



Borough of Chambersburg

A full service municipality in Franklin County celebrating over 65 years of consumer owned natural gas service over 120 years of community electric and a regional wastewater, water, storm sewer and municipal solid waste utility

FOR IMMEDIATE RELEASE

CHAMBERSBURG COUNCIL MAKES DETERMINATION ON COMPLAINT

Chambersburg – On March 8, 2021, Chambersburg Council adopted sweeping new prohibitions on discrimination for Borough employees, elected officials, volunteers, vendors, contractors, grant recipients, and utility providers. These updated rules exceed Pennsylvania state protections and impact many community operations.

Representatives of the Borough shall not discriminate due to race, gender, religion, color, sex, sexual orientation, gender identity or expression, national origin, age, disability, marital status, citizenship, genetic information, or any other characteristic protected by the law and/or in violation of the Pennsylvania Human Relations Act (PHRA) and applicable federal laws. This is a self-imposed guideline of the Borough and does not create any independent board or agency to regulate these guidelines.

Any discriminatory action against any person in terms of access to services or public accommodations by an elected official in their official capacity is prohibited. According to policy, the Town Council approved this self-policed policy as a statement of commitment to cultural diversity, social justice, and equality.

If a majority of Council determines an elected official is in violation of this self-imposed policy, Council must decide what, if any, consequences there may or may not be within the narrow confines of state law.

According to the Pennsylvania Department of Community and Economic Development, “The Pennsylvania Supreme Court ruled that the Pennsylvania State Constitution only allows an elected official to be removed from the office through impeachment, conviction of a felony, perjury or misbehavior in office (PA Const. Art. VI § 7. *South Newton Twp. v. South Newton Twp. Supervisor*, 838 A. 2d 643, Pa. 2003). The Borough Code provides for removal of an elected official under quo warranto action if the official no longer meets the requirements to hold office.”

The courts and not the Borough itself would undertake a quo warranto action. The requirements to hold office are that an elected official be registered to vote and live in the Borough (or the respective Borough ward).

Throughout the Commonwealth, borough council members are advised by the State to avoid the possibility of conflict between their personal and private financial interests and their role as a public officer. The Public Official and Employee Ethics Act (POEEA) states that the people have a right to be assured the financial interests of public officers do not conflict with the public trust (65 Pa.C.S. 1101.1(a)). However, the POEEA is limited to “financial” or “pecuniary” conflicts of interest and no other types of issues.

On April 14, 2021, staff received a discrimination complaint from local resident Dr. Rachel Day regarding email communication with Council Member Allen Coffman from his Borough email address. This complaint was submitted pursuant to the non-discrimination/non-harassment policy approved by Town Council on March 8, 2021. Mr. Coffman is an elected member of Town Council and not an employee. He is subject to the self-imposed guidelines adopted by Council.

The complaint was reviewed and discussed in two private executive sessions by his peers, rather than staff, as Mr. Coffman is a member of the governing body. Both Dr. Day and Mr. Coffman submitted additional written information, as requested by Council. As this is a self-imposed policy, there is no local law or rule governing the policy process or procedure.

At the Regular Meeting of Town Council on May 10, 2021, a majority of Town Council members in attendance voted in a public session that: "the complaint filed by Dr. Day on April 14, 2021, was with merit."

According to the Borough Secretary, "On a motion by Council Member Talhelm, seconded by Council Member Leedy, it was resolved by a vote of 5-4 (Council Members Beattie, Elia, Herbert, Leedy, and Talhelm in the affirmative, and Coffman, Bigler, Everly and Huber opposed, with Mr. Schmaltz absent)".

On Monday, May 17, 2021, Town Council will convene to determine what action might be taken, within the limited confines of the laws of the Commonwealth of Pennsylvania, in light of this determination.

This determination does not constitute a quasi-judicial ruling, but rather the ordinary administration of municipal affairs or a statement of public policy (*Almy v. Borough of Wilkesburg*, 416 A.2d 638, 53 Pa. Cmwlth. 46, at 50,1980).

Mr. Coffman is an elected official and, pursuant to State law, nothing shall restrict or prohibit Mr. Coffman from exercising the duties of his elected office including participating in this policy review process.

Public officials, including the members of Town Council, are prohibited from engaging in conduct that constitutes a conflict of interest. A conflict of interest arises where a public official uses the authority of his office for his private pecuniary (i.e., financial) benefit, or for the pecuniary benefit of his immediate family or a business that he or an immediate family member is associated with. 65 Pa. C.S. §§ 1103(a); 1102.

There is no legal prohibition that would preclude an elected official from participating in a discussion or vote, which would not involve the use of office for a private pecuniary benefit. It is the discretion of each elected official to determine whether they feel that some non-pecuniary interest should result in their recusal. In almost all circumstances, neither staff nor Town Council have the ability to exclude an elected official from participating in an action of Town Council. It is up to the elected official to determine whether the Ethics Act would preclude their participation.

When Council reconvenes on Monday, May 17, 2021, any statement they issue, or do not issue, will speak for itself, as Council's final disposition of this matter.

The meeting is open to the public and participation is welcome.

If you have any questions about this meeting, contact Jamia Wright, Chambersburg Borough Secretary at jwright@chambersburgpa.gov.

If you have any legal or policy questions, due to potential litigation, the Borough of Chambersburg staff cannot engage in dialogue, but would be pleased to add your thoughts to the public record, and make them available to Town Council.

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About The Borough of Chambersburg

Chambersburg is a unique community. Chambersburg supplies more services than any other municipality in the Commonwealth of Pennsylvania. In addition to typical town functions, Chambersburg is Pennsylvania's only municipality supplying electric and gas. Chambersburg is 1 of 35 Boroughs to operate a municipal non-profit electric utility. Chambersburg is the largest municipal electric utility in the State, twice as large as the second largest, Ephrata, Lancaster County; and, the only one to operate generation stations. Chambersburg is 1 of 2 municipalities in PA to operate a natural gas utility. The other is Philadelphia, which does not operate an electric utility. Nationally, Chambersburg is 1 of 2,000 communities to have its own electric system and 1 of 800 communities to have a natural gas system but 1 of only about 50 to operate both. Chambersburg manages a regional water system, a regional sanitary sewer system (not through an independent Authority), and a new storm sewer utility; one of the first storm sewer utilities to form under the new Federal mandate to regulate stormwater. Chambersburg currently has 20,832 residents (2019).