



HENRY McMASTER
ATTORNEY GENERAL

January 20, 2010

The Honorable K. Allen Deaton
Mayor, Surfside Beach
115 US Highway 17 North
Surfside Beach, South Carolina 29575

Dear Mayor Deaton:

We received your letter requesting an opinion of this Office as to the duties of a town administrator in a council form of municipal government. In your letter, you state as follows:

The Town of Surfside Beach, South Carolina was established as a Council Form of Government. The town council adopted, by ordinance, to appoint a town administrator and with this ordinance has given the administrator duties similar to that of a Manager Council form of government. There seems to be some controversy with some of our councilmembers in the authority of the administrator versus the authority to the council.

Thus, you ask for clarification on the duties which may be assigned to a town administrator in a town with a council form of government.

Law/Analysis

Section 5-11-40 of the South Carolina Code (2004) allows a municipal council with a council form of government to hire an administrator "to assist the council." Furthermore, subsection (b) of this provision states: "All departments, offices and agencies may be administered by an officer appointed by and subject to the direction and supervision of the council." S.C. Code Ann. § 5-11-40(b). However, neither section 5-11-40, nor any other provision applicable to council forms of government, specify the duties of such an administrator.

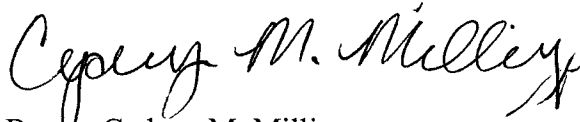
Section 5-11-30 of the South Carolina Code (2004) provides that "[a]ll legislative and administrative powers of the municipality and the determination of all matters of policy shall be vested in the municipal council. Each member of council, including the mayor, shall have one vote."

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Thus, as we concluded in a 1988 opinion of this Office, the duties, oath, salary, and tenure of a town administrator is left to the discretion of the council. Op. S.C. Atty. Gen., October 18, 1988. See also, Op. S.C. Atty. Gen., March 30, 1998. Therefore, we are of the opinion that so long as the duties proscribed by council do not conflict with State law, they are permissible.

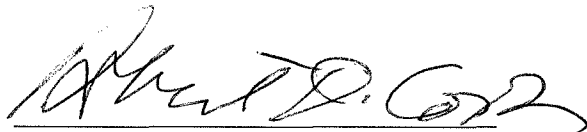
Very truly yours,

Henry McMaster
Attorney General

A handwritten signature in black ink, appearing to read "Cydney M. Milling". The signature is fluid and cursive, with the first name being the most prominent.

By: Cydney M. Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:

A handwritten signature in black ink, appearing to read "Robert D. Cook". The signature is cursive and somewhat stylized, with the last name being the most prominent.

Robert D. Cook
Deputy Attorney General