



CITY OF  
BAINBRIDGE ISLAND

ETHICS BOARD  
REGULAR MEETING  
MONDAY, MARCH 15, 2021  
6:30 PM  
VIA ZOOM WEBINAR

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THE ETHICS BOARD WILL HOLD THIS MEETING  
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MEMBERS OF THE PUBLIC WILL BE ABLE TO CALL IN TO THE ZOOM  
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TELEPHONE: 1-253-215-8782

WEBINAR ID: 910 2843 1563

#### AGENDA

1. CALL TO ORDER – 6:30 P.M.
2. DISCLOSURE OF CONFLICTS OF INTEREST
3. PUBLIC COMMENT
4. REVIEW ADDITIONAL DRAFT ADVISORY OPINION FOR EB 2020-07
5. CONSIDER COMPLAINT 2021-01
6. PREPARATION FOR 3/24/2021 JOINT SESSION WITH COUNCIL
  - A. ANNUAL REPORT
  - B. POTENTIAL REAC INTERACTION
  - C. TRAINING
7. AGENDA FOR 4/19/2021 MEETING:
  - CONSIDER DRAFT OPINION EB 2021-01
  - UPDATE ON TRAINING AND OTHER ITEMS FOLLOWING JOINT SESSION WITH COUNCIL
8. ADJOURNMENT

# ETHICS COMPLAINT

2021-01

City of Bainbridge Island Ethics Board

**Advisory Opinion**

Case # EB2020-07

Date Filed: December 30, 2020

Requestor: [REDACTED]

Advisory Opinion Issued: March \_\_\_\_, 2021

**I. *Questions Presented***

Requestor seeks Code of Conduct educational feedback regarding emails recently exchanged between him and several parties regarding what he perceived to be racial equality issues during City Council's selection of a final appointee to a vacant Council seat. Subsequent to these emails, an Article I Complaint (hereinafter, "Complaint") was filed against him by one of the two remaining candidates, also the recipient of the emails. The Request for Advisory Opinion (hereinafter, "Request") is attached in its entirety, but with redactions per Article III, Section D.3 that requires the Board to not include any identifying information as to "...the requestor or the individuals(s) whose conduct is the subject of the opinion unless otherwise agreed in writing by both the requestor and the subject individual(s)."

Due to the phrasing of the Request, it was necessary for the Ethics Board to extract the relevant substance of the clarifications sought. They are below:

**A. Requestor Queries**

(1) How to have respectful, yet meaningful discussions on race equity, diversity, and inclusion.

(2) How to keep discussions focused on how to take meaningful actionable steps to address racial inequities and to increase diversity and inclusiveness in our local government in a manner which respects the core values of respect, integrity, trust, etc. as adopted by the City of Bainbridge Island.

(3) Were the emails sent by the Requestor, including to County Commissioners, a violation of the Code of Conduct as a method of attempting to resolve a 3-3- tie?

(4) Was there a Code of Conduct violation when Requestor suggested a debate between the finalists as a means of resolving the 3-3- tie?

## II. Applicable Provisions of the Ethics Program

The Complaint alleged violations of Article I, § B.1, § B.2, § B.3, and § C.2b of the City of Bainbridge Island Code of Conduct and Ethics Program, effective July 28, 2020 (“the Program”). Related allegations included the following:

### A. Alleged violation of Article I, Section B.1

The Complaint alleged that Requestor violated Article I, § B.1, which provides, in relevant part, that Councilmembers are “...committed to provide service to the people of Bainbridge Island that is courteous...”

### B. Alleged violation of Article I, Section B.2

The Complaint alleged that Requestor violated Article I, § B.2, which provides, in relevant part, that Councilmembers are to “...treat one another with honesty and integrity, recognizing that trust is hard won and easily lost... in keeping with that integrity and the highest standards of this community”.

### C. Alleged violation of Article I, Section B.3

The Complaint alleged that Requestor violated Article I, § B.3, which provides, in relevant part, that Councilmembers are to “...pledge to act with the standard of fairness and impartiality in the application of policies and directives and that of equality and mutual respect with regard to interpersonal conduct”.

### D. Alleged violation of Article I, Section C.2b

The Complaint alleged that Requestor violated Article I, § C.2b, which provides, in relevant part, that Councilmembers are to “...sustain a culture of ethical integrity...and in all their interactions, conduct themselves in a manner that demonstrates civility and respect for others”.

## III. Findings

### **(1) How to have respectful, yet meaningful discussions on race equity, diversity, and inclusion.**

In the future, personal correspondence from City Councilmembers and members of city committees, boards, and commissions should be represented as such with clear language indicating the opinions are not shared by or on behalf of the City or its Council.

Discussions towards improving our equity landscape are challenging in even the best environments. Efforts should be undertaken with sincerity, forethought, authenticity, and the assistance, wherever possible, of those trained and highly qualified to facilitate effective and productive results.

**(2) How to keep discussions focused on how to take meaningful actionable steps to address racial inequities and to increase diversity and inclusiveness in our local government in a manner which respects the core values of respect, integrity, trust, etc. as adopted by the City of Bainbridge Island.**

See response to #1 above.

**(3) Were the emails sent by Requestor, including to County Commissioners, a violation of the Code of Conduct as a method of attempting to resolve a 3-3- tie?**

Yes. Resolution of a 3-3 tie was a previously agreed upon decision for City Council to discuss and decide in a public meeting. The emails sent were an attempt to circumvent that process.

Requestor transmitted an email from a City email address and signed it as a member of City Council. This email, in turn, was addressed to County Commissioners in the position to break a 3-3 tie in City Council. While it is true that elected officials have the right to express their opinions on political subjects or candidates, it is a best practice guideline for many cities or municipalities that an official should not mislead the public into thinking they're speaking in an official capacity or on behalf of the City. An email is today's equivalent of using city letterhead, and Requestor should not be using public resources to engage in "off-duty" speech without clarifying that official affiliation is for identification purposes only and that comments do not imply an endorsement by the City or City Council itself.

The core purpose of adopting guidelines and Codes of Conduct of this nature is to ensure mutual respect and transparency, which sets expectations towards fostering community trust and engagement. No elected person should use his or her position in such a manner that a conflict arises between the interests of the City of Bainbridge Island and his or her personal interests. Nor should he or she use their position to circumvent the process which was underway in City Council in order to achieve a special privilege or consideration for a desired outcome, especially via means that insult or cast in a negative light the character of fellow Councilmembers, potential appointees, or members of the public.

Other key tenets of the Code of Conduct are grounded in "courtesy", "integrity", and "mutual respect" not only toward other members of the City Council and members of the City Committees and Commission but also to "the public". By sending the referenced email, Respondent exhibited disregard for the Complainant as a member of the "public" and to the City Council as a representative on their behalf.

The intersectional issues of racial equity, housing, and the environment are legitimate and deserving of informed and focused consideration and effort. Sending inflammatory emails with inferential or careless accusations of racism, particularly to achieve political ends, is a disservice to such critically important issues.

As sworn City Officials, Councilmembers are entrusted by the community to uphold the tenets of the Code of Conduct. The people have the right to expect from their elected representatives at all levels of government the highest standard of integrity, honesty and fairness in their dealings.

This means abstaining from the distribution or dissemination of materials or any communications which may be considered discriminatory or in a context that may be construed as a personal attack, sexist, racist, or as a form of harassment.

A. Article I, Section B.1

The emails sent by Requestor, including to County Commissioners, were a violation of Article I, § B.1 of the Code of Conduct as a method of attempting to resolve a 3-3- tie because the emails were potentially disparaging of fellow Councilmembers and a Council candidate under consideration. In doing so, Requestor's actions were not committed to providing service to the people of Bainbridge Island in a courteous manner.

B. Article I, Section B.2

The emails sent by Requestor, including to County Commissioners, were a violation of Article I, § B.2 as a method of attempting to resolve a 3-3- tie because the emails were sent via Requestor's City account, and to County Commissioners who would have been decision makers in the event of a 3-3 tie. By circumventing the process and inferring Councilmembers and the Complainant (per the email subject and attached article) were complicit in systemic racism as "...'good White people' who were derailing racial progress", Requestor failed to act with integrity and the highest standards of this community.

C. Article I, Section B.3

The emails sent by Requestor, including to County Commissioners, were a violation of Article I, § B.3 as a method of attempting to resolve a 3-3- tie because transmitting an email to community members, elected officials, potential officials, and others reflected partiality towards a Council candidate. Requestor's communication aimed to pre-empt the voting process underway with fellow City Council members, and in a manner which exhibited a lack of respect and regard for colleagues via accusatory interpersonal conduct.

D. Article I, Section C.2b

The emails sent by Requestor, including to County Commissioners, were a violation of Article I, § C.2b as a method of attempting to resolve a 3-3- tie because Requestor acted in a manner which was disrespectful and uncivil towards a Council candidate, fellow Councilmembers, and anyone who might disagree with Requestor's choice. The transmitted emails set the stage in the community such that any similar opposition might

be viewed as racist or contributory to systemic racism, potentially causing negative or retaliatory repercussions for those individuals.

**(4) Was there a Code of Conduct violation when Requestor suggested a debate between the finalists as a means of resolving the 3-3- tie?**

The Ethics Board does not have the authority to offer an advisory or educational opinion on whether suggesting a debate between the finalists as a means of resolving the 3-3- tie is a Code of Conduct violation.

IV. **Conclusion**

The Board submits this Opinion to the City Clerk for publication, pursuant to Article III, § D.2.

# DRAFT ADVISORY OPINION

2020-07



**Article II (Code of Ethics)  
Ethics Complaint Form**

**I. Introduction:**

Individuals seeking to submit an ethics complaint alleging a violation of the Code of Ethics (Article II) by a Councilmember or a member of a City Committee or Commission should complete this form and submit it, along with any supporting documents, to the City Clerk at [cityclerk@bainbridgewa.gov](mailto:cityclerk@bainbridgewa.gov).

**II. Your Contact Information:**

**Name:** Ron Peltier

**Address:** 11186 Valley Heights Circle NE, Bainbridge Island, WA 98110

**III. Article II Complaint:**

- A. Please provide the name of the Councilmember or the member of a City Committee or Commission who is the subject of your complaint (this individual is referred to as the "Respondent"): **Kirsten Hytopoulos**
- B. Please identify the section(s) or subsection(s) of the Code of Ethics (Article II) that you believe were violated by the Respondent: **Article II.D. Conflict of Interest. In addition: RCW 42.23.070 Prohibited acts.**
- C. Please describe the facts supporting your allegation that the Respondent has violated the sections or subsections of the Code of Ethics (Article II) indicated above. If necessary, please attach additional pages. If other records exist that you believe support your allegation (e.g., emails or other documents), please attach them to this form as well.

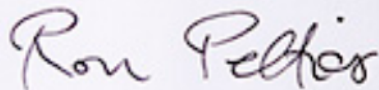
**During the COBI City Council's October 27, 2020 meeting council member Hytopoulos advocated for and took direct official actions to amend the Ethics Board's Operating Rules with the intention of disallowing a complaint filed and pending against former council member Kol Medina. In so doing she was taking direct official action on a matter of significant private interest to her as well as using her position to secure an exemption for Mr. Medina. A more detailed description of my complaint is attached.**

I certify under penalty of perjury under the laws of the State of Washington that the foregoing, including any additional pages or records attached by me, are true and correct.

Date: 2/4/21

Place: Bainbridge Island, WA

Signature \_\_\_\_\_



**City of Bainbridge Island Ethics Program**  
**Article II Code of Ethics Complaint**  
**February 4, 2021**

**Respondent: Councilmember Kirsten Hytopoulos**

**Complainant: Ron Peltier**

**Code of Ethics Complaint**

During the October 27, 2020 Bainbridge Island City Council meeting City Council member Kirsten Hytopoulos advocated and took direct official actions in support of an effort by Councilmember Kol Medina to disallow an Ethics Complaint filed and pending against him by adding language to the Ethics Board’s *Operating Rules*, supposedly as a “clarification” of the existing rules. The complaint in question was filed by an attorney on behalf of an anonymous client (No. 2020-03). The new *Operating Rules* language proposed by CM Medina would have explicitly legislated his interpretation of who is allowed to file complaints: specifically disallowing complaints filed by third parties on behalf of complainants. His own words, along with those of Councilmember Hytopoulos and Ethics Board Chair, Jennifer Hodges, made it clear that the new *Operating Rules* language was intended to serve as guidance and a “clarification” of the existing *Rules* to the Ethics Board and applied to complaints already filed, pending, and coming before them.

**Violations by CM Hytopoulos**

By her own words and official actions during the October 27, 2020 and November 10, 2020 COBI City Council meetings, supporting and advocating in favor of legislating changes to the Ethics Board’s *Operating Rules* in a manner intended to exempt Councilmember Kol Medina from a lawfully filed ethics complaint, Councilmember Hytopoulos violated the following *Code of Ethics* tenets:

**From the City of Bainbridge Island’s Code of Ethics:**  
**Article II.D.1.:**

***D. Conflict of Interest – General***

***1. Applications of Conflict of Interest***

*Except as permitted in Subsections D.2 or D.3 below, a Councilmember or member of a City Committee or Commission shall not take any direct official action on a matter if they, or a member of their immediate family:*

*b. **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 Councilmembers, include appointing members to the Salary Commission) (emphasis added.)*

**From the State of Washington’s Code of Ethics for Municipal Officers:**

**RCW [42.23.070](#)**

***Prohibited acts.***

*(1) No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.*

**Why have I included an ethics rule from Washington State’s Code of Ethics for Municipal Officers?**

I’ve included the reference to State law, in part, to underscore the seriousness of the alleged violations and because COBI is required by State Law to enforce, as minimum standards, the State’s *Code of Ethics for Municipal Officers*. The following is from Washington State’s *Code of Ethics for Municipal Officers*:

**RCW [42.23.060](#)**

***Local charter controls chapter.***

*If any provision of this chapter conflicts with any provision of a city or county charter, or with any provision of a city-county charter, the charter shall control if it contains stricter requirements than this chapter. **The provisions of this chapter shall be considered as minimum standards to be enforced by municipalities.** (emphasis added.)*

COBI’s Ethics Program is the primary instrument our city currently has in place to enforce the minimal standards of Washington State’s *Code of Ethics for Municipal Officers*.

**From Page 7 of the City of Bainbridge Island’s Ethics Program:**

*This Code of Conduct and Ethics Program is intended to supplement state and federal law. As such, Councilmembers and members of City Committees and Commissions shall comply with all state and federal laws in the performance of their public duties. These laws include, but are not limited to, the following: the United States and Washington Constitutions; Chapter 42.23 RCW; and Chapter 42.17A RCW.*

**BACKGROUND INFORMATION**

To support my complaint I am citing comments by Councilmember Kirsten Hytopoulos and others from the October 27, 2020 and November 10, 2020 City Council meetings. The comments being cited from the 10/27/20 meeting took place during agenda item 9.G. related to the Ethics Board's Operating Rules. My focus, here, is on Councilmember Medina's motion to explicitly disallow the filing of complaints by a third party on behalf of a complainant, which by his own words was motivated by a complaint pending against him filed by an attorney on behalf of an anonymous client (No. 2020-03). Comments by council member Hytopoulos from the 11/10/20 City Council discussion occurred during a farewell ceremony for council member Medina, who was attending his last meeting as a member of the Bainbridge Island City Council.

**During discussions at the 10/27/20 City Council meeting, under Agenda Item 9.G., Update of Ethics Board Operating Rules, council member Medina made the following motion (the 3<sup>rd</sup> motion under 9.G.):**

*I move to amend the Operating Rules to tentatively, subject to final Council approval on November 10th, add the following language to the end of Section 4.A.ii: "The City Clerk shall not accept any complaint that does not provide the name and address of the complainant. Complaints made by a third-party on behalf of a complainant may not be accepted by the City Clerk.*

**CM Hytopoulos seconded and voted in favor of the motion.**

**Attitudes of Councilmembers during discussion of item 9.G., Operating Rules:**

There was a range of attitudes, generally, towards Councilmember Medina's motions to revise the Ethics Board's *Operating Rules*. All of the councilmembers voted in favor of CM Medina's motions after the motions were amended to be forwarded to the 11/10/20 meeting for further discussion, as opposed to being approved with "one touch" during the 10/27/20 meeting. None of the Councilmembers cautioned CM Medina regarding actions by him that may have appeared to them to be a conflict of interest violation:

- 1) **CM/Mayor Leslie Schneider**, as Chair of the meeting, was supportive of CM Medina's motions in terms of procedure but otherwise did not speak in favor of them.
- 2) **CM Joe Deets** said he had not seen CM Medina's motions prior to the meeting but was supportive of those motions and offered his own motion to explicitly state that the *Ethics Program* was not intended to be punitive but rather educational only.
- 3) **CM Rasham Nassar** appeared not to have known in advance about CM Medina's motions and preferred to advance them in a more deliberate and less

urgent process. She preferred that the motions be forwarded to the November 10 meeting for further discussion rather than approve them with a single touch during the 10/27/20 meeting.

- 4) **CM Christy Carr** barely spoke, only to express a concern over process, especially in regards to a motion proposed by CM Deets to amend the Ethics Program, which seemed to her to be procedurally off topic.
- 5) **CM Michael Pollock** favored a more deliberate process, perhaps holding a joint meeting with the Ethics Board.
- 6) **Ethics Board Chair, Jennifer Hodges** was outspoken in saying that the Ethics Board was urgently in need of guidance regarding pending complaints.
- 7) **CM Medina** wanted changes made to the *Operating Rules*, especially in regards to who could file a complaint, the latter as an urgent matter of guidance and “clarification” regarding the existing rules.
- 8) **CM Hytopoulos** was supportive of CM Medina’s motions and shared his sense of urgency, especially for the need to “clarify” who could submit complaints as a matter of guidance to the Ethics Board and as a matter of what the *Operating Rules* already supposedly required (no anonymous complaints).

**The following are comments by Councilmembers and Ethics Board Chair, Jennifer Hodges, from the 10/27/20 COBI City Council meeting related to Councilmember Kol Medina’s seven motions to revise the Ethics Board’s *Operating Rules*. The main focus in the comments I’ve selected is on CM Medina’s third motion, to disallow complaints filed by third parties on behalf of a complainant.**

**The first two comments, by CM Michael Pollock and CM Kirsten Hytopoulos, relate generally to the idea of making urgent changes to the Ethics Board’s *Operating Rules*. CM Pollock’s comments are condensed here but can be read in full in the attached transcript of the 9.G. discussion from the 10/27/20 Council meeting:**

**3:53:51**

**CM Pollock:**

*“... Um, it's, I don't think we were going to be talking about this, but, um, it's an important issue, um, and at the same time and feel like the point that the Ethics Board has had one meeting, they're going to go through the process. They're going to have some ideas and recommendations. Um, we're all kind of learning about this, and it just seems like your statement, we've heard from two people now, let's let the process play out. Seems, seems wise that we do this. And then we, we see what worked and what didn't work. And we, we move forward with some suggested changes and, and, and sounds like we ought to have a workshop at some time in the, in the, in the future draft, or the ethics board, I don't know*

*how many ethics complaints are in the docket, but, but after there's been a few that have gone through and, um, and, and then we come up where we kind of have a, uh, a thoughtful and reasoned approach to making changes and not, uh, um, just simply make some changes because somebody feels strongly about something right now. So I guess I would like to get some feedback from the Ethics Board on, on some of the proposed changes and to really let them, um, let them go through and think, and figure out what works and what doesn't work... ”*

**3:58:05: CM Hytopoulos**

*“ I just want to say a response to Councilmember Pollock that they've had three meetings. **They're just starting to, to, to review complaints, that they have had three meetings, um, and so, and I think that we're going to hear that there are some concerns that, that, um, that we need to think about immediately.** So anyway, I think councilor Medina is up next I hope, and so let's get on with what we say we would do, and let's consider whether we want to take some action. ”*  
(emphasis added.)

**4:02:40: CM Medina begins his arguments in favor of his motion to disallow complaints filed by third parties on behalf of a complainant:**

*“Thank you all for bearing with me, there aren't a ton of these. Um, there are only two more. Um, so our Ethics Code, um, requires or states that any individual may submit a complaint and then it states that the complaint, the complainant, must include their name and address in the complaint. Um, and then if you look here at the operating rules, uh, it repeats some of that, so in article, and section 4.A.II., Submission, it says any individual may submit to the City Clerk, a complaint, alleged violations of the Code of Conduct Article, one para. Um, I want to, the motion that I will make will be to add language here that says very specifically that the city clerk will not accept any complaint that does not provide the name and address of the complainant.*

*Our code already requires that the complainant provide their name and address, but it does not say what the remedy is if it's not provided, and so this would say the city clerk will not accept it if their name and address is not provided. And then also I will be including language in the motion that says that complaints made by a third party on behalf of a complainant may not be accepted by the city clerk. ”*

**4:04:07**

*“Basically that's saying anonymous complaints made by one person on behalf of some anonymous person won't be accepted by the city clerk and I'm making this,*

*uh, I will make this motion because that is what one of the complaints against me is, is a complaint by an anonymous person, um, submitted by a law firm. The complainant, the person actually doing the complaining is not named in the complaint nor is their address, even though our Ethics Code very specifically says that the complainant has to name themselves and their address yet this complaint was accepted by the City and is under review in the Ethics Board, but I think it clearly violates the letter and certainly the spirit of our Ethics Code. So, um, I want to take the opportunity to put language in the operating rules that makes it clear that that's not allowable under our Ethics Code."*

**4:05:02**

*"So I move that we amend the operating rules with the following language added to section 4.A.ii., subject to tentatively, subject to final approval by the council on the November 10th meeting. Language is:*

*The City clerk shall not accept any complaint that does not provide the name and address of complainant. Complaints made by a third party on behalf of a complainant may not be accepted by the city clerk."*

**Note: the motion was later amended to add the following language to the beginning of the motion:**

*I move to amend the Operating Rules to tentatively, subject to final Council approval on November 10th, add the following language to the end of Section 4.A.ii.:"*

**4:05:48: CM Hytopoulos:**

*"Yeah, um, this isn't allowed in a criminal court, or as far as I am aware in any civil court, you can't bring, you have to be a corporation individual, you can't anonymously, um, sue or, or bring charges against somebody. So is there a reason we would? Pretty sure it's constitutional, it's a constitutional right. So, um, why would we allow this, um, in our, in our Ethics Program? So it's, it's pretty straight forward. It doesn't seem like it should be very controversial."*

**4:08:43: Chair Hodges:**

*"Yeah, I just wanted to say, to keep it simple, **the Ethics Board really could use clarity because it relates to a matter that will be coming before us, as to whether the council would like it to be considered anonymous submission or not anonymous submission when the complainant wishes to remain anonymous but***

*uses an attorney to file the complaint. We would love to know what the answer to that is, should be for us, from you guys.” (emphasis added.)*

**4:09:13: Mayor Schneider:** *“Well, let me just ask you, Jennifer, what did Council member Medina not make it clear or are you just saying that it would be good to have that question answered?”*

**4:09:21 Chair Hodges:** *“No, we would like to have the question answered.”*

**4:09:27: CM Hytopoulos comments in favor of the changes proposed by council member Medina:**

*“I think I want to point out that it, you know, at least from my perspective, this, what has always been the, uh, the biggest concern going back to, you know, uh, Joe is talking about that this program is not meant for punishment. You know, the biggest punishment of this program is to use this program to destroy people's reputations, particularly with baseless complaints, right? **Because the power that is wielded by people through this program is to, is to lodge, is to lodge complaints that go into the press, right, or just out in social media. They go on to our website that live forever through Google. Okay. So to give that, to give people the power, to do that and not require them to put their name on those complaints, that is what is at stake, as opposed to see click fix. Right?** So as it is now, even with people having to use their name and address, it's a concern. So let's just be, I mean, I think we all need to think about, you know, um, it's sort of like, you know, um, I don't know. Just think through all of the possibilities because, um, even with, even with, again, even with, um, even with that, we've seen what can happen. So ... “ (emphasis added.)*

**4:12:35: CM Nassar poses the question of whether the Ethics Board can continue with their work without clarification of the issue regarding complaints filed by a third party:**

*“My recollection of the anonymity discussion, and the potential need for it, was surrounded, surrounded, primarily Article I complaints (this was in regards to concerns raised by council member Hytopoulos earlier in the year in regards to Article I complaints, and her desire for them not to be made public). Um, I don't recall having the discussion about disclosure of complainants, um, in the context of Article II. Um, I also heard the, uh, Chair Hodges (Ethics Board) say that there that it, and I could have misunderstood, but I'll state it as I understood from, from your statement, that until they received direction on council, they will not be taking up the complaints that are pending with the ethics board. And so I wonder procedurally, um, if that's correct or not. The ethics, if the Ethics*



*Program does not require disclosure, um, in terms of it being procedurally accepted by the clerk and then handled by the Ethics Board, um, is, is this really a point that the Council needs to clarify before the Board can continue its work? Is that, did I understand, understand that correctly?"*

**4:13:41: Chair Hodges:**

*"Not necessarily. Um, it would be good to have guidance from the Council if you would like for to us to wait and not consider any of the things before us while we solve, resolve these issues, and just wait until the 10th. Um, we can go visit all these issues and address what's before us and let it play out and the council can observe and see what the effect looks like, um, would be another option. But it certainly, if the council is feeling like you want us to wait until we take a look at each of these issues, then we would be more than happy to do that and I think it's a good idea." (emphasis added.)*

**4:14:26: CM Medina clarifies the intentions behind his motion:**

*"Yeah. I just want to remind everyone, and it will be my last comment on this motion, um, our code (the Ethics Code) already says that the complainant has to name themselves and their address. That's what it says, and yet our city has accepted a complaint that does not do that. The, the name written in there is the name of an attorney with a parenthetical that says on behalf of anonymous complainant, or something to that effect. Like it were, that complaint does not comply with the Ethics Code as it is. I don't think we should, I don't think the Ethics Board should need to wait for some clarification from us about that. The Ethics Code's pretty clear, um, but it appears that we need to provide some further guidance on that. And so that's why I'm making this motion." (emphasis added.)*

**4:15:29: CM Hytopoulos explicitly addresses the issue of anonymous complaints and the need to vote on new *Operating Rules* to address what she agrees violates the existing code:**

*"Yeah, I'm happy to vote on this, but I do not want to not address this pending issue, uh, with regards to the pending complaints. So let's please vote on this, but please let's not not address the fact that we have a pending complaint that violates, um, our existing code or program." (note: the double negatives, "not not", aren't typos.)*

**4:15:51: CM Rasham Nassar questions the assumption that the pending complaint filed against CM Medina violates the existing rules:**

*“Yeah, I just, I, you know, I hear, I hear a lot of assumptions in terms of violations of code. Um, could, these are questions and we have not exhausted the discussion. I think council member Pollock raised, you know, an important point, which is when we have complainers that fear retaliation. I remember certainly talking about this during 2019, how do we, how do we resolve for that? How do we guarantee some level of protection to citizens that would like to file complaints? Um, so it's, I think it's a bit, I think it's a bigger discussion. It deserves to be discussed on the 10th. I don't know that I would agree that the, that the complaint as is, has been filed is a violation, constitutes a violation of our code of conduct, or should not be heard. I'm happy to have that discussion on the 10th. Um, but I just want to, you know, I just wanted to put, put that out, um, that until we have that conversation, a lot of these assumptions are just assumptions and unresolved.”*

**4:16:54: Deputy City Attorney, Robbie Sepler, offers his advice on the issue of attorneys filing complaints on behalf of clients:**

*“Thank you, mayor. I understand this discussion is going along, so I'll keep my comments brief, but just for the benefit of council I wanted to share my thoughts as I won't be with you on November 10. But with respect to this issue, Article III states that any individual can submit Article I, or I should say an Article II complaint, um, any individual. So any individual could be a complainant. If they're in the case here, there was an attorney submitting on part of a client that wasn't named, there would be nothing stopping an attorney anywhere, just submitting a complaint period just by themselves. Um, just for council consideration, someone crafting, um, wording to try to address the concern that's raised. Uh, please keep that in mind.”*

**The 11/10/20 City Council Meeting:**

This was Councilmember Medina's last meeting as a COBI city council member. At the beginning of the 11/10/20 Council meeting he requested that agenda item 11.D., *Revisions to the City's Ethics Program*, be removed. It should be noted that on 11/3/20 a version of the complaint filed against CM Medina by an attorney on behalf of an anonymous complainant had been copied and filed by a member of the public with his name and address included in the complaint. In effect, any attempt to legislate away the complaint filed by the attorney on behalf of an anonymous complainant had been made mute and it was no longer possible for Councilmember Medina to make that complaint go away through legislative action.

**The following is a comment by a member of the public that is referenced later in the 11/10/21 meeting by Councilmember Hytopoulos:**

**00:36:12: Lisa Neal**

*“Uh, Lisa Neil, um, on Fletcher landing, I have three comments tonight. The first set of comments regards to the proposed ethics program changes that were on the agenda for tonight. I understand the council decided to punt on this, but I'm going to speak tonight because the last time the changes came up, it was a study session and they were almost voted on with a final vote without public comment. Uh, council member Kol Medina, the target of an ethics complaint by an anonymous person made a motion to disallow anonymous complaints. Obviously he was conflicted on that, should not have brought such a motion. That said, this change is a bad idea. Here's a real world current example showing why. In response to an earlier anonymous complaint, first sent only to him, council member Medina first ignored it and then he sent an email to the complainer's, the complaint's attorney. This is, this is from the public record. This is where I found these documents, quote,*

*‘Lurking behind your carefully chosen words is an accusation of corruption involving myself, a leading non-profit organization in our community, an individual and deep-pocketed for-profit company in our community.’*

*End quote. He then went on, quote,*

*‘If your client is making accusations in our community of corruption involving these parties, it is likely that your client will be sued for slander.’*

*End quote. Now this threat of legal harm, well-meaning or not, to a complainant illustrates why you must allow complaints to be made anonymously. Threats like this have a chilling effect. The fact is state law, RCW 4.24.510 provides that anyone who communicates a complaint like this regarding a possible conflict of interest is immune from civil liability. Yeah, I don't know if the council member knew that or not, but my point is that there's inaccurate information now in the public record about this, regardless. So as long as people on council think people can be sued for this, as long as they tell citizens to be quiet or risk suit by deep pockets, you have to allow complaints to be made anonymously unless your goal is to avoid those complaints.”*

**00:58:10: CM Hytopoulos.**

**The following comments were part of a farewell ceremony for CM Medina during the 11/10/20 City Council meeting:**

*“Um, I don't know how we're going to fill your shoes. It's been really wonderful serving with you. I, I feel like you really share our community values. I think you are professional. Um, I'm really gonna miss you. Um, I'm really sorry. I hate to bring up what was just brought up in the public comment. **Um, this, I hate, I hate that you're leaving with this ugly little cloud over you, and we'll, we'll do our best to take care of it as it, as you'll after you leave, because I think it's, it's, it's BS. It'll clear. Um, you don't deserve it. Um, you are an ethical, um, fabulous council member and you will be, your, our memory of you will be what you deserve.**” (emphasis added.)*

### **Summary**

Comments during the City Council's 10/27/20 Ethics Discussion, and from the 11/10/20 city council meeting, clearly show that Councilmember Hytopoulos intended to use her position in a matter of significant private interest to her by providing an exemption for a colleague from a pending *Code of Ethics* complaint. This is a violation of the City and State's *Code of Ethics*. CM Hytopoulos's significant private interest was an ethics complaint filed by an attorney on behalf of an anonymous client against her colleague, Kol Medina. The exemption she supported was the act of attempting to void a pending ethics complaint against Mr. Medina through a change to the Ethics Board's *Operating Rules* disguised as a “clarification” of the existing spirit and intent supposedly already written into the *Operating Rules*.

**4:15:29: CM Hytopoulos during the October 27, 2020 city council meeting**

*“Yeah, I'm happy to vote on this, but I do not want to not address this pending issue, uh, with regards to the pending complaints. So let's please vote on this, but please let's not not address the fact that we have a pending complaint that violates, um, our existing code or program.”*

Those comments were followed by CM Hytopoulos's vote to approve a motion to amend the Ethics Board's *Operating Rules* to not allow complaints filed by third parties on behalf of a complainant. Voting is a direct official action. Her words show the intent behind her direct official actions.

**At 00:58:10 in the video of the November 10, 2020 City Council meeting CM Hytopoulos further articulated her intentions to intervene on Mr. Medina's behalf:**

*Um, this, I hate, I hate that you're leaving with this ugly little cloud over you, and we'll, we'll do our best to take care of it as it, as you'll after you leave, because I think it's, it's, it's BS.*

Council member Hytopoulos's comments and actions are a violation of Washington State's *Code of Ethics for Municipal Officers*, specifically a violation of **RCW 42.23.070**, which reads:

***Prohibited acts.***

*No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.*

**“Not a final decision”**

I anticipate that in her response the respondent may argue that the motion she seconded and voted in favor of, a motion, to disallow third party complaints on behalf of a complainant, was not a final decision since it was forwarded to the November 10, 2020 city council meeting for further consideration. The fact remains that she took a direct official action on a matter in which she has significant personal interest and in so doing used her position in an attempt to secure an exemption for her colleague, Kol Medina. The fact that her direct official actions did not effect a final decision is irrelevant. Her words and actions were part of a process that was intended to effect a final decision: a decision to incorporate self-serving language proposed by Mr. Medina into the Ethics Board's *Operating Rules*, supposedly as a “clarification” of the existing rules for the purpose of disallowing a complaint pending against him (No. 2020-03).

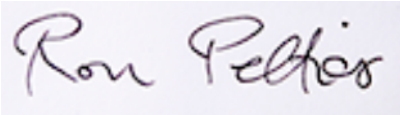
**The ban on ex post facto legislation does not apply**

The respondent may also claim, as Mr. Medina did in his response to complaint No. 2020-05, that she had no intention of retroactively changing the Ethics Board's *Operating Rules* and that such a change would not be possible due to the ban on *ex post facto legislation*. There are a couple of reasons why this argument is not valid:

- 1) Council member Hytopoulos's own words make it clear that she did, in fact, want the new language, disallowing complaints filed by third parties on behalf of complainants, to be applied retroactively to a complaint pending against Mr. Medina as a matter of guidance “clarifying” the existing *Operating Rules* for the Ethics Board. At no time did she state or imply otherwise.
- 2) According to prevailing case law, the ban on *ex post facto legislation* does not apply to legislation that is intended to clarify an existing law or regulation.

- 3) The COBI city council has a documented history of making at least one retroactive change to the City's *Ethics Program* for the stated purpose of clarifying existing language. During its February 5, 2019 meeting the city council passed a motion that "clarified" the question of whether the Ethics Board had the authority to consider all requests and complaints submitted by any person related to alleged violations of Article I of the City's *Ethics Program*. Submission of Article I complaints was not explicitly provided for in the *Ethics Program* prior to that time and were only being accepted because the City Attorney had advised they could be accepted based upon his interpretation of ambiguous language in the *Ethics Program*. That motion was applied to pending Article I complaints, making it retroactive and very similar to the proposed "clarification" of who should be allowed to file complaints that was proposed by Councilmember Medina during the 10/27/20 City Council meeting.

**Respectfully Submitted,**

A handwritten signature in black ink on a light blue background. The signature reads "Ron Peltier" in a cursive, slightly slanted script.

**Ron Peltier**

**ATTACHMENTS**

**Official minutes for the 10/27/20 COBI Council meeting**

**Unofficial transcript of discussion of agenda item 9.G. during the 10/27/20 COBI City Council meeting.**

**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.

## **RESPONSE TO ETHICS COMPLAINT 2021-01**

Submitted by Council Member Kirsten Hytopoulos  
February 22, 2021

For all of the foregoing reasons I respectfully submit that the Board must find that the facts alleged in Complaint 2021-01, even if true, would not constitute a violation of the Bainbridge Island Code of Ethics or the Revised Code of Washington, and therefore must dismiss the complaint.

### **A. I HAD NO MORE “SIGNIFICANT INTEREST” IN THE OUTCOME OF COUNCIL MEMBER MEDINA’S PENDING ETHICS COMPLAINT THAN ANY OTHER COUNCIL MEMBER WHO VOTED IN SUPPORT OF HIS MOTION ON 10/27/2020**

Complainant alleges that in supporting Council Member Medina’s motion, I had a conflict of interest under the section D.1.b of Article II of the City of Bainbridge Island Ethics Code, which reads as follows:

#### **D. Conflict of Interest – General**

##### **1. Applications of Conflict of Interest**

Except as permitted in Subsections D.2 or D.3 below, a Councilmember or member of a City Committee or Commission shall not take any direct official action on a matter if they, or a member of their immediate family:

...

b. Has other significant financial or private interest in that matter (which includes serving on a Board of Directors for any organization but does not, for Councilmembers, include appointing members to the Salary Commission); or

...

Complainant does not provide any evidence that I had any “significant financial or private interest” in the outcome of the pending complaint against Council Member Medina other than that he was my colleague. Council Member Medina was also the colleague of the five other council members who took the same action that evening, which was to move the motion forward to a future meeting. If I had a conflict of interest in taking that action, then it would only follow that all six members of council who took the same action and had the same relationship with Council Member Medina had the same conflict of interest. Clearly, none of us in fact stood to benefit personally from the outcome of Council Member Medina’s pending complaint.

### **B. THE MOTION TO AMEND SECTION 4.A.II OF THE ETHICS BOARD’S OPERATING RULES WAS FOR CLARIFICATION OF EXISTING POLICY, AND AS SUCH WOULD NOT HAVE CONFERRED A NEW BENEFIT ON COUNCIL MEMBER MEDINA IF APPLIED RETROACTIVELY**

It was my belief and Council Member Medina's belief (and, I believe, the belief of the majority of the Council) that Council had never intended to allow anonymous complaints, and that in having already required that "each complaint must include the name and address of the complainant", this was already clear in the existing language of Resolution 2020-13.

All of my statements during the discussion of the motion clearly indicated this belief that we were seeking to clarify existing policy. As I said that evening, I understood the right to know the identity of one's accuser to be a fundamental element of American law. And in fact, between the 6<sup>th</sup> Amendment right to confront witnesses against us in a criminal proceeding, and the requirement that parties' names be identified in civil pleadings under both the Federal and State rules of civil procedure, that is the case. The courts will allow a party to remain anonymous only where there are compelling reasons to believe that the party seeking anonymity will be in physical danger or suffer significant public humiliation regarding especially sensitive matters such as sexual abuse, and even in those cases anonymity may not be granted.

While the review of a City of Bainbridge Island ethics complaint is not a judicial process, most if not all of the reasons for disallowing anonymity of the complainant apply, including the fundamental fairness to the subject of the complaint to know their accuser's identity, the public's interest in knowing the complainant's identity, and meeting the requirement that the complaint be signed under penalty of perjury. Allowing a third-party agent to sign and file the complaint allows the complainant to avoid making that attestation which is intended to cause one to think carefully before making public accusations of bad faith against another. Furthermore, in no other area of law may a lawyer or other agent sign an "under penalty of perjury" statement on behalf of another.

And then there is the fact that one of the first steps in the Ethics Board's review of a complaint is to ascertain the "reasonable credibility" of the complaint. Not knowing who the actual complainant is denies the Board information that could be material to that determination.

Of course, the question of whether the proposed language should be added to the Board's operating rules is not before the Board today, however I offer this background – as well as the fact the then Chair of the Ethics Board was present at the 10/27 meeting and asking for Council to make this clarification – as evidence of the reasonableness of my stated position at the meeting, and in this response, that the language was a clarification, not a policy change.

**C. THERE IS NO EVIDENCE THAT MY FAREWELL COMMENTS TO COUNCIL MEMBER MEDINA INDICATED AN INTENTION TO "SECURE SPECIAL PRIVILEGES OR EXEMPTIONS" FOR HIM**

Complainant alleges that in supporting Council Member Medina's motion, I violated RCW 42.23.070 (1) which reads as follows:

**RCW 42.23.070**

**Prohibited acts.**

(1) No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.

...

As I have stated above, the action at issue was to insert clarifying language into the operating rules, rather than to change City policy. There can be no "special privilege or exemption" provided by

simply ensuring that existing policy be properly applied. Furthermore, my goal in seeking to have this clarifying language added to the operating rules was not to benefit any one council member.

As I have stated many times during my two terms on council, the mere filing of an ethics complaint is a powerful political weapon, regardless of the ultimate findings of the Board or the Hearing Examiner. Any credible program must seek to find balance between the public's need to hold public officials accountable for improper behavior and the risk of political weaponization of the process, especially in a small town where allowing that weaponization will undoubtedly discourage a portion of our community from considering running for public office.

It was in fact these sentiments that were behind my statements of empathy and gratitude to my departing colleague on his last night on Council, the evening of November 10, 2020. I was not offering to meddle in the process or pull a string somewhere to eliminate his complaint, which at that point I assumed would be moving forward through the process as we had not yet added the clarifying language the Operating Rules. I was simply stating that I trusted that once all was said and done, the complaint against him would be dismissed by the proper workings of the process and he would be vindicated. I was also reassuring him that those he was leaving behind, both on Council and the community, would speak well of him and protect his reputation which was being unfairly impugned after many years of generous service to the community. Complainant's assertion that my statements were a promise of a specific unstated action, without more, does not prove that intent, and furthermore, had I in fact meant that I would be sure to see the language change made in time to affect Council Member Medina's complaint, that clarifying language change would not have constituted a special privilege or exemption.

I think it's also worth noting that in crafting his complaint, the Complainant fails to include any of the comments I made during the meeting of October 27<sup>th</sup> calling for Council to slow down and take the time to receive public comment on the proposed changes, including the clarification regarding anonymous complaints, before passing them. In fact, I was the one who specifically proposed that we not pass Council Member Medina's motions that evening and instead move the final decisions on the motions to a future meeting. The complaint also fails to capture the fact that the Chair of the Ethics Board asked repeatedly during the meeting in question for clarification and feedback from Council regarding the Operating Rules. I strongly encourage Ethics Board members to review the full discussion of agenda item 9.G at the meeting in question on the City's website for the complete context of the statements made and actions taken that evening.

In closing, I again respectfully submit that the Board must find that the complainant has failed to describe facts that, even if true, would constitute a violation of either the City of Bainbridge Island Code of Ethics or the Revised Code of Washington, and thus this complaint must be dismissed on that basis.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and accurate.

Signed this 22<sup>st</sup> of February, 2021 at Bainbridge Island, Washington

  
\_\_\_\_\_  
Kirsten Hytopoulos