

# The State of South Carolina



## Office of the Attorney General

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April 18, 1988

The Honorable Marion P. Carnell  
Member, House of Representatives  
518-C Blatt Building  
Columbia, South Carolina 29211

Dear Representative Carnell:

By a letter of one of your constituents dated March 4, 1988, an opinion has been requested as to who has authority to appoint municipal committees under the council form of municipal government. The request particularly refers to the Town of Ware Shoals.

As I advised by letter of March 17, 1988, I understand that the Town of Ware Shoals may have a policy on appointment of committees in place and further may have an ordinance pending which would provide for the appointment of municipal committees. To formulate a complete response to the opinion request, it is necessary to examine these documents; because we do not have access to these documents, only a general response may be attempted herein.

Section 5-11-30, Code of Laws of South Carolina (1976), provides:

All 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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Appointment of committees is not addressed within Title 5 of the Code of Laws, which title pertains to municipal government. Thus, appointment of committees would be a matter of policy or a subject of legislative powers, each of which shall be addressed by council as a whole.

If a particular policy is in place and has been followed, it may continue to be followed until such time as the municipal council elects to change the policy. The leading South Carolina court decision on this point provides that the power to make rules is not exhausted once exercised; the power is continuing and may be exercised later to amend the rule (or policy or ordinance) which the entity was authorized to make in the first instance. See State ex rel. Coleman v. Lewis, 181 S.C. 10, 186 S.E. 625 (1936); Ops. Atty. Gen. dated April 14, 1986 and May 18, 1981 (copies of opinions enclosed).

In conclusion, appointment of committee members under the council form of municipal government is a legislative or policy matter to be addressed by the municipal council as a whole. Whatever policy, resolution, or ordinance is in effect on the present date may be changed at a future date by a future action of the council.

Sincerely,

*Patricia D. Petway*

Patricia D. Petway  
Assistant Attorney General

PDP:sds

Enclosures

REVIEWED AND APPROVED BY:

*Robert D. Cook*

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