

January 16, 2007

Brad Farrar, Esquire
Deputy County Attorney
Richland County Legal Department
Post Office Box 192
Columbia, South Carolina 29202

Dear Mr. Farrar:

In a letter to this office you indicated that a member of county council, who is a constable appointed by the Governor, is interested in carrying a weapon to county council meetings. I presume that this individual was appointed by the Governor as a constable pursuant to the provisions of S.C. Code Ann. § 23-1-60. You have questioned whether such carrying of a weapon at a council meeting is authorized.

Section 16-23-20 states in part:

[i]t is unlawful for anyone to carry about the person any handgun, whether concealed or not, except as follows, unless otherwise specifically prohibited by law:

(1) regular, salaried law enforcement officers and reserve police officers of a municipality or county of the State, uncompensated Governor's constables, law enforcement officers of the federal government or other states when they are carrying out official duties while in this State, deputy enforcement officers of the Natural Resources Enforcement Division of the Department of Natural Resources, and retired commissioned law enforcement officers employed as private detectives or private investigators. (emphasis added).

Therefore, uncompensated Governor's constables, such as the councilman referenced in your letter, are specifically authorized to carry a handgun. A prior opinion of this office dated May 12, 2006 stated that as to the carrying of a handgun,

...there is no requirement that the officer be on duty. Similarly, the statute does not require the officer to be in uniform. The reference in the statute to "when they are

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carrying out official duties while in this State”, regards only “law enforcement officers of the Federal government or other states”...The statute...allows “uncompensated Governor’s constables” to carry pistols. Again, there is no requirement that such a constable have a particular type of authority or that he be on duty.

That opinion concluded that the constable referenced in that opinion would be authorized to carry a handgun anywhere in this state.

Consistent with that opinion, in the opinion of this office, the member of county council referenced in your letter who is a member of county council, would be authorized to carry a handgun to county council meetings. As to your concerns regarding the impact of the provisions of this state’s concealed weapons law, S.C. Code Ann. §§ 23-31-205 et seq., it is specifically provided by Section 23-31-217 that “[n]othing in this article shall affect the provisions of Section 16-23-20.” Concerning the provisions of 18 U.S.C.A. § 926 also referenced in your letter dealing with carrying a concealed firearm by retired law enforcement officers, I similarly do not perceive such provisions as impacting on the authority of a constable to carry a handgun anywhere in this state.

If there are any questions, please advise.

Sincerely,

Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Assistant Deputy Attorney General