



ALAN WILSON
ATTORNEY GENERAL

March 31, 2016

The Honorable John R. Rumford
Mayor, Town of Fort Lawn
Post Office Box 37
Fort Lawn, South Carolina 29714

Dear Mayor Rumford:

We have received your letter requesting an opinion of this Office pertaining to fire protection services provided to the Town of Fort Lawn. Specifically, we interpret your question as asking whether the Fort Lawn Fire Protection District has the power to “employ their own personnel and provide compensation and applicable benefits for such staff.” Our analysis follows.

Law / Analysis

By way of background, Act 592 of 1980 created the Fort Lawn Fire District in Chester County, which included the area lying within a three mile radius from the center of the Town of Fort Lawn. Act No. 592, 1980 S.C. Acts 2353. The Act further established a fire control commission, provided the commission with the authority to investigate the feasibility of operating a system of fire protection within the district, and authorized the commission to negotiate a contract with the Town of Fort Lawn for providing fire service within the district. *Id.* Upon the approval of a tax levy by the County Council, the Act also prescribed the Fort Lawn Fire District with certain enumerated powers. *Id.* at 2354.

Subsequently, by way of ordinance, the Chester County Council created the Fort Lawn Fire Protection District pursuant to S.C. Code Ann. 4-19-20 (Supp. 2015). Chester County, S.C. Code of Ordinances, art. VI, Division 18 (Dec. 15, 2014); see generally *Op. S.C. Att’y Gen.*, 2007 WL 4284644 (Sept. 19, 2007) (explaining that “chapter 19 of title 4 specifically governs a county’s ability to operate and maintain a system of fire protection and includes a provision under section 4-19-20 allowing counties to establish fire protection districts by ordinance”). The ordinance, taking effect on December 15, 2014, made the following statutory findings and determinations:

[c]ounty council determines that the establishment of the districts satisfies the requirements and conditions of the Act, specifically Sections 4-19-10 and 4-19-20. The areas comprising the districts are not included within any existing fire protection district or special tax district for the purpose of fire protection, and

there are no contracts for the provision of fire protection service between any resident districts and any provider of fire protection service.

Chester County, S.C. Code of Ordinances, art. VI, Division 18, § 2-762 (Dec. 15, 2014). Based upon these findings, it is apparent that the Fort Lawn Fire Protection District currently provides the fire protection services within the service area provided by the Ordinance, and such areas are not currently under contract with nor are any fire protection services rendered by any other provider. Furthermore, you have provided us with information stating that the boundaries of the Fort Lawn Fire Protection District include the Town of Fort Lawn. See Memorandum of Understanding between the Fort Lawn Fire Protection District and the Town of Fort Lawn, South Carolina (February 14, 2015).

As noted above, chapter 19 of title 4 specifically governs a county's ability to operate and maintain a system of fire protection and includes a provision under Section 4-19-20 allowing counties to establish fire protection districts by ordinance. Thus, pursuant to Section 4-19-20, it is clear Chester County has the authority to provide fire protection to its residents by the establishment of a fire service district. S.C. Code Ann. § 4-19-20 (Supp. 2015). In addition, S.C. Code Ann. § 4-19-20(4) (Supp. 2015) provides that the governing body of the county "shall provide for the administration of the fire protection district." The section goes on to state that "[t]he fire protection district may be operated as an administrative division of the county, or the governing body may appoint a commission consisting of three to seven members and provide for their duties and terms of office." Id. The Chester County Council has chosen to appoint a commission as the governing body of the Fort Lawn Fire Protection District. See Chester County, S.C. Code of Ordinances, art. VI, Division 18, § 2-765 (Dec. 15, 2014).

With this background in mind, we turn to your specific question of whether the Fort Lawn Fire Protection District can hire personnel and provide compensation and applicable benefits. In a prior opinion of this Office, we discussed the authority of the board of a fire service district created pursuant to S.C. Code Ann. § 4-19-10 et seq. in Union County, providing that "[b]ecause the Board's role is administrative in nature, the Board's powers are limited to the functions lawfully delegated to it by ordinance." Op. S.C. Att'y Gen., 2011 WL 6120338 (Nov. 17, 2011). Expanding on this conclusion, we provided as follows:

[a]s an administrative body, the Board's authority is limited to the powers lawfully conferred upon it by ordinance. *See generally Peterson Outdoor Advertising v. City of Myrtle Beach*, 327 S.C. 230, 234-35, 489 S.E.2d 630, 632 (1997) ("[A] municipality may delegate the administration of its ordinance to a board provided the board's discretion is sufficiently limited by clear rules and standards."); *Vulcan Materials Co. v. Greenville County Bd. of Zoning Appeals*, 342 S.C. 480, 491 n.9, 536 S.E.2d 892, 897 n.9 (Ct. App. 2000) ("The [zoning board] is a creature of . . . ordinance and as such is controlled by that ordinance.").

Id. at *5. Therefore, in regards to the Board of the Fort Lawn Fire Protection District, it is our opinion that the Board would have the powers delegated to it from the Chester County Council by way of ordinance.

Pursuant to S.C. Code Ann. § 4-19-10, the governing body of a county has been granted specific powers pertaining to fire protection districts. One such power is the power “[t]o employ all necessary fire protection personnel and fix their compensation.” S.C. Code Ann. § 4-19-10(e) (1986 & Supp. 2015). Looking at the ordinance establishing the Fort Lawn Fire Protection District, the Chester County Council has expressly provided that the board “is authorized, subject to the approval of county council, to operate and maintain its district. Specifically, following approval from county council each board is authorized to: . . . (3) Employ all necessary fire protection personnel and fix their compensation in accordance with established and approved budgets.” Chester County, S.C. Code of Ordinances, art. VI, Division 18, § 2-765(b)(3) (Dec. 15, 2014). Accordingly, it is apparent the Chester County Council has conferred, by ordinance, the power to hire fire protection personnel and fix the compensation of such personnel in accordance with established and approved budgets of the Fort Lawn Fire Protection District, following approval from county council.

Additionally, you have asked about the ability of the Fort Lawn Fire Protection District to provide its personnel with “applicable benefits.” It is also our opinion that a court would find the power conferred to the Fort Lawn Fire Protection District to “fix compensation” includes the provision of benefits. In prior opinions of this Office, we have noted that “[c]ompensation includes perquisites, such as insurance benefits.” Op. S.C. Att’y Gen., 2001 WL 1397514 n.1 (October 18, 2001) (citing Op. S.C. Att’y Gen., 1988 WL 485260 (Aug. 5, 1988)). We have also pointed out that courts have broadly construed the term “compensation” to include fringe benefits. Op. S.C. Att’y Gen., 1995 WL 302298 (April 10, 1995) (providing, in one of its examples, the conclusion in State v. Bland, 91 Kan. 160, 136 P. 947, 949 (1913) that “[t]he ordinary meaning of ‘compensation’ as it is applied to public officers or employees is remuneration in whatever form it may be given.”). Therefore, we also believe the power conferred to the Fort Lawn Fire Protection District to hire personnel and fix compensation would likely include the ability to provide benefits, upon the approval of county council.

Conclusion

The Fort Lawn Fire Protection District was created by ordinance of the Chester County Council dated December 15, 2014, as authorized by S.C. Code Ann. § 4-19-20(4) (Supp. 2015). Also authorized by Section 4-19-20(4), the Chester County Council established a board of commissioners to conduct the administration of the Fort Lawn Fire Protection District.

As an administrative body, it is the opinion of this Office that the Board of the Fort Lawn Fire Protection District is limited to the powers lawfully conferred upon it by ordinance. In the ordinance establishing the Fort Lawn Fire Protection District, the Chester County Council has expressly conferred to the Board the power to “[e]mploy all necessary fire protection personnel and fix their compensation in accordance with established and approved budgets,” subject to the approval of county council. Accordingly, it is our opinion that upon approval by county council, the Fort Lawn Fire Protection Board has authority to employ its own fire protection personnel and fix the compensation of such personnel. In addition, this Office has formerly concluded that the term “compensation,” as applied to public officers and employees, is generally construed broadly by courts to include fringe benefits. Therefore, in line with our prior opinions, we believe the power conferred to the Fort Lawn Fire Protection District to employ necessary fire

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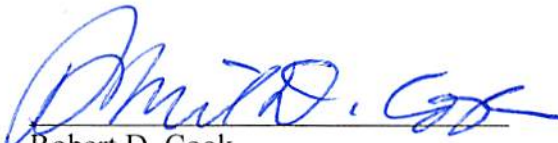
protection personnel and to fix the compensation of such personnel would likely include the ability to provide benefits, upon approval of county council.

Very truly yours,



Anne Marie Crosswell
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General

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