

**TOWN OF MOUNT PLEASANT, SOUTH CAROLINA  
POLICE, JUDICIAL & LEGAL COMMITTEE  
Monday, February 5, 2018**

**Municipal Complex, Committee Meeting Room, 3<sup>rd</sup> Floor  
100 Ann Edwards Lane  
Mount Pleasant, SC 29464**

**Minutes**

Present: Mayor Will Haynie, Chair, Gary Santos, G.M. Whitley, Joe Bustos  
Staff: Eric DeMoura, Chief, Ritchie, LeVica Kirvin  
Also: David Pagliarini, Julia Copeland, Corporation Counsel

Mayor Haynie called the meeting to order at 1:27pm.

**1. Approval of Minutes from the January 2, 2018 meeting**

Mayor Haynie asked that the minutes from January 2, 2018 meeting be approved.

*Mr. Bustos made the motion for approval; seconded by Ms. Whitley. All in favor.*

**2. Public Comments**

There were no public comments.

**3. Police matters**

**No agenda items**

**4. Judicial matters**

**a. Employee years of service recognition**

Ms. Kirvin expressed her pleasure in recognizing Ms. Nancy Toussaint for 15 years of service. Ms. Kirvin explained Ms. Toussaint has one of the most vital roles in the Municipal Court. She stated Ms. Toussaint ensures that all tickets, receipts and money are balanced daily in accordance with the courts software. Ms. Kirvin stated Ms. Toussaint is very meticulous, safeguarding all transactions balance to the penny. In addition, Ms. Kirvin explained, Ms. Toussaint is responsible for the accuracy of dispositions which are transmitted to the Department of Motor Vehicles. Ms. Kirvin stated Ms. Toussaint does an excellent job and hopes Ms. Toussaint will be with the town another 15 years and thanked her for all her hard work.

## **5. Legal matters**

### **a. Employee years of service recognition**

Mr. Grossman recognized Ms. Tricia Hughey for 25 years of service with the Town of Mount Pleasant. Mr. Grossman stated Ms. Hughey started with the town in 1993 and added it is amazing how much her job has evolved over the years and how she has met every challenge along the way. Mr. Grossman explained in 1993 Ms. Hughey was the legal secretary for the town attorney whose job was both town attorney and town solicitor. Her role as legal secretary encompassed both civil and criminal duties. Mr. Grossman stated when he joined the town as town solicitor, Ms. Hughey aided in training the legal secretary who was hired to work directly for him and continued to help in that role over the years. He added Ms. Hughey' job evolved yet again in 2010 when contract attorneys signed on with the town. Mr. Grossman stated with the creation of the new town hall, Ms. Hughey role also now includes greeting citizens along with performing civil work for Corporation Counsel.

Mr. Grossman stated Ms. Hughey is a great employee. He stated her work is almost always flawless. He stated Ms. Hughey is a fine person to work with. He stated she has what he calls "Grace Kelly cool" due to her reserved nature and relies on Ms. Hughey for her calm demeanor and voice of

reason. Mr. Grossman stated she has been a great employee and he was proud to honor Ms. Hughey with her 25-year pin.

**b. Discussion of meeting attendance for appointed boards and commissions**

Mayor Haynie stated he believed this topic was discussed in the Planning Committee. He asked for a recap of what transpired in that meeting and asked what needed to be done today to make certain they have one standard that applies.

Mr. Bustos stated they had a conversation of what may be considered or could be cause for removal. He stated the wording of the ordinance should change to reflect a standard of 75% for regular scheduled meetings and special meetings that applies to everyone to avoid any preferential treatment.

Mayor Haynie asked if you were new on a commission and you make the first two meetings and you miss the third, you are then at 66%, below the 75%. Or if someone were to wait until the end of the year they could miss a whole bunch and then make them all up at the end. At what point does the 75% requirement stick.

Mr. Bustos stated it would have to be a one-year period.

Mr. Pagliarini stated the ordinance is currently written in the calendar year, January 1 through December 31. He stated he believed it was the Planning Committees wish that that remain.

Ms. Whitley stated the other option would be to move to a rolling 12-month period.

Mayor Haynie stated he liked the rolling 12-month idea. He explained absences should be the exception not the rule.

Mr. Bustos stated he thinks it would be fine to be rolling. Mr. Bustos added the more important part is that they have a firm rule of 75% and a time frame must be associated with that.

Mayor Haynie stated in Mount Pleasant with more engaged citizenry, if someone does not want to come to the meetings there are a lot of other people who like the opportunity to be appointed.

Mr. Santos stated he would like to see the ordinance in written form. He added he was not able to attend the planning meeting, so he does not know what was discussed. He asked Mr. Pagliarini if he was looking for a motion.

Mr. Pagliarini stated Legal can write up the ordinance and bring it back to both committees or one committee as they see fit.

Mayor Haynie and the committee members agreed that was a good idea.

### **c. Consideration of a no vaping ordinance**

Ms. Copeland explained that Mr. Santos had requested vaping be added to the non-smoking ordinance already in place. She stated there are several municipalities in the state that have already done this by simply changing the definition of their no smoking ordinance. Ms. Copeland stated an example has been provided to the committee for their consideration. The changes are adding the electronic smoking device in the definitions and adding electronic smoking device into the definition of smoking.

Mayor Haynie asked if they were just amending an existing ordinance.

Ms. Copeland stated that was correct.

Mayor Haynie stated they would make a recommendation that would go to council for first reading next Tuesday February 13<sup>th</sup> and then second reading.

Mr. Santos stated there was a great article in the paper over the weekend regarding e-cigarettes and how there has not been enough time to study the effects of them. He added also covered in the article was the idea that kids who start with e-cigarettes may progress to regular cigarettes. Mr. Santos stated the article came out at a very good time while they are looking at revising the ordinance.

*Mr. Santos moved that they approve the amendment to the smoking and tobacco products section 138-03; seconded by Ms. Whitley.*

Mr. Bustos asked if the change to the ordinance involved a condition of age.

Mr. Santos explained that the change is in relationship to smoking in public places. He stated he does not know the age limit to buy artificial cigarettes.

Mayor Haynie stated it has to do with wherever cigarette smoking is prohibited like restaurants and stores.

Mr. Santos stated the smoking age is governed by state law and they cannot preempt state law.

Mayor Hanie asked if there was anyone from the public who wanted to address this item.

There was no comment from the public.

*Mayor Haynie called for the vote and all present voted in favor.*

#### **d. Proposed Ordinance Related to the Registration of Lobbyists**

Mr. Pagliarini stated this item was before this committee last month. He added the first reading was also done at last month's council meeting. Mr. Pagliarini stated Mayor Haynie had asked for this item to be brought back for discussion to see if there were any suggested changes, given the short time frame between meetings. He added he did not know if there were any questions or any proposed changes the committee had. He added coming out of last month's committee the first time they would have seen the ordinance again was at council. Mr. Pagliarini stated if there were any proposed changes to the definitions the legal team would be glad to discuss them.

Mr. Santos stated it was a good ordinance.

*Mr. Santos made a motion approve the ordinance relating to the registration of lobbyists.*

Mayor Haynie asked if a motion was necessary because it was past first reading.

Mr. Pagliarini stated a motion was not needed. He stated the committee wanted it back due to the short time frame involved between committee and council meetings last month to make certain after first reading the

committee could discuss any proposed amendments that might take place at second and final reading.

Mr. Santos asked if second and final reading would take place at council.

Mr. Pagliarini confirmed it would.

Mr. Bustos asked how individuals would be aware that they needed to register as a lobbyist.

Mr. Pagliarini stated from a legal standpoint, like any other ordinance that they pass, there is nothing specific that they do from a notice perspective on the legal end. He stated if the committee wanted, legal could provide a public notice.

Mr. Bustos stated what he would be interested in knowing, is when he answers the phone is he supposed to give notice to the individual about the process.

Mr. Pagliarini stated the first thing required is that everyone within the town, staff as well as the elected officials, be aware. He stated that anyone, if they feel that is the case, would require a check with legal counsel, town administrator or something to that effect. Mr. Pagliarini stated the proposed way would be to say we have a lobbyist registration, we are not in the position to tell someone whether or not they should register but the individual should investigate that. He stated that is generally the best way because it does not put any elected official in a position to answer that question out front.

Mr. Kevin Cunnane, 3032 River Vista Way of Mount Pleasant, stated his comment expands on what Councilman Bustos said. He stated there are nine elected officials, a lot of individuals on boards and commissions as well as an executive office with quite a bit of power in the weak mayor system. He stated it ends up being less than 100 people that are targets of lobbyists, perhaps less than 50 that are the frequent target of lobbyist. Mr. Cunnane stated these individuals should be regulated just from an ease of government standpoint. The nine people who are being approached by the lobbyist should be the ones who report I had contact with this person, I do not know if they are a lobbyist, but they are looking to influence our

government. He added the people want to know that, put it on the website when a councilman meets with a group. Mr. Cunnane stated more than likely it would be a developer. And added it could be a developer from out of the country the way money flies around in real estate. Mr. Cunnane asked how a lobbyist from South Africa would know about getting registered here. He stated the onus should be placed where it is easiest to actually have the effect you want. He stated with a smaller group of less than 50, it is a lot easier than thousands of lobbyists, theoretically worldwide. Mr. Cunnane stated he likes the spirit of it, the idea of better government, he asked which is the easiest way to accomplish what they are trying to accomplish. He reiterated the onus should be put on the people who are here, who are accountable to the people here, provide them with the information. He added it gives people the information to make a decision whether this is the person they want representing them.

Mr. Santos stated he wanted to address Mr. Cunnane's comments. He stated if the lobbyist from South Africa is doing business in South Carolina he better know the laws and added the onus is on that individual to know the laws of the municipality and state he is doing business in. Mr. Santos stated that there were some recent mailings, in the last election, that were questionable and after research the mailings were to a lobbyist group. He stated lobbyists are not bad people. He added the reason he brought this discussion forward is he believes if lobbyists are going to come to Mount Pleasant and try and get council members, elected officials, to vote on certain things they need to register. He added if they are going to work here they may need to have a business license as well. Mr. Santos stated why should a lobbyist be able to come here and work and not pay for a business license like other businesses. Mr. Santos stated Columbia is the only other city in South Carolina who has an ordinance and believes it needs to be done in Mount Pleasant. He added they need to be able to protect themselves. Mr. Santos stated that when he wrote the no smoking ordinance he was contacted by both sides and he did not know who was on what side sometimes. He stated it would be nice to know lobbyists are registered with the town and they know who they are when they are working.

Mayor Haynie stated when he is approached, especially on committee day, somebody may ask to speak to him for a moment on an item coming up in his committee and they give him their name. He stated they may work for a Chamber of Commerce or a Trade Association. He asked if they are a paid staff member and they are paid to be here to lobby for that is he having contact with the lobbyist and if he is standing in the hall how does he know if he is or is not. As an elected official what is his obligation to ask them to identify who they represent or are they paid. He added what if it is somebody representing the arts community that wants to weigh in on one of our decisions to fund an arts center or something. Mayor Haynie stated he is asking where they draw the line.

Mr. Pagliarini stated that is a good question. He stated the onus is on the lobbyist to register, to be in conformity with our laws. Mr. Pagliarini stated the burden is not on the council members to ask 20 questions and identify and make a decision. He added if the committee is asking him for a way to handle this situation, he suggested advising the individual that such an ordinance exists, and it would be to their benefit to review it, and make sure they are appropriately registered.

Mayor Haynie asked if under their ordinance if someone is paid by a local trade association, their executive director or government affairs director, are they a lobbyist under their ordinance.

Mr. Pagliarini stated the exclusions are if they receive no compensation, if they are only expressing a personal opinion or discussing a constituent matter or if they are a full-time permanent employee of a government agency and not-for-profit or private company and is lobbying as a result of their employment. If they are employed in that scenario, under the definition they have, as part of that organization they are excluded from registration. It applies to professional lobbyists and not staff.

Mayor Haynie added who are only third-party representatives in that case.

Mr. Pagliarini affirmed that was correct.

Mayor Haynie asked if there was anything the committee needed to do on this item.

Mr. Pagliarini stated if there are any amendments to the ordinance as written it would be at final reading. He explained this was intended to answer any questions the committee may have had on the execution of it, and if so, Legal would be prepared to make those changes at the next council meeting.

**e. Discussion of federal lawsuit by the South Carolina Environmental Law Project opposing offshore drilling**

Mayor Haynie stated he asked that this item be placed on the agenda. He stated he is aware of many municipalities on the coast who have joined the lawsuit. He stated the committee had asked Legal to tell them what the ramifications of doing this are and added this is being done in light of the fact that there is a resolution by this council opposing offshore drilling. He asked Mr. Pagliarini to advise the committee on the prudence or possible ramifications of the town joining a lawsuit like this one.

Mr. Pagliarini stated in 2015 a resolution was passed opposing offshore drilling and studies. The resolution was approved. He stated the South Carolina Environmental Law Project has announced that it is their intention that if offshore drilling, if the permitting is approved, intend to file a lawsuit to attempt to block and challenge it. He explained the lawsuit has not been filed. Mr. Pagliarini stated the timeline is a little bit gray because the permitting requirement will take some time. He does not believe from his research and discussion, and they have canvassed many of the other municipalities, it is not imminent at this point but at some point, it may be. He stated several municipalities and other government agencies have passed resolutions indicating their intent to join a lawsuit if and when it is brought. Mr. Pagliarini stated the City of Charleston's resolution was premised on the fact that they would not commit any public funds. He added there is a legal attorney client agreement that would indicate the Environmental Law Project would cover all costs and fees related to any such lawsuit. He stated it seems to be what other municipalities have considered, whether this will end up costing or not costing, and if the committee would like to move forward with such a resolution that is one of the considerations. He added a resolution at this time does not preempt or

prevent, if and when more information becomes available, either moving forward or not becoming part of it.

Mayor Haynie stated this is not a point of no return.

Mr. Pagliarini confirmed that was correct.

Ms. Whitley stated it would be good for the town to join in on this. She stated that they would have a resolution that if and when such a lawsuit is filed they would join in and that there would be an agreement with the attorneys that South Carolina Environmental Law Project would cover the cost of all of it.

Mr. Pagliarini stated that is the proposal that they have put forward to municipalities who have shown interest at this time. He stated he doubted that would change at all. Mr. Pagliarini stated they are separately funded. And added this is their mission. He stated the more municipalities and government entities that they have on their side he believes will help the case. Mr. Pagliarini stated the timeline depends on the permitting and added which could take some period of time.

Mayor Haynie stated he is looking for a motion and what they pass today would be an intent and if the lawsuit does get filed, Corporate Counsel would advise the committee if something has significantly changed and they may decide not to pursue it.

Mr. Pagliarini stated that is the best way to proceed and reiterated this would be a resolution expressing intent and if they would like to specify that no town funds or public funds be put forward at this time that would be one consideration that they have seen throughout this process as municipalities are addressing it.

*Mr. Bustos made a motion to have a resolution and commit no public funds; seconded by Ms. Whitley.*

Mr. Santos stated he had to abstain due to business conflicts.

*Mayor Haynie called for the vote and Mr. Bustos, Ms. Whitley and Mayor Haynie voted in favor.*

## **6. Adjourn**

There being no further business, the meeting was adjourned at 1:54pm.

Minutes submitted by:

Laurie Wilson

02/07/2018