

1982 WL 189176 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 22, 1982

*1 D. Reece Williams, III, Esquire
Deputy County Attorney
Post Office Box 192
Columbia, South Carolina 29202

Dear Mr. Williams:

In response to your request for an opinion from this Office regarding the legality of a proposed Richland County Council Rule that, if enacted, would require all non-emergency matters to be first referred to one of two Council committees for recommendation before full council consideration or action, my opinion is that the proposed rule is authorized.

As you note in your letter, [Section 4-9-110, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, empowers each county council 'to determine its own rules and order of business' so that the Richland County Council is expressly authorized to adopt rules of procedure. Proposed Rule 4.2 provides:

The Chair of County Council shall be an exofficial member of all standing committees. All matters, excluding emergency matters, shall be referred to a standing committee for recommendation before Council shall take any vote or action thereon. Any member or the Administrator shall have the right to place a matter on the agenda of a standing committee for a vote on a recommendation with notification to the chair of the committee. [Emphasis theirs.]

In my opinion, this procedure does not violate the individual rights of members of the Richland County Council or of citizens in general. It merely provides an efficient method to screen the matters that the full eleven-member Council is to hear. The conclusion that it does not prevent anyone (including a Council member) from presenting a matter of concern to the full Council for its consideration is bolstered by the procedure set out in Rule 4.7, to wit:

4.7 Six (6) members of Council may call an item out of committee onto the Council agenda.

In addition, I understand from your letter that Rule 4.7 may be amended to authorize three (3) members to recall an item.

In [Gigler v. Klamath Falls, \(Ore.\) 537 P.2d 121 \(1975\)](#), a council rule barring a nonresident from being heard at city council meetings without prior notice was upheld against a challenge that it violated the nonresident's First Amendment right of free speech. In [Duddles v. City Council of West Linn, \(Ore.\) 535 P.2d 583 \(1975\)](#), the court held that the city council was free to adopt its own standards governing standing to appear before it and to provide who would be entitled to remonstrate before it so long as the standards were consistent with due process requirements. See also, 4 McQUILLIN MUNICIPAL CORPORATIONS § 13.42; id., § 15.09.

For the foregoing reasons, my opinion is that proposed Rule 4.2 of the Rules of Richland County Council is a valid one.

With kind regards,

Karen LeCraft Henderson
Deputy Attorney General

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