

Abolishment of city police department

Number: INFORMAL

Date: September 19, 2000

Mr. Thomas J. Kennon, III
White Springs Town Attorney
Post Office Drawer 1707
Lake City, Florida 32056

Dear Mr. Kennon:

You ask whether the town council of the Town of White Springs may abolish its police department and contract with the Hamilton County Sheriff's Department for law enforcement services. You also ask whether the town council may abolish the police department, stating that there are insufficient funds to provide its own department. Attorney General Butterworth has asked me to respond to your letter.

This office has recognized the authority of a municipality to contract with the sheriff to provide law enforcement services within the municipality. For example, in Attorney General Opinion 93-93 this office stated that Article VIII, section 4, Florida Constitution, does not require the town to hold a referendum to approve a contract for the provision of the town's law enforcement functions by the sheriff since the town, by retaining the authority to cancel the contract, has not abrogated its ultimate responsibility to supervise law enforcement functions.[1] While in Attorney General Opinion 96-78, this office stated that a mutual aid agreement could not be used for the complete transfer of law enforcement services from one municipality to another, this office recognized that in those instances where a municipality has no police department and seeks to contract for law enforcement services, the municipality may contract with the sheriff whose jurisdiction includes the city.

Your inquiry, however, turns on the interpretation of the town's charter. As discussed in this office's Statement of Policy, a copy of which is enclosed, this office is authorized to render opinions on questions involving the interpretation of state law. Opinions are not issued on questions requiring an interpretation only of local codes, ordinances, or charters rather than the provisions of state law; instead, such requests are referred to the attorney for the local government in question. Accordingly, this office must, regrettably, decline to formally comment upon this matter.

Informally, and in an effort to be of some assistance, I would note that while the town charter grants the town council the authority to establish and alter municipal departments,[2] Section 5.00 of the charter provides that "no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other department, office, or agency." Section 5.05 of the town charter creates a police department which is responsible for the safety and well being of the town's citizens. Section 2.08 of the charter appears to only address those types of actions that should be accomplished by ordinance.

I would further note that section 166.031, Florida Statutes, governs the procedures for amending a municipal charter. This office has stated that the amendment of a city's charter is governed by section 166.031, Florida Statutes, and no alternative method of charter amendment may be used.[3]

I trust you will understand the position this office must take in this matter; however, I hope that the above informal advisory comments may be of some assistance.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/tgk

Enclosure

[1] *And see* Op. Att'y Gen. Fla. 95-50 (1995), stating that the contractual arrangement between a municipality and a sheriff for the performance of law enforcement services to be provided by the sheriff does not constitute a consolidation or merger of governments or a transfer of functions between units of government for purposes of section 112.0515, Florida Statutes.

[2] Sections 2.08 and 5.00 of the Town Charter.

[3] *See, e.g.,* Ops. Att'y Gen. Fla. 93-23 (1993), 88-30 (1988), and 79-80 (1979).