

The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

September 30, 1999

Opal O. Green, Clerk
Oconee County Council
415 South Pine Street
Walhalla, South Carolina 29691

RE: Informal Opinion

Dear Ms. Green:

Your opinion request has been forwarded to me for reply. You have informed this Office of the following:

Oconee County operates under the Supervisor-Council form of county government as described in 4-9-410, et seq. of the South Carolina Code of Laws.

The County Solid Waste Department facilitates the disposal of solid wastes, including construction and demolition (C & D) materials. Upon the recommendation of department staff, and concurrence of County Council, the County Supervisor, after giving notice to the general public, implemented new hours of operation for the County C & D Landfill.

Thereafter, the County Council voted to reinstate the prior schedule of hours of operation of the C & D Landfill.

Subsequently, the Council voted to request an opinion from your office concerning whether, under the Supervisor-Council form of county government, the County Council or the County Supervisor has the authority to set the hours of operation of County facilities.

There are two relevant statutory provisions which must be reviewed in this matter. One empowers the county governing body and the other empowers the county supervisor. First, S.C. Code Ann. § 4-9-30 sets forth the broad powers granted to county governments. Specifically, § 4-9-30(7) provides, in pertinent part, that the county governing body is empowered "to develop personnel system policies and procedures for county employees by which all county employees are regulated except those elected directly by the people"

This Office has previously addressed the question of whether a county governing body possesses the power to set the hours of operation of county agencies. In an opinion dated July 27, 1977, we were asked whether the Lexington County Council was authorized to regulate the hours of operation of county departments. This Office concluded the above cited portion of § 4-9-30(7) was most probably broad enough to allow a county council to set the hours during which county employees are to work and thus, indirectly, to regulate the hours during which county offices are open for business. While the county supervisor's role in establishing the hours of operation of county departments was not at issue in this opinion, this interpretation of § 4-9-30(7) is instructive.

Second, the county supervisor's role is established by S.C. Code Ann. § 4-9-410 et seq. The powers and duties of the county supervisor are set forth in S.C. Code Ann. § 4-9-420 and include, among others, the following powers:

- (1) to serve as the chief administrative officer of the county government;
- (2) to execute the policies and legislative actions of the council;
- (3) to direct and coordinate operational agencies and administrative activities of the county government;

Based on the July 27, 1977 opinion, it would appear county council, by virtue of its power to develop personnel system policies and procedures for county employees, would indirectly possess the power to regulate the hours during which county offices are open for business. Thus, it would seem that county council may act legislatively in this regard. If county council chooses this course of action, the county supervisor, pursuant to his duty to execute the policies and legislative actions of council, must act accordingly. However, in the absence of county council action on the subject, it would appear that the county supervisor, as chief administrative officer of the county and possessing the power to direct and coordinate operational agencies of the county, would be authorized to regulate the hours of operation of county departments. I caution this conclusion is not free from doubt and,


Opal Green
Page 3
September 30, 1999

therefore, a declaratory judgment action may be advisable.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With best personal regards, I am

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Paul M. Koch".

Paul M. Koch
Assistant Attorney General