



MEMORANDUM

Office of the City Attorney

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TO: Mayor and City Commissioners **DATE:** November 6, 2020

FROM: Nicolle M. Shalley, City Attorney *NMS*

SUBJECT: FY19-20 Performance Report for the Office of the City Attorney

The following information is provided to assist you in evaluating my performance as City Attorney for the fiscal year period from October 1, 2019 to September 30, 2020. If you would like to discuss my performance prior to your public discussion of Charter Officer evaluations currently scheduled for a City Commission Special Meeting on December 9, 2020, please give me a call or schedule a meeting directly through Outlook, whenever I am available. In addition, at anytime throughout the year if you have questions regarding the work performance of this Office, I welcome your call or email. I look forward to another year of service as your City Attorney.

ROLE, RESPONSIBILITIES and PROFESSIONAL OBLIGATIONS OF THE OFFICE OF THE CITY ATTORNEY

To properly evaluate my performance, it is important to understand the role and responsibilities of the Office of the City Attorney. This Office serves as in-house corporate counsel to our sole client - the City of Gainesville, a municipal corporation comprised of two primary business units referred to as "General Government" and "Gainesville Regional Utilities."

This Office has an integral, but supporting, role in many of the functions and business activities of our client. I characterize it as a supporting role, not to minimize the importance or necessity of our services, but because it is not the function or role of this Office to set or implement policy, to administer and enforce the City Code, to make business decisions or manage City contracts. For the most part, this Office does not self-generate our workload. We are a service provider to our client with two primary roles, advisor and advocate.

It is also important to understand the professional obligations that govern our conduct as attorneys licensed by the Florida Bar. In particular, each attorney in this Office is personally responsible for observing the Rules of Professional Conduct and may be disciplined for failure to do so. The Rules of Professional Conduct require that, as advisor, we must exercise independent professional judgment and render candid advice to our client, and, as advocate, we cannot bring or defend a proceeding, or assert or controvert an issue therein, on behalf of our client, unless in our opinion there is a basis in law and fact for doing so.

PRIMARY and CORE OBJECTIVES OF THE CITY ATTORNEY

The primary objective I have set for this Office is to provide timely, competent and diligent legal counsel to our client in an efficient and cost-effective manner, thereby assisting and

supporting our client in bringing projects and programs to fruition, in running the business units they manage and in achieving their objectives and strategic initiatives and in defending and pursuing claims and litigation on behalf of the City. I review the performance of this Office in terms of the following core objectives:

Core Objective	Notable FY2019-2020 Achievements
<p>How did we perform as advocate in all levels of court and administrative proceedings, including the preparation of documents and oral arguments before the judicial body? Did we work effectively with Risk Management and other departments to investigate and evaluate all claims as necessary to determine those that warrant settlement and those that should be litigated in the best interest of our client?</p>	<p>Provided representation for our client in approximately 256 cases and claims, primarily these involve:</p> <ul style="list-style-type: none"> • Labor and employment issues; • Personal injury and other torts; • Police liability; and • Construction and other contract disputes.
<p>How did we perform as advisor in public meetings held by our client? Did we provide meaningful responses to legal questions from our client, without disclosing attorney client privileged information or legal strategy? Were we adequately prepared to address the matters that were on the agenda?</p>	<p>Provided legal counsel at regular and special meetings and workshops held by the City Commission, Audit and Finance Committee, General Policy Committee, Digital Access Committee, City Charter Review Commission, Utility Advisory Board, Development Review Board, City Plan Board, Historic Preservation Board, Parking Board of Appeals, Canvassing Board, Human Rights Board, Tree Board of Appeals, Fire Safety Board of Adjustment, and Board of Trustees for the General Employees Pension Plan.</p>
<p>How did we perform as advisor in transactional and regulatory matters, including our availability for meetings with our client, responding to requests for legal guidance, review/preparation of contracts and other legal documents and preparation of ordinances?</p>	<p>Prepared and submitted 55 ordinances and reviewed numerous resolutions.</p> <p>Reviewed and/or drafted agreements and responded to requests for legal services and assisted our client with contract negotiations and resolution of disputes.</p>
<p>Did we clearly communicate our independent legal opinions and concisely frame legal issues to assist our client in evaluating particular courses of action and understanding the consequences of such action? Were our opinions based on current law and did we advise how changes in the law affect our client's business?</p>	<p>Provided legal opinions to staff, Charter Officers, City Boards and the City Commission on a wide variety of matters, including significant effort in following and advising on all matters related to the COVID-19 Pandemic.</p> <p>Conducted training and provided legal guidance on topics of interest, including: new Commissioner orientation; board trainings; GPD training; and advised city staff of changes in the law and developing court cases.</p>

<p>Did we provide legal services in a professional and ethical manner by practicing law in accordance with our Code of Professional Responsibility, the Code of Ethics for Public Officers and Employees, and the City's Personnel Policies and Procedures? Did we participate in educational events and associations to stay informed of developments in the law and maintain a network of professional relationships?</p>	<p>Five attorneys (including the City Attorney) maintained their Florida Bar Board Certification in City, County and Local Government Law. As such, we are recognized as "Specialists" or "Experts" in this area of law. Several attorneys serve as officers and leaders in local and state bar organizations and I serve on the Executive Board of the Florida Municipal Attorneys Association. Three legal assistants maintained professional legal assistant/paralegal certifications.</p>
<p>Did I provide proper management of the Office by operating within budget and by maintaining a professional staff (and retention of outside counsel) to provide legal services that meet the needs of our client?</p>	<p>Operated well within the budget approved by the Commission for this Office and was able to accommodate a City Management request to transfer a vacant FTE for their use. Retained and oversaw outside counsel to respond to excess workload demand and/or handle specialized matters for which we lack in-house expertise.</p>