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PRIVILEGED AND CONFIDENTIAL

MEMORANDUM

TO: BJ Unthank
Chairman, West Columbia City Council

FROM: Robert Bolchoz

DATE: July 29, 2014

RE: Internal Review of Incidents and Processes

Upon the approval of City Council, I was retained by the City of West Columbia on May 19, 2014 for the purpose of conducting an internal review of various incidents and activities involving City officials and personnel. I was also asked to review policies and procedures currently in place in the City to determine whether they are satisfactory and effective at safeguarding the public's interest in the orderly conduct of the government and efficient use of public money and resources.

This memorandum contains a summary of the process I used in developing my general observations and it identifies areas and matters which I believe should be of concern to City officials and the citizens of West Columbia. It also includes an overview of specific instances or activities that highlight those concerns.

As I have explained to the City Council in executive session, and as I have advised each individual with whom I have met, this report and my communications with City officials, personnel, and Council as a whole are subject to the attorney-client privilege and are confidential. The privilege belongs to the City, and therefore the City Council can choose to waive the privilege and release the report to other parties or individuals.

REVIEW PROCESS

Beginning in the middle of May and extending through this week I have spent in excess of fifty hours conducting a thorough review of the facts, incidents, procedures, and policies which the Council requested that I analyze. I have also reviewed other matters that came to light during the course of my efforts.

With the assistance of the Deputy City Administrator and other staff, I solicited the input of any employee of the City government that wished to speak with me. I also contacted each member of City Council directly via email to make myself available for individual meetings and offered that opportunity in person at an executive session of Council. (Mayor Owens is represented by counsel. I contacted his attorney for approval to email the Mayor regarding the opportunity to meet with me. His attorney advised me to email the Mayor and copy him, which I did). To ensure that all employees were given a reasonable and confidential opportunity to express concerns or relate issues, I established a procedure whereby the employee could contact me without notifying his or her immediate supervisor. I did not entertain or pursue any matters or allegations which were anonymously reported.

Through the date of this report I have conducted over 30 interviews with various City employees and with Council Members BJ Unthank, Casey Hallman, Tommy Parler, and Dale Harley. I have also reviewed almost 5 hours of recordings and videos of a number of situations. Additionally I have examined dozens of incident reports, written memos and statements, procurement, payroll, and personnel documents, City ordinances, policies, and procedures, and South Carolina statutory and case law. The bulk of my interviews were conducted in person in City hall. Occasional follow up questions were handled by phone or email. Every person interviewed was issued the Upjohn Warning that I outlined to Council in executive session.

During the course of my review I was also occasionally informed of matters which I have not included in this report because I was not able to substantiate them sufficiently, or because I do not believe they constitute matters within the subject area that I understand to be of concern to City Council.

GENERAL CONCLUSIONS

Having completed my review I have arrived at a number of conclusions, some of which may merit further consideration or action by City Council. Those conclusions are as follow:

-The overwhelming majority of City staff and personnel are fully committed public servants completely dedicated to the citizens of West Columbia and to providing excellent service and careful use of tax dollars and City resources.

-The City's policies and procedures regarding procurement, personnel, and payroll administration are standard, appropriate, and properly defined.

-Certain routine or common practices that tend to undermine the established policies and procedures must be addressed by City Council through the adoption of new ordinances or the clarification of ordinances and regulations currently in place.

-Mayor Owens has caused, or facilitated, the circumvention or manipulation of the City's established policies, procedures, and regulations in order to reward his political allies and establish a system of patronage well beyond that which the average citizen, taxpayer, or voter would expect. That system has been used to provide government resources and services to some in violation of City ordinances or policies, thereby denying uniform treatment to all citizens and taxpayers.

-Mayor Owens has established an oppressive atmosphere of intimidation within City hall which has resulted in well intentioned employees circumventing established policies and procedures and ignoring City ordinances at the Mayor's insistence.

-Mayor Owens has used direct and/or indirect threats of retaliation, such as demotion or termination, to:

- compel City staff to provide services on certain private or non-City properties in violation of City ordinances;

- usurp the authority of the City Administrator, police chief, and other staff as to personnel decisions and the procurement of services and equipment; and,

- orchestrate the hiring and promotion of certain employees, at least one of whom has potentially subjected the City to civil liability and circumvented City ordinances, policies, and procedures regarding hiring, firing, promoting and demoting of City staff and procurement of City equipment and expenditure of funds.

-Mayor Owens attempted to improperly influence a grievance panel on behalf of an employee who had been terminated by the police chief.

-Mayor Owens violated the Freedom of Information Act by appointing a special committee and holding a meeting at which he threatened and attempted to intimidate the police chief.

-Mayor Owens allowed access to secure areas of City hall related to public safety by persons unauthorized to enter those areas.

SPECIFIC AREAS OF CONCERN

Public Works, Procurement, and Personnel

On a routine basis Mayor Owens ordered or instigated, under threat of termination, the taking of certain actions, the procurement of certain equipment or services, or the hiring of certain employees in violation of ordinances, policies, and procedures and over the objection of the City Administrator or other department heads. When challenged as to any particular directive or activity, the Mayor routinely threatened to have the reluctant employee or staff member fired, often stating something along the lines of, "Remember, I have the votes," or, "If you don't do it, I will have you fired." One member of City Council related what many other persons confirmed when he stated that the Mayor told him, "I am in charge of the City now and I got five votes and I can do anything I want." This routine intimidation gave way to an atmosphere in which most employees refused to question the Mayor and simply did as they were told regardless of the law or the established policies.

-More than one individual I interviewed indicated that it was routine practice for Mayor Owens to order the public works department to provide some type of service that violated the City ordinances. I was informed of several instances in which the Mayor directed the head of public works to have construction debris removed from properties, and in which the Mayor ordered the clean up of private property at taxpayer expense as favor to a citizen.

-I was informed by more than one individual I interviewed that the Mayor procured services such as fence construction (some of which allegedly occurred on private property) without following the standard and established procurement procedures. The Mayor signed check requests and directed payment of invoices, often in circumstances which called for the City Administrator's approval.

-On one occasion the Mayor procured, and committed the City to the purchase of, an excavator which cost \$68,546.00. The equipment was delivered to the City and the purchase order was issued on March 26, 2013. The City Council did not approve the purchase until April 15, 2013. The purchase was not considered an emergency procurement by individuals I interviewed, as the equipment had been a subject of consideration for over a year. The purchase did not follow the procedure established in the City code and there were no bids taken from other potential vendors. More than one person interviewed regarding the procurement indicated that he or she would not question the Mayor or object to the purchase out of fear of retribution.

-I located more than one payroll or personnel status change form or hiring document which was signed by the Mayor in violation of policy and procedure because the required department head or City Administrator objected to the action and refused to sign. In one specific instance the Mayor insisted upon the hiring of a prior convicted violent felon in the public works department. The head of public works and the City Administrator expressed concerns about placing such a person in a position of contact with the public and with private property. The City Administrator refused to sign the hiring documents. Mayor Owens signed the necessary paperwork without proper authority. In another instance the Mayor signed off on a pay raise for a police major because the police chief objected to the raise.

-I was informed by one deputy department head whom the Mayor assisted with a promotion that the Mayor contacted him in an attempt to interfere with and influence a grievance hearing regarding the termination of a police officer. A subordinate of the deputy department head had been assigned to the police officer's grievance panel. The Mayor contacted the deputy department head and inquired as to whether the subordinate was assigned to the panel. Upon being told yes, Mayor Owens said, "You are a smart boy and you know what to do."

Public Safety

Mayor Owens' interference with established policies and procedures, his orchestration of questionable personnel actions, and his direct and indirect intimidation of employees was most pronounced in the area of Public Safety. The Mayor directly threatened the police chief and orchestrated the appointment of former Major Matt Edwards who, in effect, took over the police department and engaged in various inappropriate activity in regard to personnel, procurement, and law enforcement, in violation of established policy and procedure. Edwards has also exposed the department and the City to civil liability. Any objection by the chief to Edwards' activities was met with a threat of

termination from the Mayor, who reminded the chief that he (the Mayor) had the votes on City Council to fire the chief.

-I interviewed over 15 officers in the police department and the overwhelming majority stated that there was a prevailing atmosphere of intimidation within the department. Several indicated that they were questioned about tickets they had written and they inferred in a number of instances that they were being directed to dismiss tickets. A couple of officers were ordered to apologize for stopping and/or ticketing members of City Council.

-One police captain indicated that he was ordered by former Major Edwards to sign off on fraudulent time sheets for a subordinate. The sheets indicated the subordinate officer was at work when he was actually attending college classes. The captain objected but was told to sign and did so out of fear of retribution.

-There were numerous officers who related an instance of former Major Edwards having had dogs unnecessarily shot. More than one officer indicated that Edwards ordered the shooting of 3 dogs on October 9, 2012. More than one of those officers indicated that the dogs were not threatening and one referred to them as "docile." Further, one of the officers indicated that Edwards ordered them to shoot the dogs in a firing squad manner as he raised his arm and lowered it while calling "Fire!"

-One officer reported that former Major Edwards specifically required him to drop three different tickets he wrote for three separate incidents. Edwards ultimately issued a two day non-paid suspension to the officer because the officer objected to the order to dismiss. Ticket fixing is specifically precluded by City ordinance.

-I reviewed a security video from March 12, 2014 in which a child identified to me as Mayor Owens' grandson uses the Mayor's security swipe card to enter the secure area of the police department. A second video clip on the same day shows the child walking unescorted down the hall inside of security. The child also enters a door in the hallway which I am informed is a witness and defendant interview area that adjoins the City's holding cells. I am told by one officer that it is not uncommon for the Mayor's grandchildren to use the Mayor's security swipe card to enter secure areas of the police department.

-One police sergeant indicated that he was ordered by former Major Edwards to suspend traffic enforcement in proximity to a Council Member's Christmas party.

-More than one police officer indicated that he was present while former Major Edwards conducted job interviews. In one interview Edwards asked an applicant if the applicant was gay. In another interview Edwards asked an applicant if he performed a specific homosexual act.

-One former senior police officer informed me that she had been told by a City Council Member that the member agreed to vote with Mayor Owens on a matter before Council in exchange for the Mayor's securing a promotion for a particular police officer related to the Council Member.

Special Committee Meeting

I have reviewed an audio recording, made by Chief Tyndall without Mayor Owen's knowledge, of what I believe was a special committee meeting called by the Mayor and attended by the Mayor, Mayor Pro Tempore Casey Hallman, Chief Dennis Tyndall, and City Administrator Jenny Cunningham, on March 10, 2014. The meeting was not publicized in keeping with the requirements of the Freedom of Information Act. The Mayor opens the meeting by citing the City ordinance that authorizes the Mayor to establish special committees to investigate matters and then states, "I appoint Casey."

The purpose of the meeting was to question the police chief as to whether the chief had sought to initiate a SLED investigation of former Major Matt Edwards or of the Mayor himself.

During the course of the meeting, which lasted for over 2.5 hours, the Mayor can be heard demanding that the chief tell him (the Mayor) if there is an investigation, what the subject is, why it was requested, and what evidence exists. Between minute 12 and minute 13 the Mayor says, "You have to tell me if you have prompted an investigation." He then admonishes the chief to "be careful and remember that vote." Throughout the recording the Mayor demands to be informed anytime there is an outside investigation initiated.

At 2:10:25 in the recording the Mayor can be heard telling Chief Tyndall:
"I don't know who you got in mind to replace him (referring to former Major Edwards) but you better have all the cards when you move because I will fight that till I am shitty as a bull. We are going to find out who has the hairiest balls."

At 2:14:05 in the recording the Mayor states to the chief:
"The next time you try and start an investigation of me I am going to fire you again."

CONCLUSION

Mayor Owens has created an atmosphere of intimidation among the employees of certain departments within the City of West Columbia. It appears that the Mayor has violated certain policies and procedures regarding personnel and procurement and that he has, through the issuance of direct and indirect threats, compelled City employees to violate, circumvent, or ignore required policies and procedures established by the City to safeguard the public interest, guarantee efficient use of City resources, and assure fair and equitable distribution of public services. Because the Mayor's proposals to Council often or generally went unquestioned, it appeared at all times to the impacted or threatened employees that the Mayor had the present ability to deliver on his threats and intimidation by having individuals fired or demoted.

Furthermore, he has improperly interfered with personnel decisions and orchestrated the hiring, firing, and demotion of individuals through the use of threats and intimidation. On at least one occasion he orchestrated the promotion of an employee into a position of authority and that employee subsequently exposed the City to potential civil liability and may have interfered with the administration of justice.

My review of the various materials I have mentioned and the interviews I have conducted lead me to conclude that the City's policies and procedures are appropriate and establish reliable processes for conducting the City's business. Current City ordinances also provide a solid underpinning for protecting the public interest, although there are opportunities to add specificity to the ordinances as they relate to the administration of the government and the management of personnel. I recommend amending the code to clarify authority as to hiring, terminating, and promoting employees and to more specifically define Council's authority regarding contact with and ability to direct staff.