

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

ADVISORY OPINION 01-2014

HAVING CONSIDERED THE REQUEST FOR AN ADVISORY OPINION BY COMMISSIONER FRANK COOKE, AND HAVING CONSIDERED THE LEGAL OPINION OF ROBERT S. COLLISON, ESQ., COUNSEL FOR THE ETHICS COMMISSION,

AND MR. COOKE HAVING ASKED FOR AN ETHICS OPINION WITH REGARD TO HIS “PARTICIPATION AT CITY COUNCIL ON THE MATTER OF THE PROPOSED DEIGN OF A MONUMENT FOR THE WWI SOLDIERS FROM DORCHESTER COUNTY WHO RECEIVED THE DISTINGUISHED SERVICE CROSS” IN LIGHT THE FACT THAT HE HAD PARTICIPATED EARLIER IN THE PROCESS AS A MEMBER OF THE BOARD OF ZONING APPEALS (BOZA) IN A HEARING AND DECISION CONCERNING THE SAME MONUMENT”;

AND COUNSEL FOR THE ETHICS COMMISION HAVING RESEARCHED THE ISSUE AND THE MEMBERS OF THE COMMISSION HAVING CONSIDERED THE EXISTING CAMBRIDGE ETHICS CODE;

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

The Cambridge Ethics Code is silent on the facts of this situation. From the facts as presented by Mr. Cooke in his request for this Advisory Opinion, the issue of the WWI Memorial and the request to add to the Memorial a monument to 5 men from Dorchester County who had received the Distinguished Service Cross had been before several boards and commissions, one of which was a board of which Mr. Cooke was a member, and there had been more than one hearing regarding the issue. In the case of Mr. Cooke, he participated as a member of the BOZA with regard to this matter, and the matter was now before City Council for approval to place the monument on city-owned property.

The Cambridge Ethics Commission first considered the question of whether any commission member who had made a decision about an issue would be prevented from considering the issue again were it presented at a later date to the same commission. In other words would the commission member have to recuse him or herself? We think not.

Were that to be the case, city boards and commissions would need to have many alternate members to hear reviews of matters that come before them. The City Ethics Code certainly does not require recusal in such situations and having such a requirement would prevent a board or commission or city council from considering a matter more than once.

It is not reasonable or supported by the requirements of the Cambridge Ethics Code that a person on a board or commission who participates in a ruling at that level cannot thereafter participate in a decision on the same issue as a city council member as a result of his/her being elected to city council subsequent to the board/commission decision. If a person who was a board or commission member and had voted on an issue were to run for council on an election platform that included voting for or against that issue in the event it might come before council, preventing him or her from being able then to vote on that issue as a city commissioner would violate the rights of the citizens who elected him or her to have their vote have meaning and should not be permitted.

There has been no allegation that Mr. Cooke had any financial or other interest in the proposed monument, or with the applicant thereof, which would constitute a conflict of interest under Section 2-14(4) of City's ethics code. The only section

of the ethics code which restricts City officials, who have no financial or employment-related conflicts of interests, from participating in a matter is found in Section 2-14(4)(g). However, that section which deals with post-employment actions of the city official after he ceases to serve as the elected official of the city, and is therefore, not applicable in the facts before us.

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 'S. Rideout', is written over a horizontal line.

STEPHEN W. RIDEOUT, CHAIR
CAMBRIDGE ETHICS COMMISSION
ON BEHALF OF THE COMMISSION

Date: April 21, 2014