

1976 WL 30825 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 11, 1976

*1 David B. Ward, Esquire
City Attorney
P. O. Box 10167 F.S.
Greenville, South Carolina 29603

Dear Mr. Ward:

You have requested an opinion from this Office as to whether or not the municipal council of City View has the authority to abolish the City View Public Works Commission (Commission). In my opinion, it does.

Although the original City View Water and Sewer District (District) was statutorily created in 1929 [36 STAT. 859 (1929)], the act creating it was repealed in 1960 and all District assets were transferred to the Town of City View [51 STAT. 2479 (1960)]. Subsequently, the present Commission was created by municipal ordinance and its original members were the three commissioners of the District then serving [Chapter 9, § 9-1, Code of Laws of Town of City View]. Inasmuch as the present Commission was created by municipal ordinance, it can be altered or abolished by municipal ordinance. See, 3 McQUILLIN MUNICIPAL CORPORATIONS Elections, Officers and Employees §§ 12.39 and 12.121 (3rd Ed. 1973); See also, §§ 47-30 and 47-45, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.); cf., §§ 47-73 and 47-89, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.).

You have also asked if such an ordinance can take effect immediately upon its adoption instead of at the expiration of the terms of the present Commissioners. In my opinion, it can. See, 62 C.J.S. Municipal Corporations § 555 at 1036 ('[t]his power [to abolish] may be exercised at discretion without regard to the term or incumbency of any officers of the department'); cf., § 47-29.2, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.).

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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