

ANDERSON COUNTY COUNCIL
ANDERSON, SOUTH CAROLINA
Regular Meeting – July 2, 2002 - 6:00 p.m.
Linda N. Gilstrap, Clerk to Council

AMENDED
(page 3)
M I N U T E S

All area newspapers, radio stations and television stations were informed of this meeting in compliance with guidelines set forth in the *Freedom of Information Act*.

PRESENT

Chairman Larry E. Greer – District #3, Presiding
G. Fred Tolly – District #1
Vice Chairperson Gracie S. Floyd - District #2
Clint Wright – District #4
Mike Holden – District #5
William C. Dees – District #6
M. Cindy Wilson – District #7
Joey Preston – Administrator
Tom Martin – County Attorney
Linda N. Gilstrap – Clerk to Council
Tammie Shealy, Deputy Clerk to Council

(During times of discussion and presentations the minutes are condensed and paraphrased.)

The official meeting of the Anderson County Council convened in the Council Chambers of the Historic Courthouse on Tuesday, July 2, 2002 at 6:00 p.m.

Chairman Larry Greer gave the invocation and everyone pledged allegiance to the flag.

Mr. Clint Wright moved to approve the minutes of the June 4, 2002 meeting and Mr. Mike Holden seconded. Mr. Dees said that he had several typographical errors that had been pointed out to the clerk. Ms. Wilson asked that the words "county project" be added on page 6 in reference to a statement she made regarding the Beaverdam Creek Sewer line being a County project. Also, she would like a summary of what was said on page 7 regarding the Board of Accountancy. Council voted unanimously to approve the minutes with the requested changes.

Citizens Comments:

Agenda Matters: Mr. Marty Evans, Vice Chairman of the Boards of Directors for the Williamston EMS, commended the Council for their efforts to protect the citizens of Anderson County. He said that each person that works for EMS, who is referred to as EMS responders, will be required to complete a registration form and submit a SLED background check. He asked who would provide the information, the Squads or employees. If the squads were required, would they be in violation of any state or federal labor laws regarding the release of any information. Does the ordinance have a hold-harmless agreement for the squads to prevent any liability for releasing this information? He also asked for a classification of class of employees covered in the ordinance. Council received as information.

Mr. Bill Dees recognized Troop 210 from Powdersville.

Ms. Gracie Floyd asked for a Point of Personal Privilege. The Chairman granted it. Ms. Floyd introduced a new group of community leaders called Jefferson Area Community members, Ms. Sandra Norris and Ms. Morris. Ms. Floyd congratulated them for their newly formed group.

Mr. Jim Zieche, Vice President for Anderson Regional Landfill and District Manager for Allied Waste in South Carolina, presented the County a check to help underwrite Freedom Weekend Aloft and Keep America Beautiful. Ms. Michelle Strange presented Mr. Zieche with a plaque and a t-shirt for his donation. Council thanked Mr. Zieche and Allied Waste for their donation of \$30,000 for Freedom Weekend Aloft and \$500 for KAB.

Mr. Bill Dees moved that Council cancel the next Council meeting (July 16) because the County Administrator will be accepting a national award in New Orleans. Mr. Fred Tolly seconded. Council commended Mr. Preston for his outstanding job that he does for Anderson County. Ms. Wilson asked about the public hearings that have been advertised for the July 16 meeting. The county attorney said that they could be re-advertised without any problem. Vote was four in favor, one opposed (Wilson), one abstention (Floyd), and one not voting (Greer). Motion carried.

Chairman Greer asked for a point of personal privilege and a request to read printed material. Council approved. Please see Mr. Greer's printed material dealing with C-fund and paving money as **EXHIBIT A** attached for the record. At the end of the reading of the printed materials, Mr. Tolly asked to be heard. Mr. Tolly said that he had a list of some of the C-fund money that had been used for things other than paving. He said the main problem is that some of the people spoke regarding the use of these funds, AND did not realize that the County's paving funds are not state funds but funds generated through our taxation of general funds. So really there is no State involvement at all. Some of the things that C-funds have been used for are drainage in Anderson, pipe in Honea Path, memorial signs, fire training center, boat ramps, etc. The use of paving funds by this council for projects other than paving in the future, he stated he would never vote in favor of any project that is not paving related. Ms. Floyd found it sad and unfortunate that this has appeared because of her allocating \$35,000 out of her paving money to assist a youth project in her district. She said she wanted to make it clear, that at the beginning of each fiscal year, Mr. Holt Hopkins presented her a list of all the roads in her District, which according to him needed to be paved. She stated that she did not know enough about paving to disagree with him, and he allowed her to question him and he answered all her questions. She approved the paving list that he submitted to her and all of the roads were paved. Because of Mr. Hopkins' expertise, the paving fund came in under-budget so when the need came up in District #2 to do something for the children – she took it. It has been done several times in the past. She was disappointed for the vote; however, she will not apologize for what she did and the money is being used and the kids are signing up for these jobs. She said she would vote individually on each of the Council member's request that they deem necessary then she will support them on their vote. Ms. Wilson said that perhaps the Council should move along on the agenda and finish the conversation with Mr. Martin's presentation later on the agenda regarding this subject. Chairman Greer called for other comments. Mr. Dees said he had a couple of questions for Mr. Hopkins. Mr. Dees said that the worst thing that could happen would be for Council and the Delegation to get into argument with each other in public and he doesn't intend to that and he fully respects the County Delegation and other members of Council. He asked what was the context of paving as applied to the C funds? Mr. Hopkins stated that C funds include all forms of transportation needs such as paving, sidewalks, road repair, and drainage. In their plan they do have an emphasis on schools. Mr. Hopkins stated that the state owns and maintains 1,267 miles of road; the County maintains 1,545 miles of road, which doesn't include the non-state roads in the municipalities. The figure is just the roads out in the County, which equals about 45% state roads and 55% being County roads. He said "C" funds were started for the purpose of maintaining secondary and local roads. If you look into that context, only secondary roads account for 879 miles compared to local roads. This changes the percentages to about 36% state and 64% County. Mr. Dees asked if the County

provided any engineering services for the state and municipalities. Mr. Hopkins said that they did. The estimates that around one million dollars has been spent in the last year have been spent on engineering services out of the county's general fund budget to manage state road projects. Mr. Dees said that the State DOT and the County for the last 4-5 months have been building up the shoulders of the roads in District 6 and he would like to say thanks for that work.

Chairman Greer presented third and final reading of Ordinance #2002-018 – an ordinance to provide for the creation of the Heritage at Cobbs Glenn special Tax District in Anderson County; to establish the nature of services to be performed therein; to designate the uniform service charge in the special tax district; to provide for the operation of the special tax district; and other matters related thereto. Mr. Tolly moved to approve and Ms. Wilson seconded. Vote was unanimous.

Chairman Greer presented second reading of Ordinance #2002-021 – an ordinance adopting, as permanent regulations, those policies recommended by the EMS Commission, as amended, requiring EMS providers in Anderson County, South Carolina, to conduct criminal background investigations on EMS response personnel; and other matters related thereto. Mr. Dees moved to approve on second reading and Mr. Holden seconded. Mr. Wright stated that the ordinance answers all of his questions and concerns. He also stated for Mr. Marty Evans that the ordinance did not apply to anyone other than the required coverage that the County has and would not apply to convalescent care. Ms. Wilson asked who would actually do the checks – the squads or county. Mr. Martin said that in the ordinance, the county did not try to dictate to the Squads how to do it, but the way it was drafted that it was possible for the squads to do the checks. He said that he did not think that an individual could do the checks, only an entity. He also said that the County cannot, by Attorney General ruling, offer an indemnification and hold-harmless to anyone, no governmental entity can. Mr. Greer called the Attorney's attention that since the background check form is attached to the form, should the form also include a release by the applicant allowing the squad to release this to the County EMS department. Mr. Martin agreed and said that the modification will be made prior to third reading. Mr. Dees moved to amend by considering the following three issues regarding the EMS responder background checks: #1 – Anyone that has, by the state of South Carolina, received a pardon by the Governor to be excluded from this or anyone from another state that is recognized by the State of South Carolina of receiving a pardon would also be excluded. #2 – the change on the release form and #3 – similar offenses by other jurisdictions. Ms. Wilson seconded. Vote was unanimous.

Mr. Tolly asked for two-thirds vote was permission to add an ordinance to the agenda. Vote was unanimous. Mr. Holt Hopkins presented (title only) Ordinance #2002-024 – an ordinance authorizing the leasing of available space at the Anderson Regional Airport; and other matters related thereto. Mr. Tolly moved to approve and Mr. Holden seconded the ordinance in title only. This would be to lease an office at the Airport for the operation of a flight school, which would conduct flight instruction at the Airport. Vote was unanimous.

Chairman Greer presented first reading of Ordinance #2002-022 – an ordinance authorizing the execution, delivery, and implementation of the statewide mutual aid agreement for catastrophic disaster response and recovery; and other matters related thereto. Mr. Dees moved to approve and Mr. Wright seconded the motion. Mr. Martin stated that this would authorize Anderson County to execute and deliver the statewide mutual aid agreement for catastrophic disaster response. It is a mutual aid agreement drafted by the State Emergency Preparedness Division of the State and executed by the State of South Carolina by multiple counties and municipalities in the State. Mr. Tommy Thompson stated that in the near future that most funding through

FEMA would be contingent upon counties and municipalities being a signatory to an agreement of this type. This agreement will facilitate the method that we will become more readily qualified to get County reimbursement funds for emergency outputs that the county has for man-made or natural disasters at any time. Council discussed other issues of the mutual aid agreement. Vote was unanimous.

Mr. Greer presented Resolution #R2002-053 – a resolution declaring Anderson county, South Carolina A National Kidsday Community, observing the first Sunday in August as National Kidsday in Anderson County and encouraging all adults in Anderson County to participate in National Kidsday events. Mr. Dees moved to approve the resolution and Mr. Wright seconded. Vote was unanimous.

Ms. Floyd moved to appoint Mr. Marvin Greene to the Assessment Appeals Board to fill an un-expired term of Mr. Jack McIntosh. Ms. Floyd stated that Mr. Greene would resign from the Broadway Lake Commission. Ms. Wilson seconded the appointment and vote was unanimous.

Chairman Greer appointed Mr. Bill Dees to represent Anderson County on the Heritage Corridor Board. Motion was seconded and vote was unanimous.

Mr. Tom Martin said that he had prepared a written response as requested by Council Member Cindy Wilson concerning the use of paving monies for projects other than paving. Ms. Wilson asked Mr. Martin to read his letter into the record. Mr. Martin's response was that prior practices of the use of paving monies for projects other than paving have been legal. This letter is attached **(Exhibit B)**.

Council took a short break at this time. Chairman Greer called the meeting back to order.

Mr. Mike Holden moved to transfer \$5,000 from District #5's Recreation Account for the SHARE summer program. Mr. Dees seconded and vote was six in favor and one opposed (Mr. Greer). Motion carried.

Ms. Gracie Floyd moved to transfer \$1,000 to Crisis Ministries for their summer camp. The funds to come from District #2's Recreation Fund. Ms. Wilson seconded. Ms. Wilson moved to amend the motion to include a transfer of \$1,000 from District #7's Recreation account and Mr. Holden seconded. Vote was unanimous. Mr. Holden moved to amend the motion to include a transfer of \$1,000 from District #5's Recreation Account and Ms. Wilson seconded. Vote was unanimous. Vote on the original motion as amended was unanimous.

Ms. Wilson moved to transfer \$5,000 to the Cheddar Fire Department for assistance with expansion and Mr. Holden seconded. Funds will come from District #7's Recreation Account. Vote was unanimous.

Ms. Wilson moved to transfer \$2,500 to the Whitefield Fire Department to help assist them with rebuilding of a truck. The funds will come from District #7's Recreation Account. Mr. Holden seconded and vote was unanimous.

Ms. Wilson moved to transfer \$20,000 from District #7's paving account for Big Creek Water system for an infrastructure project for water needs. She said that in the Cheddar Community there were several areas that were not currently served with water infrastructure for usage on Sherard, Lewis and Lollis Roads. Mr. Holden seconded. Mr. Greer stated that this area had an extreme water problem and would vote in favor even though it will help with the immediate need. Mr. Wright said that he also has areas in his district that were in dire need of water. He said the County

needed to have a way to have the water companies to provide the areas with water. He asked that County staff investigate to see if the County can set up a matching funds for the water districts that would be on a pay back grant situation so the county could get their money back. Chairman Greer asked Mr. Preston to check into the request by Mr. Wright. Vote was five in favor and two abstentions (Mr. Tolly and Ms. Floyd). Motion carried.

Mr. Greer moved to add Carrington Lane to his paving list for paving as soon as possible in the amount of \$52,164. Funds will come from District #3's paving account. Mr. Dees seconded the motion and vote was six in favor and one abstention (Ms. Floyd). Motion carried.

Mr. Greer moved to transfer \$7,900 from District #3's Recreation funds for grassing, grading and seeding for the soccer fields at the Leda Poore Park in Belton. Mr. Wright seconded. This will complete the funding of the project, which began a couple weeks ago. Vote was unanimous.

ADMINISTRATOR'S REPORT:

a. Letters of Appreciation:

1. For: Mr. Bob Daly, Officer Michael Gunnells and County Inmates
From: Ms. Libby Winkler, Executive Director for Habitat for Humanity
2. For: Mr. Walt Fisher & Mr. Jay Patterson's Road Crews (Mr. Jim Moreland, Mr. Odell Aiken, Mr. Terry Simpson, and Mr. George Tucker, Mr. Paul Cribbs, Mr. Jimmy Leonard, and Mr. Danny Mitchell and Mr. Barry Smith) From: Mr. Ben Bolt
3. For: Mr. Jerry Cash and Mr. Aaron Smart's Road Crews (Mr. Michael Gregory, Mr. Matthew Wages, and Mr. William Gailey, Mr. Phil Brown, Mr. Calvin Scott, Mr. Scott Brigman, Mr. William Singleton, and Mr. Andy Driver) From: Ms. Mary Dean
4. For: Mr. Joey Preston and Anderson County Council From: Mr. Derrill C. Chapman
5. For: Mr. Bob Daly From: Ms. Sharon Crout

b. Reports:

- a. Recreation Fund Account
- b. Detention Center Litter Report – June 3-7, 2002, June 17-21, 2002,
- c. Minutes: Anderson Regional Airport
- d. Transfer of Correctional Institution acceptance of state inmates
- e. 2002 US National Hot Air Balloon Championships returning to Anderson
- f. First Responder Clandestine Lab Training
- g. Budget Transfers

Council discussed the millage increase for School District #5 and how the County council was not responsible for this increase.

There being no further business, Council adjourned at 8:35 p.m.

Respectfully submitted,

Linda N. Gilstrap, Clerk to Council

Attachments: **Exhibit A** (Mr. Greer's printed statement regarding C-Fund and Paving monies)
 Exhibit B (County Attorney's Response on use of paving monies)

C- FUND AND PAVING MONEY PG 1 of 9

Over the past two weeks there has been some discussion in both the newspaper and on the radio media that indicates a difference of opinion between the Anderson County Council and the Anderson County Legislative Delegation. This difference of opinion appears to be over how to meet the needs of the people of Anderson County in one particular area, road paving. I want to take several minutes to share some information with you tonight concerning this difference of opinion. At the conclusion of my comments I will give you what I think is the solution to this difference of opinion.

Legislation by the South Carolina State Legislature, following a court ruling, based on a legal challenge to the very issue we're talking about, the legislative delegation determining the use of C-Funds, established the current guidelines for the Anderson County C-Fund Committee to utilize in overseeing the distribution of the gas tax money, rebated back to the county by the state. This is the Anderson County citizens money being sent back to them. The existing C-Fund committee began administering these funds in 1997, after the court ruling indicated the legislative delegation could not be distributing C-Funds. Amendments to this legislation were introduced in the legislature on Feb. 28, 2001, passed by both houses of the legislature on May 21, 2002, and signed by the Governor on June 3, 2002.

This is in no way connected to council Dist: Paving Funds

The latest version of this legislation indicates the intent of the legislation is for the C-Fund Committee to expend at least 25% of the funds for state roads and, at the discretion of the committee, up to 75% for activities including other local paving or improving county roads, for street and traffic signs, and for other road and bridge projects. The Department of Transportation shall administer all funds expended on the state highway system unless the department has given explicit authority to a county or municipal government or other agent acting on behalf of the county transportation committee to design, engineer, construct, and inspect projects using their own personnel. It has come to my attention that, with the county receiving only approximately 60% of the C-Fund dollars, Anderson County has nevertheless expended large sums of county dollars in services performed to the state portion of the paving performed through funding from the C-Fund committee. It is important to remember that the county can pave more miles of road with a given amount of money than the state can. With the delegation requesting a 50% split on the C-Funds, this price tag of overseeing all C-Fund paving could increase considerably the cost of services performed by the county on state roads. Is this another way to shift the cost of state government to the local government and to the local taxpayers?

Quite frankly the C-Fund Committee has performed an admirable job of carrying out the intent of the legislation. Over the course of the years since 1997 the committee has

administered, based on county records, a total of \$17,428,332.62 in Anderson County's share of gas tax funds and interest. Using the language in the legislation authorizing activities involving "other local paving", the C-Fund committee, **APPOINTED BY THE LEGISLATIVE DELEGATION**, has met many critical and important needs in the communities of Anderson County. Since 1997, this committee has appropriated funds for 40 projects. The projects, all for the good of the people of Anderson County, all meeting immediate and critical needs, all for "public purposes" and "public use", all requested by the people of the county, and all worthy of funding, include sidewalk repair, concrete and light pole, drainage, pipe, paving at schools, roadwork to correct school problems, warning lights, memorial signs and boat ramp. Again all of these projects are worthy of funding, but some do not even remotely relate to paving. One worthy project not related to paving was directly mandated, ordered, by the legislative delegation. A total of \$1,806,742.60 was appropriated for these projects. This amounts to 10.37% of all of the funds appropriated by the C-Fund Committee, as appointed by the legislative delegation. I want to make it perfectly clear that the C-Fund Committee has carried out its duties in a most appropriate manner. They have met the needs of the people in the communities that they serve.

It is unfortunate that at least two members of the legislative delegation and one member of the C-Fund Committee find it

appropriate much less necessary to criticize the county council's expenditure of county paving funds, not state funds, not C-Funds, but funds which the County Council itself appropriated to begin with, from the taxes of the people of Anderson County, insinuating that it is in order to get a larger share of the gas tax money for state roads. Representative Dan Cooper is quoted, by the Anderson Independent, as saying; "if they've got money in paving accounts they don't need for paving, why are they taking this money?" Utilizing Mr. Cooper own argument, if the delegation does not feel that there is enough money for state roads why does it support and in at least one instance direct utilizing C-Fund paving money, from the people of Anderson County, for projects not related to paving roads. Representative White said his vote, reflected unease over the County Council's pattern of road spending. He is quoted as saying "If you have all the roads taken care of then it could be used for other things." "Until then all road money should be used for roads period." It seems the delegation itself, has not followed the advice given by Rep. White. Mrs. McAbee, a member of that C-Fund committee, also criticized County Council for what she termed the council's liberal use of paving money, saying it concerned her somewhat, as dollars became less available. County paving dollars have not become less available. The only paving dollars that appear to have become less available, are those dollars budgeted by the state through the GENERAL ASSEMBLY.

I can only speak to appropriations for projects from the District 3 paving account. As I stated when referring to the C-Fund committee appropriations for projects, these appropriations from the District 3 paving account were all for worthy projects, for the good of the people of District 3, were for public purposes and public use, and all met critical and immediate needs, some of which were not known at the time of the original appropriations. When I took office in January of 1999 I surveyed my district and found that there were many aspects of the services provided by the county that were not fairly distributed across my district. Some areas appeared to have faired better than others in receiving those services provided by the county. I developed an intent, a mental plan to try to utilize the resources at my disposal to try to equalize these services as much as possible. I have ridden the roads indiviually and with the transportation director in an effort to meet the road needs as completely as possible. It also, however, became clear that there were other areas in need of improvement besides roads, some as critical if not more critical than roads. Recreation was one area where there was a large discrepancy in the level of facilities throughout my Council District. As a year progresses there arise what I consider to be critical needs that have to be met, such as AED equipment for first responder programs, which are not apparent at the time of enacting the budget.

Before I speak to District 3 appropriations, I want to address the legality of transferring money from paving accounts for

projects. Section XXV Administration, Reporting, and Transferring of Funds, of the Budget Ordinance states that "County Council may transfer funds within any fund, department, activity, or purpose or among funds by normal Council action, subject to all other legal requirements."

Council does have the legal authority to make transfers from paving accounts for other purposes or projects. ^{This then is the next} The next question, ~~then is?~~ is it appropriate or justifiable to transfer money from the paving accounts for such projects? I would say the answer to this depends on the project or purpose for which the transfer was made. If you ask the approximately 400 people who were in attendance at the July 4 celebration in Iva this year if the transfers made for improvements to the Iva ball field were appropriate, I would say the answer would be yes.

I would like to elaborate on District 3 transfers made from the District 3 Paving Account that have been classified as projects.

- 1. Two transfers totaling \$10,000 for gravel on the sewer lagoon roads for the Town of Iva.
- Three transfers totaling \$830.55 for the City of Belton for gravel, cold patch and pipe.
- Three transfers for the Town of Iva for gravel and cold patch \$1300.

All of the above transfer classified as projects were for paving or drainage purposes. These projects met and provided for an immediate and direct need of these communities.

- Four transfers for paving at 3 recreation facilities and one senior citizen center totaling \$106,024.

These transfers were paving that upgraded and improved the recreation facilities in these communities, all for public purposes and public use, all to governmental or non-profit organizations. As I stated earlier, I had a mental plan, an intent, of equalizing recreational facilities from one community to the other. These improvements moved this plan closer to reality.

- \$19,000 Improvements to Iva ball field (some paving)
- \$9,400 for fire hydrants
- \$2000 for Reviva
- \$100 sign for walking track
- \$2117.50 for AED for fire dept.

To say these transfers are not appropriate is to say adequate fire protection is not appropriate to a home owner, one community should not have as good a recreational facility as another, and providing the equipment to a first responder program to save someone's life is not important.

After removing all transfers classified as projects that were either totally paving related or recreational paving related, \$30,617.50 or 5.33% of the available paving funds were used for projects not related to paving.

All of the transfers made from District 3 paving account were initiated by requests from members of the communities. These transfers were made only for the purpose of benefiting the citizens of these communities, for public purposes and uses, and for immediate needs.

I am reminded of a discussion in one of the fire departments initiating a first responder program. The discussion centered on the willingness of the fire department to commit one of its trucks as a medical first responder truck. This department had two grass trucks and could commit one truck for this purpose. The question was asked: what would be the procedure if a grass fire and a medical call came in at the same time?

Someone asked the question if you are having a heart attack in your den, do you want the truck to go to the grass fire or to your home? The truck was committed as a first responder truck. We need to always put some things in perspective. Is more important to pave 211 more feet of road or provide the AED equipment to save a life, to pave 944 more feet of road or to provide the water to save someone's home or life?

I am reminded of some of the literature the opposition put out in the primary election this year. It was said that Anderson County had ignored the Town of Iva's needs. The district 3 paving account indicates that I have been extremely sensitive to the needs of Iva and have tried to meet those needs. Now Dan Cooper, Brian White and Mary McAbee are going in the exact opposite direction, criticizing me for trying to meet the needs of the constituents I

represent, including the Town of Iva. To this I say fine. If you want to criticize me for work and trying to meet needs and request made to me by the people I represent, then go ahead and criticize. I **MAKE NO APOLOGY FOR TRYING TO MEET THE NEEDS OF THE PEOPLE I REPRESENT.**

The solution to this difference of opinion is simple. All elected officials are elected for one reason and one reason only: To work, no, not just to work but to work hard to meet the needs of the people they are elected to represent. All elected office holders in Anderson County need to forget their own personal egos and their own turff and work together as a team to provide the best possible form of government and delivery of services to the people of the county – we represent the same people! Elected officials, the people of Anderson County deserve nothing less than the best we can deliver. **We must work together and I for one am willing to work together.**

There is no limit on what can be done if if you don't care who gets the credit.

Exhibit B
July 2, 2002

Pg 1 of 3

Memorandum

TO: The Honorable M. Cindy Wilson, Anderson County Councilmember

FROM: Thomas L. Martin

RE: Anderson County Council's use of paving monies for projects other than paving – your letter dated June 26, 2002

DATE: July 2, 2002

C/M#: 001510.00017

Councilmember Wilson:

1. This memorandum acknowledges receipt of and is in response to your letter, dated June 26, 2002, regarding the above-captioned matter, which I received at 4:00 p.m. on June 26, 2002, and a copy of which is attached. The first paragraph of your letter requests: "Please review council's use of paving monies for projects other than paving such as water infrastructure, fire departments, jobs for youths and etc.". The second paragraph of your letter requests that I render an opinion on this matter prior to the Anderson County Council meeting on Tuesday night, July 2, 2002. The purpose of this memorandum is to answer those requests.

2. To the extent that your letter questions whether Anderson County Council's prior practices, regarding use of paving monies for other projects, have been legal, the simple answer to your question is that such prior practices appear to have been legal. To the extent that your question requests information as to the

rules and parameters for such practices, the remainder of this memorandum addresses those practices and procedures, in explaining why Council's practices to this point appear to have been legal. This memorandum addresses only the legal issues involved in such practices and procedures.

3. The key to your question or questions, from a legal standpoint, is found in Section XXV of Anderson County Ordinance 2002-014, the Anderson County Budget Ordinance for 2002 – 2003, and its predecessor budget ordinances. I have also attached a copy of that section. The fifth (5th) sentence of that section indicates that: "County Council may transfer funds within any fund, department, activity, or purpose or among funds by normal Council action, subject to all other applicable legal requirements." That provision appears to authorize the transfer of funds from any county fund to any other county fund by normal Council action, such as a motion or voice vote, which is the methodology currently employed by Anderson County Council for such transfers. Accordingly, the procedure used is a transfer of monies from fund to fund, and the legal authority for such procedure is established by Anderson County Ordinance.

4. The next issue related to the existing methodology of transfers concerns whether funds exist from which monies may be transferred and to which they may be transferred. As to the source of monies, of course, there is an Anderson County fund, 5221, from which paving monies derive. That, then, can be the "source" fund. In the Anderson County budget, there is also a fund, 5851, for special appropriations. That is the fund in which most special appropriations for activities such as most 501(c)(3) organizations are located. That, therefore, would normally be the target fund, to which paving monies would be transferred for use as special appropriations. The net effect is that there are funds from which the paving monies may be taken and to which the paving monies may be sent, to accomplish the purposes of Anderson County Council, in accordance with the procedures established by the budget ordinance.

5. There are other issues related to such transfers, however. The first is that any use of public funds must normally be for a public purpose and, in certain circumstances, such as under the state bond act, for public use. The second is that public funds may not be used for a prohibited purpose, such as sectarian training or for private inurement. Accordingly, each transfer of Anderson County public funds must be scrutinized to determine, first, whether such funds are to be used for a public purpose and, if required, for public use, and, second, whether the transferred funds are to be used for any prohibited purpose. Such determinations are case-by-case, of course, and are solely dependent on the circumstances of each case and the

identity of each organization or activity involved. County staff make a concerted effort to identify each recipient entity, as either a public or quasi-public agency, or a non-profit organization whose purposes are not prohibited and whose use will be for a public purpose and for public use. I have not been made aware of any transfer from the paving monies which has failed any of those tests.

I hope that this information is responsive to your requests. If I may assist further in any regard, please advise.

R/TLM

TLM:cce

Enclosures: As noted

cc: Members, Anderson County Council
Ms. Gina Smith, Anderson County Financial Planning Director
Ms. Rita Davis, Anderson County Finance Director
Mr. Joey R. Preston, Anderson County Administrator