



WILTON MANORS HISTORICAL SOCIETY

HISTORICAL NOTES

DECEMBER 2017

CITY ATTORNEY ??? – 1984

By Benjamin Little
Wilton Manors Historical Society

William Miller, a graduate of the University of Florida, was admitted to the bar in 1950. In 1952, he was hired by the Village of Wilton Manors to be its attorney.

Miller built a home at what is now 732 NW 22nd Street. For many years Wilton Manors residents flocked to the Miller home during the holiday season to view the live 18-foot Christmas tree Bill Miller had shipped in for the enjoyment of his family and friends.

Miller drafted a charter to make Wilton Manors a city and with Village Council President James Dean carried the Articles of Incorporation to Tallahassee in 1953. They successfully lobbied the state legislature and Wilton Manors transitioned from a “village” to a “city” on June 4, 1953.

Miller guided the new city through the intricacies of securing the first bond issue for sewers, imposing the first ad valorem real estate taxes in 1957, and preparing numerous ordinances and land annexation documents. During his 30 years as City Attorney, Miller not only witnessed the city’s population grow from 1,500 to 12,000, he was instrumental in creating the legal infrastructure for this to happen.

After 30 years of service, Miller was fired at the first Council Meeting following the March 1982 election. The “New Guard,” newly elected Dave Turner and Diane Cline, joined by Jack Zeman probably perceived him as unrepentant “Old Guard.” There was a big mess about Pensions, and a number of other things. Mr. Miller probably came down on the “wrong” side. The new Council also had put City Administrator Tracy Stafford, Treasurer John Cuillo, and City Clerk Debbie Basone on probation. Morris “Cliff” Tucker was appointed City Attorney.

On March 13, 1984, there was another election for Council. “Old Guard” candidates Wayne Musgrave, and Marvin Bush won, joining James Grady on the Council. The Old Guard now had control of the Council. At the first Council meeting March 20th, Tucker was fired. The dynamics of the meeting were convoluted. Cline and Bill Turner voted against firing Tucker. There were pleas for unity from both Cline and Grady. Sam Stevens, who had run on a “ticket” with Grady, Musgrave, and Bush, had received more votes for Mayor than Robert DuBree, but had been ruled ineligible to run the day before the election. DuBree was Mayor. Tucker’s transgression was that he was involved in the lawsuit that prompted the judge’s ruling that Stevens was ineligible to run.

Grady, who had been expected to assume the position of President of the Council, nominated Diane Cline, who was elected.

There was a 3 – 2 split to not allow Tucker to pursue cases already under litigation. William Miller had been allowed to do so. Cooper City City Attorney Alan Ruf was selected, 5 – 0, to be interim

City Attorney, with his associate Christine Carsky. This interim appointment was good for a month until a new City Attorney was selected. An effort at unity was being made.

But!!! Mayor DuBree vetoed the resolution appointing Ruf and Carsky. DuBree maintained that because Tucker had not been terminated by Resolution, he had not really been terminated and was still City Attorney. Grady maintained that the Resolution appointing Ruf and Carsky automatically invalidated Tucker's contract. Everyone seemed to agree that there needed to be an attorney. Tucker agreed that he was still City Attorney, but that he had no intention of keeping the position.

At the Council meeting Tuesday, March 27th, Grady, Musgrave, and Bush passed a **Resolution** firing Tucker. They also voted to appoint James A. Cherof of the firm of Josias and Goren to be the new City Attorney. Cline and Turner voted against. They did not think the Council had given the selection enough deliberation. Mayor DuBree was undecided about vetoing the appointment. Cherof's liability was that he had represented Supervisor of Elections Jane Carroll in the lawsuit which ended up with Sam Stevens being ineligible to run for Mayor. City Administrator J. Scott Miller begged the Council to pick an attorney. There was to be action the following week on a former policeman's lawsuit over the pension plan. The next day, DuBree had not decided if he would veto Cherof's appointment.

Just before the deadline on Friday night, DuBree vetoed Cherof's appointment. Josias and Goren was a very large firm, representing a number of cities and other governmental entities. DuBree said that there would be inevitable conflicts of interest and, because they were so big, Wilton Manors would not get the attention it deserved. He also thought Cherof too young and inexperienced.

Grady promised to be in court Monday morning. He maintained that the Council was empowered by the City Charter to make "ministerial" resolutions, such as appointing a City Attorney, which would not be subject to veto by the Mayor.

There was an emergency Council meeting on Monday, April 2, to either uphold or overrule DuBree's veto. It would take four Council members to override the veto. Given the three to two divide, that was not going to happen. In a brilliant move, James Grady made a motion to table the entire question without discussion. It passed 3 – 2. By not discussing or voting on the veto, the Council denied the Mayor an acknowledgement by the Council that the right to veto was even an issue.

DuBree said that the lack of a vote confirmed that his veto stood. The next item on the agenda was to select a new City Attorney. This was also tabled and not voted on. Grady's rationale was that Cherof was already the City Attorney, why did there need to be further discussion? City Administrator, Miller was desperate for legal assistance at two upcoming trials and said he would use Cherof. Cherof said that he considered himself the City Attorney. It was his legal opinion that DuBree did not have the authority to veto his appointment. Grady maintained that there was a court ruling that said hiring and firing were executive functions of the council and were not subject to veto by the Mayor. DuBree said that the cited court case dealt with filling of a Council vacancy, not the hiring of an attorney.

Bill Turner left the meeting "confused." "I don't know whether we have a city attorney at this time or whether we don't have a city attorney." "Does [DuBree's] veto stand, or doesn't it stand?"¹ Diane Cline expressed similar sentiments.

¹ Ellen Stein, "Manors Mayor's Veto is Ignored," *Fort Lauderdale News* April 3, 1984

DuBree expected the City to bear his legal fees in filing a lawsuit over the veto. Grady said that he would have to convince the majority of the Council to support that. Diane Cline noted that Grady's actions were like watching the Howdy Doody puppet show. [Editor's Note: Finally, a rational assessment of what was going on!]

On April 11th, the *Miami Herald* headlined a small article, "Manors attorney issue drags on." It had been only 22 days since this had started.

At the Council meeting April 24, Grady made the motion not to pay Morris Tucker's last bill of \$7,389. Grady said that the City should not be paying for two attorneys. Tucker's associate, Tom Tighe, had appeared in court with Tucker on the same case. Tucker said that this had happened several times and there was nothing in his contract to prohibit it. There were arguments back and forth, which seemed less acrimonious than previous arguments. The meeting ended with no resolution.

On May 3rd, Mayor DuBree filed a suit asking a Broward County circuit judge to fire the City Attorney, James Cherof. DuBree wanted a legal opinion on what exactly his rights were. He also asked that he be reimbursed for his legal fees for the suit against Cherof, Grady, Musgrave and Bush. DuBree's attorney was Morris Tucker, who had been fired as City Attorney at the first Council meeting, March 20th.

On May 8th, the Council voted to hire an outside lawyer to defend themselves against DuBree's suit. DuBree's suit named Cherof, the City, Grady, Musgrave, and Bush. DuBree agreed. They hired Clark Cochran, a trial attorney and former member of the Broward County General Counsel's office, at \$85 an hour. The vote on the Council was 4 – 1, with Council President Diane Cline dissenting.

Resident Mimi Gewanter was quoted as saying, "The Ringling Brothers would be happy to have us in their program."²

Other work was being accomplished. Final approval was given to a measure which would regulate a number of public nuisances, including barking dogs. Residents were now limited to not more than four, although if they currently had more, the excess was "grandfathered." The Council also voted to pay Attorney Morris Tucker's bill in full.

On August 28th, there was a hearing in front of Broward Circuit Judge Mark Purdy on whether or not the Mayor had the right to veto the hiring by the Council of the City Attorney.

On September 13th, Purdy ruled that DuBree's veto of Cherof's appointment was "valid and lawful." Because the appointment of a City Attorney can only be accomplished by resolution or an ordinance, the Mayor may veto either. Cline and Turner said that they would support the court's ruling. DuBree said that he would ask the Council to appoint a City Attorney that all six of them could agree on.

But, Purdy announced that he would suspend his ruling, pending an appeal. Cherof was back. Miami Herald Staff Writer³, Justin Gillis led off an article, not an editorial with "The Wilton Manors City Council, which has fought a bruising six-month battle and sunk to near paralysis over whether it has a city attorney, learned Friday, it does – at least for now."⁴ But, it was not over. The estimated

² Justin Gillis, "Manors seeks help on lawsuit," *Miami Herald* May 9, 1984

³ Through out all the reporting on Wilton Manors excitement, the *Miami Herald* has seemed to have consistently had a better grasp of the complexities than the *Fort Lauderdale News/Sun-Sentinel*.

⁴ Justin Gillis, "City attorney back again in Manors feud," *Miami Herald*, September 22, 1984

legal bills for both sides totaled \$10,000. What would happen with Cherof? He was “attorney of record” in a number of City actions. Ironically, DuBree had run for Mayor pushing a City Charter change which would have weakened the power of the Mayor. Once in office (the Charter change had failed), Dubree took full advantage of his powers.

In March 1985, the Old Guard lost control of the Council. The election of November 1984 changed the separation of Mayor and Council, establishing the current Council (renamed Commission) structure, where the Mayor was a voting member, with no veto power. Cherof resigned and was replaced by Tucker, again. This in no way diminished the pending lawsuits.

In what may be perceived as a piece of irony, the current (2017) City Attorney is Kerry Ezrol, a member of the firm of Goren, Cherof, Doody & Ezrol, P.A.

The material on this site is made available solely for research, teaching, and private study. All images and written content should be considered © **Wilton Manors Historical Society** or another entity. **Any duplication, publication, or other re-use requires permission and appropriate attribution.** Please click on "CONTACT US" on the menu bar for further information. – City Attorney 1984.docx