

**TOWN OF MOUNT AIRY
TOWN COUNCIL POLICY NO. 7
CONCERNING DISCLOSURE OF CONTACTS
BY COUNCILMEMBERS WITH INTERESTED PARTIES**

POLICY STATEMENT

Trust in Decision Making of the Council

Applicants, objectors and members of the community must have trust in Councilmembers' ability to make decisions free of influence or the perception of undue or improper influence.

Contacts with Interested Parties Normal and Necessary . . .

Contact with "Interested Parties" as defined below can be a normal and necessary function of the role of a Councilmember. Simply attending or participating in nonpublic meetings related to issues that a covered individual may subsequently vote on or recommend an action to the responsible governing Town body is not in and of itself a violation of the Town's Ethics Ordinance, contained in Chapter 13 of the Code.

. . . but Perceptions of Bias, Influence and Appearance of Conflict Should be Avoided Where Possible

However, the nature, frequency and nondisclosure of that contact can sometimes lead to allegations or perceptions of bias, influence, or even worse corruption, being made towards Councilmembers, and may create the appearance of conflicts of interest, even when a Councilmember does not personally achieve any financial or other gain.

Even the Appearance of Conflict can Undermine Public Trust in Decision Making

A violation of the Ethics Code including a finding of a conflict of interest by a covered individual usually consists of (1) an action that is prohibited by Chapter 13 (2) which in some fashion results in personal gain to the covered individual or others. That said, although a particular action may not constitute an ethics violation, it may give the appearance of a conflict of interest, which can undermine public confidence in decisions made by the Town Council. Sometimes, Councilmembers faced with the appearance of conflict of interest should consider recusing themselves during deliberations and voting on the issue. Recusal includes publicly announcing that you do or may have a conflict of interest. In addition, recusal includes stating the nature of the possible conflict and physically removing oneself during deliberations and vote. But at a minimum, Contacts with Interested Parties should be disclosed to other Councilmembers and the public. Councilmembers should make every possible effort to avoid even the appearance of a conflict of interest. Therefore, under this Policy, when there is doubt about whether to report a Contact, the Councilmember should err on the side of disclosure.

Disclosure and Transparency of Contacts with Interested Party Will Greatly Enhance Public Trust and Will Benefit Councilmembers as a Result

Transparency will reduce opportunities for negative perceptions to be raised about a Councilmember's motives or actions in taking positions and voting on business before the Council. Disclosure of "Contacts" with "Interested Parties" should therefore be viewed as a benefit to each Councilmember, and to the Council and Town as a whole.

The Benefits of this Policy

This policy sets standards for how Councilmembers interact with Interested Parties, as defined herein, and mandates that Contacts (again as defined below) with Interested Parties be disclosed

and made public. This Policy promotes transparent government and enhances public trust, lessens perceptions of wrongdoing, bias or undue influence, and reduces the likelihood that decisions will be challenged or questioned by the public. This policy will enhance transparency and help reduce the likelihood that members of the public conclude that Councilmembers may have a conflict of interest, a bias or improper and undue influence over matters that may come before or are in front of the Council.

The Policy

The Town of Mount Airy aims to provide the highest standards of transparency and openness, by requiring all Councilmembers to promptly report to the Town Clerk, who shall maintain and make publicly available a log, register, list, database, diary or other record, any “Contact”, as defined below, they have with “Interested Parties” as defined below, and also by requiring a Councilmember having such Contacts to verbally disclose such before or during debate or discussion on the relevant item of business and before any vote thereon.

APPLICATION

This Policy applies to all “Contacts” as defined below.

This Policy requires the reporting of such Contacts to the Town Clerk, regardless of whether the business of the Interested Party with the Town actually comes before the Town Council for discussion, debate or a vote, and the recording and maintenance of such Contacts, which shall be made publicly available in a list, register, log, database, diary or other similar record by the Town Clerk on the Town’s website and/or on request (without a formal request needing to be made under the process or procedures of the Maryland Public Information Act). This Policy is not intended to impose an undue burden or introduce significant complication on the process of disclosure and recordkeeping of Contacts, but rather to efficiently report Contacts to the Town Clerk, and to have an easy system of collecting and maintaining them by the Clerk for access by the public, thereby serving the overall interest of transparency. Reporting and recordkeeping as to such Contacts can be as simple as emails from Councilpersons having Contacts to the Town Clerk, who then collects and maintains the emails in a folder or notebook.

The Policy also requires the verbal disclosure by any Councilmember having such Contacts before or during discussion or debate in any open, public meeting of the Council where in the Interested Party’s business before the Town which was any subject matter of the Contact is the subject, and before any vote taken by the Council thereon.

The information that must be reported and maintained by the Town Clerk and the disclosure in an open public meeting of the Town Council concerning such Contacts shall include at a minimum the date, list of attendees or participants and each attendee’s or participant’s affiliation, and a summary of the discussions or communications.

When there is doubt about whether a Contact may or may not be with an Interested Party and/or whether the communication is of a type to constitute a “Contact” of the type that should be disclosed, a Councilmember should err in favor of disclosure in the manner set forth in this Policy.

Importantly, compliance with this Policy alone does not obviate the need for Councilmembers to comply with all other relevant provisions of the Charter, the Ethics Chapter of the Town Code and other applicable law.

DEFINITIONS

Contact: Means any written, electronic or verbal communication or conversation, taking place outside or separate from an open public meeting of the Council, between a Councilmember and an Interested Party, as defined below, related to the Interested Party’s business before the Town, regardless of whether the business of the Interested Party with the Town actually comes before the Town Council for discussion, debate or a vote or whether it is foreseen, planned, solicited or reciprocated, and includes but is not limited to the following methods of communication – telephone, electronic mail (e-mail), short message service (SMS), multimedia messaging service (MMS), facsimile, web-based networking platform, written mail, face to face and the like.

Interested Party: Means an individual, body corporate, company or entity seeking to develop, establish a material new use for, or materially change the use of real property in the Town, to include developers and property owners interested in developing their properties and/or establishing a material new use or materially changing the use of their properties, persons or entities that are regularly involved in the making of relevant planning applications in connection with the residential or commercial development of land, and includes any consultant, lobbyist, attorney, advisor, agent, representative or person closely associated with an Interested Party and who is appointed to promote or advocate for the Interested Party's interests or proposals before the Town or any of its commissions. By way of example only, "Interested Parties" include those advocating for proposed legislation, approval of development plans, or issuance of permits, such as zoning or building permits, that would advance an Interested Party's development, proposed new use or change in use of real property in the Town. By "material" or "materially" in relation to a new use or change of use, it is meant that the new use or change of use could affect a change in terms of impacts to surrounding areas and the Town.

Effective: 1/10/22