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The State of South Carolina



Office of the Attorney General

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October 17, 1985

The Honorable Arthur Ravenel, Jr.
Senator, District No. 44
635 E. Bay Street
Charleston, South Carolina 29403

Dear Senator Ravenel:

Referencing a proposed East Cooper Joint Water System in which the Town of Mt. Pleasant may participate, you have asked who would make the appointment of the representative to serve on the system's governing body: the Mt. Pleasant Town Council or the Commission of Public Works, which operates the Town's water works.

The proposed joint water system would be established in the areas of Mt. Pleasant, Isle of Palms, Sullivan's Island, and that area receiving water services from the Bull's Bay Public Service District. The system would be created pursuant to Section 6-25-10 et seq., Code of Laws of South Carolina (1984 Cum. Supp.). In particular, Section 6-25-30 provides that

[i]n addition to the powers granted a municipality under the laws of the State, any two or more governing bodies may, by resolution or ordinance, determine that it is in the best interest of their municipalities and of their residents and customers to create a Joint Municipal Water System

Section 6-25-20 (f) defines "municipality" to include

counties, towns, and cities incorporated under the laws of this State; consolidated political subdivisions of this State; and any agency or public body created by the

Senator Ravenel
Page 2
October 17, 1985

General Assembly of this State or under the laws of this State and engaged in the sale and service of water for industrial and domestic purposes.

Further, "governing body" is defined by Section 6-25-20 (e), with respect to a municipality, to be "the board, commission, council, or governing body charged by law with governing the municipality."

Appointment of commissioners to govern such a joint system is specified by Section 6-25-60 (a), which provides in pertinent part that "[t]he governing body of each member of a joint system shall appoint a representative who shall be a commissioner of the joint system" Applying the plain meanings of the terms "governing body" and "municipality," which we must do absent ambiguity, Worthington v. Belcher, 274 S.C. 366, 264 S.E.2d 148 (1980), it is clear that the Town Council of the Town of Mt. Pleasant would appoint the Town's representative to the proposed East Cooper joint water system.

It has been argued that the words "the water works system of" must be read into the definition of "governing body" to make the appointing body be the board, commission or council or governing body charged by law with governing the water works system of the municipality. We agree that such an interpretation could be by implication only, as there is no basis in the language of the Joint Municipal Water Systems Act to create such an inference.

Furthermore, we would note that when the Act was passed by the General Assembly in 1983, see Act No. 82 of 1983, the statutes concerning municipal commissions of public works were firmly entrenched. See, for example, Section 5-31-230 as to the municipalities which are excepted from having commissions of public works. Because the legislature is presumed to have knowledge of this statute and others pertaining to the relationship of municipalities to commissions of public works, Ingram v. Bearden, 212 S.C. 399, 47 S.E.2d 833 (1948), it must be presumed that the legislature took into account these statutes when Act No. 82 of 1983 was passed. Thus, there is apparently no reasonable basis to conclude that the appointment would be made by a body other than the Mt. Pleasant Town Council.

We would advise that should Town Council consider delegating its appointment power to the Commissioners of Public Works, such appointment would probably be void since there is apparently no authority to so delegate the appointment power which the Town of

Senator Ravenel
Page 3
October 17, 1985

Mt. Pleasant has been granted under Section 6-25-60 (a) of the Code. For a discussion of the applicable law on this point, see an opinion of this Office dated April 11, 1985, a copy of which is enclosed.

In conclusion, we would advise that Section 6-25-60 (a) requires that the representative for the Town of Mt. Pleasant to serve on the proposed East Cooper municipal water system be appointed by the Mt. Pleasant Town Council.

Sincerely,

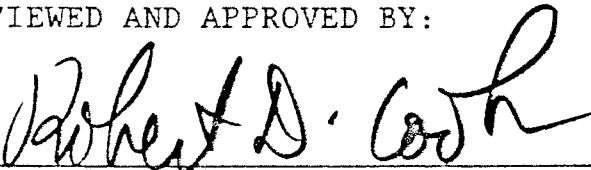
Patricia D. Petway

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PDP/an

Enclosure

REVIEWED AND APPROVED BY:



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