

1973 WL 26997 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 10, 1973

*1 The Honorable Henry C. Chambers

Mayor

City of Beaufort

Beaufort, South Carolina

Dear Mayor Chambers:

Please accept my apologies for not having sooner answered your letter of November 12, 1973, but I have been away from the City for the last two weeks and have only today returned to my Office. In the meantime, Mr. Steven Savitz of this Office has researched the problem and I am in agreement with his conclusions, which are as follows:

The Code of Laws for South Carolina, 1962, Section 47-804, relates to municipal officers generally and permits officers of a city to perform work for or to furnish materials to the municipal corporation of which he is an officer in two circumstances, the latter of which is applicable to the City of Beaufort. This section provides that:

Any municipal officer may enter into such a contract (to perform work or furnish materials) whenever the contract is awarded to him as low bidder after a public call for bids and such contract be allowed by the unanimous vote of the city or town council upon each particular contract, such vote to be taken by yeas and nays and entered upon the council's minutes.'

I am advised that Beaufort has adopted the council-manager form of government but I am not precisely certain as to which statute this may have been undertaken. If the council-manager form of government provided for in Sections 47-691, et seq., Code of Laws, is the vehicle under which the council-manager form of government was adopted, then the provisions of Section 47-699.4 would be applicable. This authorizes officers of a city having a financial interest in a contract to enter into such a contract when a majority of the city council determines this to be in the best interest of the city. The councilman whose interest is involved shall not vote on the question.

The first of the statutes referred to above is undoubtedly applicable, although the latter one may be applicable also, depending upon what statutory provisions have heretofore been followed in adopting the present form of government for Beaufort. In either event, authority for your entering into a contract with a city exists by virtue of these provisions.

With best regards,

Cordially,

Daniel P. McLeod

Attorney General

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