




Alachua County Attorney's Office

Sylvia E. Torres, County Attorney

MEMORANDUM

TO: Citizen's Academy Participants

FROM: Sylvia Torres, County Attorney 

DATE: March 13, 2019

SUBJECT: *Role of the County Attorney's Office*

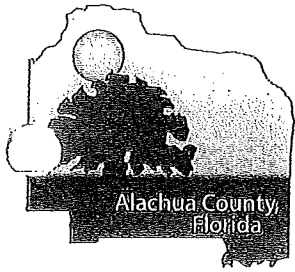
Attached is a memo from former County Attorney David Wagner, in which he described the role of the County Attorney's Office. The role of this office has not changed since the issuance of Mr. Wagner's memo, so I am including the memo in its entirety.

I hope you find this information helpful. Please feel free to call my office if you have any questions.

SET:eeh

Attachment





Alachua County Attorney's Office

Dave Wagner, County Attorney

MEMORANDUM

TO: All Members, Board of County Commissioners

FROM: David W. Wagner, County Attorney

DATE: December 4, 2012

SUBJECT: *Role of the County Attorney's Office*

The purpose of this memorandum is to discuss the ethical responsibilities of the attorneys in the County Attorney's Office that apply when we provide advice and representation pursuant to the Alachua County Charter. In addition, I will discuss the general principles we apply to the day-to-day business of providing legal services.

Section 2.3, Alachua County Charter, provides that the County Attorney should provide legal services to the Board of County Commissioners (Board), County departments, and County boards and agencies as specified by County ordinance. Section 21.41, Alachua County Code, provides that the County Attorney shall provide advice and representation to the Board, the County Manager, and County staff. This section also requires the County Attorney to provide advice and representation to the Constitutional Officers if requested by such officers to do so.

Once the Board makes a decision to take an action or adopt an ordinance, it is the obligation of the County Attorney's Office to defend the Board's action. The County Attorney's Office must defend that decision if it is challenged in a legal proceeding regardless of whether the Board's decision was unanimous or made by a simple majority vote.

The primary ethical responsibility of the County Attorney's Office is to represent our clients within the rules of professional conduct governing the practice of law in the State of Florida. Our primary client is the Board, the governing body established by the Charter and the State Constitution. This means that the County Attorney's Office is ethically prohibited from representing any individual member of the County Commission. The exception to this rule is that the Board can authorize the County Attorney to represent an individual commissioner in civil litigation filed against that commissioner pertaining to scope of employment actions. However, it is important to realize that our office's obligation is to provide objective advice to the entity - the Board of County Commissioners.

The primary operational policy implemented by our office is to help all our clients accomplish the many varied tasks involved in providing local government services to the citizens of Alachua County. To this end, we generally explore all avenues of legal research and reasoning to determine if there is a lawful means by which the County can achieve its objectives.



The role of the County Attorney is to give the County the best legal advice and counsel under the circumstances presented. Another key principle we employ in our office is that it is not the function of the County Attorney's Office to advise the Board on policy issues. These responsibilities are naturally yours as the legislative body of the County. You make policy decisions based on the professional advice of the County Manager's staff and citizen input. Therefore, legal advice and opinions given by the County Attorney's Office will be based only on established local government law and an honest and balanced assessment as to the state of law.

As you know, the provision of governmental services by County government is becoming increasingly complex. Likewise, local government law encompasses so many areas of law which are ever-growing and changing that our attorneys may not be able to keep abreast of the current state of the law in every field where questions may arise. This means that I will occasionally, in response to a question from a County commissioner in a meeting, respond by saying that I will get back to you with a response as quickly as possible after we thoroughly research the question.

The County Attorney's Office is part of a team that efficiently provides high-quality governmental services to Alachua County. Therefore, our office is open for County commissioners, County employees, or constitutional officers and their staff to seek our advice. We strive to be involved in providing legal advice as early as possible in the process to ensure that the action contemplated is permissible under the law of Florida and the various laws that may apply to each action that the Board takes.

DWW:eeh

xc: Richard Drummond, County Manager

ALACHUA COUNTY CHARTER
CHAPTER 21: ADMINISTRATIVE CODE
ARTICLE II. - ORGANIZATION OF COUNTY GOVERNMENT

Sec. 2.3. - Executive branch.

...

(C) County attorney. There shall be a county attorney selected by the board of county commissioners who shall serve at the pleasure of the board. The county attorney shall report directly to the board of county commissioners. The county attorney shall provide legal services to the board of county commissioners, county departments, and county boards and agencies as specified by county ordinance.

ALACHUA COUNTY CODE
CHAPTER 21: ADMINISTRATIVE CODE
ARTICLE IV. - COUNTY ATTORNEY

Sec. 21.40. - Appointment; removal; qualifications.

The county attorney shall be appointed or removed by the board of county commissioners. The county attorney shall be a member in good standing of the Florida Bar and, in addition, be admitted to practice before the United States District Court for the Northern District.

Sec. 21.41. - Duties; responsibilities.

The county attorney shall be the attorney both for the board of county commissioners, the legislative branch, and the county manager, the executive branch, except as may otherwise be provided by ordinance or resolution. The duties and responsibilities of the county attorney shall include:

- (a) Providing advice and representation for the legislative branch. At the direction of the board or as required by statute, the county attorney is hereby authorized to represent any other separate agency, legal entity, or governing body comprised of one or more county commissioner, created by the board, subject to the county attorney's determination that no conflict exists.
- (b) Providing advice and representation for the executive branch.
- (c) Providing advice and representation for officers created under article VIII, section 1(d), of the Florida Constitution, if requested by such officers, so long as that advice or representation does not create a conflict with the advice and representation of the legislative branch.
- (d) Providing advice and representation for the various boards, departments, offices, committees, or agencies created by the legislative branch, or similar agencies or organizations created by legislative action of the state legislature where the county attorney is designated to provide representation.
- (e) Prosecute and defend all legal actions by and against the county as approved by the board; provided, however, the county attorney is authorized and directed to take such action on behalf of the county as to protect the rights of the county in any legal action or to seek emergency relief, pending an opportunity to request required approval of the board.
- (f) Settling, adjusting or compromising affirmative claims on behalf of Alachua County, Florida, either before or after suit is filed, when the amount of the claim does not exceed \$7,500.00. The county attorney shall file, on a quarterly basis, a report with the board of county commissioners

reflecting the number of claims settled pursuant to this section and the monetary amount of settlement of each claim.

- (g) Select and employ a deputy county attorney, assistant county attorneys, attorneys, and other law clerks, paralegals, and clerical positions as are required to properly perform the duties of the office of county attorney and as are funded by the budget adopted by the board.
- (h) Prepare and submit a proposed annual budget to the county manager for appropriations necessary for the office of the county attorney to carry out of the full and faithful performance of its responsibilities. The county manager shall include the county attorney's proposed annual budget in the county manager's recommended budget. The county attorney's proposed annual budget and countywide midyear amendments shall be presented by the county attorney for board consideration and included in the county manager's presentation of the annual operating budget and countywide midyear amendments. Other budget amendments to the county attorney's budget throughout the fiscal year will be presented by the county attorney for the board's consideration.

Sec. 21.42. - Special attorneys.

Special attorneys shall be appointed only for the purposes and in the manner prescribed in this section.

- (a) Special attorneys to the board may be appointed by motion, ordinance or resolution, providing a description of the duties to be performed and the compensation to be paid.
- (b) Special attorneys may be appointed to represent the board in legal actions involving specific matters or as subject-matter experts, subject to approval by the board.
- (c) Bond counsel shall be selected and appointed by the board from one or more qualified names submitted to the board by the county attorney and the county manager.

ALACHUA COUNTY BOARD OF COUNTY COMMISSIONERS

