



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
CONFERENCE MEETING**

#16-0774

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Cynthia A. Everett, City Attorney

DATE: June 21, 2016

TITLE: City Attorney Annual Performance Review and Merit Adjustment

The City has employed Cynthia A. Everett as City Attorney since July 1, 2013. The Employment Contract provides that the City Commission may grant merit increases to the City Attorney to such extent as the City may determine that it is desirable to do so on the basis of an annual performance review.

I take this opportunity to bring to the City Commission's attention some of my Office's achievements during the past year:

The City Attorney's Office continues to measure productivity of its legal staff by producing regular reports tracking litigation cases and related expenses, tracking the receipt and completion of assignments, including requiring requestors of legal services and assigned attorneys to establish target completion dates to ensure a timely delivery of legal services.

The Office prepares a monthly status report regarding all items referred by the City Commission, and has regular meetings with the City Manager to discuss pending matters, identify current issues, and to foster communication between the City Attorney's Office and City Departments. The City Attorney consults as necessary with the City Clerk and the City Auditor.

Since July 1, 2015, the following are some of the more notable matters in which the City Attorney's Office has been involved:

General Government

- Prepared and reviewed ordinances, contracts, resolutions, task orders and change orders for the various Departments, some of which have involved complex, lengthy, and intrinsic issues such as: Vacation Rental Ordinance, Seawall Ordinance, Film Permit Ordinance, GERS and Police and Fire Pension

Ordinances regarding in-service distribution and tax qualifications, Telecommunications Ordinance, Airport Rules and Regulation Ordinance, Lien Reduction Ordinance, Pay Plan Amendment Ordinances, and a comprehensive ordinance updating the Code of Ordinances to reflect updates in the City's administrative structure, Beach Renourishment Agreement, Downtown Regional Activity Center Land Use Plan Amendments and associated Agreements, Bahia Mar Lease, Wells Fargo banking agreement, which entailed the review and negotiation of a Banking Services Agreement and numerous subagreements, Construction Manager at Risk contract for the Las Olas Corridor Project, drafted a new construction contract for the City: design-build contract for the Water Main/Force Main Las Olas \$2,750,000 project, reviewed approximately 344 task orders, and drafting ethics opinions for the City Commission.

- Implemented quarterly meetings for law office support staff in order to standardize procedures, improve efficiencies and enhance working relationships.
- Implemented an Emergency Action Plan for the City Attorney's Office staff and review and update the plan as required.
- Supported continuing education opportunities, which most recently have allowed an Assistant City Attorney to become a member of the Federal Bankruptcy Bar, which allows the City Attorney's Office to provide better in-house representation of the City in bankruptcy proceedings and related litigation matters in which the City is a creditor.
- Provided live in-house ethics training to the members of the City Commission on the Florida State Code of Ethics and The Revised Broward Code of Ethics for Elected Officials.
- An Assistant City Attorney served as a panelist for The Florida Bar Environmental and Land Use Law Section webinar on the implications for sign regulations after the United States Supreme Court's decision in *Reed v. Town of Gilbert*, concerning government regulation of speech.
- Provided information and support for a State legislative bill regulating anchorage of vessels in the Middle River.
- Participated in the restructuring of the CRA by revising the By-laws and providing guidance on appropriate personnel and administrative practices.
- Distributed to the City Commission and all Departments and Offices a highlighted summary of new State legislation with notations indicating the affected Department or Office.

- Updated, upgraded and integrated all City Attorney's Office divisions' computer systems. The City Prosecutor's LawBase® software was updated for the first time since 1999 from Version 10.7 to 12.0; the General Government division has begun using the case management system TimeMatters® which allows for tracking of assignments, monitoring of workloads, deadlines and work performance; the Police Legal Division's computers have been integrated with the General Government Division's computers, which allows for more effective communication and exchange of information between the two divisions.
- Successfully prosecuted Crescent House for nuisance violations and violation of the City's ULDR.
- Continued to work closely with the Code and Building Departments to provide timely responses to City Commission and resident inquiries and concerns.
- Attended a Workers' Compensation Seminar to better understand and address issues relating to presumption laws for first responders. Consulted with outside counsel and the City's Risk Division to discuss best practices to monitor and to reduce compensation claims.

Litigation Division

- The litigation division continues to reduce outside counsel expenses by representing the City in-house in various matters. The division's caseload is currently 38. The City Attorney's Office also serves as the City's liaison with special counsel. The City Attorney's Office most recently successfully represented the City as follows:
- Successfully defended an action for injunctive relief in the case of *BAC Home Loans Servicing, LP v. City of Fort Lauderdale* which challenged the City's ability to demolish an unsafe structure.
- Final Summary Judgment in *Edward Butler v. City of Fort Lauderdale & Scott Hagemann*. This case involved a claim of false arrest against the City and claims against Officer Scott Hagemann, including §1983 false arrest, excessive force, and malicious prosecution, as well as common law malicious prosecution.
- Final Order of Dismissal in *Green Sea Turtles, et al. v. City of Fort Lauderdale, et al.* This was an action for temporary and permanent injunctive relief against the City and other federal, state, and local government entities alleging violations of the Endangered Species Act (ESA) related to the Broward County Florida Shore Protection Project, Segment II.

- Final Summary Judgment in *Yohanan v. City of Fort Lauderdale*. Plaintiff brought claims under RICO and also alleged mail and wire fraud, related to the City of Fort Lauderdale's enforcement of NFPA 101:31.3.4.5.1 requiring the installation of a hard wired smoke detector in Plaintiff's condominium.
- Final Judgment of Eviction and Writ of Possession in *CFL v. DHS Investments, et al.* The City filed a commercial eviction action for non-payment of rent, property taxes, sales taxes, and late fees due under a long-standing lease agreement with the City for an FXE property, resulting in City obtaining a writ of possession, with the Court reserving jurisdiction to award damages and attorney's fees.
- The Office has established a case management reporting system for outside counsel to provide for regular and substantive updates on cases that have been assigned to outside counsel.

City Prosecutor's Office

- The City Prosecutor's Office filed 1,567 cases, and has collected \$412,428.00 in fines and fees to date. The City Prosecutors continue to handle increasing numbers of criminal violations of the City's Code of Ordinances, and administer a diversion program for first-time offenders and a City Prosecutor serves as counsel for the Nuisance Abatement Board.

Police Legal Division

- The Police Legal Division continued its work in support of the Police Department and its related task forces. The Assistant City Attorney who serves as the Police Legal Advisor conducted legal training for incoming and existing sworn officers and public service aides, provided legal updates regarding changes in the laws relating to law enforcement, advised on criminal investigations, advised on the dissemination of public records and Police media information dissemination, reviewed task force agreements and Police Department related contracts. The Police Legal Advisor also serves as counsel for the Citizens Police Review Board.
- The Police Legal Advisor has been serving on the Florida Police Chiefs Association Legislative Committee for the past year. In that capacity he has testified before the State Senate and House Judiciary Committee regarding civil forfeitures. Additionally, the Police Legal Advisor is serving a third term as the legal advisor for the Broward Chiefs Association.

- The Police Legal Division has handled 96 forfeitures seizures, 12 forfeiture cases and related matters and has been awarded \$46,564.00 for the City's Law Enforcement Trust Fund.

Fostering Professionalism and Maintaining City and Civic Relations

- Members of the Office attended the St. Patrick's Day Parade, Mayor's Prayer Breakfast, Light Up Sistrunk, Christmas on Las Olas, an event honoring the City's Sister City Medellín, Colombia's Flower Festival. The City Attorney moderated a panel at the 2015 South Florida Women of Color Empowerment Conference on the subject of Running for Elected Office, participated as a panelist at the Broward County Local Government Legal Summit on the subject of Charter Amendments, the Role of the City Attorney and Interacting with the media, and participated in the 2016 Walk Through History Program.
- Sponsored and staffed a table at the City's annual Neighbor Support Night, providing informational pamphlets from The Florida Bar on legal topics affecting residents, and engaging in discussions on how the City Attorney's Office functions.
- The City Attorney's Office continues to support and to participate in local, state, and national bar activities such as serving on the Executive Council of the Florida Bar City, County and Local Government Law Section, the Executive Board of the Florida Municipal Attorneys Association, the Board of Directors of the Federal Bar Association, South Florida Chapter, The Florida Bar Media and Communications Committee and the Eminent Domain Committee, and The Florida Bar Leadership Academy Committee. An Assistant City Attorney also serves as a member of the Florida Elevator Safety Technical Advisory Committee.

Prepared by: Cynthia A. Everett, City Attorney

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