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The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

July 17, 1997

The Honorable Walton J. McLeod  
Member, House of Representatives  
308 Pomaria Street  
Little Mountain, South Carolina 29075

Re: Informal Opinion

Dear Representative McLeod:

Your recent opinion request has been forwarded to me for reply. You have asked whether the power to appoint members of the Newberry County Community Hall Commission (hereinafter "Commission") rests with the Newberry County Council or the remaining members of the Commission.

The Commission was created by Act No. 221 of 1949. Included in this enabling legislation was a provision for the appointment of Commission members. Pursuant to this legislation, the initial members were appointed to staggered terms of office. Thereafter, it was provided that all vacancies on the Commission by reason of death, resignation or expiration of the term were to be filled by majority vote of the remaining members of the Commission.

In 1982, former Attorney General McLeod was asked for an opinion as to the proper method of appointment for members of eight boards and commissions in Newberry County, including the Commission, which were created prior to the advent of Home Rule. In an opinion dated September 23, 1982 (copy enclosed), the former Attorney General examined the appointment of these boards and commissions in light of the Home Rule Act. In his analysis, the former Attorney General cited Section 4-9-170 of the South Carolina Code of Laws, which provides in pertinent part as follows:

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... beginning January 1, 1980, the council shall provide by ordinance for the appointment of all county boards, committees and commissions whose appointment is not provided for by the general law or the Constitution, but this authority shall not extend to school districts, special purpose districts of other political subdivisions created by the General Assembly.

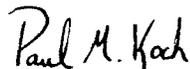
The former Attorney General concluded that since the appointment of members of the Commission was not provided for by either the general law or the Constitution of South Carolina, the Newberry County Council was the appropriate body to provide for the appointment of members of the Commission.

In 1991, this Office was asked to reconsider the September 23, 1982 opinion as it specifically related to appointments to the Newberry County Hospital Board. In an opinion dated June 4, 1991 (copy attached), this Office reviewed the September 23, 1982 opinion in its entirety and concluded that it was not clearly erroneous. Accordingly, as stated in the September 23, 1982 and June 4, 1991 opinions, it is the opinion of this Office that the Newberry County Council is the appropriate body to provide for the appointment of members to the Commission.

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