

Hearing Outline for Chair Pro Tempore

August 24, 2020

Hearing to be Held in Council Chambers

I. Opening of Hearing by Chair.

“The purpose of this hearing is for the Commissioners of Cambridge to consider the residency qualification of La-Shon M. Foster to continue serving as Commissioner in Ward Three for the City of Cambridge.

In July 2016, before taking office, the Mayor and Commissioners of Cambridge each took the oath prescribed by Article 1, Section 9 of the Maryland Constitution, and the City Charter, as follows:

I,, do swear, that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of Mayor or Commissioner, according to the Constitution and Laws of this State.

Section 3-5 of the Charter of the City of Cambridge requires that each Commissioner remain a bona fide resident of the ward to which he or she was elected for the full duration of his or her term in order to remain in office. A Commissioner may only move out of his or her ward if his or her residence is damaged, destroyed, sold, or undergoing extensive renovations causing the Commissioner to move from the residence, or if the lease to the residence is terminated, and the Commissioner is unable to move to another residence within his or her ward. In that case, the Commissioner shall have 12 months to relocate to another residence within the ward that he or she represents.

Section 3-5 further requires that, within ten (10) days of moving out of his or her ward, a Commissioner must provide documentation of his or her change of residence, such as a voter’s registration card, driver’s license or identification card, real property tax receipt, lease, or affidavit of the property owner that the new residence is the Commissioner’s primary residence, and redacted bank statements, utility bills, or a Form W-2 or 1099, as well as a sworn statement setting forth the reasons for the move. Within ten (10) days of moving back to the ward to which he or she was elected, the Commissioner must provide the same documentation and sworn statement to the City Manager confirming the reestablishment of his or her bona fide residence in such ward.

On May 22, 2020, Commissioner Foster notified the City Manager via e-mail that her residence had changed.

On May 29, 2020, the City Attorney sent Commissioner Foster a letter by e-mail and first-class mail advising her of the residency requirements of the Charter and requesting that she provide the required documentation and sworn statement to the City Manager as soon as possible.

As of August 10, 2020, Commissioner Foster had not provided the required documentation and sworn statement to the City Manager. Thus, the Commissioners adopted Resolution No. 2020-15 for the purpose of affording Commissioner Foster a full and fair opportunity to present evidence of her residency within Ward Three at a public hearing on August 24, 2020, provided that she did not provide the documentation and statement prior thereto. As of the commencement of this hearing, Commissioner Foster has not done so.

Before proceeding further, I would like to discuss the process so that everyone is aware of the format of this hearing.

This is a quasi-judicial hearing. As such, anyone wishing to present information to or testify before the Commissioners must first be sworn in. Even if you think you may testify, please be sworn in so as to avoid delaying the proceedings. Though this is a public hearing, there shall be no opportunity for public comment.

First, the City Attorney will make an opening statement and will move Resolution No. 2020-15 and all exhibits thereto into the record.

Second, Commissioner Foster will have the opportunity to make an opening statement and present any evidence and testimony regarding whether she is a bona fide resident of Ward Three. The Commissioners shall have the opportunity to ask questions of each witness in turn.

At the end of Commissioner Foster's presentation and following any questions from the Commissioners and any final argument, the Commissioners shall close the public hearing and deliberate. At the end of deliberation, the Commissioners may reach a decision; however, the Commissioners reserve the right to take the matter under consideration and continue deliberations to a later date. The Commissioners' decision shall be based upon the preponderance of the relevant and material evidence and testimony in the record.

Please note that tonight's hearing is being recorded."

II. Swear Witnesses.

a. Anyone who may testify or present information this evening, please stand and raise your right hand. You may not testify if you have not been duly sworn in.

b. Oath: *DO YOU SOLEMNLY SWEAR OR AFFIRM, UNDER PENALTIES OF PERJURY, THAT THE TESTIMONY YOU ARE ABOUT TO GIVE SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH?*

III. Order of Presentation.

1. City Attorney – Opening Statement and presentation of evidence:

Resolution No. 2020-15 and all exhibits thereto including any questions from Commissioners

2. Commissioner Foster (or counsel) – Opening Statement and presentation of evidence:
 - A. Identify any exhibits and move them into evidence. If not previously provided to the Commissioners, have then described by the Chair.
 - B. Any questions from the Commissioners?
 - C. Does Commissioner Foster have any other witnesses?
 - i. Call the witness (full names and address)
 - ii. Present his/her testimony
 - iii. Identify any exhibits and move them into evidence
 - iv. Any questions from the Commissioners?
 - v. Summary statement from Commissioner Foster
 - D. Presentation of any additional or rebuttal evidence by the City Attorney or any Commissioner or witness from the public?
3. Closing Statements?
4. Motion to close the hearing
 - a. *Bang gavel and state that the taking of testimony is closed.*
5. Deliberations by Commissioners (in open session)
6. Motion
 - a. The Chair *Pro Tempore* shall ask for a motion.
 - b. Second
 - c. Call for vote