

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

**Municipal Complex, Committee Meeting Room, 3<sup>rd</sup> Floor**

**Minutes**

**Members Present:** Mayor Will Haynie, Chair, Gary Santos, Joe Bustos, GM Whitley

**Staff Present:** Eric DeMoura, Levisa Kirvin, Chief Ritchie

**Also Present:** David Pagliarini, Corporation Counsel

Mayor Haynie called the meeting to order at 12:30pm.

**1. Approval of Minutes from the September 4, 2018 meeting**

Mayor Haynie stated that he had one minor correction that he would like to make on page 5 on the next to last line it came out as residence and the reference is residents which is our citizens.

*Mayor Haynie asked that the minutes from September 4, 2018 meeting be approved. Mr. Bustos made the motion for approval of the minutes as amended; seconded by Ms. Whitley. Motion carried unanimously.*

**2. Public Comments**

Mayor Haynie advised that anyone wishing to make public comments would have 2 minutes and may address the Committee at this time.

Ms. Roberta Dominic of 2609 Coral Vein Court stated that she was here to beg the Department to stop having her under surveillance. She added that she had brought a ribbon that is in a box in the other end of her house and when she woke up to go to the bathroom at 3:00 am it was floating in her bedroom.

Ms. Dominic advised that she is not on drugs and knows that this has been a surveillance for a long time.

Ms. Dominic stated that she has a GPS on her car which she does not mind, and she was part of the volunteering of the program for Senior Citizens and after her husband died she wanted to get to the Children's Academy and do some constructive conversations. She added that she was not allowed to do it and was not allowed to volunteer because she is under surveillance.

Ms. Dominic stated that she brought a towel which had the markings of the stuff that comes out of her vents. She added that her daughter was here in October and they were both in the laundry room and the water was coming down the ceiling.

Ms. Dominic stated that her daughter has a masters in Chemistry and she soaked up as much as she could to take back to Raleigh to take to NC State.

Ms. Dominic stated that she is beside herself in fear and anxiety. She added that she is an 82-year-old crippled woman and for some reason she is the person of interest to either Federal or whoever.

Ms. Dominic stated that she tried to talk to Chief Sewell when she was taking the course and he would not talk to her. She added that it has been that long that she has been involved in the Police.

Ms. Dominic stated that they come down her street and she does not know what for and no one wants to talk to her.

Ms. Dominic advised that she has a problem with flooding which is how she fell and added that she is a widow and is not supposed to get emotional but the stuff that is happening is visible and her dog is frightened. She stated that when she returns from somewhere he is there and the plates on the

ball can come like a toaster the heat. She stated that her heart is broken, and she does not know how she can resolve this because if the police want her to go to jail, she is too old.

Mayor Haynie advised that was her 2 minutes and asked again for her address.

Ms. Dominic stated her address was 2609 Coral Vein which is a cul-de-sac in Seaside Farms. She added to please help her and her dog.

Chief Ritchie stated that he would help her right now.

Mr. Kevin Cunnane of 3032 River Vista Way stated that he is the father of 3 young daughters and there was a concern that was raised for the second time in about a year of somebody appearing to approach a child inappropriately.

Mr. Cunnane stated that since most of the information he gets about the Town comes from the Mayor's Facebook page he responded to that and said there was a State law being proposed by 2 of our Legislators, one being Nancy Mace and the other Lee Ewing. He added that they were going to try again to get that passed but it got deleted.

Mr. Cunnane stated that it was not political just ridiculous. He added that on this topic there is no politics, no grand standing and no twitter wars that this was a topic that people are very upset about as their kids are out in the street and vulnerable.

Mr. Cunnane stated that he looked at this from a Police perspective and had conversation with either the Chief or Deputy Chief and it turns out it was not really what the kid thought it was which was fine but both the incidents happened in places where a kid could easily be pulled away into a rural zone right across Hwy. 41 or up Hwy. 17 that are at the ends of Town.

Mr. Cunnane stated that his question became can we focus more police resources in that area to put people's minds at ease because perception is everything in the mind of a child and if a kid felt fear than we should react to it and try to figure out ways. He added that in other parts of town you see more police activity and he is not saying they are doing anything wrong he is saying the maybe the Department needs to expand or re-direct and make it a priority to go after this stuff.

Mr. Cunnane stated to let people know there is an effort in Columbia and it is a good thing that if we can get the law more like Florida where we can go after and arrest someone for talking to a kid or approaching them inappropriately which we cannot do current that is a good thing and it should be promoting that.

### **3. Police matters**

#### **No Agenda items**

### **4. Legal Matters**

#### **a. Review of State law provisions related to child luring or enticement**

Mayor Haynie stated that both State Representative were invited here today but obviously with an election they could not but did offer to come if and when Council discusses this at the Council meeting.

Mayor Haynie stated that this item was not put on the Agenda to question the Department's work but to get an idea of does the law give the Department it needs to do what it does and that is keep our community safe.

Mr. Pagliarini stated he had put some brief items on a slide as Mr. Cunnane mentioned there is a proposed change to the State code based on the Florida law it was introduced in February and did not proceed out of

Committee and as he understands it is planning to be reintroduced at the next session.

Mr. Pagliarini stated that this was the text and he specifically put it in so the committee could see what the proposal is, so it can be compared to existing State Law and what the enforcement capabilities are which the Chief can specifically talk about enforcement.

Mr. Pagliarini stated that the change defines child conveyance, structure, buildings and those types of things and the key language is highlighted in B1: Who lures, entices or attempts to lure or entice a child, misdemeanor and moves forward misdemeanor second and then finally you get to the felony situation where if the child is under the age 13. He added that these were the distinctions that this proposal makes and of course he has no idea whether it will continue to move forward or whether it will be subsequently change but that this is what Florida enacted and at least what is planned.

Mayor Haynie stated that “attempt” seemed to be a gray area and would be hard from a law enforcement standpoint so he understands “lures and entices” but asked what attempts to lure means.

Chief Ritchie stated that when the Department gets calls like this they are investigated thoroughly and the Police Department interviews the children who were the perceived victims and if the individual can be located there is a comprehensive interview with them. He added what is being looked for is criminal intent and simply talking to a child who happens to be skateboarding and someone says I have some gum would they like a piece, does not take it to criminal intent.

Chief Ritchie stated that what the investigators have to do is determine through witnesses, interviews and interrogation was that next step to be “I have candy come to my car” you have to make the act of attempting to take away the victim. He added the investigators are very thorough when the

investigation is done not only because imaginations can run a little wild or the perception could be that they were in danger like Mr. Cunnane said and he does not disagree with that but he also has to make sure it is investigated thoroughly so someone does not get arrested even though in this day and age it is silly to even offer a kid candy. The current law on the books now allows the Police to charge someone today if there is a case where criminal intent can be proved. They could be charged with attempted kidnapping and with what is proposed there is a little more leverage and latitude.

Mayor Haynie asked if for instance you were in a big department store and somebody comes along and sees a child and the child likes a toy and the person says I'll buy you that toy and goes to the counter and buys it that it a very different thing than saying why don't you come out to the parking lot or he is trying to avoid the thing where somebody is accused of something when they really have not tried to move the child from point A to point B.

Mayor Haynie stated that he has elderly parents and relatives that are big hearted, and they are the type people to be in a store and see a child looking at a toy and buy the toy for the child.

Chief Ritchie stated that from an investigator standpoint he would have to say if the toy was purchased with the condition you have to come with me then in his opinion there is an act and intent vs. just an innocent act of kindness.

Chief Ritchie stated that if you are trying to remove the child from where they are and forcibly take them away or entice them away for something other than legal means is when investigators would look into that.

Mr. Pagliarini stated that part of the distinction in the proposed law when looking at the definitions; "Into a conveyance, dwelling or structure so that is part of the analysis and it differentiates among ages.

Mr. Pagliarini stated that South Carolina has on the books and this is the general kidnapping statute and the asterisks item under is the common law ability to charge for attempt. He added the act of kidnapping vs. the attempt even though that is not codified by common law it could be charged.

Mr. Pagliarini stated that this is a much broader definition and does not have the building or vehicles so that is what we have, and he added he would leave it to Chief Ritchie to distinguish whether this an effective statute or not or whether something more is needed although in his opinion the proposed statute does provide more definition.

Mr. Pagliarini stated that to follow up there is the criminal sexual conduct laws that involves a different element not just luring.

Chief Ritchie stated that he agreed with Mr. Pagliarini that the current law does give him the ability to make a charge, but the proposed amendments would certainly help in the pursuit of justice.

Chief Ritchie stated that when there are instances like this the Investigators will sit down with the Solicitor and go over all the elements that have been developed and get advice from them as to charge or not charge. He added that this is taken seriously, and the investigators look as deep as they can to determine whether that leap to criminal intent should be taken.

Mr. Santos stated that looking at the new law vs. the old one he likes the new one because of the felony 30 years for a first offense and the other was misdemeanor.

Chief Ritchie stated he believed the law would be the same if he read right on the amendment and the penalty phase would be the same unless they are sentenced to murder which could be life or death penalty.

Mr. Pagliarini stated that the way the proposed law is set up is 18 years or older is misdemeanor and when you get to 13 then it starts the felony convictions so under the age of 13 is a felony so it is a different penalty structure which is one of the things when these typically go through the process that is changed or amended from what you see if it does move forward.

Mr. Santos stated that the one we have on the books now is more astringent than the other one because it does not say anything about misdemeanor.

Mr. Pagliarini stated that was correct having judicial discretion not to exceed 30 years. He added that was a good point as to where the new law would be more stricker from a penalty stand point.

Mr. Bustos stated that under kidnapping it says to him it is more that you are seizing, kidnapping, you are abducting or carrying away where the other "luring" is just an attempt to get to that point. He added that this the actual pick someone up and that is not just a child but anyone that you grab and put in a car and drive away with, that is kidnapping. He added that luring is the act of attempting to get to the kidnapping phase.

Mr. Bustos stated that with a child if you even attempt to do that you could be arrested where with adults or children if you complete the act by picking them up, putting them in a car and driving away with them you have abducted or kidnapped them.

Chief Ritchie stated that what the Department uses for the luring part is the word decoy. He added that decoy is just what it sounds like in that you use something to entice or bring you in so that is how he looks at that definition and it can be applied that way.

Ms. Whitley stated to take it back to the real-world instance that recently happened with the man offering kids gum, he was not charged with

anything and he was not brought in for anything. She added that if there had been a child luring law would he have been brought in vs. what exists right now.

Chief Ritchie stated that there would have been no charge as the investigation determined in going back and talking with the children and the gentleman that there was no criminal intent. He added that it was an innocent person who thought he was being nice to some kids that he saw because he worked in area and his kids had skateboards and he offered them gum.

Chief Ritchie stated that even with that language there would still not have been a criminal charge made.

Ms. Whitley asked if Chief Ritchie felt if there were a child luring law if he would more leeway to bring someone in who was borderline and basically give him more flexibility.

Chief Ritchie stated that he does feel that way as the amendment as it is written would definitely help law enforcement and again what is currently on the books will still bring you in, but the new language would give the Department a little more to deal with and look at but even with that, this particular case would not have been criminal charges.

Ms. Whitley stated that with something like this moving forward in the legislature what can be done at the Town level at this point. She asked if a resolution could be done similar to the plastic bag ban.

Mr. DeMoura stated that a resolution in support of the new language and what seems to be most effective is to directly contact members of the local legislative delegation by giving them a phone call or meeting with them to let them know that this is very important to the citizens of Mount Pleasant.

Mayor Haynie stated that for the record as he feels this has been discussed and he thinks he knows the answer but would in over complicate things if there was a local ordinance.

Chief Ritchie stated that with a local ordinance it would mean bringing it to our court.

Mr. Pagliarini stated that if it is brought to the Town's court it would be a misdemeanor and the issue there is the kidnapping law that we currently have would that nullify our law as we do not know whether the State will be moving forward or not, and we will not know that until it is challenged. He added if South Carolina does not pass the State law and the Town enacts some kind of ordinance whether it is the same language that would be the only risk would be that someday it would be overturned.

Chief Ritchie stated that the maximum penalty in the Town's court is 30 days where even if there was something on the books if there was enough probable cause and developed criminal intent the Chief stated he would go with this just to get as much as he could and he wanted everyone to know that he will charge based on this new law as long as it is proven criminal intent has occurred.

Mayor Haynie stated that for the record the best way is to stick with the strengthened State law obviously.

Chief Ritchie stated that in his opinion it was and to add to what the Police can do he as Police Chief and other Chiefs around the area can attend the hearings and voice support. He added he has gone to Columbia more than once on different things such as body cams and actually testified at the hearings to show support and that is something he would do going forward with dealing with this.

Mayor Haynie asked if it would be advisable to recommend to Council a resolution supporting this strengthen proposed new child luring law especially since given that it is 2 legislators that represent parts of our community and they have both offered to come to the next Council meeting.

Mayor Haynie asked what the mechanics would be on that as obviously the wording is not available to vote on it at this Committee but could there be a resolution for the Council meeting.

Mr. Pagliarini stated that absolutely he could have it ready.

Mr. DeMoura stated that it was included in a bill, so it could be as simple as listing the number of the bill and that way it would be very specific.

Mayor Haynie stated to plan on doing that and have a resolution ready for that meeting.

**b. Review of legal department structures in comparable South Carolina cities**

Mayor Haynie stated that as we have grown and changed in looking at the budget and the cost and complexity of legal issue he believes this was touched on this last year when there were some new Council members, so he did not know if they wanted to take it from here or staff take it from here.

Mr. DeMoura stated that he believes the item was asked for by Ms. Whitley and Mr. Pagliarini is prepared with a structure and similar information that was provided last year and he is happy to take it any way the Committee sees fit.

Mr. Pagliarini stated that the current Legal Department structure when entities were looked at across the State all of the similar population

municipalities and 2 things you find are the first is that the budgets and set ups are very different and you have to dig in. He added that he has called essentially all of the attorney's involved and the budgets sometimes have money here and there and budget things differently and some entities such as Columbia provide very little budget information. He added that the second thing you find is nobody likes to pay lawyers as everyone was emphatic about that.

Mr. Pagliarini stated that this is what they have in place, their entire legal Department which is a full-time prosecutor, a contracted prosecutor and they contract by because they are required to a public defender.

Mr. Pagliarini stated that on the corporation council side of it which is 2 full time positions which are contracted, and the prosecutor's office and corporation council have a full-time secretary.

Mr. Pagliarini stated that the history of the process as everyone knows the Town had an in-house council, Mr. Alan Young, for many years and in 2011 an RFP was sent out and the Town went through the process and hired Hinchey, Murray & Pagliarini.

Mr. Pagliarini stated that the important parts of the contract are 2 full time attorney positions, but they have historically used 3 attorneys to fulfill those 2 positions and support staff and they also maintain in the law firm as part of, not required by the contract, a real estate paralegal and a full-time litigation paralegal.

Mr. Pagliarini stated it was asked about the scope breath of service which would be a question for the Town Administrator and staff.

Mr. Pagliarini stated that the secretary is a full time legal secretary to support corporation council and also mans the front desk and serves a number of roles.

Mr. Pagliarini stated everyone knows very well the 3 lawyers. He added that over the years they have developed a procedure to where the point person for particular issues, again that would be a question for staff as to how they are served by that, he feels they do try to identify a lead on particular issues related to finance, procurement and those things which are a little different than what is done on the land use, planning, real estate and those matters.

Mr. Pagliarini stated that this was the budget 2018-19 with the budget for the entire legal department with the corporation counsel highlighted and the total allocated for in-house plus the outside.

Mr. Pagliarini stated the HMP contract and 3 attorneys with the addition to the contract for a \$220,000 litigation budget for this year which is historically high due to specific ongoing litigation with the legal secretaries sharing the \$85,000. He added that out of the contract proceeds the Town does not pay health insurance, social security, malpractice insurance, or other fees that are part of the contract requirement that the firm is expected to provide.

Mr. Pagliarini stated that the litigation matters specifically this year and last year there have been 2 high profile cases and that budget was expanded for those purposes and it also covers outside counsel on other matters unrelated to that specific litigation.

Mr. Pagliarini stated that other jurisdictions in general by population order, City of Charleston primarily has in-house council with 9 full time personnel and they do retain outside council for matter including real estate, litigation, insurance, health care, property acquisition and special projects. He added that it has been broken down into salary, benefits and also their outside legal counsel budget.

Mr. Pagliarini stated that what he has done is an apples to apples and these budget figures for others do not include their prosecutor office and this is strictly corporation counsel so at the end you can see how all of the various municipalities stack up. He added that one thing that shows currently is that almost every municipality retains outside counsel for real estate matters and most litigation and property acquisition. In addition, bond council which is a very specific field of expertise, generally requires that all municipalities seek outside counsel for their bond matters.

Mr. Pagliarini stated that the City of Columbia which is number 2 in population is also an in-house council model with 10 full time attorneys with the City of Columbia and that is not personnel but just attorneys plus support. He added the City again retains outside council for real estate litigation.

Mr. Pagliarini stated he spoke with the chief attorney there and they do not break down their total budget, which is 2.2 and their estimate for the prosecutor was 300,000 or their total estimate is 1.9 million for their corporation counsel and they provide precious few details of the budget.

Ms. Whitley asked for Charleston of the 9 personnel how many of those are attorneys.

Mr. Pagliarini stated that currently Charleston has 6 as Frances Cantwell retired and he believes they are looking at other options on how to staff that so that is an ongoing issue for them.

Mr. Pagliarini stated that the City of North Charleston is where the population gets more comparable to the Town's population and this is a contract model. Mr. Pagliarini stated that Brady Hair is their corporation counsel which is different from the Town's in this capacity in that Mr. Hair is a solo practitioner with no staff and part of that is that he is their corporation council by contract and the city also employs 4 full time

employees including a deputy city attorney so they have 3 attorneys plus their 2 support staff and again they rely on outside counsel on matters including real estate and litigation. He added that the salary and benefits for their contract is \$180,000 for Mr. Hair and they budget outside legal counsel as well with a total budget of around 1 million dollars.

Mr. Pagliarini stated that the City of Rock Hill provides almost no information. He added the budget figures are broken down and their contract scenario is around \$400,000 and it varies by actual cost and the caveat here is the figures do not in-house staff support which are budgeted under their administrative and they had a very hard time breaking that out so Mr. Pagliarini did not want to speculate but there are also special litigation expenses that they do from year to year that reflects their contracted cost.

Mr. Pagliarini stated that the City of Greenville in-house model was 1 city attorney, 3 assistants and 4 support staff typical what they retain outside for and 1.34 million for the City of Greenville.

Mr. Pagliarini state that he added Charleston County as well with a significant higher population, but they contract with Mr. Joe Dawson and they are very protective of the contract amount for some reason and they would not say. He added that based on communication with their legal counsel it is north of \$350,000 for Mr. Dawson's service with a total budget for corporation council side is 1.6 million.

Mr. Pagliarini stated that this is a summary by population and budget with Charleston primarily in-house, Columbia primarily in-house and also lead the way with 1.5 to 1.9 million budget, North Charleston contract plus in-house with a 1 million budget, Town of Mount Pleasant contract with limited in-house meaning there is a support staff, Rock Hill it is unknown about the inside support staff so there is a + there, Greenville and Charleston County conclude the summary by population .

Mr. Pagliarini stated that was the information and would be happy to answer any questions.

Mayor Haynie asked when the last time was the contract was competitively bid on and have there been any other bidders in the last 6 years and how is it normally done.

Mr. Pagliarini stated that was a question for administration, but he can say he does not know what the review process is by the Town but last year there was a contract renewal.

Mr. DeMoura stated that aside from the original contract when it was competitively bid that has been it. He added that in 2011 it has been a renewal based on when the elective body felt it was appropriate.

Ms. Whitley asked what the initial length of the contract in 2011 and how often has it been renewed and for what terms

Mr. DeMoura stated that if he recalls correctly it was 5 years.

Mr. Pagliarini stated that the original contract was for 3 years and it has been renewed 2 times since then. He added that the first contract was for 1 position and the Town wanted to dip its toe into the process as he understood it and get an idea of what was going to happen with it. He added that the 1 was not enough and so it was increased to 2 full time positions.

Ms. Whitley asked if that was in 2014 that it was renewed for 2 positions.

Mr. Pagliarini stated he believed the process was changed after a year and a half or 2 years, but he did not have the exact date but then it was moved to the current 2 full time model.

Ms. Whitley asked if the Town was currently under contract until when.

Mr. Pagliarini stated that the Town was about a year and a half into this.

Mr. Santos stated that it appeared to him by looking at the numbers that the Town got the best bang for the buck especially since included are 2 attorneys, but we get 3 and there is legal secretary that comes with it that answers the phone and things like that.

Ms. Whitley stated that the dollar amount that is going to the 2 full time attorneys is north of half a million dollars or there about and wanted to know if that was correct.

Mr. Pagliarini stated that was not correct and that the contract is for 2 full time positions and of course they maintain their staff which is \$463,000.

Mayor Haynie asked that with Mr. Pagliarini' s firm and the 2 that are full time is there any time to work for anything for the firm or is all they do for Mount Pleasant.

Mr. Pagliarini stated that over the years that is what happened and of the 3 attorneys handling 80 hrs. essentially so time has been limited, there are other attorneys and staff at the office but 3 are mainly for the Town of Mount Pleasant. He added that over the years the time has been less and less for anyone else and the only thing he general maintains outside of the Town of Mount Pleasant is some residential real estate work which he has staff mainly take care of that and some eminent domain matters for the DOT and special complex cases which is basically what he limits to outside work. He added that Mr. Hinchey does occasionally get called by some of the hospital systems for HR or contract type work but again the last few years have mostly been working with the Town of Mount Pleasant.

Ms. Whitley stated that the reason she put this on the agenda is that she wanted to have a better understanding of how it works in comparable municipalities because as a former attorney her instinct was that having in-house attorneys made the most sense for a Town the size of Mount Pleasant. She added that she also found it was interesting to her that the contract would have been renewed without any sort of competitive process because things change and she would think there should be an opportunity for a competitive process for example like with the judges which were just changed where before the judges automatically got their renewal and now the applications are open to the public and having new blood and fresh eyes.

Ms. Whitley stated that for her this is interesting to look at the fact that the 2 largest cities have pure in-house counsel with North Charleston being the closest and does have a combination. She added that she thinks as the Town moves forward long term that exploring the potential of moving to a general counsel system is something that should be looked at as a Town.

Mayor Haynie stated that he agrees and he will say what is on the record is that he was a “no” vote on renewing the contract last time as there was no review or evaluation and there was no competitive bid for that and here we are today looking at judges and they are re-applying and that was put out for bids but the Town will pay a law firm half a million dollars. He added that if someone is going to be contracted for that much to the City there should be at least a review, an evaluation and some sort of competitive bid.

Mr. Santos stated that he was here back when Mr. Young was here and whenever there was a major case he would bring in Frances Cantwell and other people to help him. He added that it is not like the in-house counsel did it all and they bring outside help that specializes which costs more for the Town but he is not sure how much the budget was back in those days but Ms. Cantwell did not come cheap although she was best at what she did and seemed to be in executive session with the Town a lot so in-house

counsel will be asking for outside help to come in that will make the cost go up as well.

Mr. Santos stated that he likes the idea of having 3 attorneys for the price of 2 for the Town and feels they have done a good job with that. He added he has had the benefit of having in-house counsel and he liked Mr. Young a lot, but he would bring in specialists to help so it was not that in-house counsel did everything they did bring in help.

Ms. Whitley stated that is how it works that in-house manages a wide range of law firms, but you have a whole array of choices that you can choose who you want to do certain items. She added you can go to different experts and have their area of expertise, so you have a full array of options in South Carolina vs. limiting yourself to a particular contract.

Mr. Bustos stated that Mr. Santos was right that when Mr. Young was the in-house attorney but the Town would go outside based on the personality of the Attorney and the subject matter and a number of things that the Town also used to go out and put attorneys under retainer just to conflict them out so if there was a specific case coming we knew they could not handle it because they were not an expert in that field and the Town would have them on retainer for something and that way the Town knew they would not have to face that. He added that it is a strategy and a legal strategy and its done.

Mr. Bustos asked Mr. Pagliarini how many outside firms have they gone to with different cases. He asked for an idea of the cases and the types of cases.

Mr. Pagliarini stated that for the current Park West matter initially his firm went outside because individual council members were sued, and they were required to get outside counsel. He added that there are a few others that they did as well but to keep in mind their insurance covers one of the things

that has changed in the last few years is the expansion of their insurance so the first few years they were with the Town that need was a little higher but they just did not have the lawsuits and when lawsuits became more prevalent they were able to get their insurance expanded to cover that so that is a function of insurance for most of them.

Mr. Bustos stated that he does not believe the Town can expect them to be experts at everything and sometime with a town this size there are odds and ends that come along that need to be contracted out.

Mr. Pagliarini stated that with the bond they are a good example of that and the idea at least what he has seen through talking with everyone is that there will always be specific matters. He added that some of the specific matters at the primary in-house and even the contract real estate because none of the people on their staff are licensed title insurance agents. He added that eminent domain and property acquisition there are very few lawyers who do that and also bond counsel.

Mr. Pagliarini stated what he has tried to do is bring the object which was what Town Council desired all along was to have as much of that stay without having to go out and they have been fortunate to be able to minimize that.

Mr. Bustos stated that when condemnations used to be done Mr. Pagliarini was called to come to do those even back when Mayor Hallman was there but he feels there is a certain amount of flexibility in that system because lawsuits are getting more and more complex every time you turn around.

Mr. Pagliarini stated that is why when you go to primary in-house you will see that they are budgeting more and more if you track it. He added that the City of Charleston is budgeting even with their staff over \$400,000 for outside and Columbia, a verbal number, budgeting around \$350,000 to \$400,000 and that is with 10 attorneys.

Mr. Pagliarini stated you are starting to see litigation becoming more prevalent even North Charleston are about the same as them and their budget this year is a little larger simply because of the specific cases they are dealing with. He added that historically he believes it used to be \$50,000.

Mr. Kevin Cunnane, 3032 River Vista Way stated that there a number of ways to approach changing this if that is the desire of Council and it does not have to be an all or nothing approach. He added there are places that will do a claims office right in-house.

Mr. Cunnane stated that when a lawsuit comes in that the Town knows they are going to pay on it is a lot easier to pay it on Monday than it is 70 Fridays from now. He added you will pay less by getting it done quicker and that is the type of thing with one former attorney on the Legal committee but if this gets looked at from a business perspective he feels the Town is failing as there are cases that should probably be settle sitting on the books indefinitely. He added this is not anything against the attorneys as they may think it can be dismissed down the line but there is work to get there and if you can buy your way out of it on the first month it is a better deal than paying attorneys for years.

Mr. Cunane stated he believes there is a hybrid in dealing with the insurance companies you can negotiate lower insurance rates by handling the nuisance cases in-house and it does not get to the policy and does not necessarily require an attorney to negotiate even a paralegal can negotiate a settlement on some minor cases. He added that this was something to think about.

Mayor Haynie asked for any other comments.

Mayor Haynie stated that since the budget season is coming up he asked Mr. DeMoura to look at a comparison of 2 previous things; 1) what did it look like when there was an in-house attorney, how much did the Town hire

outside attorneys and 2) the pre-insurance as he believes that kicked in since he was elected in 2015. He added he would like everyone especially new Council know what that covers as he thinks it is land use, but he is not sure.

Mr. Pagliarini stated of course you have your standard slip/fall and car accidents and basic insurance but what they have as of right now and he still believes this is the only municipality to have it is that land use extension and it is not full and there are caveats and it would be a good idea to discuss that because that is a little more than what can be dealt with today.

Mr. Pagliarini stated they do have that and still have that so to follow up the current lawsuits were before the insurance coverage and that really triggered them going to SMIRF and requesting that and that is how it happened.

Mayor Haynie asked for the record what SMIRF was.

Mr. Pagliarini stated it was the insurance carrier, the municipal fund insurance carrier.

Mr. Santos stated he understands they cover the Town on certain things but feels somebody needs to watch them as well as the cover a lot of people around the State and he is not saying they do not have the Town's best interest in mind but thinks they need clearly watched. He added to Mr. Cunnane that he would not want to send a paralegal to fight a court fight but would like to send an attorney to do business with another attorney and that is just the way he feels about it, so he would never go for something like that.

Mr. Santos stated that the Town has the best representation and the citizens expect the Town to put the best foot forward and you do not send in second string when first string needs to be there, so he would never go

for that. He added that he thinks it is important to always have first string in there and not only that but to have our folks watching out to make sure SMIRF does the job that they should be doing.

Mr. Haynie stated there was time for everyone to have input and to look at models and price comparisons. He added another comparison he would like to see is what other perennial contract is there for someone who provides services to the Town whether it is landscaping or something like that as it is a lot of money in one contract that has been renewed for 7 years without any outside evaluation and with just a vote in executive session and this is tax payer money. He added he does not know what another contract the Town does that on.

Mr. Pagliarini stated that for the record there were no votes in executive session.

Mayor Haynie stated that was correct there were no votes but discussion of contractual matters.

## **5. Judicial matters**

### **a. Executive session to review municipal judge applications**

Mayor Haynie stated the next item is executive session for the distinct purpose of reviewing municipal judge applications

*Ms. Bustos moved to go into executive session to receive a legal update on Brock vs. the Town of Mount Pleasant. Ms. Whitley seconded the motion. All present were in favor.*

Mayor Haynie stated that the committee was going into executive session to review municipal judge applications and upon reconvening the Committee may take action on any item listed on the executive session agenda or discussed in executive session during a properly noticed meeting.

The committee entered executive session at 1:37pm.

The committee exited executive session at 1:49 pm.

*Ms. Whitley moved that the Town Administrator move forward on the municipal judge applications as discussed in executive session. Mr. Santos seconded the motion.*

Mayor Haynie stated there was a motion and a 2<sup>nd</sup> and he would like to say no votes were taken in executive session.

*All present were in favor.*

#### **b. Post Executive Session**

### **6. Adjourn**

There being no further business, the meeting was adjourned at 1:50pm.

Minutes submitted by:

Lori Gaskin

11/05/2018