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The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLIE CONDON  
ATTORNEY GENERAL

November 28, 2000

Deborah Pittman-Page, Chair  
Socastee Park & Recreation Commission  
4677 Redwood Drive  
Myrtle Beach, South Carolina 29588

**RE: Informal Opinion**

Dear Ms. Pittman-Page:

You have asked for an opinion of this Office concerning the Socastee Park and Recreation Commission and the authority of the Horry County Council to remove commission members or to expand the commission to seven members. Specifically, you have asked us to review Horry County Ordinance No. 6-95 to determine whether the County Council can proceed in accordance with this provision.

The South Carolina General Assembly provided for the establishment of community recreation special tax districts for the purpose of offering recreational services and programs. The individual counties must implement the district by ordinance. South Carolina Code Section 4-20-40 states, in part:

County council shall by ordinance provide for the operations of the community recreation special tax district which shall include the creation of a commission consisting of three to seven members appointed by the county council. Appointments by county council to the commission shall be in accordance with any written agreement entered into between the county and any municipality having any part of its territory within the district. County council shall set the term of office for the members of the commission....

Thus, relevant to your inquiry, the statute requires a county to pass an ordinance creating the commission, which must contain between three and seven members.

Accordingly, in 1995 the Horry County Council enacted Ordinance No. 6-95 to create the Socastee area community recreation special tax district. The governing commission was established pursuant to Section 2 and reads:

There is hereby created a Commission composed of five (5) members who shall be appointed by the Horry County Council in the following manner: the County Council member from District 6 shall nominate three (3) members initially, the County Council member from District 4 shall nominate one (1) member initially, and the County Council member from District 7 shall nominate one (1) member initially. ...

The Commission members, once appointed, shall hold office for a term of four (4) years, on a staggered basis, until their successors have been appointed and qualified.

...

The ordinance sets the number of members serving on the Commission and the length of their terms of office.

You first ask if the County Council can remove members of the Commission. The general law states that if an office is appointive and there is no set term, the officer can be removed at will. If the office has a set term, then there must exist good cause to remove the appointed officer. See State v. Wannamaker, 213 S.C. 1, 48 S.E.2d 601 (1948); 63A AM.JUR.2D *Public Officers and Employees* §§ 221-222. Since the enabling legislation sets forth a term of office for the members of the Socastee Park & Recreation Commission, the removal of a member of the Commission must be for cause. I am not in a position to comment on whether a specific action of a member would constitute cause for removal. However, you may want to review Article VI, Sections 8 and 9 of the South Carolina Constitution and Section 8-1-10 et seq. of the South Carolina Code of Laws for examples of what may constitute cause in a particular case.

Your second question asks if the Council can expand the number of members on the Commission to seven. Although S.C. Code Ann. § 4-20-40 authorizes the counties to appoint as many as seven members to the Commission, Ordinance No. 6-95 sets the number of members at five, with particular provisions for appointment depending on the district. Thus, before the Council can expand the number of members on the Commission, the county's enabling legislation must be amended first through the proper procedures to allow for this expansion. To act otherwise would be in violation of the County's own ordinance.

This letter is an informal opinion only. It has been written by a designated Assistant

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Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I remain

Very truly yours,

A handwritten signature in cursive script, appearing to read "Susannah R. Cole".

Susannah Cole  
Assistant Attorney General