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PRIVILEGED AND CONFIDENTIAL  
ATTORNEY-CLIENT COMMUNICATION

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MEMORANDUM

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To: City of Laurens, South Carolina

From: Virginia P. Bozeman, Senior Counsel, Pope Flynn, LLC

Date: December 23, 2025

Re: Special Called Meeting Agenda Items

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**I. Issue**

Four members of the City Council of the City of Laurens, South Carolina (the “*City Council*”) called a special meeting under Section 2-63 of the Laurens Code of Ordinances (the “*City Code*”) and Section 5-7-250(a) of the Code of Laws of South Carolina 1976, as amended, to be held December 23, 2025, at 5:30 p.m.,<sup>1</sup> during which two new business items are to be considered: RESOLUTION NO. 12-22-2025: A RESOLUTION INVOKING ORDINANCE NO. 12-22-25 (the “*Resolution*”); and ORDINANCE 12-22-25: AN EMERGENCY ORDINANCE ESTABLISHING INVESTIGATIVE PROCEDURES, TEMPORARY FINANCIAL SAFEGUARDS, COMMUNICATION PROTOCOLS, CONTINUITY MEASURES, INDEPENDENT LEGAL AUTHORITY, AND REFERRAL AUTHORITY IN THE EVENT OF CREDIBLE ALLEGATIONS AGAINST THE MAYOR OR SENIOR APPOINTED OFFICIALS (the “*Ordinance*”). The Resolution lacks legal significance and violates the equal dignity doctrine.<sup>2</sup> The Ordinance contains significant legal issues, including the authorization of actions that violate state law. If enacted and challenged, both would most likely be invalidated by the reviewing court, resulting in a waste of public resources and potentially stalling legitimate investigations by the authorized state authorities. Moreover, acting outside the scope of the powers given to the City Council and its members by state law results in the loss of sovereign immunity

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<sup>1</sup> The 24-hour public notice required by S.C. Code Ann. § 30-4-80(A) was not provided in advance of tonight’s meeting, making the meeting and any actions taken during it invalid.

<sup>2</sup> The Resolution does not serve a valid legal purpose. Even if the actions taken in the Ordinance comply with state law, and they do not, a resolution is not necessary and cannot be used to effectuate an ordinance or amend local legislation previously enacted by ordinance. *See Simpkins v. City of Gaffney*, 315 S.C. 26, 29, 431 S.E.2d 592, 594 (Ct. App. 1993) (an ordinance may only be amended by ordinance or another instrument of equal dignity).

and exposes individual members of Council to personal financial liability for any resulting damage.

Instead of considering the Resolution and Ordinance tonight, City Council should consult with an attorney regarding the legality of the proposed legislation. Not only is this required by Section 2-93 of the City Code, but doing so would ultimately save the City the expense of defending its actions later. Additionally, concerns of ethical and legal wrongdoing by employees or officials of the City of Laurens, South Carolina (the “**City**”) should be reported to the South Carolina Ethics Commission (the “**Ethics Commission**”) or South Carolina Law Enforcement Division (“**SLED**”) for investigation. The City Council does not have the authority to take the investigatory and remedial actions set forth in the Ordinance itself.

## II. Analysis

### A. The Ordinance exceeds the scope of powers held by the City Council.

The Ordinance attempts to strip the Mayor of his administrative authority and effectively remove him from office, actions that vastly exceed the legal authority the voters and the General Assembly have given the City Council. The City is governed by the Mayor-Council form of government, under which the Mayor, as the executive head of the City, serves as the chief administrative officer and oversees the administration of all City affairs, including the day-to-day operations of municipal departments and the hiring and firing of employees and administrative officers. S.C. Code Ann. § 5-9-30. The City Council, as the legislative branch of the City, may enact regulations, resolutions, and ordinances that are not inconsistent with the Constitution and general laws of this State. S.C. Code Ann. § 5-7-30. Its legislative powers allow the City Council to create, alter, or abolish municipal departments by ordinance and prescribe the functions of those departments. S.C. Code Ann. §§ 5-7-260(1); 5-9-40. The City Council, likewise, has the power to adopt the annual budget by ordinance. S.C. Code Ann. §§ 5-7-260(3); 5-9-40. Together, the City Council and the Mayor may employ an administrator to assist the Mayor in his office. S.C. Code Ann. § 5-9-40. The City Council is also tasked with appointing a municipal clerk. S.C. Code Ann. § 5-7-220.

The City Council does not oversee the manner in which each employee or official performs his or her individual job duties; this authority belongs to the Mayor alone. *Miller v. Town of Batesburg*, 273 S.C. 434, 257 S.E.2d 159 (1979). The City Council cannot fire employees and officials; this authority also belongs to the Mayor alone. *Id.* Finally, the City Council cannot remove the Mayor from office. *Id.*, see also *S.C. Dep’t of Lab., Licensing & Regul., Div. of Lab., Petitioner*, No. 04-ALJ-11-0236-CC, 2005 WL 643877, at \*4 (Mar. 2, 2005). The Constitution of the State of South Carolina grants this power solely to the Governor and allows the Governor to exercise this power, including the suspension of official duties pending investigation and criminal prosecution, only in limited circumstances. S.C. Const. art. VI, § 8.

Most actions sought by the City Council in the Ordinance are legally invalid. Any investigations into alleged wrongdoing should be conducted by the Ethics Commission and SLED, and the City Council does not have the authority to limit the ability of the Mayor to serve as the administrative head of the City while these investigations are ongoing. The City Council does have

the ability to hire legal counsel of its choosing and an independent forensic auditor if desired. The associated agreements must be approved by City Council as a body during a properly noticed public meeting. However, an ordinance approving these actions is not required.

**B. The Ordinance is not a valid emergency ordinance.**

The City Council designated the Ordinance as an “emergency ordinance” without identifying a triggering circumstance giving it the legal authority to enact an emergency ordinance. Municipalities may adopt emergency ordinances “[t]o meet public emergencies affecting life, health, safety, or the property of the people.” S.C. Code Ann. § 5-7-250(d). The statute further provides that “such ordinances shall not levy taxes, grant, renew[,] or extend a franchise or impose a change of service rate” and creates procedural requirements for adoption. *Id.* An emergency ordinance is meant to equip municipalities to adequately respond to public emergencies immediately rather than waiting for two readings occurring at least six days apart before acting. *See, e.g., Fred Holland Realty, Inc. v. City of Folly Beach*, No. 2021-000105, 2024 WL 36068, at \*3 (S.C. Ct. App. Jan. 3, 2024). Public emergencies occur in the event of wars, epidemics, pandemics, and natural disasters – exigent circumstances in which the government must act quickly and sometimes in a manner that is at odds with the fundamental rights, freedoms, and privileges of its citizens. *See* 1980 S.C. Op. Att’y Gen. 142 (1980). This extraordinary power is to be used sparingly and only in the event of a true public emergency that could not be adequately addressed if the municipality adhered to the otherwise applicable notice, reading, and hearing requirements that are in place to ensure transparency. *Id.* Thus, to be valid, an emergency ordinance must identify an exigent public emergency falling within the scope and intent of the law.

The Ordinance to be considered tonight does not identify a true public emergency. Not only are the actions authorized by the Ordinance largely illegal, but they are not meant to preserve the life, health, safety, or property of the public in a manner that could not occur without the conclusory emergency designation included in the title of the document. There are ethics and criminal laws in place for the purpose of protecting the public from the activities alleged in the Ordinance, and this protection is not furthered by the actions purportedly deemed emergent therein. Instead, if the alleged state law violations are reported to the Ethics Commission and SLED, the Ethics Commission and SLED will be tasked with investigation, and the Attorney General will be tasked with prosecution. The Ordinance simply is not an “emergency ordinance” as defined by state law, so it requires two readings at least six days apart. If enacted without following this procedure, the Ordinance will be subject to invalidation if challenged.

**III. Conclusion**

The actions directed in the Ordinance fall outside the scope of the legislative powers held by the City Council, and correct public notice and hearing procedures have not been followed. If the Ordinance and associated Resolution pass with the requisite vote tonight, and their enactment is later challenged, they will be subject to invalidation. The lengthy process associated with invalidation will not only waste public resources, but it could impede the lawful investigation efforts of the Ethics Commission and SLED. In addition, acting outside the scope of the powers the General Assembly has given to the County Council results in the loss of sovereign immunity,

thereby exposing individual members of council to personal financial liability for damages arising out of those actions.

If tonight's meeting goes forward as scheduled, I am happy to answer any questions regarding this memorandum during executive session.