



LEON COUNTY ATTORNEY



Herbert W. A. Thiele

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Herb Thiele was selected by the Board in 1990 to create the County's first in-house legal department and has served Leon County for over twenty-five years. Under Thiele's leadership, the office continues to remain small but extremely efficient, with only 5 lawyers handling the legal affairs of Leon County, Florida.

In addition to being active in several state and national organizations that serve local government lawyers and advance the interests of local government law, Thiele has presented lectures or published articles on many local government law topics, including the Sunshine Law, the Open Records Law, and the Honest Services Act and Ethics. He serves on the Board of Directors for both the Florida Association of Counties Foundation and the International Municipal Lawyers Association, and will be installed as President of IMLA in October 2015.

Thiele leads a team of skilled professionals who provide high-quality, timely and cost-effective legal representation to the Board and other officials of Leon County.

SERVING THE LEGAL NEEDS OF LEON COUNTY GOVERNMENT

Legal matters from this past year that are of particular note include the following:

- *2015 Fire Rescue Services Assessment* – Provided legal support in bringing this matter to the Board for consideration, including preparing the various resolutions necessary to adopt the fire rescue services assessment and amending the Interlocal Agreement to adopt the rate study.
- *2020 Local Government One-Cent Infrastructure Surtax Extension* – Prepared the referendum ordinance, subsequently approved by the Board, thereby placing this issue on the November 4, 2014 ballot. Once the Leon County voters approved the extension of this surtax, we were able to begin working with the City and drafted the necessary Interlocal Agreements to provide for funding and construction of the additional 29 Blueprint 2020 Infrastructure Projects, Economic Development Programs, and Liveable Infrastructure For Everyone (L.I.F.E.) Projects.
- *Joseph A. Childs, Jr. and Lori Owen v. City of Tallahassee and Leon County, Florida – Fire Rescue Services Special Assessment* – This class action lawsuit challenges the validity of Leon County's fire rescue services assessment and the City's ability to collect same via utility bills. Plaintiffs' Third Amended Complaint was served on Leon County on July 29, 2013, and the County Attorney's Office continues to work with the City Attorney's Office in the defense of this matter. On July 7, 2015, a hearing on class certification was held. The Court is required to first determine the appropriateness of the class, before the parties go to trial on the merits of the claims related to the constitutionality of the fire rescue services assessment. We are awaiting the Court's decision on the class certification.
- *Thelma Crump and Keep it Rural Coalition vs. Leon County and William Glen Brown* – Provided legal support throughout

this matter, which began in May 2014, with a challenge to the Development Support and Environmental Management's preliminary approval of a gas station / convenience store near the intersection of Crump Road and Miccosukee Road. The parties entered into mediation and subsequently a Settlement and Forbearance Agreement, which required the County to consider and adopt amendments to the Land Development Code and the Comprehensive Plan. In 2015, the Board amended the Land Development Code to specifically prohibit gasoline service stations, fuel oil dealers, and liquefied petroleum gas dealers on all property designated "Rural." Subsequently, the Board also adopted amendments to the Comprehensive Plan Rural FLU designed to protect and enhance rural areas, allowing agriculture, silviculture, and natural resource-based uses while continuing to note that residential development is limited to one dwelling unit per 10 acres.

- *Horseshoe Plantation Restoration Agreement* – Our office worked with Development Support and Environmental Management staff to negotiate and enforce a Restoration Agreement to restore several acres of wetlands that were destroyed by a property owner. After several months of negotiation, an Agreement was reached and litigation was avoided.
- *Engelhard/BASF Facility* – Significant nutrient contamination coming from the BASF facility near Attapulgus, Georgia, flows into Lake Talquin. County staff worked with representatives of the United States Environmental Protection Agency to address Leon County's efforts to resolve the pollution; the EPA invoked jurisdiction over the BASF permit, removing the matter from the Georgia EPD's jurisdiction. This action was appealed by the Georgia EPD and BASF, and in order to be a participant in the decision-making process, Leon County has joined the appeal in support of the EPA. We are currently awaiting a hearing date. In the meantime, Leon County has worked with the Florida DEP

COUNTY ATTORNEY OFFICE HIGHLIGHTS



regarding its newly adopted nutrient standards to assure that Lake Talquin remains on the State’s Impaired Waterbodies List, and is now also working with DEP and the EPA in developing a nutrient loading limitation (TMDL) for Lake Talquin.

- *Wakulla Springs Basin Management Action Plan (BMAP)* – Coordinated County involvement in regional water quality initiative focused on reducing nitrate pollution to Wakulla Springs, and provided legal support during agency and stakeholder meetings that will result in significant policy formulation with long term impacts on capital expenditures and development patterns throughout the region. Resolution of the BMAP is still pending, with a further public hearing by the Department of Environmental Protection scheduled for August 31, 2015.
- *Kinhega Roundabout (Beech Ridge Trail Extension Project)* – Provided all legal support in assisting with acquisition of common area parcel owned by Killlearn Lakes HOA, including research and determination of how best to proceed to acquire HOA ownership interest and easement interests of all 4,200 HOA members and direct negotiation with HOA attorney to resolve the acquisition without need for a lawsuit. By negotiating settlement to avoid lawsuit, the project was able to be timely constructed during 2015 summer school break rather than delaying a full year until summer of 2016.
- *Gita Pitter Dam Removal in Killlearn Lakes* – Provided legal support to Public Works and Real Estate staff in this public/private partnership to alleviate flooding in Killlearn Lakes.
- *Reynolds v. Leon County Energy Improvement District (PACE)* – Continue to represent Leon County before the Court in a bond validation challenge by a private citizen to the issuance of up to \$200,000,000 in revenue bonds by the Leon County Energy Improvement District to implement the County’s Commercial



Did You Know

The County Attorney’s Office worked with outside counsel and County staff regarding the adverse economic effects Leon County experienced as a result of the Deepwater Horizon oil spill in 2010. On July 7, 2015, the Board of County Commissioners approved Resolution No. 15-23, “accepting a full and final settlement of all claims against BP and others resulting from the Deepwater Horizon Oil Spill...” Leon County’s share of the settlement proceeds is \$951,342, less fees and costs.

- PACE Program. This matter has progressed from the Circuit Court to the Supreme Court, where the County Attorney’s Office was successful in having counsel for the Appellant disqualified; and subsequently, oral arguments on the merits of the case were made in February 2015. A decision from the Court is pending.
- *Leon County v. Moragne; Leon County v. Gilmore* – In February 2015, Leon County filed Petitions for Orders to Assume Custody of Neglected, Mistreated, or Cruelly Treated Animals to gain custody of over a dozen severely neglected horses. Most of the horses were permanently removed from the Defendants’ custody and placed in foster care, and the Defendants were ordered to reimburse the County for costs incurred for the horses’ care.
- *Brian Trent vs. Leon County Animal Control* – Plaintiff filed an Amended Complaint that alleges Leon County Animal Control was negligent in its handling and transporting of the plaintiff’s two dogs and as a result is the cause of the death of the two animals. The County filed its Answer and Affirmative Defenses to the Amended Complaint on August 10, 2015. This matter will be before the Honorable Angela C. Dempsey.

- *Christopher M. Jenson v. Leon County, Florida . . . Sentinel Offender Services, LLC, et al.* – Plaintiff asserts various federal and state law claims, and among other things, alleges that as a result of utilizing faulty equipment provided by Defendant, Sentinel, he was falsely arrested, falsely imprisoned, and maliciously prosecuted. Sentinel provides GPS electronic monitoring services pursuant an Agreement with Leon County. This matter is in its early discovery stages.
- *Tactical Medical Program* – Worked closely with the Division of Emergency Medical Services and the Leon County Sheriff’s Office to create the Tactical Medical Program Agreement. The Program provides specialized pre-hospital emergency medical support to the Sheriff’s Special Weapons and Tactics Team (SWAT) during tactical operations, and the Agreement between the parties created the foundation of how the program would be established, operated and organized.

