

COUNTY OF YORK

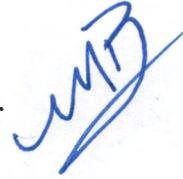
MEMORANDUM

DATE: July 13, 2023

TO: York County Board of Supervisors

FROM: Mark L. Bellamy Jr., Deputy County Administrator

SUBJECT: Business Taxes as a Percentage of Revenue



As a follow-up to your inquiry regarding the taxes levied on business as a percentage of total revenue budgeted by the County, staff has compiled the following information for FY23:

Occupational License Taxes	\$ 7,259,000	14%
Business Personal Property Taxes*	4,882,496	10%
Commercial Real Estate Taxes*	12,092,250	24%
Sales Tax*	13,500,000	27%
Transient Tax*	1,770,000	3%
Historic Triangle Tax*	5,500,000	11%
Meals Tax (General fund portion)*	3,957,345	8%
Cigarette Tax*	<u>1,700,000</u>	<u>3%</u>
Total	\$ 50,661,091	100%

Definitions:

Business Personal Property Taxes- Taxes levied on licensed businesses based on the value of machinery, equipment, vehicles, and other personal property.

Commercial Real Estate Taxes- This category includes real estate taxes levied on commercial and industrial real estate; apartment complexes are excluded.

Sales Tax- Taxes collected from the sale of goods. It is assumed consumers would buy in other localities if these goods were not available in the County and therefore are directly attributable to businesses operating in the County.

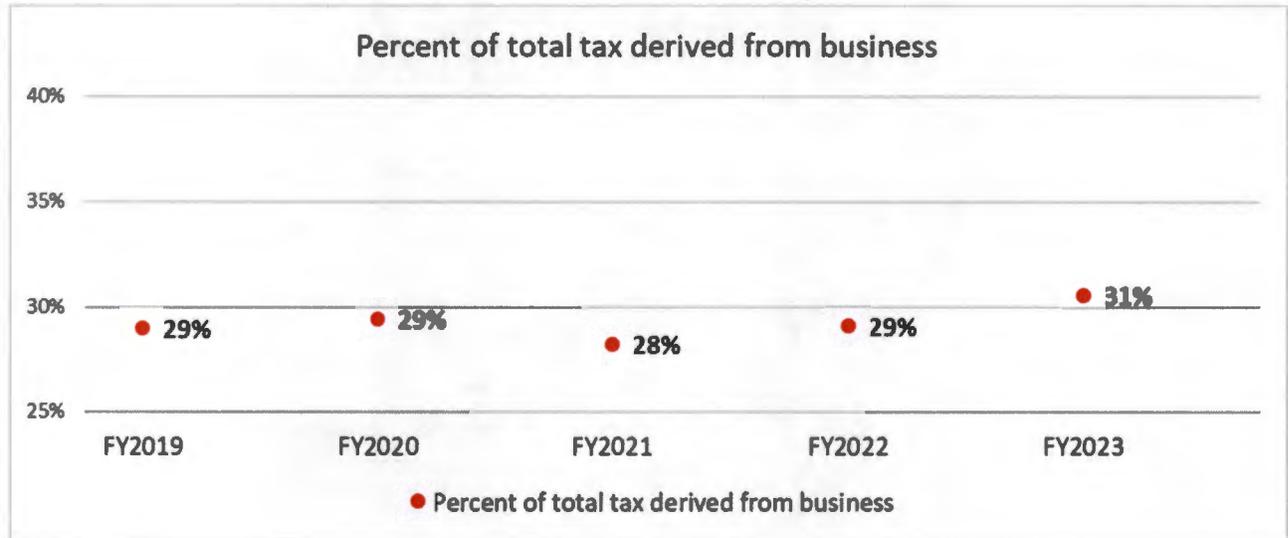
Transient Tax- This includes taxes collected by hotels, short-term rentals, and timeshares.

Historic Triangle Tax- Additional 1% sales tax collected in Williamsburg, James City County, and York County; excludes food purchased for preparation at home.

Meals Tax- Tax collected on the sale of prepared food, such as that purchased in restaurants; excludes food purchased for preparation at home. 50% of Meals Tax revenue is allocated to the General Fund.

Cigarette Tax- Tax collected on the sale of cigarettes and tobacco products; this tax was implemented effective November 1, 2021.

The chart below includes the previous five years of budgeted tax revenues and represents the percentage of total taxes anticipated from businesses as compared to all General Fund revenue.



Gillette/3704

COUNTY OF YORK

MEMORANDUM

DATE: July 21, 2023

TO: York County Board of Supervisors

FROM: Mark L. Bellamy, Jr., Deputy County Administrator 

SUBJECT: York County Board of Supervisors' Code of Ethics

Recently, there have been a few occasions during the Citizen Comment section of your regular meetings when the topic of the Board adopting a code of ethics has been tendered. In response, we asked Jeanne Sgroi, Management Analyst, to take a look at the Codes of Ethics adopted by other localities in the region. Attached for your perusal is a copy of her findings which includes the localities that have or have not adopted a Code of Ethics and the general topics covered by each that has chosen adoption.

As you consider the topic, staff recommends that you reflect on which areas, if any, are perceived to be a concern. Should you have any additional questions or comments please share them at your convenience. In the interim, we will pause any further examination of this topic until a consensus is reached.

Bellamy/3309

Attachment:

- Local Codes of Ethics memo dated June 30, 2023

COUNTY OF YORK

MEMORANDUM

DATE: June 30, 2023

TO: Mark Bellamy, Deputy County Administrator

FROM: Jeanne M. Sgroi, Management Analyst

SUBJECT: Local Codes of Ethics

At the past few Board meetings, several citizens have urged the Board to adopt a code of ethics for itself. Three of those citizens referenced their membership in advocacy groups, including one they called York Citizens for a Code of Ethics. Some of these citizens asserted that York County is an outlier among surrounding localities for not having a code of ethics that applies to its Board and referred to codes of ethics adopted by some nearby localities including Gloucester, James City, Mathews, Newport News, and Williamsburg. Staff investigated these assertions and compiled information about local codes of ethics through research and contact with administrative staff for all the cities and counties in Hampton Roads as well as Gloucester and Mathews.

Staff searched for codes of ethics that apply to the respective governing bodies in the Counties of Gloucester, Isle of Wight, James City, Mathews, Southampton, and Surry, as well as the cities of Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg. Seven of these sixteen localities have codes of ethics that apply to their governing bodies: Gloucester, James City, Mathews, Southampton, Surry, Suffolk, and Williamsburg. James City, Southampton, and Surry's Codes of Ethics are nearly identical to each other and Gloucester's Code of Ethics is nearly identical to Mathews' code. Williamsburg's City Council adopted its employees' existing code of ethics for itself. The Williamsburg Code of Ethics is broader than the previous examples because it was not written specifically with the duties of City Council members in mind. Contrary to the statement made by one citizen at a Board meeting, the Newport News City Council does not have a code of ethics.

Localities Researched	Has a Code of Ethics for Governing Bodies
Gloucester County	Yes
Isle of Wight County	No
James City County	Yes
Mathews County	Yes
Southampton County	Yes
Surry County	Yes
City of Chesapeake	No. For employees only
City of Franklin	No. For employees only
City of Hampton	No. For employees only
City of Newport News	No. For employees only
City of Norfolk	No
City of Poquoson	No. For employees only
City of Portsmouth	No. For employees only

City of Suffolk	Yes
City of Virginia Beach	No. For Boards and Commissions only
City of Williamsburg	Yes, written for employees and adopted by City Council

These codes of ethics have been analyzed for similarities, categorized into topics, and summarized in the attachment. The following eleven major categories were identified:

- Acting in the public interest
- legal compliance and adherence to rules
- conduct
- impartiality
- transparency vs. confidentiality
- using the position for private gain
- expressing personal opinion vs. a position of the board/council
- communication between board/council members and staff
- individual members acting as one governing body
- independence of boards and commissions
- implementation and enforcement

Staff has included this information as an attachment for the Board to use as a guide should it decide to create its own code of ethics.

Sgroi/3493

Attachment:

- Summary of Local Codes of Ethics for Governing Bodies

SUMMARY OF LOCAL CODES OF ETHICS FOR GOVERNING BODIES

ACTING IN THE PUBLIC INTEREST

James City, Southampton, and Surry counties' codes of ethics have sections that discuss Board of Supervisors members' duty to act as stewards of the public interest. They stress the importance of working towards the common good, avoiding working for private or personal interests, and treating all persons, claims, and transactions equitably. They state that no member of the Board of Supervisors or member of any of its supporting bodies (boards, committees, and commissions) should appear before their own locality's Board or any other proceeding of their County on behalf of private or third party interests related to areas of service to their bodies. Gloucester's and Mathews' codes encourage their Board members to put loyalty to the highest moral principles and to their respective counties above loyalty to individuals, districts, or particular groups. Williamsburg's code encourages staff and elected officials to act as stewards of democracy and in a manner that inspires public trust. Suffolk's code does not address this topic.

LEGAL COMPLIANCE AND ADHERENCE TO THE LAW

James City, Southampton, and Surry counties' codes instruct members to comply with all U.S., state, and county laws and highlight laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government. They tell members to perform their duties in accordance with the processes and rules of order established by their respective Boards. Gloucester's and Mathews' codes more succinctly instruct members to uphold the laws and regulations of the U.S. and all governments therein and never be a party to their evasion. Williamsburg's and Suffolk's codes do not address this subject.

CONDUCT

The codes of ethics for James City County, Southampton, and Surry address conduct in multiple sections. They stress the importance of avoiding even the appearance of impropriety. They tell members to refrain from abusive conduct or verbal attacks upon the character or motives of other Board members, members of its supporting bodies, the staff, and the public. Another section instructs members to prepare themselves for public issues and listen courteously without interrupting other speakers or making personal comments not germane to the business of the Board. The last section focuses on maintaining a positive workplace culture for employees, citizens, and businesses dealing with the County. They also address the relationship between Board members and employees and emphasize avoiding even the perception of inappropriate direction to staff.

Gloucester's and Mathews' codes advise members to give their best effort to their position and the performance of their duties. They also instruct members to avoid using their position to criticize colleagues' or citizens' integrity or personal beliefs in public. Gloucester has taken this issue a step further by publishing separate standards of conduct for their Board members. These standards cover the treatment of colleagues, citizens, and employees, the need to listen respectfully and attentively to them, and the necessity that Board members come to meetings prepared, stay on topic, and speak concisely. Williamsburg's code advises all employees and council members to accept responsibility

for their actions, strive for excellence, and treat others with respect even when others do not afford them the same consideration. Like the other localities' provisions addressing conduct, Suffolk's code also tells members to treat their colleagues; members of committees, commissions, and boards; city authorities, staff, and the public with respect and to refrain from abusive conduct and attacks on their character or motives.

IMPARTIALITY

Most localities broach the topic of impartiality regarding decisions made by the governing body. James City's, Southampton's, and Surry's codes tell members to base their decisions on the merits and substance of the matter rather than unrelated considerations. Gloucester's and Mathews' codes of ethics urge members to adopt policies that do not discriminate against and support the rights of all citizens regardless of race, sex, age, religion, creed, country of origin, or disability. Williamsburg's code tells its employees and council members to treat everyone fairly and without prejudice or special advantage to any citizen, business, or employee; however, it does carve out an exception for the elderly, disabled, or children who might need modified services. Suffolk's code of ethics does not address this issue.

TRANSPARENCY VS. CONFIDENTIALITY

Striking a balance between transparency and confidentiality can be especially difficult for government organizations. All of the localities' codes of ethics discuss this issue. Some only discuss confidentiality while others simply broach transparency. James City, Southampton, and Surry counties' codes address both. They direct members to respect the confidentiality of information concerning the personnel, property, or affairs of the county but also share relevant information with the public. Gloucester's and Mathews' codes warn members not to make private promises that could be binding on their public duties. They also tell members to adhere to the principle of transparency and the Freedom of Information Act (FOIA). They go on to state that closed meetings should only be used to address sensitive personnel, legal or contractual matters. Gloucester's standards of conduct also advise members to avoid using electronic devices during Board meetings to communicate with others regarding county business—this ensures transparent dialogue during meetings.

Williamsburg's code tells employees and council members not to gossip about information obtained on the job but to comply with the provisions of FOIA. Suffolk's code section regarding this topic is identical to those of James City, Southampton, and Surry counties. It states that members should share with the public any information that is relevant to matters that may come under the consideration of the Council.

USING THE POSITION FOR PRIVATE GAIN

The issue of using the position for private gain is discussed at length in all of the codes and therefore is broken down into four subcategories including conflicts of interest, insider information, gifts and gratuities, and use of public resources.

CONFLICTS OF INTEREST

James City, Southampton, and Surry counties' codes warn members not to use their positions to influence government decisions in which they have a material financial interest and instruct them to disclose any substantial organizational responsibility or relationship to parties coming before them. The codes make clear that this section should not restrict members who have minor business or professional dealings with parties that come before them. They also point out that the law requires members to disclose investments, interests in real property, sources of income, and gifts; and requires them to abstain from participating in deliberations and decision-making where conflicts may exist. Gloucester's and Mathews' codes tell members not to engage in business with the county government, or the school system, which is inconsistent with the performance of government duties. Mathews' code, however, makes an exception for business that is consistent with the conflict-of-interest statutes in the Code of Virginia.

Williamsburg's code advises employees and council members to avoid conflicts of interest and the appearance of them. It explains what a conflict of interest is and tells them to avoid compromising relationships with parties doing or seeking business with the city, and representing or promoting outside interests not aligned with the purpose of the city. Finally, it states that unavoidable relationships that could create conflicts of interest, or even the appearance of it, should be disclosed.

This section of Suffolk's code of ethics makes the same points as the other localities with different wording. It instructs members to neither attempt to influence decisions or recommendations of Council appointees, city officers, or city employees nor to try to influence those groups on behalf of a particular constituent or organization. It does note that Council members can share information with staff and assist in communication with constituents or organizations. It goes on to direct Council members, the City Manager, the City Attorney, the City Assessor, and the City Clerk to comply with the Virginia Conflicts of Interest Act.

INSIDER INFORMATION

James City, Southampton, and Surry counties' codes tell members not to use confidential information concerning the property, personnel, or affairs of the county to advance their personal, financial, or other private interests. Gloucester's and Mathews' codes say that members should never use confidential information gained through the performance of their duties as a way to make a profit. Williamsburg's code concisely states that confidential information shall not be used for private gain. Suffolk's code does not directly address this issue.

GIFTS AND GRATUITIES

The codes of ethics for James City, Southampton, and Surry dictate that members and their families should not accept favors or benefits under circumstances that could be seen as influencing the performance of government duties. Gloucester's and Mathews' code sections on this topic are identical to those of James City, Southampton, and Surry; however, Gloucester's and Mathews' section adds that members should avoid giving out favors or unfair privileges to anyone, whether for remuneration or not. Williamsburg's code states that employees and council members shall not accept gifts, payments, or loans

from parties that have or want to have business with the city. It goes on to say they cannot accept gratuities for services they render on city time; however, it stipulates that this section is not intended to keep employees and council members from accepting reasonable and customary social courtesies or to keep employees from obtaining loans from regular lending institutions. Finally, it states that when gifts cannot be returned without causing embarrassment to the city, they should be disclosed, and if possible, shared with others. Suffolk's code of ethics tells members not to seek or accept favorable treatment from other city officers or employees than would be given to other members of the City Council.

USE OF PUBLIC RESOURCES

James City, Southampton, and Surry's code simply states that members will not use public resources that are not available to the general public (e.g. county staff time, equipment, supplies, or facilities) for private gain or personal purposes. Williamsburg's code of ethics repeats the same sentiments but adds vehicles to the list of resources. It also adds that private business and outside employment should not be conducted on city time or property; however, it explains that solicitation at work for charitable giving is permitted as long as there is no pressure to respond. Gloucester's, Mathews', and Suffolk's codes do not address this issue directly.

PERSONAL OPINION VS. POSITION OF THE BOARD/COUNCIL

Many of the localities' codes of ethics address the issue of individual members speaking on behalf of the entire body. The James City, Southampton, and Surry codes state that members should represent official positions of the Board and its supporting bodies to the best of their ability when designated to do so. When representing their personal opinions, members should explicitly say so. Gloucester's and Mathews' codes echo these sentiments, stating that when responding to the media, members should make a clear distinction between personal opinion and positions of the Board. Williamsburg's and Suffolk's codes do not address this issue.

COMMUNICATION BETWEEN BOARD/COUNCIL MEMBERS AND STAFF

James City, Southampton, and Surry counties' codes discuss communication between elected officials and staff by first laying out the inner workings of local government. They explain that the Board determines policies based on advice, information, and analysis provided by the public, the Board's supporting bodies, and staff. The Board delegates authority for the administration of the county to the County Administrator. Therefore, members should not interfere with administrative functions or professional duties of the staff. James City and Surry counties' codes go on to say that inquiries to staff should be made through the County Administrator or department directors. Gloucester's and Mathews' codes do not address this issue; however, Gloucester's standards of conduct state that members should communicate directly with the County Administrator, County Attorney, department directors or managers, and/or the Chair of the Board to enhance communication with staff.

Williamsburg's code does not address this issue, but the city does address it in depth in its policy manual. It states that council members should communicate with department

directors and managers only and that the Council or individual members should never give orders to a manager's subordinates. It says that any violation of this policy should be reported to the Council as a whole. It states that while giving orders is inappropriate, requesting information about items on the current or future agenda through the City Manager, preferably during Council meetings, is not. The policy manual clarifies that all requests should come from the Council, rather than individual members. Finally, Suffolk's code reiterates these ideas and adds that if a member has a concern about the performance of a staff member, they should discuss it privately with the City Manager.

INDIVIDUAL MEMBERS ACTING AS ONE GOVERNING BODY

Suffolk is the only locality on the list that addresses the issue of individual members acting as one governing body. Its code of ethics states that no individual City Council member shall give public assurances, guarantees, or otherwise commit the Council to any action or expenditure without having discussed the item and taken a vote during a City Council meeting. It goes on to include Council appointees, city officers, and employees by saying they should not issue any direction to expend city funds prior to receiving approval from the Council by vote during a City Council meeting.

INDEPENDENCE OF BOARDS, COMMITTEES, AND COMMISSIONS

The codes of ethics followed by James City, Southampton, and Surry stress the value of the independent advice rendered by boards, committees, and commissions to the Board's decision-making process. For this reason, Board members are not supposed to use their position to unduly influence these bodies' deliberations or outcomes. Gloucester, Mathews, Williamsburg, and Suffolk do not address this issue in their respective codes of ethics.

IMPLEMENTATION AND ENFORCEMENT

All of these localities address implementation and enforcement in their codes. James City, Southampton, and Surry discuss the issue at length, stating that the Code of Ethics is designed to be self-enforcing; therefore, members should be familiar with and embrace its provisions. They require ethical standards be included in orientations for candidates for the Board of Supervisors, applicants to boards, committees, commissions, and newly elected and appointed officials. Upon entering office, members must sign a statement affirming they have read and understood the Code of Ethics. Members of the Board and its supporting bodies must annually review it and the Board shall consider recommendations from its supporting bodies to update it as necessary.

Furthermore, the chair of the Board of Supervisors and the chairs of the Board's supporting bodies have the additional responsibility to intervene when members take actions that violate the code. The Board can impose sanctions on those members such as public or private reprimand, formal censure, loss of seniority or committee assignment, or budget restriction. Where allowed by law, the Board can also remove members of Board-appointed boards, committees, and commissions from office. Nevertheless, a violation of the code may not be considered a basis for challenging the validity of a Board decision or the decisions of its supporting bodies.

Gloucester's and Mathews' codes obligate members of the Board, as a body, to pursue and respond appropriately to any misconduct, neglect of duty, or corruption. They require members to review the code orally and pledge to honor and uphold it in public session every year. Williamsburg's code tells employees and Council members to discuss ethical dilemmas with department heads, the City Manager, or the City Attorney. It urges them to ask themselves, "If the facts of this situation were in the newspaper tomorrow, would it embarrass the City or call my integrity into question?" Finally, Suffolk's code instructs members who have concerns about the performance of a Council appointee to bring them to the attention of the entire Council.

CONCLUSION

While each locality has its own approach, there are many similarities between different localities' codes of ethics. Indeed, five of the seven localities discussed in this analysis have codes of ethics that are nearly identical to at least one other locality's code. By using an existing code of ethics, the elected body gains the benefit of having a code that has been time-tested, (i.e. the code successfully assured the citizenry without inhibiting the elected body). The localities that utilized existing codes of ethics often made small changes or improvements to them. In all but one case, each governing body's code of ethics is tailored specifically to the duties and functions of a member of the governing body, which are inherently different from those of a county or city employee. Should the Board decide to adopt a code of ethics, it has a range of options, including using an existing code or one assembled from the best parts of various codes already in use. If so, staff hopes this document can provide guidance in that endeavor.