



## SHELTER ISLAND BOARD OF ETHICS

P.O. Box 970  
Shelter Island, New York 11964-0970  
e-mail: [boe@shelterislandtown.gov](mailto:boe@shelterislandtown.gov)

### Board of Ethics Opinion

August 8, 2023

**Re: Larsen/Opinion 4-2023**

**Question #1 Presented:**

To what extent must you recuse yourself from Town Board (TB) discussions on wastewater/septic issues?

**Facts:**

Ms Larsen is a member of the TB. One of the most important issues currently facing the Board is wastewater. She is also an employee of Shelter Island Sand and Gravel which installs Fuji Clean I/A septic systems, and which is owned by her parents. The TB frequently discusses wastewater issues. Some of the discussions involve understanding government guidelines, and different types of wastewater systems. Others involve funding. Ms. Larsen has limited her participation to the discussion of technical aspects of sewage treatment, specifically explaining to the TB Suffolk County's definitions for septic system failures, and questions of system design. She has recused herself from all financial discussions, including Water Quality Improvement grant funding, as her employer could be affected by future funding.

**Relevant laws:**

Shelter Island Town Code Chapter 8, entitled "Ethics, Code of"

§ 8-5A provides:

A. Whenever a matter requiring the exercise of discretion, including proposed legislation, comes before an officer or employee, either individually or as a member of a board or committee, and disposition of the matter could result in a financial benefit to the officer or employee, a relative of theirs, a member of their household or any private organization in which they are deemed to have an interest, the officer or employee shall disclose in writing the nature of the financial benefit.

§ 8-6 provides:

No officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including proposed legislation, when they know or have reason to know that the action could confer a financial benefit on the employee, a relative, or any private organization in which the employee is deemed to have an interest. Further, once recused, that person may not be in the room (or appear via videoconferencing) when the latter is being discussed, voted on, nor participate in any discussions or communications including email or text regarding it.

§ 8-2 provides relevant definitions, including the following:

**RELATIVE-** A spouse, brother, sister, parent, child, grandchild, or the spouse of any of them, or a household member of an officer or employee.

**INTEREST-** A Town officer or employee is deemed to have an interest in any private organization when they, their spouse, or a member of their household, is an owner, partner, member, director, officer, employee, or directly or, in the case of a corporation, indirectly owns or controls more than 5% of the corporation's outstanding stock.

**Analysis:**

Because her parents are the owners of the company for which she works, Ms. Larsen is deemed to have a financial interest in that company, creating the possibility of a conflict of interest when she is performing her duties as councilperson. Therefore, she must disclose that interest and recuse herself from any actions that might confer a benefit on her employer. Based on our discussion with Ms. Larsen, it appears that she has done that. Regarding non-financial issues concerning wastewater systems, Ms. Larsen has particular expertise, and we believe the TB should benefit from that expertise, and that she has appropriately participated in those discussions.

That being said, the disclosure and recusal provisions quoted above are quite specific, and we recommend that Ms. Larsen provide a written disclosure to the Town Supervisor, with a copy to the Ethics Board, explaining the nature of the potential conflict, and that it be included in the minutes of the next TB meeting in which an issue arises. In addition, we advise that when she recuses herself, she remove herself from the vicinity of the Board room to the extent feasible, as she has already been doing.

**Question #2 Presented:**

May Ms. Larsen abstain but not recuse when the TB votes to authorize payment of previously approved expenses?

**Facts:**

A portion of each TB meeting is devoted to voting to authorize payment of expenses that have been previously approved. The process takes approximately 20 seconds per item. Some of them involve I/A septic grants. Ms Larsen has remained in the room during this process having previously recused and abstained from all votes regarding I/A septic grants.

**Analysis:**

When these votes are taken, all discussion has already happened. If I/A septic grants are involved, Ms Larsen says she has recused and abstained at the time the issue was discussed in detail. She informs us that it would be awkward and would slow down the process if she were to repeatedly leave the room and then return after each vote involving I/A systems.

We agree with her that, at this point, her presence in the room does not bias members' votes. Therefore, she may remain in the Board room during this part of the meeting.

**Question #3 Presented:**

May Ms. Larsen, in her capacity as an employee of Shelter Island Sand and Gravel, assist Shelter Island residents who request help in filling out forms to apply for I/A systems?

**Facts:**

Ms. Larsen tells us that town residents frequently approach her for assistance with forms required to apply for an I/A system rebate. She has been helping applicants regardless of whether they plan to install a system offered by her company or by one of her competitors. She says this is because she believes in I/A systems and would like to maximize the number on Shelter Island whether the job goes to her company or not. She does not accept payment for this service.

**Analysis:**

While it is reasonable to assume that Shelter Island Sand and Gravel will get some additional work/income from the applications that are approved, we do not see a conflict between her role as a Town councilperson and the assistance she provides at no charge to island residents. Therefore she may continue to help applicants with the application process.

Please be guided accordingly.

Deborah Grayson  
Shelby Mundy  
Laura Cunningham  
Robert Raiber  
cc: Stephen Kiely