
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/93227465679](https://bainbridgewa.zoom.us/j/93227465679)

TELEPHONE: 1-253-215-8782

WEBINAR ID: 932 2746 5679

AGENDA

1. CALL TO ORDER – 6:30 P.M.
2. DISCLOSURE OF CONFLICTS OF INTEREST
3. PUBLIC COMMENT
4. APPROVAL OF MINUTES FROM 4/19/2021 MEETING
5. DRAFT OPINIONS 2010-02 AND 2021-03
6. CONSIDER REQUEST FOR ADVISORY OPINION 2021-07
7. PLANNING FOR 5/26/2021 JOINT SESSION WITH CITY COUNCIL
8. TRAINING PLANNING / DISCUSSION
9. AGENDA FOR 6/14/2021 MEETING:
 - CONSIDER DRAFT ADVISORY OPINION 2021-07
 - CONSIDER COMPLAINTS 2021-04, 2021-05, AND 2021-06
 - DISCUSSION OF 5/26/2021 JOINT SESSION
 - ANY FURTHER TRAINING PLANNING OR DISCUSSION
10. ADJOURNMENT

COBI ETHICS BOARD

Regular Meeting

Monday, April 19, 2021

6:30 – 8:00 PM

VIA ZOOM WEBINAR

Minutes

1. Call to order — Meeting was called to order at 6:34 PM. Present were Karen Anderson, Jim Cash, Dona Keating, David Mallon, Tyler Weaver, and Andrew Tsoming.
2. Disclosure of conflict of interest — Jim Cash recused himself from consideration of EB 2021-02 and EB 2021-03.
3. Public comment — 4 members of the public commented.
4. Motion to accept minutes for the March 15, 2021 meeting (regular) with corrections by Dona Keating; 2nd by Jim Cash. Agreed.
5. Review of determination for EB-2021-01 (Article II Complaint). Motion to approve by Tyler Weaver; 2nd by Dona Keating. Agreed.
6. Consideration of EB 2021-02 (Article 1 Complaint) — Jim Cash and Tyler Weaver recused themselves from consideration of this complaint. Motion to find the complaint not credible and nominate a subcommittee (Dona Keating) to draft a determination letter by Dona Keating; 2nd by Karen Anderson. Agreed.
7. Consideration of EB 2021-03 (Article II Complaint) — Jim Cash and Tyler Weaver recused themselves from consideration of this complaint. Motion to find the complaint not credible and nominate a subcommittee (David Mallon) to draft a determination letter by David Mallon; 2nd by Dona Keating. Agreed.
8. Preparation for May 26, 2021 Joint Session with City Council. Discussed progress on filling open Ethic Board vacancies.
9. Items for next regular meeting agenda, MAY 17 (6:30 - 8:30 PM)
 - a. Consideration of draft determination letter for EB-2021-02.
 - b. Consideration of draft determination letter for EB-2021-03
 - c. Agenda for May 26 Joint Session.
10. Adjournment at 7:55 PM.

DRAFT OPINION

2021-02

DRAFT

May 17, 2021

DETERMINATION LETTER: EB 2021-02

Submitted to City Clerk: March 22, 2021
Response Received: April 13, 2021
Initial Consideration: April 19, 2021
Final Consideration: May ___, 2021

DETERMINATION: Dismissed

I. Summary of Complaint

This Complaint alleges that Mayor Nassar committed several violations of Article I of the City of Bainbridge Island Code of Conduct and Ethics Program, effective July 28, 2020 (the “Program”). The Complaint and its supporting documents (collectively, the “Complaint”) are attached hereto and consist of the following:

1. Article I (Code of Conduct) Ethics Complaint Form, submitted by James Cash;
2. Copy of Bainbridge Review Guest Viewpoint “We Need to Reevaluate Bainbridge Island Police Station”, dated March 19, 2021, written by Mayor Rasham Nassar.

Specifically, the Complaint alleges that Mayor Nassar violated Article I, Sections § B.2, § B.3, and § C.2.b, which are outlined below:

A. Article I, Section B.2

“We treat one another with honesty and integrity, recognizing that trust is hard won and easily lost. We pledge to promote balanced, consistent, and lawful policies and directives, in keeping with that integrity and the highest standards of this community.”

B. Article I, Section B.3

“We 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.”

C. Article I, Section C.2b

Councilmembers “... shall, in all their interactions, conduct themselves in a manner that demonstrates civility and respect for others.”

The Complainant alleges that Mayor Nassar violated these Sections because:

- Mayor Nassar, by writing the opinion, under color of authority as a Council member, exhibited a personal bias that called her impartiality and integrity into question in a manner it would not have done had she not self-identified as a sitting Councilmember. Complainant believes Mayor Nassar showed a lack of respect for her fellow Council members in the final paragraph of the opinion by challenging them to share their opinion by stating "...will the Council listen?"
- By stating "the staunchest advocates... have left the Island, so we may never know their motivation to push so hard", Mayor Nassar inferred there may have been an ulterior motive in the decision; a fact not born out in the public record.
- Mayor Nassar publicly referenced a prior complaint against a former Council member as if there was a potential or possible conflict of interest when related Ethics Board complaints were knowingly found to be without merit.

II. **Analysis of Complaint**

The Board has reviewed the Complaint and has determined that the facts stated in the complaint, even if true, would not constitute a violation of the Code of Conduct (Article I).

The Board finds that the opinion written by Mayor Nassar does not constitute a "policy" or "directive." Article I, Section B.2 and Article I, Section B.3 of the Program only apply to "policies" and "directives." Therefore, Mayor Nassar's opinion did not violate Article I, Section B.2 and Article I, Section B.3 of the Program.

The Board also finds that Mayor Nassar's opinion did not fall below the standard of equality and mutual respect with regard to interpersonal conduct, and, therefore, the opinion did not violate Article I, Section B.3 of the Program.

An opinion piece that inferentially alluded to the potential conflict of interest regarding the police station and court facility on the part of a former Councilmember, when prior related Ethics Board complaints were found to be without merit, does not meet the highest standards of honesty and integrity on the part of members of City Council, Commissions, Boards, and Committees as partially set forth in Article I, Section B.2.

The Board has concluded the Complaint does not establish that Mayor Nassar violated the above-referenced sections of Article I of the Code and, therefore, the Complaint must be dismissed pursuant to Article II, Section A.4.b.

III. **Determination**

After review, the Ethics Board dismisses the Complaint.

DRAFT OPINION

2021-03

DRAFT

May 17, 2021

DETERMINATION LETTER: EB 2021-03

Submitted to City Clerk: March 22, 2021
Response Received: April 13, 2021
Initial Consideration: April 19, 2021
Final Consideration: May 17, 2021

DETERMINATION: Dismissed

I. Summary of Complaint

This Complaint alleges a violation of Art. II, § D.1.b of the City of Bainbridge Island Code of Conduct and Ethics Program, effective July 28, 2020.

The Complaint alleges that Mayor Rasham Nassar violated Art. II, § D.1.b by attempting to secure personal gain by publishing an article on March 19, 2021 in a local newspaper under cover of her title as Councilmember and Mayor. The Complaint alleges that Mayor Nassar used her status to unduly influence future election results in her favor, a matter in which she would have a significant personal interest.

II. Summary of Response

Mayor Nassar's response makes these primary arguments:

1. The act of publishing an editorial in a newspaper is not a "direct official action" as referenced in Art. II, § D.1 and defined in Art. VI.
2. There is no prohibition in the Ethics Program against city officials publishing written opinion pieces. The published piece relates to a matter of significant public interest.
3. The Code of Conduct and Ethics Program is not the appropriate mechanism for evaluation of election campaign related conduct.
4. The Complaint does not establish any direct evidence of a conflict of interest. It merely refers to the possibility that impropriety could be an interpretation of the Councilmember's actions, which is an insufficient standard for finding fault.

III. Compliance with Art. III, § B.8

Article II, Section B.8 of the City of Bainbridge Island Code of Conduct and Ethics Program states: “The Ethics Board shall strive to complete its review within 45 business days from the date that the City Clerk forwarded the complaint to the Ethics Board. If review takes longer than 45 business days, the Ethics Board in its determination shall specify the reasons why additional time was needed.”

This Determination Letter is being issued on May 17, 2021 which is more than forty-five business days after the Complaint was received by the City Clerk on March 22, 2021. Additional time was needed to issue this Determination Letter because the Board could not have considered the Complaint and Response within 45 days given its regular meeting schedule.

IV. Analysis of Complaint

The Board has reviewed the Complaint and concluded that, even if all of the allegations in the Complaint are true, Mayor Nassar’s actions were not a violation of the of the City of Bainbridge Island Code of Ethics. Therefore, pursuant to Article III, Section B.7.c. of the City of Bainbridge Island Code of Conduct and Ethics Program, the Complaint must be dismissed.

V. Determination

After review, the Ethics Board dismisses the Complaint.

REQUEST FOR ADVISORY OPINION

2021-07

**Advisory Opinion
Request Form**

I. Introduction:

Under Article III, Section D of the Code of Conduct and Ethics Program, only Councilmembers and members of City Committees and Commissions may submit to the City Clerk a request for an advisory opinion from the Ethics Board and only for the reasons outlined in Article II, Section D. Councilmembers and members of City Committees and Commissions seeking to submit a request for an advisory opinion should complete this form and submit it to the City Clerk at cityclerk@bainbridgewa.gov.

II. Requestor Info:

Name: Joe Deeks

Are you a (check one):

Date: May 12, 2021

☐ Councilmember; or

☐ Member of a Committee or Commission

III. Request for Advisory Opinion

A. Please check one of the following types of requests:

☒ I request an advisory opinion from the Ethics Board as to whether my own behavior, described below, has violated or might in the future violate the Code of Conduct (Article I) or the Code of Ethics (Article II).

☐ I am a Councilmember and I request an advisory opinion from the Ethics Board concerning the applicability of the Code of Ethics (Article II) to the hypothetical circumstances and/or situations described below related to the actions, or potential actions, of a Councilmember or a member of a City Committee or Commission.

☐ The City Council has authorized me to request an advisory opinion from the Ethics Board regarding the City policies or practices described below in relation to the Code of Conduct (Article I) or the Code of Ethics (Article II).

☐ My Committee or Commission has authorized me to request an advisory opinion from the Ethics Board regarding the operating rules or practices described below in relation to the Code of Conduct (Article I) or the Code of Ethics (Article II).

B. Advisory opinions issued in response to either of the first two types of requests shown above will not include identifying information as to the requestor or, as applicable, the individual(s) whose conduct is the subject of the opinion unless otherwise agreed in writing by the requestor and, as applicable, the subject individual(s). If there is agreement that the opinion should include identifying information, please include, as an attachment to this request, a statement signed by you and, as applicable, all subject individuals indicating agreement that such identifying information may be included in the opinion.

C. Please provide the facts relating to your request indicated above. Please attach additional pages as needed. If other records exist that relate to your request, please attach them to this form as well.

Please see the Attached Document:

Request for Advisory Opinion - Use of City-provided Facebook Page

Request for Advisory Opinion
Use of a City-provided Facebook page while a Candidate for Re-election

May 12, 2021

Dear Ethics Board,

I am a City Councilmember and since August 2020 have been active using the City-provided Facebook page, Councilmember Joe Deets. I have been using it strictly for City business and found it helpful in connecting with my constituents. Now that I have officially announced my intention to run for re-election, I am wondering whether the continued use of this Facebook page may conflict with Article II, B2, Use of City Property by Councilmembers. Please see the relevant section below.

2. From the time that a Councilmember declares or publicly states that they intend to run for reelection until the conclusion of the respective general election, that Councilmember shall not request or direct that City funds be used to purchase any media (including newspaper, radio, television, social media, or bulk mailing) that contains the name or image of that Councilmember unless the names or images of all City Councilmembers appear in the media being purchased.

My last posting on the Facebook page was April 30, 2021, and I officially announced my intention to run for re-election on May 9th, 2021, so there would have been no potential violation thus far. The question to the Ethics Board is whether I can continue to use the Facebook page, as I have done, while a candidate for re-election.

Lastly, please note that I will not be making any postings while you deliberate on this matter.

Thank you for taking the time to consider this request.

Best regards,

Joe

Joe Deets

Bainbridge Island City Council, District 7, North Ward

E-mail: jdeets@bainbridgewa.gov

Mobile: 206-473-1864