



HENRY McMASTER
ATTORNEY GENERAL

November 7, 2008

The Honorable Jimmy C. Bales
Member, House of Representatives
1515 Crossing Creek Road
Eastover, South Carolina 29044

Dear Representative Bales:

We understand from your request letter that you desire an opinion of this Office on the organization and authority of the Richland County Recreational District (the "District"). Specifically you pose to us the following two questions:

Do members of the Commission, authorized by the Act, have the authority to manage the day-to-day operations of the District?

Is the District responsible for providing office space, supplies, equipment or other items to Commission members?

Law/Analysis

As you explained in your letter, the Legislature created the District via act 873 of 1960. 1960 S.C. Acts 2010. According to this act, "[t]he district shall be governed by a commission to be known as the Rural Recreation Commission of Richland County" *Id.* In addition, you noted that section 5, under the act, gives the Commission specific powers including the power to sue, be sued, adopt and use a corporate seal and bylaws, acquire property and equipment, expend money, proscribe rules for the use of District facilities, charge fees, enter into contracts, appoint agents and employees, and issue bonds. *Id.* The Legislature amended the District's enabling legislation on several occasions. Notably, the Legislature gave the Commission the authority to levy taxes, amended the provision allowing the Commission to issue bonds, and changed the name of the District and Commission to the "Recreation District and the recreation Commission of Richland County." 1965 S.C. Acts 563; 1969 S.C. Acts 441; 1970 S.C. Acts 1995; 1971 S.C. Acts 1685; 1973 S.C. Acts 1494; 1969 S.C. Acts 382. However, we note no other changes to the authority given to the Commission.

As a creature of statute, the Commission has only has those powers that are specifically granted to it by statute or which may be reasonably implied therefrom. *Piedmont Pub. Serv. Dist. v. Cowart*, 319 S.C. 124, 131, 459 S.E.2d 876, 880 (Ct. App. 1995); Op. S.C. Atty. Gen., January

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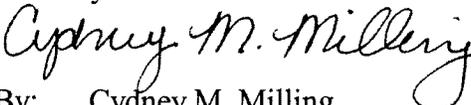
29, 2007. Therefore, we look to the authority specifically given to the Commission by the Legislature. As mentioned above, the Legislature provides that the District “shall be governed by [the] commission” 1960 S.C. Acts 2010. This provision gives the Commission the authority to manage the functions and operations of the District and in our opinion, such authority would include the Commission’s ability to manage the day-to-day operations of the District. This determination is further supported by the fact that the Legislature gives the Commission vast authority in the specific powers and duties it set forth for the Commission.

Nonetheless, we must point out that the Commission’s authority to manage the District’s day-to-day operations, like any other power given to the Commission, can only be exercised by the Commission as a whole and not its individual members. Our courts recognize the principle that a commissions must act as a body and the powers and duties of a commission may not be exercised by the individual members separately. Vulcan Materials Co. v. Greenville County Bd. of Zoning Appeals, 342 S.C. 480, 492, 536 S.E.2d 892, 898 (Ct. App. 2000); Massey v. City of Greenville Bd. of Zoning Adjustments, 341 S.C. 193, 200, 532 S.E.2d 885, 888 (Ct. App. 2000). Accordingly, one member alone cannot exercise the Commission’s authority to manage the District’s day-to-day operations.

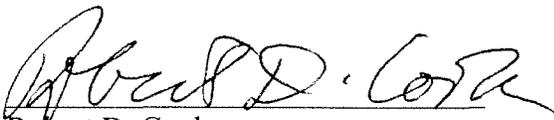
Next, you inquire as to the District’s responsibility to provide Commission members with “office space, supplies, equipment or other items.” While the District’s enabling legislation does not specifically place such a responsibility on the District, we believe such could be implied if it is necessary for the operation of the District and such facilities, supplies, and equipment are to be used in the furtherance of the District’s purposes. The provision governing the specific powers afforded to the Commission allows the Commission to make expenditures for District functions and to enter into contracts. Thus, these specific powers, along with the Commission’s general authority to oversee the District, we believe, would allow for such expenditures if they are necessary for the District’s operation. However, for the reasons previously stated, a decision to make expenditures to provide members with office space, supplies, equipment, and other items is a decision which the Commission, not its individual members, must make.

Very truly yours,

Henry McMaster
Attorney General


By: Cydney M. Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook

Deputy Attorney General