

**SPECIAL PERSONNEL COMMITTEE MEETING**

4:30 p.m., Monday, October 8, 2018

Council Chambers

1207 Palm Boulevard, Isle of Palms, South Carolina

**AGENDA**

1. Call to order and acknowledgement that the press and public were duly notified of the meeting in accordance with the Freedom of Information Act.
  
2. Purpose  
Review of the RFP for City Attorney and the RFP for the Assistant City Attorney
  
3. Adjournment

## Special Personnel Committee Meeting

8:30 a.m., Monday, October 22, 2018

A Special Meeting of the Personnel Committee was called to order at 8:30 a.m., Monday, October 22, 2018 in the City Hall Conference Room, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmember Moye and Rice, Chair Ferencz, Interim Administrator Fragoso, Human Resources Officer DeGroot and Clerk Copeland; a quorum was present to conduct business.

1. Chair Ferencz called the meeting to order and acknowledged that the press and public were duly notified of the meeting in accordance with the Freedom Information Act.

### 2. Purpose

Discussion of current search process to hire a City Administrator, Chief of Police and Assistant Public Works Director

Chair Ferencz stated that the purpose of the meeting was to discuss the narratives received from The Mercer Group that were to go into the brochures they were generating for each position. It seems that Jim Mercer became quite ill after attending the International City Managers Association meeting, and the work he was doing was delayed, but, after several phone calls, the narratives were sent to the Personnel Committee members on Friday, October 19<sup>th</sup>. The members agreed that the narratives lacked the quality seen in the brochures included in their marketing literature, and they were very disappointed in the work. She stated that the goal of the meeting was to make whatever changes they thought were needed and to send it back to Mr. Mercer today so that the visuals could be added and so that a proof could be returned on Friday, October 25<sup>th</sup>. Chair Ferencz said that the goal was for Mercer to have the brochures ready and to begin distributing them no later than November 1<sup>st</sup> since the process was already four (4) weeks behind the timeline set by Mr. Mercer.

Councilmember Moye said that, for him, the brochures were to serve two (2) purposes; the brochures were intended to draw top candidates to the position and to screen out people who were not a good fit. He said that he was "underwhelmed" with what the Committee has received, and he was counting on The Mercer Group's ability to draw top candidates.

In the narrative for the Chief of Police position, Councilmember Moye wanted the challenges facing the new Chief spelled out for candidates. The City has significant drainage issues that produce flooding after a heavy rainfall; the Public Safety Building is going into remediation that no one knows what the contractor will find. The massive population boom on the other side of the Connector generates serious traffic problems from May through September; fresh eyes could have ideas and experiences relative to traffic and parking that will help today and carry into the future, etc.

In addition, Councilmember Moye commented that, when a job opens up, people who might be interested the position want to know why the job is open; he wanted to see mention of Chief Buckhannon's tenure with the City and his CALEA accomplishments, for example, and the same holds for the City Administrator position.

The members also agreed that comments about the Windjammer should be removed; they did not think that one Front Beach business should be singled out.

They want the statement that the person hired should plan to move to the island removed; they agreed they never discussed that. If such a statement was necessary, she suggested that it state that the person should live within a reasonable distance to be able to respond in a timely manner.

The Chair stated that it looked as if Mr. Mercer had simply used every attribute he was given by the Committee for all three (3) positions; Councilmember Moye opined that there were "too many bullet points and the writing was really poor."

Councilmember Moye did not remember the Committee talking about the Chief of Police or the City Administrator as needing to be charismatic, and he thought it should also be removed.

Councilmember Rice asked if the Committee could ask Mr. Mercer to team up with one of his business associates to "polish" the narratives to resemble the brochures on in your marketing materials.

Chair Ferencz noted that The Mercer Group is a big company, so he should be able to hand the Isle of Palms' work to an associate in the firm.

Councilmember Rice pointed out that the narratives for the City Administrator and the Chief of Police do not mention storm readiness, preparations, evacuations or post-storm responsibilities. In the narrative for the Chief of Police, a statement that the facility is "in good shape" is a total falsehood, and the building's remediation should be noted among the challenges the new Chief must deal with. She opined that the first paragraph, which is the same in all three (3), should be rewritten with mention of an ocean-side community. In the narrative for the City Administrator, she stated that the City's Vision Statement should fall under the prior heading – Isle of Palms, and the balance of the Committee agreed. The narrative for the Public Works Assistant Director had many typos that she edited; she gave her corrections to the HR Officer.

Councilmember Rice opined that it was "imperative" for the Committee to ask that Mr. Mercer work with another staff member; she thought it would be insane to think that they would get a different work product from Mr. Mercer.

In a recent phone conversation, Mr. Mercer named an associate whom he has worked with frequently, but Chair Ferencz did not remember the name; the email sent to him recapping the phone conversation was copied to her. From viewing The Mercer Group's website, the Chair commented that narratives written by Mr. Mercer were one (1)-page descriptions, but the narratives written by some of the First Vice Presidents were much more elaborate and well written.

In the opening paragraph of each, the Chair noted that Mr. Mercer did not establish that the Isle of Palms is a beachfront community that is "family-friendly," which we stress in all literature about the island, or "an Atlantic Ocean barrier island" as descriptions. She recalled that, when Mr. Mercer was in town, she and the Mayor had shown him around the island and introduced him to people so that he would get a feel for the island and its residents. She told the Committee about reading from the Conde Nast website the description of the Isle of Palms is simple, but a glowing and inviting description of the island. Rather than single out The Windjammer, she suggested language like "a centralized commercial area with boutiques, restaurants, and hotels;" she also wanted to see reference to the Isle of Palms being selected as the Safest City in South Carolina for its population size. For the City Administrator, she thought that reference should be made that the City "has a renewed energy and involvement of the residents to insure the island remains family-friendly, etc." For the Assistant Public Works Director, she wanted the narrative to include

that “protecting our beaches and residential structures from flood and drainage issues are a major concern.”

Councilmember Rice wanted a reference to the island’s Turtle Team that is made up of sixty-five (65) residents who are up before dawn every day to patrol the beach in turtle season to protect the loggerhead turtles’ nests, plus the City’s efforts toward the conservation of the beaches.

The Chair referred to the second paragraph of the narrative of the Chief of Police and opined that it should state that the Chief retired after thirty-seven (37) years with the City. It should also note that he guided the Department “through its sixth accreditation representing fifteen (15) years of maintaining four hundred eighty-five (485) Commission on Accreditation of Law Enforcement Agencies (CALEA) standards,” which would tell a prospective candidate the level of the Police Department.” Rather than including so many bullet points, the Chair thought the brochure should contain a link to the job description for the positions. She clearly stated that she wanted the brochure to be a marketing tool.

Chair Ferencz reported that the last telephone communication with Mr. Mercer included the Mayor, the HR Officer, the Interim City Administrator and herself; the purpose of the presence of these people was to impress upon him the sense of urgency felt by the Personnel Committee, the Mayor and the City Administrator.

Human Resources Officer DeGroot suggested that the audio of this meeting be sent to him so that he understands the level of dissatisfaction and deep concern of the Committee in his work product. If he could receive this recording today, possibly he could create the brochure he is being paid to do in a reasonable timeframe.

Interim Administrator Fragoso thought that it might be necessary for the person he selects to work with to come for a visit and to speak with all of the Council members. She opined that these narratives were only job descriptions, which the City already has.

The HR Officer stated that Mr. Mercer has the information, so he should work with one (1) of his team mates to re-script the narratives. If that were to be the first step, the City might avoid the expense of another visit and setting up meetings with Councilmembers.

The Committee agreed that responsibility to re-write the narratives did not fall to them but was part of the job The Mercer Group was being paid to do, and the City deserved better.

The annual Accomplishments of the City could be a good resource for them since it covers what the City has done, where it stands today and what it is working toward.

The Chair expressed confidence that fresh eyes and fresh ideas from someone within The Mercer Group could take what has been done and give the Committee what it expected.

The Chair stated that she saw a consensus of the Committee agreeing that she needed to contact Mr. Mercer again and to make the Committee’s position clear; this second person might need to visit the island or maybe his notes could be comprehensive enough to explain what the Committee wants. She wants to present the island in such a way as to make it a great place to work and, despite the challenges, a place where he/she would want to work. The Chair opined that the nuances of the City could be properly placed in the narratives to make the job opportunities exciting.

By the meeting on November 1, the Chair said that decisions should be made about who in The Mercer Group is going to take on the task or what the next steps are. She would leave it to the HR Officer and the Interim Administrator to communicate what occurred in the phone call with Mr. Mercer via email so as not to hold another Special Meeting.

**3. Adjournment**

**MOTION: Councilmember Moye moved to adjourn the meeting at 9:10 a.m.; Councilmember Rice seconded and the motion PASSED UNANIMOUSLY.**

Respectfully submitted:

Marie Copeland  
City Clerk

**City of Isle of Palms, South Carolina  
Request for Proposals (RFP 2018- 03)  
City of Isle of Palms City Attorney**

In compliance with the City's Procurement Ordinance, the City of Isle of Palms, South Carolina is soliciting proposals from qualified attorneys with experience advising and representing South Carolina municipalities for the appointment of the City Attorney. To be qualified, attorneys must be licensed to practice law in South Carolina and must have at least five (5) years of civil practice experience in commercial law, contracts, real estate, torts, municipal law, or other related areas. The goal of this RFP is to solicit proposals from various candidates, conduct a fair evaluation based on criteria listed herein, and select the candidate who can best meet the needs of the City. The request will be awarded pursuant to the City's procurement ordinance.

**City Government**

The City of Isle of Palms was incorporated in 1953. The City operates under a Council form of government and has a nine-member City Council comprised of a Mayor and eight Council members who serve four-year staggered terms with elections in odd- numbered years. The Mayor and Council are responsible for the efficient operation of the city government through policies and ordinances that are carried out by the Council-appointed City Administrator.

The City Council appoints the City Attorney to represent the City in court, to advise City officials and employees and to do the legal work for the City as may be required from time to time. The City Attorney is expected to coordinate operational activities and priorities with the City Administrator to carry out the City Council's policy directives. The City Attorney must adhere to the highest ethical standards.

The City Council meets on the fourth Tuesday of each month at 6:00 p.m. Occasional work sessions and special meetings may be held at the request of the Mayor and City Council.

**Scope of Work**

The City Attorney shall be admitted to practice law in the State and shall be a member of the Bar in good standing. The City Attorney shall be legal counsel to the City and shall perform such other duties as may be required by law or ordinance. The term of office for the City Attorney shall begin on January 1 and end on December 31 of each year. The appointment for each year will be announced by the Mayor at a special City Council meeting to be held on the first Tuesday of January.

The City Attorney shall have authority to retain, appoint or hire as independent contractors such additional attorneys or co-counsel as may be required to provide adequate and effective legal representation for the City, subject to the approval of City Council. Any such additional attorneys or co-counsel shall be admitted to practice law in the State, shall be members of the Bar in good standing, and shall perform their functions under the direction of the City Attorney. An assistant attorney shall have authority to act as the City Attorney when the City Attorney is unavailable or unable to serve.

The City Attorney's duties include, but are not limited to the following:

- a. Provide clear and concise legal guidance and direction, legal opinions, advice, assistance and consultation to the Mayor, City Council, and City Administrator regarding City-related legal issues in a timely manner.
- b. Attend City Council meetings and be prepared to advise Council on matters on the agenda, serve as parliamentarian, as well as provide advice on procedural and substantive issues that arise during the meeting. Attendance at boards and commissions or standing committee meetings may be requested from time to time.
- c. Review and/or prepare ordinances, resolutions, contracts, memoranda, reports, deeds, leases and other legal documents required by the City.
- d. Represent the City in civil litigation as needed. Oversee litigation being handled by outside counsel, including counsel on behalf of City insurance carriers. Keep the City Administrator, Mayor and City Council informed of the status of all litigation.
- e. Review and verify Freedom of Information Act (FOIA) requests.
- f. Assist Building, Planning and Zoning Director with City zoning and land use issues.
- g. Perform such other legal duties as may be required to complete the performance of the functions mentioned above

### **Qualifications**

The City Attorney must be licensed, an active member of the South Carolina State Bar, and have five or more years of legal experience. It is desirable for the City Attorney to hold experience in the following areas:

- a. Designing and drafting Municipal Code sections and regulations.
- b. Providing support to staff, Planning Commission and Council during land use and other appeals to Council; and in code enforcement actions.
- c. Experience with and knowledge of the law governing cities related to public land use and planning, environmental law redevelopment law, code enforcements and other related areas of law, administrative law, labor relations/personnel law, and other areas of municipal law.
- d. Preference is given to respondents who have provided service as a City Attorney in a South Carolina municipality.
- e. The City Attorney should have litigation experience or experience monitoring or supervising litigation.
- f. The City Attorney must demonstrate abilities to speak clearly and effectively in public.
- g. The City Attorney must have the ability to relate easily and effectively with all members of City Council, staff and the public.

### **Submittal Requirements**

Interested respondents shall submit the following documents with the proposal:

- a. Resumé.

- b. Cover letter explaining qualifications, employment history, legal training, years of practice, municipal or other local public sector experience, litigation experience and track record, knowledge and practice of law relating to land use and planning, real estate, environmental issues, general liability, and any other information the bidder wishes to submit.
- c. Specify the individual you propose for appointment as Assistant City Attorney.
- d. Contact information, including home and work addresses, phone numbers, and email address.
- e. Describe the response time the City can expect to inquiries made by City Council and City Administrator.
- f. Identify the types of training (FOIA, Council's roles and responsibilities, etc.) you are capable of providing to the City.
- g. A statement of any grievances filed against the attorney with the S.C. Commission on Lawyer Conduct List within the past five (5) years and the resolution of each.
- h. A statement of any fee disputes filed by a client with the S.C. Bar's Fee Disputes Resolutions Board within the past five years and the resolution of each.
- i. A statement of any lawsuits filed against the lawyer by clients within the past five (5) years and the resolution or status of each.
- j. The names and contact information of at least three (3) professional references.
- k. Proposed fee structure including hourly rate, retainer, or other proposed terms.
- l. Oath of Non-Collusion signed by the attorney, a principal of the firm, or an officer authorized to bind the corporation.
- m. The City will require the respondent or firm with which a contract is established, prior to commencement of work, to provide evidence of appropriate general liability (in an amount not less than \$1,000,000.00 per person, \$2,000,000.00 per claim and \$250,000.00 per claim for property damage), automobile liability insurance (\$1,000,000 per occurrence), professional liability/errors and omissions insurance (\$1,000,000 per claim and in the aggregate occurrence). All insurance coverage required shall be with companies approved in advance by City, who shall be named as an additional insured on all such policies. Proof of such insurance shall be provided to City prior to commencement of any work.

Proposals will be evaluated using, but not limited to, the following criteria:

- a. The respondent's experience, qualifications and references.
- b. Overall proposal suitability: proposal must meet the scope and needs included herein and be presented in a clear and organized manner.
- c. Projected cost and cost structure to provide services required.

The City reserves the right to reject, in whole or in part, any proposal submitted which the City believes would not be in its best interest. The City also reserves the right to waive minor deficiencies or reject all proposals.

**Proposal Process**

Proposals should be submitted to the following:

Desirée Fragoso  
Interim City Administrator  
City of Isle of Palms  
1207 Palm Boulevard  
Post Office Box 508  
Isle of Palms, South Carolina 29451

**Deadline for Questions:** The deadline for questions is **5:00 p.m., Eastern Time, Monday, October 15, 2018**. Proposers should send questions regarding this Request for Proposals to Desirée Fragoso, Interim City Administrator, in writing or email to [desireef@iop.net](mailto:desireef@iop.net). Questions received before this deadline will be answered via addendum posted on the City's website at <http://www.iop.net/requests-for-bids-proposals>. Questions received after this deadline will not be answered.

If an addendum is issued, proposers must acknowledge receipt of the addendum with their proposal.

**Deadline for Submissions:** The deadline for submission is **2:00 p.m., Eastern Time, Thursday, October 25, 2018**. Proposals will be received at 1207 Palm Boulevard, Isle of Palms, South Carolina 29451 in a sealed envelope. Sealed envelopes must be clearly marked "RFP 2018-03, City Attorney" and include one (1) hard copy and one (1) electronic copy saved to a USB flash drive.

It will be the responsibility of the proposers to verify receipt by the City. Proposals may be delivered by hand or by mail, but no proposal shall be considered which is not actually received by the City at the place, date and time appointed by the City and the City shall not be responsible for any failure, misdirection, delay or error resulting from the selection by any proposer of any means of delivery. All proposals submitted shall include a current e-mail address.

**Proprietary and/or Confidential Information:** Your proposal is a public document under the South Carolina Freedom of Information Act (FOIA), except as to information that may be treated as confidential as an exception to disclosure under the FOIA. If you cannot agree to this standard, please do not submit your proposal. All information that is to be treated as confidential and/or proprietary must be **CLEARLY** identified, and each page containing confidential and/or proprietary information, in whole or in part, must be stamped and/or denoted as **CONFIDENTIAL**, in bold, in a font of at least 12-point type, in the upper right-hand corner of the page. All information not so denoted and identified will be subject to disclosure by the City.

Proposers acknowledge and agree that the City will not be liable for any costs, expenses, losses, damages (including damages for loss of anticipated profit) or liabilities incurred by the respondent or any member of the respondent's organization as a result of, or arising out of, submitting a proposal, negotiating changes, or due to the City's acceptance or non-acceptance of the proposal or the rejection of any and all proposals. Proposers are responsible for submission of accurate,

adequate and clear descriptions of the information requests. Neither issuance of the RFP, preparation and submission of a response, nor the subsequent receipt and evaluation of any response by the City of Isle of Palms will commit the City to award a contract to any respondent even if all the requirements in the RFP have been met.

Proposers must have or be able to procure an Isle of Palms Business License.

**City of Isle of Palms, South Carolina**  
**Request for Proposals (RFP 2018- 04)**  
**City of Isle of Palms Assistant City Attorney**

In compliance with the City's Procurement Ordinance, the City of Isle of Palms, South Carolina is soliciting proposals from qualified attorneys with experience advising and representing South Carolina municipalities for the appointment of the Assistant City Attorney. To be qualified, attorneys must be licensed to practice law in South Carolina and must have at least five (5) years of civil practice experience in commercial law, contracts, real estate, torts, municipal law, or other related areas. The goal of this RFP is to solicit proposals from various candidates, conduct a fair evaluation based on criteria listed herein, and select the candidate who can best meet the needs of the City. The request will be awarded pursuant to the City's procurement ordinance.

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The City Council appoints the Assistant City Attorney to represent the City in court, to advise City officials and employees and to do the legal work for the City as may be required from time to time. The Assistant City Attorney is expected to coordinate operational activities and priorities with the City Administrator to carry out the City Council's policy directives. The Assistant City Attorney must adhere to the highest ethical standards.

The City Council meets on the fourth Tuesday of each month at 6:00 p.m. Occasional work sessions and special meetings may be held at the request of the Mayor and City Council.

**Scope of Work**

The Assistant City Attorney shall be admitted to practice law in the State and shall be a member of the Bar in good standing. The Assistant City Attorney shall be legal counsel to the City and shall perform such other duties as may be required by law or ordinance. The term of office for the Assistant City Attorney shall begin on January 1 and end on December 31 of each year. The appointment for each year will be announced by the Mayor at a special City Council meeting to be held on the first Tuesday of January.

The Assistant City Attorney shall have authority to retain, appoint or hire as independent contractors such additional attorneys or co-counsel as may be required to provide adequate and effective legal representation for the City, subject to the approval of City Council. Any such additional attorneys or co-counsel shall be admitted to practice law in the State, shall be members of the Bar in good standing, and shall perform their functions under the direction of the Assistant City Attorney. An assistant attorney shall have authority to act as the Assistant City Attorney when the Assistant City Attorney is unavailable or unable to serve.

The Assistant City Attorney's duties include, but are not limited to the following:

- a. Provide clear and concise legal guidance and direction, legal opinions, advice, assistance and consultation to the Mayor, City Council, and City Administrator regarding City-related legal issues in a timely manner.
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- c. Experience with and knowledge of the law governing cities related to public land use and planning, environmental law redevelopment law, code enforcements and other related areas of law, administrative law, labor relations/personnel law, and other areas of municipal law.
- d. Preference is given to respondents who have provided service as a Assistant City Attorney in a South Carolina municipality.
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- g. A statement of any grievances filed against the attorney with the S.C. Commission on Lawyer Conduct List within the past five (5) years and the resolution of each.
- h. A statement of any fee disputes filed by a client with the S.C. Bar's Fee Disputes Resolutions Board within the past five years and the resolution of each.
- i. A statement of any lawsuits filed against the lawyer by clients within the past five (5) years and the resolution or status of each.
- j. The names and contact information of at least three (3) professional references.
- k. Proposed fee structure including hourly rate, retainer, or other proposed terms.
- l. Oath of Non-Collusion signed by the attorney, a principal of the firm, or an officer authorized to bind the corporation.
- m. The City will require the respondent or firm with which a contract is established, prior to commencement of work, to provide evidence of appropriate general liability (in an amount not less than \$1,000,000.00 per person, \$2,000,000.00 per claim and \$250,000.00 per claim for property damage), automobile liability insurance (\$1,000,000 per occurrence), professional liability/errors and omissions insurance (\$1,000,000 per claim and in the aggregate occurrence). All insurance coverage required shall be with companies approved in advance by City, who shall be named as an additional insured on all such policies. Proof of such insurance shall be provided to City prior to commencement of any work.

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If an addendum is issued, proposers must acknowledge receipt of the addendum with their proposal.

**Deadline for Submissions:** The deadline for submission is **1:00 p.m., Eastern Time, Thursday, October 25, 2018**. Proposals will be received at 1207 Palm Boulevard, Isle of Palms, South Carolina 29451 in a sealed envelope. Sealed envelopes must be clearly marked "RFP 2018-04, Assistant City Attorney" and include one (1) hard copy and one (1) electronic copy saved to a USB flash drive.

It will be the responsibility of the proposers to verify receipt by the City. Proposals may be delivered by hand or by mail, but no proposal shall be considered which is not actually received by the City at the place, date and time appointed by the City and the City shall not be responsible for any failure, misdirection, delay or error resulting from the selection by any proposer of any means of delivery. All proposals submitted shall include a current e-mail address.

**Proprietary and/or Confidential Information:** Your proposal is a public document under the South Carolina Freedom of Information Act (FOIA), except as to information that may be treated as confidential as an exception to disclosure under the FOIA. If you cannot agree to this standard, please do not submit your proposal. All information that is to be treated as confidential and/or proprietary must be **CLEARLY** identified, and each page containing confidential and/or proprietary information, in whole or in part, must be stamped and/or denoted as **CONFIDENTIAL**, in bold, in a font of at least 12-point type, in the upper right-hand corner of the page. All information not so denoted and identified will be subject to disclosure by the City.

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proposal, negotiating changes, or due to the City's acceptance or non-acceptance of the proposal or the rejection of any and all proposals. Proposers are responsible for submission of accurate, adequate and clear descriptions of the information requests. Neither issuance of the RFP, preparation and submission of a response, nor the subsequent receipt and evaluation of any response by the City of Isle of Palms will commit the City to award a contract to any respondent even if all the requirements in the RFP have been met.

Proposers must have or be able to procure an Isle of Palms Business License.