

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2026-17

Approved: May 5, 2026

Re: Stephen B. Huttler

QUESTION PRESENTED:

The Petitioner, a member of the Middletown Planning Board, a municipal appointed position, who in his private capacity is a member of the Aquidneck Island Land Trust Board of Trustees, a private non-profit organization, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from participating in planning board discussions and decision-making relating to the application for a master plan approval for a major land development project involving property that is a subject to a conservation easement in favor of the land trust and given that the applicant and the Petitioner are acquaintances.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the Middletown Planning Board, a municipal appointed position, who in his private capacity is a member of the Aquidneck Island Land Trust Board of Trustees, a private non-profit organization, is prohibited by the Code of Ethics from participating in planning board discussions and decision-making relating to the application for a master plan approval for a major land development project involving property that is a subject to a conservation easement in favor of the land trust.

The Petitioner is a member of the Middletown Planning Board. In his private capacity, he serves as a member of the board of trustees of the Aquidneck Island Land Trust, a private non-profit organization “founded in 1990 by local residents to protect open space like farmland, forests, and parks facing increasing development pressure.”¹ The Petitioner represents that before the planning board for review is an application for a master plan approval (application) for a major land development project (proposed development) relating to the Sweet Berry Farm submitted by SB Farms LLC. The Petitioner explains that the proposed development includes, among other things, the construction of a barn that will be used for agricultural and commercial purposes, such as holding various events, and a

¹ <https://ailt.org/our-story/> (last visited April 28, 2026).

farm stand. The Petitioner adds that the application also includes a request for waivers from certain design and related requirements.

The Petitioner represents that the land trust holds a conservation easement over a portion of the land on which the farm is located. The Petitioner explains that, prior to submitting the application, the applicant consulted with the land trust board regarding whether the proposed development complies with the terms of the conservation easement agreement. The Petitioner further explains that the board, without the Petitioner's participation, issued a public statement, which was also submitted to the planning board, opining that the proposed development complies with the terms of the easement agreement. The statement, which is also available on the land trust's website, describes the easement as a "voluntary legal agreement between a landowner and a land trust or government agency that permanently protects a property's conservation values by restricting certain development or land uses while preserving certain rights of the landowner."² The statement further explains that the easement "dates to 1996 and requires that the primary use of the land remains agricultural. It also explicitly allows for structures that are accessory to that agricultural use, as well as activities consistent with the Middletown Zoning Ordinance and the Right to Farm Act."³ The Petitioner represents that, currently, the land trust is not a party to the application, but it is possible that the land trust or members of its board of trustees could appear before the planning board during the public portion of their hearings or could potentially object to the proposed development if any portion of the proposed development changes.

The Petitioner states that he is acquainted on a personal level with the owner of SB Farms and his spouse. The Petitioner describes their relationship as a "civic collaboration" as opposed to a business or financial one. The Petitioner states that he and his own spouse have, in the past financially supported, and may in the future again financially support, a non-profit organization formed by the spouse of the SB Farms' owner. Additionally, the Petitioner notes that the SB Farms' owner and the owner's spouse have made in the past, and may make in the future, financial contributions to the land trust and to other Aquidneck Island non-profit civic organizations on which the Petitioner serves. The Petitioner represents that he does not serve on any organization's board of directors with either the SB Farms' owner or the owner's spouse. Given this set of facts, the Petitioner seeks guidance regarding whether the Code of Ethics prohibits him from participating in the planning board's discussions and decision-making relative to the application.

Under the Code of Ethics, a public official may not participate in any matter in which he has an interest, financial or otherwise, that is in substantial conflict with the proper

² [The-Conservation-Easement-at-Sweet-Berry-Farm_Letter-to-the-Editor.pdf](#) (last visited April 28, 2026).

³ Id.

discharge of his duties in the public interest. R.I. Gen. Laws § 36-14-5(a). A substantial conflict of interest exists if a public official has reason to believe or expect that he, any person within his family, his business associate, or any business by which he is employed or which he represents will derive a direct monetary gain or suffer a direct monetary loss by reason of his official activity. R.I. Gen. Laws § 36-14-7(a). The Code of Ethics further prohibits a public official from using his public office, or confidential information received through his public office, to obtain financial gain for himself, any person within his family, his business associate, or any business by which he is employed or which he represents. § 36-14-5(d). Pursuant to 520-RICR-00-00-1.2.1(A)(2) Additional Circumstances Warranting Recusal (36-14-5002), a public official must also recuse himself from participation in his official capacity when his business associate appears or presents evidence or arguments before his municipal agency. A business is defined as “a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust, or any other entity recognized in law through which business for profit or not for profit is conducted.” R.I. Gen. Laws § 36-14-2(2). A business associate is defined as “a person joined together with another person to achieve a common financial objective.” § 36-14-2(3). A person is defined as “an individual or a business entity.” § 36-14-2(7).

The Ethics Commission has consistently opined that persons are “business associates” of the entities, including non-profit organizations, for which they serve as either officers or members of the board of directors, or in some other leadership position that permits them to direct and affect the financial objectives of the organization. Thus, the Ethics Commission has advised public officials to recuse from participation in matters before their public agencies that involved or directly financially impacted such organizations. See, e.g., A.O. 2023-39 (opining that a member of the Cumberland Town Council, who in his private capacity served as the interim president and registrar for the Cumberland Youth Soccer Association (CYSA), a nonprofit organization, was prohibited from participating in any town council matter that would directly financially impact the CYSA; could not represent himself or the CYSA before the town council or the recreation director over whom the town council had appointing authority; and was required to recuse from participating in any town council matter when the CYSA or its representative appeared to present evidence or argument); A.O. 2021-6 (opining that a member of the North Smithfield Planning Board was a business associate of the North Smithfield Heritage Association, a private non-profit organization for which he served as a member of the board of directors and as its president and, therefore, was required to recuse from participating in planning board matters when the heritage association appeared or presented evidence or argument).

However, the Ethics Commission has determined that public officials who made annual contributions and volunteered their services to private organizations, but who were neither officers nor members of the board of directors for those organizations, and who did not hold any type of leadership position that would have allowed them to affect the financial objectives of those organizations, were not business associates of those organizations. See A.O. 2008-35 (opining that a Tiverton Zoning Board member’s general membership and

annual contributions to the Tiverton Land Trust, a private nonprofit organization, did not constitute a business associate relationship with the land trust and, thus, she was not required to recuse from zoning board matters involving the land trust).

Here, based on the facts as represented, the Petitioner is not a business associate of either the SB Farms' owner or the owner's spouse. However, the Petitioner is a business associate of the land trust by virtue of the Petitioner's service as a member of its board of trustees. Therefore, the Petitioner will be required to recuse from any matter that involves or impacts the land trust.

In the instant matter, the land trust holds a conservation easement over a portion of the land that is subject of the application. The land trust describes the conservation easement as a "voluntary legal agreement between a landowner and a land trust or government agency that permanently protects a property's conservation values by restricting certain development or land uses while preserving certain rights of the landowner." Thus, the land trust has a legal interest in the land or portion of the land that is subject to the major land development application. See also R.I. Econ. Dev. Corp. v. Parking Company, L.P., 892 A.2d 87, 107 (R.I. 2006) (quoting Black's Law Dictionary 548 (8th ed. 2004) (defining the term *easement* as a nonpossessory "interest in land owned by another person, consisting in the right to use or control the land, or an area above or below it, for a specific limited purpose").

The Ethics Commission has, in the past, considered a somewhat analogous fact pattern. In Advisory Opinion 99-91, the Ethics Commission advised a member of the Jamestown Planning Commission to recuse from any matters before the planning commission that related to land on which that petitioner had an easement because it was foreseeable that any action on the part of the planning board relating to such land would financially impact the petitioner. But see A.O. 2006-45 (opining that a member of the Cumberland Zoning Board and legal advisor to the Cumberland Land Trust could participate in the zoning board's review of a planning board decision that approved a master plan for a land development project, notwithstanding that the land trust provided comments to the planning board relative to the proposed master plan, given that the land trust: 1) was not a party to the appeal, 2) did not own any property that abuts the subject project area, and 3) the petitioner had no involvement with the land trust on this matter).

Accordingly, based on all of the above, it is the opinion of the Ethics Commission that the Petitioner is prohibited by the Code of Ethics from participating in planning board discussions on the application for a master plan approval of the major land development, given that his business associate (the land trust) holds a conservation easement over a portion of the land that is the subject of the application, and could object to the development if at any point the proposed plans change in a way that would interfere with the land trust's rights pursuant to the conservation easement. All recusals must be filed with the Ethics Commission consistent with the provisions of R.I. Gen. Laws § 36-14-6.

This Advisory Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. An advisory opinion rendered by the Commission, until amended or revoked by a majority vote of the Commission, is binding on the Commission in any subsequent proceedings concerning the person who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, agency policy, ordinance, constitutional provision, charter provision, or canon of judicial or professional ethics may have on this situation.

Code Citations:

§ 36-14-2(2)

§ 36-14-2(3)

§ 36-14-2(7)

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-6

§ 36-14-7(a)

520-RICR-00-00-1.2.1 Additional Circumstances Warranting Recusal (36-14-5002)

Related Advisory Opinions:

A.O. 2023-39

A.O. 2021-6

A.O. 2008-35

A.O. 2006-45

A.O. 99-91

Other Related Authority

R.I. Econ. Dev. Corp. v. Parking Company, L.P., 892 A.2d 87, 107 (R.I. 2006)

Keywords:

Business Associate

Financial Interest

Non-profit Boards

Property Interest