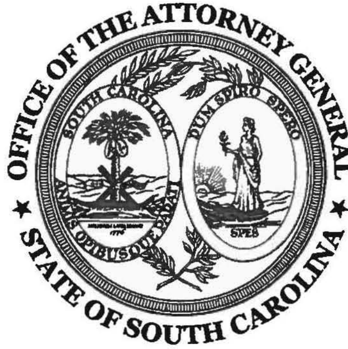

ALAN WILSON
ATTORNEY GENERAL

July 29, 2011

The Honorable Sam Parker
Chesterfield County Sheriff
200 West Main Street
County Courthouse
Chesterfield, South Carolina 29709

Dear Sheriff Parker:

You seek an opinion regarding the operation of the animal shelter for Chesterfield County. You reference S.C. Code Ann. Section 47-3-30. By way of background, you note that "[i]n July, 2008, Chesterfield County Council delegated authority to operate the animal shelter for Chesterfield County to the Sheriff's office." You further indicate that "[s]ince July, 2008, the Sheriff's office has been responsible for the operation of the animal shelter although no formal agreement between the County and the Sheriff has ever been implemented." Your inquiry focuses on the following two questions:

1. Is the arrangement described above a permissible delegation of authority by the governing body of the County, in this case the County Council, pursuant to the cited statute? If so, should this delegation of authority be formalized by county ordinance or resolution?

2. If the county governing body undertakes to establish and operate an animal shelter pursuant to § 47-3-30 (or delegate the authority to the Sheriff, if permissible), is that animal shelter required to serve only the unincorporated areas of the county or must it also serve the incorporated areas?

Law / Analysis

Section 47-3-30 provides as follows:

> [t]he governing body of the county or municipality is authorized to establish an animal shelter *for the county or municipality* for the purpose of impounding and quarantining dogs and quarantining cats and shall employ such personnel, *including law enforcement personnel*, as may be necessary to administer the provisions of this article. If an animal shelter is established, funds to establish and operate the shelter and employ necessary personnel may be provided in the annual county or municipal appropriations.

(emphasis added).

Section 47-3-20 further states:

> [t]he governing body of each county or municipality in this State may enact ordinances and promulgate regulations for the care and control of dogs, cats, and other animals and to prescribe penalties for violations.

In interpreting any statute, the overriding principle is determining legislative intent. Our Court of Appeals, in *Collins Music Co. v. IGT*, 365 S.C. 544, 619 S.E.2d 1 (Ct. App. 2005), summarized the governing guidelines for interpreting statutes as follows:

> "The cardinal rule of construction is to ascertain and effectuate the intent of the legislature." *Hawkins v. Bruno Yacht Sales, Inc.*, 353 S.C. 31, 39, 577 S.E.2d 202, 207 (2003); *Bayle v. South Carolina Dept. of Transp.*, 344 S.C. 115, 122, 542 S.E.2d 736, 739 (Ct. App. 2001). "All rules of statutory construction are subservient to the one that the legislative intent must prevail if it reasonably can be discovered in the language used, and the language must be construed in the light of the intended purpose of the statute." *City of Sumter Police Dept. v. One (1) 1992 Blue Mazda Truck (VIN # jm2uf113n0294812)*, 330 S.C. 371, 375, 498 S.E.2d 894, 896 (Ct. App. 1998)." Statutes, as a whole must receive practical, reasonable, and fair interpretation, consonant with the purpose, design, and policy of lawmakers." *TNA Mills, Inc., v. South Carolina Dept. of Revenue*, 331 S.C. 611, 624, 503 S.E.2d 471, 478 (1998).
>
> If a statute's language is plain, unambiguous, and conveys a clear meaning, "the rules of statutory construction are not needed and the court has no right to impose another meaning." *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). The words of the statute must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. *Hitachi Data Sys. Corp. v. Leatherman*, 309 S.C. 174, 178, 420 S.E.2d 843, 846 (1992). "Our goal in construing statutes is to prevent an interpretation that would lead to a result that is plainly absurd." *In re Timothy C. M.*, 348 S.C. 653, 655-56, 560 S.E.2d 507, 509 (2001); *Carolina Alliance for Fair Employment v. South Carolina Dept. of Labor, Lic. & Reg.*, 337 S.C. 476, 492, 523 S.E.2d 795, 803 (Ct. App. 1999).

Applying the foregoing principles to your first question, it is our opinion that the Council's delegation of the operation of the animal shelter to the Sheriff's Office is consistent with the language contained in § 47-3-30, but that such delegation of authority should be formalized by county ordinance. Section 47-3-30 provides in pertinent part that the county may establish an animal shelter and "shall employ such personnel, including enforcement personnel, as may be necessary ...." The word "employ" in its common and ordinary usage means "to make use of; use ...." Webster's *New World Dictionary* 2d ed.). Nothing in this provision precludes the county from using the Sheriff's Office to administer the animal shelter. Indeed, § 47-3-30 makes reference to "enforcement personnel." It would thus be reasonable for Chesterfield County to utilize the Sheriff, the chief law enforcement officer of the County, in administering the County's animal shelter.

Accordingly, in our opinion, delegation to the Sheriff's Office in this regard is within the language of § 47-3-30.

In our view, however, such delegation should be formalized by ordinance. Section 47-3-20 expressly states that "[t]he governing body of each county or municipality *may enact ordinances* and promulgate regulations for the care and control of dogs, cats, and other animals and to prescribe penalties for violations." Reading this statute in conjunction with § 47-3-30, which authorizes the "governing body of the county" to "establish an animal shelter for the county," we believe that delegation by Chesterfield County to the Sheriff for the operation of the animal shelter should be accomplished by county ordinance. Such an approach appears to be the one contemplated by the foregoing statutes and we would advise that this procedure be followed. *See, Hodges v. Rainey*, 341 S.C. 79, 533 S.E.2d 578, 582 (2000) ["to express or include one thing implies the exclusion of the other."].

With respect to your second question, it is our opinion that if the county governing body undertakes to establish and operate an animal shelter, the shelter is required to serve only the unincorporated areas of the county. Section 47-3-30 impliedly recognizes this delineation between city and county through use of the words "[t]he governing body of *the county or municipality.*" (emphasis added).

Moreover, in an Opinion dated May 20, 1996, we referenced several previous opinions concerning the powers of municipalities and counties. There, we concluded that "it has consistently been the opinion of this Office that the only way a county ordinance could be made applicable to an incorporated area is by virtue of an agreement between the two political subdivisions, to the effect that county ordinances are applicable within the city limits." We see no reason this rule would be inapplicable in this situation, particularly in light of the fact that § 47-3-30 expressly references municipalities as well as counties. Thus, in our opinion, § 47-3-30 contemplates that the county government would be responsible only for the unincorporated areas of the county for the purposes of the operation of its animal shelter.

Sincerely,

Robert D. Cook
Deputy Attorney General

RDC/an