

CONFIDENTIAL

VIA E-MAIL

██████████
██████████
800 North French Street, ██████████
Wilmington, DE 19801

RE: City of Wilmington Ethics Commission Advisory Opinion- A.O. 2024-01

Dear ██████████:

The City of Wilmington Ethics Commission met in Executive Session on April 9, 2024 to consider your request for an Advisory Opinion regarding your proposed service on the ██████████ ██████████ Advisory Group (“Advisory Group”) for the ██████████ (the “Fund”). A quorum was present and voted unanimously in support of this advisory opinion. This opinion is confidential and may be made public at your request. Otherwise pursuant to W.C.C. § 2-342(e), a public version of this opinion will be posted on the Commission’s website with redactions using best efforts to not disclose your identity.

As discussed below, we opine based on the information made available to us that you joining the Advisory Group does not violate the City’s Code of Conduct. You are directed to include the Advisory Group on your disclosures to the Ethics Commission related to board service and not take part in any discussions regarding providing City of Wilmington ██████████ funding to The Fund. If you are present for any discussions, you should identify that you serve on the Advisory Group.

Facts

The Ethics Commission gathered the following facts from communications with you and publically available information. You were invited to join the Advisory Group. The Advisory Group advises the Fund, which is a national economic development ██████████ ██████████. In short, the entity provides capital in low-income communities to foster economic opportunity and revitalize neighborhoods.

The Advisory Group meets quarterly and serves as a review body focused on providing local economic development feedback and perspective for consideration by the Fund. It further serves as a sounding board for the Fund and provides feedback on the Fund’s current efforts and impact. The Fund has its own Board of Directors to govern the Fund, the Advisory Group is purely advisory. You would not be compensated for your position on the Advisory Group.

The Fund has only a tangential relationship with the City. It manages a revolving loan that was partially funded by ██████████ ██████████ is a City affiliated non-profit that works with the Office of Economic Development on projects in Wilmington. ██████████

████████████████████ The Fund works with ██████████ and the Office of Economic Development to source new lending and provide updates on current projects. New funding for this fund would typically be handled by the Office of Economic Development or ██████████ and flow through the Office of the Treasurer, because that is how checks are cut for bank accounts controlled by the City and ██████████. The ██████████ simply processes payments and does not have a role in the allocation of funds. It is a ministerial function.

Relevant City Code Provisions

Sec. 2-340(a): *Restrictions on exercise of official authority.*

1. No city employee, elected official, appointed official or honorary official may participate on behalf of the city in the review or disposition of any matter pending before the city in which he or she has a personal or private interest, provided, that upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private interest may nevertheless respond to questions concerning any such matter.
2. Reserved.
3. In any case where a person has a statutory responsibility with respect to action or nonaction on any matter where he or she has a personal or private interest and there is no provision for the delegation of such responsibility to another person, the person may exercise responsibility with respect to such matter, provided, that promptly after becoming aware of such personal or private interest, he or she must file a written statement with the ethics commission fully disclosing the personal or private interest and explaining why it is not possible to delegate responsibility for the matter to another person.

Sec. 2-341(b): No city employee, elected official, appointed official or honorary official shall have any interest in any private enterprise nor shall he or she incur any obligation of any nature which is in substantial conflict with the proper performance of his or her duties in the public interest. No city employee, elected official, appointed official or honorary official shall accept other employment, any compensation, gift, payment of expenses or any other thing of monetary value under circumstances in which such acceptance may result in any of the following:

1. Impairment of independence of judgment in the exercise of official duties;
2. An undertaking to give preferential treatment to any person;
3. The making of a governmental decision outside official channels; or

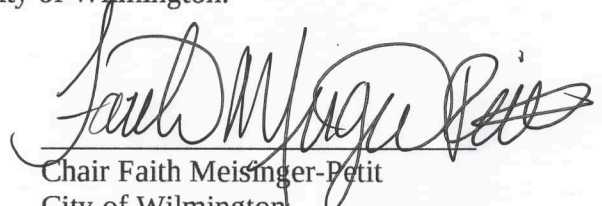
4. Any adverse effect on the confidence of the public in the integrity of the government of the city.

Sec. 2-341(c) No city employee, elected official, appointed official or honorary official shall acquire a financial interest in any private enterprise which he or she has reason to believe may be directly involved in decisions to be made by him or her in an official capacity on behalf of the city.

Sec. 2-341(e) No city employee, elected official, appointed official or honorary official shall use his or her public office to secure unwarranted privileges, private advancement or gain.

Findings

Joining the Advisory Group does not violate the City Code. You will not receive any compensation for doing so and do not have an economic interest in the Fund. Based on the facts presented, it appears to the Commission that you do not have an impermissible private interest, personal interest, or financial interest in the Fund. Further, serving on the Advisory Board would not result in an unwarranted privilege, advancement, or gain. Finally, in our view, there is not a conflict of interest. However, we note that your office may be required [REDACTED] to the Fund or its related entities. In order to avoid the appearance of any impropriety and provide transparency, you are directed to include the Advisory Group on your disclosures to the Ethics Commission related to board service and not take part in any discussions regarding providing City of Wilmington or [REDACTED] funding to The Fund. If you are present for any discussions, you should identify that you serve on the Advisory Group. These directives apply as long as you serve on the Advisory Group and are employed by the City of Wilmington.


Chair Faith Meisinger-Petit
City of Wilmington
Ethics Commission