



OFFICE OF THE CITY CLERK

BIANCA L. TIRADO, CITY CLERK

COUNCIL RULES

FEBRUARY 20, 2025, 4:00 P.M.

Committee Members Present:

Canneth Lee, Rachel Tomas Morgan, Troy Warner, Ophelia Gooden-Rodgers

Committee Members Absent:

None

Others Present:

Bianca L. Tirado, Elivet Quijada-Navarro, Matthew Neal, Bob Palmer

Presenters:

Bob Palmer

Agenda:

Discussion on Pending Complaints Against Councilmembers

Members marked with an asterisk (*) are in virtual attendance.

Please note the attached link for the meeting recording:

<https://docs.southbendin.gov/WebLink/browse.aspx?dbid=0&mediaid=398587>

Committee Member Rachel Tomas Morgan called to order the Council Rules Committee meeting at 4:00 P.M.

Discussion on Pending Complaints Against Councilmembers

Committee Member Tomas Morgan requested that Attorney Bob Palmer explain, for the public, Councilmember Ophelia Gooden-Rodgers's participation on the Rules Committee.

Attorney Palmer stated that, pursuant to the Municipal Code with respect to Section 2-10.1 of the Rules Committee ordinance, if a complaint is filed against a sitting member of the Rules Committee, that member cannot participate in the discussions regarding that complaint. Consequently, a substitute has to be named to take that person's position; Councilmember Ophelia Gooden-Rodgers was appointed to take that position during the first complaint being discussed. If there has been finding of a violation, Councilmember Gooden-Rodgers will remain sitting for the remainder of the complaints. If there is no finding of a violation the Councilmember who has been replaced will automatically resume their position as a member of the Council Rules Committee and participate in any other complaint discussions.

Committee Member Tomas Morgan stated that Section 2-10 of the Municipal Code provides for the current meeting to be conducted in a non public session, and requested attorney Palmer to explain, for the public, why the meeting is open to the public.

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Jasmine Jackson
CHIEF DEPUTY CITY CLERK / CHIEF OF STAFF

Matthew Neal
DEPUTY CITY CLERK / DIRECTOR OF POLICY

Margaret Gotsch
DIRECTOR OF SPECIAL PROJECTS

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Attorney Palmer stated that there is a conflict between Section 2-10 of the Municipal Code which was enacted in 1977, and Indiana's Open Door Law which was passed in 1991. While the conflict has not yet been addressed, it is in the best interest of the City, the Rules Committee, and the Common Council to hold the meeting publicly for transparency and to prevent unnecessary litigation and expenses.

Committee Member Tomas Morgan asked Attorney Palmer if the conflict has any effect on other provisions of Section 2-10.

Attorney Palmer answered no and stated that the decisions made during the meeting must be made by the Rules Committee alone; therefore, only Committee Members and their attorney will be permitted to speak.

Committee Member Tomas Morgan stated that the first (1st) complaint was referred to Attorney Palmer for a preliminary investigation at the time of filing.

Attorney Palmer stated that for his preliminary review he consulted his conversations with previous Corporation Counsel Stephanie Steele, his conversations with current Corporation Counsel Sandra Kennedy, the contract at issue, the Health and Public Safety Committee Meeting Minutes of September 13, 2021, his review of the relevant statutes regarding financial disclosure statements, and his conversations with the respondent.

Councilmember Gooden-Rodgers requested further elaboration.

Attorney Palmer stated that in 2020 Council President Tim Scott resigned, and the respondent in the complaint was appointed to take President Scott's position as representative of his district. There were questions raised regarding the respondent's connection with Goodwill Industries and the City's Group Violence Intervention (GVI) program. In January of 2021 the City entered into a contract with Goodwill regarding GVI. That contract stated that no member, officer, or employee of the City or its designees or agents, and no member of the governing body of the City of South Bend or the organization, who exercise any functions or responsibilities with respect to the receipt and the use of City funds during his or her tenure or for one (1) year thereafter may have any financial benefit, direct or indirect, in any contract or subcontract or the proceeds thereof for work to be performed in connection with the program. During the September 13, 2021 Health and Public Safety Committee meeting, Debie Coble, President and Chief Executive Officer of Goodwill Industries of Michiana, stated that the respondent's salary was paid directly by Goodwill funds, making it clear there was no conflict of interest. Disclosure statements only need to be filed by employees or elected officials if there is a conflict of interest, and since there was no conflict of interest there is no need to file a disclosure statement. Furthermore, the South Bend Common Council does not approve contracts, review contracts, execute contracts, or make purchases that could create a conflict of interest with one (1) of its members.

Committee Member Warner asked Attorney Palmer what options, actions, or motions are available to the committee.

Attorney Palmer stated that because the preliminary review has been completed the committee may either move to dismiss the complaint or refer the complaint for a public hearing.

Committee Member Warner moved to dismiss the complaint, which was seconded by Coouncilmember Gooden-Rodgers and carried by a vote of three (3) ayes.



Committee Member Rachel Tomas Morgan - <i>Aye</i>	Committee Member Troy Warner – <i>Aye</i>
Councilmember Ophelia Gooden-Rodgers - <i>Aye</i>	

Committee Member Canneth Lee stated that the second (2nd) complaint was referred to Attorney Palmer for a preliminary investigation at the time of filing.

Attorney Palmer stated that for his preliminary review he consulted his conversations with the respondent, his review of the applicable ordinance, and review of the complaint itself.

Committee Member Canneth Lee requested further elaboration.

Attorney Palmer stated that the complaint alleges a Councilmember violated the Municipal Code by looking at a cell phone during the Privilege of the Floor section of a council meeting. Attorney Palmer stated that the Municipal Code allows for Councilmembers to use electronic devices for accessing City information, City presentations, and to record minutes and notes. Attorney Palmer spoke with the respondent and was assured the use of technology was in accord with the requirements of the Municipal Code.

Committee Member Troy Warner stated that this is a frivolous and targetted complaint, as during the meeting in question multiple Councilmembers can be seen using their cell phones.

Committee Member Tomas Morgan concurred with Committee Member Warner, and asked for Attorney Palmer's recommendation.

Attorney Palmer stated that his recommendation is for the complaint to be dismissed, and for there to be a reminder of this ordinance made to Councilmembers at the beginning of the Council meeting.

Committee Member Lee stated that since the start of COVID more technologies have been utilized during Council meetings.

Attorney Palmer stated that the ordinance predates COVID, but still remains in effect.

Committee Member Tomas Morgan moved to dismiss the complaint, which was seconded by Committee Member Warner and carried by a vote of three (3) ayes.

Committee Member Canneth Lee - <i>Aye</i>	Committee Member Rachel Tomas Morgan – <i>Aye</i>
Committee Member Troy Warner - <i>Aye</i>	

Committee Member Lee stated that the next series of complaints will be discussed together as they all raise the same issue. These complaints have not yet been given a preliminary review. The committee will determine, if the specific facts alleged in the complaint are proven to be true, whether the complaint would constitute a violation of the rules and regulations.

Attorney Palmer stated that the Indiana Code defines “resident” as the place where a person has the person’s true , fixed, and permanent home and principal establishment, and the place to which the person has, whenever absent, the intention of returning. The Indiana Supreme Court has stated that a person who leaves their home temporarily, with the intent of returning, has not lost their original residence. The respondent in this complaint vacated their home after water damage and



mold created an unsafe living environment. Attorney Palmer stated that there are no facts alleged in the complaint regarding any intention of the respondent to permanently vacate their residence; therefore, accepting every fact stated in the complaint as true the complaint does not state a violation of any statute or ordinance.

Committee Member Tomas Morgan stated that there is ongoing litigation regarding the residency status discussed in the complaint, and asked Attorney Palmer what he recommends the committee's role should be given such litigation.

Attorney Palmer stated that one (1) option would be for the committee to defer ruling until the litigation is complete, but rather recommends the committee dismiss the complaint and if a court determines the respondent's residence has changed a new complaint may be filed.

Committee Member Lee asked Attorney Palmer for instances previously where a Councilmember permanently moved outside of their district.

Attorney Palmer stated that former Councilmember Randy Kelly had moved out of his district, but wanted to continue to be a member of the Common Council. Once it was made clear that it was Randy Kelly's intent not to return to the home in his district it was decided that it would be best for him to resign from the Council.

Committee Member Warner stated that the statute says someone has a residence until they have abandoned that residence, and the intent to abandon the residence would need to be clearly demonstrated. Committee Member Warner stated that the complaint process needs to be updated to prevent abuse by people pursuing political and personal attacks. Committee Member Warner also stated that the individual had the right to file the suit and the respondent has the right to defend themselves, but this is not something for the committee to take action on.

Committee Member Tomas Morgan stated that in light of the pending lawsuit it is not the role of the committee to respond to the allegations.

Committee Member Lee thanked Attorney Palmer for the information he provided regarding the complaint.

Committee Member Warner moved to dismiss the complaint, which was seconded by Committee Member Tomas Morgan and carried by a vote of three (3) ayes.

Committee Member Canneth Lee - <i>Aye</i>	Committee Member Rachel Tomas Morgan – <i>Aye</i>
Committee Member Troy Warner - <i>Aye</i>	

With no further business, Committee Member Canneth Lee adjourned the Council Rules Committee meeting at 4:40 P.M.

Respectfully Submitted,
Council Rules Committee

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