CAN’s Unofficial Notes on the

City Council Special Work Session of February 13, 2023

The Mayor opened the Work Session at 5:00 pm. All City Commissioners were present.

The purpose of the session was to discuss what to do about the two Commissioners who had moved out of their Wards.

The City Manager opened the meeting and made the following points:

1. He noted that the City Charter only provided one method for replacing vacant Council positions and that was a Special Election. He gave a date at the end of April that the new Commissioner would be seated if the Special Election was authorized at the next City Council meeting on February 27.
2. The last Special Election cost the City $25, 000, and the City is now looking at two more Special Elections because two Commissioners choose to move out of their Wards during their terms.
3. He noted that the City Charter had contradicting statements on when a Commissioner had to step down. First, Sec. 3-5(a) states that a Commissioner serves until his or her replacement is elected, Sec. 3-5(b) states that a Commissioner must reside in his or her Ward for the entire four-year term unless some major event such as a fire, major renovation or the termination of a lease force the Commissioner to move. In this case, the Commissioner should find another residence in the Ward or move back into the Ward within 12 months.
4. The City Manager recommended that the City follow Maryland case law which allows for a Commissioner to stay on until a replacement is selected.
5. The City Manager noted that the Council had spoken about changing the current Charter to have an option for appointment by the Council or a Special Election, depending on the timing of the vacancy.
6. The City staff had done an analysis of how other Eastern Shore Cities approached this issue and made the analysis available for discussion.
7. The City Manager stated that it was important to do it right rather than do it fast. Therefore, the Council should consider all options even though it might delay a Special Election.
8. The City Manager also noted that City staff had done nothing to prepare for a special election even though Commissioner Malkus moved 12 months ago.

The City Attorney stated his view that the Council could change the Charter anytime it wanted as long as it did not involve Members’ salaries and possibly their terms of Office, but that everything else they could change for this sitting Council.

Commissioner L. Cephas stated that the City should postpone any Special Election until after the budget is approved (late June). Her argument was that it was important that the City Manager and the Council focus on getting the budget correct ,and they should not be distracted by a Special Election which will take time. She also supported a Council appointment option, which would save money and time in filling the positions.

There was a long discussion by everyone on the timing of general elections and their costs. At present, Cambridge has elections on even years – the same as Presidential and Governors election because it was thought that it would increase voter participation. However, the City subsequently learned that the County Board of Elections would not manage City elections or include City elections on its ballots. This caused the City to manage its elections through a private company at a cost of $12,000 to $25,000 (depending on whether a runoff is needed). The discussion was whether to go back to the odd year election, which could possibly be handled by the County Board of Elections, and whether or not to have staggered terms for the Commissioners. No resolution was adopted.

**Commissioners Comments:**

Commissioner Roche agreed with Commissioner Cephas that the Special Election should be held sometime after the budget process. He stated that it was very important to get the budget priorities right.

Commissioner L. Cephas stated that the election should wait until the budget process was completed so that the Council and City Manager would not be distracted by a Special Election. She also stated she was in favor of adopting the special election/appointment method for replacing vacancies as outlined by the City Manager.

Commissioner Harrington stated that the City should follow the City Charter and call for a Special Election as soon as possible.

Commissioner S. Cephas stated that the Special Election should wait, and he liked the option of appointing and special election methods.

Commissioner Malkus thought it was better to wait.

**Public Comment:**

Sharon Smith asked two questions: (1) How can the Council change the Charter to affect the current Council. All other changes to the Charter in the past only affected the next Council, not the Current Council. (2) Why not combine both elections for the Commissioners into one.

The City Attorney responded and stated that the Council could change anything it wanted in the City Charter except money matters concerning the Commissioners and maybe the length of their terms.

Robert Aaron asked why Commissioner Malkus didn’t resign after his 12-month grace period ended on February 8.

He was told by the City Manager that the City was following Maryland case law and not the Charter, which allows for the person to remain in office until his or her replacement is elected.

Charles McFadden spoke that the Cambridge Elections laws are not like other Cities in Maryland because the Cambridge laws were set up and approved by the US Courts and the Department of Justice. In a court case, decided in 1985 and by appeal in 1986, the Courts found that the City of Cambridge discriminated against Black voters and violated the Civil Rights Act of 1964 and the 14th and 15th Amendments to the U.S. Constitution. The Cambridge City submitted a new plan for voting to the Courts and the Department of Justice which equalized the population of each Ward, provided that the representative must be a bonafide resident of that Ward, and that the representative is elected only by the citizens of that Ward. He then noted that this was a major Civil Rights victory by the NAACP in the State of Maryland, and the Council should be extremely careful in changing anything in the Charter that had to do with voting.

There was no response to this comment.

Jim Sicks asked how long Commissioners can remain in office if the Council by its inaction does not call for an election? Can the Commissioner stay for his full term?

There was no response to this question.

LaShon Foster noted that the Cambridge history around vacant Commissioner positions was to leave them vacant until the next general election. She noted that Victoria Stanley-Jackson, Commissioner Hanson, Commissioner Sanders and several others had left office and it remained vacant until the next general election. She stated that there was no history of allowing someone to stay in their office until it was filled.

She also noted that the Council was using the City Charter for one argument – the Commissioner remains in office until his or her replacement is selected – and ignoring the other section that calls for a termination after 12 months of being out of the Ward.

There was no response to her concerns.

Adjournment:

The Council agreed to discuss the matter further at another Public meeting. Commissioner Harrington asked if the City could prepare for a special election while waiting for all the above options to be resolved. The City manager agreed to start the process and to set up another meeting in March to discuss the issues.