most likely purchaser of your family's company if they ever wished to sell. The result of such a KPUD purchase could be a payment to your family in excess of \$1 million.

Therefore, to avoid any actual or apparent conflict of interest as defined by the City's Ethics Code, I ask that you recuse yourself from any City Council vote pertaining to KPUD.

Sincerely,

Barry Peters  
City Water Utility Customer  
610 NE Vineyard Lane  
Bainbridge Island

Cc: City Council Members  
City Manager  
Bainbridge Island Review  
[InsideBainbridge.com](http://InsideBainbridge.com)  
Kitsap Sun

Exhibit 3

2001 letter from Arlene Buetow to KPUD requesting purchase of North Bainbridge water company.

[see attached pdf file: "Exhibit 3 Arlene Buetow ltr to KPUD.pdf"]

Exhibit 4

Article posted in [BainbridgeReview.com](http://BainbridgeReview.com)

[Note: a longer and updated version of this article, including interview comments from Barry Peters, was published in the hardcopy newspaper on Friday, April 12, 2013]

## **Councilwoman Blossom asked to step aside on utility vote after 'conflict of interest' complaint by former Bainbridge councilman**

By [BRIAN KELLY](#)

Bainbridge Island Review Editor

APRIL 10, 2013 · 8:56 AM

A former Bainbridge Island city councilman is asking a current councilwoman to step aside on any votes to offshore the city's water utility.

The Bainbridge council has been [considering the outsourcing](#) of the city's water utility to the Kitsap Public Utility District. The council was scheduled to talk about a potential contract with the utility at its meeting Wednesday.

Late Tuesday, former councilman Barry Peters sent a letter to Councilwoman Sarah Blossom, the council and city administration, and local media to ask that she recuse herself from any votes on the utility.

Peters said noted that Blossom's mother, and perhaps other family members, own South Bainbridge Water System, Inc.

Peters said Blossom had "a significant conflict of interest" because a sale of the family's utility to KPUD would net them more than \$1 million.

Blossom did not return a call from the Review early Wednesday. In her current "Conflict of Interest Disclosure" form on file with the city, she noted she was an employee of South Bainbridge Water System, Inc.

South Bainbridge Water System, Inc. serves 1,211 customers on Bainbridge Island, according to the Washington Utilities and Transportation Commission.

Peters recalled the sale of another privately-run water system on the island, the North Bainbridge Water System, which was purchased by the Kitsap Public Utility District for approximately \$2 million in 2002.

"If your family were to ever want to cash out its ownership of its water company, KPUD is the most obvious potential purchaser, because it is the publicly chartered water district serving Kitsap County, and because, over the years of its existence, it has acquired dozens of formerly private water systems in Kitsap County – including on Bainbridge Island," Peters told Blossom.

"If the KPUD were to purchase your family's water company at the same price per customer (about \$1,000 per connection) as KPUD paid to the owners of North Bainbridge water in 2002, your family would potentially receive more than \$1 million from KPUD for that personal property – that is, their water company," Peters continued.

"It is my understanding that KPUD is chartered to respond to requests, and to acquire certain water systems, when petitioned to do so. For example, I believe that KPUD is currently responding to petitions from two Bainbridge water systems – one near Manzanita and the other in Sunset Hills – to acquire those systems," he wrote.

Peters also noted that a council-approved contract with the Kitsap Public Utility District would put the district within reach of the South Bainbridge Water System's service area.

"If the city council were to vote to hire KPUD to manage the city's water utility, that decision would put KPUD operations into Winslow and Rockaway Beach, at locations quite close to the operating territory of your family's water business. If such a council vote occurred, I believe that the proximity of KPUD operations to your family water company territory would increase the awareness of KPUD by your family's customers, perhaps to the point where they might petition the KPUD to consider acquiring your family's company," Peters wrote. "Whether or not petitioning occurred, KPUD is in any event the most likely purchaser of your family's company if they ever wished to sell. The result of such a KPUD purchase could be a payment to your family in excess of \$1 million."

Peters also said the city's Code of Ethics says that elected officials shall not take any direct or indirect actions that benefit themselves or family members. He asked

"To avoid any actual or apparent conflict of interest as defined by the city's ethics code, I ask that you recuse yourself from any city council vote pertaining to KPUD," Peters wrote.

Peters served on the city council through 2011 and lost in a re-election bid to current councilman and Mayor Steve Bonkowski.

Peters could not be reached early Wednesday for additional comment.



## North Bainbridge Water Company, Inc.

P.O. Box 4766 · Rolling Bay, WA 98061 · (206) 842-3082

October 8, 2001

Mr. Dave Siburg  
Kitsap County PUD #1  
P.O. Box 1989  
Poulsbo, WA 98370

Dear Mr. Siburg,

Thank you for pulling together the interested parties of your organization to discuss our sales proposal earlier today. You are fortunate to have such a knowledgeable group of professionals working with you and it was a pleasure for me to meet and discuss our water system with each of you.

You asked me to give you a number, which represents what we are looking for to sell the system. I would like to formalize my answer through this letter. The stockholders have advised me that they are willing to sell the system for \$2.2 million dollars. This number represents 1,904 authorized connections times \$1,000 per connection, plus an up front payment of \$89,891 for all receivable contract income, as well as the assumption of \$82,180 in developer extension contract debt and \$96,500 to "buy out" employee contracts/commitments. This number is extended with the understanding that the Company would retain all cash and receivables and would transfer all assets of the Company to the PUD. This number could be reduced by the amount of the employee contracts/commitments if you are interested in retaining the current staff for an agreeable period of time. You stated during our earlier discussions that this is more than PUD has historically paid to purchase a system. My only response is that what we are offering to sell is considerably better than anything that has been available on the market in the past. Our system is both physically and fiscally sound. We have a concentrated service area, which enables us to provide the high-quality service, increased reliability and efficiency for which we have gained the respect of both state and local regulators. We have undertaken considerable efforts as well as debt to bring the system up to this standard and because of such we are seeking a fair return on this investment.

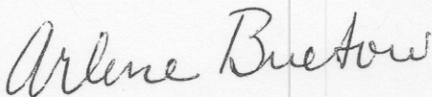
We are currently evaluating purchase proposals from both the public and private sector. We are committed to our customers and communities public service needs and because of such have decided to prioritize our investigations with local investors. As you are aware we have had discussions with the city but they have shown no real interest and in fact have indicated that anticipation of Initiative 747 has tied them up financially thereby limiting their ability to consider a purchase in the near future. Frankly we believe that given our revenue producing abilities that this proposal speaks for itself but clearly it is up to the evaluator to make that decision. Given that, we believe the Kitsap County PUD is next best fit for our system and thus we have requested these discussions. In event that we can come to agreeable terms for a sale we do believe that our customers too would support this option.

Attached you will find a brief summary of our system;

- The North Bainbridge Water Company operates in a highly concentrated service area of approximately 7 square miles located primarily in the northeast section of Bainbridge Island. Bainbridge Island is an upscale urban growth area which serves as a bedroom community to Seattle, just a short ferry ride away.
- North Bainbridge Water is a group A public water system incorporating 9 wells, 5 storage tanks, over 35 miles of transmission main, along with automated sensors and booster pump system, treatment, pressure, and power generation facilities. The Company owns several real estate parcels including our tank farm, well field, blending tank and booster station facilities and has permanent leases for well fields and transmission main easements throughout our distribution system. We have also secured the necessary permits for expanded facilities at the tank farm as required to accommodate additional warehouse facilities and storage capacity over time.
- The Company currently serves 1,629 equivalent residential units (ERU). Our service area also incorporates properties currently served by several other private water purveyors, all of which are likely candidates for future acquisition. These other water purveyors currently serve approximately 125 ERU.
- The Company has experienced an annual growth rate of 5.5% for the last three years. This rate is 50% higher than that projected within our 1998 Water System Plan. The Company has current plans and commitments to serve another 100 ERU within the next year.
- The Company has undergone an aggressive capital improvement program over the last few years and as a result has completed or has plans to complete all capital improvements planned within the 6 year planning period (identified on page 8.2.2 of our Water System Plan). In addition the Company has completed several capital improvements included within our 20 year planning period (identified on page 8.2.3 of our Water System Plan). Through the early completion of these improvements we have assured that future resources can be dedicated to rebuilding the Company's capital reserves.
- While the North Bainbridge Water System has been serving the water service needs of this community since 1915 much of our system has been retired, replaced and/or expanded within the last 10 – 20 years. This leaves a water system facility constructed to the most current standards to provide increased reliability and quality of service.
- The Company's last rate case was approved in June 2000 and has resulted in an overall 13.9% rate of return for calendar year 2000. Given this overall rate of return and projected growth we do not foresee a need for revised rates in the near future.

I am confident that when you take the time to evaluate and familiarize yourself with our system, including its income and operating expenses, you will come to recognize the true value of our Company. If you find you need additional materials for your review or if you have any questions regarding the information under consideration, please give me a call at (206) 842-3082.

Sincerely,



Arlene M. Buetow  
President  
North Bainbridge Water Company, Inc.