

City of Salisbury
ETHICS COMMISSION MEETING
November 29, 2018

Commission Members Present

Dr. Francis Kane, Chairperson
Dr. Neill Carey
Cindy Pilchard

Commission Members Absent

Rev. Thomas E. Tucker, Vice Chairperson

In Attendance

Mark Tilghman, City Attorney
Kimberly Nichols, City Clerk
Laura Baasland, Mayor's Office Administrative Associate

The Ethics Commission met at 10:00 a.m. in Conference Room #300 of the GOB

The Ethics Commission meeting was called to order at 10:10am by Dr. Kane.

Business from Last Meeting

On a motion by Dr. Carey and seconded by Mrs. Pilchard, the amended November 14, 2018 minutes were approved by unanimous vote in favor.

Follow-Up on Financial Disclosure Forms

Mr. Tilghman was pleased with the new Financial Disclosure Forms and noted that everything that was required to be addressed has been. Mrs. Nichols confirmed that this new form is now the one to use. The revisions reflect changes at state levels and this form covers new regulations. Mrs. Nichols went over changes made to the form since the last meeting: there were revisions on pages 2 and 11 in regards to City legislation, and the address requested to be listed on page 3, Schedule A – Real Property Interests, Number 1 must now be listed on page 16. Mrs. Pilchard pointed out a minor typo on page 2. It was reiterated that forms won't be put online unless the Commission is requested to do so. Dr. Kane suggested adding an explanatory clause to the front of the form explaining that personal information has been moved to page 16 so that the Commission can protect privacy pursuant to state law. Dr. Kane clarified with Mr. Tilghman that the Commission should vote on and approve the new form.

Ethics Code

Mr. Tilghman reviewed the revisions the State requested to the Ethics Code which will require the legislation to be returned to City Council. He suggested that the Ethics Commission leave the lobbyist language where it appears in Ordinance No. 2504 (copy passed out to everyone present and included as part of these minutes) on page 4, under 2.04.050-Financial Disclosure- Local elected officials and candidates to be local elected officials under (g)(5)(i), but also to add it elsewhere. The State's concern is that the language will be overlooked in its current location and requested the language be moved to Section 2.040.050(g)(8)(iii) [added for the lobbyist

language]) Mr. Tilghman recommended the Commission comply with the State by creating a new section for the lobbyist language, but to also keep the language where it currently appears as well. Dr. Kane clarified that the City Council understands these new regulations and Mr. Tilghman confirmed.

Mr. Tilghman noted the following sentence in 2.04.040- Conflicts of Interest (c)(1), "Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, or a qualified relative of the official or employee has an interest." does not make sense as is written. He suggested some language be removed. The amended sentence would read, "Except in the exercise of an administrative or ministerial duty that does not affect the disposition of the matter, any matter in which the official or employee, or a qualified relative of the official or employee has an interest." On a motion by Dr. Carey and seconded by Mrs. Pilchard, the amendment to the Code as recommended by Mr. Tilghman was unanimously approved on a 3-0 vote to send to the State for approval, followed by advancing to Legislative Session for Council approval.

Next Commission Meeting

The next Ethics Commission meeting will be held in the beginning of June 2019.

On a motion by Mrs. Pilchard, seconded by Dr. Carey, and approved by unanimous vote in favor, the Ethics Commission meeting was adjourned at 10:40am.

Minutes Recorded By:



Laura Baasland, Mayor's Office Administrative Associate

12/17/18
Date Approved

ORDINANCE NO. 2504

AN ORDINANCE OF THE CITY OF SALISBURY, MARYLAND, TO AMEND CHAPTER 2.04.040, SUBSECTIONS (c) & (g) – ETHICS – CONFLICTS OF INTEREST, CHAPTER 2.04.050, SUBSECTION (g)(5)(i) – FINANCIAL DISCLOSURE – LOCAL ELECTED OFFICIALS AND CANDIDATES TO BE LOCAL ELECTED OFFICIALS, AND CHAPTER 2.04.060, SUBSECTION D – FINANCIAL DISCLOSURE – EMPLOYEES AND APPOINTED OFFICIALS - TO COMPLY WITH SUBTITLE 8 OF THE MARYLAND PUBLIC ETHICS LAW REQUIREMENTS FOR ETHICS LEGISLATION RELATING TO THE CONFLICTS OF INTEREST, FINANCIAL DISCLOSURE, AND LOBBYING.

WHEREAS, Maryland Law requires certain provisions in the Ethics Code of Maryland Municipalities and Counties; and

WHEREAS, the State of Maryland made changes to the Public Ethics Law which took effect on October 1, 2017; and

WHEREAS, some of these changes require the City to amend Chapter 2.04 of the Salisbury Municipal Code.

NOW, THEREFORE, be it enacted and ordained by the Council of City of the Salisbury, Maryland, that Chapter 2.04, section .040 (c) & (g), section .050 (g)(5)(i), and section .060 D, be amended as follows:

CHAPTER 2.04 - ETHICS

2.04.040 - Conflicts of Interest.

(c) Participation Prohibitions. Except as permitted by the commission regulation or opinion, an official or employee may not participate in:

(1) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, or a qualified relative of the official or employee has an interest.

(2) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter, in which any of the following is a party:

(i) A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;

(ii) A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner or employee;

(iii) A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating employment or has any arrangement concerning prospective employment;

(iv) If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;

(v) An entity, doing business with the City, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interest; or

(vi) A business entity that:

(A) The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and

(B) As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.

(3) A case, contract or other specific matter for one (1) calendar year after terminating their registration if they previously assisted or represented another party as a lobbyist in the matter. This provision does not apply to uncompensated or minimally compensated board or commission members.

(~~3~~4) A person who is disqualified from participating under paragraphs 1, ~~or 2,~~ or 3 of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:

(i) The disqualification leaves a body with less than a quorum capable of acting;

(ii) The disqualified official or employee is required by law to act; or

(iii) The disqualified official or employee is the only person authorized to act.

(~~4~~5) The prohibitions of paragraph 1, ~~and 2,~~ or 3 of this subsection do not apply if participation is allowed by regulation or opinion of the Commission.

(g) Use of prestige of office.

(1) An official or employee may not intentionally use the prestige of the office or public position for the private gain of that official or employee or the private gain of another. The prohibitions of this section include, but are not limited to:

(i) the use of influence in the award of a City contract to a specific person or entity;

(ii) initiating a solicitation for a person to retain the compensated services of a particular lobbyist or firm;

(iii) using public resources or title to solicit a political contribution regulated in accordance with the Election Law Article of the Annotated Code of Maryland.

(2) This subsection does not prohibit performance of usual and customary constituent services by an elected local official without additional compensation.

2.04.050 – Financial disclosure – Local elected officials and candidates to be local elected officials.

(g) Contents of Statement.

(5) Employment With or Interests in Entities Doing Business With City.

(i) A statement filed under this section shall include a schedule of all offices, directorships, and ~~salariied~~ **compensated** employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the city. **All statements filed under this section shall disclose whether the individual or the individual's spouse is a lobbyist required to register, and, if so, they shall identify the entities that engage the lobbyist.**

(ii) For each position reported under this paragraph, the schedule shall include:

(A) The name and address of the principal office of the business entity;

(B) The title and nature of the office, directorship, or ~~salariied~~ **compensated** employment held and the date it commenced; and

(C) The name of each city agency with which the entity is involved.

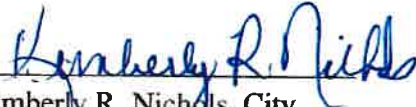
2.04.060 – Financial disclosure – Employees and appointed officials.

D. An official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public. **Officials and employees shall disclose, in all statements filed hereunder, whether they or their spouse is a lobbyist required to register and, if so, they shall identify the entities that engage the lobbyist.**

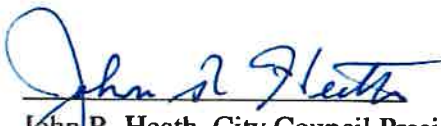
AND BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that the Ordinance shall take effect upon final passage.

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the 27th day of August, 2018 and thereafter, a statement of the substance of the ordinance having been published as required by law, in the meantime, was finally passed by the Council on the 10th day of September, 2018.

ATTEST:

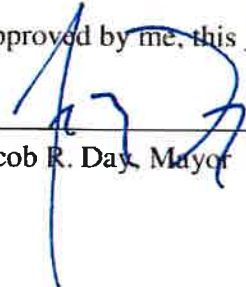


Kimberly R. Nichols, City
Clerk



John R. Heath, City Council President

Approved by me, this 11th day of SEPTEMBER, 2018.



Jacob R. Day, Mayor

City of Salisbury



MARYLAND

JACOB DAY
MAYOR

JULIA GLANZ
CITY ADMINISTRATOR



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To: Julia Glanz, City Administrator
From: S. Mark Tilghman, City Solicitor
Date: July 11, 2018
Re: Ordinance – Ethics Code Amendment

The State has changed the local government requirements of the Public Ethics Law, to be enacted and effective as of January 1, 2019.

The required changes are:

1. Precludes Mayor, an elected official or a member of the City Council from lobbying (legislative matters) for one calendar year after leaving office.
2. Effective January 1, 2019, the portion of a financial disclosure statement that includes an individual's home address may not be provided to the public.
3. Former lobbyists who become a public official or City employee is prohibited from participating in a case, contract or other specific matter for 1 calendar year after terminating their registrations if they previously assisted or represented another party in the matter. Does not apply to uncompensated or minimally compensated.
4. On the Financial Disclosure forms, add another category to Schedule H – for a statement filed on or after January 1, 2019, if the filer's spouse is a regulated lobbyist, they must disclose the entity that has engaged the spouse to lobby.

There are also Optional Changes, which are:

1. On the financial Disclosure form, remove "exchange-traded funds" (ETF) from the definition of interest.
2. Add three specific circumstances that constitute violation of the prestige of office provision (influencing the award of a City contract to a specific person; initiating a solicitation for a person to retain the compensated services of a particular lobbyist or firm; using public resources or title to solicit a political contribution regulated in accordance with the Maryland Election Law Article).

3. On the Financial Disclosure Form, change Schedule F disclosure (indebtedness to entities doing business with the City) to indebtedness to entities doing business with or regulated by the individual's governmental unit.
4. Effective January 1, 2019, City Ethics Commission may provide Internet access, through an online registration program, to financial disclosure statements submitted by City officials, candidates for office as City officials and a head of a principal department of the executive office.
5. Codify disclosure requirements for lobbyists who serve on City boards and commissions. Also codify a requirement for such a lobbyist who is disqualified from participating in a specific matter to file a statement of recusal with the board or commission. This provision requires lobbyists who serve on local boards to submit disclosure forms that mirror the forms for local elected officials.

Changes that **must** be adopted for local government compliance with the requirements of Subtitle 8 of the Public Ethics Law or COMAR 19A.04.:

1. 5-504(d)(2). Precludes Governor, Lieutenant Governor, AG, Comptroller, Treasurer or a Member of the General Assembly from lobbying (legislative matters) for one calendar year after leaving office. *Needs to be added to the conflict of interest section covering local elected officials.*
2. 5-606(a)(3). Effective January 1, 2019, Commission may not provide public access to the portion of a financial disclosure statement that includes an individual's home address as identified by the individual (i.e. the Commission must redact the information before making it publicly available). Applies to all statements, whether posted on the Internet or viewable only in the Office. *Home addresses should be redacted from public disclosure. Local employees and elected officials don't have to worry about the public being able to see their home address on their filings submitted after January 1, 2019.*

Changes that **must** be adopted for local government compliance with the requirements of Subtitle 8 of the Public Ethics Law or COMAR 19A.04. for those local governments with lobbying provisions:

1. 5-501(a-1). Adds new subsection prohibiting former lobbyists who become a public official or State employee (i.e. take job with the State) from participating in a case, contract or other specific matter for 1 calendar year after terminating their registrations if they previously assisted or represented another party in the matter (a "reverse" post-employment restriction for lobbyists). Does not apply to uncompensated or minimally compensated (less than 25% of grade 16) board/commission members or elected officials. *ONLY FOR JURISDICTIONS WITH LOBBYING PROVISIONS. Needs to be added the conflict of interest provisions to cover employees compensated over a certain amount.*
2. 5-607(i). Adds another category to Schedule H – for a statement filed on or after January 1, 2019, if the filer's spouse is a regulated lobbyist, must disclose the entity that has engaged the spouse to lobby. *ONLY FOR JURISDICTIONS WITH LOBBYING PROVISIONS. Requires spouses of lobbyists to disclose the entities that engage the lobbyist spouse on their annual disclosure filings.*

Changes that **may** be adopted if the local government chooses:

1. 5-101(t). Removes "exchange-traded funds" from the definition of "interest". An ETF is a diversified collection of assets (like a mutual fund) that trades on an exchange (like a stock). *Now, as is the case with mutual funds, financial disclosure filers will no longer have to disclose interests they hold in ETFs.*
2. 5-506. Adds three specific circumstances that constitute violation of the prestige of office provision (influencing the award of a State or local contract to a specific person; initiating a solicitation for a person to retain the compensated services of a particular lobbyist or firm; using public resources or title to solicit a political contribution regulated in accordance with the Election Law Article). In the last situation, employees and public officials may not use title or public resources, State officials may not use public

resources. *The State Ethics Commission has already interpreted these kinds of actions to be in violation of the prestige of office provision. Local governments are able to include these specific circumstances in their law if they would like or any other for clarifying purposes.*

3. 5-607(g). Changes the Schedule F disclosure (indebtedness to entities doing business with the State) to indebtedness to entities doing business with or regulated by the individual's governmental unit. *Instead of disclosing all indebtedness to entities doing business with the local government, only debts with entities doing business with the specific governmental unit must be disclosed by filers.*
4. 5-606(a)(2). Effective January 1, 2019, Ethics Commission must provide Internet access, through an online registration program, to financial disclosure statements submitted by State officials, candidates for office as State officials, and Secretaries of a principal department of the Executive Branch. *Local governments can now decide to put the local disclosure forms online for public viewing.*
5. 5-704. Codifies disclosure requirements for lobbyists who serve on State boards and commissions. Also codifies a requirement for such a lobbyist who is disqualified from participating in a specific matter to file a statement of recusal with the board or commission. *ONLY FOR JURISDICTIONS WITH LOBBYING PROVISIONS. Requires lobbyists who serve on local boards to submit disclosure forms that mirror the forms for local elected officials.*

