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4 **ORDINANCE NUMBER 2023-12**

5
6 **AN ORDINANCE OF LEVY COUNTY, FLORIDA,**
7 **AMENDING THE CODE OF ORDINANCES OF LEVY**
8 **COUNTY, FLORIDA BY REPEALING SEC. 2-1 AND**
9 **CREATING A NEW ARTICLE IN CHAPTER 2 -**
10 **ADMINISTRATION TO GOVERN THE ACQUISITION AND**
11 **DISPOSITION OF PROPERTY BY THE COUNTY;**
12 **PROVIDING A SEVERABILITY CLAUSE; PROVIDING A**
13 **REPEALING CLAUSE; PROVIDING FOR INCLUSION IN**
14 **THE CODE AND PROVIDING DIRECTIONS TO THE**
15 **CLERK AND AN EFFECTIVE DATE.**

16
17 **WHEREAS**, Sections 125.35(1) and (2), Florida Statutes, limit and proscribe the
18 means (either to the highest bidder or, in limited circumstances to one or more of the
19 adjacent property owners) by which a Board of County Commissioners may dispose of or
20 lease real property that is owned by the County;

21
22 **WHEREAS**, however, as an alternative, Section 125.35(3), Florida Statutes,
23 allows a Board of County Commissioners to “by ordinance prescribe disposition
24 standards and procedures to be used by the county in selling and conveying any real or
25 personal property and in leasing real property owned by the county” provided those
26 standards and procedures address the minimum criteria set forth in the statutory section;

27
28 **WHEREAS**, Section 125.379, Florida Statutes, requires counties to identify county
29 owned lands that are appropriate for use as affordable housing, to maintain an inventory
30 of such lands and to adopt best practices for surplus land programs; and

31
32 **WHEREAS**, pursuant to the foregoing statutory authority, this real property policy
33 is adopted to establish consistent standards to govern the County’s acquisition and
34 disposition of real property and personal property.

35
36 **NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners,
37 of Levy County, Florida, that:

38
39 **SECTION 1.** Sec. 2-1 titled “Sales of escheated lands” within Chapter 2, Article I is
40 deleted in its entirety.

41
42 **Chapter 2 – ADMINISTRATION**

43 **ARTICLE I - IN GENERAL**

44 **~~Sec. 2-1. Sales of escheated lands.~~**

1 ~~(a) Purpose. The purpose of this section is to establish the procedures and~~
2 ~~standards to sell and convey lands which have escheated to Levy County,~~
3 ~~Florida.~~

4 ~~(b) Procedures and standards.~~

5 ~~(1) The county shall annually conduct an auction of all lands that have~~
6 ~~escheated to the county.~~

7 ~~(2) The auction shall be conducted by appointed representatives of the~~
8 ~~county and the date of the auction shall be advertised in advance.~~

9 ~~(3) Each of the escheated parcels shall be offered for sale on a "bid basis"~~
10 ~~to all prospective purchasers.~~

11 ~~(4) The initial opening bid for each parcel shall be a minimum of \$200.00.~~

12 ~~(5) Each successful bidder shall pay the full purchase price by cash or~~
13 ~~certified funds prior to the close of the auction.~~

14 ~~(6) If any successful bidder fails to pay the full purchase price by the close~~
15 ~~of the auction the second highest bidder shall be notified and have 24~~
16 ~~hours within which to pay the full purchase price.~~

17
18
19 **SECTION 2.** A new Article VIII titled "Acquisition and Disposition of Property" and a new
20 Division 1 therein titled "Real Property Policy" is created within Chapter 2 to read as
21 follows.

22
23 **Chapter 2 – ADMINISTRATION**

24 **ARTICLE VIII. ACQUISITION AND DISPOSITION OF PROPERTY**

25 **DIVISION 1. REAL PROPERTY POLICY**

26
27 **Sec. 2-300. – Authority; Purpose; Scope; Procedures.**

28
29 This division shall be known and cited as the Levy County Real Property Policy. This
30 policy is adopted pursuant to the authority granted by F.S. §125.35(3) for the purpose of
31 establishing consistent standards to govern the acquisition or disposition of interests in
32 real property by the county. This policy does not preempt, limit, or restrict the county's
33 ability to acquire or dispose of real property pursuant to other processes authorized by
34 state or federal law, such as foreclosure, tax deed or eminent domain.

35
36 The board may, by resolution, adopt asset policies or procedures to provide further
37 guidance on real property inventory, control, transaction approval levels and such other
38 matters as the board deems necessary. In addition, the administrator (defined below)
39 may establish written procedures and forms as necessary to administer this policy. All
40 such procedures must be consistent, and not in conflict, with the provisions of this
41 policy, board resolutions (if any) and applicable state and federal law.

42
43 **Sec. 2-301. – Definitions.** The following words have the meanings set forth below
44 whenever they appear in this division, unless the context clearly indicates otherwise:

1 Acquisition means the process of obtaining legal title or other interest or estate in real
2 property to serve a purpose of the county, whether by purchase, gift, dedication, devise,
3 lease, lease-purchase, or other means.

4
5 Administrator means the county attorney, or designee, who shall administer this policy
6 and coordinate the process for all acquisition or disposition of real property for the
7 county, with the assistance and input of the county coordinator. The administrator has
8 no approval authority for any acquisition or disposition.

9
10 Affordable housing means housing that meets the definition of “affordable” set forth in
11 F.S. §420.0004.

12
13 Appraisal means a written report providing an opinion of market value of real property
14 that is prepared by a Certified Residential Appraiser or a Certified General Appraiser, as
15 appropriate to the type of property, who holds an active license issued by the Florida
16 Department of Business and Professional Regulation.

17
18 Board means the Board of County Commissioners of Levy County, Florida.

19
20 Closing means the time and place for the exchange of documents and tender of
21 payment to finalize the acquisition or disposition of real property.

22
23 Competitive process means disposing of real property by a method that is open and
24 fosters competition.

25
26 County Coordinator means the chief administrative official of the county.

27
28 Dedication or dedicated means the conveyance of rights to real property to the county
29 for public use (such as public right-of-way, public parks, public utilities or drainage),
30 together with acceptance by the county, as evidenced by the county’s approval of and
31 signature on a map, plat or other document in accordance with general law. This term
32 also includes rights that the county claims by presumed dedication in accordance with
33 F.S. §95.361 or other law.

34
35 Deed means an instrument of conveyance intended to pass title to real property,
36 generally in one of the following three forms: (1) County deed – the form of deed
37 authorized by F.S. §125.411 that conveys only the interest of the county without
38 warranties or covenants of title; (2) Special Warranty Deed - conveys title from the
39 grantor free from encumbrances and with defense of title as to claims of superior title
40 arising by, through or under the grantor only; and (3) Warranty deed - conveys title from
41 the grantor free from encumbrances and with defense of title as to all claims of superior
42 title.

43
44 Disposition means the process of conveying legal title or other interest or estate in real
45 property from the county to a another party, whether by deed, lease, license or other
46 means.

1
2 Public right-of-way means real property (including the surface, the air space over the
3 surface and the area below the surface) that is conveyed or dedicated to the county for
4 public use as a highway, road, street or alley, regardless of whether the county
5 improves and/or maintains such area.

6
7 Real property or property means land, buildings, fixtures and all other improvements to
8 the land.

9
10 Surplus means real property which no longer serves a public purpose, or is in excess of
11 the county's needs, or the disposition of which would serve a county purpose (such as
12 for a county project), or the disposition of which would serve a greater public purpose
13 than the retention of the property by the county (such as for economic development or
14 the provision of community services.)

15
16 Vacation or vacate means the release or abandonment of public rights in real property.

17
18 **Sec. 2-302.- Inventory of real property.**

19
20 (a) For purposes of this policy, the county shall compile and maintain a written
21 inventory of all real property in which the county holds an interest. The inventory
22 should (if such information is readily available) identify each property by parcel
23 identification number, address/approximate location, size, how/when acquired,
24 and the current use and/or proposed future use of the property by the county.

25
26 (b) The county coordinator or designee should review the inventory periodically to
27 identify any property that is appropriate for surplus. In addition, to comply with
28 F.S. §125.379, at least once every 3 years, the county coordinator or designee
29 shall review the inventory to identify any property that is appropriate for surplus
30 specifically for use as affordable housing. Any property that is identified as
31 appropriate for surplus will be placed on a board agenda for a public hearing and
32 resolution in accordance with sec. 2-303.

33
34 **Sec. 2-303.- Declaration of surplus real property.**

35
36 (a) Presentation of request. A request to surplus real property owned by the county
37 must be presented as an agenda item, by county staff or by a county
38 commissioner, at a regular or special meeting of the board so the public has
39 reasonable notice of the request by reviewing the written agenda.

40 (b) Adoption of resolution. After hearing the request, if the board desires to declare the
41 real property as surplus, the board shall direct the county attorney to prepare a
42 resolution for that purpose. The resolution shall be submitted as an agenda item
43 on a future regular or special meeting of the board so the public has reasonable
44 notice of the intent to surplus and dispose of the property by reviewing the written
45 agenda. If the disposition of the surplus property will be non-competitive to serve a
46 particular public purpose, the resolution shall include the additional requirements

1 set forth in sec. 2-304 below. If the disposition will be by competitive process (refer
2 to sec. 2-305), the resolution shall include the location and a legal description of the
3 surplus real property and specific terms or conditions, if any, that the board will
4 require in connection with the disposition.

5
6 **Sec. 2-304.- Non-competitive disposition of surplus real property to serve a**
7 **particular public purpose.**

8
9 **(a) Exchange of property to serve a county purpose in accordance with F.S. § 125.37.**

10 The resolution shall identify the properties being exchanged (by location and legal
11 description) and the basic terms and conditions of the exchange. As required by
12 F.S. § 125.37, the administrator shall provide public notice of the date, time and
13 location of the meeting at which the board will consider adoption of the resolution
14 by publication once a week for at least two weeks in a newspaper of general
15 circulation published in the county.

16
17 **(b) Disposition to serve a county project.** The resolution shall identify the county
18 property and the county project, describe how disposition of the property will serve
19 the county project, identify the person or entity that will acquire an interest in the
20 county property, state whether that person or entity is authorized to make other use
21 of the county property or whether use of the property is limited to the county project.

22
23 **(c) Disposition to another governmental entity or non-profit entity to serve a public**
24 **purpose in accordance with F.S. § 125.38.** The resolution shall identify the
25 governmental or non-profit entity, describe the use the entity will make of the
26 surplus property and how that use serves the public or community interest and
27 welfare, identify the consideration provided by the entity and, if disposition will be
28 by lease, state the term of the lease.

29 **(d) Disposition to serve economic development purposes.** As authorized by F.S. §
30 125.045, the board may dispose of surplus real property at below-market rates
31 and/or for other good and valuable consideration for economic development
32 purposes, which include, but are not limited to, attracting, retaining and expanding
33 businesses that create jobs in the county, expand the county tax base and enhance
34 and expand economic activity in the county in measurable ways. The resolution
35 shall identify the business entity, the use the business will make of the surplus
36 property and the consideration provided by the business. The county coordinator
37 or designee shall include such dispositions in the annual report of economic
38 development incentives that must be provided to the state per F.S. § 125.045.

39 **(e) Disposition for affordable housing.** In accordance with F.S. §125.379, the
40 resolution must include the address/approximate location and legal description of
41 each property and must specify whether the property is vacant or improved.
42 Property that is surplus specifically for affordable housing may be offered for sale
43 and the proceeds used to purchase land for the development of affordable housing
44 or to increase the local government fund earmarked for affordable housing, or the
45 property may be leased or sold with a restriction that requires the development and

1 maintenance of affordable housing, or the property may be sold at less than market
2 value or donated to a nonprofit housing organization for the construction of
3 permanent affordable housing, or otherwise disposed of for the production and
4 preservation of permanent affordable housing. The list of surplus property that is
5 available for affordable housing, if any, must be posted on the county website to
6 encourage potential development.

7
8 **Sec. 2-305.- Competitive disposition of surplus real property.**
9

10 (a) Request for proposals or an invitation to bid. Any surplus property may be
11 disposed of by a request for proposals or invitation to bid that is noticed by
12 publication once a week for at least two weeks in a newspaper of general
13 circulation published in the county and is posted on the county website. The board
14 shall determine the highest and best respondent, whether based on price alone (for
15 a bid) or based on the particular use, terms and conditions that the board
16 determines most advantageous to the county (for proposals), or the board may
17 reject all responses.

18 (b) By sale to an adjacent property owner in accordance with F.S. § 125.35(2). When
19 the board makes findings in the surplus resolution that: (a) a property is
20 undevelopable or unusable because of its small size, configuration, environmental
21 features or other reasons; or when the just (market) value of the property is
22 \$15,000.00 or less as determined by the Levy County Property Appraiser; and (b)
23 due to the size, shape, location and value of the property it is most suitable for use
24 by an adjacent property owner, then the administrator shall send written notice of
25 the available surplus property to all adjacent property owners by certified mail. If,
26 within 3 weeks after mailing such notice:

27 (1) Only one adjacent property owner responds with interest in purchasing the
28 property, then the county coordinator or designee may negotiate and is authorized
29 to execute a contract with that property owner; or

30 (2) Two or more adjacent property owners respond with interest in purchasing the
31 property, then the administrator shall request and accept sealed bids for the parcel
32 from those property owners. The county coordinator is authorized to execute a
33 contract with the highest bidder or may reject all bids; or

34 (3) No response is received from any adjacent property owner, then the county may
35 retain the property or may dispose of it by another method.

36 Any sale of an undevelopable/unusable property to an adjacent property owner
37 must be conditioned upon recording of a declaration of unity of title (as described in
38 sec. 50-776) at closing to ensure the undevelopable/unusable surplus parcel is
39 eliminated by unification with the adjacent parcel.

40 (c) By listing with a licensed real estate broker. Any surplus property may be listed for
41 sale with a licensed real estate broker on such minimum terms and conditions as
42 the board determines in the surplus resolution. The county shall secure the services
43 of licensed real estate broker(s) either by a competitive procurement, or by rotation

1 among all licensed real estate brokers maintaining a real estate office in the county
2 that is open for regular business hours. Offers received by the broker must be
3 submitted to the administrator on the form of contract approved by the county. The
4 administrator shall review offers received and present those that meet the minimum
5 terms and conditions to the board. The board may accept or reject any or all offers.

6
7 **Sec. 2-306.- Requirements for Disposition.**

8
9 (a) Contract; Closing; Conveyance. Disposition of real property by the county
10 requires a written contract (such as a purchase and sale agreement, a lease or a
11 license) that sets forth the terms and conditions for the transaction. The contract
12 must be approved by the board and by the county attorney as to form and legal
13 sufficiency. In the case of fee title disposition, conveyance shall be made by the
14 form of deed authorized in F.S. §125.411 and the deed shall contain a statement
15 regarding the reservation or release of sub-surface rights. The chair of the
16 county commission, or in their absence the vice chair, is authorized to sign all
17 necessary closing documents. Alternatively, for any particular transaction, the
18 board may authorize the county coordinator to sign the closing documents.

19
20 (b) Reservation and release of sub-surface rights. Unless the county expressly
21 chooses not to reserve such rights, in all contracts and deeds for the sale of land
22 by the county, F.S. §270.11 automatically reserves to the county a three-fourths
23 interest in, and title to, all the phosphate, minerals, and metals and an undivided
24 one-half interest in, and title to, the petroleum in, on or under the land together
25 with the privilege to mine and develop same. The county hereby expressly
26 chooses not to reserve the F.S. §270.11 rights when it is conveying fee title to
27 property that is zoned RR, R-1, R-2, RR-3C or RMU; or property that is 10 acres
28 or less in size (regardless of the zoning designation). With respect to all reserved
29 rights, the board may consider release of those rights upon receipt of a written
30 request from the purchaser or, if for a prior conveyance, from the current fee title
31 owner with a statement of reasons justifying such sale or release.

32
33 (c) Proceeds from park property. Pursuant to F.S. §95.36, proceeds from the sale of
34 property dedicated to the county for park purposes shall be used for park
35 purposes.

36
37 **Sec. 2-307.- Requirements for acquisition of real property.**

38
39 Except for property acquired by procedures set forth in state or federal law, such as
40 eminent domain, tax deed, escheatment or foreclosure, the following procedures govern
41 acquisition of real property by the county.

42
43 (a) Request for acquisition. Any county commissioner, the county coordinator or county
44 department head may request the board approve the acquisition of real property. Upon
45 hearing such request, if the board finds that acquisition of the property will serve a

1 county and/or public purpose, they may, by motion, direct staff to proceed with the
2 acquisition.

3
4 (b) *Contract.* Acquisition of real property by the county requires a written contract (such
5 as a purchase and sale agreement, a lease or a license) that sets forth the terms and
6 conditions of the transaction. The contract must be approved by the board and by the
7 county attorney as to form and legal sufficiency. The chair of the county commission, or
8 in their absence the vice chair, is authorized to sign all necessary documents for
9 transactions approved by the board. Alternatively, for any particular transaction, the
10 board may authorize the county coordinator to sign the documents.

11
12 (c) *Due Diligence; Closing; Conveyance.* The county shall conduct due diligence for
13 each acquisition as deemed appropriate by the board and/or county coordinator. Due
14 diligence may include, but is not limited to, an appraisal, an environmental assessment
15 for property with known or suspected environmental contamination or issues, a survey;
16 and an owner's policy of title insurance for all fee title acquisition by the county. In the
17 case of fee title acquisition, the closing and title agent shall be selected by the county
18 and conveyance shall be by general warranty deed or special warranty deed.

19
20 **Sec. 2-308. - Acquisition or disposition of property purchased with state or**
21 **federal funds**

22 In the event that state, federal or other grant funds are used by the county for the
23 acquisition or improvement of real property, the county shall satisfy all requirements
24 governing the use of such funds. In the event of conflict between grant requirements
25 and this policy, the grant requirements shall control.

26
27 **Sec. 2-309.- Vacation of public rights-of-way or public places.**

28
29 Upon request of an abutting property owner, request of the state or federal government,
30 or upon the county's initiative, public rights-of-way or public places may be vacated by
31 the board in accordance with state law, including without limitation F.S. §§ 95.36,
32 336.09, 336.10. In vacating such property, the county does not convey title, it merely
33 releases the public interest in and to the property that is held by the county, with title
34 passing by operation of law. The process for vacate is as follows:

35
36 (a) *Preliminary staff review.* The person or entity (i.e., abutting property owner, state or
37 federal government, or the county) requesting the vacate must submit a request for
38 preliminary staff review to the county road department on the form provided by the
39 county. County staff from the road, planning and zoning and engineering departments
40 will conduct a preliminary review to determine if it is appropriate to vacate such property
41 (e.g., the property is not required for access to other properties, it is not maintained by
42 the county, it is not foreseeably needed to complete a gridded road network). If county
43 staff finds it is not appropriate to vacate, the county road department will notify the
44 requester in writing that the request is denied. If staff finds it is appropriate to vacate,
45 the county road department will notify the requester to submit a complete petition on the
46 form provided by the county for board review.

1
2 (b) Complete petition; resolution setting public hearing. Upon receipt of the complete
3 petition, including payment of the fee set forth in Appendix B, the county road
4 department will request the administrator prepare an initial resolution that sets the date,
5 time and place for a public hearing to be held by the board to consider the advisability of
6 vacating the public right-of-way or public place. The county road department will submit
7 the initial resolution as an agenda item for a regular or special meeting of the board.

8
9 (c) Notice of the public hearing. If the board approves the initial resolution setting the
10 public hearing, notice of the hearing shall be given as follows:

11
12 (1) Mailed notice to surrounding property owners. The petitioner is responsible
13 for providing written notice of the public hearing that includes a copy of the
14 adopted initial resolution, via certified mail postmarked at least 15 calendar days
15 prior to the date of the public hearing to all real property owners whose property
16 lies within 500 feet of the property proposed to be vacated. Addresses for mailed
17 notice must be obtained from the county property appraiser's current ad valorem
18 tax records. The petitioner must provide copies of the postmarked certified mail
19 receipts to the county road department and failure to do so will result in
20 cancellation of the public hearing.

21
22 (2) Mailed notice to utility companies. The petitioner is responsible for providing
23 written notice of the public hearing that includes a copy of the adopted initial
24 resolution, via certified mail postmarked at least 15 calendar days prior to the
25 date of the hearing to all utility companies (such as electric, phone, gas) in the
26 immediate vicinity. The petitioner must provide copies of the postmarked
27 certified mail receipts to the county road department and failure to do so will
28 result in cancellation of the public hearing.

29
30 (3) Published notice. The administrator will publish notice of the public hearing,
31 one time at least two weeks prior to the public hearing, in a newspaper of general
32 circulation in the county.

33
34 (d) Public hearing; resolution approving vacate. The administrator will prepare a final
35 resolution to vacate for the board to consider at the public hearing. This final resolution
36 shall identify the property that is being vacated, any rights retained by the county and
37 any terms or conditions of the vacate. The county road department will submit the final
38 resolution as a public hearing agenda item for the meeting date and time specified by
39 the board in the initial resolution.

40
41 (e) Notice of adoption of the resolution to vacate. If the final resolution to vacate is
42 adopted by the board, the administrator shall publish notice of adoption, one time within
43 30 days following adoption, in a newspaper of general circulation in the county.

44
45 (e) Recording of final resolution. The clerk to the board will record the adopted final
46 resolution, together with proof of publication of the notice of the public hearing and proof

1 of publication of the notice of adoption of the final resolution to vacate, in the official
2 records of the county.

3
4 **Sec. 2-310 to 3-319. Reserved.**

5
6
7 **SECTION 3.** A new Division 2. titled “Tangible Personal Property” is created within
8 Chapter 2, Article VIII to read as follows.

9
10 **Chapter 2 – ADMINISTRATION**
11 **ARTICLE VIII. ACQUISITION AND DISPOSITION OF PROPERTY**
12 **DIVISION 2. TANGIBLE PERSONAL PROPERTY POLICY**

13
14 **Sec. 2-320. – Authority; Purpose; Scope; Procedures.**

15
16 The county shall inventory, control, acquire and dispose of tangible personal property
17 owned by the county in accordance with F.S. Ch. 274 titled “Tangible Personal Property
18 Owned by Local Governments” and in accordance with such asset policies or
19 procedures as may be adopted by resolution of the board.

20
21
22 **SECTION 4.** Sec. 3 – Road Department within Appendix B -“Schedule of Fees, Rates
23 and Charges” is amended as follows. Except as amended herein, the remainder of
24 Appendix B remains in full force and effect.

25
26 **APPENDIX B – SCHEDULE OF FEES, RATES AND CHARGES**

27 **Sec. 3. – Road department**

28

1. Abandonment of right-of-way/road closure Note: Costs associated with public notification that are in addition to road posting and legal advertisement must be paid by <u>are the responsibility of the applicant.</u>	\$250.00 <u>500.00</u>
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29
30
31 **SECTION 5. Severability.** If any section, subsection, sentence, clause, phrase, portion
32 or provision of this ordinance is for any reason declared or held invalid or
33 unconstitutional by any court of competent jurisdiction, such section, subsection,
34 sentence, clause, phrase, portion or provision shall be deemed a separate, distinct and
35 independent provision, and the remainder of this ordinance shall be not affected by
36 such declaration or holding.

37
38 **SECTION 6. Repeal.** All ordinances or parts of ordinances and all resolutions or parts
39 of resolutions of Levy County that are in conflict with this ordinance are, to the extent of
40 the conflict, hereby repealed.

1 **SECTION 7. Inclusion in the Code.** The provisions of Sections 1 through 4 of this
2 ordinance shall become and be made a part of the Levy County Code, and the sections
3 of this ordinance may be renumbered or relettered and the word “ordinance” may be
4 changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in
5 order to accomplish the codification.
6

7 **SECTION 8. Effective Date.** In accordance with Section 125.66, Florida Statutes, the
8 Clerk to the Board of County Commissioners is directed to file this ordinance with the
9 Florida Department of State within 10 days after adoption and upon such filing, this
10 ordinance shall become effective.
11

12 **PASSED AND DULY ADOPTED** on December 19, 2023.
13

14 **BOARD OF COUNTY COMMISSIONERS**
15 **OF LEVY COUNTY, FLORIDA**
16

17 _____
18 Matt Brooks, Chair

19 ATTEST: Danny J. Shipp, Clerk of
20 the Circuit Court and Ex-officio Clerk to
21 the Board of County Commissioners
22

23 _____
24 Danny J. Shipp, Clerk
25

26 Approved as to form and legal sufficiency
27

28 _____
Nicolle M. Shalley, County Attorney