

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

Joshua Hooser, Esq.,)
)
Plaintiff,)

Civil Action No. 2021-CP-10-2201

v.)

AFFIDAVIT OF DESIRÉE FRAGOSO

City of Isle of Palms,)
)
Defendant.)
_____)

PERSONALLY APPEARED BEFORE ME, DESIRÉE FRAGOSO, who first being duly sworn, deposes and states as follows:

1. I serve as the City Administrator for the City of Isle of Palms.

2. Members of the Isle of Palms City Council are each issued an iPad for their official use. The iPads are the only electronic devices that are furnished by the City to City Council members. The City Council members are not furnished cellphones by the City, nor does the City provide any type of cellphone allowance. Any cellphone used by a member of City Council is a personal device.

3. Members of the Isle of Palms City Council are also each provided a City email address to use for official City business. Council members send and receive email communications using that email address.

4. In October 2016, the Isle of Palms City Council has adopted and is expected to follow a policy entitled "Policy on Elected Officials' Use of City Owned Electronic Devices and E-Mail Accounts." A true and accurate copy of that policy is attached to this affidavit as an exhibit.

5. On March 16, 2020, the Isle of Palms City Council declared a State of Emergency resulting from the COVID-19 virus. As part of the City's response to the virus, I established a group text between myself and members of City Council that was intended to provide a means for myself, as the City Administrator, to be able to communicate quicker and more efficiently with Council members to address City business during the pandemic and the resulting State of Emergency.

6. The group text was not established to circumvent the requirements of the Freedom of Information Act in any respect. The Council members were advised not to use the group text to discuss among themselves any City business. The initial text that I sent on March 16, 2020 made the purpose and use of the group text clear. I wrote: "Test Text for Council Group. I will use this to make notification to Council about the COVID 19 situation and the City's actions. Please refrain from replying to all as it would be considered a public meeting. You may contact me directly if you have any questions or concerns."

7. The group text has been used by me, as the City Administrator, to communicate directly with Council members about COVID-19-related and other emergent issues, including staffing matters and information learned from other municipalities and governmental entities, including Executive Orders issued by the Governor. Additionally, the City began conducting its meetings by Zoom, and the group text was used by me for scheduling purposes particularly with respect to the scheduling of special called meetings at which COVID-19-related issues would be discussed. The group text provided me a means to communicate more efficiently and more quickly regarding such matters.

8. The Council members were instructed not to use the group text to address any official business. On occasion, during its use, the group text was used to share personal

information, photographs, and weather information, none of which pertained to official City business.

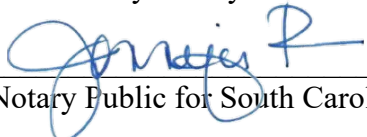
9. The group text was never intended to be used, nor has it been used, by Council members to discuss or act upon any issue over which the City Council has supervision, control, or authority. The group text has been used solely as a tool for me to communicate directly and more efficiently with Council members regarding COVID-19 issues, other emergent matters, and for ease of scheduling official meetings.

FURTHER AFFIANT SAYETH NOT.



DESIRÉE FRAGOSO

Sworn to and subscribed before me this the 23rd day of July 2021.

 (SEAL)

Notary Public for South Carolina

Commission Expires: 12-13-2029