



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

**#17-0715**

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

**FROM:** Cynthia A. Everett, City Attorney

**DATE:** June 20, 2017

**TITLE:** City Attorney Annual Performance Review and Merit Adjustment

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It has been a privilege to serve the City of Fort Lauderdale as City Attorney since 2013. The City Attorney 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 respectfully request your consideration of a merit increase and provide below some of the significant accomplishments of my Office.

First, I want to acknowledge my 2016-2017 staff that has contributed to these accomplishments:

Attorneys:

Robert Dunckel, Dina Kaizen, Paul Bangel, D’Wayne Spence, Bradley Weissman, Cole Copertino, Donald Londeree, Alain Boileau, Lynn Solomon, Rhonda Hasan, Candace Duff, Tania Amar, Gustavo Ceballos and Kimberly Mosley.

Support Staff:

Glynis Burney, Beverly Colehower, Maureen Richards, Ellen O’Connor, Semele Williams, Jolene Chism, Priya Sooknanan, Eleni Ward-Jankovic, Jennifer Larregui, Shaniece Louis, Astrid Sperling, Lisa Totten, Melissa Innocent, Lizardo Coronado, Mayda Pineda and Haydee Martinez.

The City Attorney’s Office continues to measure productivity of its staff by producing reports and tracking matters and cases. In striving for additional efficiencies, I proposed revisions to the agenda preparation process and requested that the City Manager consider the proposals. The review is ongoing and a new process is anticipated to be put into effect in the fall. The City Attorney’s Office also led the effort to obtain the *Applause2.0.0.9*® software for all City staff to allow for the electronic recording of property documents in the Official Records of Broward County.

The Office continues to prepare monthly status reports regarding all items referred to it by the City Commission, and meets with the City Manager to aid in fulfilling the Commission's policies and goals. The City Attorney consults as necessary with the City Clerk and the City Auditor and this past year, the City Attorney's Office and the City Clerk's Office collaborated on a seminar for City Commissioners.

Since July 1, 2016, the following are some of the significant matters in which the City Attorney's Office has been involved:

### **General Government Division**

- Drafted, amended or reviewed, ordinances, contracts, resolutions, memoranda, real estate documents, policies, task orders and change orders for the City's offices, departments and affiliated agencies such as: Medical Marijuana ordinance, Floodplain Management ordinance, Vacation Rental ordinance amendments, Downtown Regional Activity ordinance, Civil Citation ordinance, Risk Management and Settlement ordinance, Affordable Housing Trust Fund Ordinance, Utility Credit ordinance amendment, Donations ordinance, Purchasing ordinance, Pay Plan amendment ordinances, Foreclosure Initiation resolution, Offshore Drilling resolution, Opioid Abuse resolution, Sewage Spill resolution, Wells Fargo Merchant Services Agreement, Medical Director Agreement, Funding, Purchase and Sale Agreements for the Science Park and Project Discovery, YMCA-Holiday Park lease agreement, Flagler Village Hotel Agreement, Nova Southeastern University lease, Triangle Services construction loan agreement, 613 NW 3<sup>rd</sup> Ave., LLC project agreement, Las Olas Parking Garage (Skanska contract), Las Olas Marina lease (Suntex agreement), Marathon Health Agreement, Body Worn Cameras policy and agreements, ERP and *Accela*® software agreements and amendments. The division reviewed 152 change and task orders, 204 event agreements and provided numerous ethics opinions for the City Commission.
- Drafted new construction agreements for Public Works Department and Procurement: Design-Build and Construction Manager at Risk contracts.
- Reviewed and revised as necessary three volumes of rules and regulations, Standard Operating Guidelines and Standard Operating Procedures for the Fire Rescue Department to receive accreditation from the Commission on Fire Accreditation International.
- Assumed a primary role in evaluating properties for potential code violations through site visits; provided regular advice and guidance on enforcement priorities, and implementation of new legislation affecting code matters.
- Initiated the City's personnel classification review, and worked with the City Manager's Office, the Human Resources Department and the City's consultant to implement and complete the city-wide classification and compensation study.

- Provided live, in-house training with the City Clerk's Office to the members of the City Commission on the Florida Sunshine and Public Records laws.
- Developed a strategy for resolving environmental claims that appropriately addressed the interests of residents and the City.
- Developed and initiated a process, in conjunction with the City Manager's Office, to prosecute plaintiff's foreclosure actions.
- Provided regular advice and guidance on real estate sale, purchase, lease and development matters to the City Manager's Office designated assistant.
- Assigned an Assistant City Attorney to attend Development Review Committee Meetings to allow for greater insight into the City Manager's development policies and procedures and to provide legal assistance to staff.
- Advised City staff on updated Federal Aviation Administration contract requirements and drafted templates to comply with the new requirements.
- Initiated dialogue with the Broward Inspector General's Office ("OIG") through its general counsel to establish a procedure for informing City employees of the availability of the City Attorney's Office to assist or to represent them in connection with OIG investigations. Similarly, the Office advised the City Manager to inform City employees of the availability of the City Attorney's Office to represent employees if requested by the employee.
- Distributed to the City Commission and all Departments and Offices a highlighted summary of 2017 State legislation with notations indicating the affected Department or Office.

### **Litigation Division**

- The litigation division has averaged 30 cases during the past year and serves as the liaison for approximately 80 cases handled by outside counsel. The City Attorney's Office most recently successfully represented the City as follows:
  - The division had back-to-back trials in late 2016 successfully defending the City against claimed damages totaling \$400,000.00. The Office obtained judgments for costs and attorney's fees totaling \$20,000.00 in these two cases.
  - Notably, Assistant City Attorney Alain Boileau had an Eleventh Circuit appellate win in the matter of *Butler v. Scott Hagemann*, and in the *Food Not Bombs* matter, ACA Boileau prevailed in District Court where there were

competing summary judgment motions and the court did not request oral argument.

- Received a judgment for attorney's fees and costs in the amount of \$23,279.16 due to a defense verdict in *Jennifer Rendfrey v. City of Fort Lauderdale and Ace Rent-A-Car*. *Rendfrey* was the first case to empanel a jury in the new courthouse and proceed to a verdict.
- In the bankruptcy matter of *In re: William and Karla McLaren*, Assistant City Attorney Candace Duff successfully argued that the City's special assessment liens took priority over a mortgage lien and I.R.S. liens, even though they were recorded subsequent in time, and further argued that a code violation lien was secured by not only the Debtor's real property, but also the Debtor's personal property. The City defeated the Debtor's motion seeking to have the liens deemed unsecured and will now collect \$1,956.60. Moreover, the post-petition amounts owed on the code violation will continue to accrue and will remain a valid lien against the Debtor's home until the violations are corrected.
- In the probate matter of *In re: Estate of Ethel Mae Copeland*, Assistant City Attorney Candace Duff persuaded a personal representative to drop the estate's objection to the City's mortgage claim saving the City filing fees and the cost of litigating the objection in circuit court which resulted in the City being paid over \$4,000.00.
- Fully staffed a foreclosure section at the request of the City Commission. The section has developed and implemented foreclosure procedures and processes, internal spreadsheets to track foreclosure actions and drafted foreclosure template documents. The section has reviewed over 50 properties for foreclosure proceedings. The section's attorney also provides coverage for the City Prosecutor's Office. The section has collected more than \$300,000.00 from surplus fund and tax deed sales since its August inception.
- The litigation division, along with the police legal advisor, has engaged in dialogue with the ACLU and other interested parties on homeless and related public safety issues to keep the public informed about City ordinances related to public safety issues. The division has also collaborated with the police legal advisor to provide legal counsel to various city departments as enforcement issues arise.

### **City Prosecutor's Office**

- Successfully prosecuted a vocal City Commission meeting attendee for trespass resulting in a one year ban on attendance at Commission public meetings.

- The City Prosecutors continue to work with the City's Police Department to facilitate the Spring Break Municipal Diversion Program and to manage the increasing issues regarding the City's homeless population and aggressive panhandlers.
- The City Prosecutor's Office has represented the City in the pending feeding ordinances cases and provided required status reports to the County Court while related Circuit and Federal Court cases are proceeding.
- The City Prosecutor's Office filed 1,585 cases, and has collected \$386,664.00 in fines and fees since July 1, 2016.

### **Police Legal Division**

- The Police Legal Division continues its work in support of the Police Department and its related task forces. Assistant City Attorney Brad Weissman, 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 Department media information, 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 continues to serve on the Florida Police Chiefs Association Legislative Committee for a second year, providing guidance and analysis on proposed and pending legislation. Additionally, the Police Legal Advisor is serving a fifth term as the legal advisor for the Broward Chiefs Association.
- The Police Legal Division handled 61 forfeiture seizures, three forfeiture cases and related matters and has secured \$25,655.00 for the City's Law Enforcement Trust Fund.

### **Fostering Professionalism and Maintaining City and Civic Relations**

- Senior Assistant City Attorney Paul Bangel and Assistant City Attorneys D'Wayne Spence and Alain Boileau have participated as panelists for continuing legal education seminars on drafting resolutions and ordinances, zoning for medical marijuana and legal issues surrounding homelessness respectively. Since July 1, 2016, Assistant City Attorney Candace Duff and I had our board certifications renewed by The Florida Bar Board of Legal Specialization and Education as specialists in construction law and labor and employment law, respectively. Senior Assistant City Attorney Paul Bangel and Assistant City

Attorney D'Wayne Spence have continued to be board certified as specialists in City, County and Local Government Law.

- Assistant City Attorney Candace Duff published a judicial profile in the Federal Bar's Association's national monthly periodical "Federal Lawyer Magazine" on Southern District of Florida United States District Judge Darrin Gayles and she has conducted interviews with Southern District of Florida judges Laurel Isicoff, the first female Chief Judge of the United States Bankruptcy Court and Magistrate Judge Patrick White for articles to be published later this year.
- Assistant City Attorneys attended homeowners' association meetings to discuss code enforcement or vacation rental issues for the Bermuda Riviera Homeowners Association, Dorsey Riverbend Association, Croissant Park Civic Association, Landings Home Owners Association and Lauderdale Isles Civic Improvement Association. The attorneys regularly attend approximately 15 City board and committee meetings monthly.
- The City Attorney's Office continues to support and to participate in bar activities such as serving on the Executive Council of the City, County and Local Government Law Section of the Florida Bar, the Executive Board of the Florida Municipal Attorneys Association, and the Board of Directors of the Federal Bar Association, South Florida Chapter. An Assistant City Attorney continues to serve as a member of the Florida Elevator Safety Technical Advisory Committee.
- Members of the Office serve on the City Manager's Flexible Working Arrangement Committee, the City's United Way Campaign Committee and members participate in Procurement Liaison training.
- Groups of attorneys met quarterly with the Mayor or a Commissioner individually to discuss issues, policies and goals in an informal setting.
- The Office held its annual attorney retreat at the Fort Lauderdale Executive Airport and we were pleased to have District IV Commissioner Romney Rogers as the luncheon speaker.

I thank you for your consideration and I look forward to continuing to serve the City of Fort Lauderdale.

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Prepared by: Cynthia A. Everett, City Attorney

Charter Officer: Cynthia A. Everett