

Powers of newly created municipality

Number: INFORMAL

Date: January 26, 2000

The Honorable Ken Sorensen
Representative, District 120
Post Office Box 699
Tavernier, Florida 33070

RE: MUNICIPALITIES--CHARTERS--COUNTIES--powers of newly created municipalities. Ch. 166, Fla. Stat., Part I, Ch. 163, Fla. Stat., Ch. 99-427, Laws of Florida.

Dear Representative Sorensen:

Thank you for contacting this office regarding the newly created City of Marathon. Attorney General Butterworth has asked me to respond to your inquiry.

The Florida Legislature adopted Chapter 99-427, Laws of Florida, creating the City of Marathon, effective upon voter approval in November 1999.[1] In its expression of legislative intent for adoption of this special act the Legislature indicated that:

"It is in the best interests of the public health, safety, and welfare of the residents of the Marathon area to form a separate municipality for the Marathon area with all the powers and authority necessary to provide adequate and efficient municipal services to its residents." [2]

The city is constituted as a body corporate and politic and has all the powers of a municipality under the State Constitution and laws of the state. Pursuant to its charter, "[t]he city shall have all governmental, corporate, and proprietary powers necessary to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal services unless expressly prohibited by law." [3]

A transition schedule for the change to municipal government is provided in section 9 of the charter. As stated therein, the referendum to approve creation of the City of Marathon and adoption of its charter was to be held on November 2, 1999 and, if approved, the provisions of the charter would take effect as provided in section 13 of Chapter 99-427, Laws of Florida. [4] The referendum was held and the charter approved.

The transition schedule makes provision for a number of significant governmental actions: the initial election of council members; [5] the creation and establishment of the city; [6] first-year expenses of the municipality; [7] transitional ordinances and resolutions; [8] transitional comprehensive plan and land development regulations and a solid waste collection plan; [9] provision for state shared revenues; [10] and receipt of local option gas tax revenues. [11] Thus, the Legislature has made extensive provision for the accomplishment of the transition from county to municipal government in Chapter 99-427, Laws of Florida.

Following receipt of your letter, this office contacted a number of Monroe County officials and was assured that essential county services are being provided to the citizens of Marathon in anticipation of a smooth transition to municipal government. It appears that the matter about which you have been contacted is an attempt on the part of an individual to involve state officials in what is essentially a private matter.

I trust that these informal comments will be of some assistance to you.

Sincerely,

Gerry Hammond
Assistant Attorney General

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[1] See s. 13, Ch. 99-427, Laws of Florida, (hereafter "the Charter").

[2] Section 2(2), the Charter.

[3] Section 4, the Charter.

[4] Section 9(1), the Charter.

[5] Section 9(2), the Charter.

[6] Section 9(3), the Charter.

[7] Section 9(4), the Charter.

[8] Section 9(5), the Charter.

[9] Section 9(6), the Charter.

[10] Section 9(7), the Charter.

[11] Section 9(8), the Charter.