

1973 WL 26686 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 2, 1973

***1 Re: Powers of Mayor to employ and discharge**

William C. Coffey, Jr.
Attorney at Law
8 South Brooks St.
Manning, S. C. 29102

Dear Billy:

You have requested that this office advise you as to whether the Mayor of the Town of Manning has the authority to employ or discharge a City employee without the consent or approval of a majority of the Town Council?

The Town of Manning has a population of between 1,000 and 5,000 and is therefore governed by Section 47-301, et seq. Code of Laws of South Carolina 1962. Section 47-311 provides that: 'any such Town shall be governed by a Mayor and six Alderman . . .'. There are no specific constitutional or statutory provisions relating to the authority and responsibility of Mayors generally. However, Mayors are part of the City or Town Councils and have the right to vote in Council meetings. 1958-59 Op. Attorney General 188. A majority of the members of the Town Council (including the Mayor) constitutes a quorum, and a majority vote of the quorum is necessary to transact municipal business. 1952-53 Opinion of the Attorney General 174. Therefore, in the absence of an expressed delegation of the authority to hire and fire given by the Council to the Mayor, a Mayor would be without power to act without the consent of the majority of the quorum of the Town Council.

The preceding position is supported by McQuillen on Municipal Corporations. Sec. 12.73 states that: 'unless the law so directs, the Mayor or City Manager has no authority to appoint municipal officers.' Sec. 12.74 states that 'the action of a Council on an appointment is not subject to veto by the Mayor in the absence of authorization of such veto power. It would necessarily follow that the power of appointment being analogous to the power of removal and that the same applicable law would apply.

It is therefore the opinion of this office that the Mayor of the Town of Manning has no authority to remove City employees in the absence of an expressed delegation of such authority by the Manning Town Council.

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

Very truly yours,

Timothy G. Quinn
Senior Assistant Attorney General

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