

1974 WL 27830 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 26, 1974

**\*1 Re: Dual Office Holding.**

Francis G. Holliday, Jr.  
Post Office Box 2  
Chester, South Carolina 29706

Dear Mr. Holliday:

You have requested that this Office advise you as to whether an individual may hold office as a City Councilman, and become City Recreation Director without violating the constitutional prohibitions against dual office holding.

It is clear that the office of City Councilman is such as to fall within the definition of 'public officer' as established by the leading case of [Sanders vs. Belue](#), 78 S.C. 171, 58 S.E. 762; where in the court defined 'public officer', as 'one who is charged by law with duties involving an exercise of some part of the sovereign power, either small or great, in the performance of which the public is concerned, and which are continuing and not occasional or intermittent.' The position of City Councilman being an office within the meaning of Article 6, Section 3 of the Constitution of South Carolina. The position of City Recreation Director, is one which is established pursuant to municipal ordinance, and as such comes within the dictates of the City Council. As such it appears to be in violation of those guides as set forth in the case of [McMahan vs. Jones](#), 94 S.C. 362, 77 S.E. 1022, which states that, no man in the public service should be permitted to occupy the dual position of master and servant.' This being the case, it would appear that the [McMahan](#) case, would prohibit the same individual from serving as City Councilman and City Recreation Director.

The prohibition of dual office holding is even more directed when it is urged that the same individual be City Councilman, City Recreation Director and hold a State constable's commission, which as continuously throughout our laws been held to constitute an office. [Edge vs. Town of Cayce](#) 187 S.C. 171, 197 S.E. 216.

It is therefore the opinion of this Office that the individual in question could not hold office as a City Councilman, a City Recreation Director, and a Special Police Commissioner.

I trust this has been sufficient in answering the question which you posed. If we may be of any further assistance to you, please do not hesitate to call or write.

Very truly yours,

Timothy G. Quinn  
Senior Assistant Attorney General

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