

December 5, 2024

The Honorable Alan Wilson
c/o Opinion Section
P.O. Box 11549
Columbia, SC 29211

RE: Request for Attorney General Opinion on behalf of Town of Blythewood

Dear Mr. Wilson:

I serve as the Town Attorney for the Town of Blythewood. I am requesting an opinion from your office for the questions posed below on behalf of the Town of Blythewood

The Town of Blythewood is operated pursuant to a mayor-council form of municipal government. See S.C. Code Ann. § 5-9-10 et seq. For many years, the Town has employed a town administrator to assist the mayor. S.C. Code Ann. § 5-9-40 (“The mayor and council may employ an administrator to assist the mayor in his office.”). The current town administrator was hired by a vote of the Town Council on August 12, 2024. Currently, the Town also employs a finance manager, a marketing/special projects manager, and a town clerk. The salaries for these four positions were budgeted in the budget cycle for the 2024-2025 fiscal year. The Town’s fiscal year runs from July 1 to June 30.

The budgeted salaries for the Town’s administration positions are shown on the Town’s approved budget under “General Fund Expenditures: Administration: Salaries” in the base amount of \$555,416. A copy of the Town’s approved budget is attached hereto as Exhibit “A” and the approved budget can also be found at [https://cms6.revize.com/revize/blythewood/document_center/Government/Financials/Budgets/2024-2025/FY25%20Annual%20Budget%20\(Adopted%20%20Signed\).pdf](https://cms6.revize.com/revize/blythewood/document_center/Government/Financials/Budgets/2024-2025/FY25%20Annual%20Budget%20(Adopted%20%20Signed).pdf).

The budgeted amount of \$555,416 exceeds the amount of the four currently-employed administrative positions. It was anticipated that, among other possible administrative hirings, an assistant/deputy town administrator would be hired at some point during the 2024-2025 fiscal year, and the town administrator recently conducted interviews for this position.

As the chief administrative officer of the Town, see S.C. Code Ann. § 5-9-30, the mayor recently appointed a deputy town administrator to begin employment on January 13, 2025. Under the “strong mayor” form of government, a mayor has the power and duty to appoint all municipal employees other than those that must be specifically appointed by the Town Council (municipal clerk, see S.C. Code Ann. § 5-7-220; municipal attorney and municipal judge, see S.C. Code Ann. § 5-7-230; and town administrator, see S.C. Code Ann. § 5-9-40).

Upon announcing the hiring by the mayor of a deputy town administrator, the Town Council called a special meeting with the sole agenda item being the first reading of an ordinance to amend the Town's budget. The details of the budget amendment include, among other things, a reduction in the amount budgeted for salaries under the "General Fund Expenditures: Administration: Salaries" line item. The passage of this ordinance would effectively strip the budget of the appropriation for the appointment of additional administrative positions by the mayor. A copy of the Town Council agenda for December 5, 2024, is attached hereto as Exhibit "B". Upon information and belief, if the ordinance is passed on second reading, the money currently appropriated for administration salaries will be moved to a "contingency" fund elsewhere in the budget.

In addition to the state statutes setting forth the mayor's responsibilities in a mayor-council form of government, the Town's ordinances allow the mayor to "establish such additional positions as he or she deems necessary to effectively and efficiently carry out his or her duties and responsibilities as chief administrative officer of the town." Town Code § 32.01(B). Further, the "mayor may appoint persons to the positions established by the mayor under section 32.01(B) . . ." Town Code § 32.02(C).

As further background and framework, it is recognized that the Town Council must, by ordinance only, "[a]dopt budgets" and "establish, alter or abolish any municipal department, office or agency." S.C. Code Ann. § 5-7-260(1) and (3); see also S.C. Const. art. X, § 7 (stating each political subdivision shall prepare and maintain annual budgets which provide sufficient income to meet estimated expenses). The Town's ordinances authorize the Town Council to "[a]ppropriate funds and adopt a budget." Town Code § 30.20(A)(3); see also S.C. Const. art. X, § 8 (stating money shall be drawn from the treasury of a political subdivision only in pursuance of appropriations made by law).

With this background and framework in mind, the following questions are posed related to the mayor-council form of government:

1. Can a strong mayor appoint a deputy/assistant town administrator without seeking the input and/or approval of the town council?
2. Can a town council lawfully amend a municipality's budget in the manner described herein to usurp a strong mayor's responsibility and duty to appoint municipal employees?

Thank you for your attention to this matter. Please feel free to call me if I can provide additional information concerning the questions posed.

Sincerely,
s/Peter M. Balthazor

Peter M. Balthazor