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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

June 3, 1998

Hazel Hall
Town of Lyman Election Commission
81 Groce Road
Lyman, South Carolina 29365

RE: Informal Opinion

Dear Ms. Hall:

Your opinion request has been forwarded to me for reply. You have asked whether an individual employed as a law enforcement officer for the Greenville Spartanburg Airport Commission may simultaneously serve as a member of town council. It is my understanding that this individual derives his law enforcement authority solely from his appointment as a constable pursuant to Section 23-1-60 of the South Carolina Code of Laws and is compensated by the Airport Commission. Thus, this opinion will only address the question of whether a constable appointed pursuant to Section 23-1-60 may serve as a member of town council.

Article XVII, Section 1A of the State Constitution provides that "no person may hold two offices of honor or profit at the same time ...," with exceptions specified for an officer in the militia, member of a lawfully and regularly organized fire department, constable, or notary public. This Office has previously interpreted this provision as being applicable only to individuals appointed by the Governor pursuant to Section 23-1-60 of the South Carolina Code of Laws as state constables. Op. Atty. Gen. dated January 31, 1992.

Based on the information provided, this individual derives his law enforcement authority solely from his constable commission pursuant to Section 23-1-60. Therefore, such position would not be considered an office for dual office holding purposes. Accordingly, an individual holding a constable commission pursuant to 23-1-60 may

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simultaneously serve on town council. Of course, this opinion is based on the information provided. If there are additional facts which at the present time I am unaware or if this individual derives his law enforcement authority through another statute, the conclusions reached herein may be different.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch

Assistant Attorney General