

City of Bainbridge Island Ethics Board 2007 Annual Report

Background

The Bainbridge Island Ethics Board was created as part of the city's Ethics Program, the result of a multi-year process that began in 2003 with an Ethics Citizen Advisory Committee. The draft ethics program was revised by City Council in 2005, and the current version was established by Council Resolution 2006-25. The initial five members of the Board were nominated by the Mayor and approved by City Council in the summer and early fall of 2007. The Board became fully operational in September, 2007.

Purpose and Responsibilities

The purpose of the Ethics Board is to help ensure that City government adheres to the highest standards of public service for elected officials. Specific Board responsibilities include:

1. Training all elected officials covered by the Code of Ethics.
2. Working with City Administration so that major contractors and employees, even though they are not covered by this document, read and are familiar with the Code of Ethics and other applicable City documents regarding ethical behavior.
3. Providing advisory opinions and waivers regarding the Code of Ethics.

In addition, the Code authorizes the Board to make recommendations in its Annual Report for changes in the Code of Ethics.

Membership

Members of the board are citizen volunteers and serve without compensation. The members are intended to represent diverse backgrounds and interests, but at least one member must have experience as a judicial officer or expertise in ethics acquired through education or experience. Members serve three year terms, except that the first two appointed serve for one year in order to stagger terms.

Current members of the Board are:

- Barbara Kerr, Chair; consultant and former English instructor
- Susan Buckles, attorney for the State of Washington and clinical social worker
- Jan Heller, ethicist and executive of a nonprofit health organization
- Michael Piraino, lawyer and CEO of a nonprofit child advocacy organization
- Dennis Willerford, practicing physician and former medical school professor

2007 Activities

Meetings

The Board met eight times in 2007, and twice in the first two months of 2008, including an all-day planning meeting on January 5. During initial planning meetings in August and September, the Board drafted its procedures for accepting and responding to requests for opinions, as well as mechanisms for publicly releasing opinions. It also formulated plans for ongoing Board self-education and began drafting operating rules (to be approved by City Council). The Board began accepting requests for advisory opinions and waivers in September.

The Board generally meets on the second Monday of every month (excluding holidays) at City Hall, from 7-9 pm. Meetings are open to the public.

Documents and online resources:

The Board has created the following resources to help educate city officials, employees, contractors, and the public and to assist access to the advisory opinion and waiver processes:

- Website: <http://www.ci.bainbridge-isl.wa.us/default.asp?ID=1432>
- Email address: EthicsBoard@ci.bainbridge-isl.wa.us
- Request for Advisory Opinion (form and flowchart)
- Request for Waiver (form and flowchart)
- Flowchart: Advisory Opinion Procedure

The Board also created a brochure in the form of Frequently Asked Questions. The brochure is in the process of being printed by the City and will be widely distributed.

Citizens seeking advisory opinions from the Ethics Board should complete the request form, which is available at City Hall or on the Website. The form is to be submitted to the City Clerk, who removes all personally identifiable information before forwarding the request to the board members.

Advisory Opinions Issued:

The Board has received and responded to two requests for advisory opinions. One was a request concerning the applicability of the Ethics Program to City commissions. Because the Board's jurisdiction is limited to actions by elected officials, the Board determined it could not act on such a matter.

The second request concerned a land transaction. The Board found no violation of the Code of Ethics.

The full texts of both opinions are attached, and are available on the website.

Training:

The Board chair presented a brief introduction to the Ethics Board at the orientation session for new City Council members on December 18. The Board will also conduct

quarterly 30 minute training sessions with the City Council and Mayor. Planned 2008 training dates are March 26, June 25, September 24, and December 17. Training will include an overview of ethics followed by case studies and discussion.

Board representatives will attend a meeting of City commissions and committees on February 11, 2008, to introduce the Board, explain its role, present the brochure, and invite feedback. A similar orientation will be conducted at the February 20 managers' meeting.

Upcoming activities:

- Several Board members are considering attending the "Ethics in Leadership Camp for Public Officials" at Santa Clara University as part of the Markkula Center for Applied Ethics in June, 2008.
- The Board is developing a topic list for its own ongoing self-education, including suggested readings to be discussed at regularly scheduled Board meetings

Other activities under consideration are public forums for feedback, and possible speakers on ethics in government.

Recommendations

The Board is exploring the following three items for possible approval in the first quarter:

- Distribution of the brochure with the Conflict of Interest statement for major contractors, who would sign to indicate they have read it and will abide by it
- A final version of the Board operating rules (for approval by City Council)
- A statement of purpose and vision

The Board is researching other municipal ethics models and best practices prior to making recommendations to the City Council and the Mayor for possible revisions or additions to the current City of Bainbridge Island Ethics Program.

The Board has noted that citizens may not be fully aware of the following limitations in the current Ethics Program:

- The Board's advisory opinions are based only the facts provided by the individual submitting the request. The Board has no investigative authority.
- The Code applies only to elected officials, not to citizens' commissions, to the actions of citizens serving on committees, or to City employees.

These will be topics for Board discussion as it considers future recommendations for changes in the Code of Ethics.

Appreciation:

The Board wishes to thank the City's elected officials for their assistance, and commends them for their commitment to the vision of creating a culture of ethical behavior that

helps to maintain and strengthen public trust and confidence in the government of the City of Bainbridge Island:

- 2007 and 2008 City Council members Chris Snow, Kim Brackett, Hilary Franz, Bill Knobloch, Jim Llewellyn, Barry Peters, Bob Scales, Kjell Stoknes, Nezam Tooloe, and Debbie Vancil.
- Mayor Darlene Kordonowy

The Board also would like to thank city staff for their enthusiastic, responsive and highly professional assistance, especially:

- City Clerk Roz Lassoff (lead staff person for the Board)
- Former City Administrator Mary Jo Briggs
- City Attorney Paul McMurray
- Executive Secretary Kate Brown
- Cathie Currie, staff support
- Jim Loday, staff support

Finally, special appreciation to the members of the former Ethics Citizen Advisory Committee who worked so long to create an Ethics Program for the City:

- Charles Schmid
- Bob Schoonmaker
- Jim O'Connor

Additional Information

The following documents are available on the Board's website (<http://www.ci.bainbridge-isl.wa.us/default.asp?ID=1432>):

- Request for Advisory Opinion (form)
- Request for Advisory Opinion Procedure
- Request for Waiver (form)
- Request for Waiver Procedure
- Opinion A02007-1 (October 8, 2007)
- Opinion A02007-2 (November 12, 2007)

Respectfully submitted,
The Bainbridge Island Ethics Board
February 8, 2008

Bainbridge Island Ethics Board – Advisory Opinion

RE: AO2007-1

DATE of REQUEST: September 18, 2007

SUBJECT: City Commissions

DATE of ISSUE: October 8, 2007

Thank you for your inquiry to the Ethics Board.

You have requested advice regarding ethics issues and city commissions, particularly the Open Space Commission (OSC). Because the OSC is a citizen commission, it is not covered by Resolution No. 2006-25, which established the Ethics Board and the ethics policies for elected officials on Bainbridge Island. Therefore, we do not have jurisdiction to address potential requests for advisory opinions about OSC. (Note that citizen commissions are different than City Council Committees, such as the Land Use Committee, which would be within the purview of Res. No. 2006-25.) The only exception would involve substantive interactions by an elected official with the OSC's business.

Action by the City Council would be necessary either to add city commissions to our jurisdiction or to establish a separate ethics entity to address such issues.

One role of the Ethics Board is to make recommendations to the City Council for changes to the Ethics Code. We will consider your suggestion in deciding what changes to recommend.

cc. City Clerk
City Attorney

Bainbridge Island Ethics Board—Advisory Opinion

RE: AO2007-2

Date of Request: September 28, 2007

Subject: Actions of Elected Official in signing tax form related to City purchase of property.

Date of Issue: November 12, 2007

Thank you for your request to the Ethics Board for an advisory opinion.

You have requested an advisory opinion regarding actions of an elected official in signing a tax form related to the purchase of property by the City of Bainbridge Island. The request indicates that the official signs IRS form 8283 for the seller, in order to facilitate a potential tax deduction by the seller for the difference between sales price and appraised value. The request indicates that appraisals do not demonstrate that the value of the property is greater than the sales price, and raises concern that the elected official, in signing the IRS form, may be assisting a tax fraud scheme.

On IRS form 8283, the elected official would be signing part IV, to indicate that the City of Bainbridge Island received the property on a certain date, and to verify the City's status as a qualified organization under section 170(c) of the tax code. The signature by the elected official in part IV does not attest to the value of the property. On form 8283, a separate declaration by a qualified appraiser is required to support the value of the property claimed for tax purposes.

Based on the facts as provided in the request for advisory opinion, the Ethics Board does not find that the described situation would violate the Code of Ethics.