

1981 WL 157771 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 12, 1981

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Attorney at Law
Post Office Box 6607
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Dear Mr. Weeks:

In response to your request for opinions from this Office regarding the Town of Jackson, I shall respond to them in the order in which you have posed the questions as follows:

1. In my opinion, a city council member is authorized to transact business with the municipality, either selling insurance or providing mosquito spraying service to the municipality, provided he complies with the requirements of [Sections 5-7-130 and 8-13-460, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, *i.e.*, he must disclose his financial interest in the business transaction and refrain from voting thereon and he must file a statement with the State Ethics Commission disclosing his financial interest and again refrain from voting thereon.

2. Ordinarily no competitive bidding is required unless the municipality requires competitive bidding by ordinance. As you point out, however, [Section 5-21-30, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, prohibits municipal officials from contracting with their municipality unless they are the low bidder after a public call for bids is made. As I read [Section 5-21-30 of the Code](#), it appears to prohibit entirely any such contract involving a municipality of under thirty thousand inhabitants regardless of whether or not the municipal official is the low bidder. This interpretation of [Section 5-21-30](#) would of course prevent the Town of Jackson from entering into the aforementioned contracts; [Section 5-7-130 of the Code](#), however, allows municipal officials of any South Carolina city to enter into contracts with the municipalities if the requirements of that Section are met and, inasmuch as [Section 5-7-130](#) is the later enactment, it supersedes the earlier conflicting statute to the extent of the conflict. *See*, 59 STAT. 692, § 7 at 742 (1975). Accordingly, my opinion is that the contracts may be entered into so long as the requirements of [Section 5-7-130](#) are met and, while I believe that the provisions of [Section 5-21-30\(2\)](#) no longer must be complied with, I would recommend compliance from an abundance of precaution. If the Town of Jackson requires competitive bidding by ordinance, then the contracts would have to comply with that ordinance. *See also*, § 8-13-480, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended.

3. A written disclosure of the city council member's interest is expressly required by [Section 8-13-460, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, and most probably impliedly required by [Section 5-7-130, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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