

2) If Sumter County accepts a private road into the county road system for maintenance, may the County Public Works Department provide only the

minimum service necessary to allow emergency vehicle to pass or would a higher level of service be required to avoid liability?

This question arose when a proposed change to the Sumter County Road Acceptance Policy was introduced at the County Council meeting held on April

into question the extent to which Sumter County would be bound if it accepted a private road into its system of roads for maintenance. The County Attorney has taken a position regarding this proposal. However, out of an abundance of caution, we would like to call upon the resources of your good office to render an opinion on this specific proposal as well as the concept of providing "minimal maintenance measures" to repair or maintain private roads that are accepted into the county system of roads for maintenance.

Mr. Gary M. Mixon
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Carolina Constitution for the proposition that public funds must be spent for a public purpose and

The first question presented asks whether the County may donate public funds to an eleemosynary corporation to be used to maintain and/or improve private roads. It is this Office's opinion that this would still amount to a violation of the same constitutional provisions discussed

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It is beyond argument that maintenance of a public road constitutes a public purpose for which public resources (funds, equipment, personnel, etc.) may be expended. I would also note that the ordinance under consideration requires that any scraping must be done for the passage of certain emergency vehicles.

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While we have not found any authority rendered by our Supreme Court directly

addressing the kind of ordinance being considered here, we have located an Order issued by the Honorable Jonathan McKown, dated October 22, 1984, which substantially deals with this question. Judge McKown held that roads should neither be built, nor maintained, on private property at public expense, unless certain stringent guidelines are followed, and that the ordinance under consideration is



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