

Closed-door meetings broke ethics rules, Bainbridge board decides

Kitsap Sun

BAINBRIDGE ISLAND — The Civil Service Commission's secret meetings with the city manager and city attorney may have been legal, but they weren't ethical.

That's the conclusion the Bainbridge Ethics Board reached this week after weighing testimony from the city attorney, commission members and the commission's former chief examiner, Kim Hendrickson.

Hendrickson filed a complaint alleging two commission members broke city ethics rules by holding two closed-door meetings without public notice. The meetings were called to discuss removing Hendrickson, an independent contractor, and replacing her with a city staff member.

The meetings were a "material violation" of the ethics code transparency requirements, according to the board's written determination, which was due for release on Wednesday.

"Transparency is not merely a better practice or matter of policy, but is mandated by the Code of Ethics," the determination states.

The board's determination is considered an "advisory opinion" and carries no penalties. The City Council will review the opinion for possible action.

City Attorney Jack Johnson's justification for the meetings was a little-known provision in state law that allows meetings defined as "special" to skirt key provisions in the state open public meetings act. The special designation eliminates a requirement that meetings between public officials be held in public. Only the local press would need to be notified of a special meeting — but only if the press requested notification of a commission or committee's special meetings.

Former commission chief examiner Paula Fernandez, who held the position before Hendrickson, signed a sworn statement indicating that she was directed by the city administration in 2004 to notify the Kitsap Sun about special commission meetings. The Sun received no notice of the most recent special meetings.

"Our ethics code calls for maximum transparency for meetings," Ethics Board Chairman Dennis Willerford said. "The city shouldn't be looking for ways to have closed-door meetings."

The state Attorney General's Office agrees.

Waiving public notice of meetings "should never be construed to provide a hyper-technical interpretation in favor of compliance where the context of the facts suggest a secret meeting," wrote Tim Ford, the AG's open record ombudsman, in an email exchange with city officials. "Otherwise, the spirit of the (open meetings) act would be irreparably damaged and agencies

could perpetually meet in secret by merely consenting to waive notice requirements for special meetings."

The two commission members named in Hendrickson's complaint resigned this week, just before the board's determination was formalized. Commission member George McKinney resigned on Monday, a few hours before the Ethics Board met to discuss the complaint, and commission chairman David Hand resigned on Tuesday.

The commission's third member, Robert Fernandez, resigned last week in protest of Hendrickson's firing and what he called the commission's waning independence from the administration.

McKinney disputes the board's determination.

"It just gives me a low opinion of the Ethics Board, whoever they are," he said. "We didn't do anything wrong. We were told by the City Council we didn't do anything wrong."

Ethics Board members expressed doubt that their determination will have much impact on the council. The council endorsed the commission's decision to remove Hendrickson, and most council members have defended the administration's involvement with the commission.

"The damage has already been done," board member Michael Piraino said. "That sense of trust and integrity is gone for some people."

Even if the council does nothing, board member Michael Yesley said island residents should demand greater openness from City Hall.

"A lot of what we're doing is educating the community that they can expect city commissions and committees to be transparent," he said.

© 2011 Kitsap Sun. All rights reserved. This material may not be published,