

PERSONNEL COMMITTEE

3:00 p.m., Wednesday, September 6, 2017

The regular meeting of the Personnel Committee was held at 3:00 p.m., Wednesday, September 6, 2017 in the City Hall Conference Room, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmembers Bettelli and Ferencz, Mayor ProTem Harrington, Administrator Tucker, Assistant Administrator Fragoso, Attorney Halversen and Clerk Copeland; a quorum was present to conduct business.

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

2. Approval of Previous Meeting's Minutes

MOTION: Councilmember Ferencz moved to approve the minutes of the regular meeting of August 2, 2017 as submitted; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.

3. Citizens' Comments – None

4. Old Business

A. Consideration of IOP Code of Conduct for Elected and Appointed Officials

When asked for comments about the draft Code of Conduct included in meeting packets, Councilmember Ferencz stated that she had studied the draft and found that it included language that would not lend itself to being measured, and, since punitive actions were included, she thought it should be more concise to avoid "he said - she said" situations. Referring to paragraph (1) "General Guidelines and Standards," she questioned how the Mayor and/or City Council as a whole would measure "fair."

At this time, Attorney Halversen interrupted the discussion to provide the background information she used to develop the IOP Code; she noted that she had also consulted with Julia Copeland who is the Assistant Attorney for the Isle of Palms and an assistant with Mount Pleasant who worked on the Code of Conduct adopted by Mount Pleasant. She learned that few communities in the state have adopted a code of conduct, and, when consulting with the Municipal Association, she was told that they found nothing on a national level. She did find examples of codes of conduct from a few municipalities across the country that followed the same order and contained the same points; she reported that many states do not have an ethics code or an Ethics Commission like South Carolina. To draft a code for the City, she heavily relied on the state Code of Ethics and the final version from Mount Pleasant, as well as Myrtle Beach and Columbia; the draft under consideration follows the same sequence and contains much of the same language as the Mount Pleasant Code. The second iteration of the Mount Pleasant Code included punitive actions as well as a social media policy, but they chose to remove them for the final version. The draft for consideration today is a general code based on state laws, the Isle of Palms Code of Ordinances and the melding of Codes of Conduct from Myrtle Beach and Columbia with a very general social media section. The areas related to punitive actions states that, for an egregious violation, a report would be filed with the State Ethics Commission. On the subject of social media, she was also unable to find a model code or policy; the Municipal Association provided

her with several policies related to the use of electronic equipment that only briefly mentioned social media.

Attorney Halversen stated that she found nothing in either the State Code or the IOP Code of Ordinances referring to punitive actions to be taken by a local government against an elected or appointed official; she drew the language from other municipalities and based it on Robert's Rules of Order, which, in her opinion, did not have any "teeth" in it.

The Code of Conduct as presented defines the manner in which any sanctions or reprimands would be implemented, and it would begin with the person perceived to have been the subject of an alleged violation to the Code meeting privately with the individual whose actions were being questioned in an effort to resolve the matter. After all attempts to resolve the matter privately have been exhausted unsuccessfully, the matter would be referred to the full body of Council who would decide upon the form of discipline to be imposed by a majority vote of Council at a noticed public meeting; the action would be preceded with a report to Council with supporting documents. Any serious infractions will be reported to the State Ethics Commission.

(A copy of the draft Code of Conduct is attached to the historical record of the meeting.)

Mayor ProTem Harrington said that he liked the progressive nature of the discipline section of the Code of Conduct.

Attorney Halversen noted that the Code of Conduct would be presented to City Council in the form of a resolution to be adopted; copies of the draft resolution were provided to the Committee at the meeting. (A copy is attached to the historical record of the meeting.)

Mayor ProTem Harrington stated that he would like for the draft under discussion be sent to the full Council for them to study and comment on prior to the September Council meeting.

Councilmember Ferencz restated her opinion that, if the Code of Conduct were to include disciplinary actions, it should also include a measurable device to be able to point to what was done to violate it. In Section A(1), the Councilmember changed the word "people" to residents and visitors because she thought "people" was too broad. She questioned how the term "Comply with the spirit . . . of the law" would be measured.

Mayor ProTem Harrington responded that, if someone felt that an elected or appointed official had acted inappropriately or unethically, he/she must file a complaint, and, if punitive actions were considered, a majority vote of City Council would be required.

Councilmember Ferencz asked how a complaint would be investigated and who would determine whether a circumstances were offensive or fair. Indicating that she understood the need for the Code of Conduct to be broad, she thought it should have "enough teeth (for Council) to stand behind it and to point to what was done as a violation of the Code.

Councilmember Bettelli restated his opinion that he saw no reason not to adopt a Code of Conduct and that he had no reservations about signing it.

Councilmember Ferencz reiterated that she wanted to know why a Code of Conduct was needed at this point in time; she commented that she has heard “that people are not saying nice things about other people” and asked if this was the impetus behind it.

Councilmember Ferencz knew that, when Mount Pleasant adopted their Code of Conduct, their Councilmembers were “screaming and yelling at one another in Council meeting,” but that situation does not happen at IOP Council meetings. In her opinion, a Code of Conduct should deal with how Councilmembers were conducting themselves as they represented the people at Council meetings; for her, actions by councilmembers were addressed in other ways, like the State Ethics Code and Robert’s Rules of Order. She stated that she did not think that adding this additional layer would dissuade anyone from saying or doing what they want.

As an example, in a situation where a Councilmember said or posted something on social media that offended Councilmember Ferencz, Administrator Tucker voiced her understanding of the process as one where Councilmember Ferencz would approach the person indicating that what was said or posted had offended her and she hoped it would not happen again. If the situation were to happen again, Councilmember Ferencz would report the situation to the Mayor and that she has spoke with the other person about it, but it had re-occurred; therefore, she wanted sanctions to be brought against him/her.

Councilmember Ferencz then stated that multiple offenses would be required for punitive actions to be considered.

Mayor ProTem reiterated that a majority vote of City Council would still be required before any action would be taken.

Attorney Halversen stated that, if the problem was not resolved through a one-on-one discussion between the two (2) parties and if the Mayor intervened to resolve the matter to no avail, then it would go before full Council in open session in a hearing-like setting, and Council would decide whether any punitive action was to be imposed.

Councilmember Ferencz indicated that, in this circumstance, the Mayor and/or Mayor ProTem would be looked upon as simply members of City Council.

Attorney Halversen said that he would be acting as the Chair of the meeting like any other Council meeting.

Mayor ProTem Harrington explained that the intermediary step of the Mayor’s privately seeking to solve the problem was a way to avoid a public display, but, if the situation becomes too vitriolic, possibly, it should be made public. If the Mayor was unsuccessful in efforts to resolve it, the matter would go before full Council.

Attorney Halversen noted that, in the paragraph regarding sanctions for Board, Committee and Commission members, the draft documents states that “Copies of all written reprimands administered by the Mayor . . .;” she suggested that the language could be changed to say “upon vote of City Council.” She also thought that the heading should refer to “Boards and Commissions” since Councilmembers make up the City’s standing committees.

Councilmember Ferencz stated that the draft document was “so open-ended that [the City] was opening itself up for lawsuits.” She reiterated her opinion that the proper decorum for City Council of the Isle of Palms was well defined in the City Code, the State Ethics Commission and Robert’s Rules. She added that social media sites have rules about what someone can and cannot do on them, as well as when someone can be asked to leave the site; plus, the sites are constantly monitored for visitor content.

Mayor ProTem Harrington stated that the incident that brought this subject to the forefront for him was when a resident addressed Council at a meeting referencing comments on social media that she thought were inappropriate and unnecessary and should be stopped. In his opinion, this Code of Conduct provides notice and a vehicle to address unnecessary and unfair or hurtful dialogue that is not wanted in the IOP City government.

Councilmember Ferencz stated that she has asked repeatedly for examples of the type of comments he is referring to and has yet to read an example of something that could be interpreted as vitriolic or of the tone he refers to. She said that she would be happy to read it and make her own judgements about them; she remarked that she wants to make an informed decision.

Examples were sent to the Mayor ProTem from citizens, but he did not retain them on his computer; he added that other Councilmembers have said that they saw such comments as well.

Administrator Tucker said that it is very possible to see one of these unpleasant postings, mentally take note of it, to continue scrolling through other items, and, when the reader tries to go back to capture this one comment, he/she cannot remember the site where it was posted or the person who wrote it might have taken it down. Additionally, the comment can become buried in the thread of comments responding to the initial post making locating it again challenging. The Administrator stated that to take a screen-shot of the comment when first read and to save it to show to someone else is the best way to preserve it. Administrator Tucker voiced her impression of the Chair’s actions in bringing a Code of Conduct to Council for consideration to provide a mechanism that might cause an elected or appointed official to think twice before acting so that the problem is not perpetuated.

Mayor ProTem Harrington added that the type of vitriol he has read on social media has no place on the island and especially as the City heads into an election.

Based on the discussion thus far, Councilmember Ferencz stated that Councilmembers should not go on social media if they are to avoid negativity between themselves and/or the public; she also asked how that could be controlled. In addition, she asked how a situation would be handled when a Councilmember posts “Right on!” to a negative posting on social media and there was nothing that actually happened councilmember to councilmember.

Attorney Halverson explained that, in the social media section, she had tried to tie comments to anything involving the City. With the fine line between a Councilmember’s personal social media accounts and professional accounts as a City Councilmember, Attorney Halverson related it to anything having to do with City property, matters coming before Council, other City Council members, decisions by committees of the City, City business, etc. In reading the social media

policies from Myrtle Beach and Columbia, she saw them trying to uphold the City's image, and they do not want anyone associated with the City making it appear they were speaking for the City.

Councilmember Ferencz stated that, from what she has heard and seen on social media, Councilmembers have not represented themselves as speaking for the City.

If the Committee wanted, the language could be changed to say "no personal attacks on Councilmembers or staff."

Councilmember Ferencz pointed out that, in the statement,

"Members shall not engage in any form of unlawful harassment, discrimination, or intimidation or use slurs, profanity, personal insults or negative comments regarding City officials or City staff that convey personal opinions and grievances, entice unproductive attitudes or behavior, or disrupt the harmony of the City's workplace."

the initial offenses listed are criminal offenses, and the City Attorney agreed; she noted that this language was from the IOP Employee Handbook. A brief discussion took place about providing newly elected Councilmembers a copy of the handbook with their signed acceptance of it, like other City employees.

Attorney Halversen reminded the Committee that signing the Code of Conduct would be voluntary; no one could be forced to sign it and agree to abide by it. She stated that the point was for it to be a voluntary outline of behavior that everyone agrees they will try to abide by and that is self-enforcing.

In the section "Applicability and Sanctions," the statement is made that "Acknowledgement and acceptance of this Code of Conduct is voluntary;" in the section for signatures, the statement is "I affirm that I have read and understand." Councilmember Ferencz stated that the two (2) statements do not have the same meaning.

Councilmember Bettelli suggested that, on the signature page, the language be changed to "acknowledge and accept" and the Committee agreed.

Mayor ProTem Harrington indicated that he liked the change because it shows a commitment to following the concepts included.

Noting that this document has come as a result of one (1) citizen speaking at a Council meeting and additional comments by others residents, Councilmember Ferencz asked how many people were affected by negative comments on social media; she repeated her opinion that this Code would create more problems than it would cure, particularly if Council were to impose sanctions on someone.

The Administrator stated that the benefit she sees in the Code of Conduct is that considering it might make existing elected and appointed officials and residents of the community more self-aware of checking themselves and the meanings of their actions.

Mayor ProTem Harrington said that he did not share Councilmember Ferencz' concerns over adopting a Code of Conduct; he opined that the adoption of this code would assure residents that this is the behavior wanted and expected from its elected and appointed officials and assure them that a procedure is in place to address grievances and for the individual to defend himself.

Councilmember Ferencz suggested an alternative in a pledge to be taken by Councilmembers stating that "We want to reiterate our pledge to the community that we will conduct ourselves in an ethical (and whatever language chosen) manner going forward." She repeated her opinion that Council does not need a Code of Conduct or a disciplinary action, but Councilmembers could restate what should be a known fact; she would ask Councilmembers and candidates make such a pledge. She then looked back at the opening paragraph of the Code and suggested that the first sentence would be all that was needed.

MOTION: Councilmember Ferencz moved that, in lieu of a Code of Conduct, Councilmembers be asked to pledge that they will "conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of the City's government."

The motion died for lack of a second.

MOTION: Councilmember Bettelli moved to recommend to City Council the adoption of the Code of Conduct with the changes recommended by the Personnel Committee; Mayor ProTem seconded and the motion PASSED on a vote of 2 to 1, with Councilmember Ferencz casting the dissenting vote.

B. Consideration of filling open seat on Planning Commission and review of candidate pool for Boards and Commissions

Mayor ProTem Harrington said that he was encouraged to see additions to the candidate pool, and commented that Chair Ferencz of the Planning Commission has suggested that a new appointment to the Commission should come from Wild Dunes. The Committee agreed to hold interviews of new candidates on Wednesday, September 13th between 3:00 p.m. and 6:00 p.m. at City Hall.

Councilmember Ferencz indicated that she disagreed with her husband, the Chair of the Planning Commission on adding representation to the Planning Commission from Wild Dunes because the City cannot affect any change in Wild Dunes.

Councilmember Bettelli stated that, due to past friction between inside versus outside "the gates", he supported the inclusion of a member from Wild Dunes.

Clerk Copeland reported that she had communicated with existing members of boards and commissions whose terms expire in December, and all stated they would like to be reappointed. In addition, she stated that she had been unsuccessful in her efforts by phone and email to contact Allen Shultz and Ann Sherrill of the Code Board of Appeals.

5. New Business

Consideration of Amended Job Description for City Clerk/Administrative Assistant

Administrator Tucker recalled that last year City Council had created the new position of Human Resources and Payroll which had fallen to the City Clerk previously. The amended job description for discussion removes payroll and personnel tasks from the description of City Clerk and updates other duties to be more consistent with the job as it exists today. The Administrator indicated that staff was looking for the job description to be approved by this Committee and sent to City Council for adoption.

For clarification, the Administrator reviewed the positions in General Government along with their primary duties as follows:

- Linda Tucker, City Administrator – carries out policies of City Council and Department Head for General Government; General Government comprises the positions of City Treasurer, City Clerk, Clerk of Court, Accounts Payable and Human Resources
- Desirée Fragoso, Assistant Administrator – assists the Administrator with her functions and is able to substitute for the Administrator and provide continuity of services when the Administrator is unavailable
- Debbie Suggs, City Treasurer – responsible of all things financial of the City and assists with annual audit
- Amy Lee, Clerk of Court – responsible for all things related to court, ensure that Municipal Courts are held on a regular basis, handles all administrative duties associated with court, and interfaces with judges and police officers
- Wynette DeGroot, Human Resources – responsible for payroll and all human resource-related matters

The Administrator commented that only the Human Resources position has been added to General Government in recent years. Due to the demand associated with the beach parking plan in the summer months, temporary, full-time help was added over the summer months to manage the day-to-day needs of the office, such as answering the phone, dealing with customers at the window, etc. This addition has provided the time necessary for the processing of tickets and dealing with the phone calls related to parking by the Clerk to Court with assistance from the Accounts Payable Clerk.

MOTION: Councilmember Bettelli moved to approve the job description as presented and to recommend its adoption to City Council; Mayor ProTem Harrington seconded.

Councilmember Ferencz commented that the job title had been changed with the addition of Administrative Assistant.

Administrator Tucker recalled that the previous job title was City Clerk/Administrative Assistant/Payroll Clerk.

From her experience, the City Clerk was very different from an Administrative Assistant; often multiple categories with different skill levels and pay ranges apply to Administrative Assistants. She also noted that the City Clerk position was defined by the City Code.

The Administrator stated that she saw no problem with eliminating that from the title.

Amendment: Councilmember Bettelli amended the original motion to eliminate the words “Administrative Assistant” from the job title; Councilmember Ferencz seconded and the amendment PASSED UNANIMOUSLY.

Vote on Amended Motion: The amended motion PASSED UNANIMOUSLY.

6. Miscellaneous Business

The Committee agreed to move the regular meeting time to 3:00 p.m.

Next Meeting Date: 3:00 p.m., Wednesday, October 4, 2017

7. Executive Session – not needed

8. Adjourn

MOTION: Councilmember Bettelli moved to adjourn the meeting at 4:24 p.m.; Mayor ProTem seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:

Marie Copeland
City Clerk