

CAMBRIDGE ETHICS COMMISSION
C/O ROBERT S. COLLISON, ESQ.
311 HIGH STREET
CAMBRIDGE, MD 21613

Conflict of Interest –
Unnoticed committee
meetings are not within
the jurisdiction of the
Ethics Commission but
actions taken might be
under certain circumstances

ADVISORY OPINION 08-2013

HAVING MET ON SEPTEMBER 26, 2013, AND CONSIDERED THE
REQUEST FOR AN ADVISORY OPINION BY EDWIN C. KINNAMON,
CLERK/TREASURER OF THE CITY OF CAMBRIDGE AND HAVING
CONSIDERED THE LEGAL OPINION OF ROBERT S. COLLISON, ESQ.,
COUNSEL FOR THE ETHICS COMMISSION,

AND COMMISSIONER CHARLES McFADDEN HAVING RECUSED
HIMSELF FROM INVOLVEMENT IN THIS MATTER AND REMOVED
HIMSELF FROM THE ROOM WHILE THE REMAINING MEMBERS OF THE
COMMISSION CONSIDERED THE ISSUE RAISED;

AND MR. KINNAMON HAVING ASKED FOR AN OPINION ON “WHETHER
MORE THAN TWO VOTING COUNCIL PERSONS MAY BE PRESENT FOR
A CLOSED MEETING WITHOUT PUBLICIZING THE MEETING”;

AND THE MEMBERS OF THE COMMISSION PRESENT, STEPHEN W.
RIDEOUT AND GREGORY MEEKINS, WHO ARE PERMITTED TO MAKE
THIS DECISION UNDER THE POLICIES AND PROCEDURES OF THE
ETHICS COMMISSION, BEING OF THE OPINION THAT THIS REQUEST
AS WRITTEN DEALS WITH A MATTER THAT IS OUTSIDE THE PURVIEW

OF THE CAMBRIDGE ETHICS CODE BUT RAISES CERTAIN POTENTIAL ISSUES THAT COULD FALL WITHIN THE CAMBRIDGE ETHICS CODE;

THE CAMBRIDGE ETHICS COMMISSION BY UNANIMOUS VOTE HEREBY STATES THE FOLLOWING AS THE OPINION OF THE COMMISSION:

The facts as stated and the request made in the Advisory Request form (see attached) do not place the issue raised within the jurisdiction of the Cambridge Ethics Commission or the Cambridge Ethics Code but appear to raise issues subject to the Maryland Open Meetings Act.

While not raised as an issue in the Advisory Opinion Request, the holding of the Finance Committee meetings mentioned does raise a concern that members of City Council and the Mayor who attend such meetings could be considering issues and making decisions at these meetings that might place them in a position of a conflict of interest “between the private interests of the official or employee and the official duties of that person” even if the requirements of the Open Meetings Act are met. An example of a conflict might be where an official present at the committee meeting decides to move appropriated monies from a project in one part of the city, whose representative is not present at the meeting, to a different project in the ward of the Commissioner making the decision.

Under the Cambridge City Ethics Code, section (4) - Conflicts of interest—All covered positions.

(a) A conflict of interest exists where the participation in the negotiation of or approval of any negotiated contract or arrangement or the expenditure of city funds could reasonably be expected to result in a conflict between the private interests of the official or employee and the official duties of that person.

If these Finance Committee meetings are otherwise found to be appropriate within the requirements of the Maryland Open Meetings Act or are modified to meet any conflict with the Maryland Open Meetings Act, participants should be taking minutes of the issues raised, actions taken, and recommendations that they may be making to the full City Council at any subsequent meeting and present the minutes and recommendations at the City Council meeting with proper notice. They should

also be cautious about any conflict of interest or potential conflict of interest in connection with a specific proposed action pursuant to section (4) d of the Cambridge Ethics Code and should "... notify the commission sufficiently in advance of the proposed action so as to provide adequate disclosure to the public and time for the commission to take any action necessary which could include providing an advisory opinion."

THE COMMISSION REQUESTS THE CLERK OF THE CITY OF CAMBRIDGE TO PLACE THIS OPINION ON THE WEBSITE OF THE CITY OF CAMBRIDGE AND MAKE COPIES AVAILABLE TO THE PUBLIC WHEN REQUESTED.

A handwritten signature in black ink, appearing to read "Stephen W. Rideout", written over a horizontal line.

STEPHEN W. RIDEOUT, CHAIR
ON BEHALF OF THE COMMISSION

Date: October 3, 2013

Cambridge Ethics Commission
Request for an Advisory Opinion
(Please allow at least two weeks for an Opinion)

Edwin C. Kinnamon, Clerk / Treasurer	9/16/2013
Name	Date
City Hall 410 Academy Street, Cambridge, MD 21613	
Address	
410-228-4020	e.kinnamon@chooscambridge.com
Phone	email address

I am requesting the Cambridge Ethics Commission provide an opinion on the following: (Please include a detailed description of the issue and the date the opinion is needed. Attach additional pages as needed)

The City Council has requested from the City's Ethics Commission an opinion regarding the legality of how the City's Finance Committee is conducting business in what has been generally a weekly meeting. The Committee, although not sanctioned by way of legislation or Council's vote, meets to discuss financial matters which began when the City was in less of a positive cash flow a few years ago.

The group consisting of generally two City Council members, the Mayor, and two department heads have met in what could be considered behind closed doors. In the past year, a third City Council member wanted to join the meeting and did so of their own accord. After questioning how a third Council person could remain without breaking any closed meeting laws, the current meetings are now advertised regardless of how many Council persons actually attend the meeting. Also, is the public invited to these meetings or could they be asked to leave? Moreover, no final decisions are made at these meetings. Decisions requiring a Council vote are placed on the following Council meeting agenda for discussion and disposition.

There have been various differences of opinion on the matter, thus the reason for this request to provide an opinion on whether more than two voting Council persons may be present for a closed meeting without publicizing the meeting. An opinion is requested ASAP.

Send to the Cambridge Ethics Commission
c/o The City Attorney 311 High Street, Cambridge, MD 21613

Date Received:

Date of Opinion: