

MEMORANDUM

TO: Charlotte City Council

FROM: Thomas M. Hitch, City Attorney

RE: **CITY ATTORNEY REPORT**

DATE: November 5, 2020

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The following is my report to the City Council on issues in which our office has been engaged since the last Council meeting:

**1. Council Procedural Matters.** I consulted with the Mayor and the City Manager on three issues. The first involved the Zoom meeting legislation which modified the Michigan Open Meetings Act and clarified that all Zoom meetings held by governmental bodies, such as the City Council, have complied with the Open Meetings Act since the first COVID-19 order in March, 2020.

The second issue involved an alleged ethics issue relative to a campaign donation. It is my opinion that, as the City Council has no authority to remove a sitting Council Member other than as explicitly set forth in the Charter, this was not an issue that would be germane or appropriate if considered by the City Council.

The third issue involved procedures previously adopted by the Council in 2016. The City Manager asked if I would review those Council procedures and wanted clarification if the current City Council could make an amendment to those procedures. It was my opinion that each City Council could adopt those procedures as that City Council, in its sole discretion, deems fits.

**2. Contract Review.** I reviewed a number of contracts for the City during the last several weeks. I reviewed the Red E Charging Stations contract, the Delta Township Tax Roll Preparation contract, and those, as drafted were fine.

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I have reviewed Highland Products Group, LLC contract as it pertained to the revision with trash receptacles in the city parks, and other locations. In shipping the trash cans, a number were broken but not discovered due to COVID-19. Bryan Myrkle has reached out to the company but they appear to be uncooperative. I have reviewed the contract and filing a lawsuit would be prohibitively expensive as any lawsuit must be brought in the county where the company is located in Tennessee.

I am in the process of sending them a letter making a demand and will keep the Council apprised.

3. **Election Commission.** I participated in the election commission proceedings as required under the City Charter.

4. **125 S. Bostwick.** I have had the opportunity to review the issue surrounding the purchase of the parking lot property located at 125 S. Bostwick and the damages incurred by the City on account of the removal of an underground storage tank. It appears that the City was supplied with an environmental report which disclosed that there was an underground storage tank. For whatever reason, the City came to some belief that the storage tank had been removed and purchased the property from the purchaser who had obtained the property from Bank of America.

While the City has incurred costs in removing the tank, it has no claim under the contract from the seller and I believe it has no claim against Bank of America. At this point, it is my opinion there is no further action that can be taken on this matter.

TMH:cf