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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

October 18, 1996

Mr. H.D. "Don" Johnson
Sumter County Register of Mesne Conveyances
141 N. Main St., Room 202
Sumter, SC 29150

Dear Mr. Johnson:

You have requested advice as to several questions related to the duties of the Sumter County Register of Mesne Conveyances (RMC). In your County, the RMC is appointed by the County governing body "...under such terms and conditions as may be agreed by the governing body." Act No. 630, 1980 S.C. Acts 2398; see also S.C. Code Ann. §30-5-10 (Supp. 1995). Your questions relate to the respective authority or duties of the RMC and the governing body given that the RMC is appointed. According to your letter, Sumter County has a Council - Administrator form of government, but no attempt is made herein to differentiate between the council and the administrator. References are instead to the governing body of Sumter County.

1. Does the Governing Body have the authority to direct the operations of the RMC?

Act 630 provides that the appointment is under the terms and conditions agreed by the governing body. Under § 4-9-30 (7) (Supp. 1995) county governments, except the board of commissioners form, have the following authority:

"to develop personnel systems by which all county employees are regulated except those elected directly by the people, and to be responsible for the employment and discharge of county personnel in those county departments under which the employment authority is vested in county government."

These statutes give the County governing body some authority over the RMC, but this authority could not be exercised so as to conflict with the statutory duties of the Office of RMC. See eg Ops. Atty. Gen. (May 8, 1995, June 19, 1980, November 23, 1977); Cf. Id. (July 26, 1984, February 18, 1983).

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2. Does the county governing body have the responsibility of reviewing the operations of the RMC to determine whether the Office is meeting the mandates of State law?

Although the County governing body is not expressly given such power, as the appointing authority, it does have the power to set conditions and terms of employment and regulates the RMC and other County employees through personnel systems. Whether those policies, terms and conditions are being met would be a matter for the governing body to determine as the appointing authority.

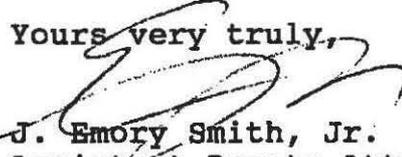
3. Is the RMC required to take the oath of Office specified in §§8-3-10?¹

Yes. S.C. Const. art VI §4 requires all officers of the State and its subdivisions to take the oath prescribed in §5 of that article. Section 8-3-10 (1986) contains similar language. Because the position of RMC is an office², these requirements apply.

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

I hope that the above information is of assistance to you.

Yours very truly,


J. Emory Smith, Jr.
Assistant Deputy Attorney General

JESjr

¹ Section 8-3-20 (1986), to which you refer, has been repealed. See 1995 Supp.

² See Waring v. Miller Batting and Manufacturing Co., 36 S.C. 310, 15 S.E. 132 (1892).