

2023 OCT 20 A 8:37

**Advisory Opinion
Wilton Council on Ethics
October 13, 2023**

Alvin A. DeBorja

**Re: Conflict of Interest Question Concerning Board of Selectpersons' Candidate/Member
Whose Spouse Works at Wilton Police Department**

Summary: On September 20, 2023, the Wilton Council on Ethics (the "Council") received a formal request for an Advisory Opinion, from Farah Masani, a candidate for the Wilton Board of Selectpersons (the "BOS" or "Board"). Ms. Masani's spouse is currently employed by the Wilton Police Department, and she disclosed that she may have a "financial interest or personal interest" in certain matters relating to the Police Department. Ms. Masani requested an advisory opinion, asking the Council to specify the issues on which she should recuse herself per the Code of Ethics for the Town of Wilton (the "Code"), should she be elected to the BOS.

In the opinion of the Council, based on the definitions in the Code, service on the BOS under the facts presented in Ms. Masani's letter would present a potential conflict or appearance of conflict of interest on matters specific to the Police Department and Police Commission. The potential conflict or appearance of conflict of interest can be managed, as indicated in the Code, by recusal or request for an advisory opinion.

Code of Conduct Provisions:

Code § 3-3(A) defines Financial Interest as "Any interest representing an actual or potential economic gain or loss, which is neither de minimis nor shared by the general public, that accrues to an official or employee, to a relative, or to a business" and Personal Interest as "Any interest representing an actual or potential noneconomic benefit or detriment, which is neither de minimis nor shared by the general public, that accrues to an official or employee, to a relative, or to a business." A Relative is defined in the Code as "Any person related to an official or employee by blood, adoption, or marriage."

Analysis:

Based on the definitions in the Code, serving as a BOS member when a Relative (in this case a spouse) is employed by the Wilton Police Department presents a potential conflict or appearance of conflict of interest on matters specific to the Police Department that come before the BOS. By virtue of having a Relative employed by the Wilton Police Department:

- A BOS member could have a Financial Interest in police department personnel-related subjects.
- A BOS member could have a Personal Interest in any police-department-related subjects (e.g., financial, facilities, personnel, training, support, etc.).

The above mentioned conflict or appearance of conflict of interest extend to BOS matters involving the Wilton Police Commission given that the BOS appoints the Wilton Police Commission members who are responsible for, among other things, regulating duties, appointing, promoting, and removing of officers and members of the Police Department. (Police Commission § 25)

Police Department and Police Commission specific matters are a portion of all matters that come before the BOS. The Council has no information indicating that a BOS member having a Relative in the Police Department would create a potential conflict or appearance of conflict of interest on

other matters coming before the BOS that are not related to the Police Department or Police Commission.

Deliberation, decision-making or action taken on the Police Department or Police Commission budget line items could create a potential conflict or appearance of conflict of interest. Voting on the overall town budget, however, would not likely create a potential conflict or appearance of conflict of interest so long as the BOS member does not participate in deliberation, decision-making and action taken on the Police Department or Police Commission budget line items.

Remedies Analysis:

Recusal: The Code provides recusal as a remedy for an individual with a potential conflict or appearance of conflict of interest by requiring him/her to refrain from voting in his/her official capacity on any matter in which he/she has a Financial or Personal Interest. The Code specifies that "[w]henever a matter arises with respect to which an official or employee may have a conflict of interest, the official or employee shall disclose it in writing to his/her board or supervisor and shall abstain from participation in the deliberation, decision-making and action with respect to the matter unless and until he or she procures an advisory opinion under this code that provides otherwise." (Code § 3-3(B)(2)(a)). To avoid a potential conflict or appearance of conflict of interest, if elected, Ms. Masani should recuse him/herself from Police Department and Police Commission matters.

Disclosure: The Code encourages candidates for public office to "disclose during the process of election, appointment or employment anything addressed in this Code that might impair his/her ability to perform in the office or position that he/she seek or for which he/she is being considered." (Code § 3-3(B)(2)(b)). Accordingly, the Council encourages any candidate for the BOS, to disclose to voters the constraints that a potential conflict or appearance of conflict of interest will place upon his/her service should he/she be elected.

Sources:

Town of Wilton, Chapter 3 Code of Ethics: <https://www.wiltonct.org/home/links/code-ethics>

Town of Wilton, Chapter 25 Police Commission: <https://ecode360.com/8025581#8025581>

Submitted on behalf of the Wilton Council on Ethics



Chair:

Thanh Tsoi

Members:

Rhonda Brown

Tamara Conway

Elizabeth A. Edwards