



**SALISBURY CITY COUNCIL
WORK SESSION AGENDA**

MONDAY, JUNE 5, 2023

Government Office Building, Council Chambers and Zoom Video Conferencing

- 5:25 p.m. Discussion on Opinion 2023-01- Ethics Commission- Dr. Neill Carey, Chair, Ethics Commission
- 5:35 p.m. Discussion on changing duty weapons- Colonel Dave Meienschein
- 5:45 p.m. Council discussion on South and Camden traffic light
- 6:00 p.m. Accepting donation from the Delmarva Zoological Society for the Andean Bear Campaign- Arts, Business & Culture Department Director Allen Swiger
- 6:05 p.m. Resolution to appoint new Registered Agent- City Administrator Andy Kitzrow
- 6:10 p.m. Adjournment/Convene in Special Meeting #2

*Times shown are approximate. Council reserves the right to adjust the agenda as circumstances warrant.
The Council reserves the right to convene in Closed Session as permitted under the Annotated Code of Maryland 3-305(b).*

Join Zoom Meeting
<https://us02web.zoom.us/j/88163253286?pwd=K3RtZUhUMHNucDRPU2IHbnROQzZVUT09>
Meeting ID: 881 6325 3286
Passcode: 812389
Phone: 1.301.715.8592

Posted 6/1/23



City of
Salisbury
John "Jack" R. Heath, Mayor

To: Mayor and City Council

From: Jessie Turner, Ethics Commission City Staff Liaison

Subject: Ethics Commission Opinion 2023-01

Date: May 17, 2023

It was requested of the City of Salisbury Ethics Commission to provide guidance on whether current or former employees can be appointed to sit on City Boards, Committees, or Commissions. Under the guidance of City Attorney, Ashley Bosche, the Ethics Commission held a meeting on January 6, 2023, examined and discussed the issue, came to a conclusion, voted unanimously to present their opinion to Administration, and is respectfully submitting the attached Advisory Opinion 2023-01.

Opinion 2023-01 can be summarized by the following statements:

- 1) City employees (either part- or full-time) may not be appointed to a City Board, Committee, or Commission.
- 2) A former City employee may be appointed to a City Board, Committee, or Commission provided there is no improper influence or appearance of improper influence.
- 3) Any current City employee sitting on a City Board, Committee, or Commission may finish his/her term on that City Board, Committee, or Commission, unless a conflict becomes apparent. (There are currently three City employees serving in this capacity.)

The Ethics Commission advises these guidelines take effect July 1, 2023, in all current and future City Boards, Commissions, or Committees.

City of Salisbury Ethics Commission

Opinion Request Number: 2023-01

Date of Opinion: May 1, 2023

Issue & Answer:

1. May a City employee (either part- or full-time) be appointed to a City Board, Committee, or Commission? **No.**
2. May a former City employee be appointed to a City Board, Committee, or Commission? **Yes, provided there is no improper influence or the appearance of improper influence.**

Facts: Requestor seeks guidance on whether current or former City employees can be appointed to sit on City Boards, Committees, or Commissions.

Analysis: The City Code provides “City regulations and policies shall apply to all persons whose appointments are made under the authority of the [M]ayor and city [C]ouncil, unless otherwise provided for in the charter of the City.” (2.24.050). Many of the City Board, Committee, and Commission appointments are made under the authority of the Mayor and City Council, and the appointees are to comply with regulations and policies of the City.

The City Charter establishes the City’s Ethics Commission (“Commission”) shall be organized as provided in Chapter 2.04 of the City Code. (SC § 20-2). Under Chapter 2.04 of the City Code, referred to as the City’s “Ethics Code,” the Commission “may adopt other policies and procedures to assist in the implementation of the commission programs established in this chapter. (2.04.030(f)). All City elected officials, officials appointed to City Boards, Committees, and Commissions subject to the Ethics Code, and employees are subject to the conflict-of-interest provisions established by the City. (2.04.040).

The City Code does not offer direct guidance on the issue at hand, unless the City Board, Committee, or Commission is a “quasi-judicial board.”¹ The Ethics Code specifies that, “[e]xcept in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the city.” (2.04.050(d)). This statement is not determinative of if an employee can serve on a City Board, Committee, or Commission (whether or not it is considered “quasi-judicial”), but it does seem to acknowledge there is a possibility for an employee to receive contingent compensation for assisting or representing a party in a matter before the City.

The City currently has many Boards, Committees, and Commissions that can be categorized as “quasi-judicial boards,” and many that likely do not qualify as such and shall be

¹ The City Code defines “quasi-judicial boards” as any board or commission that conducts proceedings or who can adjudicate the rights of persons through adjudication or rulemaking. City Code 2.02.030(t). all persons sitting on a quasi-judicial board of the City are required to file financial disclosures. (2.04.070(b)).

considered to be “advisory committees.” If a City Board, Committee or Commission is not a “quasi-judicial board, it is considered to be a committee, which does not possess the same power to decide the rights of persons through adjudication or rulemaking. Advisory committees are generally small groups comprised of individual citizens to share their opinion and perspectives, study particular issues, and develop recommendations to the City officials and employees.

A potential situation when a conflict of interest may arise from an employee serving on a City Board, Committee, or Commission relates to the use of “prestige of office.” Section 2.04.040(g) of the Ethics Code, which governs “prestige of office,” provides:

- (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.

(2.04.040(g)).

Although conflicts related to the use of prestige of office are not always readily apparent, they may likely arise during the course of a City employee’s tenure on a City Board, Committee, or Commission. Because of the potential for conflicts to arise with a City employee holding a Board, Committee, or Commission appointment or membership simultaneously, this Commission recommends that no employee (whether part- or full-time) be appointed to sit on any City Board, Committee, or Commission. Because the concern for a potential conflict of interest is not as great with respect to former City employees, there shall be no blanket prohibition that a former employee of the City cannot sit on a City Board, Committee or Commission. Rather, the appointee shall determine whether his/her appointment is subject to improper influence or the appearance of improper influence.

Application: The City Ethics Committee cautions that this Opinion is applicable only prospectively and only to the request of the Requestor described herein. Consequently, any current employee sitting on a City Board, Committee, or Commission may finish his/her term on that City Board, Committee, or Commission, unless a conflict becomes apparent. This Opinion should not be considered to be binding indefinitely. The passage of time may result in amendment to the applicable law and/or developments in the area of ethics generally or in changes of facts that could affect the conclusion of the Committee.

TO: City Council

FROM: Colonel David Meienschein

REF: Transition from Glock Model 21 (.45 Caliber) to the Glock model 45 M.O.S. (9 mm).

Salisbury Police Department (SPD) has been evaluating the efficacy of changing duty weapons from the Glock Model 21 (.45 Caliber) to the Glock model 45 M.O.S. (9 mm).

There are four points of consideration as we transition to the new firearms system:

Proficiency & Practicality: SPD has experienced situations during mandatory firearms qualifications as well as during police academy qualifications for new recruits where officers with smaller hands and / or officers with less experience with firearms have challenges maintaining proficiency due to difficulty handling our current larger frame firearm; Glock model 21, which supports a .45 caliber ammunition round. The comparatively large frame of the model 21 is designed to distribute the recoil of the weapon through the large grip of the pistol and out on to the palm of the individual firing the weapon. This causes individuals with smaller hands as well as inexperienced shooters to struggle as they work to create a stable shooting platform.

The semi-annual qualification score of 70% is the minimum passing score in the state of Maryland, however, SPD strives to have all officers qualify in the 90% range. Officers facing challenges described above often qualify below the 70% which calls for a substantial investment in additional training simply to obtain a workable shooting platform and a passing qualification score. When police recruits fail firearms training in the police academy, those officer-recruits are removed from the academy and have to reapply to their respective police department. SPD has experienced this reality. The new firearm (Glock Model 45 M.O.S. 9 mm) has a comparatively a smaller frame which makes it considerably easier to gain proficiency.

Qualification scores for skilled as well as unskilled officers has shown to be greatly improved reducing the training failure rate to near zero when using the small frame weapon. The Glock Model 45 M.O.S. will accommodate new technology, specifically a hologram site affixed to the rear site post of the gun, allowing for quicker acquisition of the target and better shot groups.



Our own training evaluations have shown that shooters reported back to the fire arms instructors that they felt more comfortable and capable firing the Glock model 45 M.O.S. than they did the when using the larger Glock model 21. Firearms instructors indicated an estimated qualification improvement of approximately 20 points; reporting shooters who scored low to mid 70% are now shooting mid to high 90%. The new firearm system will result in improved firearms qualifications and overall proficiency by allowing for faster and more accurate target acquisition and along with tighter grouping on the targets.

Liability: A study in 2018 reviewed fifteen years' worth of data on police shooting accuracy in deadly force encounters with trained law enforcement officers. The study focused on data from a large law enforcement agency within the state of Texas. The study revealed a concerning reality; researchers reviewing real world incidents learned that officers are hitting their intended targets only 35% of the time, or missing their intended target approximately 6 time out of 10 shots being firedⁱ. This data underscores the need to shift how officers are trained and under what conditions training is occurring.

By providing a firearms system which allows for better physical control of the system, where officers can increase and retain proficiency, trainers can then invest valuable training time in our officers under conditions which more closely replicate environments within which officers actually work. Our focus is to reduce liability associated with officers in real world situations where split-second decisions need to be made correctly and while under pressure by investing in training which increases critical decision-making skills. Having a firearm that officers are more comfortable carrying while building proficient confidence in its use will provide much needed training time under appropriate pressure which will help to reduce the likelihood of poor decision making and or bad shooting incidents.

Cost savings: The cost reduction for ammunition in moving from the .45 caliber to the 9mm ammo is approximately 30%-35%ⁱⁱ. Under current market conditions which may result in significant savings in the range of approximately \$10,000 per year. Furthermore, this ammo is currently much easier to acquire in the marketplace. SPD has experienced situations where .45 caliber ammo is on backorder for 1-year or more. Having ammunition on hand allows for increased training opportunity which assists in building the critical decision-making skills needed to correctly apply the law and our policies in the event that an officer may have to use deadly force against an individual.



Morale & Welfare of our officers: Finally, assessing equipment and purchasing equipment provides a significant increase in morale. The Glock model 45 M.O.S. is the first-generation gun to support a holographic site. Using this equipment during real world training environments improves shooters performance and enhances officer's weapons proficiency. Officers who have more confidence in their skillsets perform better as police officers, make better decisions under pressure thereby improving incident outcomes which ultimately improves moral.

In conclusion, officer competency in the area of firearms is directly related to the public's expectation of professionalism within the industry. One can easily understand why firearms training carries the weight it does considering the level of proficiency required for its potential use during a situation where deadly force may be reality for the officer and the public. Training consistent with the environment in which officers work has been a focus of SPD for some time now and our ability to dedicate more time to realistic training will be greatly enhanced once the transition to a more comfortable and stable shooting platform such as the one offered by the Glock model 45.

ⁱ <https://daiglelawgroup.com/new-study-on-shooting-accuracy-how-does-your-agency-stack-up/>

ⁱⁱ FBI 9mm Justification report, April 2015





City of Salisbury

MEMORANDUM

To: City Council
From: Allen Swiger, ABCD Director
Subject: Accept Donation from Delmarva Zoological Society
Date: 5/22/23

The City of Salisbury's Arts, Business and Culture Department has notified the Delmarva Zoological Society, Inc., a non-profit organization charged with raising funds for capital improvements of the Salisbury Zoo, of its desire to obtain up to \$125,000 for the following services related to the upcoming Andean Bear Campaign.

- Up to \$25,000 to support the implementation of a web-based software capable of managing and tracking revenues for the upcoming Andean Bear Capital Campaign.
- \$100,000 to support the recruitment of an architectural firm to redesign the Salisbury Zoo's Andean Bear Exhibit.

The Delmarva Zoological Society, Inc. has offered a donation of up to \$125,000 to the City of Salisbury. Both services have progressed through the Department of Procurement's Open Bid Process and are awaiting vendor awards, pending Council's acceptance of these donations.

The Delmarva Zoological Society Inc.'s mission is to promote, raise funds for, publicize, and support the Salisbury Zoological Park's exhibits, education efforts and projects, at the direction of the the Salisbury Zoological Park

Thank you for your time and do not hesitate to contact me should you have any questions.

52 2023.

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56 **ATTEST:**

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Kimberly R. Nichols, City Clerk

Muir W. Boda, President, Salisbury City Council

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62 APPROVED BY ME THIS _____ day of _____, 2023.

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John R. Heath, Acting Mayor



City of
Salisbury
John "Jack" R. Heath, Mayor

TO: City Council
FROM: Kimberly Nichols, City Clerk
DATE: May 17, 2023
SUBJECT: Changing the City's *Resident Agent* from Julia Glanz to Andy Kitzrow

In order for the City of Salisbury to remain compliant with Local Government Article § 1-1301, MD Annotated Code, the City must designate a *Resident Agent* to accept service of process, i.e., designate someone to be served. The *Resident Agent* must be a resident of the state, a Maryland Corporation, or an officer of the governmental entity. Since Andy Kitzrow is now the City Administrator, he should be designated the *Resident Agent*.

The form making this change is included in the packet and must be accompanied by a resolution of the governing entity of the corporation.

If you have any questions, please let me know.

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RESOLUTION NO. 3258

A RESOLUTION OF THE CITY OF SALISBURY, MARYLAND, CHANGING THE RESIDENT AGENT TO ACCEPT SERVICE OF PROCESS ON A GOVERNMENT ENTITY FROM JULIA GLANZ TO ANDREW P. KITZROW.

WHEREAS, Section 1-1301, Local Government Article, of the Annotated Code of Maryland requires municipalities to designate a resident agent to accept service of process on a government entity; and

WHEREAS, the resident agent must be a resident of the State of Maryland, a Maryland corporation, or an officer of the governmental entity; and

WHEREAS, Julia Glanz was designated the resident agent of the City of Salisbury on November 15, 2017 by Resolution No. 2791; and

WHEREAS, Julia Glanz is no longer the City Administrator of the City of Salisbury; and

WHEREAS, Andrew P. Kitzrow is now the City Administrator of the City of Salisbury and is also a resident of the State of Maryland.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, as follows:

Section 1. Andrew Kitzrow, City Administrator, is hereby designated as the resident agent of the City of Salisbury, Maryland, 115 S. Division Street, Salisbury, Maryland 21801.

Section 2. The City Clerk is directed to cause a certified copy of this Resolution, along with the attached form, to be filed with the State Department of Assessments and Taxation in accordance with Section 1-1301, Local Government Article, of the Annotated Code of Maryland.

Section 3. It is the intention of the Mayor and Council of the City of Salisbury that each provision of this Resolution shall be deemed independent of all other provisions herein.

Section 4. It is further the intention of the Mayor and Council of the City of Salisbury that if any section, paragraph, subsection, clause or provision of this Resolution shall be adjudged invalid, unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and all other provisions of this Resolution shall remain and shall be deemed valid and enforceable.

Section 5. The recitals set forth hereinabove are incorporated into this section of the Resolution as if such recitals were specifically set forth at length in this Section 5.

THE ABOVE RESOLUTION was introduced and read and passed at the regular meeting of the Council of the City of Salisbury held on this ___ day of _____, 2023 and is to become effective immediately upon adoption.

ATTEST:

Kimberly R. Nichols, City Clerk

Muir W. Boda, City Council President

Approved by me, this _____ day of _____, 2023.

John R. Heath, Acting Mayor