

## DRAFT RESPONSE

March 13, 2017

Open Meetings Compliance Board  
c/o Attorney General's Office  
200 St. Paul Place,  
Baltimore, MD 21202  
Email: [opengov@oag.state.md.us](mailto:opengov@oag.state.md.us)

Attn: Janice Clark, Administrator

SUBJECT: Response to Open Meetings Complaint – Rideout Complaint 0222417

Dear Ms. Clark,

Commissioner Rideout's complaint concerns one meeting of the Cambridge City Council on Feb. 21, 2017 in which it went into closed session meeting. We recognize six (6) specific complaints. Note that the City Attorney was not present for the closed session meeting.

### Complaints:

1. The agenda of the meeting containing the closed sessions did not start with an open meeting during which the motion to go into closed session would be announced prior to going into closed session.
2. Neither the agenda of the closed session nor a public statement during an open session adequately advise the public of the topics of discussion prior to going into closed session.
3. During the closed session, the Mayor requested the City Manager to advise everyone about the letter that Mr. Collison had sent to the Mayor, Commissioner Hanson and the City Manager that morning regarding termination of his contract. This letter was not consistent with the purpose of the meeting which was to review City Attorney proposals.
4. Mr. Rideout was not advised in advance that the letter would be brought into the Closed Session. Mr. Collison's contract, from which consideration of Mr. Collison's employment, Mr. Rideout has recused himself. Mr. Rideout was not given advance notice and thereby the opportunity to remove himself from the closed session.
5. The Mayor did not adjourn the closed session.
6. The Mayor did not return to open session to report on the closed session.

Response to each complaint.

1. Complaint: The agenda of the meeting containing the closed sessions did not start with an open meeting during which the motion to go into closed session would be announced prior to going into closed session.

*Response: Commissioner Rideout is correct in his complaint. The practice of advance noticing and then going into an open session prior to considering a motion to go into closed session has been corrected going forward. See Attachments 1,2,and 3 – Agendas for City Council meeting of Feb. 27, 2017, March 7, 2017 and March 13, 2017.*

2. Complaint: Neither the agenda of the closed session nor a public statement during an open session adequately advised the public of the topics of discussion prior to going into closed session.

*Response: The subject shown on the agenda for the closed session was: personnel matters with a recommendation to consider a motion to go into closed session concerning a personnel matter: City Attorney proposals. We disagree that there was inadequate information about the topics of discussion. The planned topic of discussion was City Attorney proposals.*

*At the direction of the City Council, the City Manager issued an RFP for City Attorney services, which will likely lead to a contract with an individual attorney or firm to serve as the City Attorney.*

*Before the closed session, there should have been a written "closing statement" per Sect. 3-305(D) with three items.*

- a. *Topic to be discussed - which was stated on the agenda: City Attorney proposals.*
- b. *Citation of the exception – which was stated on the agenda: Personnel matters.*
- c. *Reason for closing the meeting – which was not stated. It should have added: Consideration of hiring - by contract - individuals or firms that have submitted proposals for City Attorney.*

*The failure to use a written closing statement will be avoided in the future by the City Manager with assistance of the City Attorney, drafting a closing statement including all three required items, to be read by the Mayor prior to asking for a motion to go into closed session, and incorporation of the written statement into the minutes of the Council meeting*

3. Complaint: During the closed session, the Mayor requested the City Manager to advise everyone about the letter that Mr. Collison had sent to the Mayor, Commissioner Hanson and the City Manager that morning regarding termination of his contract. This letter was not consistent with the purpose of the meeting which was to review City Attorney proposals.

*Response: It is correct that advising the Council of the contents of Mr. Collison's letter was not planned, nor were the content clearly apropos to the subject of the Closed Session. However, the letter did confirm that Mr. Collison did not intend to nor had he submitted a proposal, even though he was advised that he could do so. No actions or tentative actions concerning the letter were taken. The violation will be avoided in the future by the City Manager, Mayor, and City Council with assistance from the City Attorney being careful to limit discussion to the stated subject matter of closed sessions in the future.*

4. Complaint: Comm. Rideout was not advised in advance that the letter would be brought into the Closed Session. Mr. Collison's contract, from which consideration of Mr. Collison's employment, Mr. Rideout has recused himself. Mr. Rideout was not given advance notice and thereby the opportunity to remove himself from the closed session.

*Response: Comm. Rideout is correct that he should have been notified in advance of the meeting so that he could recuse himself. Reading the letter from Mr. Collison was not planned. Currently, it is normal practice, if a closed session or open session will be dealing with an issue from which the Mayor or a Commissioner has recused him or herself, that either the City Attorney or City Manager advises the individual in advance. However, we point out that sometimes during an open or closed session discussion on topic, a Commissioner, Mayor or staff person may realize that he or she has a conflict or potential conflict that was not anticipated prior to the meeting. In those cases, the individual would remove himself from the discussion and complete the appropriate recusal form. In the closed session subject to Commissioner Rideout's complaint, the letter from Mr. Collison was not anticipated but the contents were presented, and Mr. Rideout was not advised in advance. The violation will be avoided in the future by the City Manager and Mayor, with assistance of the City Attorney, being careful to advise Commissioners if there is to be discussion of a topic from which a Commissioner has recused him or herself.*

5. Complaint: The Mayor did not adjourn the closed session.

*Response: It is correct that the Mayor did not adjourn the meeting. Once three Commissioners left the room, the meeting was effectively ended due to lack of a quorum. No business was conducted after that point. The violation will be avoided in the future by the Mayor and City Manager, with the assistance of the City Attorney, being careful to adjourn meetings on votes of the majority present.*

6. Complaint: The Mayor did not return to open session to report on the closed session.

*Response: The Mayor did not return to open session immediately following the closed session. The report of the meeting was presented on February 27<sup>th</sup> - the next regular Council meeting - and is included in the meeting minutes of the February 27<sup>th</sup> meeting (draft attached). We believe that this conforms to the Open Meeting Act requirement that the report was made in the next open session – February 27<sup>th</sup>. See minutes of Feb. 27, 2017 meeting. Note that no reportable actions were taken in the closed session of Feb. 21, 2017.*

Responding to this set of complaints has occasioned a closer reading and application of the Open Meetings Act (OMA) Manual. The required procedures for closed session can be expected to conform to the OMA in the future.

This response to Rideout Complaint 022417 was considered and approved by action of the City Council on March 13, 2017 by a vote of: \_\_\_\_\_.

Respectfully,

Respectfully,

\_\_\_\_\_  
Victoria Jackson-Stanley  
Mayor

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Sandra Tripp-Jones  
City Manager

## **Attachments**

1. Agenda of Meeting of Cambridge City Council Feb. 27, 2017
2. Agenda of Meeting of Cambridge City Council March 7, 2017
3. Agenda of Meeting of Cambridge City Council March 12, 2017
4. Minutes of Meeting of Cambridge City Council Feb. 27, 2017