You ask whether an elected member of a county board of supervisors simultaneously may serve as a member of the planning commission of an incorporated town located within the county.

You relate that the Town Council of the Town of Montross, an incorporated town, has requested a member of the Westmoreland County Board of Supervisors to serve on the Montross Planning Commission.

In your written opinion,¹ you state that, generally, no member of a board of supervisors simultaneously shall hold any other elected or appointed office, in accordance with Article VII, § 6 of the Constitution of Virginia (1971) and § 15.150.5 of the Code of Virginia.² Therefore, you conclude that these provisions do not apply to your inquiry since the county supervisor has been requested to serve on a planning commission that is appointed by the governing body of a town located within the county.

You note, however, that a 1980 opinion of the Attorney General concludes that a member of a county board of supervisors may not serve at the same time as a member of the planning commission of a town located within the same county.³ You state that the opposite result was reached in a 1987 opinion of the Attorney General concluding that Article IV, § 4 does not bar a member of a county board of supervisors from serving in either house of the General Assembly during his continuance in the county office,⁴ and that this same logic should apply to holding an office in a different governmental unit.

At the time the 1980 opinion was rendered, § 15.150, the applicable statutory provision, provided:
No person holding the office of county treasurer, sheriff, attorney for the Commonwealth, county clerk, commissioner of the revenue, or supervisor shall hold any other office, elective or appointive, at the same time.[5]

At its 1993 Session, however, the General Assembly repealed § 15.150 and enacted §§ 15.150.4 and 15.150.5. Under § 15.150.4(A), constitutional officers and members of local governing bodies shall not hold more than one such office at the same time. Under the provisions of § 15.150.5, members of local governing bodies may not hold any office filled by that governing body, except as specified in that section.[8]

A rule of statutory construction requires the presumption that, in repealing § 15.150 and enacting §§ 15.150.4 and 15.150.5, the General Assembly had full knowledge of the existing law and the construction placed upon it by the Attorney General, and intended to change the then existing law. Another well-settled rule of statutory construction is that "[i]f the language of a statute is plain and unambiguous, and its meaning perfectly clear and definite, effect must be given to it."[10] It is unnecessary to resort to any rules of statutory construction when the language of a statute is unambiguous. In those situations, the plain meaning and intent of the statute govern. I am of the opinion that § 15.150.4(A) is clear and unambiguous; i.e., a member of the county board of supervisors may not simultaneously hold either a constitutional office or a position on another local governing body.

Every county and municipality in the Commonwealth, however, is required by the General Assembly to have a local planning commission. Members of the local planning commissions are appointed by the governing body of the county or municipality. The governing body of the county or municipality that appoints members to the planning commission is "the governing body that created the commission under § 15.1427.1, rather than some other governing body." To qualify for appointment to a local planning commission, a person must be a resident of the county or municipality, and "qualified by knowledge and experience to make decisions on questions of community growth and development."[15]

In your inquiry, the county supervisor is to be appointed to the local commission of the Town of Montross, an independent political subdivision of the Commonwealth and separate from Westmoreland County. Therefore, I am of the opinion that a member of a county board of supervisors simultaneously may serve as a member of the planning commission of a town located within the county.[16]

1Any request by a county attorney for an opinion from the Attorney General "shall itself be in the form of an opinion embodying a precise statement of all
facts together with such attorney's legal conclusions." VA. CODE ANN. § 2.1-118.

2Article VII, § 6 provides: "Unless two or more units exercise functions jointly as authorized in §§ 3 and 4, no person shall at the same time hold more than one office mentioned in this Article. No member of a governing body shall be eligible, during the term of office for which he was elected or appointed, to hold any office filled by the governing body by election or appointment, except that a member of a governing body may be named a member of such other boards, commissions, and bodies as may be permitted by general law and except that a member of a governing body may be elected or appointed to fill a vacancy in the office of mayor or board chairman if permitted by general law or special act."

The first paragraph of Article VII, § 4 provides: "There shall be elected by the qualified voters of each county and city a treasurer, a sheriff, an attorney for the Commonwealth, a clerk, who shall be clerk of the court in the office of which deeds are recorded, and a commissioner of revenue. The duties and compensation of such officers shall be prescribed by general law or special act."

The first paragraph of Article VII, § 5 provides: "The governing body of each county, city, or town shall be elected by the qualified voters of such county, city, or town in the manner provided by law."

Section 15.150.5(A) provides: "Pursuant to Article VII, Section 6 of the Constitution of Virginia, no member of a governing body of a county, city or town shall be eligible, during the term of office for which he was elected or appointed, to hold any office filled by the governing body by election or appointment, except that a member of a governing body may be named a member of such other boards, commissions, and bodies as may be permitted by general law and except that a member of a governing body may be named to fill a vacancy in the office of mayor or board chairman if permitted by general or special law."


6See Chs. 621, 781, 1993 Va. Acts Reg. Sess. 777, 1124, respectively (adding §§ 15.150.3 and 15.150.4, renumbered by Virginia Code Commission as §§ 15.1-50.4 and 15.150.5). The same legislation enacted § 2.137.01, providing that "[n]o person shall hold more than one elected office at the same time. This section
shall apply to every office elected by the qualified voters of the Commonwealth or any political subdivision or part thereof."

Section 15.150.4(A) provides: "Pursuant to Article VII, Section 6 of the Constitution of Virginia, no person holding the office of treasurer, sheriff, attorney for the Commonwealth, clerk of the court in the office of which deeds are recorded, commissioner of the revenue, supervisor, councilman, mayor, board chairman, or other member of the governing body of any county, city or town shall hold more than one such office at the same time." (Emphasis added.)

See § 15.150.5(A) quoted supra note 2.

See Richmond v. Sutherland, 114 Va. 688, 693, 77 S.E. 470, 472 (1913).


The first sentence of § 15.1427.1 provides: "The governing body of every county and municipality shall by resolution or ordinance create a local planning commission by July 1, 1976, in order to promote the orderly development of such political subdivision and its environs."

Section 15.1437 (providing for appointment of local planning commission by governing body, all of whom shall be residents of county or municipality).


Section 15.1437.