

sentenced to terms of imprisonment apply to such an inmate because he had no term of imprisonment; all that he had was a death sentence. It is my understanding that all such persons have been resentenced since July 24, 1972, to terms of imprisonment for life or for a lesser time, and when this occurred as to one of such persons, he for the first time came within the provisions of §947.16(1) relating to interviews with inmates sentenced to terms of imprisonment.

073-93—March 29, 1973

## PUBLIC FUNDS

### MUNICIPALITY OFFERING REWARD

To: John C. Chew, City Attorney, Daytona Beach

Prepared by: Reeves Bowen, Assistant Attorney General

#### QUESTION:

May the City of Daytona Beach use municipal funds for the purpose of offering a reward for the capture of a felon?

#### SUMMARY:

The City of Daytona Beach is without authority to use municipal funds for the purpose of offering a reward for the capture of a felon.

In 23 Fla. Jur. *Municipal Corporations* §75, I find the following comments:

The prevention of crime and the enforcement of the criminal law are functions of the state rather than of any subdivision thereof. No duties with respect to the enforcement of the criminal laws of the state are delegated by implication to municipal corporations. Accordingly, a municipal corporation has no implied power to offer a reward for the apprehension or conviction of persons guilty of a crime.

To the same effect is the general rule in this country (McQuillin on *Municipal Corporations*, Vol. 3, pp. 11 and 12, §11.06).

The law thus enunciated was adhered to and applied by the Supreme Court of Florida in *Murphy v. City of Jacksonville*, 18 Fla. 318 (Fla. 1881). I find no general statute which empowers any municipality to offer rewards for the capture of felons.

Nor do I find anything in the Municipal Charter of the City of Daytona Beach, bestowed by Ch. 67-1274, Laws of Florida, authorizing said city to offer such rewards.

True, §5 of said Ch. 67-1274, Laws of Florida, authorizes said city to enact ordinances and take all action necessary to preserve and enforce peace upon the private and public property within the municipality. However, it appears from the Supreme Court's opinion in the said *Murphy* case that the City of Jacksonville was also authorized by statute to enact ordinances for the preservation of the peace but that the Supreme Court nevertheless held that said city had no authority to offer a reward for the apprehension and conviction of a felon.

The fact that §56 of said Ch. 67-1274, Laws of Florida, authorizes the City of Daytona Beach to levy taxes for municipal purposes gives it no authority to levy taxes to pay such rewards, since in the said *Murphy* case the Supreme Court held that the power of the City of Jacksonville to tax for municipal purposes did not authorize it to offer such a reward.

What effect, if any, does Art. VIII, §2(b), State Const., have upon the powers of a municipality? In *City of Miami Beach v. Fleetwood Hotel, Inc.*, 261 So.2d 801, 803 (Fla. 1972), the Supreme Court of Florida quoted said §2(b) as follows:

(b) Powers. Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct *municipal* government, perform *municipal* functions and render *municipal* services, and may exercise any power for *municipal* purposes except as otherwise provided by law."

and stated that this new constitutional provision still limits municipal powers to the performance of municipal functions. Then the court went on to say:

*That the paramount law of a municipality is its charter, (just as the State Constitution is the charter of the State of Florida,) and gives the municipality all the powers it possesses, unless other statutes are applicable thereto, has not been altered or changed. Gontz v. Cooper City, (Fla. App., 1970) 228 So.2d 913, Clark v. North Bay Village. et al., (Fla. 1951) 54 So.2d 240. The powers of a municipality are to be interpreted and construed in reference to the purposes of the municipality and if reasonable doubt should arise as to whether the municipality possesses a specific power, such doubt will be resolved against the City. Liberis v. Harper (Fla. 1925) 89 Fla. 477, 104 So. 853. "Municipal corporations are established for purposes of local government, and, in the absence of specific delegation of power, cannot engage in any undertakings not directed immediately to the accomplishment of those purposes." Hoskins v. City of Orlando, Florida (5th Cir., 1931) 51 F.2d 901. The aforesaid holding of the United States Fifth Circuit Court is entirely consistent with the 1968 change in our Constitution. (Emphasis supplied.)*

Since I find no authorization in said Ch. 67-1274, Laws of Florida (the Daytona Beach City Charter), or in any other statute for said city to offer a reward for the capture of a felon, I conclude that it has no authority to do so.

073-94—March 29, 1973

#### STANDARDS OF CONDUCT

#### SCHOOL BOARD MEMBER—DIRECTOR OF BANK DOING BUSINESS WITH SCHOOL BOARD

To: School Board Member

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General and Victor Walsh, Legal Research Assistant

#### QUESTIONS:

1. May a district school board member also serve as a director of a bank:
  - a. Which is or intends to be a depository bank for such school funds?
  - b. Which has made or intends to make loans to such school board?
2. May a bank, one of whose directors serves as a member of a county school board, make a loan to such county school board?

#### SUMMARY:

A member of a district school board may serve as a director of a bank acting as a depositor for school funds, providing all applicable conditions precedent contained in §§18.10(5), 112.313, and 136.02, F. S., are observed. A member of a district school board should not accept a position as a director of a bank which ordinarily engages in business