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MEMORANDUM

TO: Honorable Council President Terrance Freeman

FROM: Paige H. Johnston, Chief of Legislative Affairs & Land Use, OGC 

RE: Council Rule 4.1101 Appearance at the Rules Committee and Council President Appointments of Council Members

DATE: August 8, 2022

I. Question.

Are Council Members, designated by the Council President to board and commission assignments and ex- officio/liaison roles to boards and commissions, required under Rule 4.1101, Ordinance Code, to attend the Rules Committee meeting where their appointment is taken up?

II. Short Answer.

No.

III. Analysis.

In addition to committee assignments that are made on or after July 1st of each year by the new Council President, the Council President also designates special assignments for all Council Members to serve as members of certain boards and commissions, many as ex-officio (nonvoting members) or liaisons.

Some of these assignments are required by Florida Statutes (e.g., Value Adjustment Code) or by the Ordinance Code (e.g., Tourist Development Council). But all are ministerial in nature. The reason that a particular Council Member is assigned to each of these boards or commission is by virtue of their status as an elected council member, and for no other reason. Rule 4.1101, Council Rules, requires that "[e]ach appointee, prior to confirmation, shall be required to appear before the committee to which consideration of the appointment has been referred, and there may be interviewed by a member of the committee or any Council Member."

Rule 4.1101 applies to individuals seeking to serve on local boards and commissions and appointments for employees being promoted to certain positions that require confirmation

by Council pursuant to the Ordinance Code or state law. In this context, it makes sense that Rule 4.1101 was promulgated since many of these individuals are employees, residents, or members of the business community but may not be well known to Council Members. The requirement of Rule 4.1001 for candidates to appear before the Rules Committee to be interviewed and questioned is necessary so that the Committee can determine if the candidate is qualified for that position. These candidates are also encouraged to make direct contact with the members of the Rules Committee in advance so that they can meet to discuss the appointment and their experience one-on-one.

Several of the special assignments made by Council President Freeman in his July 8 memorandum will be coming before the Rules Committee for consideration on August 15th.

The “appointment” of Council Members by the Council President is ministerial and due to their status as an elected Council Member. The Council Member “appointees” as members of Council are well known to the Rules Committee and their appointment is not related to their experience or qualifications to serve on the board or commission but is assigned by the Council President. The “appointment” and consideration at Rules Committee is an administrative function to effectuate the Council President’s designations for the Council year assignments. Moreover, the traditional one-on-one meetings prior to the Rules Committee for these special assignments would not be permitted under the Sunshine Law.

IV. Conclusion.

For the foregoing reasons, it is my opinion that the Council Members appointed by special assignment do not need to appear before the Committee pursuant to Rule 4.1101.

I trust this information responds to your request; please contact me directly should you like to discuss further.