



Town of Cape Charles
Ethics in Government
Workshop

Presented by

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“Trust is the hardest thing to find and the easiest to lose” - anonymous





Sources of Ethics

- Town of Cape Charles, Town Council, Code of Ethics
- State and Local Government Conflict of Interests Act (COI Act)
- Virginia Public Procurement Act (VPPA), Ethics in Public Contacting, Art. 6
- Other State Acts
- Town Personnel, Policies, Rules and Regulations
- Obligations that coat-tail the use of federal funds



Town of Cape Charles, Town Council, Code of Ethics

- The Town Charter provides at Section 7.6, Disclosure of Interest, that “The town council is hereby empowered to adopt a conflict of interest and disclosure ordinance to govern elected and/or appointed town officials not inconsistent with the general law.”



Town of Cape Charles, Town Council, Code of Ethics

- **Act in the Public Interest**
- **Comply with the Law**
- **Conduct of Members**
- **Respect for Process**
- **Conduct of Public Meetings**
- **Decisions Based on Merit**
- **Communication**
- **Conflict of Interest**
- **Gifts and Favors**
- **Confidential Information**
- **Use of Public Resources**
- **Representation of Private Interests**
- **Advocacy**
- **Policy Role of Members**
- **Independence of Town Council and Commissions**
- **Positive Work Place Environment**
- **Implementation**
- **Compliance and Enforcement**



State and Local Government Conflict of Interests Act

- State and Local Government Conflict of Interests Act (COI Act). Va. Code 2.2-3100 et seq.
- Establishes standards of conduct for officers and employees
- Shall be liberally construed to accomplish its purpose
- “All officers and employees shall read and familiarize themselves with the provisions of [the COI Act].”



Overview

- The COI Act regulates the financial relationship of employees and officers in three general areas:
 - bribes and other illegal behavior
 - the financial interests that an employee or official may have in business dealings with the public body – a “personal interest” in a contract
 - the level of involvement an employee or official may have in an issue being considered by the public body that involves his or her business, property or personal financial interest – a “personal interest in a transaction”



Bribes and other illegal behavior

- Prohibits public officials and employees from taking or soliciting anything of value (COI Act 3103.1, 2 & 3)
 - for performance of their public duties (other than their wages or salary)
 - for getting someone a government job, promotion or appointment
 - for obtaining a contract
- Likewise, public officials and employees are prohibited from using confidential information for their own or others benefit. (COI Act 3103.4)



Undue influence

- The COI Act also prohibits public officials and employees from accepting money, a loan, gift, service, or business opportunity if it reasonably tends to influence him or her. (COI Act 3103.5)
- Similarly, it is improper to accept such an item if he or she knows that there is a reasonable likelihood that it is offered to gain influence even if it would not actually influence him or her. (COI Act 3103.6)
- It is also improper to accept *honoraria* for an appearance, speech or article related to one's public duties. (COI Act 3103.7)
- Further, it is improper to accept a gift if the timing and nature of the gift makes it likely that a reasonable person would question the officer or employee's impartiality in a matter affecting the donor. (COI Act 3103.8)
- Finally, it is improper to accept gifts from sources on a basis so frequent as to raise an appearance of impartiality. (COI Act 3103.9)



Failure to comply





Local Regulations

- The governing body of any county, city or town may adopt an ordinance setting a monetary limit on the acceptance of any gift by the officers, appointees or employees of the county, city or town and requiring the disclosure by such officers, appointees or employees of the receipt of any gift. (COI Act 3104.2)



Personal interest in a contract

- The COI Act's regulations concerning a “personal interest in a contract” are intended to address the financial interests that an officer or employee may have in business dealings with his or her government entity.



Personal interest in a contract, con't.

- The COI Act prohibitions only apply if there is a “personal interest in a contract.” Therefore, the first step is to determine if there is a “personal interest” The second step is to determine if the personal interest is in a contract. The third step is to determine if an exception applies. The final step is to determine what to do if there is a personal interest in a contract and no exception applies.



“Personal interest”

- A “personal interest” exists if the employee or official:
 - owns at least 3 percent of the business
 - has annual income that could be in excess of \$10,000 from owning real or personal property or the business
 - has a salary from the business that could exceed \$10,000
 - owns more than \$10,000 of the property
 - has liability that exceeds 3 percent of the business
 - has options that could result in meeting the above thresholds (COI Act 3101)



Personal interest con't.

- Personal interest covers those of the “immediate family” which includes the person’s spouse and anyone else living in the home who is a dependent or of whom the person is a dependent. (COI Act 3101)



“In a contract”

- If you have a personal interest then you next need to determine if it is “in a contract.”
- “Personal interest in a contract” means a personal interest that an officer or employee has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract. (COI Act 3101)



“Immediate Family”

- A person has a personal interest “in a contact” with the government entity if that contract is with the person (his or her immediate family) or with a business in which he or she has a personal interest. (COI Act 3101)



Status

- There are slight differences in the application of the rules to elected or appointed members of the governing body in comparison to other officials and employees. The rules applicable to elected or appointed members are more stringent.



Elected or appointed members of the Town Council

- No person elected or appointed to Town Council shall have a personal interest in (i) any contract with his or her governing body, or (ii) any contract with any governmental agency that is a component part of the Town and which is subject to the ultimate control of the Town Council, or (iii) any contract other than a contract of employment with any other government agency if the Town Council appoints a majority of the members of the governing body of the second government agency. (COI Act 3107.A)



Exceptions applicable to Elected or appointed members of the Town Council

- A member's personal interest in a contract of employment that began prior to his or her election or appointment. (COI Act 3107.B.1)
- Contracts for the sale by the government agency of services or goods at uniform prices available to the public. (COI Act 3107.B.2)
- A contract awarded as a result of competitive bidding where the governing body has established the need for the same or substantially similar goods through purchases prior to the election or appointment of the member. However, the member shall have no involvement in the procurement and the remaining members shall pass a written resolution finding that the transaction is in the public interest. (COI Act 3107.B.3)



Other officers and employees

- No officer or employee of the Town shall have a personal interest in a contract with the Town other than his or her own contract of employment. (COI Act 3109.A)
- “Officer” means any person appointed or elected to any governmental or advisory agency including local school boards, whether or not he receives compensation or other emolument of office. (COI Act 3101)
- “Employee” means all persons employed by a governmental or advisory agency. (COI Act 3101)



Other officers and employees, con't.

- No officer or employee of the Town shall have a personal interest in a contract with any other governmental agency that is a component of the Town unless such contract is (i) awarded by sealed bidding or competitive negotiation or (ii) is awarded after a finding, in writing, by the administrative head of the other government agency that competitive bidding or negotiation is contrary to the best interest of the public. (COI Act 3109.B)



Exceptions that apply to other officers and employees

- Interests in other employment contracts with members of his immediate family so long as he or she does not exercise or have the power to control the family member employee. (COI Act 3109.C.1)
- Interests in other employment contacts with other government agencies that are a component of the Town. (COI Act 3109.C.2)
- Contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public. (COI Act 3109.C.3)



Examples

- Your spouse owns a business and wants to contract with the Town. You have no involvement with the business. If the contract will exceed \$10,000 this is prohibited.
- You are on the board of a charity that is going to contract with the Town for more than \$10,000. You are not paid by the charity. There is no apparent conflict under this section of the Act.



Exceptions applicable to all

- Any sale, lease, or exchange of real property so long as the official or employee does not participate in the transaction on behalf of the Town and his or her interest and non participation is recorded in the public record. (COI Act 3110.A.1).
- Contacts for publication of official notices. (COI Act 3110.A.2)



Exceptions applicable to all, con't.

- **FOR TOWNS WITH A POPULATION UNDER 10,000 (Like Cape Charles), CONTRACTS WITH OFFICIALS AND EMPLOYEES ARE ALLOWED IF THE TOTAL CONTACTS DO NOT EXCEED \$10,000 PER YEAR. ALSO CONTRACTS UP TO \$25,000 ARE ALLOWED IF AWARDED BY SEALED BIDDING AND THE OFFICIAL OR EMPLOYEE HAS FILED A STATEMENT OF ECONOMIC INTEREST FORM. (COI Act 3110.A.3)**
- Note that all members of Town Council will need to file a statement of economic interest form when the population of the Town exceeds 3,500.



Exceptions applicable to all, con't.

- If the sole interest in the contract is that he or she is employed by the business contracting with the government entity the business may contract with the entity, but only if the officer or employee and their immediate family have NO authority to participate in the deal, and must not participate in the deal on behalf of the business or the government entity. (COI Act 3110.A.4)



Exceptions applicable to all, con't.

- If the officer or employee is employed by a public service corporation, bank, savings and loan or public utility, and if he or she disqualifies himself or herself from participating on behalf of the public body and does not participate then the public service or similar entity by contract with the government body. (COI Act 3110.A.6)



Exceptions applicable to all, con't.

- The prohibition does not apply to goods or services below \$500, so long as you don't split up a larger contract simply to remain below the threshold. (COI Act 3110.A.7)
- Program grants are allowed if the rates or amounts paid to all applicants are uniform and established solely by the agency administering the grants. (COI Act 3110.A.8)
- If the spouse of an official or employee is employed by the government entity the prohibition does not apply if the spouse was employed by the government entity more than 5 years prior to the marriage. (COI Act 3110.A.9)



Personal interest in a transaction

- The COI Act's regulations concerning a “personal interest in a transaction” are intended to address the level of involvement that an officer or employee may have in a matter that involves his or her business.



“Personal interest in a transaction”

- “Personal interest in a transaction” means a personal interest of an officer or employee in any matter considered by his agency. (COI Act 3101)



“Personal interest in a transaction” con’t.

- Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business or governmental agency, or represents or provides services to any individual or business and such property, business or represented or served individual or business (i) is subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. (COI Act 3101)



“Personal interest”

- The same definition of “personal interest” is used in both the contract and transactions provisions of the COI Act.
- However, for transactions “parent-sub subsidiary” and “affiliated business” is also covered. (COI Act 3112.)



“parent-sub subsidiary”

- “Parent-sub subsidiary relationship” means a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation. (COI Act 3101)



“affiliated business”

- “Affiliated business entity relationship” means a relationship, other than a parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities.



“Transaction”

- A “transaction” means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, which official action is taken or contemplated. (COI Act 3101).



Provision of services

- In addition to a direct interest a conflict exists if the officer or employee or immediate family member provides services to the entity involved in the transactions such as accounting or engineering services. (COI Act 3101)



Impact of a conflict

- The existence of a conflict does not result in automatic disqualification. Instead, the conflict may only require certain disclosures. It depends on the nature of the conflict.



Disqualification

- If the transaction deals solely with property, a business, or a government agency in which the officer or employee has a personal interest, then he or she must disqualify himself or herself, unless there is an exception! (COI Act 3112.A.1 – see A.2, A.3 & A.4 for exceptions.)



Public record of disqualification

- If you are disqualified you must record the information in the public record. (COI Act 3115.E.) The information must include
 - The existence of his or her interest
 - Full description of the interest
 - Name and address of the business or parcel number of any real estate



Disclosure!





Participation - Disclosure

- If the transaction affects a business, profession, occupation, or group of three or more members, the council member may participate in the transaction with proper disclosure. (COI Act 3112.A.2)



Disclosure, con't.

- If the officer or employee is in a firm that represents the client in the transaction, but he or she does not personally represent or provide services to such client, he or she may participate in the matter with proper disclosure. (COI Act 3112.A.3)
 - Note: this provision has been narrowly construed to allow for participation only if NO services are provided to the client



Public record of disclosure

- The officer or employ must declare his or her interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction or that a party to the transaction is a client of his or her firm, (iii) that he or she is a member of a business, profession, occupation, or group the members of which are affected by the transaction or that he does not personally represent or provide services to the client, and (iv) that he or she is able to participate in the transaction fairly, objectively, and in the public interest. (COI Act 3115.G & H.)



“fairly, objectively, and
in the public interest”





“The public generally”

- If the transaction affects the public generally, the officer or employee may participate even though it may affect the officer or employee and his or her immediate family as well. (COI Act 3112.A.4).



Disclosure form

- A disclosure form is provided in the COI Act but it is not mandatory for use by small towns with a population under 3500. However, the form provides a useful checklist for issues that may give rise to a conflict and require disqualification or disclosure. (COI Act 3117).



Effect of Disqualification

- If an officer or employee is disqualified the COI Act 3112 requires several steps:
 - The officer or employee must disclose the interest (note – this disclosure is required even if the disqualification is voluntary)
 - The disclosure must be kept in the public record for at least 5 years
 - **The officer or employee may not vote, participate in discussion or take other action with respect to the transaction**
 - **The officer or employee may not participate in any closed meetings regarding the transaction**
 - **The officer or employee may not discuss the matter with anyone in the government who is involved in the transaction**



Savings clause

- The COI Act includes a savings clause to allow a vote when disqualification eliminates a quorum. (COI Act 3112.C)
- The public body may act by a majority of the members who are not disqualified. If the law requires a unanimous vote it only has to be a vote of the remaining members.
- Previously, the disqualified members had to remain present to preserve the quorum. Jakabcin v. Front Royal, 271 Va. 660, 628 S.E. 2d 319 (2006). However, this was changed by amendment to the COI Act so that this is no longer required but only if the proper disqualification procedure is followed. (Senate Bill 1400, 2007 Acts of Assembly Chapter 613, amending 2.2-3112 & 15.2-1415.)



Savings clause con't.

- State law requires a super majority of $\frac{3}{4}$ of the Town Council to sell or lease land. 15.2-2100
- The COI Act allows a Town Council member to participate in a discussion and vote for a proposed sale, lease or similar conveyance of land if the council member's only personal interest in that sale is that he or she is employed by the business that is involved in the transaction, and the member's vote is essential under the VA Constitution. (COI Act 3112.C)



Enforcement and penalties

- Any contract made in violation of COI 3103 or 3106 – 3109 may be declared void. (COI Act 3123.A.)
- Official action take under circumstances that violate [COI 3112, prohibited transactions] may be rescinded by the agency on such terms as the interests of the agency and innocent third parties require.” (COI Act 3112.C.)
- A knowing violation of the COI Act is a Class 1 misdemeanor, and may result in loss of position (COI 3120, 3122)
- Failure to disqualify oneself or to make a disclosure is a Class 3 misdemeanor. (COI Act 3120)



Advisory Opinions

- An advisory opinion may be obtained from the Commonwealth's Attorney. (COI Act 3121.B.). Such an opinion may provide immunity from prosecution.
- An advisory opinion may also be had from the Town's attorney but it is only evidentiary and will not provide immunity. (COI 3121.C)



Advisory Opinions Con't.

- The Attorney General may also render advisory opinions to any state officer or employee. (COI Act 3126A.3).
- A typical opinion is qualified by language such as, “this opinion is based on the information presented by you. If the facts are incorrect or incomplete you may not rely on this opinion.”



Advisory Opinions Con't.

- AG advisory opinions also frequently state, “The law, however, cannot protect against all appearances of conflict. It is incumbent on you, therefore, to determine whether your action will present an appearance of impropriety that you find unacceptable and that will affect the confidence of the public in your ability to perform your duties impartially.”



Virginia Public Procurement Act, Ethics in Public Contacting, Art. 6

- The VPPA includes ethical rules that apply to **ANYONE** involved in the procurement, including local elected officials if they approve the contract or are otherwise involved in the procurement or contract.
- These rules are **MORE RESTRICTIVE** than the parallel provisions of the COI Act.



Proscribed participation by public employees in procurement transactions

- Under 2.2-4369 a public employee who exercises ANY responsibility in his or her agency's procurement process (including elected officials or appointed members of a governing body) may NOT participate in any procurement transaction by the agency if certain conditions exist.



Proscribed participation by public employees in procurement transactions

- He or she is employed by a firm that will bid on the public contract; or
- A member of his immediate family is an officer, director, partner, or owner of 5% or more of a firm that will be bidding on the public contract; or
- His or her partner or member of his or her immediate family is employed by a firm that will bid, and that person works in a capacity in which he or she will have personal and substantial participation in the firm's transaction with the public agency; or



Proscribed participation by public employees in procurement transactions

- He or she, his or her partner or a member of his or her immediate family has some other pecuniary interest in the procurement transaction (e.g., will earn a sales commission);
or
- He or she, his or her partner or someone in his immediate family is negotiating or has arrangement for prospective employment with a firm that will bid on the public contract.



Important Definitions

- “Immediate family” means a spouse, children, parents, brothers and sisters, and any other person living in the same household as the employee. (Va. Code 2.2-4368)
- “Official responsibility” means administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction, or any claim resulting therefrom. (Va. Code 2.2-4368)
- “Pecuniary interest arising from the procurement” means a personal interest in a contract as defined in the COI Act. (Va. Code 2.2-4368)



Important Definitions, Con't

- “Procurement transaction” means all functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. (Va. Code 2.2-4368)
- “Public employee” means any person employed by a public body, including elected officials or appointed members of governing bodies. (Va. Code 2.2-4368)



Comparison of the Acts

- The COI Act restricts or disqualifies a public officer or employee from participating in transactions based on his own employment or financial interests or those of a spouse or dependent living in the same household.
- The VPPA restrictions extend to a larger group of the “immediate family” and apply regardless of where they live as well as to anyone else living in the same household even if unrelated.



Appropriate Action

- Any local government employee or elected or appointed official who believes that he or she may have a prohibited connection with a potential bidder or contractor should disclose the conflict to his or her superior and refrain from participating in the procurement transaction.

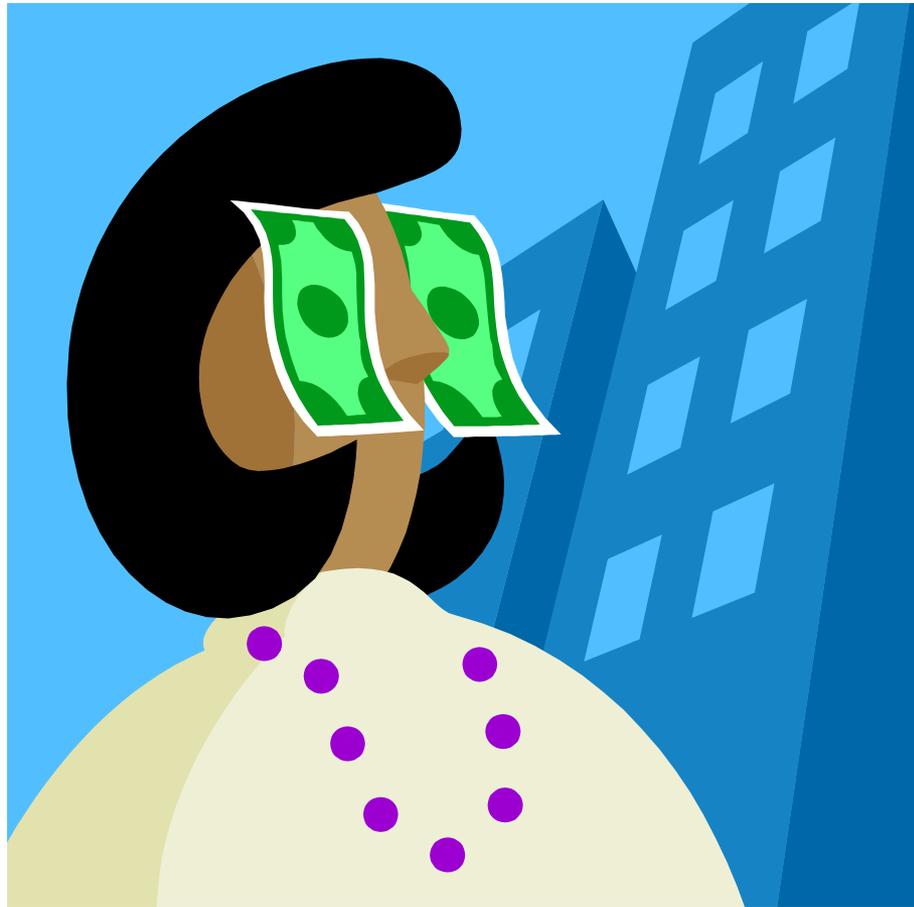


Prohibited Gifts and Gratuities

- Another difference between the COI Act and the VPPA relates to the strict prohibition on acceptance of any gift, loan, services or anything else of “more than nominal value” from a bidder or contractor. (Va. Code 2.2-4371)
- This means that it is generally improper to accept anything more valuable than very inexpensive promotional items or snacks.



Don't loose sight of ethics!





Prohibited Gifts and Gratuities

- In contrast, the COI Act only prohibits acceptance of a gift “that reasonably tends to influence him in the performance of his official duties,” or if “the timing and nature of the gift would cause a reasonable person to question” the official’s or employee’s impartiality, or the gifts are “so frequent as to raise an appearance of the use of his public office for private gain.” (COI Act 3103)



Examples of Prohibited Gifts

- Meals of more than nominal value
- Golf, fishing and hunting trips
- Transport on private aircraft or boats
- Home or auto repairs
- Extended loan of cell phone or automobile
- Use of vacation property



These are OK





Disclosure of Subsequent Employment

- “No public employee or former public employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the public body unless the employee or former employee provides written notification to the public body, or a public official if designated by the public body, or both, prior to commencement of employment by that bidder, offeror or contractor.” (Va. Code 2.2-4370)



Certification of Compliance

- “Public bodies may require public employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with the provisions of [the VPPA].” (Va. Code 2.2-4375)
- “Any public employee required to submit a certification who knowingly makes a false statement [may be convicted of a Class 1 Misdemeanor, and upon conviction shall forfeit his or her employment].” (Va. Code 2.2-4377)



Misrepresentations prohibited

- “No public employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document knowing it to contain any false, fictitious or fraudulent statement or entry.”
(Va. Code 2.2-4376)



Cape Charles Town Code

- Section 54-7, Vendor Relations, provides that “the purchasing agent shall develop and promote a program of fairness with all vendors and salespersons.”



Other State Acts

- 18.2-439 prohibits public officials or candidate for public office from accepting “bribes” intended to influence their conduct and provides for conviction of Class 4 felony and forfeit of office.
- 18.2-498.3 provides that any person in a commercial dealing with a public body “who knowingly falsifies, conceals, misleads, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or documents knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be guilty of a Class 6 felony.”



Town Personnel, Policies, Rules and Regulations

- The Town Personnel, Policies, Rules and Regulations pertaining to all employees as well as those pertaining to certain departments, such as the police department, also require compliance with the COI Act and other applicable law.



Town Personnel, Policies, Rules and Regulations, con't.

- **Section 1.1 Establishment of Rules and Organization of the Personnel Function**
- When you entered employment with the Town of Cape Charles, you began working for the citizens of the Town. A spirit of understanding and courtesy is essential to those in the public service. These personnel policies, rules, and regulations are intended to provide you with information and guidance so that all employees of the Town are afforded equal and consistent treatment.



Town Personnel, Policies, Rules and Regulations, con't.

- **Section 8 Employee Ethics, Conduct, and Responsibilities**
- **Section 8.1 Gifts and Gratuities**
- **Section 8.2 Personal Mail**
- **Section 8.3 Personal Calls**
- **Section 8.4 Conflict of Interest**
- **Section 8.11 Care of Town Property**
- **Section 8.12 Use of Town Vehicles**



Town Personnel, Policies, Rules and Regulations, con't.

- **Section 8.8 Employees' Responsibilities**
- Each employee is expected to:
 - A. Obey applicable policies, laws, ordinances, and codes of the Town, County, Commonwealth, and Republic;
 - B. Conduct himself/herself, both on and off the job, in a manner which will reflect credit on the Town and refrain from any disorderly or embarrassing conduct or other behavior which could reflect poorly on the Town;
 - C. Endeavor to fulfill the duties and responsibilities of his/her position in a dedicated, timely, and professional manner;
 - D. Render full and efficient service;
 - E. Exercise courtesy and tact in dealing with fellow employees and the public at large;
 - F. Treat all citizens equitably, fairly, and politely;
 - G. Conserve, properly utilize, and protect Town funds, property, equipment, and materials;
 - H. Protect co-workers and citizens from potential and real hazards; and
 - I. Safeguard confidential information.



Confidential Information





Confidentiality

- An issue that is closely tied to ethics is confidentiality.
- While most of the Town's business is a matter of public record some things are confidential.
- You are expected to preserve the integrity of confidential information – keep it in your head.



Confidentiality Provisions

- Town Code of Ethics section 10, Confidential Information: “Members shall respect the confidentiality of information concerning the property, personnel, or affairs of the Town. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or other private interests.”



Confidentiality Provisions

- Public officials and employees are prohibited from using confidential information for their own or others benefit. (COI Act 3103.4)
- The Virginia Freedom of Information Act addresses confidential information in various sections. See FOIA 2.2-3705.1 – 3706.



Examples of confidential information

- The Virginia FOIA also includes many possible reasons for holding a closed meeting. Section 2.2-3711.
- Six of these reason are common:
 - Personnel matters
 - Real property transactions
 - Privacy of individuals unrelated to public business
 - Prospective business
 - Consultation with legal counsel
 - Terrorism



Examples of confidential information, con't.

- The Virginia FOIA includes over 80 exemptions to preserve confidentiality. The most common exemptions include:
 - Tax, scholastic and other confidential records
 - Personnel records
 - Working papers and correspondence of the Mayor or chief executive officer (Town Manager)
 - Written advice of legal counsel
 - Legal memoranda or other work product
 - Library use records
 - Tests and examinations



Examples of confidential information, con't.

- Records recorded in or compiled exclusively for closed meetings
- Computer software developed for the government body
- Customer account information of a public utility
- Appraisals and cost estimates of real property prior to sale
- Confidential bid information
- Plans to prevent terrorist activity
- Security related information
- Personal information
- Identity of any making a land use or zoning complaint
- Certain criminal incident information



FOIA –Individual Member Requests

- City Council members must act as a body in requesting information by FOIA.
- An individual member only has the rights of a member of the general public, especially if this information goes beyond the disclosure of employee records of the position, job classification, official salary, and records of allowances or reimbursements.



FOIA –Drafts Documents and Working Papers

- Draft documents are no longer automatically protected under FOIA and must be produced in response to a FOIA request if not otherwise exempt.
- However, working papers of an executive officer are confidential until the chief executive officer releases them to the governing body.
- Therefore, an executive officer may invite Council members to review a working paper in private so that it may remain exempt from disclosure.



Town Personnel, Policies, Rules and Regulations, con't.

- **Section 8.9 Supervisors' and Department Heads' Responsibilities**
- In addition to the responsibilities of an employee, each supervisor and department head is expected to:
 - A. Treat employees in a fair and equitable manner;
 - B. Enforce these regulations;
 - C. Inform and educate employees about the Town's expectations, rules, and other guidelines governing conduct and discipline;
 - D. Advise employees of any amendments to this manual; and
 - E. As warranted, investigate apparent employee offenses, obtain facts, make complete reports to the Town Manager and recommend appropriate action.



Town Personnel, Policies, Rules and Regulations, con't.

- **Section 8.13 Inquiries Concerning Town Matters**
- In the interest of protecting the sensitivity and confidentiality of personnel and other Town-related confidential information, we need to take care in handling outside inquiries regarding the Town of Cape Charles. We therefore require you to follow these guidelines in responding to inquiries about Town business from the press, outside attorneys, and other parties outside the Town's administration.



Town Personnel, Policies, Rules and Regulations, con't.

- **Inquiries from the Press**
- In response to press inquiries, the caller should be referred to the Town Manager. Please notify the Town Manager immediately after making such a referral.
- **Inquiries from Outside Attorneys**
- In response to oral or written inquiries from outside attorneys regarding individual Town employees or any Town matters, the attorney should be referred to the Town Manager and any written communications from outside attorneys should also be referred to the Town Manager.



Town Personnel, Policies, Rules and Regulations, con't.

- **Inquiries from Other Outside Parties Regarding Individual Employees or Disputes with the Town of Cape Charles**
- From time to time, inquiries are made by others regarding individual employees or disputes with the Town of Cape Charles. Such inquiries should be referred to the Town Manager.
- As a matter of general practice, the individual receiving the call or inquiry should not comment upon or discuss any Town employee or Town issue, claim or dispute, but simply refer the matter to the Town Manager. In the absence of the Town Manager, all inquiries should be directed to the Mayor.



Obligations that coat-tail the use of federal funds

- While the specifics are beyond the scope of this presentation it is important to note that if you are involved in any project that uses federal funds, whether by grant or contract, there may be additional ethics rules to learn.
- These rules are NOT intuitive and require careful study to avoid violations.
- However, note that the Cape Charles Town Code provides that, “the Town may comply with mandatory federal requirements in grants and contracts not in conformance with this chapter [Section 54] only upon a written determination of the town council that acceptance of the applicable provisions is in the public interest.”
Section 54-18.



Conclusion

- Take the time to become familiar with your obligations
- Avoid even the appearance of impropriety
- If in doubt ask questions
- Uphold the reputation of the Town
- Thanks for your attention