

CITY OF FORT PIERCE
CITY COMMISSION AGENDA

Special Meeting - Monday, September 27, 2021 - 1:00 p.m.

City Hall - City Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **COMMENTS FROM THE PUBLIC**

Any person who wishes to comment on any subject may be heard at this time. Please limit your comments to three (3) minutes or less, as directed by the Mayor, as this section of the Agenda is limited to fifteen minutes. The City Commission will not be able to take any official actions under Comments from the Public. Speakers will address the Mayor, Commissioners, and the Public with respect. Inappropriate language will not be tolerated.

5. **CONSENT AGENDA**
 - a. Approve recommendation of Auditor Selection Committee to award Bid No. 2021-037 to the highest ranked respondent.

6. **CITY ATTORNEY INTERVIEWS**

- a. Manny Anon, Jr.
- b. Aleksandr Boksner
- c. Tanya M. Earley

7. **DISCUSSION AND SELECTION OF CITY ATTORNEY**

8. **ADJOURNMENT**

Any person seeking to appeal any decision by the City Commission with respect to any matter considered at this meeting is advised that a record of proceedings is required in any such appeal and that such person may need to insure that a verbatim record of the proceedings is made including the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (772) 467-3065 at least 48 hours prior to the meeting.

**City Commission - City Attorney Interviews -
1:00 p.m.**

Meeting Date: 09/27/2021

Re:

Information

SUBJECT:

Approve recommendation of Auditor Selection Committee to award Bid No. 2021-037 to the highest ranked respondent.

Form Review

Form Started By: Linda Cox
Final Approval Date: 09/22/2021

Started On: 09/22/2021 09:35 AM

**City Commission - City Attorney Interviews -
1:00 p.m.**

Meeting Date: 09/27/2021

Re:

Information

SUBJECT:

Manny Anon, Jr.

Attachments

Manny Anon

Form Review

Form Started By: Linda Cox
Final Approval Date: 09/16/2021

Started On: 09/16/2021 04:23 PM

MANNY ANNON, JR.

PERSONAL

Address: 2649 S.E. Emmett Road
Port St. Lucie, Florida 34954

Contact: Cell: (305) 219-8083
Email mannyanon@yahoo.com

EDUCATION

J.D. - 1992
The American University Washington College of Law, Washington, DC

B.A., Politics and Public Affairs - 1989
University of Miami, Miami, Florida

SUMMARY OF RELATED EXPERIENCE

2001 - Present	<u>UNITED STATES ARMY RESERVE</u> 174 th Legal Operations detachment, Miami, Florida
	Team Leader
2020 - Present	<u>CITY OF SEBASTIAN, FLORIDA</u> Population 21,929
	City Attorney
2019 -2020	Assistant City Attorney (Contract)
2016 - 2019	<u>CITY OF PORT ST. LUCIE, FLORIDA</u> Population 201,846
	Sr. Assistant City Attorney
2015 - 2016	<u>UNITED STATES ARMY RESERVE</u>
	Active Duty
2014 - 2015	<u>EDUCATIONAL SABBATICAL (FIU)</u>
2014	<u>TOWN OF SURFSIDE, FLORIDA</u> Population 5,744
	Assistant Town Attorney
1999 - 2014	<u>AMERICAN FEDERATION OF STATE COUNTY AND MUNICIPAL EMPLOYEES</u> North Miami, Florida
	Deputy General Counsel
1997 - 1999	<u>CITY OF MIAMI, FLORIDA</u> Population 362,470
	Assistant City Attorney

1996 SANDLER & SANDLER
Coral Gables, Florida
Associate

1995 THE LEGAL GROUP, P.A.
Miami, Florida
Associate

1992 - 1993 LAW OFFICES OF CARLOS E. CASUSO
Miami, Florida
Law Clerk

1992 RASSNER RASSNER KRAMMER & GOLD
South Miami, Florida
Independent Research Assistant

1991 UNIVERSITY OF MIAMI SCHOOL OF LAW
Coral Gables, Florida
Visiting Law Student, Litigation Skills Program

1991 GAEBE MURPHY MULLEN & ANTONELLI
Miami, Florida
Law Clerk

1991 DADE COUNTY, FLORIDA
Population 1,937,000
Certified Legal Intern

August 3, 2021

Mayor, Vice Mayor and City Council Members
City of Ft. Pierce
100 N. US Hwy 1
Fort Pierce, FL 34950

My name is Manny Anon, Jr. and I am the City of Sebastian City Attorney. I am a law graduate from the American University Washington College of Law and licensed to practice in the State of Florida since 1993. Also, I have been practicing as a U.S. Army Reserve Judge Advocate since 2001. I am a native Floridian of Cuban descendant and currently live in Port St. Lucie with my wife. I read, speak, and write Spanish fluently.

My resume reflects that I have been clerking since my second year of law school and have been practicing law in the municipal public law sector since 1997. Throughout these past twenty-eight (28) years, I have worked with several different cities and governmental entities, including the U.S. Army Reserve Judge Advocate General Corp, City of Sebastian, City of Port St. Lucie, Town of Surfside, City of Miami, AFSCME Florida Council 79 and the State Attorney's Office. Thus, I have been exposed to various aspects of law including: Government Municipal Law, Labor and Employment Law, Procurement and Contract Law, Public Records and Sunshine Law and many areas of military law. Throughout these years, I have represented boards, drafted and argued many pleadings and briefs before arbitrators, special magistrates, hearing officers, and county, circuit, and administrative judges.

As a Major for the United States Army Reserve, I have served honorably since 2001 and deployed three times in support of Operation Enduring Freedom (2004) and Operation Iraqi Freedom (2008 & 2016). I was assigned to the 478th Civil Affairs Battalion (BN) out of Perrine, Florida as the International Law Officer/Brigade Judge Advocate. I was responsible for advising the BN Commander, Company Commanders, and staff on Administrative Law, and Contract Law, including legal opinion, Financial Liability Investigation of Property Loss, Article 15-6 and Military Justice. Currently, I am with the 174th Legal Operations Detachment in Miami Florida as a Team Leader supervising several officers and enlisted. Previously, I was the Team Chief in Orlando supervising four (4) Judge Advocates and two (2) enlisted service members. Also, I was the S3/S7 Operational Officer in charge of training and providing legal service and advice to service members and their dependents on family, civil and criminal law wills, notaries, Power of Attorney and other legal documents.

Currently I am the City of Sebastian City Attorney. I legally advise the City Council, City Manager, City Clerk and City Department Heads on all matter pertaining to the City including, labor and employment, personnel matters, litigation, Forfeiture, Risk Protective Orders, election matters, airport issues, draft and review ordinances, resolutions, contracts, legal opinions and other related legal documents. I attend Council, Code Enforcement, Construction and Planning & Zoning Board Meetings. I was involved with the 2040 Comp Plan, City Charter Review, Recall Election, and Canvassing Board. I provide Sunshine and Public Records law training to the elected and appointed officials. I track and advise Council of executive orders and pending legislation before the Florida Legislature and Congress. I provide legal advice to several departments, including Manager, Clerk, Human Resources, Airport, Golf Course, Procurement, Parks & Recreation, Building, Community Development, Police, and Code Enforcement.

Previously, I was employed as a Senior Deputy City Attorney for City of Port St. Lucie. I was the Labor & Employment Counsel, Negotiation Team Member (6 unions) and advised several departments, including Human Resources, on all Labor, employment and personnel matters, risk management, Neighborhood Services, Utilities, Parks & Recreation and Police. I drafted and reviewed ordinances, resolutions, contracts, legal opinions and other related legal documents for the City. Finally, I attended Council, Code Enforcement and other Board Meetings to assure compliance with F.S. Ch. 162, Code Enforcement, Florida Ethics, F.S. Ch. 286, Sunshine Law and F.S. Ch. 119, Public Records Law. Also, I was employed as Assistant Town Attorney for Town of Surfside. During my tenure, I prepared and reviewed ordinances, resolutions, contracts, legal opinions and other related legal documents for the Town. I attended Commission, Planning and Zoning and other Board Meetings to assure compliance with Florida ethics, Sunshine and public records laws. Finally, I worked closely with several directors in the Public Works, Building, Code Enforcement, Parks & Recreation and Police Departments.

Prior to that I was the Deputy General Counsel and Region 5 Director/General Counsel for AFSCME Florida Council 79, I was responsible for servicing, and providing legal support in labor employment issues, hearings, arbitrations and administrative proceedings in four (4) counties: Monroe, Miami-Dade, Broward, and Palm Beach. This included about 25 locals and over 11,000 dues paying members. I argued over a 100 arbitration cases and/or administrative hearings and resolved many other cases through settlement agreements. Finally, before AFSCME, I was an Assistant City Attorney with the City of Miami. I was assigned to the litigation department and carried a caseload of about 70 tort liability cases of which I was responsible from answering the complaint, discovery, and closing argument at trial (Jury or Bench). I represented the Departments of Public Works, Risk Management Police and Fire in tort defense litigation. I had several jury trials and many motions for summary judgments.

Thus, I will bring to Ft. Pierce City Attorney's Office the highest level of professionalism, ethics, dedication and commitment. Also, I bring vast knowledge and experience in City Municipal Law, Administrative Law, Labor and Employment law, F.S. Chapter 163, Municipal Planning/Land Development Regulation, F.S. Chapter 162, Code Enforcement, F.S. Chapter 286, Sunshine Law, F.S. Chapter 119, Public Records, Ethics, Forfeiture, Risk Protective Orders (RPO) and collective bargaining. Due to my military experience, I understand politics and diplomacy. Thus, I will be able to advise the City Council and Department Heads what is legal and ethical. I will give City Council Members the same information, keep them well informed and when necessary, promptly conduct research to provide Council the best legal advice and course of action. Also, due to my experience and knowledge in Labor and Employment, Forfeiture and RPOs, the city will be able to eliminate any outside counsel providing a savings to the City of Ft. Pierce. Finally, I am trained in all aspects of FEMA, NIMS, NRF and ICS so I can assist the City of Ft. Pierce in times of an emergency.

For these reasons, I am very interested in being the City of Ft. Pierce City Attorney. I honestly believe that the above-mentioned qualifications, knowledge, experience and leadership skills are all assets that I possess which will enable me to hit the ground running and immediately contribute to the high demands required by the City Council, City Attorney's Office and the City of Ft. Pierce. If there is anything else you need, please contact me.

Respectfully,
Manny Anon, Jr.
MANNY ANON, JR.

MANNY ANON, JR.

Education	<p>THE AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW Washington, D.C., J.D. – May 1992 <i>Activities:</i> Hispanic Law Society Association, Parliamentarian; Phi Delta Phi International Legal Fraternity; Honor Code Committee; Judiciary and Budget Committee; <i>Honor:</i> Who's Who Among American Law Students.</p> <p>UNIVERSITY OF MIAMI, Miami, Florida B.A. – May 1989, Politics and Public Affair/Chemistry and Biology Minor. <i>Activities:</i> Pi Sigma Alpha Honor for Political Science Majors; Kappa Sigma Fraternity, Vice President; Student Body Government, Cabinet Member, Chief Justice of the Supreme Court, Intra Fraternity Council Justice and UM Moot Court Finalist. <i>Honor:</i> Dean's List; Who's Who Among American College Students; Outstanding Young Men of America; Outstanding Young Scholar; National Association of Student Government Award; University of Mimi Leadership Certificate Program; Kappa Sigma Fraternity; Scholarship-Leadership Award; Omicron Delta Kappa Honor Society; and Order of Omega Honor Society.</p> <p>MIAMI-DADE COMMUNITY COLLEGE, Kendall, Florida A.A. May 1986, Pre-Legal/Pre-Med. <i>Honor:</i> Dean's List; Achievement of Excellence Award; Phi Theta Kappa Honor Society, Vice President; Phi Alpha Phi Pre-Med Society, Vice President.</p>
Employment History	<hr/> <p>UNITED STATES ARMY RESERVE JUDGE ADVOCATE GENERAL United States Army Reserve, 174th Legal Operations Detachment, Miami Florida <i>Team Chief/S3 Operation Officer</i>, August 3, 2001 - Present I am in charge of the Orlando Office, supervising four (4) Judge Advocate Officers and two (2) enlisted paralegals. Also, I am in charge of training and providing legal advice to service members and their dependents in family, civil and criminal law; assisting soldiers with legal questions, preparing wills, notaries and powers of attorneys.</p> <p>CITY OF SEBASTIAN, Sebastian, Florida <i>City Attorney</i>, February 2010 - Present Legally advise the City Council, Manager and Directors on all matter pertaining to the City including, all labor and employment and personnel matters, draft and review ordinances, resolution, contracts, legal opinions and other related legal documents.</p> <p>CITY OF PORT ST. LUCIE, Port St. Lucie, Florida <i>Sr. Assistant City Attorney</i>, August 2016 – January 2019 Labor and Employment Attorney, Litigation, prepare and review ordinances, resolutions, contracts, and other related legal documents</p> <p>TOWN OF SURFSIDE, Surfside, Florida <i>Assistant Town Attorney</i>, July 2014 - November 2014 I prepare and review ordinances, resolutions, contracts, and other related legal documents</p> <p>AMERICAN FEDERATION OF STATE COUNTY AND MUNICIPAL EMPLOYEES, North Miami, Florida <i>Deputy General Counsel</i>, September 1999- January 2014 I provide legal support for AFSCME staff and bargaining unit members in Monroe, Miami Dade, Broward, and Palm Beach Counties. I handle all labor and employment issues, arbitrations, administrative hearings and negotiations arising out of the collective bargaining agreements.</p>

2649 S.E. Emmett Road * Port St. Lucie, Florida 34954 * (305) 219-8083 [C] * mannyanon@yahoo.com

MANNY ANON, JR.

CITY OF MIAMI ATTORNEY'S OFFICE, Miami, Florida
Assistant City Attorney, February 1997 – September 1999
I was a trial civil litigator doing defense work for the City of Miami. I handle all litigation matters from answering complaints, to closing arguments.

SANDLER & SANDLER, Coral Gables, Florida
Associate, February 1996- October 1996
I handled commercial litigation and personal injuries cases. I drafted pleadings, argued motions, attended motion calendar, and special calendar hearings.

THE LEGAL GROUP, P.A., Miami, Florida
Associate, January 1994 – July 1995
I handled all aspects of personal injury cases.

LAW OFFICES OF CARLOS E. CASUSO, Miami, Florida
Law Clerk, August 1992 – September 1993
I researched, drafted pleadings, letters and memorandums of law

RASSNER RASSNER KRAMMER & GOLD, South Miami, Florida
Independent Research Assistant, March 1992 – May 1992
Researched Commercial and Family Law issues for Mr. Monty Rassner, Esq.

UNIVERSITY OF MIAMI SCHOOL OF LAW LITIGATION SKILLS PROGRAM, Coral Gables, Florida
Visiting Law Student, August 1991 – December 1991
Trial and Pre-Trial skills and practices

GAEBE MURPHY MULLEN & ANTONELLI, Miami, Florida
Law Clerk, June 1991 – December 1991
Research, drafted pleadings, letters and memorandums of law

DADE COUNTY STATE ATTORNEY'S OFFICE, Miami, Florida
Certified Legal Intern, May 1991 – August 1991
I worked all phases of pre-trial preparation, morning calendar, deposition, research, opening argument, direct examination. I assisted in several criminal trials & proceedings.

Community Services: National Hispanic Republican Association of Florida, Attorney; City of Miami Police Department Crisis Prevention Team, Allapattah Chairperson; Allapattah Crime Prevention, Chairperson; Allapattah YMCA, Board Member; Allapattah Community Action, Board Member; Allapattah Promotion, Board Member.
Honors: City of Miami Police Department Crisis Prevention Team Certificate of Appreciation; Allapattah Crime Prevention Certificate of Appreciation; State Senator Albert Gutman Certificate of Appreciation and Leadership; City of Miami Mayor Xavier Suarez and Mayor Joe Carollo Award of Appreciation.
Awards: Bronze Star, Meritorious Service Medal-2, Army Commendation Medal-5, Army Achievement Medal-4, Afghanistan Campaign Medal, Iraqi Campaign Medal, Combat Action Badge, Global War on Terrorism Medal, National Defense Service Medal, Army Reserve Components Achievement Medal, Military Outstanding Volunteer Service Medal, Army Service Ribbon, Army Reserve Components Overseas Training Ribbon, Marine Corps Certificate of Appreciation, USASETAF Certificate of Appreciation, USASETAF Commander's Coin, 5th Corp Certificate of Appreciation, 5th Corp Commander's Coin, 174th Commander's Coins and 478th Commander's Coin.

**CITY OF FORT PIERCE, FLORIDA
CITY ATTORNEY**

Name: MANNY ANON, JR.

Home Address: 2649 SE EMMETT ROAD, PORT ST. LUCIE FLORIDA 34952

Home/Work/Cell phone numbers: (305) 219-8083

E-mail address: manon@cityofsebastian.org

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1. Why are you interested in becoming Fort Pierce's next City Attorney and how does this position fit into your overall career plans?
-I was born and raised in Miami Florida; however, I moved to St. Lucie County in 2016. I have fallen in love with the Treasure Coast which offers great cities, beautiful beaches and friendly community for all ages. Ft. Pierce is another amazing city in the Treasure Coast, the "Sunrise City". This city offers stable neighborhoods with quality housing choices, a diverse local economy with easy mobility and leisure opportunities for all ages and life style. Since I am from St. Lucie County, Ft. Pierce City Attorney is a great opportunity for me to return home. I would be literally 12-14 miles from City Hall. Also, Ft. Pierce City Attorney would be a progressive step in my career as a City Attorney. The Ft. Pierce City Attorney's position would both be challenging and rewarding. It is challenging because Ft. Pierce is a bigger city with a larger budget, diverse community, more departments (including a larger Public Works and Police Department) and the Ft. Pierce Utility Authority (FPUA). It is rewarding because I could manage and mentor staff and work with outside council in order to provide the City of Ft. Pierce quality legal advice and services.

 2. What is the largest number of employees that you have managed and where? What is the largest annual operating budget that you have managed?
-As my resume reflects, while working for AFSCME Florida Council 79, As *Region 5 Director/General Counsel*, I ran the day-to-day operations of the AFSCME Florida Council 79 Region 5 Office and supervised a staff consisting of 4 staff representatives, 2 clericals and one attorney. I would have to guess that the budget I had to work with including staff and expenses was over \$500,000.00

In the military, I was the Team Chief in Orlando supervising four (4) Judge Advocates and two (2) enlisted service members. Also, I was the S3/S7 Operational Officer in charge of training and providing legal service and advice to service members and their dependents on family, civil and criminal law wills, notaries, Power of Attorney and other legal documents.

Also, during my deployments in support of Operation Iraqi Freedom and Operation Enduring Freedom I managed an equivalent to a law office and supervised paralegals. During my first deployment, my duties included serving as the Command Judge Advocate at Camp Darby in Livorno, Italy. I supervised one paralegal and a support staff. Additionally, in further support of Operation Enduring Freedom, I was re-deployed to Bagram, Afghanistan. In Bagram, I served as the Chief Legal Assistant Officer, Chief Claims Officer and Part-time Military Magistrate. I supervised a paralegal. During my second tour, I served with the 25 ID and the 3-1 CAV in support of Operation Iraqi Freedom. I was initially assigned to the 25 ID in Tikrit, Iraq as a Team Leader and supervised 2 Judge Advocates (lawyers). Subsequently I was reassigned to the 3-1 CAV in Mosul, Iraq. My duties included serving as the Chief Legal Assistant Officer, Chief Claims Officer and Chief Contract/Fiscal Officer. In Mosul, I supervised one paralegal. My third

deployment I served as the Command Judge Advocate at Camp As Sayliyah Doha, Qatar. Here I supervised 3 paralegals.

At my current position as the City of Sebastian City Attorney, I only share an office assistant with the City Manager. I am a one stop shop with a current budget of \$210,280.00

3. How do you stay professionally current and on top of issues with the potential for significant impact on your jurisdiction? How do ensure that your employees stay current?
- I stay professionally current in many ways. First and foremost, The Florida Bar offers courses and seminars to stay current on all legal matters. I am currently a member of the City County & Local Government and Labor & Employment Sections. I attend yearly seminars or acquire the CD/Books on Land Use, Labor and Employment Law Annual Update/Certification Review and City County and Local Governmental Certification Review courses. Second, I am a member of Florida Municipal Attorney's Association (FMAA) and attend their yearly seminar. Third, I am a member in IRC/SLC Bar Association. Fourth, I am a member and attend seminars with the Florida League of Cities. Fifth, I subscribe to Attorney Listserv Network and get to post questions and/or review current issues online. Sixth, during the pandemic, I monitored and kept updated on the State of Florida Governor's Executive Orders. Seventh, I maintain a professional network relationship with local government municipal attorneys from Indian River County and other municipalities in the County. We have monthly lunch meeting and bounce issues off of each other. Finally, I will register this year and take next year, the City County and Local Governmental Law Certification. I will follow up by taking the Labor and Employment Law Certification the following year. That way I will be Florida Bar Board Certified.
4. Describe your leadership and management style with your employees?
- As to my leadership style, I live by the following Army Values (LDRSHIP).
- Loyalty – Bear true faith and allegiance to the U.S. Constitution, the Army, my unit and other Soldiers. Likewise, I will be loyal and faithful to the City of Ft. Pierce City Council, City Manager, City Clerk and all city departments that I serve.
 - Duty – I will fulfill my obligation and accomplish my tasks as part of a team.
 - Respect – Treat people as they should be treated, i.e., with dignity and respect while expecting others to do the same.
 - Selfless Service – I served my country and did my duty loyally and without thought of recognition or gain. I will put the best interest of the City of Ft. Pierce City Council, City Manager, City Clerk and all city departments that I serve before my own.
 - Honor – It is a matter of carrying out, acting and living the Army values in everything I do.
 - Integrity – Do what is right, legally, ethically and morally all the time. Earn the respect and trust of others.
 - Personal Courage – The courage to stand up for and act upon things that you know are honorable and right though not popular with others. As City of Ft. Pierce City Attorney, I will do what is legal and ethical to the best of my ability.

As to my management style, I believe I have a proactive and adaptive management style. In every organization where I have worked, I have found professionals who operate with minimal input while others need significantly more feedback and oversight. Some of the latter people, even after very reasonable effort has been made, just do not succeed. Thus, over the course of my career, civilian and military, I have taken almost every personnel action possible, both positive and punitive. I have been able to approach actions in a progressive manner such that employees are notified of what is expected, provided copies of policies and given the opportunity to voice any concerns or address any issues. Also, I

believe in an open door policy. I have been fortunate in that in my civilian and military career, I have worked with very dedicated public servants. I have always learned something new in each of my oversea deployments or jobs I have held. I am very proactive, flexible, adaptable, but hands on. Tough but fair. It is my goal in each job I hold to learn and become a better person, officer and attorney. I hope that most of my staff will say that they have learned from me, become better and more proficient at their job as a result of their interaction with me or my mentorship.

5. Have you ever worked directly for a policy making body?

-Yes, I worked directly for a policy making bodies (elected and appointed). As the Town of Surfside Assistant City Attorney, I attended Commission, Planning and Zoning and other Board Meetings to assure compliance with Florida ethics, Sunshine and public records laws. Finally, I worked closely with several directors in the Public Works, Building, Code Enforcement, Parks & Recreation and Police Departments.

As the City of Port St. Lucie Senior Deputy Assistant City Attorney, I attended City Council, Code Enforcement and other Board Meetings to assure compliance with F.S. Ch. 162, Code Enforcement, Florida Ethics, F.S. Ch. 286, Sunshine Law and F.S. Ch. 119, Public Records Law. I advised several departments, including Human Resources, on all Labor, employment and personnel matters, Risk Management, Neighborhood Services, Utilities, Parks & Recreation and Police.

As to the City of Sebastian City Attorney, I attend City Council, Code Enforcement, Construction and Planning & Zoning Board Meetings to assure compliance with F.S Ch. 162, Code Enforcement, Florida Ethics, F.S Ch. 286, Sunshine law and F.S. Ch. 119, Public Records laws. I legally advised the City Council, City Manager, City Clerk and City Department Heads on all matter pertaining to the City including, labor and employment, personnel matters, litigation, Forfeiture, Risk Protective Orders, election matters, airport issues, draft and review ordinances, resolutions, contracts, legal opinions and other related legal documents. I was involved with the 2040 Comp Plan, City Charter Review, Recall Election, and Canvassing Board. I provide Sunshine and Public Records law training to the elected and appointed officials. I track and advise Council of executive orders and pending legislation before the Florida Legislature and Congress. I provide legal advice to several departments, including Manager, Clerk, Human Resources, Airport, Golf Course, Procurement, Parks & Recreation, Building, Community Development, Police, and Code Enforcement.

6. Are you a member in good standing of the Florida Bar?

-Yes, I have been a member in good standing with the Florida Bar since 1993

7. Describe your workload tolerance.... what type of office hours do you typically keep?

-I intend on keeping the current office hours; however, I will review it for efficiency. My philosophy is as long as you are doing the work and getting the job done, I can be flexible with staff. Me personally, I will be First in/Last out. I usually work until the job gets done. This includes taking work home during the weekend, if necessary. Also, I will be available by phone to the Mayor and all members of the City Council.

8. What would you hope to accomplish the first 30 days on the job; the first 6 months; and the first year?

-First 30 days: I will acclimate myself to the City of Ft. Pierce, Mayor, Council Members, City Manager, City Clerk, Department Heads and the staff of the City Attorney's Office. I will attend City Council, Planning and Zoning, Code Enforcement/Special Magistrate, Construction Board and Board of Adjustment Meetings. I will become familiar with the

City of Ft. Pierce City Charter and Code of Ordinance. I will meet with the City Manager to determine hot topics. I will begin evaluating the office and staff. I will begin to focus on the Redistricting of the City of Ft. Pierce and working with St. Lucie County.

First 6 months: I will continue to provide quality legal advice and services to the City Council, various boards and the City Staff. I will begin to evaluate any amendment/revisions to the City Codes. I will continue to provide regular updates to the City Council on changes to federal and state laws, as well as pending suit, settlements and legal cases. I will serve as the police legal advisor to the City of Ft. Pierce Police Department on Forfeiture, Risk Protective Orders, School Resource Officer Agreements, and other legal matters. I will continue to provide legal support on land use matters, including meeting and negotiating with staff, developers and their attorneys. I will provide legal support for all department heads, including Human Resource, Airport, Golf Course, Parks and others. I will maintain a professional network with local government attorneys from Indian River and St. Lucie Counties and other municipalities in the County. I will continue to advise and assist in reviewing and updating procurement documents and procedures; review significant legal claims and insurance settlements, as deemed necessary; coordinate and monitor the use of any outside council services; and draft and/or review proposed ordinances, resolutions, releases, orders and other legal documents, as needed.

First year: Continue all above. Additionally, I plan to attend the Florida Municipal Attorney Association; City, County and Local Government; and Land Use or Labor and Employed Law Annual Update Seminar. Hopefully prepare for and take the City, County and Local Government Certification Course and Examination. I will provide legal support on a City Election and the law, including being a member of the Canvassing Board. I will work on the City Attorney's Office Budget.

9. What experience do you have with organizational and/or performance analysis directed at identifying issues in need of change?

-My greatest strength is team building. I believe the best approach at solving complicated issues is collaborating and consensus with other lawyers or experts. In the City of Port St. Lucie, when tough legal issues come up, we met and brain stormed or had what I called a POW WOW. We described the issue, tried to ascertain the law or what governed, legally analyzed it and draw a rational conclusion. As to ongoing litigation we met with the Deputy City Attorney, Risk Management, outside counsel and formulated a strategy or discussed issues. As it pertained to Labor and Employment matters, I met with HR Director, Department Director and/or designees and evaluated the investigation and determined if there was just cause to discipline. If so, then we determined the just cause for the specific level of disciplines sought. I will bring this team building mentality of working with other departments and subject matter experts in coming up with the best solution. I will have weekly staff meetings, regular meetings and update with the City Manager meetings and as needed Department Head meetings.

Additionally, my strongest passion is sunshine law and ethics in government. I can assure Council that if appointed, as your City of Ft. Pierce City Attorney, you will get sound legal advice on Florida Ethics, F.S Ch. 286, and Sunshine law and F.S. Ch. 119, Public Records laws that will not be impacted by political games or improper influence. I will be as creative as possible to legally and ethically support the mission in getting to the "yes". I will tell Council what the law says and what risks are associated, if any. I will never attempt to usurp the executive function of the City Council or City Manager, nor will I ever jeopardized my professional or personal standards of ethics and professionalism.

10. Please describe your experience in dealing with intergovernmental entities. Specifically, how do you work with the City Manager and other sections/branches of the City government while maintaining your independence?
- As stated above, I maintain a professional network relationship with local government municipal attorneys from Indian River County and other municipalities in the County. We have monthly lunch meeting and bounce issues off of each other. Additionally, I currently meet and plan to continue the practice with the City Manager to discuss City matters and my legal opinion. I have never had a situation in the City of Sebastian where I could not maintain my legal independence and provide my legal opinion without interference.
11. Tell us how you communicate with your governing body and its individual members.
- What I do for one Council Member, I share with all. So when researching an issue or sharing something important (EO, FLC or a cases) I send to all. In order to avoid a sunshine violation, I preface the emails "Please Do Not Reply All, thank you". If I am addressing an individual member question, I will treat them with respect and will request that they put their issue in writing. Alternatively, I will send them an email confirming the issue in writing. This is to avoid any confusion as to exactly what I am researching for the member. Once completed, in a timely manner, I will forward my opinion, along with any supporting cases or statute to the member.
12. How would you handle situations where the Commissioners wish to take actions that you do not consider lawful?
- I do not like answering hypothetical questions like this. However, I can say that I will always do what is legal and ethical no matter the consequences. When advising council members I believe they truly want to do what is legal and right of the city. I would probably start by telling them that what they are proposing to do is not consistent with the law or the City Charter. I would tell them my advice is to do X instead. If they follow my advice, right or wrong, they are protected because they relied on my legal opinion. However, if they do not, they could be holding themselves out there and be subject to personal liability.
- Case in point my situation with the City of Sebastian when a majority of the board violated the sunshine law. I did what was legal, ethical and continued to represent the City of Sebastian to the best of my abilities. (See #21 below).
13. How would you handle questions of law, including issues relating to public safety that may be viewed differently by an ethnically and economically diverse community and Council?
- I would be respectful and sensitive to the affected community or council member. However, it should be noted that as the City Attorney for the City of Ft. Pierce, I could not assist and/or offer any legal advice to the community or residents. That being said, as stated above in #11, I will request that the Council Member puts their issue in writing. Alternatively, I will send them an email confirming the issue in writing. This is to avoid any confusion as to exactly what I am researching for the member. Once the legal research is completed, in a timely manner, I will forward my opinion, along with any supporting cases or statute to the member. One big public health issue now-a-days with the spike in COVID is the wearing of masks. Currently, the Governor's No Mask Mandate is being challenged in court by several school boards. Thus, by the time I come on board as City Attorney, the issue should be resolved or working its way through the courts. Bottom-line I will do what is legal and ethical.
14. Please provide a copy of a legal opinion that you have authored. (You may provide a redacted copy.)
- See attached three (3) Legal Opinions (A-C).

15. Have you ever been found to have committed any acts of discrimination, sexual harassment, or creation a hostile work environment? If so, please explain.
-No, never in 20 plus years in the military or almost 28 years practicing law in the State of Florida.
16. Do you have any unusual personal consideration(s) that would need to be resolved before you could accept this position? If so, please explain.
-No, I would like to start working immediately after negotiating the terms and conditions of my contract with the City of Ft. Pierce City Council. I have no ties to law firms. However, I would only ask Ft. Pierce City Council to allow me to continue to work with City of Sebastian City Council on the side (advice, attend council meetings that do not conflict), until the City of Sebastian can find my replacement. Other than that, it is my intent to be a full time City of Ft. Pierce City Attorney, advising the city and running the City Attorney's Office and staff. I expect that is what the City Council desires and deserves from its City Attorney.
17. Should you become a finalist candidate, we will perform education, credit, civil, criminal and motor vehicle court records, internet search and reference checks on you. In doing so, will we find anything that you need to explain in advance?
-No. However, TC Palm ran several articles of an old investigation of which I was not the subject of the investigation in Port St. Lucie. There was an ancillary allegation that I made a "term of endearment", i.e., sweetie, which I denied. As a result, I was never the subject of an investigation and was never written up or discipline in any manner. I thought it died until I was seeking the City of Sebastian job when it re-surfaced. Again, as I told the TC Palm, I was not the subject, all was denied, and I was never discipline in any fashion [PERIOD]. In fact the current City of Port St. Lucie City Attorney, James Stokes, my old boss, corroborated that I was never discipline and in fact continued working with the city for over 1 -1/2 years until I left on my own.
18. Is the resume you submitted accurate and current? If not, please explain any discrepancies
-Yes, to the best of my knowledge my resume is accurate and current.
19. Are you currently employed?
-Yes, I am currently the City of Sebastian City Attorney. Also, I am a Reservist with the United States Army JAG Corp.
20. Have you ever been fired or resigned under pressure from a job? If so, please explain.
-No, never.
21. Have you ever sued an employer or been sued by an employer or employee? If so, please explain.
-Yes, in order to defend the City of Sebastian against three (3) rogue city council members that violated the Sunshine Law and the City of Sebastian Charter, the Mayor, City Manager and I successfully filed an injunctive relief in order to render the April 23, 2020 Illegal Meeting as *void ab initio* and to maintain the status quo.
22. What are your compensation expectations?
-I believe the current salary of the outgoing City Attorney is a fair compensation at \$164,800.

CITY OF FT. PIERCE ATTORNEY'S OFFICE

In addition to #8 above, as City Attorney, I will address and implement the following:

- Outstanding Litigation cases. I will coordinate and work with the outgoing City Attorney to do a proper hand off on all pending litigation cases (including potential Annexation), agreements, contracts and issues facing the city. I will work with Code Enforcement Officer and represent the city at all future Special Magistrate Code Enforcement Hearing. I will work with the Code Enforcement Department, figure out any outstanding liens and when necessary, file Surplus Funds Complaints in order to protect the city's liens and recover any surplus funds from foreclosure cases.
- Outside Counsel. Related to the issue above are any monies being spent on outside counsel? I need to understand what work is outsourced, i.e., HR and PD. I understand using outside counsel on certain areas of expertise/litigation is common and within the City Attorney's purview. This is not a new concept for most municipalities; especially one like the City of Ft. Pierce where the City Attorney's Office is small. I believe the City of Ft. Pierce outsources all labor & employment Forfeiture Complaints and Risk Protective Orders. However, due to my knowledge and years of experience in these areas, I would be able to immediately begin bringing all Labor and Employment and PD forfeiture and RPO matters back in-house at a significant savings to the city. Finally, it is my understanding that the City is self-insured and this company handles most of the Tort Litigation, Worker's Comp and Discrimination matters. Thus, I would be able to work closely with Risk Management and actively monitor these cases. Like in City of Sebastian, I will proactively inject myself in all litigation strategy, settlement discussion and meetings of all outstanding Tort, WC and Employment matters being handled by outside counsel.
- Reinstate confidence and commitment in the City Attorney's Office. In order to develop confidence, commitment and a better efficient City Attorney's Office, I will establish the following: 1. Bi-weekly one-on-one meeting with each Council Member to discuss any legal matters or concern they might have, if necessary. My Policy will be what I do for one Council Member, I will share with all. Also, I will have an open door policy. 2. I will meet and coordinate with the City Manager and City Clerk on any legal matters. Also, monthly meetings or as needed with Department Heads. 3. Provide my City Cell to Council Members, City Manager, Clerk and City Department Heads for 24/7 availability. 4. I would like to work with IT Manager to see if they can develop a Legal Tracking System whereby Department Heads can log on, submit and track legal issues to the City Attorney's Office. Also, VPN access so I can take my laptop home and work over the weekend and evenings, when necessary. 5. Continue to network with other City Attorney's from the Treasure Coast area. Specifically, I would like to meet for lunch, network and discuss legal issues facing municipalities in the State of Florida with other City Attorneys in the St. Lucie and Indian River Counties including Indian River County, St. Lucie County, Port St. Lucie, Vero Beach, Fellsmere, Indian River Shores, and the Town of Orchids. 6. Be a member of the City, County and Local Government Law Section and Labor and Employment law Section; thus, attend at least two (2) Florida Bar Seminars a year in order to stay up with any changes in both State and Federal law. Finally, get Florida Bar Board Certification in City, County and Local Government Law.
- Review and Revision of all HR Policies and Procedure. One plan to assist HR Manager, in legally reviewing and revising all of the HR Policies and Procedure to be in compliance with all state and federal law. These include Social Media, Telecommunication, Sexual Harassment, Substance and Drug Abuse (Medical Marijuana), Smoking and the Bargaining/Non-bargaining Policies and Procedures. Also, to review all Collective Bargaining Agreements. Additionally, I will work with the Planning Director and staff in legally reviewing and revising the City Codes.

Florida Attorney General

Advisory Legal Opinion

Number: AGO 92-05

Date: January 8, 1992

Subject: Sunshine Law, candidates' night/political forum

Mr. Paul R. Gogleman, III

Attorney for Town of Melbourne Beach

RE: GOVERNMENT IN THE SUNSHINE LAW—PUBLIC MEETINGS—ELECTIONS—CANDIDATES—COUNTIES—applicability of Sunshine Law to candidates' rights or political forum attended by incumbent candidates and commissioners. s. 286.011, F.S.

QUESTION:

1. Does the Government in the Sunshine Law apply to two non-incumbent candidates for the town commission who have not been elected attending a political function at which they express their positions on matters which may foreseeably come before the commission?
2. If not, does the Sunshine Law apply to a non-incumbent commission candidate attending a political forum or candidate's night to express his or her views on matters which may foreseeably come before the commission and a current commissioner is in attendance?
3. Does the Sunshine Law apply to a political forum or candidate's night at which a non-incumbent candidate and an incumbent candidate each express positions on matters which foreseeably may come before the commission and at least one other incumbent commissioner, not a candidate, is present, but not a participant?
4. If the Sunshine Law applies in Question One, would it apply when a non-incumbent candidate and an incumbent candidate express their positions on a matter which may foreseeably come before the commission and at least one other incumbent commissioner, not a candidate, is present, but not a participant?

SUMMARY:

1. The Government in the Sunshine Law does not apply to meetings of non-incumbent candidates for political office who have not been elected.
2. In light of the answer to Question One, the attendance of a currently serving commissioner who does not participate in a political forum does not subject the forum to the requirements of the Sunshine Law.

3. The expression of an incumbent candidate's position on a matter which may foreseeably come before a commission, absent an interchange between an attending commissioner, would not subject the meeting to the Sunshine Law.

4. In light of the answer to Question One, no response to Question Four is required.

You state that the Town of Melbourne Beach has a town commission composed of the Mayor and four commissioners elected at large. The terms of the commissioners' offices are staggered such that two seats are up for reelection at any one time. All candidates seeking a seat on the commission run against each other in an at large election, with the two candidates receiving the most votes winning the election.

Various groups sponsor candidates' forums in conjunction with each election. Candidates for seats, including incumbents, are invited to speak and are asked to express their positions on matters which may foreseeably come before the town commission. Incumbent commissioners who are not seeking reelection may also be in attendance.

AS TO QUESTION 1:

The Government in the Sunshine Law, s. 286.011, F.S. (Sunshine Law) has been interpreted by the courts to apply to any gathering between two or more members of a board or commission to discuss some matter on which foreseeable action may be taken by the board or commission.[1] In *Hough v. Stembridge*, [2] the court interpreted the Sunshine Law to hold that "members-elect of boards, commissions, agencies, etc. are within the scope of the Government in the Sunshine Law." [3]

Thus, those candidates who have been elected to membership on a board or commission, but have yet to assume the office, are subject to the Sunshine Law as any other member of the board or commission would be. There is no judicial decision or interpretation of the Sunshine Law, however, which has extended its application to candidates for office, unless the candidate is an incumbent seeking reelection.

Accordingly, I cannot say that the Sunshine Law applies to a candidates' forum in which the participants are non-incumbent candidates who are not members-elect of the board or commission.

AS TO QUESTION 2:

This office in an informal letter to The Honorable Kathryn Cox, stated that the expression by an incumbent council member at a meeting such as a political forum of his or her position on a matter which may foreseeably come before the council would not necessarily subject the meeting to the Sunshine Law. [4] In that letter, it was observed that previously this office stated that it was not a violation of the Sunshine Law for one commissioner to send a report to another commissioner for informational purposes, so long as there is no interaction between the commissioners. [5] Similarly, this office has concluded that the Sunshine Law is not violated by a board member expressing his or her views or voting intent on an upcoming matter to a news reporter who the member knows will publish the account in a local newspaper prior to the meeting, so long as the member is not using the reporter

as an intermediary to communicate with other members to circumvent or evade the requirements of the Sunshine Law.[6]

Accordingly, as long as there is no discussion between the incumbent and another member of the commission on matters which will foreseeably come before the commission, the forum or candidate's right at which a non-incumbent candidate expresses his or her views would not be subject to the Sunshine Law.

AS TO QUESTION 3:

As noted above, discussions between an incumbent candidate and a non-incumbent candidate are not subject to the Sunshine Law, as long as the incumbent is not using the non-incumbent candidate as a conduit to communicate with other members of the board or commission. The mere expression of an incumbent candidate's position at a political forum attended by another member of the commission could be likened to the circumstance in AGO 89-23, if there is no interchange between the incumbent and the other commissioner attending the forum.

Thus, if the council members avoid discussion among themselves of issues which may come before the council, the forum would not be subject to the Sunshine Law.

AS TO QUESTION 4:

In light of the answer to Question One, no answer to this question is necessary.

Sincerely,

Robert A. Butterworth

Attorney General

RAB/t

[1] See Board of Public Instruction of Broward County v. Doran, 224 So.2d 693, 698 (Fla. 1969) (intent of the Sunshine Law is to "cover any gathering of the members where the members deal with some matter on which foreseeable action will be taken by the board").

[2] 278 So.2d 288, 289 (3 D.C.A. Fla., 1973).

[3] 278 So.2d at 289.

[4] Informal Letter to The Honorable Kathryn Cox, February 7, 1991.

[5] See AGO 89-23.

[6] Attorney General Opinion 81-42.

296 So.2d 473

Supreme Court of Florida.

TOWN OF PALM BEACH et al., Petitioners,

v.

Jules T. GRADISON, Respondent.

TOWN OF PALM BEACH et al., Petitioners,

v.

Fred GLADSTONE, Respondent.

TOWN OF PALM BEACH et al., Petitioners,

v.

FAIRMONT CONVERTING CO., INC., Respondent.

TOWN OF PALM BEACH et al., Petitioners,

v.

Morris LANSBURGH, Respondent.

TOWN OF PALM BEACH et al., Petitioners,

v.

Perry KAYE, Respondent.

TOWN OF PALM BEACH et al., Petitioners,

v.

Ralph H. SHERE et al., Respondents.

TOWN OF PALM BEACH et al., Petitioners,

v.

Walter PORANSKI et ux., Respondents.

TOWN OF PALM BEACH et al., Petitioners,

v.

FIRST BANK AND TRUST CO. OF BOCA RATON, etc., Respondents.

Nos. 44099 to 44106.

May 1, 1974. Rehearing Denied July 10, 1974.

Synopsis

Action challenging **town** zoning ordinance. The Circuit Court, **Palm Beach** County, James C. Downey, J., upheld the ordinance, and the challengers variously appealed. The District Court of Appeal, 279 So.2d 353, reversed the order but certified the question. The Supreme Court, Adkins, C.J., held that a citizens' planning commission composed of private citizens, established by the **town** council, which appointed the members, was subject to the government in the sunshine law.

Certified question answered, and cause remanded.

Dekle, J., dissented and filed opinion in which Roberts, J., joined.

Procedural Posture(s): On Appeal.

West Headnotes (7)

1Municipal Corporations

Though legislature would have no right to require meetings of civic organizations, unconnected with municipal government, to conform to government in the sunshine law, a subordinate group or committee selected by governmental authorities should not feel free to meet in private. West's F.S.A. § 286.011.

2Municipal Corporations

Citizens' planning commission, composed of private citizens, and established by **town** council, which appointed its members, was subject to government in the sunshine law. West's F.S.A. § 286.011.

3Municipal Corporations

One purpose of government in the sunshine law was to prevent at nonpublic meetings the crystallization of secret decisions to point just short of ceremonial acceptance. West's F.S.A. § 286.011.

4Municipal Corporations

Government in the sunshine law should be construed so as to frustrate all evasive devices. West's F.S.A. § 286.011.

5Municipal Corporations

Under government in the sunshine law, when in doubt, members of any board, agency, authority or commission should follow the open-meeting policy of the state. West's F.S.A. § 286.011.

6Municipal Corporations

Mere showing that government in the sunshine law has been violated constitutes irreparable public injury so that ordinance is void ab initio. West's F.S.A. § 286.011.

7Municipal Corporations

Although criminal prosecution requires proof of scienter, unintended violation of government in the sunshine law will negate any action taken by a **town** council. West's F.S.A. § 286.011.

Attorneys and Law Firms

*474 Chester Bedell and John A. DeVault, III, Bedell, Bedell, Dittmar, Smith & Zehmer, Jacksonville, and Burns, Middleton, Farrell & Faust, **Palm Beach**, for petitioners.

H. L. Cooper, Jr., O'Connell & Cooper, West **Palm Beach**, for Jules T. **Gradison**, Morris Lansburgh, Perry Kaye, Ralph H. Shere and Walter Poranski.

Larry B. Alexander, Jones, Paine & Foster, West **Palm Beach**, for Fred Gladstone and Fairmont Converting Co., Inc.

Ross, Hardies, O'Keefe, Babcock, McDugald & Parsons, Chicago, Ill., and Fisher, Prior, Pruitt & Schulle, West **Palm Beach**, for First Bank and Trust Co. of Boca Raton.

Opinion

ADKINS, Chief Justice.

By petition for writ of certiorari, we have for review the consolidated cases arising out of a decision of the District Court of Appeal, Fourth District (IDS Properties, Inc. v. Town of Palm Beach, 279 So.2d 353), which is accompanied by a certificate of the District Court of Appeal that its decision had passed upon a question of great public interest, to-wit:

'Whether a zoning ordinance adopted by zoning authorities and the **Town** Council after public hearings is rendered invalid under the § 286.011, F.S.1971, (F.S.A.), Government in the Sunshine Law, because of the nonpublic activities of a citizen's planning committee which committee was established by the **town** council and acting on behalf of the council in an advisory capacity participated in the formulation of the zoning plan.'

We have jurisdiction. Fla.Stat., art. V, s 3(b)(3), F.S.A.

The **Town** Council of the **Town of Palm Beach**, hereinafter referred to as '**Town** Council,' passed a resolution providing that the Council would undertake the updating and revision of the **town** zoning ordinances. Interviews were held with a planning firm, hereinafter called 'Planners,' and, at a public meeting, the **Town** Council authorized a contract with the Planners. A citizens' planning commission was decided upon and chosen by the **Town** Council at a nonpublic administrative meeting. The nominees were told that the **Town** Council had nominated each one to serve on the **town** planning committee for the purpose of guiding the Planners in their efforts to assure that the plan produced would be consistent with the character, image and land-use controls intended by the citizens. Changes in the plan during its formulation were made by the Planners to reflect the decisions of the planning committee.

The planning committee, a lay group of citizens, were not regularly employed personnel of the **Town**. The members of the committee were not landscape or civil engineers nor expert vocational zoning planners performing their work outside the scope of the sunshine law. Neither were they contractors engaged by the **Town** for making zoning studies, surveys or plans. To the contrary, they were a buffer lay group of citizens to serve part-time as the alter egos of the **Town** Councilmen to make tentative decisions guiding the zoning planners and advising the Council as to their ultimate zoning ordinances. In other words, the Council delegated to the committee much of their administrative and legislative decisional zoning formulation *475 authority which is ordinarily exercised by a city-governing body itself—and particularly the position of the process where the affected citizens expect to be officially heard. Thus, the nature of the committee and its function reached the status of a board or commission that to act legally must comply with the sunshine law.

The trial court specifically found that the Planning Advisory Committee meetings with the Planners were not open to the public, nor were minutes taken. These meetings were numerous and detailed.

At a joint meeting of the **Town** Council and the planning committee the role of the committee was explained. The **Town** Council was of the opinion the committee should work as an 'element' of the zoning commission, and further, that the **Town** Council had the authority to override any changes induced by the zoning commission and 'would do so without timidity.' This joint meeting was held without notice, without members of the public or press present, and no official minutes were taken or recorded.

Thereafter, the President of the **Town** Council and various members of the zoning commission met with the **town** manager and were finally advised as to the operation of the committee. An agenda was prepared for presentation of the tentative comprehensive plan to a meeting of the **Town** Council. At that meeting the plan was discussed. Further executive sessions of the zoning commission were held.

Thereafter, full public meetings and hearings of the zoning commission and of the **Town** Council were conducted and proper procedure followed. The comprehensive zoning plan was approved in essentially the same form as that which had been produced by the consultants and the planning advisory committee.

The government in the sunshine law contains the following:

'(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation or any political subdivision, except as otherwise provided in the constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, regulation or formal action shall be considered binding except as taken or made at such meeting.' Fla.Stat. s 286.011, F.S.A.

The only question to be determined is whether the citizens planning commission composed of private citizens, which was established by the **Town** Council and the members thereof appointed by the **Town** Council, was subject to the government in the sunshine law.

Every meeting of any board, commission, agency or authority of a municipality should be a marketplace of ideas, so that the governmental agency may have sufficient input from the citizens who are going to be affected by the subsequent action of the municipality. The ordinary taxpayer can no longer be led blindly down the path of government, for the news media, by constantly reporting community affairs, has made the taxpayer aware of governmental problems. Government, more so now than ever before, should be responsive to the wishes of the public. These wishes could never be known in nonpublic meetings, and the governmental agencies would be deprived of the benefit of suggestions and ideas which may be advanced by the knowledgeable public.

Also, such open meetings instill confidence in government. The taxpayer deserves an opportunity to express his views and have them considered in the decisionmaking process.

Those who do not attend public meetings are given ample opportunity to participate in government by securing information of governmental activities from the news media. Responsible reporting of governmental activities results in letters or telephone calls from interested citizens so that governmental officials are given the benefit of *476 both sides of the question. No governmental board is infallible and it is foolish to assume that those who are elected or appointed to office have any superior knowledge concerning any governmental problem. Every person charged with the administration of any governmental activity must rely upon suggestions and ideas advanced by other knowledgeable and interested persons. As more people participate in governmental activities, the decisionmaking process will be improved.

Few, if any, governmental boards or agencies deliberately attempt to circumvent the government in the sunshine law.

We feel that the **Town** Council of **Palm Beach** acted in good faith, but any committee established by the **Town** Council to act in any type of advisory capacity would be subject to the provisions of the government in the sunshine law.

The citizens' planning committee was not an organization formed by any civic group such as a taxpayer's league, better government league, civic association, etc. It was conceived and formed by the **Town** Council for the purpose of working with the planning consultant so that the plan produced would be consistent with the land-use controls intended by the citizens. The citizens' planning committee was an arm of the **Town** Council.

12The Legislature would have no right to require meetings of civil organizations, unconnected with municipal government, to conform to the government in the sunshine law. However, a subordinate group or committee selected by the governmental authorities should not feel free to meet in private. The preponderant interest of allowing the public to participate in the conception of a proposed zoning ordinance is sufficient to justify the inclusion of this selected subordinate group, within the provisions of the government in the sunshine law.

Cases from other jurisdictions dealing with the scope of similar statutes compel the conclusion that bodies such as the **Palm Beach** Planning Committee selected by the **Town Council** are governed by Fla.Stat. s 286.011, F.S.A.

In Raton Public Service Co. v. Hobbes, 76 N.M. 535, 417 P.2d 32 (1966), the Board of Directors of a city-owned electric utility were held to be within the scope of a statute governing 'all other governmental boards and commissions.'

In Glick v. Trustees of Free Public Library, 2 N.J. 579, 67 A.2d 463 (1949), trustees of the Library were held to be within the purview of a statute requiring the 'governing body' to advertise for bids.

In the case of Bogert v. Allentown Housing Authority, 426 Pa. 151, 231 A.2d 147 (1967), the Pennsylvania Supreme Court, interpreting that State's 'right to know' statute, stated:

'Within the past several decades we have witnessed the creation of these public bodies called 'authorities' which have been granted the power to, and do, perform important governmental functions which vitally affect the public. Unlike other public bodies, the members of the 'authorities' are appointed and not elected and are not Directly responsible for their actions to the electorate. If the elected members of public bodies are to be subjected to public disclosure of their actions, how much more important that the appointed members of public bodies be required to make such disclosure.' (p. 151)

In Beacon Journal Publishing Co. v. City of Akron, 3 Ohio St.2d 191, 209 N.E. 399, 404 (1965), it was held that a city planning commission created by the city charter with 'such other powers and duties as the council may confer upon the planning commission,' was subject to the open meeting provision of the Akron City Code which applied to 'any board or commission . . . created by the charter or by action of council.'

*477 In Lhormer v. Bowen, 410 Pa. 508, 188 A.2d 747, 749 (1963), proposed rezoning ordinance was held ineffectual to restrict the issuance of a building permit, one of the reasons being the failure of the planning commission to hold a public hearing on its preliminary report before submitting a final report to the borough council for action, as required by the zoning enabling legislation.

In Sacramento Newspaper Guild v. Sacramento County Board of Supervisors, 263 Cal.App.2d 41, 47, 69 Cal.Rptr. 480, 485 (1968), California's Third District Court of Appeal upheld an injunction restraining the Sacramento County Board of Supervisors, and its committees, from holding informal meetings in violation of the Brown (California) Act. It held that there was nothing in the new Brown Act 'to demarcate a narrower application than the range of governmental functions performed by the agency.' It further held the Act applied not only to 'action' but also to 'deliberative gatherings . . . however confined to investigation and discussion.' Noting the widespread evasion of pre-Brown Act open-meeting statutes 'through unannounced 'sneak' meetings and through indulgence in euphemisms such as executive session, conference, caucus, study or work session, and meeting of the committee of the whole,' the court concluded that the statute could be pushed 'beyond debatable limits' to block such evasive techniques. The court continued:

'An informal conference or caucus permits crystallization of secret decisions to a point just short of ceremonial acceptance. There is rarely any purpose to a nonpublic pre-meeting conference except to conduct some part of the decisional process behind closed doors. Only by embracing the collective inquiry and discussion stages, as well as the ultimate step of official action, can an open meeting regulation frustrate these evasive devices. As operative criteria, formality and informality are alien to the law's design, exposing it to the very evasions it was designed to prevent. Construed in the light of the Brown Act's objectives, the term 'meeting' extends to informal sessions or conferences of the board members designed for the discussion of public business.' (p. 487)

34One purpose of the government in the sunshine law was to prevent at nonpublic meetings the crystallization of secret decisions to a point just short of ceremonial acceptance. Rarely could there be any purpose to a nonpublic pre-meeting conference except to conduct some part of the decisional process behind closed doors. The statute should be construed so as to frustrate all evasive devices. This can be accomplished only by embracing the collective inquiry and discussion stages within the terms of the statute, as long as such inquiry and discussion is conducted by any committee or other authority appointed and established by a governmental agency, and relates to any matter on which foreseeable action will be taken.

5The principle to be followed is very simple: When in doubt, the members of any board, agency, authority or commission should follow the open-meeting policy of the State. See Florida Law Review, Government in the Sunshine by Ruth Mayes Barnes, Vol. XXIII, 361, 365 (Winter 1971).

6Mere showing that the government in the sunshine law has been violated constitutes an irreparable public injury so that the ordinance is void *Ab initio*. Times Publishing Co. v. Williams, 222 So.2d 470 (Fla.App.2d 1969). Florida Law Review, Government in the Sunshine by Ruth Mayes Barnes, Vol. XXIII, p. 369 (Winter 1971).

7Although a criminal prosecution requires proof of scienter (Board of Public Instruction of Broward County v. Doran, 224 So.2d 693, 699 (Fla.1969)), an unintended violation of the government in the ***478** sunshine law will negate any action taken by the **Town Council**. Fla.Stat. s 286.011, F.S.A.

The Superior Court of New Jersey in Wolf v. Zoning Board of Adjustment of the Borough of Park Ridge, 79 N.J.Super. 546, 192 A.2d 305 (1963), held that the proper implementation of their 'Right to Know Law' requires the court upon proper application to set aside any official action taken without compliance, even in the absence of bad faith, saying:

'The trial judge noted, and the defendant officials stress, that the act states that 'official action taken in violation of the requirements of this act shall be Voidable (Emphasis theirs.) in a proceeding in the Superior Court,' thereby supposedly indicating a legislative intent that the voiding of such action should rest in the discretion of the judge. The court concluded that since no impropriety or bad faith on the part of the board was indicated, it should exercise its discretion to permit the action to stand. We think the court took too narrow a view of the intent and underlying policy of the statute. The purpose of the act, as reflected in N.J.S.A. 10:4-1, is to implement the declaration therein that it is 'the public policy

of this State to insure the right of the citizens of this State to attend meetings of public bodies * * * for the protection of the public interest.' In other words, the object of the act is primarily prophylactic, and not necessarily restricted to creation of a remedy for illegalities at particular public meetings from which the public is excluded. Appropriate implementation of that object and policy calls, as a general rule, for the Superior Court upon proper application to set aside any official action, as defined by the act, which is taken without compliance with the prescriptions of the statute, as here. We need not now decide that no discretion is ever to be reserved to the court to save the validity of official action taken in contravention of the statute. That question may be left to await a case where a sufficiently impelling counter-interest may be argued to bespeak sustaining the action impugned. It suffices here to say that mere absence of bad faith or other impropriety on the part of the public body should not ordinarily move the court to stay its hand in voiding official action taken contrary to the statute upon proper application therefor.' (Emphasis supplied.) (pp. 308—309)

Fla.Stat. s 286.011(1), F.S.A., specifically provides that 'no resolution, rule, regulation or formal action shall be considered binding' where the government in the sunshine law is violated. We follow the reasoning of the New Jersey court in *Wolf v. Zoning Board of Adjustment of the Borough of Park Ridge*, *Supra*.

Answering the question presented by the District Court of Appeal in the case *Sub judice*, we hold that the zoning ordinance adopted by the zoning authorities and the **Town** Council after public hearing was rendered invalid because of the non-public activities of the citizens planning committee, which committee was established by the **Town** Council, active on behalf of the Council in an advisory capacity and participated in the formulation of the zoning plan. We approve the decision of the District Court of Appeal.

Having answered the certified question, this cause is remanded to the District Court of Appeal for further proceedings in accordance with the views expressed herein.

It is so ordered.

ERVIN, BOYD and McCAIN, JJ., concur.

DEKLE, J., dissenting with opinion.

ROBERTS, J., dissents and concurs with DEKLE, J.

From: Manon@cityofsebastian.org <Manon@cityofsebastian.org>
Sent: Friday, September 17, 2021 12:03 PM
To: 'slavin@bellsouth.net' <slavin@bellsouth.net>; DAVID KRINGS <david@kringsconsulting.com>
Subject: Update information

Gentlemen, I wanted to share the some good news with all of you. First, yesterday I got notified by my commander that the United States Army has promoted me to the rank of Lieutenant Colonel (LTC) in the United States Army Judge Advocate General Corp (USA JAGC). The list was approved by United States Senate back in July of 2021. I hope to pin on next month. I well definitely mention this during the interviews.

Also, my wife and I are at Cleveland Hospital in Tradition. She is being induced due to some high blood pressure at 39 ½ weeks, but mommy and baby are doing great. Hopefully sometime today we will be blessed with Sophia Isabella Anon. Keep my ladies in your thoughts and prayers.

MANNY

MANNY ANON, JR., ESQ

CITY ATTORNEY

CITY OF SEBASTIAN

1225 MAIN STREET

SEBASTIAN, FL. 32958

772-388-8201 (OFFICE)

772-388-4420 (FAX)

Reference Summary

IN PROGRESS - AWAITING RETURN REFERENCE CALLS.

QUALIFICATIONS APPRAISAL GUIDE

Manny Anon, Jr.

Very strong evidence that skill is present (5 Points) Strong evidence that skill is present (4 Points) Some evidence that skill is present (3 Points) Strong evidence that skill is not present (1-2 Points) Very strong evidence that skill is not present (0 Points) Insufficient evidence for or against skill (0 Points)

GENERAL IMPRESSIONS: Behavior and appearance appropriate to the job; poise, tact, neatness and grooming and professional maturity.						
BACKGROUND: Type of and quality of experience, appropriate education and reasons for job changes.						
PRESENTATION: Communication skills; ability to understand implications of questions and to make clear and direct replies; ability to select, organize and present ideas; clarity of speech and appropriate use of language.						
JOB EFFECTIVENESS: Ability to perform the duties of the job; industrious, dependable and properly assertive; ability to deal effectively with practical problems of the job; interpersonal skills appropriate for the job.						
ADMINISTRATION: Ability to perform in an administrative capacity; understanding of the principles and practices of management and leadership; ability to lead, direct, and coordinate the work of others; understanding of the political process and ability and willingness to work within it.						

Total Points _____

Comments

Interviewer Signature: _____

Date: _____



**City Commission - City Attorney Interviews -
1:00 p.m.**

Meeting Date: 09/27/2021

Re:

Information

SUBJECT:

Aleksandr Boksner

Attachments

Aleksandr Boksner

Form Review

Form Started By: Linda Cox
Final Approval Date: 09/16/2021

Started On: 09/16/2021 04:23 PM

ALEKSANDR BOKSNER

PERSONAL

Address: 7749 Paddock Place
Davie, Florida 33328

Contact: Cell: (305) 216-6258
Email: toledo1998@aol.com

EDUCATION

Juris Doctor - 2001
University of Toledo College of Law - Toledo, Ohio

Bachelor of Arts - 1998
University of Cincinnati - Cincinnati, Ohio

SUMMARY OF RELATED EXPERIENCE

2009 - Present	<u>CITY OF MIAMI BEACH, FLORIDA</u> Population 91,700 Deputy City Attorney and General Counsel
2008 - 2009	<u>MARION COUNTY, FLORIDA</u> Population 365,600 Chief Assistant County Attorney
2005 - 2008	<u>CHARLOTTE COUNTY, FLORIDA</u> Population 188,900 Chief Litigation Attorney
2004 - 2005	<u>NRT, INC.</u> Westin, Florida Associate Counsel
2001 - 2004	<u>OFFICE OF THE STATE ATTORNEY, ELEVENTH JUDICIAL CIRCUIT OF FLORIDA</u> Miami, Florida Assistant State Attorney

Aleksandr Boksner
7749 Paddock Place, Davie, Florida 33328
305-216-6258

September 8, 2021

Robert E. Slavin
SLAVIN MANAGEMENT CONSULTANTS
3040 Holcomb Bridge Road, A1
Norcross, Georgia 30071

Submitted Electronically

RE: City of Fort Pierce, City Attorney Position

Dear Mr. Slavin:

Please accept this Letter of Interest and Resume in regards to the City Attorney Position with the City of Fort Pierce, Florida.

I am currently the Deputy City Attorney for the City of Miami Beach, Florida, and provide legal counsel to the Mayor and City Commissioners, the City Administration and the various City Departments on a broad spectrum of legal issues. More specifically, I am responsible for those matters that involve the City's governmental business operations, land use interpretation and drafting, federal and state litigation, statutory implementation, application and procedures, labor and employment, and other numerous legal matters that impact the governmental functions of the City of Miami Beach.

At your earliest convenience, please review my resume to further evaluate my candidacy for this excellent position. I look forward to discussing my qualifications in further detail and welcome the opportunity for an interview. Thank you for your consideration.

Sincerely,

/s/ Aleksandr Boksner

Aleksandr Boksner

SUMMARY OF PROFESSIONAL EXPERTISE AND STRENGTHS

- Twenty years of extensive experience in advising on, operations, regulatory compliance, policies, procedures, financing and administrative guidance on government business practices, including legal management of regulatory departments, principles of civil, constitutional and administrative law, preparation of resolutions and ordinances, liaison with corporate vendors, contractors, citizens and external agencies on sensitive and controversial issues, and formation of cost-effective and goal-oriented legal compliance with emerging legal disputes (contractual and statutory).
- Strong government counsel orientation with extensive experience advising elected officials, government departments and the Office of the Inspector General on all aspects of governmental compliance and investigation, litigation (commercial, land use, construction, tort and appellate), sovereign immunity, employee relations, legislative process and procedure, contract formation and drafting, governmental procurement and purchasing (traditional procurement and Job Order Contracting), and various aspects of public/private development agreements, including modifications, operability studies and fiscal challenges, and in connection with these entities day-to-day business activities, interaction with vendors, contractors, federal and state entities and officials.
- Strong senior counsel with substantial experience in advising, and working with, elected officials (and government administration) and private business colleagues on various public/private governmental contracts and legal issues, risks, preferred outcomes and strategies.
- Strong substantive knowledge and analytical skills, with excellent judgment and ability to quickly and effectively identify, assess, communicate and resolve legal and, as appropriate, business issues as necessitated by municipal policy requirements, objectives and the law.
- Excellent interpersonal, communication (written and verbal), negotiating and drafting skills.
- Apply critical thinking to issues, demonstrating resourceful, pragmatic and creative approach to issue solving and addressing governmental entity and municipal-related policy objectives.

PROFESSIONAL EXPERIENCE

The City of Miami Beach, a municipal corporation

Deputy City Attorney and General Counsel, Miami Beach, Florida 2009 to Present

Marion County, Florida, a political subdivision of the State of Florida

Chief Assistant County Attorney, Ocala, Florida 2008 to 2009

Charlotte County, Florida, a political subdivision of the State of Florida

Chief Litigation Attorney, Port Charlotte, Florida 2005 to 2008

NRT, Inc.

Associate Counsel, Weston, Florida 2004 to 2005

Office of the State Attorney, Eleventh Judicial Circuit of Florida

Assistant State Attorney, Miami, Florida 2001 to 2004

BAR ADMISSION AND EDUCATION

Bar Admission

Florida, 2001
Tennessee, 2008

University of Toledo College of Law, Toledo, Ohio

Juris Doctor, 2001

University of Cincinnati, Cincinnati, Ohio

Bachelor of Arts, 1998

LANGUAGES

English and Russian

DESCRIPTION OF EXPERTISE AND EXPERIENCE

Government Counsel

Extensive experience representing, advising and rendering legal opinions to elected officials, managers/administers, boards, commissions and other staff on all aspects of governmental business operations and governance, operations and policy initiatives, and other aspects of their regulatory compliance, business function, labor and employment, and litigation. Advised governmental entities in connection with their day-to-day activities and contractual relationships and obligations, including aspects pertaining to vendors, citizens, suppliers, contractors and employees, and reviewing and preparing agreements relating to such matters, including project specific agreements, Job Order Contracting, land use licensing and permitting, memorandums of understanding, mutual aid and cooperation assistance agreements and consent agreements. Experience in analyzing pending and proposed legislative (federal and state) action impacting the administration, operation and functionality of the governmental corporations, and the investigation of complaints and claims involving all aspects of government departments, staff and programs. General Counsel to the City of Miami Beach Inspector General and Office of the Inspector General.

Regulatory, Compliance and Litigation

Extensive experience ensuring compliance with municipal, state and federal ordinances, statutes, regulations and codes, including, Florida Building Code, National Fire Prevention Code, Local Government Code Enforcement Boards Act, Drug-Free Workplace Act, Florida Public Records Act, Florida Contraband Forfeiture Act, False Claims statutes and ordinances (Federal, state and local), Florida Uniform Traffic Control Law, Florida Vessel Safety Law, Whistle-blower's Act, Clean Water Act, Criminal and Civil Justice Policy Council, Bank Secrecy Act, 31 U.S.C. Section 5311 – 5332, Florida Anti-Fencing Act, Florida Communications Fraud Act, Florida Money Laundering Act, Florida Mutual Aid Act, Bert J. Harris, Jr. Private Property Rights Protection Act and Florida Land Use and Environmental Dispute Resolution Act. Experience as Chief Litigation Counsel for lawsuits in federal and state courts representing public entities for violation of the United States Constitution and Florida Constitution, defense of various statutory and common law causes of action, including regulatory taking, inverse condemnation, eminent domain, 5th Amendment taking under §1983, covenants of good faith and fair dealing, doctrine of recoupment, termination of contractual agreements for convenience, littoral takings, public records law, and all other litigation matters impacting governmental business operations.

Government Contracting

Extensive experience representing governmental entities in collaborating, documenting and completing contractual agreements pursuant to the Florida Interlocal Cooperation Act of 1969, and those contractual agreements involving purchase and sale, architecture and engineering, Federal cost reimbursement, administrative services, indemnity and hold harmless, independent contractor, sponsorship agreements, utility franchise, Capital Improvement Project (CIP) design build, risk services, licensing, invitation to bid (ITB), request for qualification (RFQ), request for proposals (RFP), professional services, artist, revocable permits and easements, concessionaire, street scape and management. Extensive experience in negotiating and drafting agreements documenting these contractual agreements, including terms, conditions, modifications, amendments, demands, cure letters, notices of default, as well as those documents mandating indemnification and the assertion of a legal defense. As part of each contractual agreement, managing and coordinate the involvement of relevant staff and professional experts in those areas which directly impact the specific governmental operations and functions.

**CITY OF FORT PIERCE, FLORIDA
CITY ATTORNEY
SEMI FINALIST CANDIDATE QUESTIONNAIRE**

Name: Aleksandr Boksner

Home Address: 7749 Paddock Lane, Davie, Florida 33328

Home/Work/Cell phone numbers: 305-216-6258

E-mail address: toledo1998@aol.com

1. Why are you interested in becoming Fort Pierce's next City Attorney and how does this position fit into your overall career plans?

I consider Fort Pierce to be a great city on the treasure Coast. I have strived throughout my entire legal career for the opportunity to serve such a great municipality, and would welcome those challenges that accompany such an endeavor. It would be my absolute honor and privilege to serve as the next City Attorney for the City of Fort Pierce, and this position would serve as the pinnacle of my legal career. In my experience representing Florida municipal and county governments, I believe that this knowledge would be an ideal fit for those expected challenges that the City of Fort Pierce will be experiencing over the next several years.

2. What is the largest number of employees that you have managed and where? What is the largest annual operating budget that you have managed?

I'm currently in a leadership and management role, and have overseen a total of 21 employees within the City Attorney's Office for the City of Miami Beach. This would reflect the supervision of 12 attorneys (excluding outside litigation counsel). I have managed the budget for the City Attorney's Office, which is presently at 6.3 million.

3. How do you stay professionally current and on top of issues with the potential for significant impact on your jurisdiction? How do ensure that your employees stay current?

In today's immediate notification climate for the legal profession, there are a multitude of resources that will permit an attorney to receive the most current legal decisions or those pending legislative amendments (Federal or state) that would direct impact the governmental business operations of the City of Miami Beach. In that regard, I have availed myself of these various web-based legal notification entities, which does permit me to remain current and on-top of any adverse appellate legal decision(s) or legislation that would jeopardize the City of Miami Beach's legal position in a pending matter or require a change/modification to its governmental functions or operations.

Equally important, I review numerous legal publications for those matters that potentially implicates the City of Miami Beach, and attend necessary and relevant seminar(s) that further supplements my legal knowledge on any essential subject matter pertaining to the City.

With that said, I feel that it's my responsibility to ensure that the City Attorney's Office employees develop their absolute potential best within the Office. There are several

important factors that I consider essential for members of my team. I feel that development opportunities must be shared with members of the City Attorney's Office, and suggesting that some take the opportunity to attend appropriate legal seminars to further develop their skills in the legal field. Although training programs are appropriate for different legal areas, certain types of training are particularly important for individuals willing to work hard to improve their career opportunities. These include training opportunities in areas such as leadership, management, negotiation, and other areas likely to be useful to the City and the City Attorney's Office.

4. Describe your leadership and management style with your employees.

I have strived to establish a clear teamwork approach between different attorneys and staff in order to have this concept become of true value within the City Attorney's Office culture. Regrettably, the legal profession has fostered a culture and reputation where employees are compensated and celebrated for their individual performance and contributions, which does not, and cannot, encourage a teamwork approach with handling legal matters. Therefore, it has instead fostered a sense of competition.

I wholly recognize that encouraging a collaborative work environment takes more than just putting employees on teams or telling them to work together. This type of thinking starts directly with the City Attorney and must trickle down into everyday interactions with other City staff members. The fostering of a teamwork approach is part of creating a work culture that values collaboration, rather than encouraging competition. I believe that a culture of teamwork creates opportunities for employees to work together and use all available resources and skills to reach city-wide goals and objectives.

With that said, my management style is fluid, and not wholly comprised of any one specific structure or format. I believe that a leader must have the capability to adapt to a broad-range of management styles, and implement those styles based upon the particular set of circumstances. I will encourage my employees to work collaboratively and professionally, and accomplish their respective responsibilities in a timely manner, knowing that my door is always open to discuss possible ideas, strategies and best approaches to resolving pending legal issues, matters or concerns.

5. Have you ever worked directly for a policy making body?

Yes, I have worked with the Mayor and individual City Commissioners (policy making body) in order to recommend potential legislation or other legal directives in order to address the multitude of those quality of life matters or concerns impacting the City of Miami Beach, and have consistently identified necessary measures that should be adopted, including the rendering of various opinions or reports on a multitude of legal matters affecting the City.

6. Are you a member in good standing of the Florida Bar?

Yes, I am a member of the Florida Bar in good standing.

7. Describe your workload tolerance.... what type of office hours do you typically keep?

I have nearly twenty (20) years of experience in advising four (4) different governmental entities on their operations, regulatory compliance, policies, procedures, financing and administrative guidance on various government business practices, including legal management of regulatory departments, principles of civil, constitutional and

administrative law, preparation of resolutions and ordinances, liaison with corporate vendors, contractors, citizens and external agencies on sensitive and controversial issues, and formation of cost-effective and goal-oriented legal compliance with emerging legal matters or issues (contractual and statutory).

Of those 20 years, I have been employed with the City of Miami Beach for over 12 years, and the workload of the City is very intense, extensive and fast-paced based upon a number of factors, which pertain to, and include, the City's population surging with the influx of approximately 8.5 million visitors annually. Therefore, it requires me to spend extensive time in the office in order to address the myriad of legal issues that the City faces daily.

8. What would you hope to accomplish the first 30 days on the job; the first 6 months; and the first year?

In the first 30 days as the City Attorney, I would hope to meet all department directors (including other supervisory personal), and a develop further understanding of those immediate legal issues facing the City of Fort Pierce. Additionally, I believe that weekly or by-weekly meetings with the Mayor and City Commissioners and the City Manager is essential, and I would hope to schedule such meetings.

In the first 6 months, I would hope to have attained a detailed understanding of the City Attorney's Office, and all pending or threatened legal actions against the City of Fort Pierce. Additionally, I anticipate that after consistently meeting with the Mayor and City Commissioners for the preceding months, that the policy directives and initiatives of the City Commission would become clear, and that I would be working with the City Manager to accomplish those objectives.

Lastly, In the first year as the City Attorney for the City of Fort Pierce, I anticipate that there would be a cohesive working relationship with the City Manager, and that the policy directives, goals and objectives set forth by the Mayor and City Commission would be collegially accomplished for the benefit of the City. Furthermore, I would have established an extensive and thorough understanding of all potential and existing legal threats against the City, and would be successfully addressing these threats and other legal matters. Equally important, I would have solidified the appropriate legal course of action for those issues that the City Commission has identified to be of an important concern within the City of Fort Pierce, and I would continue to meeting (on a regular schedule) with the Mayor and City Commission in order to provide legal guidance on the City's potential options for these challenging matters.

I would strived to address these issues that could impact the City of Fort Pierce, and continue to provide legal advice that is honest, concise and straight forward, and informs the City and its elected officials of the fullest extent of potential legal options.

9. What experience do you have with organizational and/or performance analysis directed at identifying issues in need of change?

In regard to this question, I've had experience in dealing with such matters, and have focused the response specifically to the City Attorney's Office and its organizational or performance analysis of the Department itself and its employees.

I believe that routine interaction and evaluation of employees within the Department to be absolutely essential and necessary to support compensation, promotion and retention

decisions as well as to ascertain how the employee(s) are performing with respect to the goals and needs of the City and the City Attorney's Office. In recognizing the limitations of, and effectiveness of the traditional review process, I consider deficit-oriented performance reviews that emphasize what an employee is not doing well to be counterproductive, generating employee dissatisfaction and lower organizational performance. It just makes sense that the negative dialogue of a review that highlights mistakes and shortcomings is not especially motivating.

Alternatively, I focus upon a process that identifies an employee's strengths and encourages collaboration among the other members of the City Attorney's Office, which would certainly include other supervisors and subordinates. I have embraced a more positive, prospectively directed system that can validate what is going well and develop future performance goals that build upon previous success, balancing the effects of any negative feedback and supporting individual employee engagement. I've recognized that it's most important not to think of performance reviews as the delivery of information by a superior to a subordinate, but to reimagine the process as a dialogue intended to share information about the work and workplace and co-create a plan which facilitates ongoing growth, development and information sharing that accomplishes the goals of the governmental organization.

10. Please describe your experience in dealing with intergovernmental entities. Specifically, how do you work with the City Manager and other sections/branches of the City government while maintaining your independence?

I have developed an extensive understanding of those necessary skills, which a City Attorney must embrace and recognize in order to provide the appropriate legal representation to the City Manager (including Department Directors). It is without question that there are various legal and administrative dynamics that exist between the governing body of a municipality and the City Administration, which may undoubtedly result in potential impediments that inevitably emerge through those efforts utilized to implement the policy direction issued by the Mayor and Commissioner. I have gained the necessary understanding to acknowledge such various dynamics, and have adapted a broad-range of management styles and experiences necessary to implement those styles according to the appropriate set of circumstances that might be necessary to accomplish a working collaboration with the City Manager and essential Department Directors, while ensuring that the City Commission directives are properly accomplished.

With that said, I would manage the role of City Attorney in a professional manner, and strive to accomplish the respective objectives and responsibilities of both the City Manager and the City Attorney, in order to achieve the desired outcome that has been identified by the City Commission.

I recognize that conflicts may arise between the respective role of the City Manager in seeking to accomplish various policy direction issued by the City Commission, which could result in a conflict with those legal obligations of the City Attorney. In the event such a conflict does present itself, I'm confident that as Fort Pierce's City Attorney, that the City Manager and I would be able to discuss all available and viable options or solutions to ensure that the City of Fort Pierce is legally protected, and that no adverse consequences would negatively implicate the Mayor and Commissioners, the City Manager or other Department staff, while making certain that the City Commission's policy directives are implemented without delay.

11. Tell us how you communicate with your governing body and its individual members.

I've directly worked with the Mayor and City Commission in a collaborative relationship, which recognizes that approachability, responsiveness and clear communication of those pending or potential legal matters of the City of Miami Beach, is absolutely an essential element to ensuring success of the governing body's priorities, objectives and policy initiatives. Equally important, I've taken a leadership role with the Mayor and City Commission, through clear and effective communication skills when faced with any legal adversity or challenge, while making certain not to sacrifice those ethical obligations of the City Attorney. This approach has permitted me to focus upon the individual goals for the members of the City Commission, and further ensured that such working relationship(s) don't transition into matters of public policy without assuring the proper legal level of transparency. In that regard, I've endeavored to provide direct and concise legal guidance and counsel to the Mayor and City Commission on policy-making activities, by providing binding legal precedent and the application of existing legal principles, in order to ascertain a pathway or direction that furthers such policy objectives of the governing body.

12. How would you handle situations where the Commissioners wish to take actions that you do not consider lawful?

I believe that the City Commissioners should be apprised of, and receive any information, which could result in potential legal issues or consequences, or that could adversely impact the Mayor and City Commissioners. Certainly, I recognize that each Elected Official will be provided further clarity on those matters which they deem important (and seek further briefings on any given subject matter), and once I have been able to properly establish this understanding, I believe that the information that would be forthcoming from me would be transparent, appropriate and avoid any confusion or misunderstandings.

However, should there be a disregard of my legal advice or opinion on a matter, I would make certain that the individual is properly informed about the potential legal risks and adverse consequences that could materialize should there be a continued effort to proceed on a course of action that ignores my legal counsel on the subject matter, which may include litigation, civil or criminal penalties, and other negative legal action. With that said, and provided that the decision which conflicts with my legal advice or opinion is not illegal pursuant to the law, I recognize that City Council, City Manager, or any Department Director are my clients and are not obligated to follow my legal advice. The City Council and City Manager will be making the ultimate decision on a matter, which would most likely be based upon their level of risk-aversion, once all the potential legal issues or consequences are disclosed.

13. How would you handle questions of law, including issues relating to public safety, that may be viewed differently by an ethnically and economically diverse community and Commission?

I believe that the City Attorney must ensure that there is continued compliance with Florida's law by instilling the free flow of information amongst the governmental entity and those private individuals that interact with the City. This would allow direct citizen input, review, and criticism of government action, and thereby increases the quality of the City's governmental operations and activities. It is essential that the City Attorney undertake an active role in preventing the municipal organization from failing to disclose or prevent the release of clear public information, when such efforts serve to unequivocally permit continued transparency that enables stronger, more appropriate relationships with the general public by allowing for more accurate verification of the City's compliance with the

law, and how it conducts its governmental business.

Ultimately, the City Attorney must be a proponent of disclosing the business operations and activities of the City, transparency produces an informed public, a responsive government, and as a result, the City's residents believe that its government has its citizens best interests. Therefore, I would handle such questions consistent with those principles set forth herein, factoring

14. Please provide a copy of a legal opinion that you have authored. (You may provide a redacted copy.)

Please see attached legal opinion.

15. Have you ever been found to have committed any acts of discrimination, sexual harassment, or creation a hostile work environment? If so, please explain.

No, I have never been found to have committed any acts of discrimination, sexual harassment, or creation of a hostile work environment.

16. Do you have any unusual personal consideration(s) that would need to be resolved before you could accept this position? If so, please explain.

No, I do not have any unusual personal consideration(s) that would need to be resolved before accepting the position.

17. Should you become a finalist candidate, we will perform education, credit, civil, criminal and motor vehicle court records, internet search and reference checks on you. In doing so, will we find anything that you need to explain in advance?

There have been numerous media articles that reference pending litigation or other legal matters involving the City of Miami Beach. In that regard, I've been referenced as legal counsel for the City of Miami Beach in those media articles, as they might identify pending adverse legal matters against the City. With that said, I've not been the subject of such media articles, but the below matter is being disclosed in the abundance of caution. Should there is a belief that any other matters require commentary, please do not hesitate to contact me.

A Plaintiff and his wholly-owned corporation filed a frivolous lawsuit against the City for various alleged constitutional violations. The City prevailed on all claims, and the Federal Court ordered that the City was entitled to an award of all its reasonable attorneys' fees. The Plaintiffs paid the City \$600,000 for those attorney fees incurred, and Plaintiffs law firm paid the City \$100,000. Subsequently, the Plaintiff has issued erroneous and disparaging assertions against me and another attorney.

18. Is the resume you submitted accurate and current? If not, please explain any discrepancies.

Yes, the resume is accurate and current.

19. Are you currently employed?

Yes, I am currently employed.

20. Have you ever been fired or resigned under pressure from a job? If so, please explain.

No, I have never been fired or resigned under pressure from a job.

21. Have you ever sued an employer or been sued by an employer or employee? If so, please explain.

No, I have never sued an employer or been sued by an employer or employee.

22. What are your compensation expectations?

I'm open to discussing the salary requirements for the position of City Attorney. I do have significant legal experience, knowledge and expertise in municipal and governmental law, which I believe adds value to my candidacy for this position. I'm optimistic that a fair salary can be negotiated.

Boksner, Aleksandr

Subject: FW: Your Inquiry-CMB Regulation(s) of Firearms

From: Boksner, Aleksandr <AleksandrBoksner@miamibeachfl.gov>

Sent: [REDACTED]

To: [REDACTED]

Cc: [REDACTED]

Subject: Your Inquiry-CMB Regulation(s) of Firearms

This memorandum is in response to your verbal inquiry as to whether the City of Miami Beach has the legal authority to enact an ordinance to prohibit and/or control the sale and possession of automatic firearms throughout the City.

The Florida Legislature has declared that the regulation of firearms and ammunition (which includes the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage and transportation of firearms and ammunition), is preempted by the State of Florida, and that any existing (and future) ordinance(s) or regulation(s) that might be enacted by a county, city, town or municipality is thereby declared null and void pursuant to Section 790.33 of the Florida Statutes (which statutory provision may be identified as the Joe Carlucci Uniform Firearms Act).

The Florida Legislature's preemption authority for firearms regulation is derived directly from the Florida Constitution. Specifically, Article I, Section 8(a) of the Florida Constitution provides, "The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law." Florida appellate courts have explained that, "the phrase 'by law' indicates that the regulation of the state right to keep and bear arms is assigned to the Florida Legislature and must be enacted by statute." *Fla. Carry, Inc.*, 133 So.3d at 972.

The Legislature's reservation (preemption) for itself of the whole field of firearms regulation is codified within Section 790.33(1), which provides:

(1) Preemption.—Except as expressly provided by the State Constitution or general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state government relating thereto. Any such existing ordinances, rules, or regulations are hereby declared null and void.

This statutory provision has explicitly preempted the regulation of firearms by local governments. *See Pelt v. State, Dept. of Transp.*, 664 So.2d 320, 321 (Fla. 1st DCA 1995), *rev. denied*, 671 So.2d 788 (Fla.1996). Equally compelling, the Legislature in October of 2011 further emphasized and reiterated that the regulation of firearms was solely within the purview of the Florida Legislature, and not within the jurisdiction of local governmental entities. *See* Ch. 2011–109, § 1, Laws of Fla.

The legal impact of the 2011 Amendment to Section 790.33 is extensive. Specifically, the Amendment established definitive fine and penalty provisions against "any person, county, agency, municipality, district, or other entity" that enacts or causes the enforcement of any local ordinance that violates the preemption authority set forth within Section 790.33(1) of the Florida Statutes. Furthermore, this statutory amendment would subject the City of Miami Beach to a Circuit Court proceeding that would, undoubtedly, declare the ordinance improper pursuant to Section 790.33(3), and the issuance of a permanent injunction that would prohibit the City from taking

any enforcement action upon the newly enacted ordinance (It must be noted that the Mayor and City Commission would not have a defense for acting in good faith or upon the advice of counsel).

Additionally, and of greater importance, the amendment to Section 790.33(3) authorized the Circuit Court to assess a civil fine of up to \$5,000 against an elected local government official(s), including the termination of the employment or contract of any person (e.g., City Manager, Chief of Police or City Attorney) acting in their official capacity, for knowingly and willfully enacting or causing the enforcement of a local ordinance that violates the statutory preemption codified within Section 790.33(1). The Legislature has further authorized the Florida Governor to remove from office the elected local government official for the knowing and willful enactment of such a local ordinance, and the City would be legally prohibited from expending any public funds to defend or reimburse the Mayor or City Commission that have been found to have violated the statutory prohibitions proscribed in Section 790.33(3).

Regrettably, the City of Miami Beach does not have any legal authority to enact any legislation that regulates firearms and/or ammunition, and any attempts to enact such legislation would result in the knowing and willful violation of Section 790.33(1) of the Florida Statutes...exposing each elected or appointed member of the City Commission to a civil fine of up to \$5,000, and removal from office by the Governor of the State of Florida.

Should you have any questions, please do not hesitate to contact me.



ALEKSANDR BOKSNER

Deputy City Attorney

Education:

University of Cincinnati, Cincinnati, Ohio (B.A. 1998)

The University of Toledo College of Law, Toledo, Ohio (J.D. 2001)

Member:

State of Florida

State of Tennessee

U.S. District Court, Middle District of Florida

U.S. District Court, Southern District of Florida

Florida Middle District Bankruptcy Court

Aleksandr Boksner joined the City of Miami Beach Office of the City Attorney in 2009. Mr. Boksner provides legal counsel to the Mayor and City Commissioners, City Manager, and Department Directors pertaining to its governmental business practices, liability and sovereign immunity, including those regulatory and technical departments, State of Florida public records and government in the sunshine laws, contract formation, interpretation and drafting, legislative process and procedure, regulatory and statutory compliance, and the legal impact of civil and criminal litigation surrounding all aspects of the City of Miami Beach's governmental business operations.

Mr. Boksner prepares various resolutions and ordinances, drafts prospective legislation for consideration by the State of Florida, and reviews contracts for compliance with the City of Miami Beach procurement code, in conjunction with the negotiation of various public/private contracts, land use disputes, franchise agreements and other contractual agreements. He supervises the prosecution of code enforcement matters before the Special Master to ensure regulatory compliance with those technical statutes, regulations and codes. He handles a multitude of litigation matters (commercial, land use, construction, tort and appellate) which involve issues of sovereign immunity, regulatory taking, inverse condemnation, littoral takings and other statutory and common law causes of action impacting the City of Miami Beach. Mr. Boksner provides broad range and extensive legal guidance on the City of Miami Beach's governmental operations and governance, policy initiatives and other aspects of the City's business functions and litigation.

Prior to joining the City of Miami Beach Office of the City Attorney, Mr. Boksner's professional experience and background consisted of significant legal positions at other governmental agencies that included the Office of the County Attorney, Marion County, Florida; Office of the County Attorney, Charlotte County, Florida; and Office of the State Attorney, Miami, Florida.

Reference Summary

IN PROGRESS - AWAITING RETURN REFERENCE CALLS.

QUALIFICATIONS APPRAISAL GUIDE

Aleksandr Boksner

	Very strong evidence that skill is present (5 Points)	Strong evidence that skill is present (4 Points)	Some evidence that skill is present (3 Points)	Strong evidence that skill is not present (1-2 Points)	Very strong evidence that skill is not present (0 Points)	Insufficient evidence for or against skill (0 Points)
GENERAL IMPRESSIONS: Behavior and appearance appropriate to the job; poise, tact, neatness and grooming and professional maturity.						
BACKGROUND: Type of and quality of experience, appropriate education and reasons for job changes.						
PRESENTATION: Communication skills; ability to understand implications of questions and to make clear and direct replies; ability to select, organize and present ideas; clarity of speech and appropriate use of language.						
JOB EFFECTIVENESS: Ability to perform the duties of the job; industrious, dependable and properly assertive; ability to deal effectively with practical problems of the job; interpersonal skills appropriate for the job.						
ADMINISTRATION: Ability to perform in an administrative capacity; understanding of the principles and practices of management and leadership; ability to lead, direct, and coordinate the work of others; understanding of the political process and ability and willingness to work within it.						

Total Points _____

Comments

Interviewer Signature: _____

Date: _____



**City Commission - City Attorney Interviews -
1:00 p.m.**

Meeting Date: 09/27/2021

Re:

Information

SUBJECT:

Tanya M. Earley

Attachments

Tanya Earley

Form Review

Form Started By: Linda Cox
Final Approval Date: 09/16/2021

Started On: 09/16/2021 04:24 PM

TANYA M. EARLEY

PERSONAL

Address: NA

Contact: Phone: (954) 214-0537
Email: tanya.earley@yahoo.com

EDUCATION

Juris Doctor - 2007
University of Miami School of Law, Coral Gables, Florida

Bachelor of Arts, English - 2000
Georgetown University, Washington, DC

SUMMARY OF RELATED EXPERIENCE

2019 - Present	<u>CITY OF FORT PIERCE, FLORIDA</u> Population 41,600
2021 - Present	Interim City Attorney
2019 - Present	Assistant City Attorney
2014 - 2019	<u>OFFICE OF THE STATE ATTORNEY</u> Kissimmee, Florida
	Assistant State Attorney
2012 - 2014	<u>OFFICE OF THE STATE ATTORNEY</u> Miami, Florida
	Assistant State Attorney
2011 - 2012	<u>DONNA M. BALLMAN, P.A.</u> Davie, Florida
	Associate
2007 - 2011	<u>OFFICE OF THE STATE ATTORNEY</u> Miami, Florida
	Assistant State Attorney
2005	<u>THE HONORABLE ADALBERTO JORDAN,</u> <u>UNITED STATES DISTRICT JUDGE</u> Miami, Florida
	Intern
2000 - 2004	<u>UNITED STATES DEPARTMENT OF JUSTICE</u> Washington, DC
	Paralegal Specialist, Civil Division, Torts Branch

TANYA M. EARLEY, ESQ.

Tanya.Earley@yahoo.com

August 12, 2021

Via Electronic Mail

Honorable Mayor and Members of the City Commission
Care of Mr. Robert E. Slavin
100 North U.S. Highway 1
Fort Pierce, FL 34950

Dear Mayor Hudson and Members of the City Commission:

I am honored that you have asked me serve as your Interim City Attorney. Please accept this letter as my formal application for the position of City Attorney.

Since joining the Fort Pierce City Attorney's Office in 2019, I have successfully litigated cases involving labor and employment, code enforcement, animal custody, civil forfeiture, mental health/risk protection, and actions for declaratory relief. In addition to providing legal counsel to staff informally and on an as-needed basis, I have processed hundreds of formal requests for legal services.

Over the past two years, I have practiced before Fort Pierce's boards and committees, cultivated effective professional relationships with staff, and worked daily to ensure that the City's Code of Ordinances is correctly interpreted and applied. Moreover, having served Fort Pierce as the Assistant City Attorney *and* the Interim City Attorney, I have a unique understanding of what is required to promote efficiency, productivity, and stability within the Office— all while providing excellent legal service.

Despite the challenges that world events have wrought, Fort Pierce has been resilient. The City is poised for incredible growth and a brilliant future. There is no other community that I would rather serve.

Sincerely,



Tanya M. Earley

TANYA M. EARLEY, ESQ.

Tanya.Earley@yahoo.com

EDUCATION

University of Miami School of Law, Coral Gables, FL

Juris Doctor, *cum laude*, May 2007

Honors: Dean's Honor Scholarship; Award of Distinction, Litigation Skills Program

Georgetown University, Washington, DC

Bachelor of Arts, English, May 2000

Honors: Dean's List

EXPERIENCE

CITY OF FORT PIERCE, FL

Interim City Attorney, July 2021-Present and Assistant City Attorney, May 2019-Present

- Attend all meetings of the City Commission and the Fort Pierce Redevelopment Agency and provide legal counsel as needed
- Render written and verbal legal opinions to City officials, charter officers, department heads, and staff
- Review, approve, negotiate, and/or draft a vast array of documents, including contracts for goods and services, agreements for the lease, sale, and development of City property, union contracts, proposed resolutions, and proposed ordinances
- Advocate for the City in all Code Enforcement and Animal Control hearings
- Advocate for the City in matters before the Civil Service Appeals Board
- Coordinate and assist in the defense of employee grievances from inception to arbitration
- Prepare, file, and prosecute civil forfeiture and risk protection order actions on behalf of the Fort Pierce Police Department
- Represent the City in litigation at the trial and appellate levels, including filing pleadings, motions, briefs, and making court appearances
- Oversee all administrative functions of the City Attorney's Office
- Supervise and train legal support staff

OFFICE OF THE STATE ATTORNEY, Kissimmee, FL

Assistant State Attorney, March 2014-May 2019

- Prosecuted crimes for the State of Florida with an emphasis on economic and violent crimes
- Supervised and trained legal interns and attorneys
- Appeared in circuit court daily for motions and calendar calls
- Deposed witnesses, defend depositions, and prepare discovery responses
- Drafted and respond to pretrial motions

OFFICE OF THE STATE ATTORNEY, Miami, FL

Assistant State Attorney, August 2007 – October 2011; and September 2012-March 2014

- Prosecuted crimes, including vehicular homicide, armed robbery, and narcotics trafficking
- Served as lead counsel for jury trials, bench trials, and probation violation hearings

DONNA M. BALLMAN, P.A., Davie, FL
Associate, October 2011 – September 2012

- Litigated employment law claims including labor, discrimination, and non-compete disputes
- Negotiated and drafted settlement agreements
- Drafted legal documents, including pleadings, discovery motions, and summary judgment motions
- Appeared in court for motions, evidentiary hearings, and case management conferences

THE HONORABLE ADALBERTO JORDAN, UNITED STATES DISTRICT JUDGE, Miami, FL
Intern, Summer 2005

- Drafted orders addressing: summary judgment, choice of law, and the pleading requirements of the Federal Rules of Civil Procedure

UNITED STATES DEPARTMENT OF JUSTICE, Washington, DC
Paralegal Specialist, Civil Division, Torts Branch, July 2000 - July 2004

- Supported attorneys in the defense of claims filed under the National Vaccine Injury Compensation Act
- Compiled data in response to Congressional inquiries

BAR MEMBERSHIP

Admitted to the Florida Bar, member in good standing since 2007

**CITY OF FORT PIERCE, FLORIDA
CITY ATTORNEY
SEMI FINALIST CANDIDATE QUESTIONNAIRE**

Name: Tanya Marie Earley

Home Address: 572 Dillard Drive SE, Palm Bay, FL 32909

Home/Work/Cell phone numbers: 321-914-3376/772-467-3042/954-214-0537

E-mail address: tanya.earley@yahoo.com

1. Why are you interested in becoming Fort Pierce's next City Attorney and how does this position fit into your overall career plans?

I am proud to say that Fort Pierce is already my client. Although the advertised position would represent a high point in my legal career, it is also a tremendous opportunity to continue my professional growth while bringing much-needed stability to an office that has seen 100% attorney turnover in three years. I am fortunate to have met incredible people and discovered a growing city with a bright future. If I am your next City Attorney, I will dedicate myself to building an office that is competent, reliable, and responsive to the City's needs.

2. What is the largest number of employees that you have managed and where? What is the largest annual operating budget that you have managed?

As Interim City Attorney, I supervise a legal assistant and manage a budget that exceeds \$500,000. As an Assistant State Attorney in Miami, I assisted in the supervision and training of two junior attorneys. In Kissimmee, as the lead attorney in my division, I worked with newly barred attorneys in the office and in the courtroom. They were assigned to me one at a time. However, due to their level of experience, I was involved in nearly every aspect of their hands-on training and constantly evaluated their progress, from bringing them up to speed on office procedures to helping them through their first jury trials.

3. How do you stay professionally current and on top of issues with the potential for significant impact on your jurisdiction? How do ensure that your employees stay current?

I have attended multiple continuing legal education (CLE) seminars in the past two years. This is a great opportunity to learn from colleagues and to strengthen professional contacts. I also participate in online CLEs, webinars, and conference calls with other local government attorneys to discuss changes in the law. I have joined listservs for police legal advisers and municipal law attorneys. These connections have been particularly helpful in navigating the many novel legal issues that sprang from the pandemic. Finally, if there is an issue of import to Fort Pierce, it is likely that other jurisdictions on the Treasure Coast and beyond have wrestled with it also. Therefore, I review the meetings, resolutions, and ordinances of other cities and speak with their legal counsel when appropriate.

4. Describe your leadership and management style with your employees.

An effective manager sees the potential in his or her team and motivates them to perform optimally. The key to this is providing hands-on training, communicating well, and trusting the team enough to assign progressively difficult tasks. When people are treated as professionals and given commensurate responsibility, they almost always rise to meet the challenge. When work product does fall short, it is an opportunity for redirection and education rather than reproach. Disciplinary matters should be addressed swiftly, progressively, and in accordance with the City's Personnel Rules and Regulations.

5. Have you ever worked directly for a policy making body?

Yes, as an attorney for the City of Fort Pierce.

6. Are you a member in good standing of the Florida Bar?

Yes.

7. Describe your workload tolerance.... what type of office hours do you typically keep?

Effective lawyering requires hard work and long hours. As an Assistant State Attorney, I managed heavy caseloads and rarely ended my workdays at five. I have waited until 10pm for a jury verdict, given legal advice to on-scene police officers in the pre-dawn hours, and spent countless Sunday afternoons reviewing files. As legal counsel for Fort Pierce, my job description has changed, but my work ethic is the same. I am committed to working until outstanding tasks are not just completed but completed well. Furthermore, because technology connects us all now more than ever, it is my responsibility to make myself available to City officials and staff beyond traditionally defined work hours and even if I am not physically in the office.

8. What would you hope to accomplish the first 30 days on the job; the first 6 months; and the first year?

First 30 Days: Priority one will be to advertise for a new Assistant City Attorney. Next, I would meet with City officials and staff to gather information. From there, I will consider what changes I can make to provide optimal service. Any such changes would be contemplated, not in a vacuum, but in light of the resources that will be available to the office in the upcoming fiscal year.

First 6 Months: Six months in, I would like the new Assistant City Attorney to be on board and adequately trained to work efficiently and independently. I would hope to see a measurable increase in the processing time for requests for legal services. Finally, I would plan to meet with the City Manager and Director of Finance to discuss potential adjustments, including cost-saving measures, for the next fiscal year.

First Year: One year in, the office should be appropriately staffed, and I would like to work on longer-term goals such as building on institutional knowledge and fostering stability and consistency in terms of leadership and in terms of the quality of services we provide.

9. What experience do you have with organizational and/or performance analysis directed at identifying issues in need of change?

I have the advantage of having worked in this office for two years. That said, performance analysis in this legal setting is more than counting litigation wins and losses. The City Attorney's Office serves every department of the City. Its role as advisor and counselor is difficult to quantify, but it should be evaluated on an ongoing basis by regularly checking in with department heads to ensure that their needs are met.

As applied to evaluating employee performance, I am familiar with the City's performance review forms and will be ready to use them appropriately to memorialize progress over the course of the review period and to set specific, realistic goals for improvement. If I am performing well as a manager, nothing that goes into a performance review should be a surprise. Successes and mistakes should be addressed in real-time; they should not go unmentioned until the next review period. I would likewise welcome frequent feedback from the City Commission on how I can provide better service to them as a charter officer.

10. Please describe your experience in dealing with intergovernmental entities. Specifically, how do you work with the City Manager and other sections/branches of the City government while maintaining your independence?

In Fort Pierce, the City Clerk, the City Manager, and the City Attorney are distinct charter officers with coequal status. The City Manager executes and implements policy. The City Attorney ensures that policy goals are executed in a manner that protects that City from liability. Conceivably, the two offices can share the same goals but disagree on how to achieve them. Establishing mutual respect and a good line of communication can help resolve such disagreements before they reach impasse. Ultimately, my responsibility is to the City and not to any one officer or coworker and I will honor that responsibility.

11. Tell us how you communicate with your governing body and its individual members.

I speak with the City Commissioners individually in scheduled meetings and on an as-needed basis. For more urgent matters, I telephone them. I recognize that their time is precious and strive for efficiency in my communications. If necessary, I will schedule shade meetings to obtain a consensus on how to move forward with ongoing litigation.

12. How would you handle situations where the Commissioners wish to take actions that you do not consider lawful?

During my tenure as Interim City Attorney, this issue has not presented itself. Faced with this scenario, I would offer legally viable alternatives. In the absence of such, I would be direct and advise the Commissioners in an appropriate manner that their desired course of action could expose the City to liability. As an attorney, I have an ethical obligation to steer my client away from legally questionable practices and to refrain from assisting in the commission of same. I will act accordingly.

13. How would you handle questions of law, including issues relating to public safety, that may be viewed differently by an ethnically and economically diverse community and

Commission?

When I was a prosecutor, my ethical obligation was not to zealously represent the state, but to secure justice. If justice demanded that I decline to prosecute a case on constitutional grounds, I did. Likewise, if justice demanded that I recommend a harsh penalty, I did. In providing legal advice to the Fort Pierce Police Department, I have applied the same philosophy. By giving sound legal advice, particularly on constitutional issues, I can contribute to the Police Department's goal of fostering trust between law enforcement and the community while reducing the City's exposure to liability. Looking ahead, I would like to increase the frequency of meetings and training opportunities to optimize the provision of legal services to the Department.

14. Please provide a copy of a legal opinion that you have authored. (You may provide a redacted copy.

15. Have you ever been found to have committed any acts of discrimination, sexual harassment, or creation a hostile work environment? If so, please explain.

No.

16. Do you have any unusual personal consideration(s) that would need to be resolved before you could accept this position? If so, please explain.

No.

17. Should you become a finalist candidate, we will perform education, credit, civil, criminal and motor vehicle court records, internet search and reference checks on you. In doing so, will we find anything that you need to explain in advance?

No.

18. Is the resume you submitted accurate and current? If not, please explain any discrepancies.

Yes.

19. Are you currently employed?

Yes.

20. Have you ever been fired or resigned under pressure from a job? If so, please explain.

No.

21. Have you ever sued an employer or been sued by an employer or employee? If so, please explain.

No.

22. What are your compensation expectations?

I would request to start at \$155,000.



TO: Danny Visconti, Director, Indian Hills Golf Course

FROM: Tanya Earley, Assistant City Attorney

THROUGH: Peter Sweeney, City Attorney

RE: Indian Hills Golf Course

RLS FILE: 19-58

DATE: September 30, 2020

THE
PA

I have reviewed the attached request for legal services related to the release of potential claims arising from the use of the Indian Hills Golf Course and its equipment, including golf carts.

I have made minor revisions to the existing golf cart rental agreement. The revised document is attached.

In its current form, the golf cart rental agreement provides that renters must defend and indemnify Fort Pierce and the Golf Course in the event of injury to persons or property. Although the indemnity clause provides some potential legal protection, the "blanket" or general release that you suggested would be more comprehensive in that it would apply to all patrons and cover all activities on premises.

If the decision is made to proceed with a general release, the following language could be utilized:

In consideration for the use of the Indian Hills Golf Course ("Golf Course"), I, for myself and on behalf of my heirs, assigns, personal representatives, and next of kin, agree to release and hold harmless the City of Fort Pierce and the Golf Course, their officers, officials, agents and/or employees, other participants, sponsoring agencies, and if applicable, owners and lesser of the premises ("RELEASEES") FROM ANY AND ALL CLAIMS OF INJURY, DISABILITY, DEATH, OR LOSS OR DAMAGE TO PERSON OR PROPERTY OF ANY NATURE, THAT MAY ARISE FROM MY OWN NEGLIGENCE OR FROM THE NEGLIGENCE OF THE RELEASEES, OR OTHERWISE, AS A RESULT OF THE USE OF SAID GOLF COURSE AND/OR ITS GOLF CARTS OR OTHER EQUIPMENT both known and unknown EVEN IF ARISING FROM MY OWN NEGLIGENCE OR FROM THE NEGLIGENCE OF THE RELEASEES or others, and assume full responsibility for my use of the said Golf Course and/or its golf carts or other equipment.

Although any judge reviewing such a general release must do so within the context and unique facts of the given case, it is important to note that Florida's courts generally disfavor and frequently invalidate these types of agreements. To increase the likelihood that a reviewing court will enforce the general release, staff should ask patrons to sign the receipt/paperwork containing the general release, the release itself should be in a font that is easy to see and read, and patrons should be given sufficient time to review it prior to signing.

If you have any questions, please contact the City Attorney's Office via phone or email.

Thank you.

TE/mm

cc: Nicholas C. Mimms, P.E., City Manager
Linda Cox, City Clerk

Reference Summary

IN PROGRESS - AWAITING RETURN REFERENCE CALLS.

QUALIFICATIONS APPRAISAL GUIDE

Tanya M. Earley

	Very strong evidence that skill is present (5 Points)	Strong evidence that skill is present (4 Points)	Some evidence that skill is present (3 Points)	Strong evidence that skill is not present (1-2 Points)	Very strong evidence that skill is not present (0 Points)	Insufficient evidence for or against skill (0 Points)
GENERAL IMPRESSIONS: Behavior and appearance appropriate to the job; poise, tact, neatness and grooming and professional maturity.						
BACKGROUND: Type of and quality of experience, appropriate education and reasons for job changes.						
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JOB EFFECTIVENESS: Ability to perform the duties of the job; industrious, dependable and properly assertive; ability to deal effectively with practical problems of the job; interpersonal skills appropriate for the job.						
ADMINISTRATION: Ability to perform in an administrative capacity; understanding of the principles and practices of management and leadership; ability to lead, direct, and coordinate the work of others; understanding of the political process and ability and willingness to work within it.						

Total Points _____

Comments

Interviewer Signature: _____

Date: _____



**City Commission - City Attorney Interviews -
1:00 p.m.**

Meeting Date: 09/27/2021

Re:

Information

**SUBJECT:
CITY ATTORNEY INTERVIEWS**

Attachments

Final Report - Slavin Management Consultants

Form Review

Form Started By: Linda Cox
Final Approval Date: 09/22/2021

Started On: 09/22/2021 04:32 PM

CITY OF FORT PIERCE, FLORIDA

City Attorney

Finalist Report

September 2021



SLAVIN MANAGEMENT
CONSULTANTS

SLAVIN MANAGEMENT CONSULTANTS

3040 Holcomb Bridge Road, Suite A-1 • Norcross, GA 30071 • (770) 449-4656 • FAX (770) 416-0848



SLAVIN MANAGEMENT
CONSULTANTS

September 21, 2021

Mayor Linda Hudson
and Members of the City Commission
City of Fort Pierce
City Hall
100 North U.S. 1
Fort Pierce, Florida 34950

Re: Final Candidate Report — City Attorney Search

Dear Mayor Hudson and Members of the City Commission:

This report contains the names of the three candidates chosen by the City Commission to be interviewed for the position of City Attorney of Fort Pierce. These candidates, in my professional opinion, are among the best qualified individuals who applied for the position.

The candidates are:

MANNY ANON, JR.
ALEKSANDR BOKSNER
TANYA M. EARLEY

The candidates are presented in alphabetical order. We have not ranked them because they are all well qualified for the position. At this point the chemistry between the City Commission and the candidates should be an important factor in the interview and selection process.

The candidates are aware that the salary is open and that present salary and qualifications may influence the starting salary. We suggest that when you become seriously interested in a candidate, you settle salary and related matters as quickly as possible. As you know, it is normal practice for the City to pay actual relocation expenses and related items for executive level employees.

The candidates know that the interview process will take place on Monday, September 27, 2021. Their interview times have been assigned and the schedule is on page sixteen of this report.

The candidates have been instructed to submit their request for reimbursement for reasonable expenses incurred for the interviews directly to the City. These expenses were not included in our contract with the City.

Detailed information about each candidate is contained in this report. Included for each candidate are a summary resume, a cover letter, a full resume, supplemental questionnaire responses, summary reference comments, and a rating sheet. The report contains tips for interviewing and selecting candidates, sample interview questions and candidate ranking and tabulation forms. Also, included is a guide to assist in avoiding asking inappropriate questions.

In preparing for the interviews we suggest that:

- ✓ A comfortable setting should be selected.

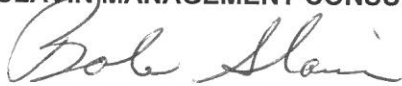
- ✓ The setting should be formal, but open and friendly.
- ✓ Each candidate should sit in the same chair placed for good eye contact between the interviewers and candidate.
- ✓ To be fair, the same program and the same type of questions should be asked of each candidate.

We further suggest that you try to arrive at a decision as soon after the interview as possible as delay often works to the disadvantage of both parties.

Dave Krings will attend the interviews. Finally, we thank you for the opportunity to work with you on this very important assignment. We will continue to work for you until the process is complete.

Cordially yours,

SLAVIN MANAGEMENT CONSULTANTS

A handwritten signature in cursive script that reads "Bob Slavin".

Robert E. Slavin and David Krings

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Interview Question Guideline

INTERVIEW AND SELECTION TIPS

Interviews are often not as effective as they should be for the following reasons:

- Human errors are made.
- Final decisions are frequently made too early in the interview.
- Judgments are based on characteristics that are unrelated to subsequent job performance (i.e., race, sex, age, etc.).
- Insufficient weight is often given to favorable information of job applicants -- most interviewers look for reasons to reject applicants. To the extent that interviewers prejudge applicants, their decisions tend to be inaccurate.
- Interviewers may not be as carefully prepared for interviews as they should be.

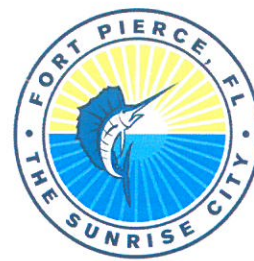
In considering the candidates presented, we feel it is important to remember:

1. Interviews should also be viewed as learning experiences for the interviewers. For example, you may learn about approaches or techniques that may be of value to the City.
2. Some candidates did not seek out this position, but rather were encouraged by us to apply. With time, their enthusiasm will wane, and there is ample evidence to show that delay can be detrimental to both the prospective employer and the candidate. For that reason, we encourage the City Council to establish a plan for completing this process within a short time period.
3. The interview is a two-way process. Just as you are making an important decision for the City, so too is the candidate making important career, personal and family decisions. All candidates have been provided with background information concerning the position but many will have questions that can only be answered by you during the interview. Try to set aside time during the interview for these questions to be raised and explored.
4. If you are unable to reach a decision on a candidate immediately, keep all candidates clearly and frequently informed on your progress. It is appropriate for you to be the primary point of contact with the candidates after they have been interviewed. We will, however, be pleased to serve as a go-between should there be a need for negotiations with a final candidate.
5. Once a decision has been reached and an offer made to a candidate, we suggest that you obtain acceptance in writing by letter, fax or e-mail before publicizing the appointment. At the same time the appointment is made, you should contact the other interviewed candidates and inform them of your decision. We will, of course, notify all other applicants of your decision.
6. We are committed to the City until the process is complete. Please feel free to contact us at any time.

The City of Fort Pierce, Florida

Invites your interest in the position of

CITY ATTORNEY



The Position

The City Attorney is, pursuant to the City Charter, legal advisor to and counselor for the City and its officers in matters relating to their official duties. The mission of the Office of the City Attorney is to safeguard the legal, ethical, and financial integrity of the City of Fort Pierce. The City Attorney represents the City before all levels of state and federal courts. The Office of the City Attorney reviews all City contracts and agreements for approval as to legal form and correctness.

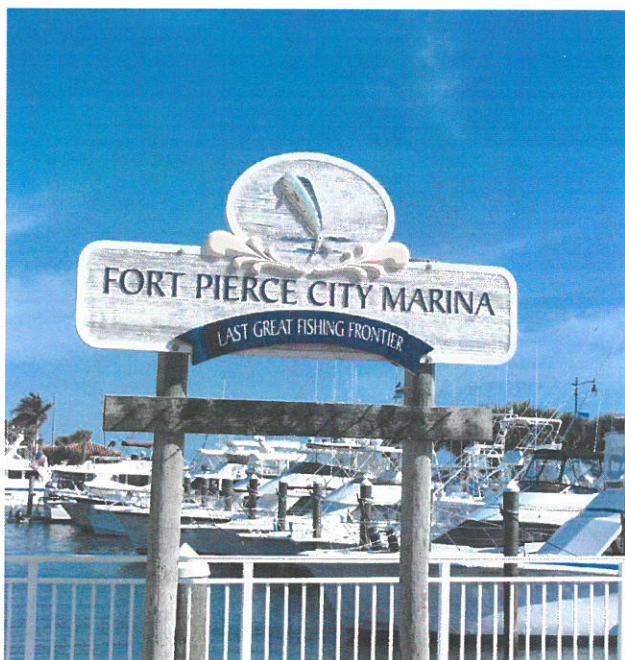
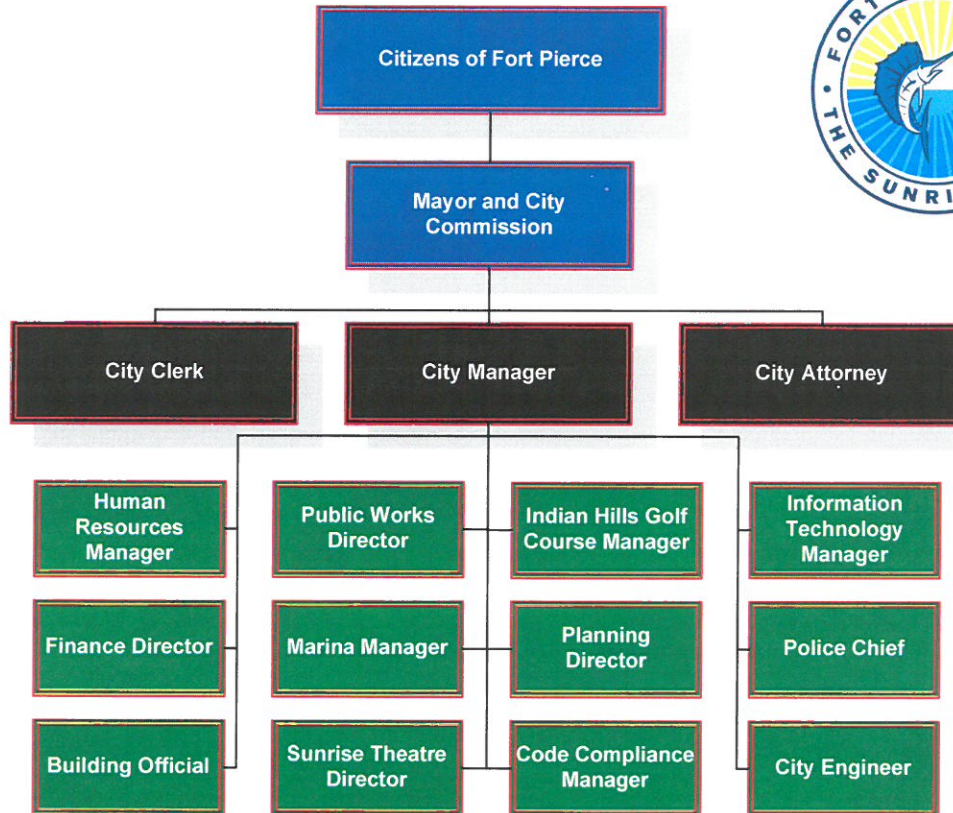
The position is one of three "Charter Officers" appointed by and directly reporting to the Mayor and the four City Commissioners - the City Manager, City Attorney, and City Clerk. The City operates under a Commission/Manager organizational structure with daily operations entrusted to the City Manager. Requests for legal advice from departments are routed through the City Manager's office.

The Mayor is elected at large to a four-year term with membership on the Commission. Four Commissioners are elected to overlapping terms from two two-member districts. The offices of City Commissioner and Mayor are elected on a nonpartisan basis.

Three positions are budgeted for the City Attorney's Office with a total budget of \$524,018 out of a total City General Fund budget of \$43,323,874. The City Attorney has the discretion to delegate legal matters to private attorneys as appropriate.

City of Fort Pierce, Florida

Organizational Chart



FORT PIERCE CITY COMMISSION	
Linda Hudson	Mayor
Rufus J. Alexander III	District I
Curtis Johnson, Jr	District I
Jeremiah Johnson	District II
Thomas K. Perona	District II

City Attorney Office Mission Statement

The mission of the Office of the City Attorney is to safeguard the legal, ethical, and financial integrity of the City of Fort Pierce. This is accomplished by offering legal services to the City Commission, Officials, and several Boards in a manner consistent with the City's Charter, Code of Ordinances, and the laws of the State of Florida and the United States, in a manner meeting the highest standards of professional diligence and ethics.



The City

Fort Pierce has retained much of the charm of the fishing village that it was when incorporated in 1901 as it evolved to the highly diverse community found in larger urban areas today. The City is the county seat of St. Lucie County, Florida. It is known as the "Sunrise City" and is located on Florida's Treasure Coast. The Treasure Coast commemorates the sinking of a recently discovered Spanish fleet in 1715 to distinguish the area from other parts of Florida. The natural beauty of the City is evident to even the casual visitor. The City is located on the Indian River Lagoon with easy access to the Atlantic. Fort Pierce is still known for its exceptional fishing, beautiful sand beaches, and outdoor activities.

The City encompasses approximately 31 square miles and is home for a diverse population of approximately 41,600 residents. The US Census estimates that 33.55% of the population is white alone, not Hispanic or Latino, 41.4% black or African American alone, and 22.8% Hispanic or Latino. The City population is also diverse economically with an estimated household median income of \$35,198 and 29.4% of the population is estimated to be "in poverty."

The Commission, community, and Police Department have combined efforts to keep the Fort Pierce a place where families and businesses can thrive. The National Council for Home Safety and Security ranked the City as one of the 100 safest cities in Florida.

The City population is growing. Efforts are being made to maintain the historic, family friendly ambiance of a beach community while encouraging economic growth.

The cost of living in Fort Pierce compares well to other areas of south Florida and the US generally. According to the "Best Cities" survey, the overall cost of living in Fort Pierce is rated

87.6 on a 100-point scale. The cost of housing is particularly noteworthy as it is listed at 66.7 on the same scale. It should also be understood that there is considerable variation in housing costs throughout the City.

A wide range of K-12 school options are available for Fort Pierce residents. Public high schools in the City include Fort Pierce Central High School, Fort Pierce Westwood Academy: The WEST Prep Magnet and Lincoln Park Academy. For the 2021 school year, there are 12 private schools serving 3,202 students in Fort Pierce. Private schools include John Carroll Catholic High School and Faith Baptist School (Treasure Coast Baptist Academy). Private middle schools inside City limits include Saint Andrew's Academy and Saint Anastasia Middle School.

Postsecondary schools include the Florida Atlantic Harbor Branch Oceanographic Institution, the Indian River State College, the Florida State University Regional Medical School, the University of Florida Indian River Research and Education Center, and the Bethune Cookman satellite campus.

Low Crime

The City's aggressive policing initiatives, strategies, and community engagement, have resulted in a significant and continuing pattern of crime reduction. In fact, over the last 5 years, there has been a 20.8% decrease in violent crime, a 39.2% decrease in property crime, and a 36% decrease in overall Part 1 UCR crime. Fort Pierce's steadily declining crime rate has made the City a safer place to live, work and play. According to the National Council for Home Safety and Security (Alarms.org) and Safewise.com, Fort Pierce is among the top 100 safest cities in Florida, ranking 61 and 99 respectively.



The Climate

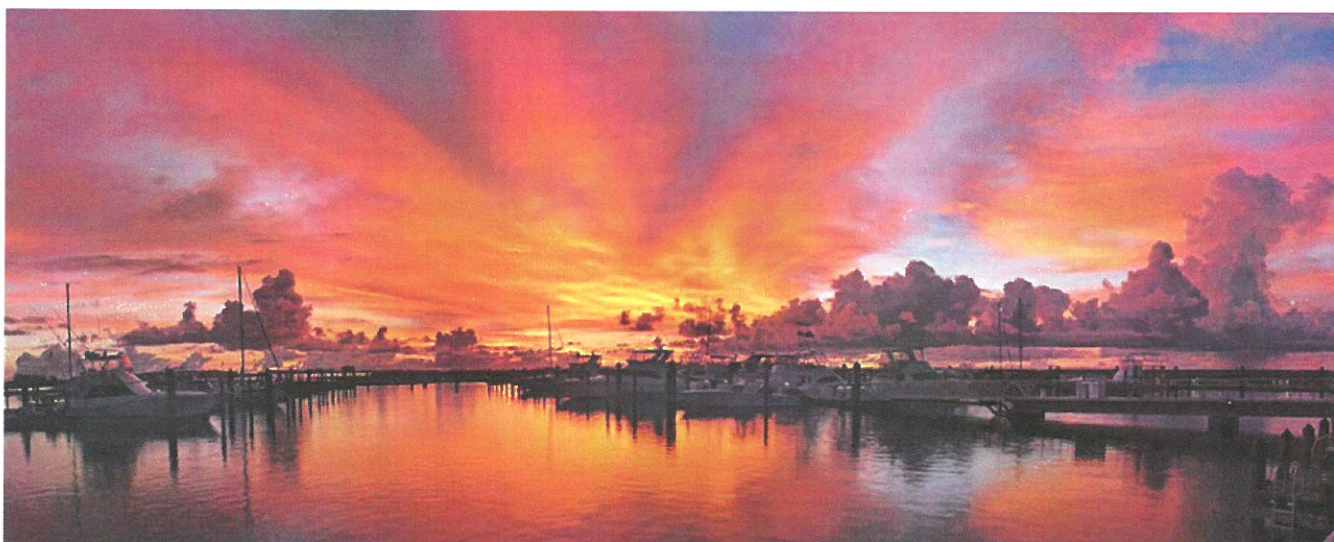
Fort Pierce has a humid subtropical climate, with hot, humid summers and warm, drier winters. Summer temperatures average in the low 90s while winter brings temperatures in the 70s. Approximately 51 total inches of rain fall annually during 133 days with rain. Tropical storms and hurricanes are possible in the region but their occurrence in Fort Pierce have historically been infrequent and without substantial property damage.

The Economy

Much of the Fort Pierce employment is currently in the government and service industries.

The easy access to the Florida Turnpike, Interstate 95, the Treasure Coast International Airport, the Port of Fort Pierce, and developable properties with the City and within annexable areas offer continued opportunities for a growing economy.

More information about Fort Pierce is available on the web at: www.cityoffortpierce.com



Issues

The Commissioners do not see any one issue of overriding importance to the City. However, several issues are percolating that will likely require prompt attention:

- When the 2020 census data is available, redistricting will be required. In addition to assuring the redistricting process is done lawfully, consideration will likely be given to changing to a system which is composed of four single member commission districts along with the elected at large mayor.
- The Commissioners are currently considering an ordinance dealing with short-term rentals that may be adopted prior to the hiring of a City Attorney. However, there likely will be issues with the implementation of the ordinance.
- Water and wastewater operations are in an area of the City with prime development potential. The operations are nearing the end of their useful life and a relocation is anticipated. Property acquisition and development contracts will require significant legal attention. (Water, wastewater, electricity, natural gas, and internet services are provided through the Fort Pierce Utilities Authority (FPUA). The Authority is a separate governmental unit with a Board composed of the City Mayor and four Commission appointed members. 6% of its revenue is forwarded to the City. The Authority has its separate legal counsel.
- City expansion through annexation and the disposal of surplus City-owned property continues to be a probability with required legal guidance.
- Development agreements will continue to be negotiated and need to be enforced as businesses are attracted to the business climate and quality of life available in the Fort Pierce area.
- Effort is needed to continue the update the City Code of Ordinances.
- Other issues are common to any City Attorney's Office. The next City Attorney should expect to be involved with development/redevelopment, code enforcement, contracts, labor relations and negotiations, law enforcement, etc.

The Ideal Candidate

The Commissioners are looking for a person who, in addition to having the educational, experiential, and license qualifications listed for the position, has the personality and personal integrity necessary to guide the, at times, demanding commissioners and staff. The Attorney is expected to operate in a collaborative, diplomatic and respectful manner but not at the expense of offering quality legal advice.

The ideal candidate would exhibit a passion for the opportunities for making Fort Pierce a continually improving community to live and work in.

The ideal candidate would understand what it means to operate in an ethnically and economically diverse community and with a governing board which reflects that diversity.

The ideal candidate would appreciate that the City operates with a limited internal attorney staff and contracted outside counsel. It is expected that the City will continue to be flexible with the management and internal operations of the Office.

The ideal candidate would have a working understanding of the potential liabilities from public safety and other aspects of City operations.

As part of the City's leadership team, the City Attorney will work with the Commissioners, City Manager, City Clerk and staff to find ways to accomplish the City goals within the framework of the law.

The bottom line is that the next City Attorney will exhibit independent judgment as well as the highest level of professionalism, ethics, and dedication. The person will understand that the City Attorney reports collectively to all five members of the Commission, with no one person receiving better treatment or information.



Qualifications and Expectations

The position requires a Juris Doctor (J.D.) degree and licensure to practice law in Florida. Note that Florida does not have reciprocity with any other state. Requires at least ten years of increasingly responsible experience in the management and practice of law, preferably with municipal law practice. Membership in the Florida Bar Association is required.

Also highly desired is the City Attorney establishing Fort Pierce residency.

Compensation

The beginning salary will be negotiable depending on the experience and qualifications of the selected candidate. Fort Pierce provides excellent benefits.

To Apply

The position will remain open until filled. The first review of resumes will take place on August 13, 2021. If interested, please email your resume and cover letter with your compensation expectations to slavin@bellsouth.net.

For additional information about this opportunity, contact Robert E. Slavin, President at (770) 449-4656 slavin@bellsouth.net or David Krings, Midwest Regional Director at (513) 200-4222 david@kringsconsulting.com.



Robert E. Slavin or David Krings
SLAVIN MANAGEMENT CONSULTANTS
3040 Holcomb Bridge Road, A1
Norcross, Georgia 30071
Phone: (770) 449-4656
Fax: (770) 416-0848
E-mail slavin@bellsouth.net



Note: Under Florida Law, resumes are public documents and will be provided to the media upon request. Please call prior to submitting your resume if confidentiality is important to you.

Fort Pierce, Florida is an Equal Opportunity Employer and does not discriminate on the basis of race, color, religion, creed, sex, age, marital status, national origin, or disability in employment or in the provision of services.

CANDIDATE BACKGROUND CHECK TABLE

CITY OF FORT PIERCE, FLORIDA

CITY ATTORNEY

NAME	Signed Authorization Received	Soc Sec # Trace	County Court Civil Search	County Court Criminal Search	Enhanced National Criminal Search	Driving Record Search	DOJ Sex Offender Search	Education Verification	Credit
Anon, Manny	Yes	Clear	Clear	Clear	Clear	Clear	Clear	Verified	Good
Boksner, Aleksandr	Yes	Clear	Pending	Clear	Clear	Clear	Clear	Verified	Good
Earley, Tanya	Yes	Clear	Clear	Clear	Clear	Clear	Clear	Verified	Good

**CITY OF FORT PIERCE, FLORIDA
CITY ATTORNEY
SEMI FINALIST CANDIDATE QUESTIONNAIRE**

Name:

Home Address:

Home/Work/Cell phone numbers:

E-mail address:

1. Why are you interested in becoming Fort Pierce's next City Attorney and how does this position fit into your overall career plans?
2. What is the largest number of employees that you have managed and where? What is the largest annual operating budget that you have managed?
3. How do you stay professionally current and on top of issues with the potential for significant impact on your jurisdiction? How do ensure that your employees stay current?
4. Describe your leadership and management style with your employees.
5. Have you ever worked directly for a policy making body?
6. Are you a member in good standing of the Florida Bar?
7. Describe your workload tolerance.... what type of office hours do you typically keep?
8. What would you hope to accomplish the first 30 days on the job; the first 6 months; and the first year?
9. What experience do you have with organizational and/or performance analysis directed at identifying issues in need of change?
10. Please describe your experience in dealing with intergovernmental entities. Specifically, how do you work with the City Manager and other sections/branches of the City government while maintaining your independence?
11. Tell us how you communicate with your governing body and its individual members.
12. How would you handle situations where the Commissioners wish to take actions that you do not consider lawful?
13. How would you handle questions of law, including issues relating to public safety, that may be viewed differently by an ethnically and economically diverse community and Commission?
14. Please provide a copy of a legal opinion that you have authored. (You may provide a redacted copy).

15. Have you ever been found to have committed any acts of discrimination, sexual harassment, or creation a hostile work environment? If so, please explain.
16. Do you have any unusual personal consideration(s) that would need to be resolved before you could accept this position? If so, please explain.
17. Should you become a finalist candidate, we will perform education, credit, civil, criminal and motor vehicle court records, internet search and reference checks on you. In doing so, will we find anything that you need to explain in advance?
18. Is the resume you submitted accurate and current? If not, please explain any discrepancies.
19. Are you currently employed?
20. Have you ever been fired or resigned under pressure from a job? If so, please explain.
21. Have you ever sued an employer or been sued by an employer or employee? If so, please explain.
22. What are your compensation expectations?

SAMPLE INTERVIEW QUESTIONS

FORT PIERCE, FLORIDA

City Attorney

SAMPLE INTERVIEW QUESTIONS

September 2021

1. What do you consider to be your major accomplishments in your current and previous positions as they relate to the City Attorney position in Fort Pierce?
2. What, if any, legislative/legal changes are you aware of that will likely have an important impact on Florida local governments?
3. Philosophically, how do you view the role of a City Attorney?
4. What most interests you in this position. What are your overall career objectives and how does this position relate to them?
5. What do you believe to be the ideal relationship between the City Attorney, the City Commission, the City Manager, and department heads?
6. Describe your leadership strengths and how they have been applied in current and previous work settings.
7. How would you begin the task of gaining control of an organization that you are new to?
8. Describe the how you would establish the mission, values, and objectives of the City Attorney's office.
9. Describe your background in legal office management including budget preparation, performance analysis and administration.
10. How do you track and respond to work requests and manage the workload?
11. How do you motivate employees to perform at their highest potential?
12. Tell us about your relationships with other local governments and state and federal agencies.
13. You have evidence that a department head is showing promotional hiring favoritism to long-term employees to the detriment of newer employees. Most of that organizations' diversity is among its newer employees. No discrimination complaint has been filed. As City Attorney, do you see a need to deal with the situation? if so, how would you do so?

14. As City Attorney, you will likely be called to make recommendations to the City Commission on issues that have strong political implications. Give us an example of one such recommendation that you have made and tell us how you handled it.
15. How do you decide if work should be done in-house or contracted for?
16. How do you measure both staff and client satisfaction?
17. If you were selected for this position, what standards should be used to assess your performance during your first year on the job?
18. What questions do you have for us?

CANDIDATE INTERVIEW SCHEDULE

The proposed schedule is as follows:

Light breakfast served at 8:15 a.m.

Individual Candidate Interviews from 9:00 till noon.

	Hudson	C Johnson	J Johnson	Perona
9:00	Earley	Anon	OPEN	Boksner
9:45	OPEN	Boksner	Earley	Anon
10:30	Boksner	OPEN	Anon	Earley
11:15	Anon	Earley	Boksner	OPEN

Lunch for all served at noon

Public meeting for interviews begins at 1:00 p.m.....times below are approximate.

1:15 Anon

2:00 Boksner

2:45 Earley

3:30 City Commission deliberation and decision.

Hotel recommendation:

Hutchinson Island Plaza Hotel and Suites (preferred)

1230 Seaway Drive

Fort Pierce, FL 34949-3148

Royal Inn Beach Hutchinson Island

222 Hernando St

Fort Pierce, FL 34949

MANNY ANNON, JR.

PERSONAL

Address: 2649 S.E. Emmett Road
Port St. Lucie, Florida 34954

Contact: Cell: (305) 219-8083
Email mannyanon@yahoo.com

EDUCATION

J.D. - 1992
The American University Washington College of Law, Washington, DC

B.A., Politics and Public Affairs - 1989
University of Miami, Miami, Florida

SUMMARY OF RELATED EXPERIENCE

2001 - Present	<u>UNITED STATES ARMY RESERVE</u> 174 th Legal Operations detachment, Miami, Florida Team Leader
2020 - Present	<u>CITY OF SEBASTIAN, FLORIDA</u> Population 21,929 City Attorney
2019 - 2020	Assistant City Attorney (Contract)
2016 - 2019	<u>CITY OF PORT ST. LUCIE, FLORIDA</u> Population 201,846 Sr. Assistant City Attorney
2015 - 2016	<u>UNITED STATES ARMY RESERVE</u> Active Duty
2014 - 2015	<u>EDUCATIONAL SABBATICAL (FIU)</u>
2014	<u>TOWN OF SURFSIDE, FLORIDA</u> Population 5,744 Assistant Town Attorney
1999 - 2014	<u>AMERICAN FEDERATION OF STATE COUNTY AND MUNICIPAL EMPLOYEES</u> North Miami, Florida Deputy General Counsel
1997 - 1999	<u>CITY OF MIAMI, FLORIDA</u> Population 362,470 Assistant City Attorney

1996 SANDLER & SANDLER
Coral Gables, Florida
Associate

1995 THE LEGAL GROUP, P.A.
Miami, Florida
Associate

1992 - 1993 LAW OFFICES OF CARLOS E. CASUSO
Miami, Florida
Law Clerk

1992 RASSNER RASSNER KRAMMER & GOLD
South Miami, Florida
Independent Research Assistant

1991 UNIVERSITY OF MIAMI SCHOOL OF LAW
Coral Gables, Florida
Visiting Law Student, Litigation Skills Program

1991 GAEBE MURPHY MULLEN & ANTONELLI
Miami, Florida
Law Clerk

1991 DADE COUNTY, FLORIDA
Population 1,937,000
Certified Legal Intern

August 3, 2021

Mayor, Vice Mayor and City Council Members
City of Ft. Pierce
100 N. US Hwy 1
Fort Pierce, FL 34950

My name is Manny Anon, Jr. and I am the City of Sebastian City Attorney. I am a law graduate from the American University Washington College of Law and licensed to practice in the State of Florida since 1993. Also, I have been practicing as a U.S. Army Reserve Judge Advocate since 2001. I am a native Floridian of Cuban descendant and currently live in Port St. Lucie with my wife. I read, speak, and write Spanish fluently.

My resume reflects that I have been clerking since my second year of law school and have been practicing law in the municipal public law sector since 1997. Throughout these past twenty-eight (28) years, I have worked with several different cities and governmental entities, including the U.S. Army Reserve Judge Advocate General Corp, City of Sebastian, City of Port St. Lucie, Town of Surfside, City of Miami, AFSCME Florida Council 79 and the State Attorney's Office. Thus, I have been exposed to various aspects of law including: Government Municipal Law, Labor and Employment Law, Procurement and Contract Law, Public Records and Sunshine Law and many areas of military law. Throughout these years, I have represented boards, drafted and argued many pleadings and briefs before arbitrators, special magistrates, hearing officers, and county, circuit, and administrative judges.

As a Major for the United States Army Reserve, I have served honorably since 2001 and deployed three times in support of Operation Enduring Freedom (2004) and Operation Iraqi Freedom (2008 & 2016). I was assigned to the 478th Civil Affairs Battalion (BN) out of Perrine, Florida as the International Law Officer/Brigade Judge Advocate. I was responsible for advising the BN Commander, Company Commanders, and staff on Administrative Law, and Contract Law, including legal opinion, Financial Liability Investigation of Property Loss, Article 15-6 and Military Justice. Currently, I am with the 174th Legal Operations Detachment in Miami Florida as a Team Leader supervising several officers and enlisted. Previously, I was the Team Chief in Orlando supervising four (4) Judge Advocates and two (2) enlisted service members. Also, I was the S3/S7 Operational Officer in charge of training and providing legal service and advice to service members and their dependents on family, civil and criminal law wills, notaries, Power of Attorney and other legal documents.

Currently I am the City of Sebastian City Attorney. I legally advise the City Council, City Manager, City Clerk and City Department Heads on all matter pertaining to the City including, labor and employment, personnel matters, litigation, Forfeiture, Risk Protective Orders, election matters, airport issues, draft and review ordinances, resolutions, contracts, legal opinions and other related legal documents. I attend Council, Code Enforcement, Construction and Planning & Zoning Board Meetings. I was involved with the 2040 Comp Plan, City Charter Review, Recall Election, and Canvassing Board. I provide Sunshine and Public Records law training to the elected and appointed officials. I track and advise Council of executive orders and pending legislation before the Florida Legislature and Congress. I provide legal advice to several departments, including Manager, Clerk, Human Resources, Airport, Golf Course, Procurement, Parks & Recreation, Building, Community Development, Police, and Code Enforcement.

Previously, I was employed as a Senior Deputy City Attorney for City of Port St. Lucie. I was the Labor & Employment Counsel, Negotiation Team Member (6 unions) and advised several departments, including Human Resources, on all Labor, employment and personnel matters, risk management, Neighborhood Services, Utilities, Parks & Recreation and Police. I drafted and reviewed ordinances, resolutions, contracts, legal opinions and other related legal documents for the City. Finally, I attended Council, Code Enforcement and other Board Meetings to assure compliance with F.S. Ch. 162, Code Enforcement, Florida Ethics, F.S. Ch. 286, Sunshine Law and F.S. Ch. 119, Public Records Law. Also, I was employed as Assistant Town Attorney for Town of Surfside. During my tenure, I prepared and reviewed ordinances, resolutions, contracts, legal opinions and other related legal documents for the Town. I attended Commission, Planning and Zoning and other Board Meetings to assure compliance with Florida ethics, Sunshine and public records laws. Finally, I worked closely with several directors in the Public Works, Building, Code Enforcement, Parks & Recreation and Police Departments.

Prior to that I was the Deputy General Counsel and Region 5 Director/General Counsel for AFSCME Florida Council 79, I was responsible for servicing, and providing legal support in labor employment issues, hearings, arbitrations and administrative proceedings in four (4) counties: Monroe, Miami-Dade, Broward, and Palm Beach. This included about 25 locals and over 11,000 dues paying members. I argued over a 100 arbitration cases and/or administrative hearings and resolved many other cases through settlement agreements. Finally, before AFSCME, I was an Assistant City Attorney with the City of Miami. I was assigned to the litigation department and carried a caseload of about 70 tort liability cases of which I was responsible from answering the complaint, discovery, and closing argument at trial (Jury or Bench). I represented the Departments of Public Works, Risk Management Police and Fire in tort defense litigation. I had several jury trials and many motions for summary judgments.

Thus, I will bring to Ft. Pierce City Attorney's Office the highest level of professionalism, ethics, dedication and commitment. Also, I bring vast knowledge and experience in City Municipal Law, Administrative Law, Labor and Employment law, F.S. Chapter 163, Municipal Planning/Land Development Regulation, F.S. Chapter 162, Code Enforcement, F.S. Chapter 286, Sunshine Law, F.S. Chapter 119, Public Records, Ethics, Forfeiture, Risk Protective Orders (RPO) and collective bargaining. Due to my military experience, I understand politics and diplomacy. Thus, I will be able to advise the City Council and Department Heads what is legal and ethical. I will give City Council Members the same information, keep them well informed and when necessary, promptly conduct research to provide Council the best legal advice and course of action. Also, due to my experience and knowledge in Labor and Employment, Forfeiture and RPOs, the city will be able to eliminate any outside counsel providing a savings to the City of Ft. Pierce. Finally, I am trained in all aspects of FEMA, NIMS, NRF and ICS so I can assist the City of Ft. Pierce in times of an emergency.

For these reasons, I am very interested in being the City of Ft. Pierce City Attorney. I honestly believe that the above-mentioned qualifications, knowledge, experience and leadership skills are all assets that I possess which will enable me to hit the ground running and immediately contribute to the high demands required by the City Council, City Attorney's Office and the City of Ft. Pierce. If there is anything else you need, please contact me.

Respectfully,
Manny Anon, Jr.
MANNY ANON, JR.

MANNY ANON, JR.

Education	<p>THE AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW Washington, D.C., J.D. – May 1992 <i>Activities:</i> Hispanic Law Society Association, Parliamentarian; Phi Delta Phi International Legal Fraternity; Honor Code Committee; Judiciary and Budget Committee; <i>Honor:</i> Who's Who Among American Law Students.</p> <p>UNIVERSITY OF MIAMI, Miami, Florida B.A. – May 1989, Politics and Public Affair/Chemistry and Biology Minor. <i>Activities:</i> Pi Sigma Alpha Honor for Political Science Majors; Kappa Sigma Fraternity, Vice President; Student Body Government, Cabinet Member, Chief Justice of the Supreme Court, Intra Fraternity Council Justice and UM Moot Court Finalist. <i>Honor:</i> Dean's List; Who's Who Among American College Students; Outstanding Young Men of America; Outstanding Young Scholar; National Association of Student Government Award; University of Mimi Leadership Certificate Program; Kappa Sigma Fraternity; Scholarship-Leadership Award; Omicron Delta Kappa Honor Society; and Order of Omega Honor Society.</p> <p>MIAMI-DADE COMMUNITY COLLEGE, Kendall, Florida A.A. May 1986, Pre-Legal/Pre-Med. <i>Honor:</i> Dean's List; Achievement of Excellence Award; Phi Theta Kappa Honor Society, Vice President; Phi Alpha Phi Pre-Med Society, Vice President.</p>
Employment History	<hr/> <p>UNITED STATES ARMY RESERVE JUDGE ADVOCATE GENERAL United States Army Reserve, 174th Legal Operations Detachment, Miami Florida <i>Team Chief/S3 Operation Officer</i>, August 3, 2001 - Present I am in charge of the Orlando Office, supervising four (4) Judge Advocate Officers and two (2) enlisted paralegals. Also, I am in charge of training and providing legal advice to service members and their dependents in family, civil and criminal law; assisting soldiers with legal questions, preparing wills, notaries and powers of attorneys.</p> <p>CITY OF SEBASTIAN, Sebastian, Florida <i>City Attorney</i>, February 2010 - Present Legally advise the City Council, Manager and Directors on all matter pertaining to the City including, all labor and employment and personnel matters, draft and review ordinances, resolution, contracts, legal opinions and other related legal documents.</p> <p>CITY OF PORT ST. LUCIE, Port St. Lucie, Florida <i>Sr. Assistant City Attorney</i>, August 2016 – January 2019 Labor and Employment Attorney, Litigation, prepare and review ordinances, resolutions, contracts, and other related legal documents</p> <p>TOWN OF SURFSIDE, Surfside, Florida <i>Assistant Town Attorney</i>, July 2014 - November 2014 I prepare and review ordinances, resolutions, contracts, and other related legal documents</p> <p>AMERICAN FEDERATION OF STATE COUNTY AND MUNICIPAL EMPLOYEES, North Miami, Florida <i>Deputy General Counsel</i>, September 1999- January 2014 I provide legal support for AFSCME staff and bargaining unit members in Monroe, Miami Dade, Broward, and Palm Beach Counties. I handle all labor and employment issues, arbitrations, administrative hearings and negotiations arising out of the collective bargaining agreements.</p>

2649 S.E. Emmett Road * Port St. Lucie, Florida 34954 * (305) 219-8083 [C] * mannyanon@yahoo.com

MANNY ANON, JR.

CITY OF MIAMI ATTORNEY'S OFFICE, Miami, Florida
Assistant City Attorney, February 1997 – September 1999
I was a trial civil litigator doing defense work for the City of Miami. I handle all litigation matters from answering complaints, to closing arguments.

SANDLER & SANDLER, Coral Gables, Florida
Associate, February 1996- October 1996
I handled commercial litigation and personal injuries cases. I drafted pleadings, argued motions, attended motion calendar, and special calendar hearings.

THE LEGAL GROUP, P.A., Miami, Florida
Associate, January 1994 – July 1995
I handled all aspects of personal injury cases.

LAW OFFICES OF CARLOS E. CASUSO, Miami, Florida
Law Clerk, August 1992 – September 1993
I researched, drafted pleadings, letters and memorandums of law

RASSNER RASSNER KRAMMER & GOLD, South Miami, Florida
Independent Research Assistant, March 1992 – May 1992
Researched Commercial and Family Law issues for Mr. Monty Rassner, Esq.

UNIVERSITY OF MIAMI SCHOOL OF LAW LITIGATION SKILLS PROGRAM, Coral Gables, Florida
Visiting Law Student, August 1991 – December 1991
Trial and Pre-Trial skills and practices

GAEBE MURPHY MULLEN & ANTONELLI, Miami, Florida
Law Clerk, June 1991 – December 1991
Research, drafted pleadings, letters and memorandums of law

DADE COUNTY STATE ATTORNEY'S OFFICE, Miami, Florida
Certified Legal Intern, May 1991 – August 1991
I worked all phases of pre-trial preparation, morning calendar, deposition, research, opening argument, direct examination. I assisted in several criminal trials & proceedings.

Community Services: National Hispanic Republican Association of Florida, Attorney; City of Miami Police Department Crisis Prevention Team, Allapattah Chairperson; Allapattah Crime Prevention, Chairperson; Allapattah YMCA, Board Member; Allapattah Community Action, Board Member; Allapattah Promotion, Board Member.
Honors: City of Miami Police Department Crisis Prevention Team Certificate of Appreciation; Allapattah Crime Prevention Certificate of Appreciation; State Senator Albert Gutman Certificate of Appreciation and Leadership; City of Miami Mayor Xavier Suarez and Mayor Joe Carollo Award of Appreciation.
Awards: Bronze Star, Meritorious Service Medal-2, Army Commendation Medal-5, Army Achievement Medal-4, Afghanistan Campaign Medal, Iraqi Campaign Medal, Combat Action Badge, Global War on Terrorism Medal, National Defense Service Medal, Army Reserve Components Achievement Medal, Military Outstanding Volunteer Service Medal, Army Service Ribbon, Army Reserve Components Overseas Training Ribbon, Marine Corps Certificate of Appreciation, USASETAF Certificate of Appreciation, USASETAF Commander's Coin, 5th Corp Certificate of Appreciation, 5th Corp Commander's Coin, 174th Commander's Coins and 478th Commander's Coin.

**CITY OF FORT PIERCE, FLORIDA
CITY ATTORNEY**

Name: MANNY ANON, JR.

Home Address: 2649 SE EMMETT ROAD, PORT ST. LUCIE FLORIDA 34952

Home/Work/Cell phone numbers: (305) 219-8083

E-mail address: manon@cityofsebastian.org

-
1. Why are you interested in becoming Fort Pierce's next City Attorney and how does this position fit into your overall career plans?
-I was born and raised in Miami Florida; however, I moved to St. Lucie County in 2016. I have fallen in love with the Treasure Coast which offers great cities, beautiful beaches and friendly community for all ages. Ft. Pierce is another amazing city in the Treasure Coast, the "Sunrise City". This city offers stable neighborhoods with quality housing choices, a diverse local economy with easy mobility and leisure opportunities for all ages and life style. Since I am from St. Lucie County, Ft. Pierce City Attorney is a great opportunity for me to return home. I would be literally 12-14 miles from City Hall. Also, Ft. Pierce City Attorney would be a progressive step in my career as a City Attorney. The Ft. Pierce City Attorney's position would both be challenging and rewarding. It is challenging because Ft. Pierce is a bigger city with a larger budget, diverse community, more departments (including a larger Public Works and Police Department) and the Ft. Pierce Utility Authority (FPUA). It is rewarding because I could manage and mentor staff and work with outside council in order to provide the City of Ft. Pierce quality legal advice and services.

 2. What is the largest number of employees that you have managed and where? What is the largest annual operating budget that you have managed?
-As my resume reflects, while working for AFSCME Florida Council 79, As *Region 5 Director/General Counsel*, I ran the day-to-day operations of the AFSCME Florida Council 79 Region 5 Office and supervised a staff consisting of 4 staff representatives, 2 clericals and one attorney. I would have to guess that the budget I had to work with including staff and expenses was over \$500,000.00

In the military, I was the Team Chief in Orlando supervising four (4) Judge Advocates and two (2) enlisted service members. Also, I was the S3/S7 Operational Officer in charge of training and providing legal service and advice to service members and their dependents on family, civil and criminal law wills, notaries, Power of Attorney and other legal documents.

Also, during my deployments in support of Operation Iraqi Freedom and Operation Enduring Freedom I managed an equivalent to a law office and supervised paralegals. During my first deployment, my duties included serving as the Command Judge Advocate at Camp Darby in Livorno, Italy. I supervised one paralegal and a support staff. Additionally, in further support of Operation Enduring Freedom, I was re-deployed to Bagram, Afghanistan. In Bagram, I served as the Chief Legal Assistant Officer, Chief Claims Officer and Part-time Military Magistrate. I supervised a paralegal. During my second tour, I served with the 25 ID and the 3-1 CAV in support of Operation Iraqi Freedom. I was initially assigned to the 25 ID in Tikrit, Iraq as a Team Leader and supervised 2 Judge Advocates (lawyers). Subsequently I was reassigned to the 3-1 CAV in Mosul, Iraq. My duties included serving as the Chief Legal Assistant Officer, Chief Claims Officer and Chief Contract/Fiscal Officer. In Mosul, I supervised one paralegal. My third

deployment I served as the Command Judge Advocate at Camp As Sayliyah Doha, Qatar. Here I supervised 3 paralegals.

At my current position as the City of Sebastian City Attorney, I only share an office assistant with the City Manager. I am a one stop shop with a current budget of \$210,280.00

3. How do you stay professionally current and on top of issues with the potential for significant impact on your jurisdiction? How do ensure that your employees stay current?
- I stay professionally current in many ways. First and foremost, The Florida Bar offers courses and seminars to stay current on all legal matters. I am currently a member of the City County & Local Government and Labor & Employment Sections. I attend yearly seminars or acquire the CD/Books on Land Use, Labor and Employment Law Annual Update/Certification Review and City County and Local Governmental Certification Review courses. Second, I am a member of Florida Municipal Attorney's Association (FMAA) and attend their yearly seminar. Third, I am a member in IRC/SLC Bar Association. Fourth, I am a member and attend seminars with the Florida League of Cities. Fifth, I subscribe to Attorney Listserv Network and get to post questions and/or review current issues online. Sixth, during the pandemic, I monitored and kept updated on the State of Florida Governor's Executive Orders. Seventh, I maintain a professional network relationship with local government municipal attorneys from Indian River County and other municipalities in the County. We have monthly lunch meeting and bounce issues off of each other. Finally, I will register this year and take next year, the City County and Local Governmental Law Certification. I will follow up by taking the Labor and Employment Law Certification the following year. That way I will be Florida Bar Board Certified.
4. Describe your leadership and management style with your employees?
- As to my leadership style, I live by the following Army Values (LDRSHIP).
- Loyalty – Bear true faith and allegiance to the U.S. Constitution, the Army, my unit and other Soldiers. Likewise, I will be loyal and faithful to the City of Ft. Pierce City Council, City Manager, City Clerk and all city departments that I serve.
 - Duty – I will fulfill my obligation and accomplish my tasks as part of a team.
 - Respect – Treat people as they should be treated, i.e., with dignity and respect while expecting others to do the same.
 - Selfless Service – I served my country and did my duty loyally and without thought of recognition or gain. I will put the best interest of the City of Ft. Pierce City Council, City Manager, City Clerk and all city departments that I serve before my own.
 - Honor – It is a matter of carrying out, acting and living the Army values in everything I do.
 - Integrity – Do what is right, legally, ethically and morally all the time. Earn the respect and trust of others.
 - Personal Courage – The courage to stand up for and act upon things that you know are honorable and right though not popular with others. As City of Ft. Pierce City Attorney, I will do what is legal and ethical to the best of my ability.

As to my management style, I believe I have a proactive and adaptive management style. In every organization where I have worked, I have found professionals who operate with minimal input while others need significantly more feedback and oversight. Some of the latter people, even after very reasonable effort has been made, just do not succeed. Thus, over the course of my career, civilian and military, I have taken almost every personnel action possible, both positive and punitive. I have been able to approach actions in a progressive manner such that employees are notified of what is expected, provided copies of policies and given the opportunity to voice any concerns or address any issues. Also, I

believe in an open door policy. I have been fortunate in that in my civilian and military career, I have worked with very dedicated public servants. I have always learned something new in each of my oversea deployments or jobs I have held. I am very proactive, flexible, adaptable, but hands on. Tough but fair. It is my goal in each job I hold to learn and become a better person, officer and attorney. I hope that most of my staff will say that they have learned from me, become better and more proficient at their job as a result of their interaction with me or my mentorship.

5. Have you ever worked directly for a policy making body?

-Yes, I worked directly for a policy making bodies (elected and appointed). As the Town of Surfside Assistant City Attorney, I attended Commission, Planning and Zoning and other Board Meetings to assure compliance with Florida ethics, Sunshine and public records laws. Finally, I worked closely with several directors in the Public Works, Building, Code Enforcement, Parks & Recreation and Police Departments.

As the City of Port St. Lucie Senior Deputy Assistant City Attorney, I attended City Council, Code Enforcement and other Board Meetings to assure compliance with F.S. Ch. 162, Code Enforcement, Florida Ethics, F.S. Ch. 286, Sunshine Law and F.S. Ch. 119, Public Records Law. I advised several departments, including Human Resources, on all Labor, employment and personnel matters, Risk Management, Neighborhood Services, Utilities, Parks & Recreation and Police.

As to the City of Sebastian City Attorney, I attend City Council, Code Enforcement, Construction and Planning & Zoning Board Meetings to assure compliance with F.S Ch. 162, Code Enforcement, Florida Ethics, F.S Ch. 286, Sunshine law and F.S. Ch. 119, Public Records laws. I legally advised the City Council, City Manager, City Clerk and City Department Heads on all matter pertaining to the City including, labor and employment, personnel matters, litigation, Forfeiture, Risk Protective Orders, election matters, airport issues, draft and review ordinances, resolutions, contracts, legal opinions and other related legal documents. I was involved with the 2040 Comp Plan, City Charter Review, Recall Election, and Canvassing Board. I provide Sunshine and Public Records law training to the elected and appointed officials. I track and advise Council of executive orders and pending legislation before the Florida Legislature and Congress. I provide legal advice to several departments, including Manager, Clerk, Human Resources, Airport, Golf Course, Procurement, Parks & Recreation, Building, Community Development, Police, and Code Enforcement.

6. Are you a member in good standing of the Florida Bar?

-Yes, I have been a member in good standing with the Florida Bar since 1993

7. Describe your workload tolerance.... what type of office hours do you typically keep?

-I intend on keeping the current office hours; however, I will review it for efficiency. My philosophy is as long as you are doing the work and getting the job done, I can be flexible with staff. Me personally, I will be First in/Last out. I usually work until the job gets done. This includes taking work home during the weekend, if necessary. Also, I will be available by phone to the Mayor and all members of the City Council.

8. What would you hope to accomplish the first 30 days on the job; the first 6 months; and the first year?

-First 30 days: I will acclimate myself to the City of Ft. Pierce, Mayor, Council Members, City Manager, City Clerk, Department Heads and the staff of the City Attorney's Office. I will attend City Council, Planning and Zoning, Code Enforcement/Special Magistrate, Construction Board and Board of Adjustment Meetings. I will become familiar with the

City of Ft. Pierce City Charter and Code of Ordinance. I will meet with the City Manager to determine hot topics. I will begin evaluating the office and staff. I will begin to focus on the Redistricting of the City of Ft. Pierce and working with St. Lucie County.

First 6 months: I will continue to provide quality legal advice and services to the City Council, various boards and the City Staff. I will begin to evaluate any amendment/revisions to the City Codes. I will continue to provide regular updates to the City Council on changes to federal and state laws, as well as pending suit, settlements and legal cases. I will serve as the police legal advisor to the City of Ft. Pierce Police Department on Forfeiture, Risk Protective Orders, School Resource Officer Agreements, and other legal matters. I will continue to provide legal support on land use matters, including meeting and negotiating with staff, developers and their attorneys. I will provide legal support for all department heads, including Human Resource, Airport, Golf Course, Parks and others. I will maintain a professional network with local government attorneys from Indian River and St. Lucie Counties and other municipalities in the County. I will continue to advise and assist in reviewing and updating procurement documents and procedures; review significant legal claims and insurance settlements, as deemed necessary; coordinate and monitor the use of any outside council services; and draft and/or review proposed ordinances, resolutions, releases, orders and other legal documents, as needed.

First year: Continue all above. Additionally, I plan to attend the Florida Municipal Attorney Association; City, County and Local Government; and Land Use or Labor and Employed Law Annual Update Seminar. Hopefully prepare for and take the City, County and Local Government Certification Course and Examination. I will provide legal support on a City Election and the law, including being a member of the Canvassing Board. I will work on the City Attorney's Office Budget.

9. What experience do you have with organizational and/or performance analysis directed at identifying issues in need of change?

-My greatest strength is team building. I believe the best approach at solving complicated issues is collaborating and consensus with other lawyers or experts. In the City of Port St. Lucie, when tough legal issues come up, we met and brain stormed or had what I called a POW WOW. We described the issue, tried to ascertain the law or what governed, legally analyzed it and draw a rational conclusion. As to ongoing litigation we met with the Deputy City Attorney, Risk Management, outside counsel and formulated a strategy or discussed issues. As it pertained to Labor and Employment matters, I met with HR Director, Department Director and/or designees and evaluated the investigation and determined if there was just cause to discipline. If so, then we determined the just cause for the specific level of disciplines sought. I will bring this team building mentality of working with other departments and subject matter experts in coming up with the best solution. I will have weekly staff meetings, regular meetings and update with the City Manager meetings and as needed Department Head meetings.

Additionally, my strongest passion is sunshine law and ethics in government. I can assure Council that if appointed, as your City of Ft. Pierce City Attorney, you will get sound legal advice on Florida Ethics, F.S Ch. 286, and Sunshine law and F.S. Ch. 119, Public Records laws that will not be impacted by political games or improper influence. I will be as creative as possible to legally and ethically support the mission in getting to the "yes". I will tell Council what the law says and what risks are associated, if any. I will never attempt to usurp the executive function of the City Council or City Manager, nor will I ever jeopardized my professional or personal standards of ethics and professionalism.

10. Please describe your experience in dealing with intergovernmental entities. Specifically, how do you work with the City Manager and other sections/branches of the City government while maintaining your independence?
- As stated above, I maintain a professional network relationship with local government municipal attorneys from Indian River County and other municipalities in the County. We have monthly lunch meeting and bounce issues off of each other. Additionally, I currently meet and plan to continue the practice with the City Manager to discuss City matters and my legal opinion. I have never had a situation in the City of Sebastian where I could not maintain my legal independence and provide my legal opinion without interference.
11. Tell us how you communicate with your governing body and its individual members.
- What I do for one Council Member, I share with all. So when researching an issue or sharing something important (EO, FLC or a cases) I send to all. In order to avoid a sunshine violation, I preface the emails "Please Do Not Reply All, thank you". If I am addressing an individual member question, I will treat them with respect and will request that they put their issue in writing. Alternatively, I will send them an email confirming the issue in writing. This is to avoid any confusion as to exactly what I am researching for the member. Once completed, in a timely manner, I will forward my opinion, along with any supporting cases or statute to the member.
12. How would you handle situations where the Commissioners wish to take actions that you do not consider lawful?
- I do not like answering hypothetical questions like this. However, I can say that I will always do what is legal and ethical no matter the consequences. When advising council members I believe they truly want to do what is legal and right of the city. I would probably start by telling them that what they are proposing to do is not consistent with the law or the City Charter. I would tell them my advice is to do X instead. If they follow my advice, right or wrong, they are protected because they relied on my legal opinion. However, if they do not, they could be holding themselves out there and be subject to personal liability.
- Case in point my situation with the City of Sebastian when a majority of the board violated the sunshine law. I did what was legal, ethical and continued to represent the City of Sebastian to the best of my abilities. (See #21 below).
13. How would you handle questions of law, including issues relating to public safety that may be viewed differently by an ethnically and economically diverse community and Council?
- I would be respectful and sensitive to the affected community or council member. However, it should be noted that as the City Attorney for the City of Ft. Pierce, I could not assist and/or offer any legal advice to the community or residents. That being said, as stated above in #11, I will request that the Council Member puts their issue in writing. Alternatively, I will send them an email confirming the issue in writing. This is to avoid any confusion as to exactly what I am researching for the member. Once the legal research is completed, in a timely manner, I will forward my opinion, along with any supporting cases or statute to the member. One big public health issue now-a-days with the spike in COVID is the wearing of masks. Currently, the Governor's No Mask Mandate is being challenged in court by several school boards. Thus, by the time I come on board as City Attorney, the issue should be resolved or working its way through the courts. Bottom-line I will do what is legal and ethical.
14. Please provide a copy of a legal opinion that you have authored. (You may provide a redacted copy.)
- See attached three (3) Legal Opinions (A-C).

15. Have you ever been found to have committed any acts of discrimination, sexual harassment, or creation a hostile work environment? If so, please explain.
-No, never in 20 plus years in the military or almost 28 years practicing law in the State of Florida.
16. Do you have any unusual personal consideration(s) that would need to be resolved before you could accept this position? If so, please explain.
-No, I would like to start working immediately after negotiating the terms and conditions of my contract with the City of Ft. Pierce City Council. I have no ties to law firms. However, I would only ask Ft. Pierce City Council to allow me to continue to work with City of Sebastian City Council on the side (advice, attend council meetings that do not conflict), until the City of Sebastian can find my replacement. Other than that, it is my intent to be a full time City of Ft. Pierce City Attorney, advising the city and running the City Attorney's Office and staff. I expect that is what the City Council desires and deserves from its City Attorney.
17. Should you become a finalist candidate, we will perform education, credit, civil, criminal and motor vehicle court records, internet search and reference checks on you. In doing so, will we find anything that you need to explain in advance?
-No. However, TC Palm ran several articles of an old investigation of which I was not the subject of the investigation in Port St. Lucie. There was an ancillary allegation that I made a "term of endearment", i.e., sweetie, which I denied. As a result, I was never the subject of an investigation and was never written up or discipline in any manner. I thought it died until I was seeking the City of Sebastian job when it re-surfaced. Again, as I told the TC Palm, I was not the subject, all was denied, and I was never discipline in any fashion [PERIOD]. In fact the current City of Port St. Lucie City Attorney, James Stokes, my old boss, corroborated that I was never discipline and in fact continued working with the city for over 1 -1/2 years until I left on my own.
18. Is the resume you submitted accurate and current? If not, please explain any discrepancies
-Yes, to the best of my knowledge my resume is accurate and current.
19. Are you currently employed?
-Yes, I am currently the City of Sebastian City Attorney. Also, I am a Reservist with the United States Army JAG Corp.
20. Have you ever been fired or resigned under pressure from a job? If so, please explain.
-No, never.
21. Have you ever sued an employer or been sued by an employer or employee? If so, please explain.
-Yes, in order to defend the City of Sebastian against three (3) rogue city council members that violated the Sunshine Law and the City of Sebastian Charter, the Mayor, City Manager and I successfully filed an injunctive relief in order to render the April 23, 2020 Illegal Meeting as *void ab initio* and to maintain the status quo.
22. What are your compensation expectations?
-I believe the current salary of the outgoing City Attorney is a fair compensation at \$164,800.

CITY OF FT. PIERCE ATTORNEY'S OFFICE

In addition to #8 above, as City Attorney, I will address and implement the following:

- **Outstanding Litigation cases.** I will coordinate and work with the outgoing City Attorney to do a proper hand off on all pending litigation cases (including potential Annexation), agreements, contracts and issues facing the city. I will work with Code Enforcement Officer and represent the city at all future Special Magistrate Code Enforcement Hearing. I will work with the Code Enforcement Department, figure out any outstanding liens and when necessary, file Surplus Funds Complaints in order to protect the city's liens and recover any surplus funds from foreclosure cases.
- **Outside Counsel.** Related to the issue above are any monies being spent on outside counsel? I need to understand what work is outsourced, i.e., HR and PD. I understand using outside counsel on certain areas of expertise/litigation is common and within the City Attorney's purview. This is not a new concept for most municipalities; especially one like the City of Ft. Pierce where the City Attorney's Office is small. I believe the City of Ft. Pierce outsources all labor & employment Forfeiture Complaints and Risk Protective Orders. However, due to my knowledge and years of experience in these areas, I would be able to immediately begin bringing all Labor and Employment and PD forfeiture and RPO matters back in-house at a significant savings to the city. Finally, it is my understanding that the City is self-insured and this company handles most of the Tort Litigation, Worker's Comp and Discrimination matters. Thus, I would be able to work closely with Risk Management and actively monitor these cases. Like in City of Sebastian, I will proactively inject myself in all litigation strategy, settlement discussion and meetings of all outstanding Tort, WC and Employment matters being handled by outside counsel.
- **Reinstate confidence and commitment in the City Attorney's Office.** In order to develop confidence, commitment and a better efficient City Attorney's Office, I will establish the following: 1. Bi-weekly one-on-one meeting with each Council Member to discuss any legal matters or concern they might have, if necessary. My Policy will be what I do for one Council Member, I will share with all. Also, I will have an open door policy. 2. I will meet and coordinate with the City Manager and City Clerk on any legal matters. Also, monthly meetings or as needed with Department Heads. 3. Provide my City Cell to Council Members, City Manager, Clerk and City Department Heads for 24/7 availability. 4. I would like to work with IT Manager to see if they can develop a Legal Tracking System whereby Department Heads can log on, submit and track legal issues to the City Attorney's Office. Also, VPN access so I can take my laptop home and work over the weekend and evenings, when necessary. 5. Continue to network with other City Attorney's from the Treasure Coast area. Specifically, I would like to meet for lunch, network and discuss legal issues facing municipalities in the State of Florida with other City Attorneys in the St. Lucie and Indian River Counties including Indian River County, St. Lucie County, Port St. Lucie, Vero Beach, Fellsmere, Indian River Shores, and the Town of Orchids. 6. Be a member of the City, County and Local Government Law Section and Labor and Employment law Section; thus, attend at least two (2) Florida Bar Seminars a year in order to stay up with any changes in both State and Federal law. Finally, get Florida Bar Board Certification in City, County and Local Government Law.
- **Review and Revision of all HR Policies and Procedure.** One plan to assist HR Manager, in legally reviewing and revising all of the HR Policies and Procedure to be in compliance with all state and federal law. These include Social Media, Telecommunication, Sexual Harassment, Substance and Drug Abuse (Medical Marijuana), Smoking and the Bargaining/Non-bargaining Policies and Procedures. Also, to review all Collective Bargaining Agreements. Additionally, I will work with the Planning Director and staff in legally reviewing and revising the City Codes.

Florida Attorney General

Advisory Legal Opinion

Number: AGO 92-05

Date: January 8, 1992

Subject: Sunshine Law, candidates' night/political forum

Mr. Paul R. Gogleman, III

Attorney for Town of Melbourne Beach

RE: GOVERNMENT IN THE SUNSHINE LAW—PUBLIC MEETINGS—ELECTIONS—CANDIDATES—COUNTIES—applicability of Sunshine Law to candidates' rights or political forum attended by incumbent candidates and commissioners. s. 286.011, F.S.

QUESTION:

1. Does the Government in the Sunshine Law apply to two non-incumbent candidates for the town commission who have not been elected attending a political function at which they express their positions on matters which may foreseeably come before the commission?
2. If not, does the Sunshine Law apply to a non-incumbent commission candidate attending a political forum or candidate's night to express his or her views on matters which may foreseeably come before the commission and a current commissioner is in attendance?
3. Does the Sunshine Law apply to a political forum or candidate's night at which a non-incumbent candidate and an incumbent candidate each express positions on matters which foreseeably may come before the commission and at least one other incumbent commissioner, not a candidate, is present, but not a participant?
4. If the Sunshine Law applies in Question One, would it apply when a non-incumbent candidate and an incumbent candidate express their positions on a matter which may foreseeably come before the commission and at least one other incumbent commissioner, not a candidate, is present, but not a participant?

SUMMARY:

1. The Government in the Sunshine Law does not apply to meetings of non-incumbent candidates for political office who have not been elected.
2. In light of the answer to Question One, the attendance of a currently serving commissioner who does not participate in a political forum does not subject the forum to the requirements of the Sunshine Law.

3. The expression of an incumbent candidate's position on a matter which may foreseeably come before a commission, absent an interchange between an attending commissioner, would not subject the meeting to the Sunshine Law.

4. In light of the answer to Question One, no response to Question Four is required.

You state that the Town of Melbourne Beach has a town commission composed of the Mayor and four commissioners elected at large. The terms of the commissioners' offices are staggered such that two seats are up for reelection at any one time. All candidates seeking a seat on the commission run against each other in an at large election, with the two candidates receiving the most votes winning the election.

Various groups sponsor candidates' forums in conjunction with each election. Candidates for seats, including incumbents, are invited to speak and are asked to express their positions on matters which may foreseeably come before the town commission. Incumbent commissioners who are not seeking reelection may also be in attendance.

AS TO QUESTION 1:

The Government in the Sunshine Law, s. 286.011, F.S. (Sunshine Law) has been interpreted by the courts to apply to any gathering between two or more members of a board or commission to discuss some matter on which foreseeable action may be taken by the board or commission.[1] In *Hough v. Stembridge*,[2] the court interpreted the Sunshine Law to hold that "members-elect of boards, commissions, agencies, etc. are within the scope of the Government in the Sunshine Law." [3]

Thus, those candidates who have been elected to membership on a board or commission, but have yet to assume the office, are subject to the Sunshine Law as any other member of the board or commission would be. There is no judicial decision or interpretation of the Sunshine Law, however, which has extended its application to candidates for office, unless the candidate is an incumbent seeking reelection.

Accordingly, I cannot say that the Sunshine Law applies to a candidates' forum in which the participants are non-incumbent candidates who are not members-elect of the board or commission.

AS TO QUESTION 2:

This office in an informal letter to The Honorable Kathryn Cox, stated that the expression by an incumbent council member at a meeting such as a political forum of his or her position on a matter which may foreseeably come before the council would not necessarily subject the meeting to the Sunshine Law.[4] In that letter, it was observed that previously this office stated that it was not a violation of the Sunshine Law for one commissioner to send a report to another commissioner for informational purposes, so long as there is no interaction between the commissioners.[5] Similarly, this office has concluded that the Sunshine Law is not violated by a board member expressing his or her views or voting intent on an upcoming matter to a news reporter who the member knows will publish the account in a local newspaper prior to the meeting, so long as the member is not using the reporter

as an intermediary to communicate with other members to circumvent or evade the requirements of the Sunshine Law.[6]

Accordingly, as long as there is no discussion between the incumbent and another member of the commission on matters which will foreseeably come before the commission, the forum or candidate's right at which a non-incumbent candidate expresses his or her views would not be subject to the Sunshine Law.

AS TO QUESTION 3:

As noted above, discussions between an incumbent candidate and a non-incumbent candidate are not subject to the Sunshine Law, as long as the incumbent is not using the non-incumbent candidate as a conduit to communicate with other members of the board or commission. The mere expression of an incumbent candidate's position at a political forum attended by another member of the commission could be likened to the circumstance in AGO 89-23, if there is no interchange between the incumbent and the other commissioner attending the forum.

Thus, if the council members avoid discussion among themselves of issues which may come before the council, the forum would not be subject to the Sunshine Law.

AS TO QUESTION 4:

In light of the answer to Question One, no answer to this question is necessary.

Sincerely,

Robert A. Butterworth

Attorney General

RAB/t

[1] See Board of Public Instruction of Broward County v. Doran, 224 So.2d 693, 698 (Fla. 1969) (intent of the Sunshine Law is to "cover any gathering of the members where the members deal with some matter on which foreseeable action will be taken by the board").

[2] 278 So.2d 288, 289 (3 D.C.A. Fla., 1973).

[3] 278 So.2d at 289.

[4] Informal Letter to The Honorable Kathryn Cox, February 7, 1991.

[5] See AGO 89-23.

[6] Attorney General Opinion 81-42.

296 So.2d 473

Supreme Court of Florida.

TOWN OF PALM BEACH et al., Petitioners,

v.

Jules T. GRADISON, Respondent.

TOWN OF PALM BEACH et al., Petitioners,

v.

Fred GLADSTONE, Respondent.

TOWN OF PALM BEACH et al., Petitioners,

v.

FAIRMONT CONVERTING CO., INC., Respondent.

TOWN OF PALM BEACH et al., Petitioners,

v.

Morris LANSBURGH, Respondent.

TOWN OF PALM BEACH et al., Petitioners,

v.

Perry KAYE, Respondent.

TOWN OF PALM BEACH et al., Petitioners,

v.

Ralph H. SHERE et al., Respondents.

TOWN OF PALM BEACH et al., Petitioners,

v.

Walter PORANSKI et ux., Respondents.

TOWN OF PALM BEACH et al., Petitioners,

v.

FIRST BANK AND TRUST CO. OF BOCA RATON, etc., Respondents.

Nos. 44099 to 44106.

May 1, 1974. Rehearing Denied July 10, 1974.

Synopsis

Action challenging **town** zoning ordinance. The Circuit Court, **Palm Beach** County, James C. Downey, J., upheld the ordinance, and the challengers variously appealed. The District Court of Appeal, 279 So.2d 353, reversed the order but certified the question. The Supreme Court, Adkins, C.J., held that a citizens' planning commission composed of private citizens, established by the **town** council, which appointed the members, was subject to the government in the sunshine law.

Certified question answered, and cause remanded.

Dekle, J., dissented and filed opinion in which Roberts, J., joined.

Procedural Posture(s): On Appeal.

West Headnotes (7)

1Municipal Corporations

Though legislature would have no right to require meetings of civic organizations, unconnected with municipal government, to conform to government in the sunshine law, a subordinate group or committee selected by governmental authorities should not feel free to meet in private. West's F.S.A. § 286.011.

2Municipal Corporations

Citizens' planning commission, composed of private citizens, and established by **town** council, which appointed its members, was subject to government in the sunshine law. West's F.S.A. § 286.011.

3Municipal Corporations

One purpose of government in the sunshine law was to prevent at nonpublic meetings the crystallization of secret decisions to point just short of ceremonial acceptance. West's F.S.A. § 286.011.

4Municipal Corporations

Government in the sunshine law should be construed so as to frustrate all evasive devices. West's F.S.A. § 286.011.

5Municipal Corporations

Under government in the sunshine law, when in doubt, members of any board, agency, authority or commission should follow the open-meeting policy of the state. West's F.S.A. § 286.011.

6Municipal Corporations

Mere showing that government in the sunshine law has been violated constitutes irreparable public injury so that ordinance is void ab initio. West's F.S.A. § 286.011.

7Municipal Corporations

Although criminal prosecution requires proof of scienter, unintended violation of government in the sunshine law will negate any action taken by a **town** council. West's F.S.A. § 286.011.

Attorneys and Law Firms

*474 Chester Bedell and John A. DeVault, III, Bedell, Bedell, Dittmar, Smith & Zehmer, Jacksonville, and Burns, Middleton, Farrell & Faust, **Palm Beach**, for petitioners.

H. L. Cooper, Jr., O'Connell & Cooper, West **Palm Beach**, for Jules T. **Gradison**, Morris Lansburgh, Perry Kaye, Ralph H. Shere and Walter Poranski.

Larry B. Alexander, Jones, Paine & Foster, West **Palm Beach**, for Fred Gladstone and Fairmont Converting Co., Inc.

Ross, Hardies, O'Keefe, Babcock, McDugald & Parsons, Chicago, Ill., and Fisher, Prior, Pruitt & Schulle, West **Palm Beach**, for First Bank and Trust Co. of Boca Raton.

Opinion

ADKINS, Chief Justice.

By petition for writ of certiorari, we have for review the consolidated cases arising out of a decision of the District Court of Appeal, Fourth District (IDS Properties, Inc. v. Town of Palm Beach, 279 So.2d 353), which is accompanied by a certificate of the District Court of Appeal that its decision had passed upon a question of great public interest, to-wit:

'Whether a zoning ordinance adopted by zoning authorities and the **Town** Council after public hearings is rendered invalid under the § 286.011, F.S.1971, (F.S.A.), Government in the Sunshine Law, because of the nonpublic activities of a citizen's planning committee which committee was established by the **town** council and acting on behalf of the council in an advisory capacity participated in the formulation of the zoning plan.'

We have jurisdiction. Fla.Stat., art. V, s 3(b)(3), F.S.A.

The **Town** Council of the **Town of Palm Beach**, hereinafter referred to as '**Town** Council,' passed a resolution providing that the Council would undertake the updating and revision of the **town** zoning ordinances. Interviews were held with a planning firm, hereinafter called 'Planners,' and, at a public meeting, the **Town** Council authorized a contract with the Planners. A citizens' planning commission was decided upon and chosen by the **Town** Council at a nonpublic administrative meeting. The nominees were told that the **Town** Council had nominated each one to serve on the **town** planning committee for the purpose of guiding the Planners in their efforts to assure that the plan produced would be consistent with the character, image and land-use controls intended by the citizens. Changes in the plan during its formulation were made by the Planners to reflect the decisions of the planning committee.

The planning committee, a lay group of citizens, were not regularly employed personnel of the **Town**. The members of the committee were not landscape or civil engineers nor expert vocational zoning planners performing their work outside the scope of the sunshine law. Neither were they contractors engaged by the **Town** for making zoning studies, surveys or plans. To the contrary, they were a buffer lay group of citizens to serve part-time as the alter egos of the **Town** Councilmen to make tentative decisions guiding the zoning planners and advising the Council as to their ultimate zoning ordinances. In other words, the Council delegated to the committee much of their administrative and legislative decisional zoning formulation *475 authority which is ordinarily exercised by a city-governing body itself—and particularly the position of the process where the affected citizens expect to be officially heard. Thus, the nature of the committee and its function reached the status of a board or commission that to act legally must comply with the sunshine law.

The trial court specifically found that the Planning Advisory Committee meetings with the Planners were not open to the public, nor were minutes taken. These meetings were numerous and detailed.

At a joint meeting of the **Town** Council and the planning committee the role of the committee was explained. The **Town** Council was of the opinion the committee should work as an 'element' of the zoning commission, and further, that the **Town** Council had the authority to override any changes induced by the zoning commission and 'would do so without timidity.' This joint meeting was held without notice, without members of the public or press present, and no official minutes were taken or recorded.

Thereafter, the President of the **Town** Council and various members of the zoning commission met with the **town** manager and were finally advised as to the operation of the committee. An agenda was prepared for presentation of the tentative comprehensive plan to a meeting of the **Town** Council. At that meeting the plan was discussed. Further executive sessions of the zoning commission were held.

Thereafter, full public meetings and hearings of the zoning commission and of the **Town** Council were conducted and proper procedure followed. The comprehensive zoning plan was approved in essentially the same form as that which had been produced by the consultants and the planning advisory committee.

The government in the sunshine law contains the following:

'(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation or any political subdivision, except as otherwise provided in the constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, regulation or formal action shall be considered binding except as taken or made at such meeting.' Fla.Stat. s 286.011, F.S.A.

The only question to be determined is whether the citizens planning commission composed of private citizens, which was established by the **Town** Council and the members thereof appointed by the **Town** Council, was subject to the government in the sunshine law.

Every meeting of any board, commission, agency or authority of a municipality should be a marketplace of ideas, so that the governmental agency may have sufficient input from the citizens who are going to be affected by the subsequent action of the municipality. The ordinary taxpayer can no longer be led blindly down the path of government, for the news media, by constantly reporting community affairs, has made the taxpayer aware of governmental problems. Government, more so now than ever before, should be responsive to the wishes of the public. These wishes could never be known in nonpublic meetings, and the governmental agencies would be deprived of the benefit of suggestions and ideas which may be advanced by the knowledgeable public.

Also, such open meetings instill confidence in government. The taxpayer deserves an opportunity to express his views and have them considered in the decisionmaking process.

Those who do not attend public meetings are given ample opportunity to participate in government by securing information of governmental activities from the news media. Responsible reporting of governmental activities results in letters or telephone calls from interested citizens so that governmental officials are given the benefit of *476 both sides of the question. No governmental board is infallible and it is foolish to assume that those who are elected or appointed to office have any superior knowledge concerning any governmental problem. Every person charged with the administration of any governmental activity must rely upon suggestions and ideas advanced by other knowledgeable and interested persons. As more people participate in governmental activities, the decisionmaking process will be improved.

Few, if any, governmental boards or agencies deliberately attempt to circumvent the government in the sunshine law.

We feel that the **Town** Council of **Palm Beach** acted in good faith, but any committee established by the **Town** Council to act in any type of advisory capacity would be subject to the provisions of the government in the sunshine law.

The citizens' planning committee was not an organization formed by any civic group such as a taxpayer's league, better government league, civic association, etc. It was conceived and formed by the **Town** Council for the purpose of working with the planning consultant so that the plan produced would be consistent with the land-use controls intended by the citizens. The citizens' planning committee was an arm of the **Town** Council.

12The Legislature would have no right to require meetings of civil organizations, unconnected with municipal government, to conform to the government in the sunshine law. However, a subordinate group or committee selected by the governmental authorities should not feel free to meet in private. The preponderant interest of allowing the public to participate in the conception of a proposed zoning ordinance is sufficient to justify the inclusion of this selected subordinate group, within the provisions of the government in the sunshine law.

Cases from other jurisdictions dealing with the scope of similar statutes compel the conclusion that bodies such as the **Palm Beach** Planning Committee selected by the **Town Council** are governed by Fla.Stat. s 286.011, F.S.A.

In Raton Public Service Co. v. Hobbes, 76 N.M. 535, 417 P.2d 32 (1966), the Board of Directors of a city-owned electric utility were held to be within the scope of a statute governing 'all other governmental boards and commissions.'

In Glick v. Trustees of Free Public Library, 2 N.J. 579, 67 A.2d 463 (1949), trustees of the Library were held to be within the purview of a statute requiring the 'governing body' to advertise for bids.

In the case of Bogert v. Allentown Housing Authority, 426 Pa. 151, 231 A.2d 147 (1967), the Pennsylvania Supreme Court, interpreting that State's 'right to know' statute, stated:

'Within the past several decades we have witnessed the creation of these public bodies called 'authorities' which have been granted the power to, and do, perform important governmental functions which vitally affect the public. Unlike other public bodies, the members of the 'authorities' are appointed and not elected and are not Directly responsible for their actions to the electorate. If the elected members of public bodies are to be subjected to public disclosure of their actions, how much more important that the appointed members of public bodies be required to make such disclosure.' (p. 151)

In Beacon Journal Publishing Co. v. City of Akron, 3 Ohio St.2d 191, 209 N.E. 399, 404 (1965), it was held that a city planning commission created by the city charter with 'such other powers and duties as the council may confer upon the planning commission,' was subject to the open meeting provision of the Akron City Code which applied to 'any board or commission . . . created by the charter or by action of council.'

*477 In Lhormer v. Bowen, 410 Pa. 508, 188 A.2d 747, 749 (1963), proposed rezoning ordinance was held ineffectual to restrict the issuance of a building permit, one of the reasons being the failure of the planning commission to hold a public hearing on its preliminary report before submitting a final report to the borough council for action, as required by the zoning enabling legislation.

In Sacramento Newspaper Guild v. Sacramento County Board of Supervisors, 263 Cal.App.2d 41, 47, 69 Cal.Rptr. 480, 485 (1968), California's Third District Court of Appeal upheld an injunction restraining the Sacramento County Board of Supervisors, and its committees, from holding informal meetings in violation of the Brown (California) Act. It held that there was nothing in the new Brown Act 'to demarcate a narrower application than the range of governmental functions performed by the agency.' It further held the Act applied not only to 'action' but also to 'deliberative gatherings . . . however confined to investigation and discussion.' Noting the widespread evasion of pre-Brown Act open-meeting statutes 'through unannounced 'sneak' meetings and through indulgence in euphemisms such as executive session, conference, caucus, study or work session, and meeting of the committee of the whole,' the court concluded that the statute could be pushed 'beyond debatable limits' to block such evasive techniques. The court continued:

'An informal conference or caucus permits crystallization of secret decisions to a point just short of ceremonial acceptance. There is rarely any purpose to a nonpublic pre-meeting conference except to conduct some part of the decisional process behind closed doors. Only by embracing the collective inquiry and discussion stages, as well as the ultimate step of official action, can an open meeting regulation frustrate these evasive devices. As operative criteria, formality and informality are alien to the law's design, exposing it to the very evasions it was designed to prevent. Construed in the light of the Brown Act's objectives, the term 'meeting' extends to informal sessions or conferences of the board members designed for the discussion of public business.' (p. 487)

34One purpose of the government in the sunshine law was to prevent at nonpublic meetings the crystallization of secret decisions to a point just short of ceremonial acceptance. Rarely could there be any purpose to a nonpublic pre-meeting conference except to conduct some part of the decisional process behind closed doors. The statute should be construed so as to frustrate all evasive devices. This can be accomplished only by embracing the collective inquiry and discussion stages within the terms of the statute, as long as such inquiry and discussion is conducted by any committee or other authority appointed and established by a governmental agency, and relates to any matter on which foreseeable action will be taken.

5The principle to be followed is very simple: When in doubt, the members of any board, agency, authority or commission should follow the open-meeting policy of the State. See Florida Law Review, Government in the Sunshine by Ruth Mayes Barnes, Vol. XXIII, 361, 365 (Winter 1971).

6Mere showing that the government in the sunshine law has been violated constitutes an irreparable public injury so that the ordinance is void Ab initio. Times Publishing Co. v. Williams, 222 So.2d 470 (Fla.App.2d 1969). Florida Law Review, Government in the Sunshine by Ruth Mayes Barnes, Vol. XXIII, p. 369 (Winter 1971).

7Although a criminal prosecution requires proof of scienter (Board of Public Instruction of Broward County v. Doran, 224 So.2d 693, 699 (Fla.1969)), an unintended violation of the government in the ***478** sunshine law will negate any action taken by the **Town Council**. Fla.Stat. s 286.011, F.S.A.

The Superior Court of New Jersey in Wolf v. Zoning Board of Adjustment of the Borough of Park Ridge, 79 N.J.Super. 546, 192 A.2d 305 (1963), held that the proper implementation of their 'Right to Know Law' requires the court upon proper application to set aside any official action taken without compliance, even in the absence of bad faith, saying:

'The trial judge noted, and the defendant officials stress, that the act states that 'official action taken in violation of the requirements of this act shall be Voidable (Emphasis theirs.) in a proceeding in the Superior Court,' thereby supposedly indicating a legislative intent that the voiding of such action should rest in the discretion of the judge. The court concluded that since no impropriety or bad faith on the part of the board was indicated, it should exercise its discretion to permit the action to stand. We think the court took too narrow a view of the intent and underlying policy of the statute. The purpose of the act, as reflected in N.J.S.A. 10:4-1, is to implement the declaration therein that it is 'the public policy

of this State to insure the right of the citizens of this State to attend meetings of public bodies * * * for the protection of the public interest.' In other words, the object of the act is primarily prophylactic, and not necessarily restricted to creation of a remedy for illegalities at particular public meetings from which the public is excluded. Appropriate implementation of that object and policy calls, as a general rule, for the Superior Court upon proper application to set aside any official action, as defined by the act, which is taken without compliance with the prescriptions of the statute, as here. We need not now decide that no discretion is ever to be reserved to the court to save the validity of official action taken in contravention of the statute. That question may be left to await a case where a sufficiently impelling counter-interest may be argued to bespeak sustaining the action impugned. It suffices here to say that mere absence of bad faith or other impropriety on the part of the public body should not ordinarily move the court to stay its hand in voiding official action taken contrary to the statute upon proper application therefor.' (Emphasis supplied.) (pp. 308—309)

Fla.Stat. s 286.011(1), F.S.A., specifically provides that 'no resolution, rule, regulation or formal action shall be considered binding' where the government in the sunshine law is violated. We follow the reasoning of the New Jersey court in *Wolf v. Zoning Board of Adjustment of the Borough of Park Ridge*, *Supra*.

Answering the question presented by the District Court of Appeal in the case *Sub judice*, we hold that the zoning ordinance adopted by the zoning authorities and the **Town** Council after public hearing was rendered invalid because of the non-public activities of the citizens planning committee, which committee was established by the **Town** Council, active on behalf of the Council in an advisory capacity and participated in the formulation of the zoning plan. We approve the decision of the District Court of Appeal.

Having answered the certified question, this cause is remanded to the District Court of Appeal for further proceedings in accordance with the views expressed herein.

It is so ordered.

ERVIN, BOYD and McCAIN, JJ., concur.

DEKLE, J., dissenting with opinion.

ROBERTS, J., dissents and concurs with DEKLE, J.

From: Manon@cityofsebastian.org <Manon@cityofsebastian.org>
Sent: Friday, September 17, 2021 12:03 PM
To: 'slavin@bellsouth.net' <slavin@bellsouth.net>; DAVID KRINGS <david@kringsconsulting.com>
Subject: Update information

Gentlemen, I wanted to share the some good news with all of you. First, yesterday I got notified by my commander that the United States Army has promoted me to the rank of Lieutenant Colonel (LTC) in the United States Army Judge Advocate General Corp (USA JAGC). The list was approved by United States Senate back in July of 2021. I hope to pin on next month. I well definitely mention this during the interviews.

Also, my wife and I are at Cleveland Hospital in Tradition. She is being induced due to some high blood pressure at 39 ½ weeks, but mommy and baby are doing great. Hopefully sometime today we will be blessed with Sophia Isabella Anon. Keep my ladies in your thoughts and prayers.

MANNY

MANNY ANON, JR., ESQ

CITY ATTORNEY

CITY OF SEBASTIAN

1225 MAIN STREET

SEBASTIAN, FL. 32958

772-388-8201 (OFFICE)

772-388-4420 (FAX)

Reference Summary

IN PROGRESS - AWAITING RETURN REFERENCE CALLS.

QUALIFICATIONS APPRAISAL GUIDE

Manny Anon, Jr.

Very strong evidence that skill is present (5 Points)	Strong evidence that skill is present (4 Points)	Some evidence that skill is present (3 Points)	Strong evidence that skill is not present (1-2 Points)	Very strong evidence that skill is not present (0 Points)	Insufficient evidence for or against skill (0 Points)
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GENERAL IMPRESSIONS: Behavior and appearance appropriate to the job; poise, tact, neatness and grooming and professional maturity.						
BACKGROUND: Type of and quality of experience, appropriate education and reasons for job changes.						
PRESENTATION: Communication skills; ability to understand implications of questions and to make clear and direct replies; ability to select, organize and present ideas; clarity of speech and appropriate use of language.						
JOB EFFECTIVENESS: Ability to perform the duties of the job; industrious, dependable and properly assertive; ability to deal effectively with practical problems of the job; interpersonal skills appropriate for the job.						
ADMINISTRATION: Ability to perform in an administrative capacity; understanding of the principles and practices of management and leadership; ability to lead, direct, and coordinate the work of others; understanding of the political process and ability and willingness to work within it.						

Total Points _____

Comments

Interviewer Signature: _____

Date: _____



ALEKSANDR BOKSNER

PERSONAL

Address: 7749 Paddock Place
Davie, Florida 33328

Contact: Cell: (305) 216-6258
Email: toledo1998@aol.com

EDUCATION

Juris Doctor - 2001
University of Toledo College of Law - Toledo, Ohio

Bachelor of Arts - 1998
University of Cincinnati - Cincinnati, Ohio

SUMMARY OF RELATED EXPERIENCE

2009 - Present	<u>CITY OF MIAMI BEACH, FLORIDA</u> Population 91,700 Deputy City Attorney and General Counsel
2008 - 2009	<u>MARION COUNTY, FLORIDA</u> Population 365,600 Chief Assistant County Attorney
2005 - 2008	<u>CHARLOTTE COUNTY, FLORIDA</u> Population 188,900 Chief Litigation Attorney
2004 - 2005	<u>NRT, INC.</u> Westin, Florida Associate Counsel
2001 - 2004	<u>OFFICE OF THE STATE ATTORNEY, ELEVENTH JUDICIAL CIRCUIT OF FLORIDA</u> Miami, Florida Assistant State Attorney

Aleksandr Boksner
7749 Paddock Place, Davie, Florida 33328
305-216-6258

September 8, 2021

Robert E. Slavin
SLAVIN MANAGEMENT CONSULTANTS
3040 Holcomb Bridge Road, A1
Norcross, Georgia 30071

Submitted Electronically

RE: City of Fort Pierce, City Attorney Position

Dear Mr. Slavin:

Please accept this Letter of Interest and Resume in regards to the City Attorney Position with the City of Fort Pierce, Florida.

I am currently the Deputy City Attorney for the City of Miami Beach, Florida, and provide legal counsel to the Mayor and City Commissioners, the City Administration and the various City Departments on a broad spectrum of legal issues. More specifically, I am responsible for those matters that involve the City's governmental business operations, land use interpretation and drafting, federal and state litigation, statutory implementation, application and procedures, labor and employment, and other numerous legal matters that impact the governmental functions of the City of Miami Beach.

At your earliest convenience, please review my resume to further evaluate my candidacy for this excellent position. I look forward to discussing my qualifications in further detail and welcome the opportunity for an interview. Thank you for your consideration.

Sincerely,

/s/ Aleksandr Boksner

Aleksandr Boksner

SUMMARY OF PROFESSIONAL EXPERTISE AND STRENGTHS

- Twenty years of extensive experience in advising on, operations, regulatory compliance, policies, procedures, financing and administrative guidance on government business practices, including legal management of regulatory departments, principles of civil, constitutional and administrative law, preparation of resolutions and ordinances, liaison with corporate vendors, contractors, citizens and external agencies on sensitive and controversial issues, and formation of cost-effective and goal-oriented legal compliance with emerging legal disputes (contractual and statutory).
- Strong government counsel orientation with extensive experience advising elected officials, government departments and the Office of the Inspector General on all aspects of governmental compliance and investigation, litigation (commercial, land use, construction, tort and appellate), sovereign immunity, employee relations, legislative process and procedure, contract formation and drafting, governmental procurement and purchasing (traditional procurement and Job Order Contracting), and various aspects of public/private development agreements, including modifications, operability studies and fiscal challenges, and in connection with these entities day-to-day business activities, interaction with vendors, contractors, federal and state entities and officials.
- Strong senior counsel with substantial experience in advising, and working with, elected officials (and government administration) and private business colleagues on various public/private governmental contracts and legal issues, risks, preferred outcomes and strategies.
- Strong substantive knowledge and analytical skills, with excellent judgment and ability to quickly and effectively identify, assess, communicate and resolve legal and, as appropriate, business issues as necessitated by municipal policy requirements, objectives and the law.
- Excellent interpersonal, communication (written and verbal), negotiating and drafting skills.
- Apply critical thinking to issues, demonstrating resourceful, pragmatic and creative approach to issue solving and addressing governmental entity and municipal-related policy objectives.

PROFESSIONAL EXPERIENCE

The City of Miami Beach, a municipal corporation

Deputy City Attorney and General Counsel, Miami Beach, Florida 2009 to Present

Marion County, Florida, a political subdivision of the State of Florida

Chief Assistant County Attorney, Ocala, Florida 2008 to 2009

Charlotte County, Florida, a political subdivision of the State of Florida

Chief Litigation Attorney, Port Charlotte, Florida 2005 to 2008

NRT, Inc.

Associate Counsel, Weston, Florida 2004 to 2005

Office of the State Attorney, Eleventh Judicial Circuit of Florida

Assistant State Attorney, Miami, Florida 2001 to 2004

BAR ADMISSION AND EDUCATION

Bar Admission

Florida, 2001
Tennessee, 2008

University of Toledo College of Law, Toledo, Ohio

Juris Doctor, 2001

University of Cincinnati, Cincinnati, Ohio

Bachelor of Arts, 1998

LANGUAGES

English and Russian

DESCRIPTION OF EXPERTISE AND EXPERIENCE

Government Counsel

Extensive experience representing, advising and rendering legal opinions to elected officials, managers/administers, boards, commissions and other staff on all aspects of governmental business operations and governance, operations and policy initiatives, and other aspects of their regulatory compliance, business function, labor and employment, and litigation. Advised governmental entities in connection with their day-to-day activities and contractual relationships and obligations, including aspects pertaining to vendors, citizens, suppliers, contractors and employees, and reviewing and preparing agreements relating to such matters, including project specific agreements, Job Order Contracting, land use licensing and permitting, memorandums of understanding, mutual aid and cooperation assistance agreements and consent agreements. Experience in analyzing pending and proposed legislative (federal and state) action impacting the administration, operation and functionality of the governmental corporations, and the investigation of complaints and claims involving all aspects of government departments, staff and programs. General Counsel to the City of Miami Beach Inspector General and Office of the Inspector General.

Regulatory, Compliance and Litigation

Extensive experience ensuring compliance with municipal, state and federal ordinances, statutes, regulations and codes, including, Florida Building Code, National Fire Prevention Code, Local Government Code Enforcement Boards Act, Drug-Free Workplace Act, Florida Public Records Act, Florida Contraband Forfeiture Act, False Claims statutes and ordinances (Federal, state and local), Florida Uniform Traffic Control Law, Florida Vessel Safety Law, Whistle-blower's Act, Clean Water Act, Criminal and Civil Justice Policy Council, Bank Secrecy Act, 31 U.S.C. Section 5311 – 5332, Florida Anti-Fencing Act, Florida Communications Fraud Act, Florida Money Laundering Act, Florida Mutual Aid Act, Bert J. Harris, Jr. Private Property Rights Protection Act and Florida Land Use and Environmental Dispute Resolution Act. Experience as Chief Litigation Counsel for lawsuits in federal and state courts representing public entities for violation of the United States Constitution and Florida Constitution, defense of various statutory and common law causes of action, including regulatory taking, inverse condemnation, eminent domain, 5th Amendment taking under §1983, covenants of good faith and fair dealing, doctrine of recoupment, termination of contractual agreements for convenience, littoral takings, public records law, and all other litigation matters impacting governmental business operations.

Government Contracting

Extensive experience representing governmental entities in collaborating, documenting and completing contractual agreements pursuant to the Florida Interlocal Cooperation Act of 1969, and those contractual agreements involving purchase and sale, architecture and engineering, Federal cost reimbursement, administrative services, indemnity and hold harmless, independent contractor, sponsorship agreements, utility franchise, Capital Improvement Project (CIP) design build, risk services, licensing, invitation to bid (ITB), request for qualification (RFQ), request for proposals (RFP), professional services, artist, revocable permits and easements, concessionaire, street scape and management. Extensive experience in negotiating and drafting agreements documenting these contractual agreements, including terms, conditions, modifications, amendments, demands, cure letters, notices of default, as well as those documents mandating indemnification and the assertion of a legal defense. As part of each contractual agreement, managing and coordinate the involvement of relevant staff and professional experts in those areas which directly impact the specific governmental operations and functions.

**CITY OF FORT PIERCE, FLORIDA
CITY ATTORNEY
SEMI FINALIST CANDIDATE QUESTIONNAIRE**

Name: Aleksandr Boksner

Home Address: 7749 Paddock Lane, Davie, Florida 33328

Home/Work/Cell phone numbers: 305-216-6258

E-mail address: toledo1998@aol.com

1. Why are you interested in becoming Fort Pierce's next City Attorney and how does this position fit into your overall career plans?

I consider Fort Pierce to be a great city on the treasure Coast. I have strived throughout my entire legal career for the opportunity to serve such a great municipality, and would welcome those challenges that accompany such an endeavor. It would be my absolute honor and privilege to serve as the next City Attorney for the City of Fort Pierce, and this position would serve as the pinnacle of my legal career. In my experience representing Florida municipal and county governments, I believe that this knowledge would be an ideal fit for those expected challenges that the City of Fort Pierce will be experiencing over the next several years.

2. What is the largest number of employees that you have managed and where? What is the largest annual operating budget that you have managed?

I'm currently in a leadership and management role, and have overseen a total of 21 employees within the City Attorney's Office for the City of Miami Beach. This would reflect the supervision of 12 attorneys (excluding outside litigation counsel). I have managed the budget for the City Attorney's Office, which is presently at 6.3 million.

3. How do you stay professionally current and on top of issues with the potential for significant impact on your jurisdiction? How do ensure that your employees stay current?

In today's immediate notification climate for the legal profession, there are a multitude of resources that will permit an attorney to receive the most current legal decisions or those pending legislative amendments (Federal or state) that would direct impact the governmental business operations of the City of Miami Beach. In that regard, I have availed myself of these various web-based legal notification entities, which does permit me to remain current and on-top of any adverse appellate legal decision(s) or legislation that would jeopardize the City of Miami Beach's legal position in a pending matter or require a change/modification to its governmental functions or operations.

Equally important, I review numerous legal publications for those matters that potentially implicates the City of Miami Beach, and attend necessary and relevant seminar(s) that further supplements my legal knowledge on any essential subject matter pertaining to the City.

With that said, I feel that it's my responsibility to ensure that the City Attorney's Office employees develop their absolute potential best within the Office. There are several

important factors that I consider essential for members of my team. I feel that development opportunities must be shared with members of the City Attorney's Office, and suggesting that some take the opportunity to attend appropriate legal seminars to further develop their skills in the legal field. Although training programs are appropriate for different legal areas, certain types of training are particularly important for individuals willing to work hard to improve their career opportunities. These include training opportunities in areas such as leadership, management, negotiation, and other areas likely to be useful to the City and the City Attorney's Office.

4. Describe your leadership and management style with your employees.

I have strived to establish a clear teamwork approach between different attorneys and staff in order to have this concept become of true value within the City Attorney's Office culture. Regrettably, the legal profession has fostered a culture and reputation where employees are compensated and celebrated for their individual performance and contributions, which does not, and cannot, encourage a teamwork approach with handling legal matters. Therefore, it has instead fostered a sense of competition.

I wholly recognize that encouraging a collaborative work environment takes more than just putting employees on teams or telling them to work together. This type of thinking starts directly with the City Attorney and must trickle down into everyday interactions with other City staff members. The fostering of a teamwork approach is part of creating a work culture that values collaboration, rather than encouraging competition. I believe that a culture of teamwork creates opportunities for employees to work together and use all available resources and skills to reach city-wide goals and objectives.

With that said, my management style is fluid, and not wholly comprised of any one specific structure or format. I believe that a leader must have the capability to adapt to a broad-range of management styles, and implement those styles based upon the particular set of circumstances. I will encourage my employees to work collaboratively and professionally, and accomplish their respective responsibilities in a timely manner, knowing that my door is always open to discuss possible ideas, strategies and best approaches to resolving pending legal issues, matters or concerns.

5. Have you ever worked directly for a policy making body?

Yes, I have worked with the Mayor and individual City Commissioners (policy making body) in order to recommend potential legislation or other legal directives in order to address the multitude of those quality of life matters or concerns impacting the City of Miami Beach, and have consistently identified necessary measures that should be adopted, including the rendering of various opinions or reports on a multitude of legal matters affecting the City.

6. Are you a member in good standing of the Florida Bar?

Yes, I am a member of the Florida Bar in good standing.

7. Describe your workload tolerance.... what type of office hours do you typically keep?

I have nearly twenty (20) years of experience in advising four (4) different governmental entities on their operations, regulatory compliance, policies, procedures, financing and administrative guidance on various government business practices, including legal management of regulatory departments, principles of civil, constitutional and

administrative law, preparation of resolutions and ordinances, liaison with corporate vendors, contractors, citizens and external agencies on sensitive and controversial issues, and formation of cost-effective and goal-oriented legal compliance with emerging legal matters or issues (contractual and statutory).

Of those 20 years, I have been employed with the City of Miami Beach for over 12 years, and the workload of the City is very intense, extensive and fast-paced based upon a number of factors, which pertain to, and include, the City's population surging with the influx of approximately 8.5 million visitors annually. Therefore, it requires me to spend extensive time in the office in order to address the myriad of legal issues that the City faces daily.

8. What would you hope to accomplish the first 30 days on the job; the first 6 months; and the first year?

In the first 30 days as the City Attorney, I would hope to meet all department directors (including other supervisory personal), and a develop further understanding of those immediate legal issues facing the City of Fort Pierce. Additionally, I believe that weekly or by-weekly meetings with the Mayor and City Commissioners and the City Manager is essential, and I would hope to schedule such meetings.

In the first 6 months, I would hope to have attained a detailed understanding of the City Attorney's Office, and all pending or threatened legal actions against the City of Fort Pierce. Additionally, I anticipate that after consistently meeting with the Mayor and City Commissioners for the preceding months, that the policy directives and initiatives of the City Commission would become clear, and that I would be working with the City Manager to accomplish those objectives.

Lastly, In the first year as the City Attorney for the City of Fort Pierce, I anticipate that there would be a cohesive working relationship with the City Manager, and that the policy directives, goals and objectives set forth by the Mayor and City Commission would be collegially accomplished for the benefit of the City. Furthermore, I would have established an extensive and thorough understanding of all potential and existing legal threats against the City, and would be successfully addressing these threats and other legal matters. Equally important, I would have solidified the appropriate legal course of action for those issues that the City Commission has identified to be of an important concern within the City of Fort Pierce, and I would continue to meeting (on a regular schedule) with the Mayor and City Commission in order to provide legal guidance on the City's potential options for these challenging matters.

I would strived to address these issues that could impact the City of Fort Pierce, and continue to provide legal advice that is honest, concise and straight forward, and informs the City and its elected officials of the fullest extent of potential legal options.

9. What experience do you have with organizational and/or performance analysis directed at identifying issues in need of change?

In regard to this question, I've had experience in dealing with such matters, and have focused the response specifically to the City Attorney's Office and its organizational or performance analysis of the Department itself and its employees.

I believe that routine interaction and evaluation of employees within the Department to be absolutely essential and necessary to support compensation, promotion and retention

decisions as well as to ascertain how the employee(s) are performing with respect to the goals and needs of the City and the City Attorney's Office. In recognizing the limitations of, and effectiveness of the traditional review process, I consider deficit-oriented performance reviews that emphasize what an employee is not doing well to be counterproductive, generating employee dissatisfaction and lower organizational performance. It just makes sense that the negative dialogue of a review that highlights mistakes and shortcomings is not especially motivating.

Alternatively, I focus upon a process that identifies an employee's strengths and encourages collaboration among the other members of the City Attorney's Office, which would certainly include other supervisors and subordinates. I have embraced a more positive, prospectively directed system that can validate what is going well and develop future performance goals that build upon previous success, balancing the effects of any negative feedback and supporting individual employee engagement. I've recognized that it's most important not to think of performance reviews as the delivery of information by a superior to a subordinate, but to reimagine the process as a dialogue intended to share information about the work and workplace and co-create a plan which facilitates ongoing growth, development and information sharing that accomplishes the goals of the governmental organization.

10. Please describe your experience in dealing with intergovernmental entities. Specifically, how do you work with the City Manager and other sections/branches of the City government while maintaining your independence?

I have developed an extensive understanding of those necessary skills, which a City Attorney must embrace and recognize in order to provide the appropriate legal representation to the City Manager (including Department Directors). It is without question that there are various legal and administrative dynamics that exist between the governing body of a municipality and the City Administration, which may undoubtedly result in potential impediments that inevitably emerge through those efforts utilized to implement the policy direction issued by the Mayor and Commissioner. I have gained the necessary understanding to acknowledge such various dynamics, and have adapted a broad-range of management styles and experiences necessary to implement those styles according to the appropriate set of circumstances that might be necessary to accomplish a working collaboration with the City Manager and essential Department Directors, while ensuring that the City Commission directives are properly accomplished.

With that said, I would manage the role of City Attorney in a professional manner, and strive to accomplish the respective objectives and responsibilities of both the City Manager and the City Attorney, in order to achieve the desired outcome that has been identified by the City Commission.

I recognize that conflicts may arise between the respective role of the City Manager in seeking to accomplish various policy direction issued by the City Commission, which could result in a conflict with those legal obligations of the City Attorney. In the event such a conflict does present itself, I'm confident that as Fort Pierce's City Attorney, that the City Manager and I would be able to discuss all available and viable options or solutions to ensure that the City of Fort Pierce is legally protected, and that no adverse consequences would negatively implicate the Mayor and Commissioners, the City Manager or other Department staff, while making certain that the City Commission's policy directives are implemented without delay.

11. Tell us how you communicate with your governing body and its individual members.

I've directly worked with the Mayor and City Commission in a collaborative relationship, which recognizes that approachability, responsiveness and clear communication of those pending or potential legal matters of the City of Miami Beach, is absolutely an essential element to ensuring success of the governing body's priorities, objectives and policy initiatives. Equally important, I've taken a leadership role with the Mayor and City Commission, through clear and effective communication skills when faced with any legal adversity or challenge, while making certain not to sacrifice those ethical obligations of the City Attorney. This approach has permitted me to focus upon the individual goals for the members of the City Commission, and further ensured that such working relationship(s) don't transition into matters of public policy without assuring the proper legal level of transparency. In that regard, I've endeavored to provide direct and concise legal guidance and counsel to the Mayor and City Commission on policy-making activities, by providing binding legal precedent and the application of existing legal principles, in order to ascertain a pathway or direction that furthers such policy objectives of the governing body.

12. How would you handle situations where the Commissioners wish to take actions that you do not consider lawful?

I believe that the City Commissioners should be apprised of, and receive any information, which could result in potential legal issues or consequences, or that could adversely impact the Mayor and City Commissioners. Certainly, I recognize that each Elected Official will be provided further clarity on those matters which they deem important (and seek further briefings on any given subject matter), and once I have been able to properly establish this understanding, I believe that the information that would be forthcoming from me would be transparent, appropriate and avoid any confusion or misunderstandings.

However, should there be a disregard of my legal advice or opinion on a matter, I would make certain that the individual is properly informed about the potential legal risks and adverse consequences that could materialize should there be a continued effort to proceed on a course of action that ignores my legal counsel on the subject matter, which may include litigation, civil or criminal penalties, and other negative legal action. With that said, and provided that the decision which conflicts with my legal advice or opinion is not illegal pursuant to the law, I recognize that City Council, City Manager, or any Department Director are my clients and are not obligated to follow my legal advice. The City Council and City Manager will be making the ultimate decision on a matter, which would most likely be based upon their level of risk-aversion, once all the potential legal issues or consequences are disclosed.

13. How would you handle questions of law, including issues relating to public safety, that may be viewed differently by an ethnically and economically diverse community and Commission?

I believe that the City Attorney must ensure that there is continued compliance with Florida's law by instilling the free flow of information amongst the governmental entity and those private individuals that interact with the City. This would allow direct citizen input, review, and criticism of government action, and thereby increases the quality of the City's governmental operations and activities. It is essential that the City Attorney undertake an active role in preventing the municipal organization from failing to disclose or prevent the release of clear public information, when such efforts serve to unequivocally permit continued transparency that enables stronger, more appropriate relationships with the general public by allowing for more accurate verification of the City's compliance with the

law, and how it conducts its governmental business.

Ultimately, the City Attorney must be a proponent of disclosing the business operations and activities of the City, transparency produces an informed public, a responsive government, and as a result, the City's residents believe that its government has its citizens best interests. Therefore, I would handle such questions consistent with those principles set forth herein, factoring

14. Please provide a copy of a legal opinion that you have authored. (You may provide a redacted copy.)

Please see attached legal opinion.

15. Have you ever been found to have committed any acts of discrimination, sexual harassment, or creation a hostile work environment? If so, please explain.

No, I have never been found to have committed any acts of discrimination, sexual harassment, or creation of a hostile work environment.

16. Do you have any unusual personal consideration(s) that would need to be resolved before you could accept this position? If so, please explain.

No, I do not have any unusual personal consideration(s) that would need to be resolved before accepting the position.

17. Should you become a finalist candidate, we will perform education, credit, civil, criminal and motor vehicle court records, internet search and reference checks on you. In doing so, will we find anything that you need to explain in advance?

There have been numerous media articles that reference pending litigation or other legal matters involving the City of Miami Beach. In that regard, I've been referenced as legal counsel for the City of Miami Beach in those media articles, as they might identify pending adverse legal matters against the City. With that said, I've not been the subject of such media articles, but the below matter is being disclosed in the abundance of caution. Should there is a belief that any other matters require commentary, please do not hesitate to contact me.

A Plaintiff and his wholly-owned corporation filed a frivolous lawsuit against the City for various alleged constitutional violations. The City prevailed on all claims, and the Federal Court ordered that the City was entitled to an award of all its reasonable attorneys' fees. The Plaintiffs paid the City \$600,000 for those attorney fees incurred, and Plaintiffs law firm paid the City \$100,000. Subsequently, the Plaintiff has issued erroneous and disparaging assertions against me and another attorney.

18. Is the resume you submitted accurate and current? If not, please explain any discrepancies.

Yes, the resume is accurate and current.

19. Are you currently employed?

Yes, I am currently employed.

20. Have you ever been fired or resigned under pressure from a job? If so, please explain.

No, I have never been fired or resigned under pressure from a job.

21. Have you ever sued an employer or been sued by an employer or employee? If so, please explain.

No, I have never sued an employer or been sued by an employer or employee.

22. What are your compensation expectations?

I'm open to discussing the salary requirements for the position of City Attorney. I do have significant legal experience, knowledge and expertise in municipal and governmental law, which I believe adds value to my candidacy for this position. I'm optimistic that a fair salary can be negotiated.

Boksner, Aleksandr

Subject: FW: Your Inquiry-CMB Regulation(s) of Firearms

From: Boksner, Aleksandr <AleksandrBoksner@miamibeachfl.gov>

Sent: [REDACTED]

To: [REDACTED]

Cc: [REDACTED]

Subject: Your Inquiry-CMB Regulation(s) of Firearms

This memorandum is in response to your verbal inquiry as to whether the City of Miami Beach has the legal authority to enact an ordinance to prohibit and/or control the sale and possession of automatic firearms throughout the City.

The Florida Legislature has declared that the regulation of firearms and ammunition (which includes the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage and transportation of firearms and ammunition), is preempted by the State of Florida, and that any existing (and future) ordinance(s) or regulation(s) that might be enacted by a county, city, town or municipality is thereby declared null and void pursuant to Section 790.33 of the Florida Statutes (which statutory provision may be identified as the Joe Carlucci Uniform Firearms Act).

The Florida Legislature's preemption authority for firearms regulation is derived directly from the Florida Constitution. Specifically, Article I, Section 8(a) of the Florida Constitution provides, "The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law." Florida appellate courts have explained that, "the phrase 'by law' indicates that the regulation of the state right to keep and bear arms is assigned to the Florida Legislature and must be enacted by statute." *Fla. Carry, Inc.*, 133 So.3d at 972.

The Legislature's reservation (preemption) for itself of the whole field of firearms regulation is codified within Section 790.33(1), which provides:

(1) Preemption.—Except as expressly provided by the State Constitution or general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state government relating thereto. Any such existing ordinances, rules, or regulations are hereby declared null and void.

This statutory provision has explicitly preempted the regulation of firearms by local governments. *See Pelt v. State, Dept. of Transp.*, 664 So.2d 320, 321 (Fla. 1st DCA 1995), *rev. denied*, 671 So.2d 788 (Fla.1996). Equally compelling, the Legislature in October of 2011 further emphasized and reiterated that the regulation of firearms was solely within the purview of the Florida Legislature, and not within the jurisdiction of local governmental entities. *See* Ch. 2011–109, § 1, Laws of Fla.

The legal impact of the 2011 Amendment to Section 790.33 is extensive. Specifically, the Amendment established definitive fine and penalty provisions against "any person, county, agency, municipality, district, or other entity" that enacts or causes the enforcement of any local ordinance that violates the preemption authority set forth within Section 790.33(1) of the Florida Statutes. Furthermore, this statutory amendment would subject the City of Miami Beach to a Circuit Court proceeding that would, undoubtedly, declare the ordinance improper pursuant to Section 790.33(3), and the issuance of a permanent injunction that would prohibit the City from taking

any enforcement action upon the newly enacted ordinance (It must be noted that the Mayor and City Commission would not have a defense for acting in good faith or upon the advice of counsel).

Additionally, and of greater importance, the amendment to Section 790.33(3) authorized the Circuit Court to assess a civil fine of up to \$5,000 against an elected local government official(s), including the termination of the employment or contract of any person (e.g., City Manager, Chief of Police or City Attorney) acting in their official capacity, for knowingly and willfully enacting or causing the enforcement of a local ordinance that violates the statutory preemption codified within Section 790.33(1). The Legislature has further authorized the Florida Governor to remove from office the elected local government official for the knowing and willful enactment of such a local ordinance, and the City would be legally prohibited from expending any public funds to defend or reimburse the Mayor or City Commission that have been found to have violated the statutory prohibitions proscribed in Section 790.33(3).

Regrettably, the City of Miami Beach does not have any legal authority to enact any legislation that regulates firearms and/or ammunition, and any attempts to enact such legislation would result in the knowing and willful violation of Section 790.33(1) of the Florida Statutes...exposing each elected or appointed member of the City Commission to a civil fine of up to \$5,000, and removal from office by the Governor of the State of Florida.

Should you have any questions, please do not hesitate to contact me.



ALEKSANDR BOKSNER

Deputy City Attorney

Education:

University of Cincinnati, Cincinnati, Ohio (B.A. 1998)

The University of Toledo College of Law, Toledo, Ohio (J.D. 2001)

Member:

State of Florida

State of Tennessee

U.S. District Court, Middle District of Florida

U.S. District Court, Southern District of Florida

Florida Middle District Bankruptcy Court

Aleksandr Boksner joined the City of Miami Beach Office of the City Attorney in 2009. Mr. Boksner provides legal counsel to the Mayor and City Commissioners, City Manager, and Department Directors pertaining to its governmental business practices, liability and sovereign immunity, including those regulatory and technical departments, State of Florida public records and government in the sunshine laws, contract formation, interpretation and drafting, legislative process and procedure, regulatory and statutory compliance, and the legal impact of civil and criminal litigation surrounding all aspects of the City of Miami Beach's governmental business operations.

Mr. Boksner prepares various resolutions and ordinances, drafts prospective legislation for consideration by the State of Florida, and reviews contracts for compliance with the City of Miami Beach procurement code, in conjunction with the negotiation of various public/private contracts, land use disputes, franchise agreements and other contractual agreements. He supervises the prosecution of code enforcement matters before the Special Master to ensure regulatory compliance with those technical statutes, regulations and codes. He handles a multitude of litigation matters (commercial, land use, construction, tort and appellate) which involve issues of sovereign immunity, regulatory taking, inverse condemnation, littoral takings and other statutory and common law causes of action impacting the City of Miami Beach. Mr. Boksner provides broad range and extensive legal guidance on the City of Miami Beach's governmental operations and governance, policy initiatives and other aspects of the City's business functions and litigation.

Prior to joining the City of Miami Beach Office of the City Attorney, Mr. Boksner's professional experience and background consisted of significant legal positions at other governmental agencies that included the Office of the County Attorney, Marion County, Florida; Office of the County Attorney, Charlotte County, Florida; and Office of the State Attorney, Miami, Florida.

Reference Summary

IN PROGRESS - AWAITING RETURN REFERENCE CALLS.

QUALIFICATIONS APPRAISAL GUIDE

Aleksandr Boksner

	Very strong evidence that skill is present (5 Points)	Strong evidence that skill is present (4 Points)	Some evidence that skill is present (3 Points)	Strong evidence that skill is not present (1-2 Points)	Very strong evidence that skill is not present (0 Points)	Insufficient evidence for or against skill (0 Points)
GENERAL IMPRESSIONS: Behavior and appearance appropriate to the job; poise, tact, neatness and grooming and professional maturity.						
BACKGROUND: Type of and quality of experience, appropriate education and reasons for job changes.						
PRESENTATION: Communication skills; ability to understand implications of questions and to make clear and direct replies; ability to select, organize and present ideas; clarity of speech and appropriate use of language.						
JOB EFFECTIVENESS: Ability to perform the duties of the job; industrious, dependable and properly assertive; ability to deal effectively with practical problems of the job; interpersonal skills appropriate for the job.						
ADMINISTRATION: Ability to perform in an administrative capacity; understanding of the principles and practices of management and leadership; ability to lead, direct, and coordinate the work of others; understanding of the political process and ability and willingness to work within it.						

Total Points _____

Comments

Interviewer Signature: _____

Date: _____



TANYA M. EARLEY

PERSONAL

Address: NA

Contact: Phone: (954) 214-0537
Email: tanya.earley@yahoo.com

EDUCATION

Juris Doctor - 2007
University of Miami School of Law, Coral Gables, Florida

Bachelor of Arts, English - 2000
Georgetown University, Washington, DC

SUMMARY OF RELATED EXPERIENCE

2019 - Present	<u>CITY OF FORT PIERCE, FLORIDA</u> Population 41,600
2021 - Present	Interim City Attorney
2019 - Present	Assistant City Attorney
2014 - 2019	<u>OFFICE OF THE STATE ATTORNEY</u> Kissimmee, Florida
	Assistant State Attorney
2012 - 2014	<u>OFFICE OF THE STATE ATTORNEY</u> Miami, Florida
	Assistant State Attorney
2011 - 2012	<u>DONNA M. BALLMAN, P.A.</u> Davie, Florida
	Associate
2007 - 2011	<u>OFFICE OF THE STATE ATTORNEY</u> Miami, Florida
	Assistant State Attorney
2005	<u>THE HONORABLE ADALBERTO JORDAN,</u> <u>UNITED STATES DISTRICT JUDGE</u> Miami, Florida
	Intern
2000 - 2004	<u>UNITED STATES DEPARTMENT OF JUSTICE</u> Washington, DC
	Paralegal Specialist, Civil Division, Torts Branch

TANYA M. EARLEY, ESQ.

Tanya.Earley@yahoo.com

August 12, 2021

Via Electronic Mail

Honorable Mayor and Members of the City Commission
Care of Mr. Robert E. Slavin
100 North U.S. Highway 1
Fort Pierce, FL 34950

Dear Mayor Hudson and Members of the City Commission:

I am honored that you have asked me serve as your Interim City Attorney. Please accept this letter as my formal application for the position of City Attorney.

Since joining the Fort Pierce City Attorney's Office in 2019, I have successfully litigated cases involving labor and employment, code enforcement, animal custody, civil forfeiture, mental health/risk protection, and actions for declaratory relief. In addition to providing legal counsel to staff informally and on an as-needed basis, I have processed hundreds of formal requests for legal services.

Over the past two years, I have practiced before Fort Pierce's boards and committees, cultivated effective professional relationships with staff, and worked daily to ensure that the City's Code of Ordinances is correctly interpreted and applied. Moreover, having served Fort Pierce as the Assistant City Attorney *and* the Interim City Attorney, I have a unique understanding of what is required to promote efficiency, productivity, and stability within the Office— all while providing excellent legal service.

Despite the challenges that world events have wrought, Fort Pierce has been resilient. The City is poised for incredible growth and a brilliant future. There is no other community that I would rather serve.

Sincerely,



Tanya M. Earley

TANYA M. EARLEY, ESQ.

Tanya.Earley@yahoo.com

EDUCATION

University of Miami School of Law, Coral Gables, FL

Juris Doctor, *cum laude*, May 2007

Honors: Dean's Honor Scholarship; Award of Distinction, Litigation Skills Program

Georgetown University, Washington, DC

Bachelor of Arts, English, May 2000

Honors: Dean's List

EXPERIENCE

CITY OF FORT PIERCE, FL

Interim City Attorney, July 2021-Present and Assistant City Attorney, May 2019-Present

- Attend all meetings of the City Commission and the Fort Pierce Redevelopment Agency and provide legal counsel as needed
- Render written and verbal legal opinions to City officials, charter officers, department heads, and staff
- Review, approve, negotiate, and/or draft a vast array of documents, including contracts for goods and services, agreements for the lease, sale, and development of City property, union contracts, proposed resolutions, and proposed ordinances
- Advocate for the City in all Code Enforcement and Animal Control hearings
- Advocate for the City in matters before the Civil Service Appeals Board
- Coordinate and assist in the defense of employee grievances from inception to arbitration
- Prepare, file, and prosecute civil forfeiture and risk protection order actions on behalf of the Fort Pierce Police Department
- Represent the City in litigation at the trial and appellate levels, including filing pleadings, motions, briefs, and making court appearances
- Oversee all administrative functions of the City Attorney's Office
- Supervise and train legal support staff

OFFICE OF THE STATE ATTORNEY, Kissimmee, FL

Assistant State Attorney, March 2014-May 2019

- Prosecuted crimes for the State of Florida with an emphasis on economic and violent crimes
- Supervised and trained legal interns and attorneys
- Appeared in circuit court daily for motions and calendar calls
- Deposed witnesses, defend depositions, and prepare discovery responses
- Drafted and respond to pretrial motions

OFFICE OF THE STATE ATTORNEY, Miami, FL

Assistant State Attorney, August 2007 – October 2011; and September 2012-March 2014

- Prosecuted crimes, including vehicular homicide, armed robbery, and narcotics trafficking
- Served as lead counsel for jury trials, bench trials, and probation violation hearings

DONNA M. BALLMAN, P.A., Davie, FL
Associate, October 2011 – September 2012

- Litigated employment law claims including labor, discrimination, and non-compete disputes
- Negotiated and drafted settlement agreements
- Drafted legal documents, including pleadings, discovery motions, and summary judgment motions
- Appeared in court for motions, evidentiary hearings, and case management conferences

THE HONORABLE ADALBERTO JORDAN, UNITED STATES DISTRICT JUDGE, Miami, FL
Intern, Summer 2005

- Drafted orders addressing: summary judgment, choice of law, and the pleading requirements of the Federal Rules of Civil Procedure

UNITED STATES DEPARTMENT OF JUSTICE, Washington, DC
Paralegal Specialist, Civil Division, Torts Branch, July 2000 - July 2004

- Supported attorneys in the defense of claims filed under the National Vaccine Injury Compensation Act
- Compiled data in response to Congressional inquiries

BAR MEMBERSHIP

Admitted to the Florida Bar, member in good standing since 2007

**CITY OF FORT PIERCE, FLORIDA
CITY ATTORNEY
SEMI FINALIST CANDIDATE QUESTIONNAIRE**

Name: Tanya Marie Earley

Home Address: 572 Dillard Drive SE, Palm Bay, FL 32909

Home/Work/Cell phone numbers: 321-914-3376/772-467-3042/954-214-0537

E-mail address: tanya.earley@yahoo.com

1. Why are you interested in becoming Fort Pierce's next City Attorney and how does this position fit into your overall career plans?

I am proud to say that Fort Pierce is already my client. Although the advertised position would represent a high point in my legal career, it is also a tremendous opportunity to continue my professional growth while bringing much-needed stability to an office that has seen 100% attorney turnover in three years. I am fortunate to have met incredible people and discovered a growing city with a bright future. If I am your next City Attorney, I will dedicate myself to building an office that is competent, reliable, and responsive to the City's needs.

2. What is the largest number of employees that you have managed and where? What is the largest annual operating budget that you have managed?

As Interim City Attorney, I supervise a legal assistant and manage a budget that exceeds \$500,000. As an Assistant State Attorney in Miami, I assisted in the supervision and training of two junior attorneys. In Kissimmee, as the lead attorney in my division, I worked with newly barred attorneys in the office and in the courtroom. They were assigned to me one at a time. However, due to their level of experience, I was involved in nearly every aspect of their hands-on training and constantly evaluated their progress, from bringing them up to speed on office procedures to helping them through their first jury trials.

3. How do you stay professionally current and on top of issues with the potential for significant impact on your jurisdiction? How do ensure that your employees stay current?

I have attended multiple continuing legal education (CLE) seminars in the past two years. This is a great opportunity to learn from colleagues and to strengthen professional contacts. I also participate in online CLEs, webinars, and conference calls with other local government attorneys to discuss changes in the law. I have joined listservs for police legal advisers and municipal law attorneys. These connections have been particularly helpful in navigating the many novel legal issues that sprang from the pandemic. Finally, if there is an issue of import to Fort Pierce, it is likely that other jurisdictions on the Treasure Coast and beyond have wrestled with it also. Therefore, I review the meetings, resolutions, and ordinances of other cities and speak with their legal counsel when appropriate.

4. Describe your leadership and management style with your employees.

An effective manager sees the potential in his or her team and motivates them to perform optimally. The key to this is providing hands-on training, communicating well, and trusting the team enough to assign progressively difficult tasks. When people are treated as professionals and given commensurate responsibility, they almost always rise to meet the challenge. When work product does fall short, it is an opportunity for redirection and education rather than reproach. Disciplinary matters should be addressed swiftly, progressively, and in accordance with the City's Personnel Rules and Regulations.

5. Have you ever worked directly for a policy making body?

Yes, as an attorney for the City of Fort Pierce.

6. Are you a member in good standing of the Florida Bar?

Yes.

7. Describe your workload tolerance.... what type of office hours do you typically keep?

Effective lawyering requires hard work and long hours. As an Assistant State Attorney, I managed heavy caseloads and rarely ended my workdays at five. I have waited until 10pm for a jury verdict, given legal advice to on-scene police officers in the pre-dawn hours, and spent countless Sunday afternoons reviewing files. As legal counsel for Fort Pierce, my job description has changed, but my work ethic is the same. I am committed to working until outstanding tasks are not just completed but completed well. Furthermore, because technology connects us all now more than ever, it is my responsibility to make myself available to City officials and staff beyond traditionally defined work hours and even if I am not physically in the office.

8. What would you hope to accomplish the first 30 days on the job; the first 6 months; and the first year?

First 30 Days: Priority one will be to advertise for a new Assistant City Attorney. Next, I would meet with City officials and staff to gather information. From there, I will consider what changes I can make to provide optimal service. Any such changes would be contemplated, not in a vacuum, but in light of the resources that will be available to the office in the upcoming fiscal year.

First 6 Months: Six months in, I would like the new Assistant City Attorney to be on board and adequately trained to work efficiently and independently. I would hope to see a measurable increase in the processing time for requests for legal services. Finally, I would plan to meet with the City Manager and Director of Finance to discuss potential adjustments, including cost-saving measures, for the next fiscal year.

First Year: One year in, the office should be appropriately staffed, and I would like to work on longer-term goals such as building on institutional knowledge and fostering stability and consistency in terms of leadership and in terms of the quality of services we provide.

9. What experience do you have with organizational and/or performance analysis directed at identifying issues in need of change?

I have the advantage of having worked in this office for two years. That said, performance analysis in this legal setting is more than counting litigation wins and losses. The City Attorney's Office serves every department of the City. Its role as advisor and counselor is difficult to quantify, but it should be evaluated on an ongoing basis by regularly checking in with department heads to ensure that their needs are met.

As applied to evaluating employee performance, I am familiar with the City's performance review forms and will be ready to use them appropriately to memorialize progress over the course of the review period and to set specific, realistic goals for improvement. If I am performing well as a manager, nothing that goes into a performance review should be a surprise. Successes and mistakes should be addressed in real-time; they should not go unmentioned until the next review period. I would likewise welcome frequent feedback from the City Commission on how I can provide better service to them as a charter officer.

10. Please describe your experience in dealing with intergovernmental entities. Specifically, how do you work with the City Manager and other sections/branches of the City government while maintaining your independence?

In Fort Pierce, the City Clerk, the City Manager, and the City Attorney are distinct charter officers with coequal status. The City Manager executes and implements policy. The City Attorney ensures that policy goals are executed in a manner that protects that City from liability. Conceivably, the two offices can share the same goals but disagree on how to achieve them. Establishing mutual respect and a good line of communication can help resolve such disagreements before they reach impasse. Ultimately, my responsibility is to the City and not to any one officer or coworker and I will honor that responsibility.

11. Tell us how you communicate with your governing body and its individual members.

I speak with the City Commissioners individually in scheduled meetings and on an as-needed basis. For more urgent matters, I telephone them. I recognize that their time is precious and strive for efficiency in my communications. If necessary, I will schedule shade meetings to obtain a consensus on how to move forward with ongoing litigation.

12. How would you handle situations where the Commissioners wish to take actions that you do not consider lawful?

During my tenure as Interim City Attorney, this issue has not presented itself. Faced with this scenario, I would offer legally viable alternatives. In the absence of such, I would be direct and advise the Commissioners in an appropriate manner that their desired course of action could expose the City to liability. As an attorney, I have an ethical obligation to steer my client away from legally questionable practices and to refrain from assisting in the commission of same. I will act accordingly.

13. How would you handle questions of law, including issues relating to public safety, that may be viewed differently by an ethnically and economically diverse community and

Commission?

When I was a prosecutor, my ethical obligation was not to zealously represent the state, but to secure justice. If justice demanded that I decline to prosecute a case on constitutional grounds, I did. Likewise, if justice demanded that I recommend a harsh penalty, I did. In providing legal advice to the Fort Pierce Police Department, I have applied the same philosophy. By giving sound legal advice, particularly on constitutional issues, I can contribute to the Police Department's goal of fostering trust between law enforcement and the community while reducing the City's exposure to liability. Looking ahead, I would like to increase the frequency of meetings and training opportunities to optimize the provision of legal services to the Department.

14. Please provide a copy of a legal opinion that you have authored. (You may provide a redacted copy.

15. Have you ever been found to have committed any acts of discrimination, sexual harassment, or creation a hostile work environment? If so, please explain.

No.

16. Do you have any unusual personal consideration(s) that would need to be resolved before you could accept this position? If so, please explain.

No.

17. Should you become a finalist candidate, we will perform education, credit, civil, criminal and motor vehicle court records, internet search and reference checks on you. In doing so, will we find anything that you need to explain in advance?

No.

18. Is the resume you submitted accurate and current? If not, please explain any discrepancies.

Yes.

19. Are you currently employed?

Yes.

20. Have you ever been fired or resigned under pressure from a job? If so, please explain.

No.

21. Have you ever sued an employer or been sued by an employer or employee? If so, please explain.

No.

22. What are your compensation expectations?

I would request to start at \$155,000.



TO: Danny Visconti, Director, Indian Hills Golf Course

FROM: Tanya Earley, Assistant City Attorney

THROUGH: Peter Sweeney, City Attorney

RE: Indian Hills Golf Course

RLS FILE: 19-58

DATE: September 30, 2020

TUE
PA

I have reviewed the attached request for legal services related to the release of potential claims arising from the use of the Indian Hills Golf Course and its equipment, including golf carts.

I have made minor revisions to the existing golf cart rental agreement. The revised document is attached.

In its current form, the golf cart rental agreement provides that renters must defend and indemnify Fort Pierce and the Golf Course in the event of injury to persons or property. Although the indemnity clause provides some potential legal protection, the "blanket" or general release that you suggested would be more comprehensive in that it would apply to all patrons and cover all activities on premises.

If the decision is made to proceed with a general release, the following language could be utilized:

In consideration for the use of the Indian Hills Golf Course ("Golf Course"), I, for myself and on behalf of my heirs, assigns, personal representatives, and next of kin, agree to release and hold harmless the City of Fort Pierce and the Golf Course, their officers, officials, agents and/or employees, other participants, sponsoring agencies, and if applicable, owners and lesser of the premises ("RELEASEES") FROM ANY AND ALL CLAIMS OF INJURY, DISABILITY, DEATH, OR LOSS OR DAMAGE TO PERSON OR PROPERTY OF ANY NATURE, THAT MAY ARISE FROM MY OWN NEGLIGENCE OR FROM THE NEGLIGENCE OF THE RELEASEES, OR OTHERWISE, AS A RESULT OF THE USE OF SAID GOLF COURSE AND/OR ITS GOLF CARTS OR OTHER EQUIPMENT both known and unknown EVEN IF ARISING FROM MY OWN NEGLIGENCE OR FROM THE NEGLIGENCE OF THE RELEASEES or others, and assume full responsibility for my use of the said Golf Course and/or its golf carts or other equipment.

Although any judge reviewing such a general release must do so within the context and unique facts of the given case, it is important to note that Florida's courts generally disfavor and frequently invalidate these types of agreements. To increase the likelihood that a reviewing court will enforce the general release, staff should ask patrons to sign the receipt/paperwork containing the general release, the release itself should be in a font that is easy to see and read, and patrons should be given sufficient time to review it prior to signing.

If you have any questions, please contact the City Attorney's Office via phone or email.

Thank you.

TE/mm

cc: Nicholas C. Mimms, P.E., City Manager
Linda Cox, City Clerk

Reference Summary

IN PROGRESS - AWAITING RETURN REFERENCE CALLS.

QUALIFICATIONS APPRAISAL GUIDE

Tanya M. Earley

	Very strong evidence that skill is present (5 Points)	Strong evidence that skill is present (4 Points)	Some evidence that skill is present (3 Points)	Strong evidence that skill is not present (1-2 Points)	Very strong evidence that skill is not present (0 Points)	Insufficient evidence for or against skill (0 Points)
GENERAL IMPRESSIONS: Behavior and appearance appropriate to the job; poise, tact, neatness and grooming and professional maturity.						
BACKGROUND: Type of and quality of experience, appropriate education and reasons for job changes.						
PRESENTATION: Communication skills; ability to understand implications of questions and to make clear and direct replies; ability to select, organize and present ideas; clarity of speech and appropriate use of language.						
JOB EFFECTIVENESS: Ability to perform the duties of the job; industrious, dependable and properly assertive; ability to deal effectively with practical problems of the job; interpersonal skills appropriate for the job.						
ADMINISTRATION: Ability to perform in an administrative capacity; understanding of the principles and practices of management and leadership; ability to lead, direct, and coordinate the work of others; understanding of the political process and ability and willingness to work within it.						

Total Points _____

Comments

Interviewer Signature: _____

Date: _____



CANDIDATE RANKING FORM

Place each candidate's name on this list in the order that you are most interested in having he or she continue in the process. The name of your first choice should be placed on the first line and the names of the others in descending order based on your level of interest in them. All candidates need to be ranked and tied rankings should be avoided.

1. _____

2. _____

3. _____

CANDIDATE TABULATION FORM

<i>Raters</i>	#1	#2	#3	#4	#5	Total	Avg
CANDIDATES							
Anon, Manny							
Boksner, Aleksandr							
Earley, Tanya							

ORDER BY RATINGS

Rank	Candidate Name	Average	Spread
1			Base
2			
3			



SLAVIN MANAGEMENT CONSULTANTS

APPROPRIATE/INAPPROPRIATE QUESTIONS

SENSITIVE AREAS	UNLAWFUL INQUIRY	LAWFUL INQUIRY	FEDERAL GUIDELINE
1) Name	If your name has been legally changed, what was your former name? To ask if a woman is a Miss, Mrs. or Ms.	Have you ever worked for this organization under a different name? What is your maiden name? (May be asked of married female applicants if necessary to check educational or employment records.) Have you ever been convicted of a crime under another name?	Title VII
2) Age	Any questions which tend to identify applicants 40 to 70 years of age. To request birth certificate before hiring.	Are you over eighteen years of age? If hired, can you furnish proof of age? Statement that employment is subject to version that applicant's age meets legal requirements.	Age Discrimination Act of 1967
3) Citizenship	Are you a citizen of the United States? (Varies by State.) Are your parents or spouse citizens of the U. S.? On what dates did you, your parents, or your spouse acquire U. S. citizenship? Are you, your parents or spouse naturalized or native-born U. S. citizens? Proof of citizenship before hiring.	If you are not a U. S. citizen, do you have the legal right to remain permanently in the U. S.? What is your visa status? (If no to above.) Do you intend to remain permanently in the U. S.? Statement that employment is subject to verification of applicant's eligibility for employment under laws related to visa status.	Title VII
4) National Origin/ Ancestry	What is your nationality/lineage/ancestry/national origin/descent or parentage? How did you acquire the ability to speak, read or write a foreign language? How did you acquire the familiarity with a foreign country? What language is spoken in your native home? What is your native tongue? Place of birth? Ancestry of parents or spouse?	What language do you speak, read, or write fluently? Do you have special familiarity with any foreign country? What is the nature of that familiarity? (if yes to above.)	Title VII
5) Race or Color	Any question which directly or indirectly relates to race or color.	None, except for EEO record keeping. Make clear to applicant.	Title VII - Title IX
6) Religion	Do you attend religious services or a house of worship? What is your religious denomination or affiliation, church, parish, or pastor? What religious holidays do you observe? To request recommendations from church officials. To ask willingness to work any particular holidays.	Anticipated absenteeism from job.	Title VII - Title IX
7) Sex	Any inquiry as to sex, such as the following: Do you wish to be addressed as Mr. ?, Mrs. ?, Miss ?, or Ms. ?	None	Title VII - Title IX



SENSITIVE AREAS	UNLAWFUL INQUIRY	LAWFUL INQUIRY	FEDERAL GUIDELINE
8) Pregnancy	What are your plans regarding having children in the future? Do you have the capacity to reproduce?	Whether applicant has responsibilities or commitments which prevent him/her from meeting work schedules (if asked of all applicants).	Title VII - Title IX
9) Relatives/Marital Status	What is your marital status? (if over 18) What is the name or address of relative/spouse/children? With whom do you reside? Do you live with your parents? What are the ages of your children? Child care plans? Spouses job or salary?	What are the names of relatives already employed by the company?	Title VII - Title IX
10) Physical Condition	Do you have any physical disabilities? What is your handicap? What caused your handicap? What is the prognosis of your handicap? Have you had any recent serious illness?	Do you have any physical condition which may limit your ability to perform the job applied for? Do you need any special accommodations to perform the job applied for? Explain how you would go about doing the job applied for. How many days did you lose from work (or school) during the past year (or other period of time)? Do you have a temporary disability that will require absence from work for an extended period? Statements that employment offer may be (is) made contingent on passing a medical evaluation.	Handicapped Discrimination Guidelines - Title VII Americans with Disabilities Act
11) Photographs	To request photographs before hiring. To take pictures of applicants during interviews.	None. Permissible to take <u>after hiring</u> for identification.	Title VII - Title IX
12) Physical Characteristics	Color of Eyes, Skin, hair.	Height and weight as a bona fide job qualification.	Title VII - Title IX
13) Education	Any question asking specifically for the nationality, racial or religious affiliation of a school.	Questions related to academic, vocational or professional education of an applicant including schools attended, degrees/diplomas received, dates of graduation and courses of study.	Title VII - Title IX
14) Military Status	Questions related to type of military discharge. Require Discharge Certificate before hiring, determine service in foreign country.	Questions related to applicant's work history. Questions related to applicants military experience and education in the Armed Forces of the U.S. or in a state militia (U.S.) as it would relate to a particular job.	EEOC Interpretation of Title IX
15) Organizations	To what organizations, clubs, societies and lodges do you belong? (See -LAWFUL INQUIRY-.)	To what organizations, clubs and lodges do you belong? Exclude those whose name or character indicates the race, religious creed, color, national origin or ancestry of its members.	Title VII - Title IX



SENSITIVE AREAS	UNLAWFUL INQUIRY	LAWFUL INQUIRY	FEDERAL GUIDELINE
16) Character, Arrests and Convictions	Have you ever been arrested? Data irrelevant to job. Conviction data irrelevant to job.	Have you ever been convicted of any crime? If so, when, where and disposition of case? Have you ever been convicted under any criminal law within the past five years (excluding minor traffic violations)? Any felony affecting state bonding or licensing related to job?	Title VII
17) Work Schedule & Traveling	Any question related to child care, ages of children, or other subject which is likely to be perceived by covered group members, especially women, as discriminatory.	Do you have any family, business, or social obligations that would prevent you from working consistently/working overtime/traveling?	Title VII
18) Relocation	Any questions related to spouse's attitudes or other subject which is likely to be perceived by covered group members, especially women, as discriminatory.	Do you have any family, business, or social obligations that would prevent you from relocating? Would you be willing to relocate?	Title VII
19) Creditor/ Garnishment	Refusal to hire on basis of poor credit rating.	As job related.	Title VII
20) Political Affiliation	What political party are you affiliated with? Who did you vote for in the last local/national election?	None	Title VII
21) Union Membership	Do you support unions? Have you ever been a member of a union? Would you ever go on strike?	None	Title VII
22) Miscellaneous	Any inquiry that is not job-related or necessary for determining an applicants potential for employment.	Statement or notice to applicant that any misstatements or omissions of significant facts in written application forms or in an interview may be cause for dismissal.	Title VII - Title IX