

The above statutory provisions make no mention of the authority of a public defender to represent a person whose involuntary commitment as an alcoholic is sought. I can find no such authority in §§27.50-27.59, F. S.

Apparently, then, the legislature has not seen fit to authorize a public defender to represent an indigent whose involuntary commitment as an alcoholic is being adjudicated under §396.102, *supra*. This conclusion is in accord with previous opinions of this office that have held that the authority of a public defender to provide representation must be conferred by statute. Attorney General Opinions 073-111, 073-78, and 072-197. Therefore, in the absence of other statutory provisions to the contrary, a public defender has no such authority or responsibility to accept an appointment to provide such representation.

073-288—August 15, 1973

DUAL OFFICEHOLDING

ELECTED OFFICER SERVING ON ADVISORY COMMISSION

To: *S. Charles Adams, City Attorney, Pompano Beach*

Prepared by: *Victor Walsh, Assistant Attorney General*

QUESTION:

Does the dual-office prohibition of Art. II, §5(a), State Const., preclude a county tax collector, upon taking office, from continuing as a member of a municipal advisory zoning board?

SUMMARY:

Under the exception to the dual-office prohibition of Art. II, §5, State Const., a member of a municipal zoning board having only advisory powers may continue to serve as such after he is elected to a county office.

Article II, §5(a), State Const., contains both a prohibition and an exception thereto:

No person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein, except . . . *any officer may be a member of a . . . statutory body having only advisory powers.* (Emphasis supplied.)

The Pompano Beach City Charter, which derives from Ch. 57-1754, Laws of Florida, as amended, states that the zoning board is advisory in nature. The board members are appointed by the city commission. Section 214, Ch. 57-1754. The zoning board is authorized to disburse certain city funds on miscellaneous expenses but the board may only incur these expenses in accordance with the ordinances, rules, and regulations imposed upon it by the city commission. Sections 215 and 216, Ch. 57-1754. My understanding of the charter and ordinances is that the zoning board does not and cannot act unless and until the commission so directs it or until a private citizen petitions for a zoning change. When the board does act it merely gathers data and makes a recommendation to the commission.

In AGO 073-47 I determined that a municipal parks, planning, and zoning commission had only advisory powers and concluded that a member of such commission would fall within the exception to Art. II, §5(a), *supra*. The facts here are essentially the same as those presented in AGO 073-47, *supra*; and I am of the view that a like conclusion is required.

Accordingly, your question is answered in the negative.