



CITY OF  
BAINBRIDGE ISLAND

ETHICS BOARD  
SPECIAL MEETING  
MONDAY, FEBRUARY 1, 2021  
6:30 PM  
VIA ZOOM WEBINAR

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THE ETHICS BOARD WILL HOLD THIS MEETING  
USING A VIRTUAL, ZOOM WEBINAR, PER GOVERNOR INSLEE'S  
"STAY HOME, STAY HEALTHY" ORDERS

MEMBERS OF THE PUBLIC WILL BE ABLE TO CALL IN TO THE ZOOM MEETING

PLEASE CLICK THE LINK BELOW TO JOIN THE WEBINAR:

[HTTPS://BAINBRIDGEWA.ZOOM.US/J/95815302011](https://bainbridgewa.zoom.us/j/95815302011)

OR IPHONE ONE-TAP: 1-253-215-8782

OR TELEPHONE: 1-253-215-8782

WEBINAR ID: 958 1530 2011

#### AGENDA

1. CALL TO ORDER – 6:30 P.M.
2. DISCLOSURE OF CONFLICTS OF INTEREST
3. CONSIDER DRAFT ANNUAL REPORT
4. DISCUSS TRAINING MATERIALS AND PLAN
5. DEPUTY CHAIR POSITION
6. ADJOURNMENT

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

**February \_\_, 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.

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.

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, 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.

#### IV. Work Plan for 2021

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

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.

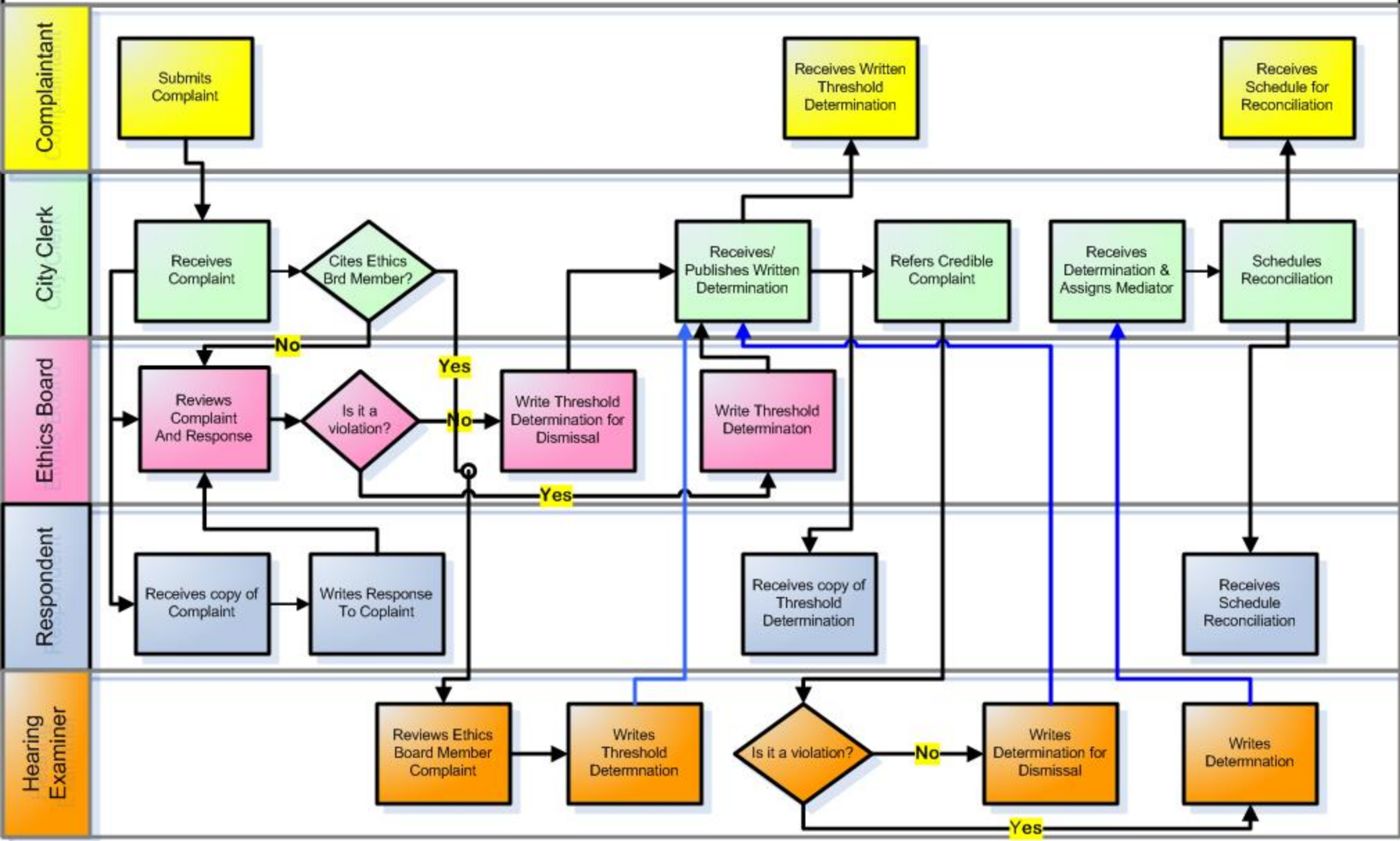
D. Continue to respond to Ethics Complaints and Requests for Advisory Opinions; as of February \_\_\_\_, 2021, the Ethics Board has two advisory opinion requests/complaints in queue

E. Continue to respond to citizen inquiries regarding ethical issues in government

F. Continue Board member education through webcasts, seminars and independent study.

G. Select new Ethics Board member to replace outgoing members Jennifer Hodges and Dominique Cantwell. Tyler Weaver is currently the Chair and David Mallon is Deputy Chair.

# ETHICS COMPLAINT PROCESS





## CODE OF CONDUCT AND CODE OF ETHICS

### TRAINING PROGRAM SUMMARY

BASED ON RESOLUTION NO. 2020-13

EFFECTIVE DATE: JULY 28, 2020

### INTRODUCTION

APPLIES TO: ALL THOSE ASSOCIATED WITH THE CITY GOVERNMENT, INCLUDING COUNCILMEMBERS AND MEMBER OF CITY COMMITTEES AND COMMISSIONS

### CODE OF CONDUCT

This Code of Conduct applies to all Councilmembers and members of City Committees and Commissions

#### PURPOSE:

To promote and maintain the highest standards of personal and professional conduct among City Councilmembers and the members of City Committees and Commissions, and

To provide the optimal operation of a democratic government which is fair and accountable to the people it serves.

#### CODE OF CONDUCT – CORE VALUES

- Service, Helpfulness, Innovation
- Integrity
- Equality, fairness, Mutual Respect
- Responsibility, Stewardship, Recognition



## CODE OF CONDUCT – ETHICAL PRINCIPLES

Obligation to the Public to;

- Act to promote public good
- Preserve public's trust
- Be transparent and honest in all public statements and written statements

Obligations to Others to:

- Be familiar with the governing Code of Ethics
- Conduct oneself in a manner demonstrating civility and respect for others

## CODE OF CONDUCT – USE OF PUBLIC RESOURCES

Commitment to good stewardship in use and allocation of public monies, property, and other resources to:

- Ensure public resources are used and conserved for public good
- Act in a responsible manner
- Consider both present and future needs of the community
- Seek guidance from staff and other experts, including City Attorney, as appropriate
- Ensure paid experts and consultants shall be impartial and free of conflicts of interest

## CODE OF ETHICS

### A. GIFTS AND COMPENSATION

NO Councilmember or member of a City Committee or Commission or any member of their immediate family shall directly or indirectly accept any gifts for a matter connected with or related to their services or duties with the City of Bainbridge Island or accept any non-City compensation for the performance or non-performance of these service or duties.

#### EXCEPTIONS to Gift Limitations

1. Unsolicited items or services with a value of fifty (50) dollars or less, such as promotional t-shirts, pens, calendars, etc.
2. Gifts from other City officers, officials, or employees or their family members on appropriate occasions,
3. Gifts appropriate to the occasion and reasonable and customary when a familial, social, or official relationship of the giver for occasions such as weddings, funerals, illness, holidays, and ground-breaking ceremonies.
4. Campaign contributions as permitted and reported in accordance with law.

5. Awards publicly presented by nonprofit organizations in recognition of public service—IF the award is NOT extraordinary when viewed in light of the position held by the recipient.
6. Gifts from visiting other governmental agencies or hosting visitors from other governmental agencies, when it would be a breach of protocol to refuse, PROVIDED that any such gifts received shall become the property of the City of Bainbridge Island.
7. As approved by the Mayor, if the Mayor is the recipient, by the Deputy Mayor or the Mayor Pro Tem for reasonable and necessary costs to attend a conference or meeting directly related to official or ceremonial duties.

#### GIFTS TO IMMEDIATE FAMILY

A member of a Councilmember or City Committee or Commission member's immediate family:

- May accept a gift arising from an independent relationship IF the Councilmember or member of a City Committee or Commission does not significantly benefit from the gift; and that it
- Cannot be reasonably inferred that the gift was intended to influence the Councilmember or City Committee or Commission member in the performance of their duties.

#### B. USE OF CITY PROPERTY BY COUNCILMEMBERS

No councilmember shall request, permit, or use City vehicles, equipment, materials, or property for personal use, personal convenience, or profit. The only exception may be for limited incidental personal use or emergency circumstances.

#### C. CONFIDENTIALITY

Except as required by law, a Councilmember, a former Councilmember, or current or former member of a City Committee or Commission shall NOT DISCLOSE or USE PRIVILEGED, CONFIDENTIAL, or PROPRIETARY INFORMATION obtained in Executive Session or otherwise in the course of their duties as a result of their position.

#### D. CONFLICT OF INTEREST – General

NO Councilmember or a member of a City Commission or Committee shall take any direct official action on a matter if they or a member of their immediate family:

- Have any substantial direct or indirect contractual employment related to the matter; or
- Have other significant financial or private interest in that matter (which includes serving on a Board of Directors for any organization but does not, for Council members, or include appointment members to the Salary Commission; or personal property within the meaning of this section.

## CONFLICT OF INTEREST – EXCEPTIONS for Councilmembers

Conflict of Interest shall not apply when a Councilmember:

- a. Is required to take or participate in an action based on the rule of necessity;
- b. Acts as their own representative before the City Council, Hearing Examiner, or any other City board, commission, or agency---provided that the individual does not also participate in any way in the deliberations or decision of the City Council, Hearing Examiner, or that board, commission, or agency related to that matter;
- c. Acquires an interest in bonds or other instruments of indebtedness issued by the City if acquired and held on the same terms available to the general public;
- d. Officially participates in the development and adoption of the City's budget; or establishes the pay or benefit plan of City officers, officials, or employees;
- e. Makes decisions on any legislation of general application unless these actions directly affect or appear to affect, the officials' or immediate family member's employment; or
- f. Serves on the governing body of an organization or entity as part of their official duties as a Councilmember of the City.

Conflict of Interest shall NOT apply when a member of a City Committee or Commission:

- a. Discloses a potential conflict of interest related to member's ownership or lease of certain real property or of a business located in a certain area of the City the basis for possibly providing the basis for appointment to a City Committee or Commissions.
- b. Fully discloses the basis for declaring a potential Conflict of Interest on the public record of the respective City Committee or Commission and the Committee or Commission votes to allow the member to participate in the discussion of the vote; or
- c. Is required to take action or participate in an action based on the rule of necessity.

## DISCLOSURE FOR COUNCILMEMBERS

All Councilmembers are required:

- to comply with the Washington State Public Disclosure Commission requirements for financial disclosure,
- to publicly disclose their financial interest in any matter that comes before them
- to annually complete a Conflict of Interest statement to be submitted to the City Clerk by April 15<sup>th</sup>,
- To take action or participate in an action based upon the rule of necessity.

## E. CONFLICT OF INTEREST – AFTER LEAVING ELECTED CITY OFFICE

For two (2) years after leaving elected City office NO FORMER COUNCILMEMBER:

- shall obtain employment in which they will take direct or indirect advantage of matters on which they took direct official action during their service with the City., This includes contractual negotiations or solicitations of business unavailable to others.
- shall engage in any act or litigation in which the City is involved, on behalf of any other person or entity when the act or litigation involves an issue on which the Councilmember took direct official action while in elected City office.

## F. CONFLICT OF INTEREST – MEMBERS OF CITY COMMITTEES OR COMMISSIONS AND EMPLOYMENT

While serving on a City Committee or Commission and for two (2) years after leaving such position, no member of a City Committee or Commission shall obtain employment in which they will take direct or indirect advantage of matters which they as a member of a City Committee or Commission recommended to the City Council. This includes applying for positions or contracts with the City when the City Committee or Commission on which the member served, recommended funding for such position or contract.

## G. CONFLICT OF INTEREST – FAMILY MEMBERS OF COUNCILMEMBERS

### 1. Appointment of Family Members

Unless a waiver is obtained from the Ethics Board, no Councilmember shall appoint or hire a member of their immediate family for any type of employment with the City. This includes, but is not limited to, full time employment, part-time employment, permanent employment, temporary employment, and contract employment.

### 2. Supervision of Family Members

NO Councilmember shall supervise or be in direct line of supervision over a member of their immediate family. If a Councilmember is placed in a direct line of supervision of a member of their immediate family, they shall have three (30 months to come into compliance or to obtain a waiver from the Ethics Board.

### 3. Waivers

Waivers may be sought from the Ethics Board in accordance with Article III of Resolution NO. 2020-13.

## H. CONFLICT OF INTEREST – CONTRACTORS

Contractors are required when submitting bids to the City to affirm that neither the contractor nor any agent of the contractor has made any prohibited gift to a Councilmember who is involved in direct action on a bid, or had a relationship to such Councilmember, that would create a conflict of interest for that Councilmember under the City’s Code of Conduct and Code of Ethics.

## I. CONFLICT OF INTEREST – INDIVIDUALS SERVING ON CITY COMMITTEES AND COMMISSIONS

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CITY OF BAINBRIDGE ISLAND  
CODE OF CONDUCT AND ETHICS PROGRAM  
TRAINING

BASED ON RESOLUTION NO. 2020-13  
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