

**City of Cayce
Special Council Meeting
April 19, 2012**

A Special Council Meeting was held this afternoon at 4:00 p.m. in Council Chambers. Those present included Mayor Elise Partin, Councilmen Steve Isom, Tim James, James Jenkins, and Kenneth Jumper, City Manager Rebecca Rhodes, and Municipal Clerk Tammy Barkley. City Attorney, Danny Crowe, Municipal Judge, Melody James, HR Manager, JoAn Roland and Charles McNair, Director of Public Safety were also in attendance. Mayor Partin advised that members of the press and the public were duly notified of the meeting in accordance with the FOIA.

Call to Order

Mayor Partin called the meeting to order. Councilmember Jumper gave the invocation and the assembly recited the Pledge of Allegiance.

Ms. Rhodes asked that Council amend the agenda to include Item III. Executive Session, A. Receipt of legal advice on the Airport issue and discussion of negotiations incident to the Agreement with Lexington County School District 2. Councilmember James made a motion to amend the agenda to include the Executive Session as requested by the City Manager. Mr. Jumper seconded the motion which was unanimously approved by roll call vote.

Other

- A. Discussion of Potential Selection Process of Municipal Judge and Annual Evaluation

Judge James provided Council with a timeline for her nomination to the Workers' Compensation Commission. She stated that she has made it through the hearings this past week successfully. She stated that she is expecting the Senate to put it to a vote next week and could be confirmed as early as next week. She stated that she is filling a partial term which means she will be moving into this position quickly and suggested that the City move forward to replace her on a temporary basis. She stated that she and Mr. Crowe have reviewed the law on options that would be available. She stated that the City has a contract with the County for bonds and can get a magistrate to fill in for a couple of weeks. She stated that there is also an option to hire a temporary judge until a permanent replacement can be found. Mayor Partin stated that it could be as early as two weeks when a replacement would be needed. Judge James stated that she has already spoken with the magistrate's office and they can handle court for the City for the next two weeks. She stated that as part of Council's general discussion,

she has not been reappointed in a long time and has been held over. She stated that the City's ordinance states that the term for an appointment is four years and that State law states from a two to a four year term. She stated that through Council's vetting, Council would need to decide on the term limit and the appointment or reappointment of a judge. Mayor Partin stated that the City's code does not appear to reflect State law. Mr. Crowe stated that Council has an opportunity to set things straight and he suggested that Council appoint a temporary judge on an interim basis. He stated that his recommendation is a two year term for the municipal judge. Councilmember Jenkins inquired that since the judge had not been reappointed as outlined in State law, would that create issues with the cases she has tried. Judge James stated there is a provision within the law that allows for the judgeship to hold over without reappointment.

Councilmember James inquired if the permanent position would be a new term or to complete an unexpired term. Mayor Partin suggested that the new judge serve on an interim basis and that the appointment of the new permanent judge take place after the November election for a two year term. Councilmember James concurred. Mr. Crowe suggested that Council may want to ask Judge James to provide any recommendations she may have for the interim judge position so that council could begin the process of finding an interim judge. Judge James stated she would be happy to provide this information to Council. Councilmember James inquired if Judge James could provide information on any particular qualifications that Council should be looking for in this position. Judge James stated that the court process is becoming more and more complicated so she would choose a person who had as much qualifications as possible in regards to education and background. She stated that out of the three new magistrates appointed, two were lawyers. She stated that across the state people are looking for someone with more education. In addition, she stated you have to have someone that understands very clearly the court's lines with regard to impartiality, ex parte communication, etc. She stated that whoever is hired, it is a grass roots court and people will see that individual as the face of the City of Cayce.

Judge James stated there have been several orders that have come down from Chief Justice Toal and she expects more to come down. She stated that one of the things that has changed is the jurisdictional limit with regards to petty larceny and forgery was \$2,000 and under and now it is \$1,000 which increases the case load and the difficulty to try these cases.

Mayor Partin stated that Council needs to consider the following (one would be the position description for the interim and thus someone who would be interested in full term or could be two different people). She stated that if Council has some ideas they would like to put together for the description they could present it to Ms. Roland and then have her meet with Judge James to get her input and present to Council for review. Judge James stated that the job description is pretty much set out in the state statute and the City's code of laws. Ms. Rhodes stated that Council would also need to decide the term limit and education qualifications. Councilmember Jenkins inquired that if an attorney was hired if the budget could sustain the salary. Ms. Rhodes pointed out that Judge James is an attorney. Mr. Crowe advised that Council could set the salary.

Councilmember James stated that some people take on this position as a stepping stone in their career and that is more important to them than the salary.

Ms. Rhodes suggested that when Ms. Roland and Judge James get together to construct the advertisement that the ad request a resume rather than having each of the candidates fill out the City's application so that more information could be provided.

Mayor Partin asked Council to review the evaluations in their packets—two different self-evaluation forms and a staff evaluation form. She stated that Council does not see the Judge during the performance of her duties and therefore no Council evaluation form is included. She stated that there are many other reasons why it would not be appropriate for Council to do an evaluation, but to have this type of feedback from the Judge and staff would assist Council in holding an annual conversation with the Judge. Councilmember James inquired if annual evaluations would be enough and suggested that bi-annual evaluations be held. He stated that if the discussions only take place once a year, things that are needed may not be included in the budget. Councilmember Jenkins stated that if Council does a bi-annual evaluation it may appear that Council does not trust the judge or is not happy with their service to the city. Councilmember James suggested that the word evaluation be changed. Ms. Rhodes stated that she has not been in a community where an evaluation is done on the Judge or City Attorney. She stated that what she has seen is that the Judge would attend a Council meeting and Council would go into executive session to discuss the needs of the court system and communication lines are open. It was agreed that instead of an actual evaluation of the judge, bi-annual departmental reports would be held. Copies of the self-evaluation forms were provided to Judge James to review.

Ms. Rhodes stated that the Judge hires the Clerk of Court and there is only one person in that department and any staff evaluation and/or input would be directly attributable to that person which may place them in an interesting position. She asked Council to keep this in mind. Ms. Rhodes inquired if Council wanted to set a timeline on bringing this back to Council to review. She inquired if Council wanted to have a permanent judge serve as interim until after the November election and then appoint that person as the permanent judge at that time. Mr. Crowe suggested while Council is trying to get back on track, Council could appoint the first term as two years and five months and then could get on track. He stated that Council has the ability to control that. Council decided that the item needed to be placed on the second meeting in May to make final decisions on the process. Judge James stated that she feels it is approaching the point where the City may want to consider a full time judge or two part time judges.

B. Discussion of Evaluation Process for City Attorney

Mayor Partin stated that Council had been provided with a typical performance review rating sheet for the City Attorney. Ms. Rhodes stated that Mr. Crowe was appointed in 1998 and in accordance with the City Code he has been rolling over. Mr. Crowe stated that he has always considered the position as an at-will position so he

feels the term is for Council's convenience and gives an opportunity for departure to occur if appropriate. He suggested that after a new Council is seated, a reappointment or appointment of the City Attorney should take place. He stated that the suggested performance review sheet looks good to him and he welcomes this as a general matter and personally. Mayor Partin stated that her viewpoint on annual evaluations is that they should be a mere formality and that individuals should hear from Council regularly on whether they are doing a good job or should improve. Councilmember James concurred with Mayor Partin's comments. She asked Council to provide any additional input they have on the evaluation form to Ms. Roland who would prepare a workable form for Council to review.

Councilmember James inquired as to who the prosecutors report to in the City. He stated he felt this needed to be solidified and in research he has done, most of them report to the City Attorney. He stated that he would have no problem with this being the process for the City of Cayce. Mr. Crowe stated he felt that would be a good thing to do as there is no accountability otherwise and it makes good organizational sense. Ms. Rhodes stated that the prosecutor is also appointed by Council. She stated that she has done research through the manager's listserve and most of the responses indicate that the prosecutors report to the City Attorney. Discussion took place regarding public safety officers prosecuting their own cases and the fact that if more expertise is needed, a prosecutor would be asked to come in. Ms. Rhodes stated this is a widely used process throughout the South Carolina municipal court system. Councilmember James inquired if Chief McNair had any problems with the prosecutors reporting to the City Attorney. Chief McNair advised he had no problems with this at all and in fact it would be helpful to know who he could go to if there is an issue with a prosecutor. Mayor Partin asked that staff provide Council with the amount of additional funds it would cost the City to have the prosecutors report to the City Attorney so that it could be included in the budget. Ms. Rhodes stated there are no City codes regarding the prosecutors reporting to the City Attorney and Council would need to amend the Code to include this responsibility. She asked the City Attorney to draft the amendment for Council's review. She stated she would have Ms. Roland prepare the City Attorney's evaluation form in the city's format and return it to Council for review.

C. Discussion of Evaluation Process for City Manager's Annual Review

Mayor Partin stated that the City's HR firm had put together the evaluation form for the City Manager and asked for Council's input. Ms. Rhodes stated that management is also working with the HR firm to change the city's evaluation form for staff which will mirror some of the criteria on the City Manager's evaluation. Councilmember Isom stated that he has reviewed the form and it is a drastic improvement over the format used in previous years and the weighting factor takes care of his major concerns. Councilmember James stated that there are measurable objectives for the coming year for Council to complete. He stated he feels the form is very thorough. Ms. Rhodes stated that is very difficult for a manager to determine what is important to each Councilmember and Council as a whole so it will be good to have goals and Council's guidance where they would like her emphasis to be. Mayor Partin

inquired if Council wanted to do an initial evaluation and work with Ms. Rhodes to outline the goals for going forward and then have a discussion with her after six months, followed by annual evaluations in January each year. Mayor Partin inquired if the July regular meeting would be a good time to begin the process with the City Manager. Council agreed that the July meeting would be an appropriate time.

Executive Session

- A. Receipt of legal advice relating to claims by the City and other matters covered by the attorney-client privilege and discussion of negotiations incident to the Agreement with the Lexington County School District 2

Councilmember James made a motion to move into Executive Session to discuss the matters above. Councilmember Jenkins seconded the motion which was unanimously approved by roll call vote.

Reconvene

After the Executive Session was concluded, Councilmember James made a motion to reconvene the Special meeting. Councilmember Jumper seconded the motion which was unanimously approved by roll call vote. Mayor Partin announced that no vote was taken in Executive Session other than to adjourn and resume the Special meeting.

Possible actions by Council in follow up to Executive Session

No action was taken by Council in follow up to the Executive Session.

There being no further business, Councilmember James made a motion to adjourn the meeting. Councilmember Jenkins seconded the motion which was unanimously approved by roll call vote. The meeting adjourned at 6:15 p.m.

Elise Partin, Mayor

ATTEST:

Tammy P. Barkley, CMC, Municipal Clerk