CAMBRIDGE MATTERS # 20

By: Commissioner Steve Rideout

[swrideout@aol.com](mailto:swrideout@aol.com)

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When I was a young lawyer in Alexandria, I used to appear before Judge Franklin Backus, who was the Chief Circuit Court Judge for the City. Whenever a lawyer had a motion to be heard, he would always reach over and pick up the state code and look at the different laws that impacted or would be impacted by any decision he would make. He would do that even if he had looked at that same code section many times before. His reasoning, when asked, was that he always wanted to be sure his memory was correct on what the law said and also to be sure that the case in front of him might not cause him to change his mind about what he thought the law said.

I tell you this story because, I had that same experience this past Monday about a matter that came up on the early agenda that requested that we have a closed meeting. On its face, I did not think that a closed meeting would be necessary but, as Judge Backus did, I went back to reread the relevant portions of the Maryland Open Meetings Act and came away with a new understanding of it and the reasons why I felt the meeting should not be closed.

So, when is a close meeting not a closed meeting? It is not a closed meeting until a majority of the Commissioners vote to close it in the way required by the law.

We received a notice that at the City Council meeting on Monday at 5:00 p.m. was for the purposes of going into a closed meeting to discuss a proposal for a business to locate, expand, or remain in the city and to consult with staff and the City Attorney regarding potential litigation both of which were formally noticed and on an oral request of the city manager to discuss the potential acquisition of real property in the city.5

I had a concern that while the Maryland Open Meetings Act allowed for a closed meeting regarding business locating in the city, my research of the Open Meetings Act Manual indicated that blanket granting of such requests was not appropriate. I wanted more details on why there was a request to close the meeting and what was going to be discussed that needed confidentiality.

In Chapter 5 A of the Open Meetings Act are the requirements for closing a meeting. They include requiring notice of a public meeting, a closing statement that “… must contain three items of information: the ‘topics to be discussed’ in the closing statement, a citation to the exception applicable to each topic, and ‘the reason for closing the meeting’”. It goes on to say that the public is entitled to a copy of the closing statement when the meeting is closed; and ‘…if a member of the public objects to the closing, the (city council in this case) must send a copy of the closing statement to the Compliance Board”. I do not recall that this has ever happened here during my time on City Council.

It goes on to say that “Closing statements that merely parrot the words of the statutory exception rarely convey enough detail about the topics to be discussed and the reason for excluding the public….A closing statement that merely states the words of the business relocation exception, which allows the public body to exclude the public from its discussion of a proposal for a business to locate in the public body’s jurisdiction, does not tell the public anything about why the discussion has to be secret, especially if the identity of the business has already been made public”

As I was aware that the request involved a real estate matter that might need the approval of the Planning and Zoning Commission, I felt that it should go before them first before coming to City Council as is the normal practice.

At the 5:00 p.m. meeting, after a discussion of my objection to closing the meeting, the vote taken on the motion to close the meeting was defeated 3-2 with Commissioners Hanson, Cannon, and myself voting against closure and Commissioners Sydnor and Foster voting in favor. As a result, the matters sought to be considered in closed session were held in open session even though no one from the public was present. By being in open session, however, I am permitted to provide some explanation of the issues, and the matters discussed should be included in the meeting minutes.

With regard to the matter of a proposal of a business to “locate, expand, or remain” in the city, this involved a request by Sandy McAllister, Esq. on behalf of his client Chesapeake Resort LLC to see how the Commissioners felt about a project that his client wanted to undertake on the Hyatt Property on a 2.16 acre of property near the hotel. His client is the owner of the Hyatt Resort property.

While I felt that this was more appropriate to go before the Planning and Zoning Commission, Mr. McAllister wanted to get the sense of City Council about such a project, as he did not want to waste his client’s money and his time if the Commissioners were opposed to project. He also indicated that two of the members of the Planning and Zoning Commission had suggested that he make this approach.

The 2.16-acre property is currently zoned for hotel rooms, time shares, commercial space, and retail space, and since his client has no plans to add hotel rooms and time shares are no longer of public interest, Mr. McAllister indicated its interest in building a multi-rise condominium building on that acreage that would include parking. If such a property were built, it would certainly provide more tax income to the city as well as possibly additional jobs.

While no vote was taken on the matter no commissioner raised any objections to the project being considered by the Planning and Zoning Commission and staff.

Another matter that was taken up in the early public meeting was the matter of the proposed settlement of a claim against the city by Dorchester County for damage done to its 911 equipment that had been installed in the city police and fire department building. The damage occurred because water leaked from a bathroom over the equipment and damaged it to the extent of a claim for over $400,000. The city was insured by LGIT for the loss except for $5,000, and the city manager was asking that we approve the proposed partial payment by the insurance company to the county for approximately $204,000. There is the possibility that the city’s insurance carrier may have to pay some additional monies. That issue was put on the 6:00 p.m. agenda for council action.

The final matter that was discussed was the possible purchase of 505-507 Race Street by the city. These two properties are immediately adjacent to the Hearn Building, and one collapsed and had to be torn down by the city at a cost to the taxpayers of over $100,000. There is a private lien for work done on these properties, and the lienholder is seeking to purchase them from Historic Cambridge, Inc. for the amount of the lien. The city is seeking state assistance to purchase the properties in order to protect, to the extent it can, the recoupment of the monies it expended to demolish the building when there was the danger of its collapsing further. The repayment of the $100,000 cost will otherwise not be recoverable unless the city has control of the buildings either by ownership or subjecting them to the city lien for the costs that it expended.

While awaiting the regular meeting to start at 6:00 p.m. there was other discussion of some of that agenda, including the proposed City Reorganization Chart Changes that also included personnel matters that really needed to be addressed in a closed meeting at some other time. As a result, the proposed chart changes were postponed for presentation on March 9th and then potentially finalized at the March 23rd City Council meeting.

When 6:00 p.m. arrived the regularly scheduled meeting started with the approval of the amended agenda that removed the City Reorganization Chart discussion. During public comment Robert Aaron asked about the city election at the Cambridge Center of Chesapeake College and where the candidates will be allowed to place themselves with their supporters to hand out literature and make a final request for someone’s vote. No answers were supplied, but that is something for the city manager as Supervisor of Elections to determine.

Jane Devlin then spoke on behalf of the Richardson Museum to ask for a letter of support from the city that she would draft. This would support their effort to obtain state funds to assist with the rehabilitation of their building at 103 Hayward Street, where they plan to move since selling their property on High Street. On Commissioner Sydnor’s motion and second by Commissioner Foster, this request was approved on a unanimous vote.

The consent calendar was approved on a vote of 5-0 on my motion with a second by Commissioner Hanson. The matters approved were

* The February 10th meeting minutes
* The request of the Nabb Center at Salisbury University to allow parking on both sides of High Street between Christ Church and William Street during a fund raiser party on May 2, 2020 from 4 pm – 7 pm.
* The request of Cambridge Community Radio to host their 6th Annual Spring Gala on March 13th from 6-10 p.m. at 447 Race Street.

No Ordinances for first or second reading were introduced, and two matters of old business were then taken up. A Memorandum of Agreement between the city and American Cruise Line, Inc. for the installation of electrical service for commercial vessels at the cost to American Cruise Lines, Inc. was approved on my motion and second by Commissioner Hanson on a 5-0 vote. In addition, the approval of the partial settlement payment to the county by the city’s insurance carrier for the damage done that I mentioned earlier was approved on a vote of 5-0 upon my motion and second by Commissioner Cannon.

With New Business the following action occurred:

* The Marina Fund Budget was amended to increase the budget by $179,000 for grants obtained by the city from the Maryland Department of Natural Resources. $99,000 was for expenditures at Long Wharf and underwater inspection and repairs to the floating breakwater at the municipal marina. $80,000 was designated for repairs and maintenance at the Franklin Street boat ramp.
* The amendment of the General Fund budget to accept $18,500 in police retention grants for disbursal to officers with five or more years of service for which the city would contribute the employers share of social security and other taxes in the approximate amount of $1,415.25. That passed on a vote of 4-0-1, with Commissioner Foster abstaining.
* The Superintendent of Public Works position description was passed over until the March 9th meeting as was the City Organization Chart changes proposed by the city manager. A final review of those proposed changes would be taken up at the March 23rd meeting.

With all the scheduled business being finished, the Mayor announced that Secretary Holt will be coming to Cambridge on Friday to provide a tour of the city to over 100 members of his staff. The plan is for some of the DHCD staff to work from Building F on Dorchester Avenue, once the building is renovated.

Commissioner Cannon mentioned that some residents suggested that additional streetlights be placed around the city. The Mayor indicated that there was a committee for that purpose, and she would check the records to determine who might be serving on that committee.

Commissioner Foster asked that the matter of the shed at 207 High Street be brought before City Council at its next meeting and that residents and staff involved with the matter be provided notice of the hearing. There was no indication of the what decisions City Council might be asked to make.

I then reported that the matter of the shed at 207 High Street had been brought before the Historic Preservation Commission last week where a full public hearing had been held on whether the shed was being allowed to be demolished by neglect. At that hearing the owner of the property was present, but the person who had made the complaint about the property was not. The evidence presented resulted in the Historic Preservation Commission making a finding that the property was not one that was being “demolished by neglect” but that the owners had obtained building permits and were in the process of strengthening the property.

Additional information that I have obtained indicates that the shed is not an imminent threat of falling. The February meeting of the HPC has not yet been posted on the Town Hall Streams Website for Cambridge but I have asked the city manager to contact the company to post it so that you can see for yourself what happened at that meeting and the finding that was made.

Chief Lewis announced that the police department had sought funding to obtain and train a K-9 and had received a $10,000 grant. In addition, an offer has been made to hold a fund raiser for a second K-9 for Cambridge that is now without any K-9s. He also mentioned that a group of youths from the PAL with adult supervision went to the Great Wolf Lodge in Williamsburg where they had a great time.

With no further business, the meeting was adjourned

Thanks for reading.

Steve