



Town of Sykesville

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Town House

Stacy Link, Mayor

Joseph Cosentini, Town Manager

Craig Weaver, Town Treasurer

Kerry G. Kavaloski, Town Clerk

OFFICIAL MINUTES OF FEBRUARY 27, 2023 REGULAR COUNCIL MEETING **NO. 23-04**

The Council meeting of the Town of Sykesville was held on Monday, February 27, 2023. Mayor Link called the meeting to order at 7:00 P.M. in the Town House Council Chambers. Mayor Link led the Pledge of Allegiance and a moment of silence.

PRESENT: Mayor Stacy Link, Council President Anna Carter, and Council Members Alan Grasley, Mark Dyer, Leo Keenan, and Jeremiah Schofield.

ABSENT: Council Member Elizabeth Guroff

STAFF: Joseph Cosentini, Town Manager
Police Chief Michael Spaulding
Kerry Kavaloski, Town Clerk
Elissa Levan, Town Attorney

OPEN MEETINGS ACT STATEMENT:

Mayor Link read the following statement regarding the violation of the Open Meetings Act and the Town's opposition to the finding of a violation.

On February 7, 2022, and March 21, 2022, some members of the Town Council attended meetings of the Town's Planning Commission at which the Planning Commission was considering an application from the Warfield Companies for a zoning text amendment to allow it to develop the former hospital property entirely with residential uses. I and the Town Council found their proposal to be unacceptable—as did the residents of Sykesville, who had overwhelmingly expressed their opposition.

At the aforementioned Planning Commission meetings, the Council members sat generally separately in the audience and listened to the proceedings without communicating with each other as a group, an activity in which each of us could have engaged separately via Zoom if we had in any way been attempting to evade the requirements of the Open Meetings Act or hide anything from the public.

Likewise, we could have individually watched a recording of the meeting and accomplished the same result. The alleged violation of the Open

Meetings Act was a failure to publish a notice in advance of the Planning Commission meetings that the Council members intended to attend.

Ultimately, the Planning Commission recommended the denial of the application and on June 21, 2022, the Council did in fact vote unanimously to do just that. It wasn't until after we denied their application that, in a fit of pique, Warfield Investments Inc. filed a complaint with the Open Meetings Compliance Board, asserting that the presence of the Council members at the Planning Commission meetings constituted a violation of the Maryland Open Meetings Act.

Allegations by Warfield Investments, Inc included claims that Council members were communicating with the Planning Commission via text message, which did not occur. The complainant was aware of this fact that there was no meeting by text messages because it obtained copies of all of these texts through a Freedom of Information Act request. The complainant also alleged that there had been sidebar conversations in the hallway outside of the meeting room. These also did not occur as is plainly evidenced by video and audio of the meeting where you can see a Planning Commissioner step away from the proceedings followed by the audible sound of the bathroom door opening and closing. All of these allegations were made in an attempt to show that Council was trying to improperly influence the Planning Commission, when in fact the actions of the Planning Commission, members of the Town Council, and the overwhelming voice of public opinion were entirely centered around the fact that the majority of people in our community do not want what the developer is asking for.

The Compliance Board wrongly determined that the simple act of four members of the Council passively observing the Planning Commission meetings was "part of a step in the process for a matter that was certain to come before the Council as the consideration of public business" and thus the fact that four members engaged in that activity while physically in the same room constituted meetings of the Council.

The Compliance Board is wrong about that because the proceedings of the Planning Commission would not in and of themselves come before the Town Council for review because the Town Council was free to deny the zoning text amendment for any reason or none at all. That is, the Town Council was not reviewing the merits of a Planning Commission decision and the Planning Commission's recommendation did not need to inform any subsequent action by the Town Council. The meetings of the Planning Commission were conducted to allow the Planning Commission to make a recommendation on a zoning text amendment to the Town Council; however, the Council's action on an application for a zoning text amendment is a legislative act, committed to the discretion of the Town Council, and the Council was not required to give any deference to the recommendation of the Planning Commission.

Bootstrapping from its illogical conclusion that the attendance of some Council members at the Planning Commission meetings constituted

meetings of the Council even though they did not communicate as a quorum or even among a quorum in real time by serial emails or texts, the Board also concluded that text messages sent between two members of the Council, without copying or otherwise involving a quorum of the Council, were somehow improper under the Open Meetings Act, even though the Board expressly acknowledged that those messages did not themselves constitute a meeting.

The Board directed the Town Council to summarize their decision at the next meeting and to return a copy of the decision to the Board, signed by a quorum of the Council. The foregoing has been that summary. But let it be known that none of this body will be signing a copy of the Board's unsubstantiated opinion.

Since we disagreed with the Compliance Board's opinion, the Town decided to seek review of the opinion in the Circuit Court for Carroll County. I attended that hearing.

Judge Hecker determined that there was no right of judicial review provided by law, although he expressed his concern that we, The MTC of Sykesville, or any subject of the Compliance Board's opinions, has no apparent recourse to challenge those opinion. Judge Hecker did not specifically determine that the Board's opinion was correct.

At the hearing, The Compliance Board's attorney advised the Court that the Board could not enforce the directive to summarize and sign the opinion. Notably, Judge Hecker further asserted that the Town was free to ignore the Board's directives and encouraged the Town to express publicly its disagreement with the opinion, stating that we have the right to announce that we absolutely and vehemently disagree with what he called, "simply an advisory opinion."

But even more importantly, we are making this statement this evening to tell the public that we are acting in your best interest as you've entrusted us to do through your vote, your voice, and your confidence.

No harm to the public interest in transparency of government was occasioned by my or any members of the Council attending the Planning Commission meetings because the Planning Commission meetings were properly noticed, were open to the public, and were broadcast electronically -- and the public could see who was in the audience. No public business transpired out of view of the public--the ill that the Open Meetings Act is intended to prevent. There was absolutely no evidence of any intent by the Council to circumvent the Open Meetings Act. In fact, the circumstances were to the contrary; members of the Council could have just as easily watched the proceedings of the Planning Commission from any remote location. Council members' very public attendance was to show our citizenry that we were paying attention to the very important process as consideration of these text amendment requests made their way through the appropriate steps of a very public process.

The Open Meetings Act defines the term “meet” to mean “to convene a quorum of a public body to consider or to transact business.” The Act itself contains a legal presumption that a public body in any given case has not violated the Act and places the burden of proof on a person or entity complaining of a violation. The Warfield Companies submitted no evidence from which the Board could have properly concluded that the Town Council violated the Open Meetings Act – they merely speculated as a matter of their own paranoia that the Council had done so.

So to summarize:

- At no time on either evening was a quorum of the Council in communication either directly or by serial texts or emails.
- There is absolutely no case law in support of a conclusion that passive observation of a public meeting by another governmental entity by individuals who happen to be in the same room but are not interacting as a group constitutes a meeting within the meaning of the Open Meetings Act.
- The Board cited only its own opinions in matters involving very different circumstances, none of which opinions have apparently been reviewed by a court.
- The Board was also incorrect, and it exceeded its authority, when it determined that certain communications between fewer than a quorum of Council members, in an exchange that the Board acknowledged did not constitute a meeting, were improper.
- As relevant to this matter, the Board’s authority is limited to determining whether a public body has met improperly in violation of the Open Meetings Act. The Board is nowhere charged with making pronouncements as to its view of the propriety of actions of elected officials unrelated to whether they have conducted a meeting in violation of the requirements of the Act.

Warfield Investments called the Carroll County Times with the sole purpose and intent of embarrassing this body. Though according to their attorney at the Circuit Court Hearing, “No one would have ever known about this if the Mayor and Town Council of Sykesville would have simply accepted the opinion handed down by the Compliance Board.” Obviously, that attorney is unaware of another member of his client’s extensive legal team contacting the media before we had even filed our appeal. Warfield’s legal representation went on to infer at the hearing that his client submitted their complaint to protect the people of Sykesville from their elected officials. I of course see both the absurdity and the irony in that reasoning. I’m confident the public does as well.

PUBLIC COMMENTS:

There were no public comments.

MINUTES:

- I. February 13, 2023

MOTION: Council Member Grasley motioned to approve the minutes from February 13, 2023 with the correction provided by Mayor Link. Council President Carter seconded the motion.

The motion carried unanimously.

NEW BUSINESS:

- II. Consider/Discuss/Act on appointing Trefor Evans, Aften Johnson, and Carmen McEvoy to the Board of Election Supervisors for a term expiring February 2025 and appointing Dana Alonzi, Lauren Hanratty, and Isaac Nogueron as Alternates to the Board of Election Supervisors for a term expiring February 2025
Joe Cosentini, Town Manager, explained that Dana Alonzi had withdrawn due to work conflicts.

MOTION: Council President Carter motioned to appoint Trefor Evans, Aften Johnson, and Carmen McEvoy to the Board of Election Supervisors and Lauren Hanratty and Isaac Nogueron as Alternates to the Board of Election Supervisors all with two year terms expiring in February 2025. Council Member Dyer seconded the motion.

The motion carried unanimously.

Mayor Link gave the Oath of Office to the Board of Election Supervisors and the Alternates.

- III. Consider/Discuss/Act on setting the pay rate of the Board of Election Supervisors and Alternates to \$15 per hour worked on Election Day

MOTION: Council Member Grasley motioned to set the pay rate of the Board of Election Supervisors and Alternates to \$15 per hour worked on Election Day. Council Member Schofield seconded the motion.

The motion carried unanimously.

- IV. Consider/Discuss/Act on appointing Kerry Kavaloski, Town Clerk, as Assistant Election Secretary

MOTION: Council Member Grasley motion to appoint Kerry Kavaloski, Town Clerk, as Assistant Election Secretary. Council President Carter seconded the motion.

Mr. Cosentini explained that the Charter states the Town Manager handles all staff related election duties; however, historically the Town Clerk has handled the duties. The Charter allows for Assistant Election Secretaries to be appointed by the Council. This will allow the Town Clerk to continue handling all staff related election duties and will allow for two people in the Town House to be able to handle things, such as the mail-in ballot check in process.

Mr. Cosentini explained that Ms. Kavaloski has experience with handling the Town elections in previous years and knows how to handle what comes up, along with when to contact Mr. Cosentini or Chief Spaulding for any assistance needed on Election Day.

The motion carried unanimously.

V. Report on 2023 Strategic Planning

Mr. Cosentini explained that the 2023 Strategic Plan built upon the existing Strategic Plan. The Core Values section is new, including the Core Vision Statement that is included in the 2023 Strategic Plan. This will help inform the budget and the budgeting process.

Council Member Schofield asked about including stewardship as part of the accountability Core Value. Stewardship includes fiscal stewardship and also the stewardship of the nature of the Town, including the historic aspects. Council Member Schofield also liked the inclusion of belonging and the small-town feel.

ANNOUNCEMENTS/REPORTS

- The next meeting is Monday, March 13, 2023
- We have volunteer opportunities available on the Historic District Commission and Police Auxiliary. Email town@sykesville.net for more information about volunteering with the Town.
- Staff Updates
 - Mr. Cosentini announced that the Main Street work is continuing. The contractor plans to have a full road closure from Baldwin Drive to the bridge due to work on the deepest manhole. This road closure is scheduled to be 8 A.M. to 3 P.M. The contractor will notify residents and businesses regarding any service disruptions and there will be variable message boards regarding the road closure as well.
 - Mr. Cosentini also announced that Council Member Guroff was accepted to Leadership, MD, but there is a cost to participate. The total was around \$8,200, and Council Member Guroff received a grant for a portion of the cost. She asked if the Town would be able to cover the remaining cost of about \$3,300.

There was a discussion regarding the Town covering the cost, and the Council asked for Council Member Guroff to present her side at an upcoming Council meeting.

- Council Member Grasley asked for an update on hiring for the Public Works Department. Mr. Cosentini explained that there is one current opening for a Maintenance Worker, and there will be a part-time position to assist with the operation of the splash pad this summer.
- Public Safety Report

Chief Spaulding presented the Public Safety Report for the period of February 6 through February 20. There was a total of 488 reports, including 10 assist other agencies, five community policing events, 24 foot patrols, 268 patrol checks, and 38 traffic enforcement initiatives. Chief Spaulding explained that a fourth degree burglary is unlawful breaking into a non-business or residential building, such as a shed or outbuilding. Chief Spaulding also announced that the two overdose victims survived thanks to CPR and Narcan being administered. The Narcan is provided to the Police Department at no cost from the County Health Department. He further explained that there has been a rather significant reduction in overdose deaths over the past few years.

Chief Spaulding thanked Officer Jacobs for his foresight to not pursue a speeding car when he determined doing so would be dangerous to himself and the public.

Chief Spaulding also explained that the difference between the School Crossing Detail and the School Crossing Guard reports is based on if it was done by officers or by volunteers.

Council Member Dyer thanked Chief Spaulding for the officer taking the fraud report and noted that most financial institutions require a police report number for their fraud cases.

Council Member Schofield thanked Chief Spaulding and the officers for the community policing and explained that he would like to see that number increase.

Chief Spaulding also explained that he is starting the background investigation on a highly coveted individual in hopes of hiring them for one of the open positions.

- Council/Committee Reports
 - Council Member Carter announced that the Historic District Commission met on February 22 and met with the consultants for the Guidelines update.
 - Council Member Schofield announced the Planning Commission will be meeting on March 6.
 - Council Member Keenan announced that the Cocoa Crawl event was sold out in advance, and the Downtown Sykesville Connection also held a Black History Month event.
 - Council Member Grasley announced the Gate House will have an Open House on Saturday, March 4, from 12 P.M. to 4 P.M.

The Council took a five minute recess at 8:04 P.M.

CLOSED SESSION:

The meeting is proposed to be closed pursuant to the General Provisions of the Annotated Code of Maryland, Section 3-305(b): (7) to consult with counsel to obtain legal advice on a legal matter.

MOTION: Council Member Grasley motioned and Council Member Schofield seconded to go into closed session at 8:09 P.M.

The motion carried unanimously.

Those in attendance were: Mayor Link, Council President Carter, Council Members Dyer, Grasley, Keenan, and Schofield, Town Manager Joseph Cosentini, Town Clerk Kerry Kavaloski, and Town Attorney Elissa Levan.

Items discussed were:

- Consult with Legal Counsel – Warfield Contract

MOTION: Council Member Grasley motioned and Council Member Schofield seconded to go back into open session at 8:31 P.M.

The motion carried unanimously.

ADJOURN: There being no further business to come before the Council, Council Member Grasley motioned and Council Member Schofield seconded to adjourn meeting at 8:32 P.M.

The motion carried unanimously.

Respectfully submitted
Town Clerk Kerry Kavaloski