CS060816

NOTICE

There will be a Special Meeting of the City Council of the City of Port St. Lucie on June 8, 2016, at 8:45 a.m., in Room #366, at Port St. Lucie City Hall, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida.

AGENDA

1. **MEETING CALLED TO ORDER**

2. **ROLL CALL**

3. **CITY COUNCIL SELECTION OF FINALISTS FOR THE POSITION OF CITY ATTORNEY AND FINALIZATION OF THE INTERVIEW PROCESS**

4. **PUBLIC TO BE HEARD**

5. **ADJOURN**

NOTICE: No stenographic record by a certified court reporter will be made of the foregoing meeting. Accordingly, any person who may seek to appeal any decision involving the matters noticed herein will be responsible for making a verbatim record of the testimony and evidence at said meeting upon which any appeal is to be based.

NOTICE: Public and Press are invited to review all the backup for Council Meetings. Copies are available in the City Clerk's Office and the Communication Department on Thursday, Friday, and Monday before Council Meetings. On Meeting nights, a copy of backup material is available in the Reception Area for public review. PLEASE LEAVE THE AGENDA BACKUP MATERIAL IN GOOD ORDER FOR OTHERS TO REVIEW.

NOTICE: Anyone wishing to speak during Public to be Heard is asked to fill out a yellow Participation Card and submit it to the City Clerk. Anyone wishing to speak on any Agenda Item is asked to fill out a green Participation Card and submit it to the City Clerk. Participation Cards are available in the meeting room, at the Reception Desk in City Hall lobby, and in the City Clerk's Office.

AS A COURTESY TO THE PEOPLE RECORDING THE MEETING, PLEASE SET ALL CELL PHONES TO SILENCE.

Port St. Lucie: City Attorney Semi-Finalists

MEMO

COLIN BAENZIGER & ASSOCIATES

TO: Mayor Oravec and Fellow Council Members

FROM: Colin Baenziger
(561) 707-3537 (cell)

DATE: May 20, 2016

RE: City Attorney Search – Recommended Candidates

We are recommending the City consider seven candidates for its City Attorney position. Each offers unique qualities. We suggest that the City interview four or five candidates. All seven of the candidates are briefly described below. We believe it is a very strong field of candidates and that the City will find an outstanding individual from among them.

- **Gary Glassman:** Mr. Glassman has worked with Garganese, Weiss & Agresta, P.A. (a highly regarded Central Florida law firm specializing in the practice of municipal law) from 2008 to 2016. He served as an Assistant County Attorney for Orange County (2001-2006) and as a Senior Assistant Attorney with the City of Tampa (2006-2008). Prior to that he worked with as a Partner in Glassman & Golden Norris, an Associate with Becker & Poliakoff, P.A. and Associate General Counsel for Fay's Drug Company. Mr. Glassman feels the most important attributes of a City Attorney are, "to listen to the commission, and understand what the commission is trying to accomplish," and "respond to the commission with a well-researched and thought out response in a timely and efficient manner." He also notes, "The city attorney should be available to department heads and other city officials to provide advice and guidance. The city attorney should be a leader, responsible to the city commission, always striving to make the city a better place for its residents." Mr. Glassman has his J.D. from Syracuse University College of Law and his B.A. from the University of Rochester.

- **Ramon Irizarri:** Mr. Irizarri currently has a private practice with his wife and partner in Miami-Dade County specializing in civil litigation in areas of workers' compensation, wrongful discharge, pension issues, wage and hour issues, real estate, contracts, and dissolution of marriage. Prior to that he served as the City Attorney of Sweetwater Florida for eleven years. He had a private practice in Miami (1985-1990) where he represented the City of Miami, and a private practice in New York (1980-1985). He also served as a Labor Attorney for the New York City Board of Education (1978-1980). He began his career as a professor "so supporting others and guiding them when necessary improves the whole and makes for strong teamwork." Mr. Irizarri feels that the strongest attributes of a City Attorney are honest, integrity, unyielding ethics, professionalism, being consistent and flexible at the same time, communication, and knowledge of the law. Mr. Irizarri has his J.D. from St. Johns School of Law, his B.A. (History) from Long Island University, and has completed graduate studies (Education, Administration and Supervision) at City College and the St. Johns University School of Education.

- **Gary K. Oldehoff:** Mr. Oldehoff has been a partner with Lewis Stroud & Deutsch since 2007. In this capacity he has represented the Florida League of Cities, the Palm Beach County Sheriff's Office, and several other municipalities in Florida. Prior to that he was the Assistant County Attorney for Sarasota County (2002-2007) and worked in the Martin County Attorney's (1989-2000) rising to the level of County Attorney. He was the Assistant County Attorney for Chesterfield County (1988-1989) and Miami-Dade County (1984-1987). Mr. Oldehoff believes that "a successful City Attorney is one who gives sound legal advice and counsel, and produces impeccable legal products that stand the test of time. The City Attorney must have an excellent analytical mind, and must be able to examine an issue or a problem from many different approaches and angles, like examining the facets of a diamond. A City Attorney must also be able to work with people, and be a good manager and administrator. A City Attorney must be above reproach. His or her actions reflect upon the city and those who chose him or her." Mr. Oldehoff earned his J.D. from the University of Virginia School of Law and his B.A. (History, Political Science, and Anthropology) from State University of New York. He has also completed graduate studies (Estate Planning) at the University of Miami School of Law.

- **O. Reginald Osenton**: Mr. Osenton offers a unique blend of legal and elected experience. While he has been in private practice since 1992, he has also served as the Mayor of Mitchell Heights, WV (2003-2004) and as the Town Attorney for Man, WV (1999-2003). His other local government experience includes serving as Board Counsel for the Logan County (WV) Economic Development Authority (1996-2000), Outside Counsel for the Logan County Board of Education (1997-2003), Chairman of the Logan County Deputy Sheriffs' Civil Service Commission (2002-2004) and Assistant Prosecuting Attorney for Logan County, WV (1992-1996). After law school, he served as a senior tax consultant with Ernst and Young (1989-1992). Mr. Osenton states, "the City Attorney's Office is a law firm with one client, and I would run it efficiently and effectively much in the same way I have run my successful law firms." He feels the four key attributes of a city attorney are: effective manager, knowledge of the law, integrity and responsiveness. He also believes in representing the interests of his client aggressively. Mr. Osenton has his J.D. from George Washington University's National Law Center and his B.A. in accounting from West Virginia University.

- **Philip Sherwin:** Mr. Sherwin worked for Polk County, FL, from 2003 to 2015, most recently serving as an Assistant County Attorney III. He also worked for the City of Cape Coral as an Assistant City Attorney from 1985 to 1989 and has sixteen years' experience in the private sector. While at Polk County, he supervised a paralegal and a secretary. In 2010 he became Board Certified in City, County and Local Government Law. When asked about litigation, he said, "As a Certified Circuit Civil Court Mediator, I understand the value of mediation. In handling lawsuits everything must be weighed with the City's best interest in mind, which entails a cost/benefit analysis as the matter progresses and a determination whether to settle or not. The City Attorney makes the recommendation to the City Commission, which ultimately determines how one proceeds with a lawsuit. In some cases, you may have a matter that will be particularly imperative to pursue to the end to deter others

from bringing similar actions, while in other cases you must go to trial when there is no reasonable basis to settle the matter. Litigation is both time consuming and expensive, which must be kept in mind at all times." Mr. Sherwin has his J.D. from Northern Illinois University and his B.A. (Psychology) from the University of Miami in Coral Gables.

- **James D. Stokes:** Mr. Stokes has been the City Attorney in Greenacres since 2015. He has also had a private practice since 2011 where he served various clients including local government. Prior to this he was the City Attorney for Palm Bay (2006-2011), the Interim City Attorney for West Melbourne (2006-2007), and the Assistant City Attorney for Pompano Beach (2002-2006). He was in the private sector from (1995-2002). He was the Deputy Sheriff for Riverside (1988-1992) and worked for the Police Department in China Lake (1980-1988) rising to the level of Sergeant. Mr. Stokes believes that "the most important aspect of being a City Attorney is remembering and maintaining my role in city government. The City Attorney's function is to provide legal advice and direction. The City Attorney should never get involved in the policy-making function of the Council, or the executive function of the Manager." Mr. Stokes has his J.D. from Southwestern University School of Law, his M.A. (Theology) from the University of Notre Dame, and his B.S. (Business & Management) from the University of Redlands.

- **John Turner**. Mr. Turner worked in the Lee County Attorney's Office from 1991 to 2015 rising to the level of Senior Assistant Attorney and Chief of Litigation. He is currently in private practice. Prior to serving Lee County, he was in private practice and also served as a Municipal Court Judge in Tulsa, OK. Mr. Turner believes that a successful City Attorney has "integrity; well-rounded knowledge of local government law with a common sense approach to solving problems; a team player who works well with elected officials and staff to protect the legal interests of the entity; a person who gives council members all legal options relating to the matter without stating his opinion on policy issues; and possess the highest level of professionalism, ethics, and dedication." Mr. Turner has his J.D. from the University of Tulsa College of Law and his B.S. (Business Administration) also from the University of Tulsa.

Next Steps

I will contact each of you to discuss the candidates either by phone or in a face-to-face meeting. We are scheduled to select finalists on May 25th and to interview candidates on May 31st. Later this week, I will provide a series of questions you may wish to ask the candidates at the interviews.

Reviewing Candidate Materials	1
Glassman, Gary M.	2
Irizarri, Ramon	3
Oldehoff, Gary K.	4
Osenton, O. Reginald	5
Sherwin, Philip N.	6
Stokes, James D.	7
Turner, John S.	8
Candidate Salaries	9

COUNCIL ITEM 3
DATE 6/8/16

MEMORANDUM

TO: VICE MAYOR & CITY COUNCIL
JEFFREY BREMER, CITY MANAGER
INTERIM CITY ATTORNEY
KAREN PHILLIPS, CITY CLERK
FROM: GREGORY J. ORAVEC, MAYOR GJO for GO
SUBJECT: SPECIAL MEETING OF JUNE 8, 2016
DATE: MAY 31, 2016

Pursuant to Section 3.10(a) of the City Charter, this memorandum serves to call a special meeting of the City Council on June 8, 2016, beginning at 8:45 AM, in Room 366. The meeting is being called to select the finalists for the position of City Attorney and to finalize the interview process.

For your convenience, please find the enclosed guide and email transmitting the guide from Colin Baenziger. In accordance with Mr. Baenziger's recommendation, I would ask that each councilperson be prepared to identify his/her top four to five candidates at the beginning of the meeting.

Thank you.

c: Colin Baenziger

[Disclaimer: A councilperson may send a written report to other councilpersons on a subject that will be discussed at a public meeting without violating the Sunshine Law, if prior to the meeting, there is no interaction related to the report among the councilpersons and the report, which must be maintained as a public record, is not being used as a substitute for action at a public meeting. However, another councilperson's response to such a report, which outlines his/her position, can be "problematical" and should be discouraged. Accordingly, this communication is being provided for your information only and should not initiate an exchange outside of the Sunshine. Any discussion or reply should occur at a duly noticed public meeting. (Source: Government-In-The-Sunshine Manual)]

Karen Phillips

From: Colin Baenziger <Colin@cb-asso.com>
Sent: Friday, May 27, 2016 3:39 PM
To: Greg Oravec; Linda Bartz; Michelle Berger; Shannon Martin; Ron Bowen
Cc: MaryAnn Verillo; Jeffrey Bremer; Daniel Holbrook
Subject: City Attorney Interview Process and Candidate Evaluation
Attachments: Evaluation Guide and Interview Questions - City Attorney.doc; Interview Schedule - Draft.xls

Please find attached a draft of the schedule I suggest you use for the interviews and that we have found works well over the years. Of course, if you would prefer a different approach, we can accommodate you. I will point out that we have a reception with the finalists on the schedule that is optional. Almost all our clients host a reception when hiring a city manager but many do not when hiring a city attorney.

I have also attached a copy of an evaluation guide you may find useful when you interview and assess the finalists.

If you have any questions, please do not hesitate to contact me at the number below.

I do hope you all have a great holiday weekend!

Best wishes!

Colin
@ Colin Baenziger & Associates
Cell: 561-707-3537

... Visit our website at www.cb-asso.com

Date to be determined: 5:30 p.m. to 7 p.m. Reception at a location to be determined. Note: This is optional depending on whether or not the Council feels it will assist in assessing the candidates. Some of our clients do and some do not.

Date to be determined: ***One-on-One Interviews at the City Hall***

Time	Oravec	Bartz	Berger	Bowen	Martin
8:45 a.m.	Coffee, tea, danish and fruit				
9:00 to 9:40 a.m.	Candidate #1	Candidate #2	Candidate #3	Candidate #4	Candidate #5
9:40to 10:20 a.m.	Candidate #5	Candidate #1	Candidate #2	Candidate #3	Candidate #4
10:20 to 11:00 a.m.	Candidate #4	Candidate #5	Candidate #1	Candidate #2	Candidate #3
11:00 to 11:10 a.m.	Break				
11:10 to 11:50 a.m.	Candidate #3	Candidate #4	Candidate #5	Candidate #1	Candidate #2
11:50 a.m. to 12:30 p.m.	Candidate #2	Candidate #3	Candidate #4	Candidate #5	Candidate #1

12:30 to 1 p.m.	Light lunch for candidates and Council Members

Special Meeting - Interviews with the Council as a Whole at City Hall

Time	Candidate
1:00 to 1:05 p.m.	Review procedures and decide the order of the candidate interviews.
1:20 to 3:50 p.m.	Candidate Inteviews*

* We suggest about 30 minutes per candidate but the Council should feel free to take as much or as little time as it feels it needs to properly assess the finalists.

Date to be determined ***Council selects its next City Attorney if it has not already done so.***

City Attorney

Evaluation Guide and Sample Questions

Prepared by:

Colin Baenziger & Associates
2055 South Atlantic Avenue • Suite 504
Daytona Beach Shores, FL 32118
Cell: (561) 707-3537

Evaluating Candidates

When evaluating candidates, it is important to consider them based on information from a number of sources. The first is the candidates' experience as presented in the written material they present (i.e., their resume and/or application for the position). The second is the background review (particularly the references) prepared by your consultant. The third is the actual interview of the candidate. No single source will give you the complete picture so all should be considered.

We have developed several sets of material to assist you in evaluating the candidates. They are briefly described in the following paragraphs.

The Evaluation Tool

The evaluation tool is a list of the key factors that make someone successful as a City Attorney. We recognize you are very successful people and may make decisions using very different approaches to the same issue. For example, some of the Council Members may wish to use it as a ranking sheet where each factor is given a score of 1 through 5, the scores totaled and the candidates ranked by the results. Alternatively, other members may wish to use it as a guide to the areas that should be considered and the result might be an overall impression of each candidate. These Council Members might then rank the candidates based on those impressions and not use numerical rankings. You should do whatever you are most comfortable doing.

It should be noted that when using the tool, the evaluation should be based on <u>all</u> of the following (and not just the interview): the interview, the candidate's experience as presented in his/her resume and introduction, and the background review the consultant has prepared (the references, news media and background checks). The Evaluation Tool follows on the next page.

The Interview Questions

These have been designed to follow the outline in the Evaluation Tool. It should be noted that not every factor listed on the Tool is addressed in a question. Some factors are best evaluated through the background reports. Others do not lend themselves to questions but are readily apparent in the interview (communications skills, for example).

Questions Not to Ask

Some areas should not discussed in an interview. These are described at the end of this package.

Candidate Evaluation Tool

Candidate: _____

Interaction Skills: Will the candidate interact well with the following groups:

- ☐ City Council
- ☐ Other Departments within the City Government
- ☐ Press
- ☐ Other governments

Administrative Skills: The candidate's experience:

- ☐ Preparing and managing a budget
- ☐ Managing professional and administrative staff
- ☐ Executing operational and strategic plans

Technical Skills: The candidate's experience in:

- ☐ Negotiating effectively generally
- ☐ Labor relations / union negotiations
- ☐ Employment / discrimination / Worker Compensation law
- ☐ Administrative law
- ☐ Trial litigation / Case management / Dispute resolution
- ☐ General contract law
- ☐ Environmental law
- ☐ Managing / overseeing complex litigation

Personnel and Managements Skills: Ability to

- ☐ Communicate well orally and in writing
- ☐ Select, develop and retain good staff
- ☐ Demonstrate a high degree of ethics
- ☐ Responsiveness

Candidate Evaluation Tool

Candidate: _____

Track record:

☐ Demonstrated successful management	
☐ Demonstrated ability to manage legal matters and trial litigation	
☐ Record supporting diversity	
☐ Reported to a Council?	
☐ Creativity	

Final Factors:

☐ How well you will work with the candidate.	
☐ How well the candidate will represent the organization	

Total _____

Notes:

Interview Questions

The following are the questions we at CB&A would ask if we were evaluating City Attorney candidates. They are in the same sequence as the Evaluation Tool. It should be noted that the first seven questions are focused on how the candidate will work with the Council. If he/she cannot do that well, nothing else will matter.

Interpersonal Skills

1. Tell us a little about yourself and why you are interested in this position. [This question is designed to help get the candidate comfortable.]

2. Describe the relationship a City Attorney should have with the City Council as a group and as individual members. Do you have experience working for a Council? How will you go about building a strong relationship with the Council Members? How will you maintain it?

3. Coming from your current position, what do you feel will be the three biggest challenges you will face in adjusting to the role of City Attorney of Port St. Lucie? How do you plan to address those challenges?

4. We are a five-member Council. We all have the best interests of the City at heart yet our opinions may differ widely on specific issues. Assume for a moment that you are asked to present a legal opinion on an issue where you know the Council Members are divided 2 to 2 with one member who is not expressing a position. Further, you also know the four members are all strong advocates for their respective positions. How do you handle the situation?

5. What information do you think the Council Members need concerning day-to-day operations of the City Attorney's Office and its on-going efforts?

6. How do you propose to keep Council Members informed so we are not surprised by any of the issues you are dealing with.

7. Tell us how you would handle a situation where we as a Council wants to pursue a course of action that your professional experience tells you is not prudent?

8. Tell us about your experience dealing with the press.

9. Some attorneys seem to be extremely cautious and protective of their Council. Others, while always ensuring the Council is on sound legal ground, are proactive and creatively seek legal means to carry out the Council's desires. Which kind of attorney are you and why? Provide an example of a situation where you found a creative approach to a legal problem.

10. What kind of relationship do you plan to have with the City's senior managers and how will you establish it? How do you hold them accountable for results?

Administrative Skills

11. Tell us about your experience overseeing the activities of groups with as many as eight administrative and professional employees.

12. Tell us about your experience preparing and managing budgets. Tell us about a situation when you had to reduce your budget by 10%. How did you do it?

13. Tell us about your experience developing and managing operational and strategic plans.

14. How will you go about identifying the City Attorney's Office's strengths, weaknesses, and opportunities for improvement? Once you have identified them, how will you go about making changes?

15. What role should performance evaluations play in the City Attorney's Office? How do you assess the performance of attorneys?

16. Tell us about the last person whose employment you terminated? What was the situation and what process did you follow? Have you been sued over the termination?

Technical Skills

17. The City Attorney's Office is responsible for providing support and advice to a wide variety of areas. These include: Growth Management; Environment; Facilities and Transportation; Finance and Information Technology; Personnel and Human Resources; Public Safety; Risk Management and Revenue Enhancement; and Water and Sewer Utilities. How much do you know about each of these areas and how will you render effective service as our City Attorney to these areas?

18. What is your experience dealing with employment discrimination and reverse discrimination law suits? What steps would you take to reduce the number of these suits?

19. What is your experience with "slip and fall" law suits? What steps would you take to reduce the number of these suits?

20. Tell us about your experience working and negotiating with unions?

21. Tell us about an experience you are particularly proud of where you negotiated on behalf of your organization with another party.

22. Tell us about your experience managing trial litigation.

23. We are looking for a City Attorney who can see "over the horizon" meaning can look into the future, anticipate what problems might occur and take actions that will prevent those

problems from occurring. Please give us an example of how you have done that in one of your past positions.

24. The following question is a hypothetical and has not happened here in Port St. Lucie. Assume a department director's Executive Assistants stops you in the hallway and confides in you that one of the Council Members is hitting on him/her. The Assistant relays that he/she has told the Council Member on multiple occasions that he/she is not interested and prefers to keep personal and professional life separate. The Assistant fears, however, that if he/she does not give in, he/she will be fired. What would you do in response?

25. Tell us about the largest case you have ever overseen. Was the outcome a success? What would you do differently if you do it again?

General Questions

26. Sensitivity to different genders, races and ethnic groups is a priority for us. Can you provide us with some specific examples of how you have demonstrated your commitment to these principles in the past?

27. Can you describe a serous ethical issue that you have had to deal with in your career and how you handled it?

28. Describe an incident in which you played a role that embarrassed your organization publically or caused it difficulty. What did you learn from it?

29. How did you prepare for today's interview?

30. Is there anything which we have not discussed today that you would like us to know?

Final Questions

31. If we were to offer you the City Attorney position, when would you be available to start work?

32. Are there any questions you would like to ask us?

33. We do want to thank you for coming today. Do you have any closing remarks?

Questions and Topics to Avoid During the Interview Process

A large body of legislation has developed over the years addressing civil rights and race/gender/age discrimination. Questions in these areas should be avoided during the interview process. The process of interviewing and selecting an applicant is no longer a simple matter of conducting a casual conversation and hoping to learn a candidate's strengths, weaknesses, likes, and dislikes. Various civil rights laws now make the average interview a process that should be approached with extreme caution. However, if you keep in mind certain basic rules, you will facilitate the process and avoid problems.

In most instances, asking inappropriate questions may raise an inference of either discrimination or retaliation against a particular candidate. In other instances, such as those involving issues of mental or physical health, inappropriate questions are presumptively discriminatory. Therefore, the interviewer must avoid questions relating to the following:

1. Political affiliation, political views, or voting history.

2. Religious beliefs or practices.

3. A candidate's race.

4. A candidate's age.

5. A candidate's national origin or ancestry.

6. A candidate's family and whether or not they would be willing/able to join them in the new location.

7. A candidate's desire to have children or raise a family.

8. Pregnancy and other gender related issues.

9. Sexual orientation or sexual practices.

10. Marital status or personal and private relationships.

11. Potentially controversial issues of race, gender or ethnicity.

Any information a candidate may *volunteer* during the interview process regarding these matters does not render the interview invalid or otherwise taint the process. Consequently, open-ended questions, such as asking if the candidate wants to reveal anything else that has not already been covered, are not prohibited. In fact, they can sometimes provide valuable insight into a candidate's views and perspectives.

Questions and Topics to Avoid During the Interview Process

With regard to issues of physical or mental health, many questions are appropriate after a conditional offer of employment is made, but must be avoided beforehand. The interviewer must avoid questions relating to the following topics:

1. A candidate's medical history.

2. Past workers compensation claims.

3. Past use of sick leave.

4. Health of a candidate's family members.

5. Any obvious physical or mental impairment of the candidate. However, it is permissible to ask if the candidate is able to perform the essential functions of the job for which he/she is applying. A better practice is not to ask this type of question at all. Of course, from a practical point of view, it is hard to imagine anyone answering negatively.

6. A candidate's frequency of illegal drug use or addiction. However, it is permissible to ask if the candidate ever used illegal drugs, and if so, the last time he/she did so. Once again, this is a very delicate area that can create significant problems for the employer if the questioning is intrusive.

7. Alcoholism or the frequency of alcohol consumption.

The questions listed above which relate to medical conditions may properly be asked of a candidate after he or she has received a conditional offer of employment. Before an offer is made, however, the questions must be avoided.

If you need further assistance in crafting proper interview questions, please do not hesitate to contact us for further guidance.

Candidate Materials: Reviewing and Interpreting Them

Suggestions for Reviewing Candidate Materials

The materials contained herein are prepared to provide you with information concerning the candidates we are recommending you consider. The materials we and the candidates prepare are designed to provide you with information first and foremost concerning the candidate's ability to do the job. You can then review the materials and determine which candidates you wish to interview.

As you can see, what we have for each candidate is often fairly extensive. When you review the materials, we recommend you begin with:

- The Candidate's Resume. This document provides a brief history of the candidate's employment and possibly some personal information.

- The Candidate's Cover Letter and Introduction. These have been prepared by the candidate and offer insight into what the individual feels is important and his/her ability to communicate.

- The References. These materials provide information concerning what people who know the candidate think about the individual. It is important to note that people are often reluctant to say anything negative about a candidate so even though we push fairly hard to get them to identify weaknesses, the weaknesses and negatives are often limited. Further, if a candidate's references are poor or if we see significant red flags, we generally do not present that individual. We also attempt to reach references who know the candidate but were not provided.

The other materials for each candidate are important as well but probably do not need the same level of attention. They are:

- The Internet / Newspaper Archives Materials. These materials provide information concerning the issues the candidate has dealt with and what he/she has done well and not so well. We do not recommend that you read these materials word for word but rather you scan them and carefully read the sections you feel are the most important. Please also see the following pages for comments concerning the Internet's limitations.

- The Background Checks. For the most part, the City and County Manager Candidates we present tend to have very few if any items of note on their records.

It is important to understand what is provided in the background checks and what it not. First, National Criminal Information Center (NCIC) is the gold standard for reviewing someone's criminal past. Its use, however, is limited to law enforcement agencies for specific purposes. It is not something we have access to. Our nationwide criminal checks are run through a database assembled from data from a wide range of state and local agencies and is not as complete as the NCIC database. Nonetheless, we have confidence in it and have used it successfully for years. Further, we supplement it with checks of the databases of the county and state of residence.

You also need to be aware the criminal databases we use contain convictions and not allegations, complaints, or arrests (unless these lead to a conviction). We also do not check records in family court. The reason is cases are often emotional and parties are not always truthful in attempting to achieve their desired goal. If the allegations are serious and substantiated, they are generally found in the criminal records or covered in the newspaper, at least for people with significant positions in the public sector. Further, a substantial body of law exists concerning what can and cannot be considered in government employment. For example, it is illegal to use a bankruptcy as the basis for not considering a candidate.

Overall, we try to focus on someone's ability to perform the duties of their job. We do not delve into their personal lives which can be murky. It should also be noted that a large body of law exists concerning what can and cannot be considered and it varies from state to state. We try to stay safely on the right side of the line, both for our own sake and that of our clients.

The other thing to consider is we do not want you to be surprised. Even if you cannot legally use a matter in your decision making, if it has been reported, we want you to hear about it from us rather than a third party. That way we can present you with a fair and unbiased analysis of the situation and you can determine what weight is appropriate to give the matter in your decision making.

Interpreting the Internet

When considering material gathered from the Internet, it is important to read carefully and to understand the Internet's limitations.

In part of each candidate's materials is what CB&A's staff gleaned from the Internet and from newspaper archives concerning the semi-finalists. While we would like to think everything published is accurate, we know it is not. For example:

1) Some news sources have biases concerning particular individuals or write with incomplete information. Further, reporters have different capabilities and some do not understand the matters they are reporting on. Hence the story may not be accurate.

2) Occasionally, governments purposely provide information to the media that is not accurate or the full story, particularly when someone is leaving their employment.

3) Some elected officials occasionally make allegations concerning managers or staff members for political reasons whether or not the allegations are based in fact. Further, officials sometimes shoot from the hip without a complete understanding of the real issue and/or all the facts.

4) Some residents make allegations that are inaccurate or untrue and which are repeated in the media.

5) A manager may be blamed for issues and problems that come to the surface during his/her tenure but existed long before the individual took office. In fact, occasionally a manager uncovers a problem and is dealing with it. That very action can bring problems to light and result in a news story that reflects badly on the manager who is actually trying to fix the problem rather than the manager who let it fester for years and did nothing.

6) Managers may have more articles than, say, assistants because of the nature of their work. Assistants tend to be much lower profile and hence, less is written about them. Further when assistants make mistakes, the manager tends to get blamed.

Further, the Internet changes daily. Articles are added and removed. What is provided here is a snapshot in time concerning what was available on the Internet the day(s) we did the research. If someone were to search the internet tomorrow concerning information on these candidates, additional information or less information might be found. Search engines take up to six weeks to "find" stories after they are posted on websites. By the same token, a story appearing on a website yesterday may be deleted and may not be there tomorrow.

We should also note we have not included everything we found. Many articles mentioning the candidate's name have little if any relevance to the candidate's qualifications. Hence these are often been excluded. Further, if multiple articles exist concerning the same issue, we often select the most relevant and complete articles and do not include the rest.

Where issues of concern were found in the following articles, we have attempted to research them and determine their true nature. Where we found information that we believed was serious in nature and the result of the candidate's actions or that would could potentially embarrass you, our client, we would have dropped the candidate from consideration and his/her information would not be in this notebook.

One final note is that we generally do not include information from blogs as they are notoriously slanted and unreliable.

COLIN BAENZIGER & ASSOCIATES

EXECUTIVE RECRUITING

Section 2

Gary M. Glassman

Port St. Lucie City Attorney Candidate Report

Section 2

TABLE OF CONTENTS

	PAGE
RESUME	1
CANDIDATE INTRODUCTION	5
BACKGROUND CHECKS	13
CB&A REFERENCE NOTES	17
INTERNET SEARCH	27

Resume

Gary M. Glassman, Esq.

7119 Sand Lake Reserve Drive, #1202
Orlando, Florida 32819

(407) 721-2248 – Cell
gglassman@orlandolaw.net

SUMMARY

More than fifteen years of experience representing local governments and school districts. Provided legal advice to commissions, boards, departments and employees of municipalities and school districts. Litigated over 200 cases in areas of law involving local governments.

EDUCATION

B.A., University of Rochester, Rochester, New York

J.D., Syracuse University College of Law, Syracuse, New York

RELEVANT LOCAL GOVERNMENT EXPERIENCE

Of Counsel, Garganese, Weiss & D'Agresta, P.A., Orlando, Florida, 2008 - Present

* Provide legal representation to cities, school districts, and counties in Central Florida. Attend board and commission meetings and provide advice to various departments and agencies. Draft contracts, opinion letters, agreements, and other legal documents. Conduct legal research on issues confronting clients.

* Represent local governments and school boards in state and federal court litigation in the areas of land use and zoning, labor and employment, civil rights, sunshine law, torts, procurement, contracts, and labor arbitrations and hearings before PERC.

* Supervise the work of associates, paralegals, and support staff. Build and lead a team of attorneys, paralegals, and staff to conduct litigation on behalf of clients.

Senior Assistant City Attorney, City of Tampa, Florida, 2006-2008

* Provided legal representation to the mayor, city council, and other boards and departments of the city. Draft agreements, contracts, ordinances, and other legal documents on behalf of the city. Conducted legal research on issues confronting the city.

* Represented the city in state and federal court litigation in the areas of land use and zoning, labor and employment, civil rights, eminent domain, contracts, and torts.

* Provided legal advise to the city departments of minority business affairs, human resources, community affairs, and the human rights board.

* Supervised several assistant city attorneys and support staff.

Assistant County Attorney, Orange County, Florida, 2001-2006

* Represented the county in federal and state court litigation in the areas of civil rights, land use and zoning, employment, contracts, and eminent domain.

* Represented the county before the planning and zoning board, risk management committee, and human resources department.

OTHER EXPERIENCE

Partner, Glassman & Golden Norris, Sarasota, Florida

Associate, Becker & Poliakoff, P.A., Sarasota, Florida

Associate General Counsel, Fay's Drug Company, Inc., Liverpool, New York

GOVERNMENT TEACHING

Since 2009, I have been an adjunct instructor at the University of Central Florida, Institute of Government, **teaching courses in code enforcement** to code enforcement officers, board members, and police officers. I have also been a speaker at the annual conferences for the Florida Association of Code Enforcement and the American Association of Code Enforcement.

ADMISSIONS

Member of the Bar of the States of Florida and New York
United States Supreme Court
Eleventh Circuit Court of Appeals
United States District Court, Southern District of Florida
United States District Court, Middle District of Florida

GOVERNMENT LITIGATION EXPERIENCE

In the last 15 years I have been lead counsel in over 200 cases involving local governments and school districts in the areas of civil rights, employment law, land use law, torts, eminent domain, contracts, adult entertainment, and fair housing. A few of the notable cases are:

Konikov v. ***Orange County***, 410 F.3d 1317 (11th Cir. 2005) - A challenge to the county's zoning code based upon the First Amendment and the Religious Land Use and

Institutionalized Persons Act.

Bell v. ***City of Winter Park***, 745 F.3d 1318 (11th Cir. 2014) - A challenge to the city's ordinance creating a "buffer zone" prohibiting targeted picketing in a residential area based upon the First Amendment.

Morgran Co., Inc. v. ***Orange County***, 818 So.2d 640 (Fla. 5th DCA 2002) - A claim by a developer that the county had breached a developer's agreement based on contract zoning.

Atlantic Housing Partners L.L.L.P. v. ***City of Winter Springs***, U.S. Dist. Ct., M.D. Fla., Case No. 6:10-CV-1905-MS - A claim by a developer that the city's decision to deny a building application violated the state and federal Fair Housing Acts.

Price v. ***School Board of Indian River County***, U.S. Dist. Ct., S.D. Fla., Case No. 14-CV-14007-DMM (2014) - An employment discrimination case involving sexual harassment that was tried before a jury which returned a verdict in favor of the school board.

Ruello v. ***City of Tampa***, Cir. Ct., 13th Jud. Cir., Case No. 04-CA-9125 (2004) - A claim of employment by a city employee that was tried before a jury resulting in a verdict for the city.

Beeline Entertainment Partners, Ltd. v. ***Orange County***, 243 F.Supp.2d 1333 (M.D.Fla. 2003) - A challenge to the county's adult entertainment ordinance that was dismissed by the court.

Smith v. ***City of Tampa***, Cir. Ct. 13th Jud. Cir., Case No. 07-CA-3388 (2007) - A claim against the city for inverse condemnation and other damages that was tried before a jury which returned a verdict mostly favorable to the city.

Lorenzo v. ***City of Tampa***, 2007 WL 4374288 (11th Cir. 2007) - A challenge to the city's ban on distributing commercial pamphlets during certain events in Ybor City based upon the First Amendment. The ordinance was upheld by the 11th Circuit Court of Appeals.

Soliman v. ***City of Tampa***, 2008 WL 1931320 (M.D.Fla. 2008) - A claim of religious employment discrimination against the city that was dismissed by the court on a motion for summary judgment.

Vilbrun v. ***School Board of Osceola County***, DOAH, Case No. 10-7209 - A claim of employment discrimination against the school district that was tried before an administrative judge resulting in a verdict for the district.

Gifford v. ***Pam Iorio, Mayor***, 2008 WL 2437540 (M.D.Fla 2008) - A claim of inverse condemnation against the city and numerous city employees including the mayor for damages. The mayor and other individuals were dismissed from the case under the defense of qualified immunity.

Candidate Introduction

GARY M. GLASSMAN

EDUCATION

Bachelor of Arts, University of Rochester, Rochester, New York
Juris Doctor, Syracuse University College of Law, Syracuse, New York

EXPERIENCE

Of Counsel, Garganese, Weiss & D'Agresta, P.A., Orlando, Florida
Senior Assistant City Attorney, City of Tampa, Florida
Assistant County Attorney, Orange County, Florida
Charter Review Attorney, City of Eatonville, Florida
Adjunct Instructor for Code Enforcement, University of Central Florida Institute of Government, Orlando, Florida

BACKGROUND

For the past 15 years, I have primarily represented cities, counties, and school districts in Florida. For thirteen of the fifteen years, I worked in the Orlando/Central Florida region. The population of the region is over 1.5 million people and growing. The region is home to numerous businesses and attractions, including Walt Disney World, Universal Studios, Sea World, the Orange County Convention Center, the Daytona International Speedway, and many other attractions that draw more than sixty million visitors each year from all over the world.

In addition to its tourist attractions, the region is home to several universities and colleges, including the second largest university in the country, the University of Central Florida, Rollins College, Bethune-Cookman University, and Valencia Community College. While tourism remains the number one business in the region, there has been considerable growth in other industries. Tupperware, Darden Restaurants, AAA, and the Golf Channel have headquarters in the region, and Martin Marietta has maintained a large facility in Orange County. One of the newest ventures in the area is the Lake Nona Medical City, a 650 acre health and life sciences park dedicated to research, care, and education in the health field.

The region also contains state of the art recreational, cultural, and athletic facilities. The Amway Center is the home to the Orlando Magic as well as concerts and other performances. Men's and women's professional soccer teams have begun play in Orlando at the newly refurbished Citrus Bowl, and will have a stadium of their own in the next two years. The newly built Dr. Phillips Center for the Performing Arts, located in downtown Orlando, hosts Broadway shows and other cultural events. The region boasts several museums, and residents enjoy numerous beaches, lakes and parks throughout the area.

From 2001 to 2006, I worked as an Assistant County Attorney for the Orange County Attorney's Office. At the time, the office had approximately twenty attorneys, and ten support staff. As a member of the litigation section, I supervised two attorneys, a paralegal, and a support assistant. I was also responsible for hiring and supervising the two summer interns each year. All of the work assigned to me was performed by myself and my staff, not by outside counsel. In fact, during the time I was with the county attorney's office, I convinced the county attorney to bring the county's employment cases into the office and away from outside counsel. By doing so, the county was able to save substantial legal fees and other costs. The most significant legal issues that the county faced centered around the explosive growth in population fueled by tourism and other industries, and the demand for infrastructure to meet the growth. The development of new communities and commercial developments, roads, schools, and support systems created constant legal issues for the county.

From 2008 to 2016, I worked for a private law firm in Orlando, Garganese, Weiss & D'Agresta, P.A. (f/k/a Brown, Garganese, Weiss & D'Agresta, P.A.). The firm represented municipalities and school boards in Central Florida, and consisted of 15 to 20 lawyers, and 10 staff persons. I supervised three associate attorneys and two paralegals as well as several support staff. As outside counsel to the municipalities and school boards, we worked closely with the city managers and superintendents as well as department heads and staff. Most of the legal issues concerning the cities we represented involved land use and zoning, labor relations, and a variety of litigation matters including civil rights, contracts, eminent domain, torts, fair housing, and employment cases.

From 2006 to 2008, I was a Senior Assistant City Attorney for the City of Tampa. The City of Tampa and Hillsborough County region is similar to that of the Orlando/Central Florida region. The city attorney's office had approximately 15 full time attorneys and 5 part time attorneys. In addition, there were 10 support staff employees. I supervised two attorneys and support staff. All of my legal work was performed by myself, no outside counsel assisted me in the legal work. Again, during my time in the office, I brought into the office employment cases that had previously been done by outside counsel, thus saving the city legal fees and other costs.

As one of the largest cities in the state, Tampa faced numerous legal challenges. Therefore, it was not unusual to be working on a variety of issues at the same time. Some of the issues were land use and zoning problems, civil rights matters, labor and employee problems, environmental concerns, housing issues, contract matters, eminent domain situations, and police and fire problems.

GENERAL MANAGEMENT STYLE AND EXPERIENCE

For 15 years, I have been working for local governments and school districts, and would like to continue that area of work as the city attorney for Port St. Lucie. My wife and I have visited Port

St Lucie on several occasions, and enjoy the beach, the life style, and would be committed to the Port St. Lucie community.

I am interested in the Port St. Lucie city attorney position because I enjoy being challenged in my work, and I believe that I can meet that challenge and do an excellent job for Port St. Lucie. My vision for the city attorney's office is to make it the best in the state, and instill a passion in the assistant city attorneys for the work they do.

The most important attribute for a successful city attorney is first to listen to the council, and understand what the council is trying to accomplish. Once a clear understanding is reached, the city attorney should then find a way, within the law, to achieve the council's goals. Good communication between the council and city attorney is imperative.

A second attribute is that when asked, the city attorney should always respond to the council with a well-researched and thought out response in a timely and efficient manner. In addition to responding to the city council, the city attorney should be available to department heads and other city officials to provide advice and guidance. The city attorney should be a leader, responsible to the city council, and always striving to make the city a better place for its residents.

When a law suit has been filed against the city, my approach is to review the case with the persons involved or those who have the most knowledge of the case. Once completed, I would then determine if the suit has merit, examine all possible defenses available to the city, determine the costs of the litigation, confer with the council, and then decide with the council on the short term and long term strategy for the case.

Every case is unique. The city will, at times, be better served by attempting to settle a case as early as possible. Some, however, need to be litigated. A factual, legal, and cost analysis of a case, with the advice of the council, is always ongoing to insure that the interests of the city are well served. My management style is always to obtain the best performance from my co-workers. I try to encourage and enable them by setting the right example for them. Some professionals require more attention, some less. I always work towards understanding the needs of each co-worker, and respond to them as required. When working with a team, I delegate assignments to members of the team, and meet periodically to monitor the progress.

In communicating with elected officials, I am straight forward, and present both the legal positive and negative aspects of the issue so that the officials can make a well informed decision. I respond to each member of the council in the same direct way. In working with a city manager or elected official in this way, I gain the trust of the council and city manager which is most important as a city attorney. My goal is always to resolve problems, not create them.

The elected officials that I have served would likely say that I am competent, passionate, ethical, dedicated, and easy to work with as their legal advisor. Department heads and staff would say that

I am supportive, accessible, clear, and that I am committed to the governmental organization for which they work. Both groups see me as someone who gets the job done for them.

Being accessible, possessing strong communication skills, willing to work beyond usual hours, a desire for excellence, and a commitment and loyalty to my client are some of my strengths. The Port St. Lucie city attorney position presents me with a challenge. My strengths have always been on exhibit when I am challenged. A weakness I would recognize is the difficulty in delegating work to others, sometimes preferring to do it myself. I have also been told by co-workers and family members that I can be somewhat long winded. As my wife has said, "Gary, land the plane already."

My greatest achievement has been some of the cases that I have litigated for my clients. Many of the cases have become precedent setting, and I am proud of the work that I did on these cases. Having said that, I must add that I am as equally proud of the cases that I have settled without litigation or prolonged litigation.

One such case involved the City of Winter Springs. The city was sued by a developer who wanted to build a low income housing project in the city. The city, at first, denied the development, and the developer sued. Rather than go through protracted litigation, another attorney for the city and I sat down with the developer and his attorneys to see if a resolution could be achieved. After several meetings, we found an excellent alternative location for the project that was acceptable to the developer and approved by the city. The developer was able to go forward with the project, and the city benefited from the development. I was happy to be a part of this successful resolution. In addition, one of my greatest achievements has come from the teaching I have done for government workers. For the past eight years, I have been an instructor for code enforcement classes at the University of Central Florida Institute of Government. These classes are given in cooperation with the Florida Association of Code Enforcement as certification classes for code enforcement officers. Knowing that I have been able to help these hard working city employees to understand code enforcement law has been very satisfying for me.

My greatest failure came in working for a law firm that provided legal services in an area that I had no interest in or passion for. My tenure was short lived. I learned that no matter the circumstances, I would only be successful when the work that I am doing challenges me, interests me, and brings out the best in me. I learned that it is best not to settle, but to do the type of legal work about which you can be passionate.

When an employee's work is not satisfactory, my approach is to confer with the employee privately to discuss the employee's work performance. I try to be positive rather than negative to determine the reasons behind the poor performance. I listen to the employee. If the performance problems can be addressed, I work with the employee to offer ways to improve. However, after a period of time, if there is no improvement, then the employee would be dismissed. If improvement is demonstrated, then I can encourage the employee to continue on that path. I have had to terminate several employees, mostly paralegals, whose work performance was unsatisfactory. In meeting

with the employee, I explain the reasons for the termination, but take care not to elaborate unnecessarily.

During the first six months on the job, I would spend significant time reviewing the legal issues facing the city. I would schedule immediate meetings with each council member to discuss the issues and their views of the city attorney's office. Further, I would talk with department heads and other staff persons to learn more about the issues, and what they see as the strengths and weaknesses of the city attorney's office. Naturally I would spend considerable time getting to know the assistant city attorneys and staff persons in the office to learn their roles and views on how to make the office better.

Of course, while this introductory period is going on, I would immediately involve myself in the legal issues before the city. I would focus on keeping things going along so there is no delay in the city's legal work. At the end of the six months, I expect to be completely up to speed on all matters before the city, and to have developed strong working relationships with the council, department heads, and assistant city attorneys and staff.

In the few times I have dealt with the media, my practice has been to provide only information that is absolutely necessary to respond to the question. If the city has a media or communications department, I defer to their expertise. Naturally, if the media requests something that is not privileged and is covered by the Public Records Act, I respond accordingly.

In my leisure time, my wife and I enjoy bike riding, kayaking, swimming, and travelling. My own interests include cooking, and because of the cooking, working out at the gym. We have two grown children, and we enjoy spending as much time with them as they will allow.

There is nothing that I have done that would embarrass the city. I do not belong to any organizations that would cause any embarrassment to the city. There are no community activists who would have any "dirt" on me or any member of my family.

REASON FOR WANTING TO LEAVE CURRENT OR MOST RECENT JOB

My reason for leaving my most recent job is the challenge that a city attorney position would offer me. I want to create and lead the best city attorney's office in the state. I believe that I have the experience, passion, and qualifications to do an excellent job for the City of Port St. Lucie. I look forward to assisting the council and department heads in furthering the goals of the city, and making it an even greater place to live, work, and enjoy.

SIX ADJECTIVES OR PHRASES I WOULD USE TO DESCRIBE MYSELF

Integrity
Experienced
Passionate
Visionary
Strong Communicator
Proactive

CURRENT/MOST RECENT SALARY

My most recent compensation was $155,000.

Section 2

CB&A Background Checks

Background Check Summary for
GARY M. GLASSMAN

Criminal Records Checks:

Nationwide Criminal Records Search	No Records Found
County	
Orange County, FL	No Records Found
Hillsborough County, FL	No Records Found
State	
Florida	No Records Found

Civil Records Checks:

County	
Orange County, FL	No Records Found
Hillsborough County, FL	No Records Found
Federal	
Florida	No Records Found
Motor Vehicle	
Florida	No Records Found
Credit	Excellent
Bankruptcy	No Records Found
Education	Confirmed
Employment	Confirmed
Bar Certification/License	Member in Good Standing Bar #825786

Background Check Summary for
GARY M. GLASSMAN
Personal Disclosure

Personal Disclosure Questionnaire

Name of Applicant: Gary M Glassman

The following questions are designed so that we will be able to make full disclosure to our client concerning your background. Please answer them honestly. Cutting corners or misrepresenting your past will result in you being eliminated from all further searches conducted by this firm. We understand that frivolous charges are sometimes made and that charges do not mean you were guilty. We also understand that you may have been wronged and needed to seek compensation. The bottom line is that we want to be certain that our client is fully informed. If you have any questions, please contact us for clarification.

Please explain any yes answers on a separate sheet of paper.

1. Have you ever been charged or convicted of a felony?
   Yes ☐ No ☒
2. Have you ever been accused of or have been involved in a domestic violence or abuse incident?
   Yes ☐ No ☒
3. Have you ever declared bankruptcy or been an owner in a business that did so?
   Yes ☐ No ☒
4. Have you ever been the subject of a civil rights violation complaint that was investigated or resulted in a lawsuit?
   Yes ☐ No ☒
5. Have you ever been the subject of a sexual harassment complaint that was investigated or resulted in a lawsuit?
   Yes ☐ No ☒
6. Have you ever been convicted of driving while intoxicated?
   Yes ☐ No ☒
7. Have you ever sued a current or former employer?
   Yes ☐ No ☒
8. Do you have a personal My Space, Face Book or other type of Web Page?
   Yes ☒ No ☐
9. Do you have a personal Twitter Account?
   Yes ☐ No ☒
10. Is there anything else in your background that, if made public, would cause you, our client or our firm embarrassment if it came to light through the press or any other mechanism?
    Yes ☐ No ☒
11. Please provide a list of any lawsuits in which you are or have been a party either as plaintiff or defendant.

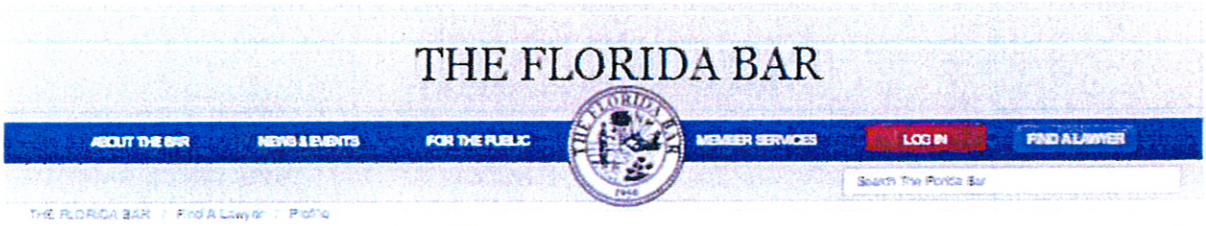
Divorce - 1986 - Onondaga County, N.Y.

Attested to: Gary M Glassman
Signature of Applicant

Please email this form via PDF DOCUMENT to Lynelle@cb-asso.com or via fax to (888) 539-6531 no later than 5:00 PM CST 05/03/16.
(Note: Please be sure to sign the form with your actual signature if you are sending Fax or PDF Document)

Property of Colin Baenziger & Associates

Background Check Summary for
GARY M. GLASSMAN
Florida Bar License



Gary Mark Glassman

Member in Good Standing — Eligible to Practice Law in Florida

Bar Number:	825799
Mail Address:	7119 Sand Lake Reserve Dr # 1202 Orlando, FL 32819 United States Office: 407-721-2249
Email:	ggnlawgary@yahoo.com
Personal Bar URL:	www.floridabar.org/mybarprofile.825799
vCard:	?
County:	Orange
Circuit:	9
Admitted:	10/18/1989
10-Year Discipline History:	None
Law School:	Syracuse University College of Law
Sections:	City, County & Local Govt Law Labor and Employment Law

The Find a Lawyer directory is provided as a public service. The Florida Bar maintains limited basic information about attorneys licensed to practice in the state (e.g., name, address, year of birth, gender, law schools attended, admission year). However, through this directory The Florida Bar allows individual attorneys the opportunity to provide for public information certain expanded personal and professional data. It is the attorney's responsibility to routinely review and update those expanded listings. The information contained in those expanded listings is presented by the Bar "as is" with no warranty of any kind, express or implied. The Florida Bar, its Board of Governors, employees, and agents thereof are not responsible for the accuracy of that additional data. Publication of attorneys' contact information within this listing should not be construed as their consent to receive unsolicited communications in any form. Certain unauthorized uses of this data may result in civil or criminal penalties. The Find a Lawyer directory is not a lawyer referral service.

CB&A Reference Notes

Larry Brown – Former Shareholder, Brown Garganese Weiss & D'Agresta, Orlando, FL
407-692-9114 407-595-3629

Mr. Brown interviewed and hired Mr. Glassman in 2008 and they worked together continuously until Mr. Brown left in 2015 to join a larger firm. While Mr. Glassman did work for other shareholders in the firm, 80% of his workload came from Mr. Brown.

Mr. Glassman is a very strong attorney. He did not have a significant client base but he was never asked to generate one. He is a good technician who focused primarily in defense litigation. Mr. Brown represented some school districts and Mr. Glassman defended these districts in state and federal court. He also did insurance defense work for other attorneys and had previously worked for the City of Tampa. He is a competent trial lawyer, very effective at handling a case load at any given time. The Osceola School district generally had 25 pending lawsuits at any time and he handled them all including those claimed but not yet filed.

The Osceola School District had 7,500 employees. Mr. Glassman did an excellent job defending unemployment compensation. He and some personnel at the District exhibited much initiative in determining certain categories of unemployment compensation claims. Teachers filed for unemployment on summer break knowing they were coming back to work in August. Athletic coaches filed for unemployment when their sports season ended. He identified it as a category of abuse and systemically addressed it in appeals. The unemployment claims dramatically decreased from $2 million to a few hundred thousand dollars.

Mr. Glassman takes over a room with a jovial demeanor and down to earth common sense. He is very disarming and effective in mediation and when settling cases. He and the Risk Manager were very successful in resolving a high percentage of their cases in litigation. He has great verbal skills and shines in court, both when giving depositions and in mediation. He is also very good at deposing and disarming surly teenagers and opposing experts. Sometimes plaintiff attorneys start out obnoxious and he talked them off the ledge. Because the judge saw how nice he was in court, the opposing counsel could not portray the District in a negative light.

They met with the School Board members. Mr. Glassman is engaging and they all liked him. He handled expulsion hearings and Board members had only positive things to say about him. They liked working with him and also appreciated that he brought donuts and other food items to the hearings to share.

Mr. Glassman is definitely solutions oriented, functioning as an attorney is very difficult if you only see black and white. Going to court is more expensive than resolving situations. Occasionally Mr. Brown had to follow up but generally Mr. Glassman kept everyone advised and did a good job with his reports.

When Mr. Brown worked as the City Attorney for Winter Park they had a federal case on a first amendment issue. Protestors stood in front of the house belonging to the Executive Director of Planned Parenthood yelling and screaming which was terrifying for her children. The City

Commission wanted to give her a buffer zone. Mr. Brown found a US Supreme Court case that carved out an exception and drafted it. Mr. Glassman litigated it. Some unrelated parts of the ordinance were struck down but the buffer zone was upheld. He has municipal law experience.

Mr. Glassman has never been reported on negatively by the papers. He is a down to earth, straight arrow man. If anything untoward was found in his background it would surprise Mr. Brown. Everyone that Mr. Brown knows liked Mr. Glassman and viewed him as a smart, diligent person. Even Fred Nelson, the attorney who presented the protestors in Winter Park, was cordial with Mr. Glassman. He worked collegially with the opposing attorney and successfully won the case in the appeal.

Mr. Brown would have brought Mr. Glassman with him but could not afford him with the budget he had. Mr. Brown would love to see Mr. Glassman as a General Counsel for a City.

Words or phrases used to describe Gary Glassman:

- Down to earth,
- Common sense,
- Great sense of humor,
- Practical,
- Amiable,
- Deescalates adverse parties and situations, and
- Good speaker.

Strengths: Very articulate; good sense of humor; engaging personality; very effective in mediation; comes across as reasonable and practical.

Weaknesses: While he is a great writer, sometimes he did not submit his written work on a timely basis.

Jay Wheeler – Board Member, Osceola County School District, FL 407-973-4141

Mr. Wheeler was elected as a School Board Member in 2002, 2006, 2010, and 2014. He has worked with Mr. Glassman as an attorney on several matters.

Mr. Glassman is honest and smart. He answers the questions you have or calls you back with the answer if he needs to research the matter. He is very pleasant and unpretentious. He is concise, professional, and knows what he is talking about. He tells the truth, not what others want to hear. He let them know when a case was worth pursuing or when they would most likely lose the case. His mind is like an encyclopedia when it comes to Florida statues. So many people in leadership are reluctant to admit they do not know something and instead provide bad information. Mr. Glassman is confident enough to tell you when he does not have an answer.

Mr. Glassman is very responsive and gives a good answer based on the facts. He is very smart though at times he has a difficult time dumbing a subject matter down for others who are not as smart.

Through good recommendations Mr. Glassman saved the District money and won lawsuits. He is an aggressive and seasoned negotiator. Prior to 2014 they had a school board that felt it was easier to pay suits, even frivolous ones, than go to court. The Board elected in 2014 began pursuing lawsuits even when they had a low chance of winning, which meant the plaintiff was spending money and putting some effort into the process.

Mr. Glassman keeps the Board informed on changes, statutes, and any new precedents that might affect them. He prefers to work with smart individuals but he works well with everyone. Mr. Wheeler has never heard a complaint about Mr. Glassman from anyone who worked with him.

While Mr. Glassman's job is to clean up the messes of other people, he has never created any controversies. The only individuals who might disagree with this reference are school board members who wanted a different answer than the one he gave. Mr. Wheeler fully trusts Mr. Glassman. He is infinitely capable, professional, and smart.

Mr. Wheeler has a great deal of respect for Mr. Glassman and is fully confident recommending him as an attorney in the public municipal arena. He is a solid attorney.

Words or phrases used to describe Gary Glassman:

- Reliable,
- Professional,
- Pleasant,
- Smart,
- Honest and trustworthy, and
- Good guy.

Strengths: Experienced, smart enough to know what he does not know.

Weaknesses: At times he could be more precise and reach the point faster. Also, when it comes to legal issues he can delve into the minutia but that is part of the culture and not a real weakness.

Vivian Cocotas – Attorney, Garganese Weiss & D'Agresta, Orlando, FL
407-425-9566 407-342-1659

Ms. Cocotas has worked with Mr. Glassman since 2009. Mr. Glassman has 30 years of experience in the industry.

Reference Notes
Gary Glassman

Mr. Glassman is very experienced and has represented municipal government entities in all different capacities in both litigation and from an administrative standpoint. He is always quick to respond to any question or request.

They worked on a variety of matters together but their largest client was the Osceola School District. Mr. Glassman handled the administrative issues and hearings that the school board conducted. He attended special sessions regarding various matters that were pending. His skillset is in labor and employment. He has done policy writing for clients and a variety of litigation for municipal clients. He is very good about keeping others informed.

Once Mr. Glassman understands the proclivities of a Board or administrative body, he is very good at presenting situations in a way for them to decide what they want to do. He is very practical in terms of costs. He fully informs the client so if they know ahead of time if they are making a decision that will expose them to potential litigation. He is very inclined to take on what the elected body wants to do, while properly advising them of their options.

On average Mr. Glassman handled 50 to 60 personal injury cases for the Osceola County School District and Ms. Cocotas was astonished at some of the settlement amounts he was able to attain. The plaintiff counsel, adjustor and the schools board members all like him. He did enough of a workup to have credibility with the opposing counsel.

Mr. Glassman handled most of their human resource questions as well as administrative claims from a labor and employment standpoint. He has experience in constitutional law. He did not have exposure to land use or environmental law on the cases they worked on. They represented a number of cities, school boards, and public entity clients. He had previously worked for Orange County and the City of Tampa which gave him experience in municipal matters.

Mr. Glassman applied for a judicial position and his name was sent to the Governor which would not have happened if anything in his background was unsavory. Ms. Cocotas is not aware of anything controversial in Mr. Glassman's background.

Ms. Cocotas would hire Mr. Glassman. He is a good attorney and will be an asset to whatever entity he joins. He has a great deal of experience in municipal law.

Words or phrases used to describe Gary Glassman:

- Smart,
- Practical,
- Personable,
- Perceptive,
- Enthusiastic, and
- Hard working.

Strengths: Very experienced; excellent people skills; can positively present the practical aspects of a case or issue to non-attorneys which is very important in litigation.

Weaknesses: Generally he works on many things at once and needs an assistant to help him prioritize. Also, he is not a very good typist.

Tina Garcia – Former Attorney, Garganese Weiss & D'Agresta, Orlando, FL
407-692-9115 954-651-1743

Ms. Garcia met Mr. Glassman in 2014. He was the lead litigator for the Osceola County cases and she was the secondary counsel. She did more of the discovery and smaller items. Mr. Glassman was very helpful. He really cared about her personal growth. She is no longer with the firm but they have maintained a good relationship since her departure which was not the case with others in the firm.

On a scale from 1 to 10, Mr. Glassman is a 10. He is very experienced, really good with witnesses because he makes them feel comfortable, and very good at interactions in general. He has good people skills and is a very funny man.

Mr. Glassman is always responsive and he solves problems. He attended executive sessions for financial budgetary questions connected to litigation and the proposed settlements and offers. He made great recommendations.

One of Mr. Glassman's strengths is negotiation. He makes good decisions when dealing with the law. Ms. Garcia cannot recall a time that the elected body did not follow Mr. Glassman's advice but admits that the information would be privileged if it occurred.

During the course of their responsibilities Mr. Glassman worked in constitutional law, contract law, and labor personnel matters. He previously worked for the City of Tampa, which is all encompassing and may have given him experience in environmental, land use, and utility law.

Mr. Glassman was always very good about keeping others informed. He instituted staff meetings once or twice a month to comprehensively review the status of each case and keep everyone on the same page. He works very well with the public.

Ms. Garcia does not know of anything related to Mr. Glassman that is controversial. She does not know of anyone who has a negative opinion of him.

Mr. Glassman has a great deal of experience and understands all aspects of the job. He is a great person who was very enjoyable to work for.

Reference Notes
Gary Glassman

Words or phrases used to describe Gary Glassman:

- Outgoing,
- Thoughtful,
- Disarming,
- Funny, and
- Experienced.

Strengths: Managing employees; making others comfortable; develops good relationships with opposing counselors which leads to better relationships with their clients.

Weaknesses: He does the more minutia aspects of the job but requires a good assistant to calendar everything for him.

Jorge Martin – Assistant City Attorney, Tampa, FL 813-274-8996

Mr. Martin and Mr. Glassman were both Assistant City Attorneys for several years. Mr. Martin is only familiar with Mr. Glassman's work in Tampa.

Mr. Glassman is a very effective attorney. He was very aggressive in settling cases for trial and achieved very good results. They worked closely together on a matter related to the taking of property which ended very favorably. They were in daily contact and worked as a team.

One case they worked on had to do with utilities and involved a myriad of issues. They were tasked with protecting the city in a case where utilities that were underground for decades were being transferred to the city and the easements were being challenged. Mr. Glassman effectively stopped the attack. He has a good analysis of the law and his performance during litigation is impressive.

Litigation cases in Tampa are rotated between six lawyers and they take whatever they are given. As such Mr. Glassman would have handled a variety of cases. He definitely has experience in constitutional law, contracts, and utilities

Some of the cases that Mr. Glassman worked on were controversial but nothing related to him personally. Everyone who dealt with him liked him and even the opposing attorneys never complained about him. He is a likeable, personable man.

Mr. Martin has a very favorable opinion of Mr. Glassman. He is a good candidate for a City Attorney position. He worked in County government before coming to the City of Tampa. He has experience and is a well-rounded local law attorney.

Reference Notes
Gary Glassman

Words or phrases used to describe Gary Glassman:

- Aggressive litigator,
- Does not let things sit,
- Likeable,
- Personable, and
- Funny guy.

Strengths: Aggressive litigator; did not let cases sit; achieved good results.

Weaknesses: Some people do not like his sense of humor but Mr. Martin appreciated it.

Ken DeBord – Risk Manager, Osceola County School District, FL 407-870-4905

Mr. DeBord has known Mr. Glassman since before 2011. Mr. Glassman's firm represented the Osceola School District and Mr. DeBord handles all of the liability work for the District.

Mr. Glassman's capabilities as an attorney are excellent. He is very easy to get along with. He solves problems and makes good recommendations to the elected body. His decisions can be trusted. He keeps everyone informed.

Mr. DeBord cannot recall any particulate situation where the elected officials refused to follow Mr. Glassman's recommendation. He tries to find solutions to issues that come up. Their interactions were based on liability work but Mr. Glassman may have experience beyond that.

From time to time Mr. Glassman brought new attorneys from his office to mentor them through mediations and other aspects of the law. He has an amicable relationship with everyone including the opposing attorney.

Mr. DeBord is not aware of anything personally or professionally controversial involving Mr. Glassman. Mr. DeBord would hire Mr. Glassman. He will do a good job for any organization.

Words or phrases used to describe Gary Glassman:

- Responsible,
- Concerned,
- Sympathetic,
- Diligent,
- Dedicated, and
- Eager to reach resolutions.

Strengths: Excellent mediator; very effective.

Weaknesses: None identified.

Melba Luciano – Superintendent, Osceola County School District, FL
407-870-4600 321-624-3846

Ms. Luciano has known Mr. Glassman since around 2012. Ms. Luciano is the superintendent of the school district and Mr. Glassman was part of the firm that handled their legal work.

The District has 7,000 employees and 61,000 students. On a weekly basis they have 2 to 3 lawsuits. Mr. Glassman was always helpful, knowledgeable, upfront, and honest. He had a very good rapport with everyone in the District.

Mr. Glassman is timely in his responses. He seems to make good decisions when dealing with the law. He negotiates well on behalf of his clients. Ms. Luciano cannot recall any specific situations where the school board did not follow his recommendations, but there could have been a time where he suggested they negotiate and the Board decided not to.

Mr. Glassman always looks for solutions. He knows the school board and has good neighbor relations. He handled every task very effectively. When they needed to make adjustments for any reason he was flexible.

Their interactions primarily occurred during executive sessions with the Board members, attorneys and Ms. Luciano. Mr. Glassman also met with the Risk Manager and Ms. Luciano. Everyone he worked with only has good things to say about him.

Ms. Luciano is not aware of anything controversial related to Mr. Glassman. While you can always find someone with a different opinion, Mr. Glassman was well respected by the District.

Ms. Luciano does not know what the position of City Attorney entails, but she would hire Mr. Glassman to do the work he previously did for them. He has a good sense of humor and really listens to others.

Words or phrases used to describe Gary Glassman:

- Precise,
- Decisive,
- Knowledgeable, and
- Flexible.

Strengths: Says things precisely so that he is understood.

Weaknesses: None identified.

Reference Notes
Gary Glassman

Randy Knight – City Manager, City of Winter Park, FL 407-599-3235

Mr. Glassman's firm was the external City Attorney for Winter Park for five years. They met around 2008. They did not work on a daily or even weekly basis, but interacted on very large cases a few times a year.

Mr. Glassman was not their direct City Attorney but he handled some of the litigation that they were involved in. He was very competent and professional in the cases that he handled for Winter Park. The city was successful in the cases he worked on.

They communicated frequently so that Mr. Knight always knew what was happening. Mr. Glassman is very professional and sharp. He is responsive and his responses are timely.

Mr. Glassman's recommendations to the elected body are good, as are his decisions. The elected body always followed his advice. He handled negotiations well for Winter Park.

The only aspect of the law Mr. Glassman handled for Winter Park was litigation. He worked very well with opposing counsel and with everyone at the City.

Outside of litigation, Mr. Glassman has not been involved in anything controversial. Everyone on City staff liked Mr. Glassman. Mr. Knight would consider Mr. Glassman for a City Attorney position, he will do well.

Words or phrases used to describe Gary Glassman:

- Professional,
- Easy to talk to,
- Very friendly,
- Very engaging,
- Always communicating, and
- Knowledgeable.

Strengths: Very knowledgeable from a strategy standpoint; very proactive; enjoyable to work with.

Weaknesses: None identified.

Prepared by: Lynelle Klein
Colin Baenziger & Associates

CB&A Internet Research

Daytona Beach News-Journal (FL)
June 28, 2012

Refunds follow Palm Coast red-light lawsuit
Author: FRANK FERNANDEZ

PALM COAST - More than 13,500 motorists slapped with red-light camera citations in this city qualify for a small refund with the partial settlement of a class-action lawsuit. Only motorists cited prior to July 1, 2010, qualify for the settlement reached with American Traffic Solutions, which provides the video systems used in Palm Coast. The settlement does not include the city of Palm Coast, which was also sued but is continuing to fight. The refund comes to 30 percent of ATS's portion of the fine, said Jason D. Weisser, an attorney with Schuler, Halvorson and Weisser, who represents William Mayfield, the driver who filed the lawsuit. Prior to July 2010, ATS's portion of the fine was $45, so 30 percent of that comes to $13.50. But attorneys' fees and legal costs would come out of the 30 percent, and Weisser said in an interview that he did not have the exact refund amount available.

Circuit Judge Dennis Craig preliminarily approved the settlement Wednesday during a hearing in circuit court, Weisser said. Craig also asked for more information on a motion from the city to dismiss the lawsuit. "This is only a small refund because it's only a settlement with ATS, not with the city," Weisser said. Motorists probably won't receive refunds for another nine months, Weisser said. More than 13,500 people who paid a red-light camera citation to Palm Coast before July 1, 2010, are part of the class-action lawsuit, according to court records. During the next six months, ATS will mail out postcard notices to people who qualify for the settlement. They must then fill out a claim form. Craig could award Mayfield a larger portion of the settlement, Weisser said. "The court can award him additional funds for all the time and effort he put into the case," Weisser said.

Before July 1, 2010, the total fine was $125 with Palm Coast receiving $80 and the rest going to ATS. After that date a state law took effect that strengthened cities' power to run red-light camera systems but also gave the state a cut of the money. Camera fines increased to $158, with the state taking $83 from each citation and leaving the city $75 to split with the camera vendor. Palm Coast has had 10 cameras watching six intersections since 2008 when it became the first city in Volusia or Flagler counties to use the system. Since then Daytona Beach and Holly Hill have followed, with DeLand set to have its own cameras rolling later this summer. The Volusia County cities all use Gatso USA as their red-light camera company.

Mayfield sued Palm Coast and ATS in 2009 after he was slapped with a red-light camera citation. The city said video showed him illegally turning right on red at Palm Coast and Cypress Point parkways. "Obviously the city was getting a substantial amount of the revenue," Weisser said. "And they are not settling with us, so we are going to continue the litigation against them." Palm Coast filed a motion earlier this year asking Craig to throw out Mayfield's suit based on a 3rd District Court of Appeal decision in the case of Masone vs. the city of Aventura. In the motion, attorneys for Palm Coast argued that the 3rd District Court of Appeal, in ruling in

Aventura's favor, said that "municipalities enjoy broad home rule powers, the regulation of vehicular traffic is a well-established legitimate exercise of municipal police power."

But Weisser argued Wednesday before Craig that the two cases are different and therefore Craig should not dismiss Mayfield's claim against Palm Coast. Craig did not rule on whether to dismiss the lawsuit. Instead he asked attorneys on both sides to submit legal information on the issue of whether the owner of a car can be cited but not the driver, said **Gary Glassman**, who represented the city. That information will be submitted in 20 to 30 days, **Glassman** said. "His concerns seem to rest in that area," **Glassman** said, "that when the picture is taken by the camera, it's taken of the car. But we can't identify the actual body who was driving the car, so he had some concerns about that and he wants some additional briefing."

West Volusia Beacon, The: Web Edition Articles (FL)
February 26, 2010

It's been a long three months in Orange City
Author: Jen Horton

Orange City is in the third month of investigating its Police Department. Related to that investigation, the city and its police chief are defendants in a lawsuit filed by The Beacon over access to public records. In the meantime, City Council has fired its interim city manager, hired a new one, and is on the verge of hiring a permanent chief executive. And now the police chief has announced his retirement.

It's time to take a look at what's been going on in Orange City since November:

Nov. 29 — Twenty members of the Orange City Police Department sign a complaint against a supervising officer, Lt. Gregory Melvin. The complaint is filed with Police Chief Jeffrey Baskoff as an internal complaint.

Nov. 29 — According to City Attorney William Reischmann, Florida Statute 112, the "Police Officers' Bill of Rights," goes into effect.

Dec. 7 — Chief Baskoff sends an e-mail to all sworn officers in the department, to let them know he has reassigned Melvin to a job where he will have no contact with subordinates.

Dec. 8 — At the regular meeting of the Orange City Council, Council Member Tom Abraham asks about morale in the Police Department. Interim City Manager Chester Murray replies that issues have surfaced that need to remain as personnel issues. Attorney Reischmann comments that all complaints received about a police officer are investigated. He advises the council of the Police Officers' Bill of Rights, and urges caution in dealing with the matter, as the council could find itself "embroiled in something it doesn't necessarily need to be."

Dec. 14 — An anonymous letter is sent to Orange City Council members. The letter has the original complaint and the chief's response attached. The letter states Chief Baskoff's reassignment of Melvin was not an adequate solution, and claims the chief is not looking out for the best interests of his officers. The letter calls for the removal of Melvin and Baskoff.

Dec. 14 — The Beacon makes its first public-records request with the City of Orange City, asking to examine Lt. Melvin's personnel file.

Dec. 17 — The Beacon publishes "Police sign complaint about fellow officer."

Jan. 8 — Gilbert Chappell of Video Verification signs an agreement to perform an investigation of the Orange City Police Department.

Jan. 12 — Teamsters representative Jeff Candage addresses the City Council at its regular meeting, stating the union will stand by the officers. Candage also complains to the City Council about the length of time it took for the city to respond to his public-records request for contract of the person performing the Police Department investigation. Reischmann addresses the council at the end of the meeting, confirming there is an ongoing investigation, and noting that details of an ongoing investigation may not be discussed.

Jan. 12 — A letter from The Brett Law Firm is sent to at least one Orange City police officer. Derek Brett identifies himself as counsel for Melvin; his letter asserts that at least one officer has violated Statute 112, the Police Officers' Bill of Rights. The letter threatens criminal and civil suits against officers who do not retract their negative statements in the original complaint about Melvin. Brett also wants to know who has been speaking to the press. The Beacon is told a similar letter is sent to Orange City Council members.

Jan. 13 — The Beacon calls the city and asks when the newspaper will be allowed to see Melvin's personnel file. Four weeks have elapsed since the original request, and there was never a response from the city regarding the original request.

Jan. 13 — The Beacon sends its second public-records request. The Beacon asks to see: e-mails sent by and to Chief Baskoff and Orange City Police Department Records Custodian Patricia Baskoff (Chief Baskoff's wife), along with e-mails from all sworn police officers, and to all sworn police officers, sent during the first week of January.

Jan. 13 — The Beacon appears at City Hall to examine Melvin's personnel file, and is denied access. We ask, but are not given a reason in writing.

Jan. 14 — The Beacon publishes "OC Cops call in Teamsters."

Jan. 14 — The Beacon is allowed to view a redacted personnel file. A written notice explaining what information was redacted, and why it is exempt, is asked for but not provided.

Jan. 15 — Attorney Virginia Cassady signs an agreement to conduct an investigation of the Orange City Police Department, more than six weeks after the original complaint. (The Beacon doesn't learn of this until Jan. 29, when a copy of the contract with Cassady is provided to the newspaper.) The Beacon asks for, but is not provided with, documentation ending the Jan. 8 agreement with Gilbert Chappell to perform an investigation.

Jan. 15 — The Beacon appears at City Hall three times to view records from the second request — the Police Department e-mails. The Beacon is twice denied access to the records, and on the third visit is allowed to see some redacted e-mails. In writing, the city states certain public records were removed and placed in a "privilege log" that can be reviewed only upon a judge's order.

Jan. 15 — The Beacon sends its third public-records request, asking for any letter from The Brett

Law Firm to any city employee. The city denies access to the letter, saying the letter is "a civil matter" and does not involve the city.

Jan. 18 — The Beacon publishes "OC reeling from PD complaint — union vote planned."

Jan. 19 — The Beacon sends its fourth public-records request for: documentation of the official start date of any investigation, a copy of the contract between the investigating attorney and the City of Orange City, notice of the break of agreement between the city and Gilbert Chappell of Video Verification, and all items that have been previously withheld from other records requests.

Jan. 21 — The Beacon sends its fifth records request, asking for: a copy of any letters from The Brett Law Firm to any members of the Orange City Council, a copy of the city ordinance governing "moonlighting," written approval from the Baskoffs' supervisors giving them permission to have outside employment, and a copy of the e-mail policy for city employees.

Jan. 21 — Someone from the city manager's office cancels the Beacon subscription that is addressed to the city manager's office.

Jan. 21 — The Beacon receives a copy of the city ordinance governing moonlighting, and a copy of a letter address to Patricio Balona of the Daytona Beach News-Journal, explaining why certain public records cannot be released at this time.

Jan. 27 — Melvin enters into a separation agreement that provides for Orange City to pay him $25,000 in exchange for an agreement not to sue the city. The agreement will end Melvin's employment with the city. Melvin has seven days to back out of the agreement. Orange City's attorneys will confirm the existence of the agreement and the proposed $25,000 payment, but they will not name the employee involved.

Jan. 27 — Nearly two months have passed since the original complaint, yet The Beacon has yet to view documentation of a start date of any investigation. Interim City Manager Murray says he believes the investigation began on or about Dec. 3.

Jan. 27 — The Beacon sends Murray a list of eight questions, which he forwards to the City Attorney William Reischmann.

Jan. 28 — The Beacon sends its sixth records request, asking for everything that has not been provided thus far, and also asking to view the "privilege log."

Jan. 29 — The Beacon makes its seventh records request, asking to see the Melvin separation agreement, and also requesting correspondence between Melvin and his supervisor during the past week. The request is denied. The information, including the settlement agreement, is said to be part of the active investigation, and therefore exempt.

Jan. 29 — Murray responds to the Jan. 27 list of questions, providing answers to two of eight. He

also sends a copy of the city's contract with an attorney for an investigation of the Police Department. The contract was signed Jan. 15. Murray also says "The Brett Law Firm has not sent 'letters' to ORC Councilmembers."

Jan. 29 — The Beacon, counsel for The Beacon, and city attorneys **Gary Glassman** and William Reischmann confer by phone. The city attorneys maintain all records withheld thus far are exempt from public release under the Police Officers' Bill of Rights, which exempts information "obtained pursuant to" the investigation of a police officer. The city attorneys tell The Beacon that if the separation agreement with the unnamed employee goes into effect Wednesday, Feb. 3, all records will be released, because the investigation will be over.

Feb. 1 — The Beacon publishes "OC deal calls for employee to leave."

Feb. 3 — Melvin takes the separation agreement off the table. The Beacon's request for records is again denied due to the active investigation. It has been nine weeks since the original complaint was filed. Reischmann and **Glassman** cannot speculate about how much longer the investigation might go on.

Feb. 4 — The Beacon publishes "OC officer won't quit; police probe continues."

Feb. 4 — The Beacon files suit against the City of Orange City for violating the public-records law, Florida Statute 119. The City of Orange City has 20 days to respond to the suit.

Feb. 8 — The Beacon publishes "Attorney: Melvin is a good officer."

Feb. 9 — At its regular meeting, the City Council fires Interim City Manager Chester Murray, citing a loss of confidence. Five of the council members say they had not been kept informed about things going on in the city. Mayor Harley Strickland says that he found out about The Beacon's lawsuit by reading the newspapers.

Feb. 9 — Reischmann tells council members the investigation is still ongoing, and he can't give them a date of completion.

Feb. 9 — The Beacon publishes online "Orange City fires its interim manager Chester Murray."

Feb. 10 — Gene Miller is appointed interim city manager by the Orange City Council. He will be paid $10,000 a month to hold down the fort until a new city manager is hired. The council said it hopes to appoint a city manager by March 1.

Feb. 12 — Gene Miller starts work as interim city manager.

Feb. 19 — Miller publishes first "Friday Letter," announcing the cost of the investigation to-date is $37,754. Miller also announces the investigation should conclude and be released by March 11.

Feb. 23 — Chief Jeffrey Baskoff verbally announces his intent to retire from the City of Orange City after nearly 26 years.

Feb. 26 — Gene Miller confirmed Baskoff will retire March 2. Frank Ross, retired chief of police for Titusville, has been named interim police chief. Ross will have a four-month contract. From Florida Statutes Chapter 112.533:

(2)(a) A complaint filed against a law enforcement officer or correctional officer with a law enforcement agency or correctional agency and all information obtained pursuant to the investigation by the agency of the complaint is confidential and exempt from the provisions of s. 119.07(1) [the open-records law] until the investigation ceases to be active, or until the agency head or the agency head's designee provides written notice to the officer who is the subject of the complaint, either personally or by mail, that the agency has either:

1. Concluded the investigation with a finding not to proceed with disciplinary action or to file charges; or
2. Concluded the investigation with a finding to proceed with disciplinary action or to file charges.

(4) Any person who is a participant in an internal investigation, including the complainant, the subject of the investigation and the subject's legal counsel or a representative of his or her choice, the investigator conducting the investigation, and any witnesses in the investigation, who willfully discloses any information obtained pursuant to the agency's investigation, including, but not limited to, the identity of the officer under investigation, the nature of the questions asked, information revealed, or documents furnished in connection with a confidential internal investigation of an agency, before such complaint, document, action, or proceeding becomes a public record as provided in this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. However, this subsection does not limit a law enforcement or correctional officer's ability to gain access to information under paragraph (2)(a). Additionally, a sheriff, police chief, or other head of a law enforcement agency, or his or her designee, is not precluded by this section from acknowledging the existence of a complaint and the fact that an investigation is underway.

St. Petersburg Times: Web Edition Articles (FL)
August 29, 2008

Sulphur Springs homeowner has new pipeline problem
Author: Mark Holan

SULPHUR SPRINGS — Here we go again, Dennis Bell thought. Another pipeline, another battle. In November 2004 a sewer line ruptured in front of Bell's house at 7802 N 12th St., flooding his yard and the surrounding neighborhood with 21-million gallons of smelly waste. Bell and two of his neighbors are still trying to collect money for damages in a lawsuit against the city. Bell, a 55-year-old truck driver with three big dogs circling behind his fence, braced for another fight early this week over a leaking water pipeline just a few feet from the 2004 sewer break. He had noticed water trickling through the cracked wall of the storm water catch basin in front of his house early this month. About the same time, he said, he started losing water pressure inside. "I can hardly take a shower," Bell said Monday.

After three visits from water department workers, the city took measures to fix the problem this week. Many of Tampa's water and wastewater pipes are nearly 100 years old. Breaks and ruptures are common. It turns out that the tap water running into the basin came from an old service line to Bell's house. Water department spokesman Elias Franco said new service connections were installed in the neighborhood last fall, but something was awry with how the old line got plugged.

The fix was expected to be completed this week. Crews also have begun a $19-million project to replace about 5 miles of the wastewater pipe that broke in front of Bell's house in 2004. Crews will install new pipe along 13th Street rather than dig up 12th Street again. Work is expected to be completed by next summer. That could be sooner than the lawsuit filed by Bell, John Frezza and George Anderson is resolved.

Jawdet Rubaii, the Clearwater lawyer representing the neighbors, has said the city failed to do a thorough cleanup and has dragged its feet ever since. Now he wants the city to buy the residents' homes, rather than just pay damages. A judge is expected to rule on Rubaii's amendment soon. Mediation failed to settle the case two years ago. "I get the impression the (City) Council has never heard of this, or they would be outraged," Rubaii said this week. **Gary Glassman**, an assistant city attorney, said the city has met its responsibilities to the residents. "I don't think that means we have to buy their houses," he said.

Bell's house is located along a narrow, wooded section of the Hillsborough River, about a mile east of Interstate 275. The property has a market value of $142,366, more than double his 2005 assessment after the sewage spill. That means a bigger tax bill. Bell said he hates paying higher taxes for what he describes as poor service and indifference. "I'm fed up with the city of Tampa," he said. "I wouldn't be living here if I wasn't on the river."

http://www.tbo.com/news/northeast/2008/jan/02/frustration-comes-tumbling-down-ar-222767/
January 2, 2008

Frustration Comes Tumbling Down
Author: TBO.com Staff

TAMPA PALMS - When New Tampa's only condemned house was finally demolished in April, the neighbors didn't cheer or toast with champagne. They gathered in a light rain and watched quietly as an excavator tore through eight years of frustration and headaches.

Gary Glassman

Gary Glassman, a member of the city's legal staff, stood under the shelter of a giant oak and watched, too. The case landed on his desk in late 2006, more than two years after Tampa Code Enforcement Director Curtis Lane signed a demolition order. The owner, Scott Burdge, started building the 7,500-square-foot mansion in Tampa Palms' Canterbury subdivision in 1998. After five years, it wasn't halfway done. City inspectors pulled his permits, and Lane condemned it. Burdge used every legal means at his disposal in an effort to stop the demolition. His case is scheduled to go to trial in May - postponed for the fourth time.

Glassman, the third city attorney assigned to the case, said he tried to take a different approach. "I tried to force the issue," he said. "What I tried to do was to convince the city that it had to come down, and if we were wrong, we could deal with the consequences when the case got to trial. It was a more aggressive approach." When Burdge learned the city had scheduled the demolition, his lawyer filed a motion for an emergency injunction to stop it.
"I didn't mind," **Glassman** said. "I wanted to get this issue before the court. There was an opportunity there for Burdge to stop us, but the judge didn't grant the injunction."

As he stood under that oak tree in the rain, **Glassman** felt the wave of relief pass over the neighbors. "I had not lived with this for six to eight years like they did," he said. "I felt relief for them that this was finally over. I said to myself, 'Something good came out of the justice system today.'"

http://www.tbo.com/south-tampa/city-fights-permit-suit-219843
October 27, 2007

City Fights Permit Suit
Author: Kathy Steele

SEMINOLE HEIGHTS - The city is seeking to dismiss a lawsuit over its approval of a day care center near an apartment complex that rents to sex offenders. The apartments' owner, Christian Stover, sued in August after the city council approved a permit for the day care center at John Calvin Presbyterian Church. Stover claims he will lose money if the day care opens and he can no longer rent to sex offenders. He is seeking more than $15,000 in damages and revocation of the permit, the lawsuit states. Seven sex offenders, including one designated as a sex predator, were living in the apartment complex as of Wednesday, said state Department of Corrections spokeswoman Jo Ellen Rackleff. State law restricts sex offenders from living near day care centers but not churches. The city says Stover can continue to rent the apartments, just not to sex offenders. No one is taking Stover's property or his ability to make money, Assistant City Attorney **Gary Glassman** said.

Stover's attorney, Luke Lirot, said his client isn't looking to stop the day care center. 'We're hoping somehow we can come up with some kind of compromise to reach that makes everyone happy,' Lirot said this week. A court date has not been set, officials said. Lirot said he wants to discuss a solution with city and church officials. 'It's a complicated issue,' Lirot said. In his lawsuit and during council hearings, Stover said he bought the apartment complex, 6601 N. Nebraska Ave., with the belief that it met state requirements for housing sex offenders who have completed their prison sentences. He said he was not aware of the day care plans. The church is not a party to the lawsuit, but the Rev. Earl Smith said the lawsuit is being monitored. Construction is anticipated to start in about 30 days, Smith said.

During the council hearings, church officials said they did not understand how Stover could be unaware of the project. Public notices about the August hearing were posted on church property, 6501 N. Nebraska Ave. The church plans to remodel a vacant building on its campus for the day care. About 50 children would attend, most receiving church scholarships. Once the day care opens, a 1,000-foot restriction can be applied to sex offenders whose victims were younger than 16. Smith said he believes Stover would have to remove any such offenders from the complex. Rackleff said the state cannot prohibit a sex offender from living at the complex. 'Once the day care opens we will no longer approve this as a place to live,' she said.

Orlando Sentinel
February 8, 2006

Judge: Rabbi may sue Orange for damages
Author: Rich Mckay

A federal judge in Orlando opened the legal doors last week for Rabbi Joseph Konikov to sue Orange County for damages over the county's four-year battle to keep him from conducting religious services in his home. A judge ruled Jan. 20 that the county's ordinance was vague and unfairly singled out religious services. That ended the fight between the rabbi and the county over complaints about parking, traffic and noise in his Sand Lake Hills neighborhood.

But although the ruling was a victory for the rabbi, it also, according to his attorneys, tied his hands against pursuing damages against the county. "Basically, that means that this case is over and everyone goes home," said attorney Rick Nelson, general counsel of the American Liberties Institute. "We said, `Wait a minute, there are things here that haven't been settled yet,' " Nelson said. "There's unfinished business."

On Friday, U.S. District Judge John Antoon II amended his ruling, allowing Konikov and his attorneys to seek damages. Nelson would not say how much Konikov would pursue in a lawsuit, but he said the rabbi and his family were put under financial distress from fighting the case in court and from the $50,000 in liens the county imposed on their home. Assistant County Attorney **Gary Glassman** could not be reached for comment, but he earlier said the case was never about religion, that the county was responding to neighborhood complaints.

Drugfree.org (http://www.drugfree.org/join-together/fla-faith-based-treatment-program-opposed/)
August 5, 2003

Fla. Faith-Based Treatment Program Opposed
Author: Join Together Staff

Officials in Orange County, Fla., want to shut down a faith-based addiction-treatment program because residents in the neighborhood are complaining about its growth, WFTV reported Aug. 4. For the past decade, the Open Homes Fellowship has been operating out of a Central Park Avenue location in Orange County. The program uses the principles of the Christian faith to help individuals addicted to drugs. "Our program introduces the men and helps them get a relationship with Jesus Christ," said Wes Carlson, administrator of Open Homes Fellowship. But residents in the neighborhood said the program is growing beyond its main building and classrooms. Across the street, the Open Homes Fellowship is using several duplexes for those recovering from their addiction.

The county is supporting residents, saying the program is violating zoning laws. The neighborhood is zoned residential, which means a church or an addiction-treatment facility would have to apply for a special exception. "Zoning is the county's way of trying to keep neighborhoods as neighborhoods," said Assistant County Attorney **Gary Glassman**. "You have to really balance both interests — the interests of those who are recovering with those who live in the neighborhood and say, 'We don't want that here.'" The Open Homes Fellowship was denied a special exception from the county. A federal judge will now decide if the facility can stay open.

The Miami Herald
April 21, 2002

ORLANDO RABBI FIGHTING FINES FOR HOLDING SERVICES IN HOME
Author: MIKE SCHNEIDER

The sparsely decorated living room of Rabbi Yoseph Konikov's house doesn't look much like a synagogue. A long table is covered with brownies and cans of soda for visitors who come to pray and study. On the wall is an oversized photo of Rabbi Menachem Schneerson, the deceased leader of the Chabad-Lubavitch movement of ultra-religious Jews who try to bring secular Jews back to ritual practice.

But code enforcement officials last month concluded that Konikov is illegally operating a synagogue in a residential area. After numerous complaints from neighbors about cars parked around Konikov's house, Orange County's Code Enforcement Board gave him 60 days to stop holding prayer services or face a $50 a day fine. Konikov is fighting back with a federal lawsuit that accuses the county of violating his religious rights. ``Do I give up my faith or just move out of town?" said the 27-year-old Konikov. After renting the house for almost two years, Konikov bought it last month and lives there with his wife and two preschool-age children. His income comes from the Chabad headquarters, which has established a worldwide network of outreach institutions.

CHABAD HOUSES

The Chabad movement began 250 years ago in Russia. Its leaders expound Jewish mysticism and preach about the all-encompassing nature of Jewish life. One of the tenets of the modern movement, which was led by Schneerson, was for followers to call their homes Chabad houses. ``It's not separate from their personal lives," Konikov said. ``Every room is a mini-synagogue." Konikov is reluctant to say there may be other motives behind his Sand Lake Hills neighbors' complaints, but some of his regular visitors don't hesitate. ``To me, it's because we're Jews that they're picking on us. I don't see it any other way, shape or form," said Pearl Stolzer, 63, who attended a recent Wednesday night study session with her husband. ``We're not hurting anybody."

IT'S THE ZONING

But residents of this middle-class neighborhood of ranch houses near the sprawling Universal Studios theme park are adamant that their opposition has nothing to do with religion and everything to do with zoning. That didn't stop an outside hate group - not neighbors - from distributing anti-Semitic literature in the neighborhood last year. ``It's a misuse of land. It's not a religious issue," said Mike Campbell, who lives down the street from Konikov. ``We've all invested a lot of money in our homes, but we don't want to seem like a bunch of ranting neighbors." Konikov could apply for a special exemption, but that would cost more than $900 with no guarantee of getting approval, says his attorney, John Stemberger. ``Why should any

family ask permission from the government to gather and worship in their home?" Stemberger said.

If the problem is about parking, the county could issue citations, tow cars or draft an ordinance dealing with traffic and parking, he says. ``They don't have any business regulating the content of speech and the nature of assembly in a house," Stemberger said. ``If they were meeting for a secular purpose - say Monday Night Football - there's nothing in the county code that could stop them from meeting." Konikov's neighbors think otherwise. The Sand Lake Hills Homeowners Association newsletter last month urged neighbors to sign a petition urging the Code Enforcement Board to take action. ``If Orange County allows the nonresidential use of the property . . . a dangerous precedent will be set," the newsletter said. ``How would you like to have a high-traffic, commercial business run out of your next-door neighbor's home?"

VISITORS COUNTED

The home is used for more than just a place for people to pray, County Assistant Attorney**Gary Glassman** told the code board. Konikov's address is listed on a website as the location for the Chabad of South Orlando. The site lists times for services on Monday, Thursday, Friday and Saturday and times for study and Hebrew classes on Sunday and Wednesday. Code enforcement officers randomly selected 49 days over a seven-month period and counted 373 vehicles parked around the home. They also counted 510 visitors to the home during that period. ``We're not just talking about a simple prayer service in someone's home," **Glassman** said. ``The Internet websites, the brochures, the traffic, the people, clearly indicate that this is not just an occasional thing that occurs."

Ledger, The (Lakeland, FL)
August 22, 2000

2 POLK DEPUTIES FILE BIAS COMPLAINTS; THEY ALLEGE LESS-QUALIFIED WHITES WERE PROMOTED OVER THEM DUE TO RACE.
Author: SAM CARDINALE

BARTOW -- Two of the highest-ranking minority deputies in the Polk County Sheriff's Office's Law Enforcement Division have filed discrimination complaints, alleging less-qualified whites were promoted over them. Capt. Ken Grant, a 27-year employee, and Lt. David Smith, a 32-year employee, filed the complaints with the Equal Employment Opportunity Commission and the Florida Commission of Human Rights on Aug. 4. "Blacks are not treated the same as whites," Smith said. "It hurts, and you feel second-hand." Sheriff's Office officials say they have not seen the complaints and declined to comment Monday, according to sheriff's spokesman Scott Wilder. The Sheriff's Office already faces complaints of sexual discrimination.

Three women deputies have filed federal discrimination lawsuits based on sex against Sheriff Lawrence W. Crow Jr. and the Sheriff's Office after the EEOC dismissed their complaints. Grant and Smith said in an interview Monday that they are not the only minorities passed over for promotion by Crow. Statistics show that few blacks are in the law enforcement division, with even fewer being promoted. Of the agency's 354 deputies, only 17, or 4.8 percent, are black. The county's black population is 15.6 percent.

Grant is the highest-ranking minority in the law enforcement division, where 17 percent of the supervisors are minorities or women. No minorities or women have been promoted above captain in that division. Crow's administrators said in previous interviews the agency has made great strides in hiring and promoting minorities and women since Crow became sheriff in 1987, and that the minority-supervisory ratio is higher agency wide at 31 percent. But Grant and Smith point to their years of service -- two of the longest-working deputies at the agency -- and the fact that white men without the same education or law enforcement experience were promoted above them. Since Smith was promoted to lieutenant in 1988, he said, 11 white men, some of whom he supervised, were promoted past him to captain and three to major. Grant, who has been a captain since 1987, is upset because Crow said in May he wouldn't promote Grant to major because Grant doesn't have a four-year college degree. Both Grant and Smith earned two-year associate's degrees years ago.

Yet Crow has promoted to the rank of major four white men with equal or less education than Grant and Smith, including one who didn't have a degree. "I was very much hurt," Grant said. "He's trying to tell me that my 27 years don't count for anything. I was loyal and a dedicated worker at the agency. I feel that they had to be prejudiced toward me some way, to minorities, because minorities are very slowly promoted in this agency."

Larry Hardaway, one of two attorneys representing the two men, said Grant should have been promoted. "He was forward in his commitment and loyalty to the sheriff as he represented the

sheriff in his own (minority) community," Hardaway said. "Then to be looked over, and specifically for the sheriff to say that he was not promoted because he didn't have any appropriate educational credentials, really hurt."

Grant and Smith said they want to see more diversity -- to include the promotion of minorities and women to higher ranks -- and less "institutional discrimination" at the Sheriff's Office. Sarasota attorney **Gary Glassman**, the other attorney representing the two men, said neither Grant nor Smith want anything handed to them. "Nobody's asking for preferences," **Glassman** said. "What people are asking for is a level playing field. Go by the guidelines and the standards that you set, and apply them equally to everybody. Grant and Smith said they will file federal lawsuits if the EEOC dismisses their complaint. "The evidence we're seeing is that it's not a level playing field," **Glassman** said. "That's why we think a lawsuit in necessary, to encourage the Sheriff's Office to level the playing field. Don't say you need a four-year degree and apply an to African American, but not apply it to a Caucasian."

Ledger, The (Lakeland, FL)
May 28, 2000

FOUR FEMALE POLK DEPUTIES PLAN DISCRIMINATION SUITS
Author: SAM CARDINALE

BARTOW -- Four female deputies who say they are treated like "second-class citizens" by male supervisors at the Sheriff's Office say enough is enough. Their attorney, **Gary Glassman** of Sarasota, says he will file federal discrimination lawsuits against Sheriff Lawrence W. Crow Jr. on behalf of two of the deputies within the next 90 days.

Glassman said sometime this month he will send a letter, as required by law, notifying the Sheriff's Office that the other deputies plan to sue the agency within six months. **Glassman** said the deputies hired him because they think Crow and his top administrators won't promote women and that the Sheriff's Office aims improper disciplinary action toward women. "They do believe women are just second-class citizens in the department," **Glassman** said. "The general feeling is they're not getting the same chance as men. "There is a perception that there is a good-ol'-boy network," **Glassman** said. "Women have to work twice as hard to be considered half as good. It gets frustrating." Sheriff's officials deny that. "The Sheriff's Office has an outstanding record promoting quality women, men and minorities, and the facts show that," said sheriff's spokesman Scott Wilder. "His allegations are totally unsupported by the facts."

Wilder said **Glassman** was attempting to try his case in the media by talking to The Ledger. The Sheriff's Office has received one notice letter of a pending lawsuit -- that coming from Deputy Ann Cash in January, Wilder said. In addition to Cash, the other deputies planning to sue are Deanna Warren, Amy Thompson and Sgt. Mary Martin. They have filed federal complaints against the Sheriff's Office with the Equal Employment Opportunity Commission, alleging sexual discrimination, **Glassman** said. Wilder said the complaints filed by Cash and Thompson have been dismissed by EEOC. The federal agency allows people who file complaints to file a federal lawsuit within 90 days of the dismissal. EEOC officials would not comment. Cash and Warren complained to sheriff's officials last year that they transferred out of homicide investigations after being harassed by sheriff's Col. Grady Judd and Capt. W.J. Martin.

Cash and Warren say Judd threatened their jobs. His hostility stems from the investigation of the death of Haines City police Officer Christopher Horner, they say. Judd denied threatening anyone. Horner was found shot to death March 3, 1998, in a cemetery north of Haines City. Officials with the Sheriff's Office, the Florida Department of Law Enforcement and the Medical Examiner's Office say Horner was slain. But Cash, one of the detectives who thinks Horner committed suicide, said she and Warren were singled out for punishment because of their views regarding Horner's death. They were angered, **Glassman** said, because Crow and other sheriff's officials ignored their complaints alleging harassment. "We were told we were idiots, and we were told we were stupid," Cash said. "They have not treated me the same they would a male."

Cash, who had an exemplary record at the Sheriff's Office as a deputy, a detective and then a

homicide investigator, was accused by Capt. Martin of mishandling cases. Sheriff's Col. Al Lang determined she did nothing wrong. Cash alleges three sergeants, under the direction of Capt. Martin, tried to destroy her credibility by saying she mishandled the cases. "None of the evidence and witness statements supported their allegations against me," she said. "They didn't even support each other, and some of them were actually caught lying during the interviews. "Once I was found innocent, the administration came to me and said it was a matter of perception," Cash said. "I want vindication. They refused to give it to me. I'll go as far as I have to to get it." Cash says it's that kind of treatment that has destroyed deputy morale in the Sheriff's Office. Neither Warren nor Thompson returned phone messages for this article.

Glassman said Sgt. Mary Martin, who is not related to Capt. W.J. Martin, has also been singled out for improper disciplinary action. "Mary thinks she's been targeted for disciplinary action predominantly because she's an outspoken woman," **Glassman** said. "She feels like she has a target on her back." Again, Wilder, the sheriff's spokesman, disagreed. "Nothing can be further from the truth," he said. "Mr. **Glassman** is engaging in irresponsible rhetoric." Sgt. Martin did not return phone messages.

Glassman said three male deputies have been to see him about unfair treatment by supervisors at the Sheriff's Office. But he said their complaints don't revolve around gender discrimination. Cash, who has worked on some of the highest-profile homicide cases in the county, such as the shooting of Winter Haven police Officer Johnnie N. Patterson Jr. and the shooting rampage by Haines City teen-agers in April 1998, said she was forced into patrol in December 1998 because of the treatment. "This has devastated me," Cash said. "They took a career I had been building all my adult life and took it away with a stroke of a pen. "If it wasn't for the support I got from people here, I wouldn't have been strong enough to stick with it. There are a lot of good people here. But there are just a few at the core that make it difficult for the rest of us."

Ledger, The (Lakeland, FL)
September 22, 1995

3 POLK MEN PART OF SUIT VS. GTE
Author: Lynn N. Duke

TAMPA -- Three Polk County men are part of an age discrimination suit filed this week in federal court against GTE Florida Inc. The suit claims that the Polk County men, along with 11 other plaintiffs, were terminated last year because of their age as part of a reduction in personnel by GTE.

Gary C. Broxton, 43, Randell D. Lewis, 47, and Harry W. Miller Jr., 48, all of Lakeland, are seeking back and forward pay, restoration to their former positions and unspecified punitive damages. "GTE, like so many other companies, is going through a reduction in size," said **Gary Glassman**, a Sarasota attorney representing the 14 plaintiffs. "Nobody can tell them they can't do that, but what we are questioning is what are the criteria and what are the factors used in making that decision."

A GTE spokesman said the company has not been served with the lawsuit but traditionally does not comment on pending litigation. The suit, which was filed Sept. 20 in U.S. District Court in Tampa, claims that instead of terminating positions based on an employee's seniority, GTE arbitrarily ranked people within job categories on issues unrelated to job performance, one of which was age. All of the people in the suit, and almost all of the people who were dismissed, are over 40. Each of the 14 plaintiffs previously filed age discrimination suits with the Equal Employment Opportunity Commission. The suit also seeks damages for professional embarrassment, personal humiliation and wrongful interference with pension rights. GTE employees become eligible for their pensions once their age plus years of service equal 76 or more. The 14 plaintiffs were within three to 12 years of that eligibility when they were fired last December.

Glassman said his clients got severance packages from GTE, but that compensation did not come close to what they would have earned in pension and benefits if they had worked until they were eligible. **Glassman** would not speculate what those pension benefits would be worth but said an economist would make a projection as the case proceeds. A separate suit alleging sex and age discrimination also was filed this week against GTE in federal court by a 44-year-old Pasco County woman, Andrea D. Lee.

Other plaintiffs in the suit are: Alan D. Brooks, 44, Seminole; Michael G. Brustad, 52, Sarasota; Frank M. Corso, 47, Sarasota; Jay K. Crawford, St. Petersburg; Shelley D. Hedgepath, 43, Riverview; Arthur S. Keal, 51, Sarasota; James L. McKay, 47, Bradenton; Myron M. Milligan Jr., 47, Denver; Nelson G. Peeples, 45, Zephyrhills; Stephen E. Wild, 48, Sarasota; Harvey T. Wilton, 45, Sarasota.

The Tampa Tribune
July 4, 1992

Parents group loses court bid to put teacher "bumping' practice on hold
Author: KATHLEEN BEEMAN

Circuit Court Judge Scott Brownell on Friday denied a parent group's request to delay the Sarasota School Board policy that allows teachers whose positions have been cut to displace others with less seniority. Based on the decision, about 100 teachers whose positions have been eliminated will begin the shuffling system known as ""bumping." Brownell said he could not justify stalling the bumping because the group failed to demonstrate a likelihood it eventually will win the case. But **Gary Glassman**, attorney for the grass-roots Parents for Quality Education Inc., a coalition of about 100 parents and teachers, said the bumping policy violates the intent of the Florida Constitution and disrupts education in the county. "We're disappointed with the judge's decision today," said **Glassman**, who was barred from calling eight witnesses to testify. ""But today's judgment is only one part of the lawsuit. We're convinced that when the judge does receive our testimony, he will rule in our favor."

Glassman said the seniority-driven system harms students by replacing experienced teachers with others who may be unfamiliar with the material. The bumping process, negotiated between the school board and the teachers union, was used for the first time last year when state budget cuts forced the school board to cut about 70 positions. Attorneys for the school board and the Sarasota Classified/Teachers Association argued the bumping provision is a policy decision that conforms with Florida statutes. School board attorney Lamar Matthews said the parents' group would have to pay $4 million to keep teachers in their current positions if the judge granted their motion. "There is no constitutional right to pick your teacher, like your teacher or have the best teacher," school board co-counsel Arthur Hardy said. Placing teachers throughout the school district is a decision based on teacher qualifications and seniority, he said. That should be left to the teachers and school officials, and kept out of the courts.

Glassman conceded there is no legal precedent allowing parents to ensure a teacher is adequate, but he urged the judge to set one. "The priority, judge, is very simply the students, the students, the students, and that's what this suit is about," **Glassman** said.

Research compiled by: Amanda Kuhl
Colin Baenziger & Associates

COLIN BAENZIGER & ASSOCIATES

EXECUTIVE RECRUITING

Section 3

Ramon "Ray" Irizarri

Port St. Lucie City Attorney Candidate Report

Section 3

TABLE OF CONTENTS

	PAGE
COVER LETTER AND RESUME	1
CANDIDATE INTRODUCTION	9
BACKGROUND CHECKS	17
CB&A REFERENCE NOTES	21
INTERNET SEARCH	29

Cover Letter and Resume

IRIZARRI & GERSTEN
ATTORNEYS AT LAW
12550 Biscayne Boulevard
Suite 800
North Miami, Florida 33181

Facsimile: (786) 431-2902
Telephone: (305) 308-4559
Email: rav@irizarri-gersten.com

RAMON IRIZARRI
Member of the Florida and New York Bars

JUDITH GERSTEN

April 21, 2016

Sent by electronic mail:
recurit39@cb-asso.com

Mr. Colin Baenziger
2055 South Atlantic Avenue, Suite 504
Daytona Beach Shores, Florida 32118

Re.: Port St. Lucie City Attorney Position

Dear Mr. Baenziger:

In response to your search for a city attorney, attached please find my resumé. I believe that I possess the qualities and skills that you are seeking for this position.

As a former senior assistant city attorney for the City of Miami and as a city attorney for the City of Sweetwater, I was responsible for providing the commissions, the city manager, departments, and divisions with legal advice on substantive and procedural issues in the context of governmental law. I possess a broad understanding of municipal law, have excellent interpersonal skills, and am a person of integrity. For the sake of clarity, I have divided my experience into six general areas:

1. Governmental experience: For more than ten years, from 1998 to 2009, I was city attorney for the City of Sweetwater, Florida. My responsibilities encompassed all aspects of municipal law, which included preparing for and attending commission meetings, rendering legal opinions, advising the City Commission on myriad issues, drafting ordinances and resolutions, litigating cases through the appellate level, representing the city in arbitrations, obtaining, approving and monitoring outside counsel, and negotiating contracts.

From 1990 to 1995, I was a senior assistant city attorney for the City of Miami, Florida, where I was assigned to the labor relations and employment law division, litigating complex workers' compensation cases and advising on negotiations with the Fraternal Order of Police, the Firefighters Union, and the General Services Employees Union. I advised the Department of Labor Relations on labor issues, which included, but were not limited to, discrimination and the Fair Labor Standards Act. I litigated all arbitrations filed against the City of Miami. I also drafted legislation on election issues, such as dual-office holding, the resign-to-run law, and the constitutionality of many other legal issues.

From 1978 to 1980, I was an attorney with the New York City Board of Education, the largest school district in the United States. I handled hearings before the Public Employees' Relations Board (PERB), disciplinary hearings, and arbitrations involving labor agreement interpretation and implementation.

2. Meetings: Prior to City of Sweetwater Commission meetings, I anticipated and prepared for legal issues and questions that would probably arise on items that were on the agenda, whether public or closed-door. I am familiar with the process of public meetings and how items are placed on the agenda.

I worked closely with all departments, such as the finance department, the clerk's office, planning and zoning, city engineers, and other departments affecting the city's operation to ensure that the city's interests were protected.

3. Litigation: For both the City of Sweetwater and the City of Miami, I litigated cases in administrative tribunals and hearings, and litigated bench and jury trials, representing the both the municipality and individuals. I represented agencies in disciplinary proceedings before civil service boards and in arbitrations. (And, in private practice, I have represented individuals in labor cases before various administrative bodies and in private arbitrations.) On the appellate level, I I have represented the City of Sweetwater and the City of Miami in approximately 100 appellate cases.

I am also familiar with the responsibility and obligations of directing and monitoring outside counsel to ensure cost containment and quality of legal services provided.

4. Legal opinions: I have rendered legal opinions and given advice on such varied issues as public records, the Sunshine Law, election matters, compliance with pension matters, compliance with competitive bidding procedures pursuant to Florida Statutes and case law, sexual predation, discrimination, procedures for disciplining employees, as well as more routine issues.

5. Negotiations: As a municipal attorney for the City of Miami and the City of Sweetwater, I have negotiated labor agreements, contracts, franchise agreements, and purchases and sales of land. Also, I represented the City of Sweetwater at fact-finding impasse proceedings under the Public Employee Relations Act (PERC).

6. Miscellaneous strengths and skills: I am bilingual in English and Spanish. Many years ago, I was a teacher in the New York public school system, and became an administrator. I then also taught at the college level at Mercy College in Dobbs Ferry, New York, and at City College of the City of New York.

Last, I have been a member in good standing with The Florida Bar since 1980, and The New York Bar since 1974. I have been a member of the United States Federal District Court for the Southern District of Florida since 1991. I am also a member of the United States Federal District Courts for the Southern District of New York and the Eastern District of New York.

Respectfully submitted,

_____

Ray Irizarri, Esquire

RAMON IRIZARRI
12550 Biscayne Boulevard, Suite 800
North Miami, Florida 33181
Telephone: (305) 981-1606
Cell: (305) 308-4559
Email: ray@irizarri-gersten.com

RESUMÉ

EDUCATION:

Juris Doctor	St. Johns School of Law (1973) New York
Graduate Studies	Education, Administration and Supervision St. Johns University School of Education
	Education, Administration and Supervision City College of the City of New York
Bachelor of Arts	History, Minor in Political Science Long Island University (1969)

BAR MEMBERSHIPS: The Florida Bar (1980)
Bar of the State of New York (1974)
United States District Court for the Southern District of Florida (1992)
United States District Court for the Southern District of New York (1979)
United States District Court for the Eastern District of New York (1979)

EMPLOYMENT:

7/1995-Present — Irizarri & Gersten
Private practice
Miami, Florida

My practice is primarily devoted to civil litigation, workers' compensation, and labor law. Experienced litigation attorney, which includes assessment of client's monetary exposure, valuing the case, case strategy, depositions and other discovery, motions, mediation, and trial.

1998-2009 — City Attorney
City of Sweetwater, Florida

I represented the city in all aspects of government law and issues, including Sweetwater's trial work, while maintaining my own law firm.

5/1990-7/1995 Senior Assistant City Attorney
City of Miami, Florida

My areas of practice: labor relations and employment, which included arbitrations, administrative hearings, workers' compensation trial work, and appeals; pension issues; legislation; and election issues.

8/1985-5/1990 Ramon Irizarri, Esq.
Private general practice
Miami, Florida

My practice was primarily devoted to civil litigation (commercial, matrimonial, and personal injury). Other areas included probate, real estate, workers' compensation, and appellate practice.

1/1982-7/1985 Rock & Rock
Private general practice
New York, New York

1982 The firm of Smoller & Irizarri joined the firm of Rock & Rock. At Rock & Rock, I handled cases in the following areas of practice: administrative law, commercial civil litigation, probate, labor law, real estate, appellate practice.

9/1980-9/1982 Smoller & Irizarri
Private general practice
New York, New York

I was general counsel to two school districts in New York City, and I was Labor Counsel to Dr. Martin Luther King, Jr., Health Center, Bronx, New York. Other areas of my practice were commercial civil litigation, labor law, administrative law, and real estate.

9/1978-1/1980 Attorney
New York City Board of Education
Office of Labor Relations and Collective Bargaining

The office negotiated labor agreements and ensured their implementation for approximately 92,000 employees, who were covered by 32 separate contracts. I handled hearings before the Public Employees' Relations Board (PERB), disciplinary hearings, and arbitrations involving labor agreement interpretation and implementation. I also negotiated the collective bargaining agreement for a unit of approximately 15,000 employees.

1/1974-9/1978	Director of Bilingual Studies Community School District 9 Bronx, New York I supervised the largest bilingual program in the State of New York, for the Superintendent of School District 9. The program had 10,000 students enrolled and a staff of approximately 350 teachers and other personnel. I administered grants, coordinated budgetary compliance with state and federal requirements, hired personnel, and ensured that the program's objectives were accomplished. I also consolidated programs at different educational levels into one uniform program for the whole school district.
1973-1974	Coordinator of Bilingual Studies for Junior High Schools Community School District 9 Bronx, New York I administered the bilingual program for 6 junior high schools, and supervised approximately 40 professionals.
1969-1973	Teacher, Social Studies Junior High School 22 Community School District 9 Bronx, New York

PART-TIME EMPLOYMENT:

1976-1984	Adjunct Professor Department of Business Administration Mercy College Dobbs Ferry, New York
1976-1985	Adjunct Professor Graduate School of Education City College of the City of New York New York, New York

PROFESSIONAL AFFILIATIONS:

The Florida Bar: Member No.: 0294357 Date of Admission: April 7, 1980.
The New York Bar

Candidate Introduction

RAMON IRIZARRI, ESQ.

EDUCATION:

Juris Doctor, St. Johns School of Law, New York
Graduate Studies in Education, Administration, and Supervision, City College, New York
Bachelor of Arts in History, and Minor in Political Science, Long Island University

EXPERIENCE

Attorney in private practice, Miami, Florida	1995 - present
City Attorney, Sweetwater, Florida	1998 - 2009
Senior Assistant City Attorney, City of Miami, Florida	1990 - 1995
Attorney, private practice, Miami, Florida	1985 - 1990
Attorney, private practice, New York, New York	1980 - 1985
Labor Attorney, Office of Labor Relations and Collective Bargaining, New York City Board of Education	1978 - 1980
Administrator, Director of Bilingual Studies, Bronx, New York	1974 - 1978
Coordinator, Alternative Education, Bronx, New York	1973 - 1974
Adjunct Professor, Department of Business Administration, Mercy College, Dobbs Ferry, New York	1976 - 1980
Adjunct Professor, Graduate School of Education, City College, New York, New York	1977

BACKGROUND

Currently, I have a private practice with my wife and partner in Miami-Dade County. My practice is focused on civil litigation, at the trial and appellate levels, in the areas of workers' compensation, wrongful discharge, pension issues, wage and hour issues, real estate, contracts, and dissolution of marriage. I handle jury trials and non-jury trials, as well as arbitrations and mediations. I am a magistrate for the City of West Miami, and have served as a hearing officer for the Miami-Dade County Value Adjustment Board.

From 1985 to the present, my practice has been in Miami-Dade County. I have practiced government law for seventeen years, in total, representing the City of Sweetwater and the City of Miami, before that. While in private practice, I was city attorney for the City of Sweetwater, for more than ten years, from 1998-2009.

Miami-Dade County is the largest county in the State of Florida, having a population of 2.7 million. The City of Miami and the City of Sweetwater are two of thirty-four cities incorporated within the county. Miami-Dade is one of the few home rule counties in Florida, and, as such, it is distinguished from non-home rule counties in the application of certain powers exercised by the county government and municipalities within it -- of particular note, annexation and dissolution of

municipalities, elections, and powers of the county commission. The City of Miami's population is approximately 430,000; and the City of Sweetwater's, 19,000.

The City of Miami City Attorney's Office employed approximately twenty-five attorneys. I was the senior assistant city attorney for the labor division, which encompassed labor relations, workers' compensation, civil service, and discrimination (such as the Americans with Disabilities Act, Title VII, and Florida's Human Rights Law). across all of the city's departments. The division had two assistant city attorneys who would come to me for guidance and advice in their respective areas of practice.

The City of Sweetwater, which is a small municipality, has very few resources compared to the City of Miami. This lack of resources required that I take a very active role in each of the five departments' operations. The department directors worked very closely with me, so that I was functioning as a consultant supervisor of the daily operations of the departments. They would look to me for effective management and supervisory advice.

I handled all litigation for Sweetwater, except tort claims --slip and fall cases, vehicular accidents involving police officers, and defective sidewalks -- which were handled by the liability carrier through the League of Cities. The cases that I personally tried included foreclosures of liens, breaches of contract, defending code enforcement of unsafe structures, and closing businesses for violation of liquor licenses and violations of operating hours.

In addition, I performed the more everyday legal work requiring my appearance at commission meetings and staff meetings, drafting ordinances and resolutions, negotiating the city's contracts with vendors, union labor agreements, and real estate agreements, placing items on the agenda, updating the code of ordinances, drafting election ballot questions, reviewing proposed disciplinary actions to assess the reasonableness of the proposed penalty in view of the misconduct, assessing the pensions to ensure that they were actuarially sound, reviewing and advising the mayor on the county's requirements for annexation, and procuring under the competitive bidding requirements of Chapter 287, Florida Statutes, for professional engineers, architects, non-professional services, and purchases of goods.

During my tenure, the City of Sweetwater began the process of annexing surrounding un-incorporated land and properties. Under home rule, Miami-Dade County created stricter criteria for annexation than the State's criteria. Not only were there stricter criteria, but the county had imposed a moratorium on annexation. The legal hurdle in this process was to convince the Miami-Dade Commission that the county should lift its moratorium. To that purpose, I focused my research on the best way to solve the obstacles that Miami-Dade County had created to prevent annexation. I presented a detailed report to the mayor, and as a result, he and the commission were able to lift the moratorium.

One of the first problems the commission presented to me when I was appointed city attorney was the creation of a pension for elected officials. The previous city attorney had advised the

commission that this was not feasible. I conducted extensive research and compared existing pension ordinances county-wide and the state's requirements on funding actuarially sound pensions. I drafted the ordinance that the commission passed to create pensions for elected officials.

GENERAL, MANAGEMENT STYLE AND EXPERIENCE

I have loved the practice of law. It was a good fit for who I am. I'm not sure how much of it has shaped me and how much of it I have shaped. I expect a great deal from those who work with me. I started out teaching, so supporting others and guiding them when necessary improves the whole and makes for strong teamwork.

I find the City of Port St. Lucie attractive on several levels. First, its size is much smaller than the City of Miami and quite a bit larger than the City of Sweetwater -- just the right size for me. Second, professionally, the depth and broadness of my experience will fit well with a city attorney's office the size of Port St. Lucie's. Third, it is close enough to Miami where my family resides, and affords me the opportunity for weekend visits from or to them.

I think the strongest attributes of a city attorney are honesty, integrity, unyielding ethics, professionalism, being consistent and flexible at the same time, communication, and knowledge of the law.

I approach every case the same way: I first obtain the facts, then analyze the facts within the context of existing law, then make an assessment of the exposure (liability). I continually review the facts through the discovery process and consult with the client on new facts that may emerge as the case moves forward. It is not uncommon for clients to perceive facts that vary from the actual facts revealed through documents, depositions, and other discovery tools. Every case is fact-driven.

I practice an open-door policy with employees. I make myself available to them, and am prepared to listen to their personal and professional problems. I make sure that the employee has the tools necessary to complete the assigned project, and follow-up on his or her progress. I encourage creativity in problem solving and teamwork.

The primary avenue of communication should be verbal and face to face, and consistent with all elected officials. Of course, when necessary, certain communication must be reduced to writing, as appropriate. Texting and emails are poor substitutes for good verbal communication.

I think the commissioners and city managers I have worked with would all say they like me and appreciate me.

I am tenacious and confident. I have the ability to quickly assess the parameters of a problem, whether it be legal or interpersonal, and develop non-linear solutions. My tenacity is tempered by keen observation, and a natural, honed ability to listen well, and to get to the heart of a problem. I bring my analytical skill, my creative instincts, and my years of experience with me.

Over the years, I have acquired an extensive knowledge of the budgeting and management of a business. When I was the director of bilingual studies for the school system in New York, I was responsible for preparing multimillion-dollar budgets, from the initial projections to their implementation.

I cannot think of any weakness that I might have.

On the whole, I have made my mark in some of areas of jurisprudence during my years as a public servant. The following are three examples:

I was hired in 1990 by the then-city attorney for the City of Miami to work on a complex series of cases that began with the Barrigan Florida Supreme Court decision, a pension-offset case that had been handled badly at trial, on appeal to the First District Court of Appeal, and ultimately, the Florida Supreme Court. Prior to 1973, there was a Florida statute that permitted municipalities to offset workers' compensation from an employee's pension. In 1974, the Florida legislature passed a law abolishing this practice. The city continued to offset until 1989, when Barrigan was decided by the Supreme Court, which required the city to pay back the pension monies to the retirees, plus interest and a 20 percent penalty. When I arrived in 1990, I analyzed roughly 115 other pension-offset cases, and took to trial approximately 15 of them that were factually distinguishable from Barrigan. It took several years to try those 15 cases, where I lost all of them at the trial level and at the First District Court of Appeal. The cases were then consolidated and went up to the Supreme Court, again, where some were held in abeyance, while the Supreme Court considered four of them. The Supreme court ruled in favor of the City of Miami, which saved the city approximately $14,000,000.

In another successful outcome of significance to me and to the City of Miami, I recognized that the city was over-funding its pension contributions under a settlement known as "the Gates settlement," which had been entered into in the 1980s, wherein the city made a fixed annual contribution to fund the pension plans. Over the years, the contributions resulted in funding that was greater than required under Florida statutes and under the settlement. The city had been contributing approximately $15,000,00 a year, unnecessarily. Under threat of litigation by the city, the unions came to the bargaining table to settle the issue of the overfunding. By changing the actuarial assumption and restructuring the pension plans, I saved the city $124,000,000.

I also handled a third financial success, which was a "win-win" for the unions and the City of Miami. The state legislature passed an unfunded mandate requiring county and municipal governments to implement a recycling program. The implementation of the program would have resulted in layoffs of several hundred sanitation workers. The city manager was opposed to the

layoffs and wanted a means, within the union contract, not to lay off these employees. The city manager's staff came to me for a solution. I proposed a novel way that would save the employees' jobs and not require submission of the recycling program to competitive bidding. I explained to the manager and his staff that my proposal was very limited in nature, and could not be used as a vehicle for wholesale avoidance of the competitive bidding process. With this caveat, we created an indirect system of compensation, whereby the union obtained control of the recycling program and hired its union members as its employees.

I was offered funding to run for a judgeship, but declined the offer. I'm not sure that this was a mistake, but it makes me wonder what path my life would have taken. After all, judges must remain neutral, but lawyers are first and foremost, advocates, which suits me well.

I have terminated from employment at-will employees and civil servants, when I was director of Bilingual Studies for the School Board of the City of New York. I am a strong proponent of the concept of progressive discipline. In assessing an employee's performance, I first make the determination of the employee's status -- whether he or she is an employee at will or has legal remedies under contract or by law. The unsatisfactory performance of an employee must be measured in terms of the deficiency or misconduct. Egregious conduct may warrant immediate termination. Conduct that is not egregious warrants progressive discipline, which encompasses initial counseling, documentation of the deficiency, and warnings of suspension or termination of employment. If the warning is sufficient, and the employee does not correct his or her deficiency, I consider a suspension or termination, or anything in between.

My initial effort in the first six months is to: meet with the council members, the city manager, the city attorney's staff, and, with the permission of the city manager, meet with his staff to assess the legal problems and prioritize them. Then, I will establish goals in consultation with my staff and the directors of the city departments. Next, I will develop long-term goals for the city attorney's office, to provide an efficient, cost effective delivery of quality legal service to the City of Port St. Lucie.

I will answer any reasonable questions the media may pose. It is not my practice to work with the media.

I like to cook in my spare time.

There is nothing in my professional or personal life that would embarrass me or any client, or any employer in the future.

Neither is there any community activist who has any negative information about me.

RAMON IRIZARRI, ESQ.

REASONS FOR WANTING TO LEAVE CURRENT OR MOST RECENT JOB

I miss public service.

SIX ADJECTIVES OR PHRASES I WOULD USE TO DESCRIBE MYSELF

1. Highly ethical
2. Person of integrity
3. Focused
4. Honest
5. Communicative
6. Professional

CURRENT OR RECENT SALARY

Since I am not a public employee and subject to the Sunshine Law, at this time it is inappropriate for me to disclose my income.

Section 3

CB&A Background Checks

Background Check Summary for
RAMON "RAY" IRIZARRI

Criminal Records Checks:

Nationwide Criminal Records Search	No Record Found
County Miami-Dade County, FL	No Record Found
State Florida	No Record Found

Civil Records Checks:

County Miami-Dade County, FL	No Record Found
Federal Florida	No Record Found

Motor Vehicle Florida	No Record Found
Credit	Excellent
Bankruptcy	No Record Found
Education	Confirmed
Employment	Confirmed
Bar Certification/License	Member in Good Standing Bar #294357

Background Check Summary for
RAMON "RAY" IRIZARRI
Personal Disclosure

Personal Disclosure Questionnaire

Name of Applicant: Ramon Irizarri

The following questions are designed so that we will be able to make full disclosure to our client concerning your background. Please answer them honestly. Cutting corners or misrepresenting your past will result in you being eliminated from all further searches conducted by this firm. We understand that frivolous charges are sometimes made and that charges do not mean you were guilty. We also understand that you may have been wronged and needed to seek compensation. The bottom line is that we want to be certain that our client is fully informed. If you have any questions, please contact us for clarification.

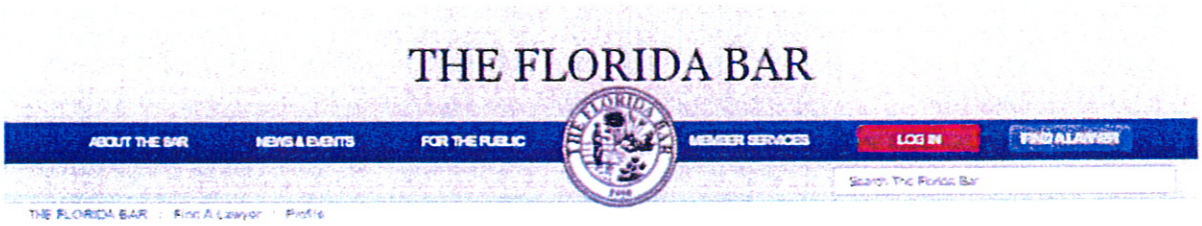
Please explain any yes answers on a separate sheet of paper.

1. Have you ever been charged or convicted of a felony?
   Yes ☐ No X
2. Have you ever been accused of or have been involved in a domestic violence or abuse incident?
   Yes ☐ No X
3. Have you ever declared bankruptcy or been an owner in a business that did so?
   Yes ☐ No X
4. Have you ever been the subject of a civil rights violation complaint that was investigated or resulted in a lawsuit?
   Yes ☐ No X
5. Have you ever been the subject of a sexual harassment complaint that was investigated or resulted in a lawsuit?
   Yes ☐ No X
6. Have you ever been convicted of driving while intoxicated?
   Yes ☐ No X
7. Have you ever sued a current or former employer?
   Yes ☐ No X
8. Do you have a personal My Space, Face Book or other type of Web Page?
   Yes ☐ No X
9. Do you have a personal Twitter Account?
   Yes ☐ No X
10. Is there anything else in your background that, if made public, would cause you, our client or our firm embarrassment if it came to light through the press or any other mechanism?
    Yes ☐ No X
11. Please provide a list of any lawsuits in which you are or have been a party either as plaintiff or defendant.
    [redacted] v. Ramon Irizarri (divorce)

Attested to: _____
Signature of Applicant

Please email this form via PDF DOCUMENT to Lynelle@cb-asso.com or via fax to (888) 539-6531 no later than 5:00 PM CST 05/03/16.
(Note: Please be sure to sign the form with your actual signature if you are sending Fax or PDF Document)

Background Check Summary for
RAMON "RAY" IRIZARRI
Florida Bar License



Ramon Irizarri

Member in Good Standing — **Eligible to Practice Law in Florida**

Bar Number:	294357
Mail Address:	Irizarri & Gersten 12550 Biscayne Blvd Ste 800 North Miami, FL 33181-2545 United States Office: 305-308-4559
Email:	ray@irizarri-gersten.com
Personal Bar URL:	www.floridabar.org/mybarprofile/294357
vCard:	?
County:	Miami-Dade
Circuit:	11
Admitted:	04/07/1980
10-Year Discipline History:	None
Law School:	St. John's University School of Law, 1973
Practice Areas:	Administrative General Practice Government Workers' Compensation
Languages:	Spanish
State Courts:	Florida New York
Firm:	Irizarri & Gersten
Firm Size:	2 to 5
Firm Position:	Private Law Practice
Services:	Language Translation

The Find a Lawyer directory is provided as a public service. The Florida Bar maintains limited basic information about attorneys licensed to practice in the state (e.g., name, address, year of birth, gender, law schools attended, admission years). However, through this directory The Florida Bar allows individual attorneys the opportunity to provide for public information certain expanded personal and professional data. It is the attorney's responsibility to routinely review and update those expanded listings. The information contained in those expanded listings is presented by the Bar "as is" with no warranty of any kind, express or implied. The Florida Bar, its Board of Governors, employees, and agents thereof are not responsible for the accuracy of that additional data. Publication of attorneys' contact information within this listing should not be construed as their consent to receive unsolicited communications in any form. Certain unauthorized uses of this data may result in civil or criminal penalties. The Find a Lawyer directory is not a lawyer referral service.

CB&A Reference Notes

Reference Notes
Ramon Irizarri

Victor Marrero – Director of Risk Management, Seminole Tribe, Hollywood, FL
954-966-6300

Mr. Marrero first met Mr. Irizarri in 1990 while they were both employed at the City of Miami. They worked together for 5 years until they both left in 1995. They have had no major contact since that time, but do see each other on occasion at industry conferences and/or seminars.

Mr. Irizarri is a diligent worker who is methodical and always well prepared. The two gentlemen worked well together mostly processing defense claims for the City. He always kept Mr. Marrero in the loop in regards to the caseload. He has an incredible knowledge of the law, especially in the area of Labor and Personnel matters. Additionally, he came up with several novel ideas for some of the cases they defended. He is the type of attorney who looks for solutions to problems and does not say things cannot be done.

Mr. Irizarri is one of the nicer people that Mr. Marrero knows. He is soft spoken, mild mannered and does not get rattled. He is a proactive attorney and is confident even when going head to head with high level lawyers. Because they worked mostly on Labor and Personnel issues Mr. Marrero never had the chance to see him interact with the elected officials.

Mr. Marrero is not aware of Mr. Irizarri having been involved in anything controversial since he has known him. He dealt with controversial issues as an attorney, but he did not cause any of those problems. He has no knowledge of Mr. Irizarri having anything in his background that would raise any red flags as far as his character or integrity is concerned. He would certainly give him strong consideration if he were looking to hire a City or County Attorney.

Words or phrases used to describe Ramon Irizarri:

- Professional,
- Diligent,
- Highly educated,
- Knowledgeable, and
- Mild mannered.

Strengths: Extremely calm and professional individual who has a vast knowledge of the law and is a problem solver.

Weaknesses: None identified.

Honorable Leon Firtel – Retired Circuit Court Judge, Miami-Dade County, FL
305-321-5988

Mr. Firtel and Mr. Irizarri first met around the time that Mr. Irizarri joined the City of Miami in 1990. They both served as Assistant City Attorneys and enjoyed a collegial relationship. They continue to keep in touch, but it is more of social relationship at this point in their lives.

Mr. Irizarri is a wonderful attorney. He is hard working, is always well prepared, and does his research. Mr. Firtel appreciated his realistic approach in regards to the value of each case in which he was involved. He has a good command of the law, possesses fantastic people skills, is patient, and always gets along well with the staff. He is experienced in Constitutional Law, Contracts, and Labor and Personnel matters.

Mr. Irizarri makes good decisions in regards to the law and negotiates wonderfully on behalf of the party who he represents. In regards to working with the elected officials, he consistently made solid recommendations. Unfortunately, those in the City of Miami follow their own path. Some instances, notwithstanding his most excellent and positively correct recommendations, the elected officials did not follow his advice. That is just the nature of how things are done in that municipality and is not a reflection of his capabilities as an attorney.

Mr. Irizarri is someone who looks for and finds solutions that are reasonable, but he can be hard-nosed when necessary. He took appropriate actions on cases that needed to be resolved, but he went to trial if the situation warranted.

Mr. Firtel is not aware of Mr. Irizarri being involved in anything that would be thought of as controversial. He does not have any knowledge of any item in his past history that would be looked upon as unflattering if the press were to go digging. He would consider hiring him as a City or County Attorney and is confident that he would do a fine job in such a position. He has the background and experience in a variety of areas of the law. Additionally, he is a reasonable person who works well with people and knows how to handle the elected officials. He would definitely be a top notch manager.

Words or phrases used to describe Ramon Irizarri:

- Reasonable,
- Thinker,
- Intelligent, and
- Diligent.

Strengths: Experienced and intelligent attorney who has a plethora of knowledge in many areas of the law, works well with others, and is an outstanding person.

Weaknesses: None identified.

Maria Del Carmen Calzon – Trial Attorney, Law Office of Maria del Carmen Calzon P.A., Miami, FL 305-978-1348

Ms. Calzon has known Mr. Irizarri since approximately 1986. She has worked with him and against him on numerous occasions throughout the years.

Ms. Calzon holds Mr. Irizarri in extremely high regard. She is familiar with his work and he is a wonderful and competent attorney. He is a hardworking and ethical person both professionally and personally. He is calm and never loses his cool under fire. Additionally, he not only speaks with authority and knowledge, but he backs that up with phenomenal writing skills. He is one of the most competent attorneys in regards to writing, briefing, and arguing the law and has never led Ms. Calzon astray.

One of Mr. Irizarri's biggest strengths is that of negotiating well on behalf of the party he represents. He is a wise and calm negotiator and is an excellent mediator. Ms. Calzon witnessed his talents in this area when he was in the City of Miami as well as while he was in Sweetwater. Because of his calm and thoughtful demeanor people listen to him.

Mr. Irizarri always made good recommendations to his elected officials. Ms. Calzon is not aware of any circumstances where the elected body did not follow the candidate's advice and did something different. He is definitely a problem solver and looks for solutions while staying within the parameters of the law.

Mr. Irizarri is well versed in many aspects of the law including Constitutional Law, Contracts, and Labor and Personnel Matters. He negotiated several major contracts for the City of Miami and served as the main litigator for the majority of the Labor and Personnel issues.

As far as communication is concerned, Mr. Irizarri is a wonderful communicator. He is extremely detail oriented in this area and keeps documented records of all his communications regarding his cases. He is not only good at keeping people in the loop in regards to their legal matters, but he is conscientious about following up with clients.

Ms. Calzon is not aware of Mr. Irizarri being involved in anything controversial since she has known him. He is smart and thinks through things carefully before speaking. He is the least controversial person she knows. She has no knowledge of any item in his background that would be considered embarrassing if the press were to go digging. She would absolutely hire him as a City or County Attorney if she were looking to fill such a position. He is a team player who will support, in a legal and ethical manner, whatever his organization is trying to accomplish.

Reference Notes
Ramon Irizarri

Words or phrases used to describe Ramon Irizarri:

- Competent,
- Wise,
- Knowledgeable,
- Measured,
- Communicator, and
- Supporter.

Strengths: An exceptionally talented attorney who is highly ethical and a good person.

Weaknesses: None identified.

Marie Schmidt – City Clerk, City of Sweetwater, FL 305-221-0411

Ms. Schmidt first met Mr. Irizarri in 1998. She acted as his secretary during his time in Sweetwater. They have had no further contact since he left the City in 2009.

While Mr. Irizarri was in Sweetwater, he and Ms. Schmidt worked together on a regular basis. They worked very well together as Mr. Irizarri is easy to work with. He has an immense knowledge of the law that goes beyond that of municipal law. His knowledge and expertise was quite useful to the entire staff. He has a good command of the law and worked extensively on Contracts, and Labor and Personnel matters.

Mr. Irizarri is responsive and solution oriented. He is also good about giving feedback on issues. He is familiar with contracts and their wording and will point out things in those contracts ensuring that is what is wanted by the parties whom he represents. He wants to ensure that his clients are getting what they want and will go out of his way to work for those outcomes as long as they are within the confines of the law.

Communication is a big strength of Mr. Irizarri's. He always keeps people in the loop. He got along well with the elected officials as well as the City Manager and all of the Department Heads and was consistent with keeping them abreast of what was happening in the organization.

Ms. Schmidt is not aware of Mr. Irizarri being involved in anything controversial since she has known him. He has nothing in his past history that would be thought of as unflattering if the press were to investigate. If she were in a position to hire a City or County Attorney, he would definitely be a candidate.

Reference Notes
Ramon Irizarri

Words or phrases used to describe Ramon Irizarri:

- Competent,
- Prompt,
- Knowledgeable,
- Easy to work with, and
- Pleasant.

Strengths: Extremely knowledgeable attorney who does what he can to ensure the success of his client and organization.

Weaknesses: None identified.

Michael Lavine – Former Director of Finance, City of Sweetwater, FL 305-444-9306

Mr. Lavine has known Mr. Irizarri since the early 1980's. They worked on several items while Mr. Lavine was with the City of Miami as well as working together at the City of Sweetwater. They continue to have occasional contact even though they no longer work together.

Mr. Irizarri has a very good command of, and is extremely knowledgeable about the law. He is a team player and an immensely honest person. He is a professional attorney who is responsive and responds in a timely manner.

When it comes to decisions in regards to the law, Mr. Irizarri does well. Mr. Lavine does not remember a case he could not handle nor does he recall that any case was not resolved to Mr. Lavin's satisfaction. He is an excellent negotiator on behalf of the party he is representing no matter who it is.

Mr. Lavine would characterize Mr. Irizarri as someone who tries to find solutions, but stays within the rules and regulations that are laid out by the law. He is always looking for opportunities to resolve issues.

Mr. Irizarri dealt well with his elected officials, the City Manager, and the Department Heads. He is a team player who is patient and listens to others. He also takes the time to talk to others and explain items to them in a manner that they can understand.

Mr. Lavine is not aware of Mr. Irizarri being involved in anything controversial that was not part of his job description. He has nothing in his background that would be considered embarrassing if the press were to go digging. If Mr. Lavine were looking to fill a position for a City or County Attorney, Mr. Irizarri would be his top pick.

Reference Notes
Ramon Irizarri

Words or phrases used to describe Ramon Irizarri:

- Excellent attorney,
- Intelligent,
- Team player, and
- Knowledgeable.

Strengths: Experienced and knowledgeable attorney who is ethical and does what he can to reach the best outcome for his clients and organization.

Weaknesses: None identified.

Prepared by: Heather Linares
Colin Baenziger & Associates

CB&A Internet Research

Key West Citizen, The (FL)
August 22, 2013

25 apply to be village attorney
Author: *ROBERT SILK*

Twenty-five people have applied to take over the village's legal department when the town makes the transition to an in-house attorney in October. However, none of the applicants currently practice in the Florida Keys. "Doesn't bother me at all," said Councilman Dave Purdo. He added that local lawyers might have been discouraged by the fact that they wouldn't be allowed to keep their private clients if they got the post.

Among those who did submit applications before the Aug. 15 deadline are several people who have significant municipal law experience in Florida, which is one of the major qualifications the village seeks. Perhaps best known in the Keys is Ralf Brookes, who in the 1990s worked with the Monroe County Attorney's Office on a contract basis. Brookes has also done contracted city attorney work for St. Pete Beach, Bradenton, and currently, tiny Yankeetown, west of Gainesville. Another applicant with past Keys experience is William Webster, who has worked as both a prosecutor and a public defender in Monroe County. Webster also gained municipal law experience as the city attorney in the Panhandle city of Carrabelle from 1985 to 1998. A third applicant whose background includes something of a local connection is Marlon Weiss. He's now a senior associate of the Deerfield-based Garrity Weiss firm. But in 2008 and 2009 he was an associate with the Weiss Serota law firm that the new village in-house attorney will replace. Other applicants who have significant Florida municipal experience include: Robert Dunckel, associate city attorney for Fort Lauderdale since 1988. Henry Hunnefeld, assistant city attorney in Miami from 1999 through 2008. Hunnefeld is currently supervisor of the litigation division for the Miami City Attorney's Office.

Gabrielle Radcliffe, assistant Port St. Lucie city attorney from 2006 to 2012. **Ramon Irizarri**, city attorney for Sweetwater in Miami-Dade County from 1998 to 2009. David Michael Migut, senior assistant attorney for St. John's County in northeast Florida since 2011 and a former assistant attorney for Fort Myers. L. Roland Blossom, city attorney between 2002 and 2008 for Deltona, north of Orlando. With the applications in, an ad-hoc committee appointed by the Village Council will now evaluate the candidates. The committee, which comprises of local attorneys Jim Lupino and Scott Black as well as Weiss Serota's Nina Boniske and businessman David Gross, met Wednesday at Village Hall.

The council expects to hire the in-house attorney before the Oct. 1 start of the next fiscal year. The position has been tentatively budgeted for a salary of $140, 000, but the actual salary will be determined by negotiation. rsilk@keysnews.com

St. Petersburg Times (FL)
August 15, 2007

14 MAKE BID TO BE TOP LEGAL ADVISER
Author: CHUIN-WEI YAP

Correction: CORRECTION (10/18/07): Pasco County Attorney candidate Douglas Wyckoff is currently the city attorney of Valparaiso. A story Tuesday and in previous editions of the Pasco Times misstated his status.

A Land O'Lakes lawyer, a top manager from the Pinellas County Attorney's Office and a former Pasco County Attorney are among 14 candidates vying to become the county's top legal adviser. County Attorney Robert Sumner, 72, is retiring in December. He has been on the job nearly eight years. With the application deadline dropping at 5 p.m. Thursday, some high-flying names are joining the scrum for his job. It has touched off a contest that's drawn interest from Tallahassee to Miami. It's also produced two candidates from the beleaguered county offices of Pinellas, under grand jury investigation for suspicious property transactions with that county's property appraiser. Thomas E. Spencer, 58, is Pinellas' managing assistant county attorney. His job, as spelled out in his application, is to manage "all risk litigation for Pinellas County constitutional officers." Spencer, who did not respond to repeated calls for comment, lists County Attorney Susan Churuti among his references. Churuti remains suspended for her role in brokering a land deal that's now the focus of the grand jury investigation.

Those who know Spencer spoke well of his abilities and said he's not bailing from a sinking ship. Spencer has been at his post for six years and his supporters say it's time to move on. "It has nothing to do with Susan Churuti at all," said Michael Durham, general counsel for the Highlands County Sheriff, who used to work for Spencer. "It's unfortunate that the situation there arose." One of Spencer's former employers is Carl Anderson, a Lutz entrepreneur and investor in Caliente Resort. Anderson hired Spencer in 2000 and 2001 as a staff attorney for Southern Resources Management, a property management company. "I would hire him again," Anderson said Tuesday. But Spencer's asking price, $170,000 a year, is steep by Pasco standards. Sumner, whose job Spencer seeks, earns $164,000 plus travel costs and professional membership fees. Spencer's colleague in Pinellas, David Rynders, is also mounting a bid. Rynders is working on a one-year sabbatical in Churuti's office, doing research and analysis.

"I have seen both good and bad local governments up close, and hope to participate in keeping Pasco County on the good list as long as possible," he wrote in his application. It's a second run for the same job. Rynders was Pasco's county attorney from 1975 to 1978 - and back then, he also moved from Pinellas to take up the Pasco post. He's 62. Another second bid comes from Tim Hayes, 53, a Land O'Lakes lawyer who narrowly lost his first try to Tom Bustin in 1991. Hayes has strong ties to the central Pasco Chamber of Commerce and the Pasco Economic Development Council, and is a former member of the defunct Tampa Bay Commuter Rail Authority. Up against Hayes is a New Port Richey attorney who used to represent the county on

water-related cases. Fred Reeves used to work alongside Democratic Party power broker and attorney Clyde Hobby, but not anymore.

"We're still friendly," Reeves said. Reeves said he had been approached by 10 to 15 people, "some of them in the development circle," urging him to bid for Sumner's job. He refused at first, he said, but relented when his supporters renewed their pleas. But he's not endorsed by the Pasco Building Association, he said. "If they're looking for someone leaning a certain way, I do not plan on being a sixth commissioner," Reeves said. Sumner's protege, Pasco chief assistant attorney Barbara Wilhite, had not submitted her application as of Tuesday morning. She later said she would file her papers by the deadline Thursday. Other public sector candidates are Celeste Adorno, chief of the eminent domain bureau in the state Office of the Attorney General; James Richmond, the deputy general counsel at the state Department of Community Affairs; and Gordon Johnston, former Marion County attorney.

Names from the private sector are Roberta Kohn, a senior associate in Tampa's Catherine W. Real, P.A.; **Ramon Irizarri**, of **Irizarri** & Gersten in Miami; Patrick Scott, staff attorney with Crown Castle International of Sarasota; Alan Greenfield, of Alan E. Greenfield, P.A. in Aventura; Stephen Stanley, of Stephen J. Stanley of Tampa; and Douglas Wyckoff, who didn't list any work experience.

Miami Herald, The (FL)
January 14, 2007

Appeals court upholds firing of police officer
Author: JOSE CASSOLA

The Third District Court of Appeal has upheld the firing of a Sweetwater police officer accused of molesting a 17-year-old girl in Feb. 2001. Jesse Dieguez was fired in August 2002 after an investigation into allegations he molested his stepdaughter. He had worked 16 years with the Sweetwater police department. The girl later recanted her allegations and the state attorney's office declined to press charges. However, handwritten contracts Dieguez had allegedly drawn up between him and the victim were found concealed under the trunk liner of a police vehicle previously assigned to him. The contracts were agreements for sexual favors.

The handwritten contracts were examined and confirmed by the Crime Laboratory Bureau of the Miami-Dade County police department which compared the documents with Dieguez' handwriting on Sweetwater police incident reports. Dieguez denied all charges and appealed a final order of the Criminal Justice Standards and Training Commission of the Florida Law Enforcement which revoked his certification. He argued the revocation order was based entirely on inadmissible hearsay and was not supported by legally sufficient evidence. But in a report released Jan. 3 by the DCA, the court said "the case had been proven by clear and convincing evidence." In the report, the court ruled "there is no plausible innocent explanation for the text of the documents. The victim's hearsay statements were properly considered by the Administrative Law Judge to supplement and explain the documents."

Sweetwater City Attorney **Ramon Irizarri** said "the city acted accordingly and made a recommendation to have [Dieguez] dismissed. The matter went to arbitration, they agreed and the state moved to have his certification revoked." Dieguez could not be reached for comment. His lawyer, Mark J. Berkowitz, did not return phone calls from The Miami Herald seeking comment.

Miami Herald, The (FL)
April 6, 2006

CITY SAYS NO TO PAYBACK OF FEES
Author: JOSE CASSOLA

Sweetwater officials Monday denied the reimbursement of attorney fees and costs in the defense of officers Allen St. Germain and George Alvarez, who were acquitted in February of charges of felony battery and official misconduct against Peter Michael Daniel. St. Germain and Alvarez were suspended without pay for more than two years, but have since been reinstated and reimbursed with back pay. The law firms which represented the officers - Jorden Burt and Hartman and Cornely - are requesting that Sweetwater comply with a state law that requires reimbursement of the attorney fees for defense of the officers at trial and from the pre-trial and investigative stages. However, city officials said they are not required to reimburse the attorneys, a total of $200,000, because the statute was amended in May 2004.

``The incident in question took place in June 2003. The statute was not in effect when the incident occurred," City Attorney **Ramon Irizarri** said. ``Therefore, we believe the new statute does not apply." Attorneys Douglas Hartman and Richard Sharpstein intend to settle the matter in court. ``We spent hundreds of hours on this case. All that we're asking is that the city honor their obligations," Hartman said. Mayor Manny Maroño presented the issue to state legislators last week, but there are no funds available. ``Reimbursing these attorneys would place our city in a financial burden, and we don't feel the statute is applicable in this case," Maroño said. ``This is in no way a reflection of the outstanding job they did. This is just a position we must take."

The Miami Herald
February 5, 2004

ENGINEER FIRED AS SOLUTIONS ARE SOUGHT FOR PARK
Author: DESERAE DELCAMPO

Sweetwater city commissioners Monday fired Rodolfo Ibarra, a city engineer they say left a cherished construction project at Domino Park a costly shambles. Ibarra was not at the meeting and could not be reached for comment. City officials say they have not seen Ibarra since December. City officials voted unanimously to terminate the contract with Ibarra and hire a new city engineer. City Attorney **Ramon Irizarri** did say during the meeting that Ibarra had been contacted and told of his termination. Sweetwater is still searching for answers to the botched construction of Domino Park, at 10620 SW Seventh Ter.

The park was to be a showcase, a place where senior citizens could play dominoes under a large, comfortable gazebo and children could enjoy a playground. Ibarra, city officials said publicly, was supposed to supervise the work. But after spending $175,000, the park has a gazebo, parking lot and bathroom, but not much else. At Monday's meeting, commissioners were clearly angry and frustrated about the situation - and they wasted no time picking a new engineer. ``We need someone now for this position," said Vice Mayor Ariel Abelairas. The city has hired Mariano Fernandez to take over as city engineer. Fernandez has worked as an independent project manager and engineer for the city of Miami for more than seven years. ``I'm very confident about [him]," said Mayor Manny Maroño.

The city will now look to hire an engineering firm willing to testify if the city decides to take the matter to court. The firm will view the contract and the work completed in Domino Park to see if the city paid more than it should have. In other business, some flooding relief money may be on its way from Washington, D.C. - but the question of when the funds will arrive is still up in the air. On a recent trip to D.C., Maroño said aides of U.S. Rep. Lincoln Diaz-Balart told him that $800,000 in additional funds may be given to Sweetwater to help with the flooding problems that plague the city. ``It looks promising," said Jorge Forte from the mayor's office. ``I really hope we get the money."

The Miami Herald
November 20, 2003

FLOOD PLAN SPLIT IN TWO PARTS
Author: DESERAE DELCAMPO

During a short meeting Monday, Sweetwater commissioners discussed the preparation and completion of a storm water master plan and the approval of a domestic violence project. They also got some bad news. On Oct. 30, the city received word from the state that an additional $6.4 million was being granted to help with flooding problems - but the information was false. ``A typo from the governor's office," said Mayor Manny Maroño. Still, officials vowed to forge ahead with the flooding problem. Monday, in a 5-1 vote with Vice Mayor Ariel J. Abelairas dissenting, the commission decided to revise the contract with engineering company Craig A. Smith & Associates. The company is set to prepare an overall storm water master plan that will guide Sweetwater in eliminating its infamous flooding problems and help the city secure the money to do it. ``The storm water master plan is a huge, huge document that sets up future funding sources and materials that the city needs," said Jorge Forte of the mayor's office. With the master plan being broken down into two phases, the plan may take up to eight months to complete, said Greg Jeffries, a director from Craig A. Smith and Associates. ``This report tells the city - and future engineers if we're not around to finish the work - `Here is the master plan for what Sweetwater needs to control flooding,' " said Jeffries. Phase I, which will cost the city $48,000, is research of drainage and flooding in Sweetwater. Phase II will be the final report.

The total cost for the flooding plan is capped at between $80,000 and $90,000. Still, Abelarias didn't like it. ``At first they told us the master plan would cost over $100,000," Abelarias said. ``I want the whole picture to be explained clearly to me. I'm not well-informed on how the work is going to be done and how much it is going to cost the city. None of that is explained to us."

Smith and Associates has worked in the city since 2000, after storms left the city under water. It set up engineering evaluators around Sweetwater to investigate the damage done by the flooding. City officials have recently fretted there may be a conflict of interest if the company took control of the master plan project. During Monday's meeting, City Attorney **Ramon Irizarri** said that wasn't a problem. ``We even had our lawyers check into it and it seems to be all right," Jeffries said. ``We do know the city on an engineering level and we've done our homework already." A domestic violence project was discussed. The city received a $5,344 grant from the Miami-Dade Department of Human Services to start an advocacy group for victims of domestic violence...

``This program will send a message that this is available to residents even in a small city like Sweetwater," Forte said. And with the holiday season around the corner, Maroño, along with city and county commissioners, is going to be handing out Thanksgiving dinner baskets for needy families in Sweetwater on Friday at Jorge Mas Canosa Youth Center, 250 SW 114th Ave.

The Miami Herald
January 9, 2003

CITY GETS $103,000 FROM FORECLOSURE
Author: ELYSA BATISTA

Sweetwater is $103,000 richer. At Monday's meeting, the Sweetwater commission opened bids for the sale of a home belonging to the city and approved $688.50 in attorney's fees for the police department. According to City Attorney **Ramon Irizarri**, the property at 11572 SW Fifth St. had been foreclosed on because of liens. The latest bids come after the city scratched a previous attempt to sell the property. The city sent out the first call for bids a month ago, said Commissioner Orlando Lopez. But the bids that came back were not what the commission expected. ``The first time, the city felt the bids were too low," **Irizarri** said. For the second round, the city only received two bids. One was from Jose Rodriguez of Sweetwater for $70,000 and the other was from Francisco Gonzalez of Coral Gables for $103,570.

``It's a little less than we anticipated," said Lopez. He said he hopes whoever acquires the property will fix it up. After a brief discussion, the commission unanimously accepted Gonzalez's bid, with some reservations. ``I was not in agreement with the property being sold at that price," said Commissioner Ariel Abelairas, adding that although the price was not what he would have liked, it was not worth losing a good offer.

In other action, the commission: * Decided to hold a special meeting at 8 p.m. Monday to discuss the third phase of the city's drainage project. Phase III of the project - designed to help with flooding woes in the city - calls for the installation of two massive pump stations, swales, sidewalks, new street lighting and roads north of West Flagler Street between 110th and 112th avenues. The plans were presented in October by Greg Jeffries, from Craig A. Smith and Associates, the city's engineers, and outlined the status of pending projects. The detailed presentation estimated the cost of the work at $3 million. The discussion Monday will focus on how the city will pay for it.

The Miami Herald
September 19, 2002

CITY, BUILDING FIRM HEAD BACK TO COURT
Author: ELYSA BATISTA

At an emergency meeting Friday, the Sweetwater City Commission discussed a pending lawsuit with Solo Construction over the storm-water improvements on the east side of the city, which include pumping stations at Southwest 102nd Place and Southwest 103rd Avenue between Fifth and Sixth streets. The city claims the construction firm, which won the bid after suing Sweetwater in 2001, isn't doing the work it's supposed to. Solo officials could not be reached Tuesday for comment. But Sweetwater says it wants the work done soon - and at the price that was agreed upon. ``We have filed suit with the circuit court, and this is going forward," said City Attorney **Ramon Irizarri**. The problem began when the city opened the third round of bids for the project back in July 2001.

The bids came after two previous attempts by the city to start the project were scratched for lack of funding and then design changes to scale down the project. The city sent out the first call for bids in May 2001 and received two responses. For the second round of bids, the city received eight responses, but the estimates ranged from $3 million to $4 million. The final bids were better and the city had additional funding, thanks to $5 million in flood relief from FEMA and an additional $1.2 million from the state. The four companies that filed the bids in July 2001 were:

Redland Co., $2.6 million; U.E.C., $2.3 million; Felix Equities, $2.2 million; and Solo Construction, $2.1 million. City officials said in July 2001 that price would not be the only condition for awarding the bid. After reviewing the bids, the city went with U.E.C. Solo Construction sued the city and after some legal wrangling, won the contract. But Sweetwater officials say work has been delayed because Solo has not turned in the traffic study and storm-water study plans for the project, which are required by the federal Environmental Protection Agency. They also say Solo now wants more than the $2.1 million contract price. ``What we want to do is get the project done," said Commission President Manuel Maroño.

In other action, commissioners approved a new, balanced tentative 2002-03 budget. The new budget replaces the original proposed budget, which was $208,000 in the red. The city was borrowing from the general fund to cover the shortfall. The city shaved some expenses and will not fill a vacant police officer position to balance things out. The budget vote was 5-1, with Commissioner Ariel Abelairas dissenting. ``It's a balanced budget," Abelairas said. ``I just had some questions, but the future mayor was fine with it, so the issue was dropped. "Under the new proposed budget - which faces final approval Monday - residents with homes assessed at $85,460 who take the standard $25,000 homestead exemption will pay $208.51 in city taxes, instead of the $197.54 they paid last year.

That's still an increase of $10.97 a year and doesn't include public schools, county services and other taxing districts that appear on a homeowner's tax bill. The hike comes from property value

increases in the city. An average single-family home in Sweetwater has gone up from $82,280 to $85,460, a 3.9 percent increase. The proposed city budget will keep the tax rate at $3.44 per $1,000 of taxable property for the third year in a row. ``I feel confident," said Maroño about starting his tenure as mayor with a balanced budget.

Miami Herald, The (FL)
March 8, 2001

VOTERS ASKED FOR CHANGES IN CHARTER
Author: MARIANO AVILA

Having given themselves a raise in salary and expenses at the beginning of the year, Sweetwater Mayor Jose ``Pepe'' Diaz and city commissioners are asking voters to approve two charter changes that would give them ``back pay'' and change the effective date for future raises. The first proposal on the May 8 ballot would add cost-of- living raises to the salaries dating back six years. The city charter allows cost-of-living adjustments every year, but none has been made since 1995. The other would make salary and cost-of-living adjustments effective on June 1. The city charter currently makes raises effective only until the beginning of the next terms of the mayor and commissioners.

The latest raise approved at the beginning of this year provided the mayor and commissioners with a small ``bump'' in pay. Diaz said his annual salary was $21,735 in 2000. The raise approved 7-0 by the commission raised that about $100 a month. If city voters approve the proposed resolution, his annual salary would leap to $44,406. Diaz said the resolution to adjust the salaries was made according to the guidelines proposed by City Attorney **Ray Irizarri**. **Irizarri** said the first adjustment was drawn out in accordance with the city charter, which allows supplemental appropriations. ``The adjustment, which establishes a new baseline for their salaries and expenses, is up to the people, and that is why it is on the next ballot,'' **Irizarri** said.

Finance Director Mike Lavin noted that the gasoline allowance had not been increased in 10 years. ``Ten years ago, a gallon of gas cost about 75 cents,'' he said. ``Today it costs about $1.53. This means that up to January, the commissioners were not even covered to drive half as much as they were supposed to.''

Miami Herald, The (FL)
March 9, 2000

A $1,000-A-YEAR SOLUTION
Author: TERE FIGUERAS

Sweetwater City Commissioners gave themselves $1,000 a year to spend on outside legal advice Monday, passing a resolution that allows them to draw from the general fund to pay for legal expenses related to city business. Commissioner Manuel Duasso was the only present commissioner to vote against the resolution. The arrangement stemmed from Commissioner Jesus Mesa's agenda item that proposed appointing former police chief Charles Toledo legal advisor to the city commissioners. The reason said Mesa, was that ``sometimes I don't like what the city attorney is saying." It is not the first time the topic has been broached. The commission shot down a discussion on creating a legal advisor position - and appointing Toledo to the post - at a November meeting after City Attorney **Ramon Irizarri** said such an action could run afoul of the city's charter. **Irizarri** stood by his original position Monday.

``There is nothing in the charter precluding any commissioner from consulting with Mr. Toledo," he said. Creating a specific position for Toledo, however, is not outlined in the charter, **Irizarri** said. ``I'm just wondering where the authority would come from," he said. But Commission President Manuel Marono urged **Irizarri** to work around any obstacles. ``You know what we want, so now you just have to figure out a way to do it," Marono said. The solution: draft a resolution that allows commissioners to spend a maximum of $1,000 on a second legal opinion from any source - not just Toledo. Toledo has provided legal services to the commission since 1996, part of deal to pay back $15,000 he borrowed from the city - while he was chief - to go to law school. A court mediator recommended Toledo pay off the loan - at the rate of $150 per hour - in exchange for releasing a lien on his house. But while Toledo said he had worked off his hours ``some time ago," he was willing to cut another deal with the city. ``My hourly rate is normally $165," Toledo said, ``but for the city, I'd go down to $100.'

Miami Herald, The (FL)
November 18, 1999

FORMER POLICE CHIEF PITCHED AS LEGAL ADVISOR
Author: TERE FIGUERAS
Sweetwater Mayor Jose ``Pepe'' Diaz's administration is currently negotiating a union contract for the city's police department - but one commissioner apparently wants a second opinion. At Monday's commission meeting, Commissioner Jesus Mesa brought an item up for discussion: appointing former Chief of Police Charles Toledo as legal advisor to the city. Toledo has served as an informal advisor to commissioners for nearly four years as part of a deal to pay back $15,000 he borrowed from the city - while he was chief - to go to law school. His duties, he said, have included ``odd tasks if the city attorney had a conflict or was too busy.''

Although Toledo was never given a title and referred to himself as a ``special advisor'' or ``a type of in-house counsel,'' Mesa told commissioners that he would like to see Toledo hired in an official capacity. ``Sometimes I confuse myself and want to talk to somebody about things,'' Mesa said. Mesa added that although City Attorney **Ramon Irizarri** was more than competent, he sometimes wanted a ``second opinion'' on issues such as the ongoing negotiations with the Police Benevolent Association. **Irizarri** told commissioners that such an arrangement ``might create a potential legal minefield'' and run afoul of the city's charter, which has no provision allowing commissioners to appoint legal advisors.

Commissioners could, **Irizarri** said, seek outside legal advice on any issue, but negotiating police and employee union contracts was the responsibility of the mayor's office. Said Diaz after the meeting: ``I don't need a negotiator; I have a negotiating team.'' The bargaining team, appointed by Diaz, is made up of **Irizarri**, City Clerk Val Schmidt, Grants Coordinator Domingo Moya and former South Miami City Manager Eddie Cox. Former Mayor Matilde Aguirre fired Toledo as police chief in 1993 because she said the employment of his brother, Ray Toledo, as assistant chief violated Florida's nepotism laws. No formal charges were filed against him. In 1996, a court mediator recommended that the city allow Toledo work off his $15,000 loan - at the rate of $150 per hour - in exchange for releasing a lien on his house. Toledo said he wasn't sure if he had completed his 100 hours of service but would continue to provide legal advice to commissioners free - with or without a title.

Miami Herald, The (FL)
May 16, 1999

DIAZ SLATE TO CONTROL COMMISSION POLITICS
Author: NATHAN ESTEP

Besides becoming the city's strong mayor for the next four years, former Council President Jose ``Pepe'' Diaz, it appears, will also maintain political control over Sweetwater's seven-member legislative body. His supporters Tuesday won the three contested seats of what was known as the city council but in the future will be called the city commission. Voters approved that name change along with overwhelmingly electing Diaz to the mayor's seat. ``We all worked very hard as a team,'' said Diaz, referring to himself and the three candidates he campaigned with for two months. The team included incumbent council members Prisca Barreto and Manuel Marono, as well as newcomer Ariel Abelairas, who all won by convincing margins.

Diaz won by a landslide, earning 1,117 votes, nearly twice as many as his three opponents combined. Former mayor Gloria Bango, Diaz' longtime political rival, was a distant second with 479 votes. In all, 1,772 ballots were cast, representing 43 percent of Sweetwater's 4,074 registered voters. ``I want to wish Mr. Diaz the best,'' said a teary-eyed Bango, still recovering two days after the election. ``I sincerely hope he will be as good a mayor as I was.'' Barreto, who has served on the council six years, and Marono, a councilman for four years, each won four-year terms as commissioners. Abelairas is to complete the remaining two years of the four-year term Diaz gave up when he resigned to run for mayor, provided a Miami-Dade court does not overturn the election.

A week before she lost to Abelairas, former Council President Cecilia Holtz Alonso sued the city to have the vote overturned. Alonso contends council members violated their own charter when they held the special election. Rather, they should have automatically appointed her to fill Diaz's vacancy because she received the most votes of the unsuccessful candidates in her 1997 bid for re-election. A trial date has not been set. ``It is a matter of principle,'' Alonso said. Neither Diaz, however, nor City Attorney **Ramon Irizarri** see Alonso's suit as a potential threat. ``It's hard to beat unity like ours and the will of God backing us,'' Diaz said. Diaz's opponents link the new mayor's popularity with the amount of money he spent on the campaign. In all, Diaz, earned more than $36,000 in campaign contributions - far more than any other candidate - and spent more than $33,000 to win a seat that pays less than $22,000 a year. In comparison, Evaristo Marina and Bango spent $17,800 and $12,150, respectively. Jose Correa's campaign cost $9,500, most of which came out of his own pocket.

``Personally, I think the amounts for campaign contributions should be limited,'' said Marono, who otherwise supported - and reaped the benefits of - Diaz's campaign. ``There are other things people who want to help the city could be spending money on.'' Diaz called Tuesday's success ``a long-awaited change for the best.'' For most of Bango's 41/2 years as mayor, Diaz led the council as its president. During that time he and Bango bickered constantly. Bango, who insists she will never run for public office again, said she hoped Diaz would have better luck dealing

with the city commission than she did when it was a city council. ``In those years they called me everything in the dictionary - a witch, a drunk, a bad mother, you name it," Bango said. ``And all I ever wanted was their respect. I'm not rich, beautiful or young. All I have is my name, and I want it to be remembered with respect."

Here's the final breakdown of votes in Tuesday's election (Total votes 1,772, 44 percent of registered voters):

Mayor
Jose ``Pepe" Diaz 1,125 65 percent Gloria Bango* 479 28 percent Evaristo Marina 72 4 percent Jose Correa 50 3 percent

Commission Group Four (two-year term)

Ariel Abelairas 1,069 68 percent Cecilia Holtz-Alonso 414 26 percent Israel Pino 98 6 percent
Commission Group Five (four-year term)

Manuel Marono* 1,102 70 percent Ruben Abella 234 15 percent Rafael Alburquerque 230 15 percent

Commission Group Six (four-year term)

Prisca Barreto* 1,247 78 percent Humberto Mesa 349 22 percent

Charter Amendment to change the name of the council to ``commission"

Yes 900 71 percent No 361 29 percent

* Denotes incumbent

Miami Herald, The (FL)
March 25, 1999

COUNCIL VOTES TO AGAIN ADD ELECTION
Author: NATHAN ESTEP

For the second time this month, the Sweetwater City Council voted to add an extra election to the May 11 ballot in order to fill the same council vacancy. As a result, voters will elect a mayor and fill four council seats. One of those seats, held by Council president Jose ``Pepe" Diaz, has been in contention based on Mayor Gloria Bango's interpretation of a 1996 city charter amendment. The mayor says a council vacancy should be filled by the unsuccessful candidate who received the greatest number of votes in the last council election. In this case, that person is former council president Cecilia Holtz Alonso, who lost her seat to Councilman Luis Rodriguez in the 1997 election. The council says, however, that the amendment does not apply when a candidate resigns to run for office. Diaz resigned March 5 to run against Bango. Council members contend a special election should be held, and two weeks ago they voted 5-0 to add such an election to the ballot. But 10 days later on March 19, Bango vetoed the special election.

At an emergency meeting Tuesday night, the council voted 6-1 to override the mayor's veto. ``The council did not like the person they were supposed to appoint to office, so they decided to hold a special election," said Bango. ``In no place does our charter say anything about special elections." Alonso, who opened an election account earlier this year for another seat, said she is no longer considering a run for any council seat, although she is consulting an attorney to help determine her legal recourses. ``The council members know they are doing wrong, but they can't back down now because it will make them look bad," said Alonso. ``Why doesn't she just run for office like everyone else?" said Diaz, who called Tuesday night's emergency meeting. ``The people of Sweetwater should be the ones to decide who the council members are."

The council's decision is backed by City Attorney **Ramon Irizarri**, who refers to a 1995 opinion delivered to Miami-Dade County by the Florida Department of State Division of Elections. That opinion, which specifically addressed the vacancy left by Miami-Dade Mayor Alex Penelas when he resigned from the Board of County Commissioners to run for mayor, stated that elections are the preferable means to fill vacancies even when local charters provide differently. Ariel Abelairas and Israel Pino, both local accountants, filed to run this month for the Diaz's seat.

Miami Herald, The (FL)
December 20, 1998

COUNCILMAN'S WIFE HAMMERED OVER NAIL BUSINESS
Author: NATHAN ESTEP

Sweetwater council members say her motivations are political. But Mayor Gloria Bango says she is simply defending her city against the abuse of power. She alleges a council member's wife has violated the law by manicuring fingernails in their home. Bango alleges that Bertha Fernandez, wife of Councilman Manolo Fernandez, runs a manicuring business out of her home at 11462 SW Fifth St., a violation of the city's Land Development Code. The councilman's wife contends, however, she only makes house calls. She has held a city-issued mobile occupational license for cosmetology since 1990, according to Silvia Eguaras, the city's licensing clerk. ``I've had my nails done by Bertha at her house myself,'' Bango said. On Dec. 11 the mayor issued City Clerk Val Schmidt an executive order demanding the license be revoked.

``The privilege of being a council member is the privilege of serving,'' Bango said, ``not the privilege of being above the law.'' Manolo Fernandez was appointed to the council in 1990 to fill one of the vacancies left when the former mayor and five council members were indicted and charged with extortion by the federal government and suspended by the governor. Shortly afterward, Bertha Fernandez applied for a license to practice manicuring in her home, Eguaras remembers. At that time, the licensing clerk says former city attorney Joseph Weil advised her to issue the mobile license to avoid ``a touchy situation.'' Weil -- ousted by the council later that year for practicing law without a license -- said he has no recollection of this opinion. Moreover, the city keeps no licensing records that far back, according to Schmidt.

Manolo Fernandez insists his wife's business has been a mobile one since she started it in 1978. He claims that the mayor's accusations serve political purposes. ``I'm siding with Pepe Diaz for mayor. That's the real problem here,'' said Manolo Fernandez. Council President Jose ``Pepe'' Diaz says he plans to run against Bango for mayor in 1999. The struggle between Bango and Manolo Fernandez has gone on since September when the councilman's wife attempted to renew her license. Bango investigated the situation and on Oct. 19 issued an executive order -- backed by an opinion of former city attorney Gus Efthimiou -- that the license should not be renewed. But Bertha Fernandez's license was renewed because of a computer error, Schmidt says. When Bango discovered the mistake in mid-November, she issued an order to the city clerk to revoke the license and return the $25 annual renewal fee.

After Schmidt notified the Fernandezes, the councilman sought the opinion of current city attorney **Ramon Irizarri**. **Irizarri** presented an opinion to the council Dec. 7 that the license is renewable at the sole discretion of the city clerk, not the mayor. Schmidt said she was ready to issue the license again at that time. ``No one has brought me any evidence proving that she does nails at home,'' Schmidt said. ``All I hear is accusations.''

Bango's Dec. 11 memo quoted a city ordinance authorizing her to revoke licenses in the event of ``danger to the public health, welfare and safety." The mayor perceived such danger in Bertha Fernandez's manicuring business. She also quoted the Miami Dade County Commission of Ethics and Public Trust, which had advised her to ``take whatever you consider to be the best course of action." Schmidt forwarded the mayor's memo to **Irizarri**, who has yet to issue another legal opinion. ``I think Mr. **Irizarri** really has to start looking carefully at our laws when he makes his opinions," Bango said. ``Otherwise, the city will end up having a lot of apologizing to do."

Miami Herald, The (FL)
October 8, 1998

SWEETWATER DISCHARGES CITY ATTORNEY REPLACEMENT TO GET $24,400 A YEAR MORE
Author: NATHAN ESTEP

After taking four months to make up their minds, Sweetwater City Council members voted Monday to ask Gus Efthimiou Jr. to step down from his position as city attorney. The council voted 4-1 to replace Efthimiou with **Ramon Irizarri**, a former assistant city attorney for Miami. Council members also asked Efthimiou to stay on the job another month to smooth the transition. ``Thank you, Mr. Efthimiou, for your time and everything you've done for the city,'' said Council President Jose ``Pepe'' Diaz after voting to replace him. Efthimiou, 71, has been Sweetwater's city attorney since 1993.

He is a former city attorney for both West Miami and South Miami. This is the first time since 1981 he has not been the city attorney for at least one Miami-Dade municipality. ``I didn't see any reason for having to change attorneys,'' said Councilman Manuel Marono, whose motion to re-appoint Efthimiou failed to receive a second from the council. ``Gus and I haven't always agreed on every issue, but I've always thought he's done a good job. If I had ever had a real problem, I would have told him about it.''

When Efthimiou's two-year contract expired in June, the council voted not to re-appoint him automatically. Council members asked Efthimiou to serve as interim attorney while they advertised the position. They also encouraged him to submit his own resume for consideration. Efthimiou was among four applicants the council eliminated before deciding on **Irizarri**. The 51-year-old Cuban native has five years experience as an assistant city attorney in Miami and 24 years experience in law.

Irizarri will be paid $70,000 -- up from the $45,600 a year Efthimiou got. In return for the increase, **Irizarri** will now be expected to represent the city in all litigation without extra charges. Efthimiou drew up the salary contract at the council's request last month. ``The contract covers everything you can imagine happening in a city. And some things you might not,'' he said. For instance, if the city attorney cannot represent the city in a case due to lack of expertise or a conflict of interest, the cost to hire an out-of-house law firm will come out of the city attorney's own salary.

Miami Beach City Attorney Murray Dubbin said taking fees for out-of-house lawyers from the city attorney's pocket probably is legal. ``Cases that cause a conflict of interest for the city attorney are rare,'' said Dubbin. But such a situation did happen in Sweetwater in 1996 when the mayor and City Council filed three lawsuits and countersuits against each other. As city attorney, Efthimiou could not represent either side. Both hired out-of-house lawyers. Attorney fees on both sides cost the city $190,000 that year. When his commitment in Sweetwater ends next month, Efthimiou plans to focus on the Coral Gables-based private practice he shares with his

son Nick Efthimiou. ``I love challenge," said Efthimiou as he walked out of City Hall Monday night. ``And Sweetwater has been a challenge every day as long as I've been here. I know I'm going to miss it."

Miami Herald, The (FL)
June 9, 1996

FIRED EMPLOYEE TO BE PAID $2,618
Author: Herald Staff

The Virginia Gardens Council voted 5-0 in favor of a $2,618.78 severance package for fired Lt. Jose Regalado. The eight-year Virginia Gardens police veteran was fired in April for insubordination. The package includes money for Regalado's vacation time and retirement fund (IRA). Regalado's lawyer **Ramon Irizarri** rescinded his request for sick pay, which is not awarded to fired employees, according to the village handbook. Said Mayor Paul Bithorn: "I think all the parties left the meeting with a good feeling about how we resolved the severance issues." The village insurance company, Florida Municipal Insurers Trust, will now handle Regalado's lawsuit against the village, Bithorn said. That lawsuit claims he was unjustly fired.

The Palm Beach Post
March 16, 1993

LAWYER IN RUNNING SECOND TIME FOR WEST PALM JOB
Author: JOEL ENGELHARDT

Elaine James, a finalist for the city attorney position last year, is among six semifinalists picked to replace Carl Kern, who was fired after two weeks on the job. James raised the complaint that led to Kern's firing in August by the City Commission. The commission reacted to lobbying by members of the black community, who said Kern did not meet criteria for the job, while James and two other black finalists did. James, an attorney with a West Palm Beach firm, said she reapplied rather than be deprived of a job opportunity caused by mistakes during Kern's hiring. She is the only one of the original five finalists to reapply. Kern returned to a job in Fort Lauderdale and has sued the city, seeking the $400,000 value of his five-year contract and $10 million in damages. The semifinalists have been invited for 30-minute interviews Saturday before a five-person screening committee. The committee, appointed by Mayor Nancy Graham, includes Palm Beach County's personnel director, the Riviera Beach city attorney and an attorney selected by a group of black lawyers.|

Finalists selected by the screening committee will undergo two days of tests and separate interviews with Graham and a committee of city employees on April 7-8, Human Resources Assistant Director Bob Miles said. The semifinalists are:

* James, 41, of West Palm Beach. She is an attorney with Nason, Gildan, Yeager, Gerson & White. She is a former health-care foundation attorney in Philadelphia and a former National Urban League program coordinator.

* David Russ, 48, of Tallahassee. He is an assistant general counsel for the Florida Department of Community Affairs and a former city attorney for DeLand.

* Miles Lance, age unavailable, of Dunedin. He is assistant city attorney for Clearwater. From 1966 to 1985, he maintained a private general practice in New York.

* Samuel Price, 55, of Lauderdale Lakes. He is general counsel for the Broward County Sheriff's Office. He is a former assistant state attorney in Broward and Dade counties.

* **Ramon Irizarri**, 45, of Miami. He is a senior assistant city attorney for Miami. He is a former New York educator and school board attorney.

* Patrick Brown, age unavailable, of Fort Lauderdale. He is unemployed after taking early retirement in December from a job as first assistant city attorney for Miami. He is a former engineer and assistant law professor.

Miami Herald, The (FL)
April 2, 1992

COURT RULING MAY COST CITY $6 MILLION
Author: CARL GOLDFARB

Lucious Burnett, a tenacious sergeant, didn't want to retire from the Miami Police Department even after he felt sharp pains in his heart, like "a big hand grabbing underneath my chest and squeezing." Burnett refused to quit even after three doctors told him he could fall dead on the job. "I didn't want to retire. I was too young." For a while Burnett continued to draw a salary because he had piled up so many sick days and vacation days over the previous 20 years. Then his accumulated time ran out. At 48, Burnett, bowed to the inevitable on May 31, 1975. "I'm just a physical wreck." The city deducted his worker's compensation payments from his disability payments, taking $455 out of his pocket every month -- despite a 1973 state law that made that practice illegal. The First District Court of Appeal in Tallahassee ruled last week that Miami must now repay Burnett. The tab comes to more than $75,000, plus interest, court costs and legal fees. For Burnett and dozens of other former Miami police officers and firefighters, the court ruling was a long-delayed vindication. For Miami, it could be a financial calamity. City attorneys estimate they face about 50 similar cases. In issuing the ruling, the appellate judges said they wanted to establish "a precedent" for those cases. City Attorney A. Quinn Jones III told commissioners the ruling will ultimately cost the city $6 million. "That's a great concern," said Miami Mayor Xavier Suarez. "We can hardly afford a $6 million price tag even if it's spread over a few years. I hope we would appeal the ruling." The city is considering doing just that, but its options are limited. Miami can ask the appeals court to reconsider its decision or it can ask the Florida Supreme Court to take up the case. The high court doesn't have to hear it.

"We still haven't spoken with the administration to see how we're going to handle it," said Assistant City Attorney **Ramon Irizarri**. Without a new ruling, **Irizarri** and Mark Zientz, Burnett's attorney, agree the law is clear. Miami had argued that the city thought it was doing the right thing and should not have to make retroactive payments. The court ruled the city must -- all the way back to 1973. "Unless they have some unique issue to present in a specific case, they'll lose them all," Zientz said. City Manager Cesar Odio is still considering the city's legal options as well as how Miami could come up with $6 million. In the meantime, he's smarting from the thought. "It's unfortunate we have to keep paying for mistakes that were made in the '70s," he said. Unless the city appeals, Miami must pay Burnett within two months. Burnett could have used the money years ago when his wife Marolyn went to work as a secretary because they could not live off the $650 he received monthly -- less than half what he was entitled to. Burnett plans to use the money to help his children. His daughter suffers from a neurological disorder. His son, a boat electrician, was recently laid off. He voiced a nagging concern something might still go wrong. "I won't believe the thing until I get the money in my pocket."

Miami Herald, The (FL)
January 25, 1992

COURT RULING MAY SAVE MIAMI $5 MILLION
Author: CARL GOLDFARB

The city of Miami has won a major court victory that could ultimately save taxpayers millions. A state appellate court ruled that Miami does not owe back benefits to dozens of city workers disabled on the job before 1973. "A conservative estimate of the city's potential liability had we lost would have been approximately $5 million," City Attorney A. Quinn Jones III told commissioners. The First District Court of Appeal in Tallahassee ruled on three cases recently, overturning earlier decisions against Miami. But the precedent should affect at least 40 cases, estimated Assistant City Attorney **Ramon Irizarri**. In each of the three cases, lower courts had ruled that the city owed the workers 16 years of back benefits, plus penalties and interest, for a total of roughly $400,000, not including attorney's fees.

"You see why the city was so worried," **Irizarri** said. "There were a lot of cases. It's nice to see that justice prevailed." Attorneys for the workers plan to ask the court to reconsider its decision. Still to be decided at the appellate level is whether the city owes back benefits to dozens of workers injured after 1973, a watershed year because that's when state law on disabled workers changed. "It's about midway through the fight," said attorney Richard Sicking, who is representing many of the workers injured after 1973. "It's not over yet. I think the city will probably lose the post-1974 cases." The prolonged court battle centers around the city's treatment of workers disabled on the job, many of them police officers. Instead of giving workers both disability and pension payments, the city deducted the disability payments from the pension benefits.

In 1989, the Florida Supreme Court ruled that the city's policy violated a 1973 state law. The court ordered the city to pay back benefits to the two police officers who brought the case. That case triggered a series of lawsuits by dozens of former workers who claimed that they were owed back benefits, too. Judges of compensation claims repeatedly ruled in favor of the workers. In one brief the city pleaded that the cumulative impact of the cases could bankrupt the city. The recent appellate case was the first decision by a higher court on whether the city owed retroactive benefits to dozens of workers. One of the three workers involved was former police officer Richard Jones, injured in 1966. The city paid Jones $168 a month in disability, but subtracted that amount from his monthly $648 pension check. A judge of compensation claims ruled that the city owed Jones $168 a month for more than 16 years. With interest and penalties, the total came to about $100,000. But the appellate court tossed that decision out. City attorneys think the ruling by a panel of three judges should apply to all pre-1973 cases.

Miami Herald, The (FL)
October 29, 1991

SECOND CHARTER CHANGE ON BALLOT
Author: Herald Staff

A second question concerning Miami's charter, which voters also will decide on Tuesday, would allow the City Commission to pass ordinances without two readings of their lengthy legal titles. The long version would still be read at final hearings. "It isn't to stifle public input," said assistant city attorney **Ramon Irizarri**. "It's just to speed up the meetings."

Miami Herald, The (FL)
January 7, 1991

BENEFITS CASE COULD COST CITY MILLIONS EX-WORKERS SAY THEY WERE SHORTCHANGED
Author: CARL GOLDFARB

Miami taxpayers could get saddled with as much as $8 million in unexpected expenses because the city shortchanged some former city workers on disability benefits. The city is fighting a bitter court battle -- one that could ultimately involve as many as 100 ex-employees -- over what benefits the city owes workers who were injured in the line of duty and had to retire. So far, the decisions have been in favor of the ex-workers, mostly police officers and firefighters who are unable to work because of heart trouble, bad backs and a host of other ailments. In 1989, two former police officers won a case that went to the state Supreme Court. The court ruled that the way the city had calculated benefits after 1973 for workers disabled on the job "flies in the face of state law." The city made retroactive payments to those two workers -- more than $180,000 in all -- but has insisted the Supreme Court ruling does not apply to dozens of other ex-workers whose benefits were calculated the same way.

The court ruling involved only the two ex-police officers, and does not say how it should be applied in the cases of other employees. Many of those workers have filed worker-compensation claims against the city. City attorneys argued that the Supreme Court ruling was irrelevant and that in any case it did not mandate back payments. They also said it was too late for workers to ask for back benefits, claiming that the statute of limitations had expired. The courts have not accepted the city's arguments. Since November, six ex-workers have been awarded hundreds of thousands of dollars in the first batch of cases to be decided. The court decisions all cite the Supreme Court ruling.

"What the judges are doing uniformly is applying the law of the Supreme Court," said attorney Edward Schroll, who represents 13 workers with claims against the city. But the city is still fighting. It has already appealed the first two of those decisions, and on a separate legal front has tried to block the ex-workers from filing claims. That effort was unsuccessful. Attorneys for the workers accuse the city of trying to delay the inevitable. "Hopefully the world will end before they have to make payment. That seems to be their approach," said Richard Sicking, who argued the case before the state Supreme Court. Said Peter Schwedock, another attorney representing ex- employees: "The city doesn't have any chance of not losing. The city's position is untenable." The precise number of ex-workers who could get back payments is unclear. So is the exact magnitude of the city's financial liability.

City Attorney Jorge Fernandez declined to clarify either issue or discuss any other aspect of the case, saying he intends to try his case in the courts, not the newspaper. Asked about the city's financial stake, he said: "Zero if we're successful. If we're unsuccessful, imagine." In one legal document, filed in court in August, city attorneys say more than 100 former employees have made worker compensation claims against the city. But in a document filed two months later the

city lists about 50 ex-employees who could be affected by the court battle over benefits. In the spring of 1989, the city asked the state Supreme Court to reconsider its ruling, saying the decision could cost the city "millions of dollars" and have a "catastrophic effect" on the city's finances. The Supreme Court refused.

During a court hearing last fall, Assistant City Attorney **Ramon Irizarri** used a similar argument in seeking an emergency order blocking former workers from filing worker compensation claims. **Irizarri** said the city faced as much as $9 million in back payments, said Barry Lerner, an attorney at the hearing to represent three clients with claims against the city. Attorney Schwedock said he has heard city attorneys estimate the city's potential exposure at $8 million to $12 million during court hearings. Sickling said he has also heard city attorneys bandy around similar figures but considers them grossly exaggerated. "My own estimation is that if the city loses all the cases, it will cost them about $1.5 million," Sickling said. "Their numbers are imaginary." City Attorney Fernandez would not clarify how much the city stands to lose in the worst-case scenario. Sujan Chhabra, who oversees worker compensation payments as the city's risk management administrator, said he had no idea how much is at stake. "We've never gotten to that point yet," he said Friday.

Whatever the magnitude of the problem, it's caught at least some city commissioners off guard. "I'm not aware of it," Mayor Xavier Suarez said last week. In 1973, the Florida Legislature passed a law barring cities from deducting worker compensation payments from pension payments. But Miami continued to do that until the Supreme Court ruled the practice was illegal in a case brought by former police officers Paul Barragan and Andrew Giordano. In Giordano's case, the court found he was entitled to his monthly disability pension check of $912.75 and his monthly worker's compensation check of $346.67. That comes to a total of $1,259.42. But until Giordano took the city to court, the city paid him a monthly total of $912.75. The city gave him his regular worker's compensation check, and then subtracted that amount from his pension check, "arbitrarily" reducing his pension to $566.08 monthly, according to court documents. Giordano, who is now 64, was a police officer for more than 18 years until he suffered a heart attack on duty Aug. 24, 1973, and couldn't continue working. The financial strain that followed his forced retirement, he said, tore apart his family.

"I lost my wife and kids," he said. "They just left. There wasn't enough money." Miami ultimately paid him more than $110,000 in back benefits, penalties and interest, he said. Scores of other workers are still trying to get paid, including two dozen represented by the law firm Williams & Zientz. On Nov. 29, Alan Kuker, a judge of compensation claims, found that the city had improperly deducted money from the pension of one of the firms' clients, former police officer Robert Montana. Kukor said the city should not have reduced Montana's pension by $66 a week for 16 years. He ordered the city to repay the money. With penalties and interest, that comes to more than $60,000. The city is appealing that ruling. "What the hell can they appeal?" Montana said Friday. "It's been all the way to the state Supreme Court." Montana, now 63, was a police officer for more than 21 years. He was already suffering from back problems and wearing a special corset two or three days a week when he reinjured his back kicking in a door during a raid Sept. 14, 1972.

Montana, awarded a disability pension of $900 monthly in 1973, has seen his pension shrink with inflation. "Having a fixed pension with the cost of living going up every year is not a bed of roses," he said. Like Montana, other ex-employees say the city is cheating them out of their due. Barragan, who suffered two herniated disks while a police officer, is still bitter he had to fight all the way to the Supreme Court to get his money: $54,115.95 "What they were telling us is risk your life and we'll give you these benefits. They don't tell you about the obstacle course they put there to keep you from getting the benefits," Barragan said. "We risk our lives, we get hurt. If we're lucky enough not to die, they balk at giving us our benefits. It's criminal."

Research Compiled by: Amanda Kuhl
Colin Baenziger & Associates

COLIN BAENZIGER & ASSOCIATES

EXECUTIVE RECRUITING

Section 4

Gary K. Oldehoff

Port St. Lucie City Attorney Candidate Report

Section 4

TABLE OF CONTENTS

	PAGE
RESUME	1
CANDIDATE INTRODUCTION	9
BACKGROUND CHECKS	17
CB&A REFERENCE NOTES	23
INTERNET SEARCH	35

Resume

GARY K. OLDEHOFF
[redacted]
gkoldehoff@gmail.com

April 22, 2016

Port St. Lucie City Council
Port St. Lucie City Hall
121 SW Port St. Lucie Boulevard
Port St. Lucie, FL 34984-5099

Care of: Colin Baenzinger & Associates
Recruit39@cb-asso.com

Dear Mayor and Council Members:

I am pleased to provide the City Council with my application to serve as the City Attorney, and would be honored to be selected to serve the Council in this position.

I would like to commend Colin Baenzinger & Associates on its assessment and its expression of the critical current needs of the City Attorney's Office, and the qualities and characteristics of the person the city should focus on to fill this important position. They have done a fine job. Had you asked applicants for this position to give their own assessment of the challenges (or, as I see them, opportunities) facing this office, and the personal abilities essential for your city attorney, I would have provided you with an assessment like that given by Colin Baenzinger.

Therefore, in making my presentation to you with regard to why I am qualified to serve as City Attorney, I will address the key concerns and qualities identified by Colin Baenzinger & Associates. With each response, I have given you references you should feel free to contact to confirm or corroborate my representations. With the exception of one person, whom I contacted to confirm his phone number, I have not spoken to any of the individuals I have identified in this letter.

With respect to the office itself and the style of the City Attorney, my experience as Martin County Attorney is illustrative. There, one of my chief objectives was to assemble a staff that would rival the best local government attorney's offices in the state. The quality of the office I created, its products, and all it accomplished, is a matter of public record and speaks for itself. I hired attorneys that were exemplary. In addition, I expected more of attorneys in the office than just a day's work. Attorneys on staff were encouraged and expected to write or lecture at conferences, and to be active with the local and state bar. By doing so, they were challenged to improve themselves professionally and distinguish themselves among their peers. At the same time, they distinguished their county. Mentoring (i.e., sharing knowledge and experience with one another, and especially with junior attorneys and county staff) was also

expected. Employee evaluations included these matters, as well as client satisfaction. The benchmark set for the staff and the office was to exceed expectations so well that if the elected officials and staff were given a choice between the attorneys and staff of the County Attorney's Office and a private attorney, they would unhesitatingly choose the County Attorney's Office.

My administrative and management style is extremely team-based. This would include a close working relationship with the City Manager. Attorneys and support staff are all part of a team, and they work as a team. In Martin County, with six attorneys and six support staff, we were able to produce more, better work by always working together, and always being willing and available to pitch in to get the job done.

It is very important to me that credit be given where credit is due. Attorneys *and* staff are given the opportunity to show their skills and to get credit for their work. I stressed that the accomplishments of the office belonged to *everyone* in the office. When large projects needed to be done, no one was asked to pitch in; everyone naturally and instinctively did. I encouraged attorneys and support staff to provide input on making things more effective and efficient. I also encouraged support staff to pursue paralegal training when they expressed an interest in doing so, and two of the three secretaries in the office became Certified Paralegals (Certified Legal Assistants) during the time I was there. I am confident that if you asked anyone who worked in the County Attorney's Office at that time, they would say it was an exciting, fun place to work.

The quality of the office I created and fostered served the test of time, as the staff remained together after I left and continued to serve the county for nearly fifteen more years, until one of the attorneys I had hired left the office and went back to private practice.

Following are members of the staff that I would encourage you to contact:

Krista Storey, Esq. (772) 288-5440
David Acton, Esq. (772) 578-4680
Frederick Van Vonno, Esq. (772) 287-4444
Michael Rodriguez, Esq. (772) 386-5950
Susan Lawton, Executive Assistant to Commissioner John Haddox (772) 288-1327

I appreciate and recognize the City's concern with finding a facilitative attorney. I can give you a good example of an occasion where I partnered with the elected officials and staff to solve a problem while also being a supporter and a trusted advisor. In 2006, I worked with the Sarasota County Commission, County staff, and the Venice City Manager and City staff to address future annexation by the City. I had a large role and involvement in this matter. The effort included numerous meetings at the staff level, as well as joint meetings of the Sarasota County Board of County Commissioners and the Venice City Council, and culminated on January 7, 2007 when the County and the City entered into a Joint Planning and Interlocal Service Boundary Agreement. At the time, it was considered a milestone in joint planning. Referring to the Agreement, the Venice City Manager subsequently wrote "This level of cooperation between a city and a county can serve as a model for the state and it demonstrates a commitment of each to provide a sustainable high quality of life for current and future residents and visitors."

Following are people associated with this matter that you could contact:

Stephen E. Demarsh, Esq., Sarasota County Attorney (941) 861-7255
Linda Shelley, Esq. Facilitator (850) 681-0411
Robert Anderson, Esq. Fmr. Venice City Attorney (941) 484-1459
Martin Black, AICP CM, Fmr. Venice City Manager (941) 915-3435

I am aware of the specific issues facing Port St. Lucie that are identified by Colin Baenzinger: conservation groups opposing the Crosstown Parkway; the issue of sober homes; the Vaccine Gene Therapy Institute, Digital Domain and the City Center public-private partnership. I believe I am uniquely qualified to handle these issues. I am an expert in land use law and constitutional law. I have presented and argued land use cases in the Florida Supreme Court, the Eleventh Circuit Court of Appeals, and presented a brief to the United States Supreme Court on behalf of the Florida League of Cities and the Florida Association of Counties in *Stop the Beach Renourishment, Inc. v. Florida Department of Environmental Protection* (the Court's decision is available on the web and reported at 560 U.S. 702 (2010)). I have lectured for more than twenty years on local government law, land use law, constitutional law (especially takings law), the Florida Public Record Law and the Florida Sunshine Law, and ethics (including lawyer ethics, public officer and employee ethics, organizational ethics, engineer ethics, and certified planner ethics). My qualifications in this regard are well known in the legal community, and certainly are matters of public record. Specifically, I have handled land use disputes with conservation groups fighting capital projects and growth planning. Examples are:

> *Citizens for Responsible Growth of the Treasure Coast v. Martin County*, where a citizens' group/conservation group challenged a DRI in Jensen Beach. The Fourth District Court of Appeals eventually ruled in favor of the County. Today, the project is known as the Jensen Beach Country Club.
>
> *Manasota 88, Inc. v. Sarasota County*, where a conservation group challenged Sarasota County's 2050 Comprehensive Plan Amendment. The Amendment is a unique, village-based 50-year build-out plan for the county, especially for the rural lands east of Interstate 75, beyond the County's Comprehensive Plan's Urban Growth/Service Boundary. After an 8-week hearing, the Administrative Law Judge entered the Proposed Recommended Order I submitted, finding that the amendment was in compliance with law. The Order was subsequently entered by the Department.
>
> *Cynthia Valencic and Legal Environmental Defense Front (LEAF) v. Sarasota County*, where a conservation group challenged permits issued to Sarasota County for deep injection wells to store treated reuse water. After a several-week hearing, the Administrative Law Judge rejected the group's challenges and approved the permits.

I also have extensive experience with the issues associated with sober homes. For example:

> *Renaissance Manor and the United States (Department of Justice) v. Sarasota County* was a federal case brought by the owner of six, adjacent single-family homes,

purchased with County grant funds, and used to create a sober-home campus, in contravention of the County's requirements for distributing such homes throughout the county. When the County objected, the owner sued alleging violation of the Fair Housing Act. After three years in protracted litigation, the case was settled.

As to the City's debt and attempt to recover from unsuccessful projects, this is a matter that will require an attorney with legal knowledge and experience, demonstrated problem solving ability, and access to attorneys, experts, and resources. I cannot project or assure that this problem can be solved, but I believe I have the knowledge and ability to make the best effort to try to address this matter.

Finally, as to the City Attorney himself, he must be above reproach. Leading by example, a city attorney should inspire others to be their best as well. He also should be a communicator. The Local Government Law Section of the Florida Bar gave me an award in 1993 for excellence in legal writing. I have argued successfully in the Florida Supreme Court, to judges, administrative law judges, and juries. I have sat on the dais with commissioners for more than a decade. I have spoken and made presentations to homeowners' associations and citizens' groups. I made regular presentations on the County Attorney's Office. I have lectured on a variety of topics, including ethics, the Sunshine Law and land use issues.

My office had an open door policy and I welcomed constructive input. I had excellent relationships with the County Administrators and open communication with the members of the County Commission. Consensus building was a key element of my style, even at a time when a consensus was often difficult.

The following people would have knowledge of my skills as a city attorney:

Taryn Kryzda, Martin County Administrator, (772) 288-5939
Russ Blackburn, Fmr. Martin County Administrator, Cell: 772-284-0910 Work: 352-334-5010
Randall Reid, ICMA Southeast Regional Director, Fmr. Deputy Martin County Administrator (941) 445-3567
Nora Patterson, Fmr. Sarasota City Commissioner, Fmr. County Commissioner, (941) 349-1721
Joseph Barbetta, Fmr. Sarasota County Commissioner, (941) 921-9566
Maggie Hurchalla, Fmr. Martin County Commissioner (772) 287-0478
Scott Konopka, Esq., (772) 221-7757

Again, I appreciate the opportunity to be considered for the position of City Attorney and would be happy to provide any additional references or information you may want.

Sincerely,

Gary K. Oldehoff

GARY K. OLDEHOFF

Curriculum Vitae (abridged)

Relevant Employment Experience:

LEWIS STROUD & DEUTSCH, PL., 1900 Glades Road, Suite 251, Boca Raton, FL 33431

Partner November 2007 – present

Practicing exclusively in civil matters, consisting primarily of advising, representing, and defending local governments in Florida, on all areas of local government law. Particular emphasis is on state and federal court litigation and land use law.

SARASOTA COUNTY ATTORNEY'S OFFICE, 1660 Ringling Boulevard, Second Floor, Sarasota, FL 34236

Assistant County Attorney June 2002 – November 2007

Attorney responsible for Sarasota County's land use and growth management programs. Legal advisor to County Planning Commission, numerous boards and committees, and County staff associated with all aspects of planning and development. In particular, legal advisor to County's Planning and Development Services Department and Environmental Services Department (which included water, wastewater, and stormwater utilities). Practiced extensively in all areas of land use law, including, but not limited to, substantial trial and administrative practice in state and federal courts and agencies, state and federal regulatory compliance, local government finance, and land use and growth management law.

MARTIN COUNTY ATTORNEY'S OFFICE, 2401 SE Monterey Road, Stuart, FL 34996.

County Attorney April 1997 - October 2000

County Attorney and legal advisor to the Martin County Board of County Commissioners. Legal advisor to County boards and committees and County staff. Practiced extensively in all areas of local government law, including, but not limited to, substantial trial and administrative practice in state and federal courts and agencies, transactions, state and federal regulatory compliance, sunshine and public records law, and land use and growth management law. Supervised a staff of eleven, and coordinated outside counsel providing specialized legal expertise. Managed a budget of over one million dollars.

Chief Deputy County Attorney November 1995 - April 1997

Engaged in a multi-faceted civil practice encompassing a wide variety of areas of local government law. Practice included all areas previously handled as assistant county attorney, with greater emphasis on administrative and policy-making activities. Served as County Attorney when the County Attorney was absent.

Assistant County Attorney September 1989 - 1995

Engaged in a multi-faceted civil practice encompassing a wide variety of areas of local government law. Practice included litigation before state and federal trial and appellate courts, as well as administrative agencies and bodies, and acting as legal advisor to the Board of County Commissioners and related advisory boards and County departments. Primary focus was in the area of land use law.

Education:

UNIVERSITY OF VIRGINIA SCHOOL OF LAW, Charlottesville, Virginia 22904. J.D. 1984.

Activities: Journal of Law and Politics, Editorial Staff.
Lile Moot Court Competition, Third Round.

UNIVERSITY OF MIAMI SCHOOL OF LAW, Coral Gables, Florida 33124-8087. Graduate Program in Estate Planning (1986-). LLM not completed.

STATE UNIVERSITY OF NEW YORK, Plattsburgh, New York, 12901 B.A. 1980 History. Minors: Political Science, Anthropology.

Honors: *Summa Cum Laude*
New York State Regents Scholarship
Selected for Albany Semester Program

Bar Membership:

FLORIDA:
Supreme Court of Florida, 1984
11th Circuit Court of Appeals
U.S. District Court for the Southern District of Florida
U.S. District Court for the Middle District of Florida
U.S. District Court for the Northern District of Florida

VIRGINIA: (associate)
Supreme Court of Virginia, 1987
4th Circuit Court of Appeals 1987
U.S. District Court for the Eastern District of Virginia, 1987
U.S. District Court for the Western District of Virginia, 1987

UNITED STATES:

United States Supreme Court 2009

Section 4

Candidate Introduction

GARY K. OLDEHOFF

Education

UNIVERSITY OF VIRGINIA SCHOOL OF LAW, Charlottesville, Virginia. J.D. 1984. Journal of Law and Politics, Editorial Staff.

UNIVERSITY OF MIAMI SCHOOL OF LAW, Coral Gables, Florida. Graduate Program in Estate Planning (1986-). LLM not completed.

STATE UNIVERSITY OF NEW YORK, Plattsburgh, New York. B.A. 1980, *Summa Cum Laude.* Major: History. Minors: Political Science, Anthropology.

Experience

LEWIS STROUD & DEUTSCH, PL, 1900 Glades Road, Suite 251, Boca Raton, FL 33431
Partner November 2007 – present

SARASOTA COUNTY ATTORNEY'S OFFICE, 1660 Ringling Boulevard, Second Floor, Sarasota, FL 34236
Assistant County Attorney June 2002 – November 2007

MARTIN COUNTY ATTORNEY'S OFFICE, 2401 SE Monterey Road, Stuart, FL 34996.
County Attorney April 1997 - October 2000
Chief Deputy County Attorney November 1995 - April 1997
Assistant County Attorney September 1989 - 1995

CHESTERFIELD COUNTY, VIRGINIA ATTORNEY'S OFFICE, 9901 Lori Rd. Chesterfield, VA 23832
Assistant County Attorney 1988 – 1989

MIAMI-DADE COUNTY ATTORNEY'S OFFICE, 111 NW 1st St, Miami, FL 33128
Assistant County Attorney 1984 – 1987

Background

I am currently a partner in the firm of Lewis Stroud & Deutsch in Boca Raton. Our firm consists of four partners, one associate and six staff. I directly supervise my legal assistant and a paralegal. Unless a conflict arises between clients, all our work is done in-house. We represent the Florida League of Cities, the Palm Beach County Sheriff's Office, and several other

municipalities in South Florida. The firm represents local governments in litigation and advises local governments on land use matters.

I have a Bachelor's degree, *summa cum laude*, from the State University of New York (SUNY), and a Juris Doctorate (JD) degree from the University of Virginia School of Law. After law school, I worked at the Dade County Attorney's Office. A few years later, my wife and I moved to Virginia, where I worked for a private law firm. There, I performed, supervised, and managed civil rights defense of sheriff's offices and police departments throughout the country. I left that firm and went to work at the Chesterfield County Attorney's Office.

In 1989, we moved to Stuart, and I worked as an Assistant County Attorney at the Martin County Attorney's Office. In 1994 I was appointed Deputy County Attorney, and from 1997-2000 I was the Martin County Attorney. From 2002-2007, I worked at the Sarasota County Attorney's Office, supervising the County's land use program. From 2007 through the present time, I have worked at Lewis Stroud and Deutsch, PL, in Boca Raton. I have been a partner in the firm since 2012.

General

Over the twenty-five years that I have lived here (my first home in the area was on Gowin Drive in Port St. Lucie), I have watched the City of Port St. Lucie grow, not only in size and population, but also in the complexity of the legal matters facing the city and the wide variety of matters needing the legal assistance of its City Attorney. The challenge of the complexity of matters and variety of practice appeals to me.

The challenge presented by the current condition of the City Attorney's Office is also an opportunity to do something I really like doing. I believe the City of Port St. Lucie should have a City Attorney's Office of a caliber, quality, and standing commensurate with its size among cities in the state and with its size and position on the Treasure Coast. I created an exceptional County Attorney's Office when I was Martin County Attorney in the 1990's. I would be excited to have the opportunity to create an exceptional city attorney's office for the City of Port St. Lucie.

A successful City Attorney is one who gives sound legal advice and counsel, and produces impeccable legal products that stand the test of time. He or she must be bright and articulate, and have a wide range of legal knowledge and legal and practical experience. The City Attorney must have an excellent analytical mind, and must be able to examine an issue or a problem from many different approaches and angles, like examining the facets of a diamond. A City Attorney must also be able to work with people, and be a good manager and administrator. I believe I possess these qualities.

A City Attorney must be above reproach. His or her actions reflect upon the city and those who chose him or her. There is nothing in my background that would embarrass the City if it

became public knowledge. Although while I was the Martin County Attorney there were a few people who strongly opposed the County's decisions and policies who unsuccessfully tried to disparage me, I am not aware of anyone who would come forward. I understand the expectations placed on public figures and I have lived in the public eye, under the public records law, for nearly twenty years.

Leading by example, a City Attorney should inspire others to be their best as well. He also should be a communicator. I have argued successfully in the Florida Supreme Court, to judges, administrative law judges, and juries. I have sat on the *dais* with commissioners for more than a decade. I have spoken and made presentations to homeowners' associations and citizens' groups. I made regular presentations to citizens and staff. I have lectured on a variety of topics, including ethics, the Sunshine Law and land use issues. The Local Government Law Section of the Florida Bar gave me an award in 1993, recognizing me for excellence in legal writing.

My Objective for the Office and My Management Style

My service as Martin County Attorney is illustrative of the kind of office I would create and my management style. There, one of my chief objectives was to assemble a staff that would rival the best local government attorney's offices in the state. I strove to create an office that was broad in local government knowledge and experience, appreciated by the elected officials and the staff, and respected and recognized among the community and the bar. The quality of the office I created, its products, and all it accomplished, is a matter of public record and speaks for itself. I hired attorneys that were exemplary. In addition, I expected more of attorneys in the office than just a day's work. Attorneys on staff were encouraged and expected to write or lecture at conferences, and to be active with the local and state bar. By doing so, they were challenged to improve themselves professionally and distinguish themselves among their peers. At the same time, they distinguished their county. Mentoring (i.e., sharing knowledge and experience with one another, and especially with junior attorneys and county staff) was also expected. Employee evaluations included these matters, as well as client satisfaction. The benchmark set for the staff and the office was to exceed expectations so well that if the elected officials and staff were given a choice between the attorneys and staff of the County Attorney's Office and a private attorney, they would unhesitatingly choose the County Attorney's Office.

My administrative and management style is extremely team-based. This would include a close working relationship with the City Manager. Attorneys and support staff are all part of a team, and they work as a team. In Martin County, with six attorneys and six support staff, we were able to produce more, better work by always working together, and always being willing and available to pitch in to get the job done.

It is very important to me that credit be given where credit is due. Attorneys and staff are given the opportunity to show their skills and to get credit for their work. I stressed that the accomplishments of the office belonged to everyone in the office. When large projects needed to

be done, no one was asked to pitch in; everyone naturally and instinctively did. I encouraged attorneys and support staff to provide input on making things more effective and efficient. I also encouraged support staff to pursue paralegal training when they expressed an interest in doing so, and two of the three secretaries in the office became Certified Paralegals (Certified Legal Assistants) during the time I was there. I am confident that if you asked anyone who worked in the County Attorney's Office, they would say it was an exciting, fun place to work.

My Management Style – When Employees Are Not Meeting Expectations

I let all my employees know up front what is expected of them, and I monitor their performance to be sure they are meeting and exceeding their clients' expectations. When I see that there is a problem, I meet with the employee and discuss it with them. I also make a performance plan setting forth the improvement to be made, the time in which to make the improvement, and how the improvement will be monitored and accomplished. If the employee does not improve within the time set, the employee is terminated. In my experience, I have only had two employees who were placed on a plan, and only one was terminated. In that instance, the employee (a paralegal) had been unable to handle federal court assignments and requirements and other staff repeatedly had to cover for her to meet deadlines. The improvement plan called for the employee to finish additional training on federal practice and procedures and finish assignments on time and without significant help from other staff. The employee did not satisfy the plan and she was terminated.

My Management Style - Lawsuits

My approach to handling lawsuits is to treat them seriously from the moment they become a possibility, and to assign the resources necessary to successfully defend the lawsuit. Often, preparation is advisable even before a Notice of Claim is received or a Complaint is filed. I assess a lawsuit for the resources that will be needed as soon as possible. The resources I have in the office to defend a particular lawsuit dictate whether or not the case will be handled in-house. If defending a lawsuit is going to exceed the resources of the office, or if the best way to defend the lawsuit is with outside counsel, I find those outside resources and bring the matter to the City Manager and City Council as soon as possible for direction.

Communication

I believe that open communication with the elected officials and the City Manager is absolutely essential, since they have the day-to-day contact with the citizens, and they make the policy and practical decisions. I try to work as closely with them as they will permit. I always make myself available to meet or talk, and I usually try to have weekly meetings with officials. My philosophy regarding legal advice is simple and straightforward: give elected officials the

ability to make the most informed decision. I give elected officials and staff the right legal answers and advice, laying out the outcomes and risks of other options. Over the years, I have learned that elected officials will be applauded for good decisions, and vilified for bad decisions. Having all the information to make the most informed decision is the best way to avoid the latter.

Client Satisfaction

I believe the elected officials I have served will all speak very well of me, my work with them, and my abilities and the quality of my work. I have worked directly and personally with more than 30 county commissioners. I only had issues with 1 or possibly 2, and those issues had nothing to do with me; rather, I believe they were purely political.

Likewise, I had an excellent relationship with the all of the County Managers and County Administrators I have worked with, and I believe they will also speak very favorably of me. Since we are all working toward common objectives, I work very closely with County Managers, department heads, and staff.

As I mentioned above, one of the specific goals of my office is "client satisfaction" - from the elected officials all the way to the staff seeking help and advice to do their jobs.

Strengths and Weaknesses

I believe that my strengths are: I am well educated, and studied law at one of the top law schools in the country; I have more than 20 years of experience in local government, both legal and practical; I am recognized in the field of local government law; I have a demonstrated work ethic (though it borders on workaholic); I am a middle child; I am a problem solver.

Achievements

In my legal career, I consider the following my finest achievements:

1. My accomplishments as the Martin County Attorney.
2. The work I did in representing the Florida League of Cities and the Florida Association of Counties in the Florida Supreme Court and the United States Supreme Court in *Stop the Beach Renourishment v. Department of Environmental Protection*.
3. The Interlocal Service Boundary/Annexation Agreement between Sarasota County and the City of Venice that I had a large hand in when I worked with Sarasota County.

Regrets

I have always placed the highest emphasis on the quality of my work and judgment, for with my honor, they are the most important things I have as a lawyer. Once, however, I compromised my judgment on the answer to a legal question to try to help a colleague who was being criticized for his decision on that question. His (and my) answer was rejected. He was wrong. I was wrong. And I believe our error was apparent. I have always regretted it and will never repeat it.

Hitting the Ground Running

In my first six months on the job, I would hope to first stabilize the city's present legal need and requirements, while assessing and determining the overall needs of the office and the budget that is available to meet those needs and structure the office. It appears that attorney staffing is a critical need. Consequently, I would anticipate acting to add an experienced attorney as soon as practicable. I will also make changes in the administration and operation of the office to suit my management program. I would want to move to assemble the office as expeditiously as possible.

The Media

Regarding the media, I have followed a practice of being available to speak to reporters, and of speaking to reporters when they have called or come to my office. Reporters have come to my office. They have called me at the office and at home. They have come to my home. When I have spoken to reporters, I have tried, first and foremost, to help the reporter understand the matter well enough to write an accurate report. I do not seek out the media. I prefer to let others speak to the media. I will speak to the media as little, or as much, as the Council wishes.

Personal Description

Since we moved to the Treasure Coast in 1989, my family and I have made our church a central part of our lives. I have served the church in a number of capacities, including as its Executive Director and as a Sunday School teacher. My sons attended [redacted] and [redacted]. My wife is the [redacted]. We have been, and intend to remain, Treasure Coast residents. When not working, I enjoy spending time with my family, reading, playing golf and kayaking.

In describing myself, I believe these adjectives are most illustrative: loyal; honest; dedicated; forward-thinking; problem-solver and cooperative.

Current/Most Recent Salary

My current salary is approximately $160,000.00 annually.

CB&A Background Checks

Background Check Summary for
GARY K. OLDEHOFF

Criminal Records Checks:	
Nationwide Criminal Records Search	No Records Found
County	
Martin County, FL	Results Pending
Palm Beach County, FL	No Records Found
Sarasota County, FL	No Records Found
State	
Florida	No Records Found
Civil Records Checks:	
County	
Martin County, FL	No Records Found
Palm Beach County, FL	No Records Found
Sarasota County, FL	No Records Found
Federal	
Florida	No Records Found
Motor Vehicle	
Florida	No Records Found
Credit	Very Good No negative credit reporting since bankruptcy.
Bankruptcy	**June 2011** - Chapter 13, Voluntary **Disposition:** Awaiting final discharge **See page two of personal disclosure for candidate explanation for record found.*
Education	Confirmed
Employment	Confirmed
Bar Certification/License	Member in Good Standing Bar #449679

Background Check Summary for
GARY K. OLDEHOFF
Personal Disclosure

Personal Disclosure Questionnaire

Name of Applicant: GARY K. OLDEHOFF

The following questions are designed so that we will be able to make full disclosure to our client concerning your background. Please answer them honestly. Cutting corners or misrepresenting your past will result in you being eliminated from all further searches conducted by this firm. We understand that frivolous charges are sometimes made and that charges do not mean you were guilty. We also understand that you may have been wronged and needed to seek compensation. The bottom line is that we want to be certain that our client is fully informed. If you have any questions, please contact us for clarification.

Please explain any yes answers on a separate sheet of paper.

1. Have you ever been charged or convicted of a felony?
   Yes ☐ No X
2. Have you ever been accused of or have been involved in a domestic violence or abuse incident?
   Yes ☐ No X
3. Have you ever declared bankruptcy or been an owner in a business that did so?
   Yes X No ☐ SEE ATACHED
4. Have you ever been the subject of a civil rights violation complaint that was investigated or resulted in a lawsuit?
   Yes ☐ No X
5. Have you ever been the subject of a sexual harassment complaint that was investigated or resulted in a lawsuit?
   Yes ☐ No X
6. Have you ever been convicted of driving while intoxicated?
   Yes ☐ No X
7. Have you ever sued a current or former employer?
   Yes ☐ No X
8. Do you have a personal My Space, Face Book or other type of Web Page?
   Yes X No ☐
9. Do you have a personal Twitter Account?
   Yes ☐ No X
10. Is there anything else in your background that, if made public, would cause you, our client or our firm embarrassment if it came to light through the press or any other mechanism?
    Yes ☐ No X
11. Please provide a list of any lawsuits in which you are or have been a party either as plaintiff or defendant.
    SEE ATTACHED

Attested to: Gary K. Oldehoff
Signature of Applicant

Please email this form via PDF DOCUMENT to Lynelle@cb-asso.com **or via fax to**
(888) 539-6531 no later than 5:00 PM CST 05/03/16.
(Note: Please be sure to sign the form with your actual signature if you are sending Fax or PDF Document)

Property of Colin Baenziger & Associates

Background Check Summary for
GARY K. OLDEHOFF
Personal Disclosure Explanation

Personal Disclosure Questionnaire

Supplement

3. In January 2001, following my time as the Martin County Attorney, I opened my own practice in Stuart with my wife. For financial reasons, in June 2002, I accepted a position with the Sarasota County Attorney's Office, heading the office's land use practice. I got an apartment in Sarasota and came home every other weekend.

My wife, also an attorney, continued working at the office we had opened, and our two sons stayed with her so that they would not have to change schools. I was working and living in a condominium apartment in Sarasota and returning on weekends to spend time with my family. By 2006, monthly rent for a one-bedroom apartment in Sarasota exceeded $1100, and the apartment where I lived converted to condominiums. In July 2006, we purchased that condominium for $169,500.00, investing all of our savings to reduce the mortgage as much as possible. In 2007, I received an offer to return to the east coast of Florida and work for a firm in Boca Raton doing local government and administrative law. By this time, both our sons were in college and the Stuart practice was doing better.

My wife accepted an offer to work at Greenspoon, Marder in West Palm Beach and we were able to maintain the payments on the condominium and our home in Stuart, as well as supporting our sons in college. Unfortunately, [redacted] was laid off in 2008 as a result of the economy and we found ourselves unable to keep up with the payments on the condominium. We attempted to work out an agreement with our lender to either short sell the condominium or have them take a deed in lieu of foreclosure. Unfortunately, they refused to do so. By this time, the value of the condominium had dropped to $79,000.00.

In the spring of 2011, we filed a Chapter 13 bankruptcy. We gave up the condominium through the bankruptcy but were able to keep our Stuart home. We have made all payments due under the plan and are awaiting final discharge from the bankruptcy court.

In 1997 when I was being vetted by Martin County, an investigation was done of my and [redacted] financial and credit history, and it showed that our credit was impeccable. I understand that this is not the ideal economic situation for an applicant for City Attorney. However, as with many individuals in Florida, and Port St. Lucie in particular, we found ourselves having done everything by the book but ending up casualties of the economic recession. We accepted responsibility for the situation and have done the best we could to rehabilitate our financial situation. I would be happy to provide you with any further information you need regarding this matter.

11. Lawsuits:

- George May v. Martin County, et al., 19th Judicial Circuit Case No. 43-1997420 CA (dismissed)
- American Tower Systems, Inc. v. Martin County, et al., 19th Judicial Circuit Case No. 43 -1999389 CA (dismissed)
- Sherry Carr v. Martin County, et al., 19th Judicial Circuit Case No. 43 2000371 CA (dismissed)
- Chase Home Finance v. Gary and [redacted] Oldehoff, 12th Judicial Circuit Case No. 58-2009 CA 3707 (closed/foreclosed)

- In Re Gary and [redacted] Oldehoff, U.S. Bankruptcy Court Case No. 2011-26542-PGH (pending final discharge)

Background Check Summary for
GARY K. OLDEHOFF
Florida Bar License

Gary Keith Oldehoff

Member in Good Standing — **Eligible to Practice Law in Florida**

Bar Number:	449679
Mail Address:	Lewis Stroud & Deutsch 1900 Glades Rd Ste 251 Boca Raton, FL 33431-8548 United States Office: 561-826-2800
Email:	goldehoff@lsdlaw.net
Personal Bar URL:	www.floridabar.org/mybarprofile/449679
vCard:	?
County:	Palm Beach
Circuit:	15
Admitted:	11/18/1984
10-Year Discipline History:	None
Sections:	Environmental & Land Use Law

The Find a Lawyer directory is provided as a public service. The Florida Bar maintains limited basic information about attorneys licensed to practice in the state (e.g., name, address, year of birth, gender, law schools attended, admission year). However, through this directory The Florida Bar allows individual attorneys the opportunity to provide for public information certain expanded personal and professional data. It is the attorney's responsibility to routinely review and update those expanded listings. The information contained in those expanded listings is presented by the Bar "as is" with no warranty of any kind, express or implied. The Florida Bar, its Board of Governors, employees, and agents thereof are not responsible for the accuracy of that additional data. Publication of attorneys' contact information within this listing should not be construed as their consent to receive unsolicited communications in any form. Certain unauthorized uses of this data may result in civil or criminal penalties. The Find a Lawyer directory is not a lawyer referral service.

CB&A Reference Notes

Russ Blackburn – Former County Administrator, Martin County, FL 772-284-0910

Mr. Blackburn first met Mr. Oldehoff in 1997 and worked with him until 2000 when Mr. Oldehoff left the County. They have had some contact after that time, but mainly on a personal level.

Mr. Oldehoff is an outstanding attorney who is incredibly smart. He has a photographic memory and has a firm command of the law. He has experience and knowledge in Constitutional Law, Contracts, Environmental Law, Land Use, Utilities, and Labor and Personnel matters. He worked on many aspects in all of the above mentioned areas of law and is particularly gifted in Land Use issues and knows just about everything in that field of law

Mr. Oldehoff is honest, proactive, responsible, and an all-around solid person with good values. He maneuvered the law extremely well, but was also smart enough to ask for help in areas that were not his expertise. Additionally, he is well connected and has tremendous contacts throughout the state of Florida.

Resolving issues comes naturally to Mr. Oldehoff. He is solution oriented and is someone who tries to find solutions to problems based on the governing body's wishes. During his time in Martin County the elected officials were extremely active and he dealt with some pretty big issues. He consistently made good recommendations to the Commission, even though they did not always follow his advice. One example was when they were facing a lawsuit regarding the annexation with the City of Stuart that angered the Commission. Mr. Oldehoff knew that the County did not have a strong legal case and advised the Council against the lawsuit, however they decided to pursue it against his advisement. Ultimately, the City of Stuart corrected the issues before it went to trial and it worked out to the satisfaction of all involved parties.

Communication is a definite strength of Mr. Oldehoff's. He always kept Mr. Blackburn informed of what was happening in the County. He is an open person who is personable, listens to others, and likes to talk to people. He was a fine administrator and manager to his staff and was extremely helpful to all of the County's employees.

Mr. Blackburn is not aware of Mr. Oldehoff being involved in anything controversial since he has known him. He has no knowledge of any item in his background that would be construed as embarrassing if the press were to investigate. Mr. Blackburn highly recommends him for any position, Mr. Oldehoff would be a wonderful City or County Attorney.

Words or phrases used to describe Gary Oldehoff:

- Honest,
- Very intelligent,
- Hardworking,
- Creative,
- Responsive, and
- Team player.

Strengths: An honest and proactive professional who is exceptionally talented and knowledgeable in his field.

Weaknesses: None identified.

Dennis Wilkinson – Former Planning Director, Sarasota County, FL 941-749-0235

Mr. Wilkinson first met Mr. Oldehoff in 2002. They worked together on some major legal issues in Sarasota County for two years. They kept in contact for several years after Mr. Wilkinson retired until Mr. Oldehoff moved in 2007 and have since lost touch.

Mr. Oldehoff is persistent and pays special attention to details. He definitely has a solid command of the law. He was the lead attorney on a major administrative hearing that was worth millions of dollars regarding a massive land use plan. It was being challenged by the environmental and developmental communities and the County withstood their entire backlash due to Mr. Oldehoff's expertise and demeanor. No charges were cited by the Administrative Officer and it was a 100% win for the County.

Mr. Oldehoff was a pleasure to work with and he worked well with everyone. He was especially talented at making things tolerable during the stressful times. He was a hard worker who not only ensured that the big and tedious cases were taken care of, but he also kept the daily issues of the office running without a hitch.

Dealing with others in the organization was something that Mr. Oldehoff did well. He was professional in his dealings with the County Manager, the department heads and the staff. He also interfaced well with the municipalities within the County, which, at times, could be adversarial. He was always professional and handled himself in a dignified and polite manner. Furthermore, he met with the Chamber of Commerce, various community groups, and, on occasion, the press where he was always forthcoming and communicated what was necessary.

Mr. Oldehoff was a diligent worker and was always responsive to Mr. Wilkinson. He could not think of any major incidents where the elected officials did not follow Mr. Oldehoff's advice. He is the type of person who looks for solutions. Whatever the organization wants to accomplish he will creatively find a way to get it done within the regulations of the law.

Mr. Wilkinson is not aware of Mr. Oldehoff being involved in anything that would be looked at as controversial. He does not have any information about Mr. Oldehoff's past that would be embarrassing to any future employer. He would certainly seriously consider him as a candidate for a City or County Attorney position.

Reference Notes
Gary K. Oldehoff

Words or phrases used to describe Gary Oldehoff:

- Dedicated,
- Diligent,
- Persistent,
- Detail oriented,
- Team player, and
- Entertaining.

Strengths: Diligent professional who is detail oriented and works tremendously well with everyone around him.

Weaknesses: In a team situation he will declare his territory and can sometimes have a strong personality which, at times, can rub others the wrong way, especially in a governmental setting.

Stephen DeMarsh – County Attorney, Sarasota County, FL 941-861-7272

Mr. DeMarsh first met Mr. Oldehoff in 2002 and they worked together until 2007. Mr. DeMarsh became the County Attorney in 2004 and Mr. Oldehoff reported to him from that time forward. They have had some sporadic contact since 2007.

Mr. Oldehoff is a brilliant, extremely intelligent, and hardworking attorney. He is in the top echelon of people who can handle complex matters. He has an excellent command of the law especially in civil litigation. He is also well versed and experienced in Land Use, Constitutional Law, and in some aspects of Contracts.

Mr. DeMarsh considers Mr. Oldehoff as responsive and someone who served his clients well. He is a team player who has unbelievable energy and interest in the law. He is the type of person who can handle the heavy load of litigation and daily work that comes with the territory of working as a municipal attorney.

Mr. Oldehoff always made good recommendations to the elected body. He gave excellent recommendations to the Council on a number of complex matters and helped to clarify those matters. Mr. DeMarsh recalls one time when the elected officials did not follow his recommendation. He had essentially won a piece of litigation and they wanted to settle it anyway. The outcome was that they received less than what they would have had they continued with his recommendation to follow it through, but it is what they wanted.

Finding solutions is easy for Mr. Oldehoff, however, he does so within the limits of the laws and regulations. He first will advise his clients what the codes are, and then present them with the options so that they can decide for themselves.

Dealing with the public comes easily for Mr. Oldehoff. During his time in Sarasota he dealt with various members of the public as well as their attorneys. He also attended Commission meetings from time to time and interacted well with the elected officials as well as any member of the public who might be in attendance.

Mr. DeMarsh is not aware of Mr. Oldehoff being involved in anything controversial that was not part of his job description. He has nothing in his past history that would be thought of as unflattering if the press were to go digging. He would be a fine candidate for a City or County Attorney position because he has a vast understanding, experience, and knowledge of governmental issues. If any municipality wants someone who is sure of himself and can handle the full workload, he is the right pick.

Words or phrases used to describe Gary Oldehoff:

- Highly intelligent,
- Good command of the law,
- Hardworking,
- Interested in the law, and
- Knows what he is doing.

Strengths: An outstanding attorney who is dedicated to the law and has an immense amount of experience and knowledge in his field.

Weaknesses: An attorney who is best suited to a client who wants an attorney who is sure of himself, which, for some, could be a weakness.

Janet Gettig – Former Commissioner, Martin County, FL 561-746-0984

Ms. Gettig first met Mr. Oldehoff in 1992 and worked with him until 2000 when she left the Commission. The last time they had any contact was a few years ago.

Mr. Oldehoff did an excellent job for Martin County. He is extremely familiar with the law and is always well prepared. He is a fairly substantial and well recognized attorney in the area who works hard for positive outcomes for his clients.

Solving problems is an area where Mr. Oldehoff excels. He came up with some excellent strategies for growth management in Sarasota. He is responsive and makes good recommendations to the elected body. While he was with the County he advised the Council well and with his guidance they prevailed and had positive outcomes on various lawsuits and legal issues.

Mr. Oldehoff is a fine communicator. He was present at all of the meetings and was clearly prepared with staff reports. He had no other agenda other than that of serving the board and working for its, and the County's, best interest.

Ms. Gettig is not aware of Mr. Oldehoff being involved in anything controversial since she has known him. He has nothing, to her knowledge, that would be thought of as embarrassing if the press were to go digging. He would do well as a City or County Attorney and she would hire him if she were given the opportunity.

Words or phrases used to describe Gary Oldehoff:

- Responsive,
- Analytical thinker,
- Competent,
- Personable, and
- Good communication skills.

Strengths: Well prepared and experienced attorney who is knowledgeable in many aspects of municipal law.

Weaknesses: None identified.

Teresa Grassi-Wolosh – Legal Assistant, Lewis Stroud & Deutsch, Boca Raton, FL
561-826-2800

Ms. Grassi-Wolosh first met Mr. Oldehoff in 2014 when she came to the firm. In her position she reports to him on a daily basis.

Mr. Oldehoff is an amazing attorney who is fair, detail oriented, and thorough. He has an exceptional command and knowledge of the law. He is personable, easy to talk to, caring, and friendly. Additionally, he is a hard worker who goes the extra mile to get the job done.

Mr. Oldehoff makes excellent decisions when it comes to dealing with the law. He also negotiates well on behalf of the party whom he represents. He is responsive and is willing to problem solve, however he is very conscience of the law. He will not deviate from the law but will do what he can in a creative way within legal parameters.

As a boss, Mr. Oldehoff is one of the better bosses that Ms. Grassi-Wolosh has had during her career. He is communicative and always keeps her informed of what she needs to know about in regards to cases.

Ms. Grassi-Wolosh is not aware of Mr. Oldehoff being involved in anything controversial since she has known him. She is unaware of anything in his background that would be considered embarrassing if the press were to research his past history. If she were looking to hire a City or County Attorney, he would be a solid candidate whom she would definitely consider.

Words or phrases used to describe Gary Oldehoff:

- Hardworking,
- Outgoing,
- Problem solver,
- Friendly, and
- Detail oriented.

Strengths: A hard working professional who is personable, friendly, and gets the job done in the best interest of his organization and client.

Weaknesses: None identified.

David Wagner – Former County Attorney, Alachua County, FL 352-246-6546

Mr. Wagner first met Mr. Oldehoff in 1995. They worked together regarding issues in Martin County. They have stayed in contact over the years via phone calls and at various conferences.

Mr. Oldehoff is a superb attorney who has a very good command of the law. He does well when presenting the law to others and has a wide range of local government experience. He is a hard working person who understands not only governmental city law, but also county law.

Mr. Oldehoff makes fine decisions in regards to the law. He also makes solid and sound recommendations to his elected body. While in Martin County his recommendations were always well founded and backed up with facts. He is also an excellent negotiator and works well for the people whom he represents. He does what he can to find solutions rather than stating that the law does not permit something to be done.

In order to be a successful attorney one must be able to communicate and deal well with the public. Mr. Oldehoff is an effective communicator and is always prepared to provide the best legal advice.

Mr. Wagner is not aware of Mr. Oldehoff being involved in anything controversial that was not part of his job. He has nothing in his background that would be construed as unflattering if the press were to research him. He would be a fine candidate for a City or County Attorney position and Mr. Wagner would hire him if he were looking for one. He has the requisite experience and maturity to do the job and do it well.

Reference Notes
Gary K. Oldehoff

Words or phrases used to describe Gary Oldehoff:

- Competent,
- Inclusive,
- Friendly,
- Even keeled personality, and
- Calculating in his communication.

Strengths: Experienced and knowledgeable individual who works well with others and who is one of the best in his field.

Weaknesses: None identified.

Denise Neiman – County Attorney, Palm Beach County, FL 561-355-2225

Ms. Neiman first met Mr. Oldehoff approximately in the 1990's when he was with the Martin County Attorney's office. She has not had contact with him for several years.

Mr. Oldehoff is highly intelligent and has a good command of the law. He is an excellent writer and not only knows the information, but also knows how to clearly communicate it both written and verbally. Although Ms. Neiman is not entirely familiar with what type of law in which he has experience, she does know that he knows Constitutional Law and Contracts.

Ms. Neiman was not only impressed by Mr. Oldehoff's intelligence and firm command of legal issues, but his healthy approach to life both professional and personal. He is a good, well-rounded person whom people gravitate towards. He is a genuinely honest individual who practices with high ethics and morals.

On the few issues that Ms. Neiman worked with Mr. Oldehoff on he was always responsive. He is also one who embraces finding solutions to problems. He makes good decisions with regards to the law and practices with common sense. He always works with an element of practical application to the law that Ms. Neiman found to be refreshing.

Mr. Oldehoff has nothing in his past history that would be thought of as controversial or embarrassing if the press were to go digging. For him to have stayed in Martin County for so long speaks volumes as it is an area that is traditionally difficult. If he applied for a position in her office she would most definitely hire him.

Words or phrases used to describe Gary Oldehoff:

- Highly intelligent,
- Personable,
- Common sense,
- Communicative, and
- Well-rounded.

Strengths: Exceptional attorney with a solid understanding of the law who practices with a common sense approach and gets results.

Weaknesses: None identified.

Nora Patterson – Former Commissioner, Sarasota County, FL 941-349-1721

Ms. Patterson first met Mr. Oldehoff in 2002. She worked with him until he left the County in 2007. They have had no further contact since that time.

Mr. Oldehoff has an excellent command of the law and is a fine trial attorney. On numerous occasions Ms. Patterson went to talk to him and always found him to be bright and that he represented the County well. He was responsive and made the best recommendations to the elected body. In fact, she does not remember a time where the elected officials did not follow his advice and decided on something different.

Mr. Oldehoff is a solution oriented person, but also someone who stays within the confines of the law. He did his best to do what the Commissioners wanted, but if he thought they were walking a plank, he let them know.

Ms. Patterson felt comfortable asking Mr. Oldehoff questions. He was always accessible and communicated what she needed to know in regards to County legal business. He was a knowledgeable attorney who knew what he was doing especially in regards to Land Use issues as that is what he did, for the most part, in Sarasota.

Ms. Patterson is not aware of anything in Mr. Oldehoff's background that would be considered controversial or embarrassing. She would definitely hire him if she were looking for a City or County Attorney.

Words or phrases used to describe Gary Oldehoff:

- Bright,
- Outspoken,
- Articulate, and
- Intelligent.

Strengths: A capable attorney who represents his clients well and who is highly intelligent.

Weaknesses: Outspoken.

Joseph Barbetta – Commissioner, Sarasota County, FL 941-921-9566

Mr. Barbetta first met Mr. Oldehoff in 2006 when he was elected to the Commission. He worked with him for about a year up until Mr. Oldehoff left the County. They have had no further contact since that time.

Mr. Oldehoff is a very smart person who has an outstanding command of the law. Mr. Barbetta interacted with him a few times per week and was always pleased with how he was treated. His dealings with him were mostly in regards to Land Use issues in which he is extremely experienced and well versed.

Mr. Barbetta would characterize Mr. Oldehoff as responsive. He also makes very good and thorough recommendations to the elected body. He does not recall of any circumstances where the Commissioners did not follow his advice and did something different.

Mr. Oldehoff always kept Mr. Barbetta and the other Commissioners well informed about things he was working on. He was a solutions driven attorney who helped as much as he could. He was straightforward and ensured that they understood that his solutions always came from an ethical and legal place.

Mr. Barbetta does not recall of Mr. Oldehoff having been involved in anything controversial. He does not know of any item in his background that would be thought of as embarrassing by any future employer. Mr. Barbetta would definitely hire Mr. Oldehoff as a City or County Attorney.

Words or phrases used to describe Gary Oldehoff:

- Bright,
- Conscientious,
- Excellent communication skills,
- Responsive,
- Amicable,
- Easy to deal with, and
- Good person.

Strengths: A highly capable attorney who is intelligent and experienced in the law.

Weaknesses: None identified.

Reference Notes
Gary K. Oldehoff

Jeri Wright – Legal Assistant, Lewis Stroud & Deutsch, Boca Raton, FL 561-826-2800

Ms. Wright has known Mr. Oldehoff since 2012 when she came on board at the firm. He is one of the attorneys that she reports to in their office.

Mr. Oldehoff is a wonderful attorney who has an excellent command of the law, but if something comes up that he is not familiar with he will do his research. His overall character is fantastic. He is very intelligent and she feels comfortable going to him when she has questions.

Mr. Oldehoff is definitely responsive. He never leaves things unattended and makes himself available. From her perspective he makes good decisions in regards to the law and negotiates well on behalf of the people whom he represents. He is absolutely a problem solver and looks for solutions to issues rather than saying they cannot be handled because the law does not permit.

Communication is an area where Mr. Oldehoff shines. He never turns Ms. Wright away and his door is always open. He does a fine job of managing his area of the office and works well with the staff. She would hate for him to leave as he adds such a wonderful aspect to their office.

Ms. Wright is not aware of Mr. Oldehoff being involved with any controversies since she has known him. She has no knowledge of anything in his background that would keep him from doing a top notch job at any organization. He is an excellent candidate for a City or County Attorney position because he is personable and deals well with others.

Words or phrases used to describe Gary Oldehoff:

- Intelligent,
- Helpful,
- Sociable,
- Easy to get along with, and
- Experienced.

Strengths: An intelligent and experienced professional who is easy to work with and who is extremely helpful.

Weaknesses: None identified.

Prepared by: Heather Linares
Colin Baenziger & Associates

Section 4

CB&A Internet Research

Palm Beach Post, The (FL)
July 16, 2014

Pair: Nasty, petty politics threatened dream home
Author: Jane Musgrave

When Richard and Marilyn Barfield's house in Jupiter Inlet Colony was walloped by back-to-back hurricanes in 2004, they knew it would take many months, possibly more than a year, to mend their lives. As a result of what they call widespread corruption and petty, yet vicious, politics, it would be six years before they got permission to move into the dream home they designed to replace the one Hurricanes Francis and Jeanne destroyed. Rather than help the Barfields rebuild as they had promised, small-minded town officials did everything they could to thwart them, their attorney told a Palm Beach County jury on Tuesday. Then-Mayor John Zuccarelli III dispatched members of the tiny town's police force to spy on the couple, attorney Steven Katzman said. Workers, including roofers, drywall hangers and paving contractors, were chased off their property. Day laborers they hired were forced to register at town hall.

800 code violations

Before their new house was finally completed in 2011, they had been issued more than 800 code violations and more than $100,000 in fines, he said. "Why did they get all these violations?" Katzman asked jurors during opening statements in a trial in which he is expected to seek millions in damages. "We believe it's because they stood up and spoke out and were punished for doing so." Attorneys representing Zuccarelli, two town commissioners and Police Chief John Benevento disputed the notion that the Barfields were punished because Marilyn Barfield used her position as a town commissioner as a bully pulpit to criticize long-standing town policies. "This case is not about free speech. It's not about unlawful searches. It's not about discrimination," said attorney Michael Burke, who represents Commissioner Douglas Pierson and current Mayor Daniel Comerford III. "The evidence will show they tried to bully and intimidate folks in the town who were responsible for enforcing the rules of the road when it comes to construction." He disputed Katzman's claims that the Barfields paid tens of thousands in fines. "The evidence will show not one penny has been paid," he said.

Attorney **Gary Oldehoff**, who represents Zuccarelli and the police chief, also blasted the couple for trying to skirt town rules. The hurricanes, he said, gave Barfield, an emergency room doctor, and his wife, who worked as a nurse, an unexpected gift. "The Barfields saw this as an opportunity to build their dream house," **Oldehoff** said of the grand two-story, 10,000-square-foot home they built to replace their aging 5,000-square ranch-style house. "They wanted to build their house on their own time, on their own terms." The level of animus belies the atmosphere of the neatly manicured 128-acre community at the tip of Jupiter Island. It seems more likely to embody the characteristics of its most famous resident, the late crooner Perry Como, who climbed to the top of the charts with such hits as "Some Enchanted Evening."

An enchanted life

For 10 years, Marilyn Barfield testified, life on the island was enchanted. "It was the most beautiful place I'd ever seen," said Barfield, who was raised in West Virginia. An active town volunteer, in 2003 she decided to seek office. That was when, she said, she discovered cracks in the town's veneer -- cracks she couldn't ignore. She questioned why the town moved its money into Independent Community Bank, where Zuccarelli was a 9.9 percent owner and Pierson owned stock. She pushed fellow commissioners to fix what she said were blocked or undersized drainage pipes, claiming they were contributing to flooding and sink holes. She criticized Pierson for not putting an enclosure around his pool and Comerford, then a commissioner, for not trimming bushes that obstructed motorists' views. She questioned why the town charged so much for building permits. Zuccarelli, she said, told her it was to keep property taxes low.

With each complaint, she said, her elected colleagues got angrier and angrier. When the Barfields then needed the town's cooperation to build their new house, the outraged commissioners got their chance for revenge, she testified. Police began visiting the construction site several times a day, taking photographs and issuing citations. As citations mounted, she said she and her husband went to visit Zuccarelli to call a truce. "We decided to go and speak to him and tell him we were done complaining about the town," she said. "All we want to do is build our house and live in peace." Zuccarelli's response was swift: "He said we would never move into that house and we would never get a certificate of occupancy," she said.

Police called vigilant

Throughout her testimony, Zuccarelli and Pierson shook their heads as Barfield recounted conversations she said she had with them. **Oldehoff** said Zuccarelli didn't sic the police on the Barfields. Police watch the 180 houses in the community constantly. And, he said, that includes being vigilant about code enforcement violations. They were particularly watchful of the Barfields because they appeared to be doing work without permits, he said. Work trucks and construction equipment littered the site and dust billowed from it, in violation of town rules. The couple tried to avoid paying extra to extend building permits when they expired, he said. They moved in before construction was completed. They also low-balled the cost of the house to reduce the price of permits, which are based on construction costs.

Experts estimate they spent as much as $3.5 million to build their house while the Barfields said it cost $400,000, he said. "It really boils down to the fact that the Barfields wanted to have things their way," he said. The trial, which is expected to last several weeks, continues today.

Florida Times-Union, The (Jacksonville, FL)
June 18, 2010

High court backs beach restoration Private property owners claim they're losing land value, rights
Author: STEVE PATTERSON

Florida's program for rebuilding eroded beaches Thursday survived a U.S. Supreme Court challenge that could have stalled restoration projects statewide. The case centered on the improbable question of whether oceanfront landowners in Walton and Okaloosa could sue the state for building beaches in front of their property. The high court unanimously said no. "We're very, very pleased. ... We'll be able to continue doing beach restoration, especially now with the hurricane season coming up," said **Gary Oldehoff**, a Boca Raton lawyer who filed a brief for the Florida Shore and Beach Preservation Association and two local-government associations.

The case was followed by property rights advocates nationally, because it invited a decision about whether judges ruling against property owners are in fact illegally taking property rights. That remained unsettled, though, with only four out of eight justices saying a so-called judicial taking was possible. Four others stopped short of addressing that, giving two separate reasons why that decision wasn't needed in this case. The ninth justice, John Paul Stevens, owns Florida beachfront property and didn't take part in the ruling. The suit stems from a Panhandle restoration project that was first planned in 2003. Landowners who organized a group called Stop the Beach Renourishment Inc. questioned the need for some work, saying part of the beach was actually expanding, not eroding. Their property extended to the water's edge, with the state owning everything below the high tide line. They argued that the state-funded beach project would cost them both land value and rights because it involved pouring sand onto state-owned - previously submerged - land. Doing that would move the high tide line further out to sea, creating a strip of publicly owned beach between the water and their property.

After the Florida Supreme Court overturned a ruling that backed the landowners, they appealed to the nation's highest court, saying they were entitled to be paid if their property rights were taken. Since restoring a beach already costs $3 million to $5 million per mile, beach advocates worried that adding extra payments for landowners would make the work prohibitively expensive. But the justices said nothing in the state's action amounted to taking the landowners' rights. "Florida law ... allowed the state to fill in its own seabed," Justice Antonin Scalia wrote. Two Tallahassee attorneys who represented the landowners, Kent Safriet and Richard Brightman, said in a statement they feared the ruling "will lead to more incidences of government unfairly taking private property away from hard-working citizens." But they and other property rights advocates said they were encouraged that four justices went out of their way to talk about the chance for judicial takings even after ruling one had not happened this time. "Four did say yes; we didn't have four say no," said Jim Burling, director of litigation at the Pacific Legal Foundation, a property rights advocacy group.

Florida Times-Union, The (Jacksonville, FL)
October 8, 2009

High court to hear beach erosion suit Landowners say state stole their beachfront by replenishing sand.
Author: STEVE PATTERSON

Florida's system for saving beaches from erosion is being challenged in a U.S. Supreme Court case that could reshape rights of landowners and governments nationally. The case centers on two questions: whether people who own beachfront land can suffer a financial loss by the state adding new sand, and whether judges are violating property rights if they let that happen without ordering payment to the owners. A top federal lawyer and the attorneys general for 26 states filed briefs this week supporting Florida's state government. More than a dozen property rights groups or business associations have filed arguments supporting landowners who sued over a beach project in Walton and Okaloosa counties in the Panhandle that started in 2006. The suit's opponents say a court ruling to pay the landowners could stop beach projects in their tracks. "The outcome of this case will decide whether the beach restoration program will continue in Florida, as well as similar programs in the rest of the country," argued a brief filed jointly by the Florida Shore and Beach Preservation Association and the Florida Association of Counties and Florida League of Cities.

EROSION AND PROPERTY VALUES

The suit, by a group called Stop the Beach Renourishment Inc., will be argued before the justices in December. The landowners' suit claims their rights were taken because the 2006 project created a new strip of public beach that separates them from the Gulf of Mexico. They say their beach was stable and would have eventually grown. "That land is no longer oceanfront. It's ocean-view," said Menelaos Papalas, a Jacksonville attorney who filed a friend-of-the-court brief for the nonprofit Coalition for Property Rights. That group agrees with the landowners who argue the project lowered their property values by opening up a beach that anyone could use. "This is a fundamental legal right to be compensated," Papalas said.

Government agencies spend hundreds of millions of dollars yearly in Florida to repair eroding beaches by pumping offshore sand onto the beach around the high tide line. By law, the area underwater at high tide is owned by the state. But the added sand pushes the tide line farther out, leaving a state-owned strip of dry land that will normally slowly erode again. That's only done to stop the sea from carving up the coastline, so arguments about losing property value make no sense, said **Gary Oldehoff**, a Boca Raton attorney who filed the brief for the beach preservation association. Restoring a beach normally costs between $3 million and $5 million per mile, so if landowners' rights were somehow damaged, that should more than make up for it, the brief argues.

IMPACT COULD RIPPLE

The Florida Supreme Court ruled against the landowners last year, but the new suit argues that was a kind of judicial activism. It asks the U.S. Supreme Court to rule that the decision amounted to a "judicial taking," where a judge's decision represents a violation of property rights guaranteed under the Constitution's Fifth Amendment. The Supreme Court has never ruled such a thing exists, and many of the interests involved in this case see that as having far-reaching impacts. **Oldehoff** said he's worried that a judicial taking ruling would start a torrent of claims from all sorts of landowners. "The concept of property covers a very narrow spectrum in the minds of some people but a very broad spectrum in the minds of others," he said. "If the people with that much broader notion ... thought they had a remedy for every judicial decision that affected their property in the Supreme Court of the United States, their docket would be flooded. The federal courts would be flooded."

In the middle of arguments about sweeping theoretical issues, the case could end up drifting away from the facts that first touched some Panhandle landowners, said Keith Hetrick, general counsel for the Florida Home Builders Association, which filed a brief in support of the suit along with the National Association of Home Builders. Because of the scope of issues in play, "groups start lining up and taking black-and-white, the-sky-is-falling type positions," Hetrick said. "The truth is somewhere in the middle, obviously."

Sarasota Observer, The (FL)
February 21, 2008

Planners to consider new Lowe's store - The home-improvement retailer has altered its plans to deed eight to 10 acres to the county to serve as a buffer
Author: Robin Hartill

A proposed Lowe's home improvement store on Central Sarasota Parkway in Palmer Ranch faces a crucial test Feb. 21 when its development application goes before the Sarasota County Planning Commission. This the proposed Lowe's store that brought about the resignation last year of assistant county attorney **Gary Oldehoff**, who resigned after opposing the store at a public workshop last fall. **Oldehoff** also happened to be a resident of a condominium next to the Lowe's proposed site.

Palmer Ranch Holdings Inc. owner Hugh Culverhouse Jr. complained about **Oldehoff** 's Sept. 25 appearance, alleging it was a conflict of interest and prejudicial. **Oldehoff** was the attorney who often presided at Planning Commission meetings during which commissioners decided whether to approve or deny development requests. Culverhouse said it was unethical for **Oldehoff** to oppose the Lowe's project and then sit on the panel that would help decide its fate.

County Attorney Steven DeMarsh initially backed **Oldehoff**, saying it was his right as a property owner to be at the meeting. But after more than a month of letters between DeMarsh and Culverhouse's attorneys, **Oldehoff** resigned. Culverhouse attorney Lawrence Kellogg said he would monitor the approval process carefully, and if the planning commission or County Commission rejected the project, he would want to investigate why it was turned down.

Lowe's has held three neighborhood workshops, with the most recent one last week. The communities that will be most affected by the 20-acre development are the Bella Villino condos to the east of the proposed store, the Royal Palms Mobile Home Park to the west and the Venetian Mobile Home Park to the south. Based on neighbors' concerns about noise and traffic, Lowe's has changed some of its plans. It has offered to give to the county at no cost the deed to eight to 10 acres of natural space on the southern side of its property that will serve as a buffer area. It also has reduced the size of its loading area behind the store to allow for a greater buffer and to reduce the truck noise. Lowe's hopes to build a 153,000-square-foot store with 450 parking spaces.

Englewood Sun (FL)
November 11, 2007

Attorney involved in federal housing suit resigns
Assistant County Attorney Gary Oldehoff was a central figure in the Tammi House case.
Author: Jack Gurney

A key player in the U.S. Justice Department's intentional housing discrimination case against Sarasota County has resigned. Assistant County Attorney **Gary Oldehoff** will leave the job this Friday and return to his former home in Martin County. **Oldehoff** advised the county building and zoning officials who unsuccessfully tried to close Tammi House, a complex of six Warm Mineral Springs homes for residents in recovery from alcohol addiction, substance abuse and mental illnesses. The county's 2004 actions triggered an investigation by the Justice Department's civil rights division and prompted a lawsuit that cost taxpayers an estimated $4 million in legal bills and settlement payments to avoid a federal jury trial.

The terms of the Oct. 26 out-of-court agreement include mandatory U.S. Fair Housing Act training sessions for county officials, and a four-year probationary period during which all county housing activities must be reported to the federal government. **Oldehoff** was no stranger to controversy before he came to Sarasota in 2002. He was fired "without cause" as the Martin County attorney in 2000 and given a $93,000 severance package by county commissioners, two of whom did not stand for re-election. In 2004, **Oldehoff** got involved in the Tammi House case when he advised building and zoning officials the complex was a "community residential home" that should be licensed by the state, and as such each of the homes should have 1,000 feet of separation between them.

An order was issued to the owners of Tammi House that would have required 30 residents to vacate five of the homes. The owners appealed both the determination and order to an appointed county board of zoning appeals that was also advised by **Oldehoff.** On Oct. 4, 2004, in response to a board member's question about whether federal, state or local law prevails in such cases, **Oldehoff** advised the members they should only consider county rules. "You are to focus only on the zoning code," he said, "and what the code says." Rather than argue the county's findings in a state court, the Tammi House owners contacted federal housing officials. The case was referred to civil rights lawyers in the Justice Department who issued a warning to the county in 2005 before filing suit in 2006.

Venice Gondolier Sun (FL)
November 2, 2007

Education key element of settlement
Author: Jack Gurney

When Sarasota County accepted the terms of an out-of-court settlement with the U.S. Department of Justice to resolve alleged intentional housing discrimination charges it assumed an obligation to learn more about provisions of the 1968 U.S. Fair Housing Act. As a result, many top county officials who make critical building, planning and zoning decisions will attend classes arranged by a new court-mandated county employee whose job title will be the Fair Housing Act Compliance Officer.

The officials include Zoning Administrator Tina Crawford, Planning and Development Services Manager Rob Lewis, Planning Manager Anne McClung, Build Official Paul Radauskas, Code Enforcement Manager Sandra Jones, Community Housing Manager Mary Beth Humphreys and Housing and Community Development Manager Don Hadsell. Also required to attend is Assistant County Attorney **Gary Oldehoff**, who is responsible for advising the board of zoning appeals about provisions of the Fair Housing Act. He was a key player in county decisions that led to the federal lawsuit.

The Fair Housing Act prohibits landlords, real estate firms, local governments, banks, insurance companies and all other providers from denying housing to people because of their race, color, religion, sex, national origin, familial status or disability. Oct. 24, the county commission unanimously agreed to settlement terms with the Justice Department that will remain in effect for four years, during which time the U.S. Federal Court in Tampa will retain jurisdiction and decide whether all the parties have met their obligations. As has been previously reported, the case stemmed from a 2004 county decision to close five of six Warm Mineral Springs homes clustered in a complex known as Tammi House that rents rooms to people in recovery from alcohol addiction and drug abuse.

County officials cited zoning violations. Justice department lawyers visited the facility in late 2005 and warned the county its actions were unlawful. In June 2006, the county was charged with violations of both the Fair Housing Act and Americans with Disability Act. The settlement allows all six homes to remain open as "sober houses," but states they must be independently operated under rules that prohibit on-site drug testing, distribution of medications, group substance abuse education or group counseling. Terms of the settlement include a $750,000 county "contribution" to the owners of Tammi House, a $10,000 payment to the Justice Department and bills for a legal defense against the charges from the Washington, D.C., law firm of Holland & Knight. The estimated cost to county taxpayers for trial preparation and the out-of-court settlement is about $4 million. A more accurate total will be available when all the bills have been submitted for payment and are accounted for by Court Clerk Karen Rushing.

South Sarasota Observer, The (FL)
November 2, 2007

County attorney resigns
Accused of a conflict of interest over his objections to a Lowe's development, an assistant county attorney steps down.
Author: Kyle Rogers

The Sarasota County attorney at the center of an ethics probe has resigned. Assistant county attorney **Gary Oldehoff** will step down from his post Nov. 9. **Oldehoff** had come under fire after his vocal appearance at a neighborhood meeting concerning a proposed Lowe's home-improvement store in Palmer Ranch. **Oldehoff's** resignation appears to be the latest development in a month-long, back-and-forth dialogue between Sarasota and Palmer Ranch Holdings, resulting from his appearance at a Sept. 25 workshop for the project, which is required as an initial step in the development-approval process. **Oldehoff** owns a condo next to the vacant land where the store would be built. According to Palmer Ranch lawyer Lawrence Kellogg, **Oldehoff** asked several detailed questions at the workshop, which reflected his intimate knowledge of the county's development standards, and spoke out against the project saying: "This site plan will not work."

Palmer Ranch owner Hugh Culverhouse Jr. accused **Oldehoff** of a conflict of interest. **Oldehoff** is the attorney who sits on the Planning Commission, which is the second-to-last step before any development can move forward. "Hopefully, (the resignation) puts an end to the concerns about **Oldehoff** influencing the county's decision (on the Lowe's development)," Kellogg said. Culverhouse was also concerned about the presence of county planner Ed Wolfe at the workshop, who sat with **Oldehoff** and conversed with him prior to **Oldehoff** 's pointed questioning. Wolfe does not live in the neighborhood surrounding the Lowe's property. Wolfe's supervisor, Anne McClung, told The South Sarasota Observer that Wolfe was in the neighborhood to take photos of the site and decided to stop in to the workshop to pick up some documents from WilsonMiller representatives, who were consulting on the Lowe's project.

However, Frank Domingo, one of the WilsonMiller representatives at the meeting, said nobody picked up any documents from him and he doesn't remember even taking any with him that night. McClung didn't return calls seeking clarification. After reading in The Observer McClung's explanation of Wolfe's presence at the meeting, Kellogg sent a letter to County Attorney Stephen DeMarsh Oct. 26, which said McClung's statements are "belied by the facts that Mr. Wolff (sic) received no documents from the developer, nor did he ask for any, (and) pictures cannot be taken at night, which is when the meeting occurred." DeMarsh had defended **Oldehoff** 's appearance at the meeting as his right as a private citizen and as a neighbor of the project.

In an Oct. 3 letter to Kellogg, DeMarsh said **Oldehoff** would not work on that particular project, but did not comply with Kellogg's request to take **Oldehoff** off of all Palmer Ranch projects.

Kellogg responded Oct. 11, asking not only that **Oldehoff** have no further dealings with Palmer Ranch, but also that DeMarsh conduct an independent investigation of the incident.

DeMarsh wrote Kellogg again Oct. 15, and he agreed to assign all Palmer Ranch projects to other attorneys, but he denied the request for an independent investigation. DeMarsh and **Oldehoff** did not return calls seeking comment. While Kellogg is satisfied with **Oldehoff 's** resignation, he said if the Lowe's development isn't approved, he would wonder if the assistant county attorney influenced the project after all. "We would have to investigate further about why it was rejected," Kellogg said. "Hopefully, we're not in that situation. Hopefully, this is the end."

South Sarasota Observer, The (FL)
October 19, 2007

County denies Ranch's investigation request
Author: Kyle Rogers

Palmer Ranch owner Hugh Culverhouse Jr. wanted county employees ' presence at a proposed Lowe's store workshop probed. Palmer Ranch Holdings ' request for outside counsel to conduct an independent investigation of what it calls questionable ethics has been turned down. County attorney Steve De-Marsh responded this week to a Palmer Ranch attorney's call for an independent entity look into the presence of two county employees at a neighborhood workshop for a proposed Lowe's home-improvement store. He said he would not hire outside counsel to investigate, but Palmer Ranch is within its rights to file a complaint with the Commission on Ethics.

DeMarsh did, however, agree to another Palmer Ranch request – that one of the employees who attended, assistant county attorney **Gary Oldehoff**, will not work on any Palmer Ranch projects. The problem arose Sept. 25, when **Oldehoff**, who is a Palmer Ranch resident, attended that workshop. **Oldehoff** was critical of the project, which would be built next door to his Bella Villino condo, and asked pointed questions of the developer.

Palmer Ranch owner Hugh Culverhouse Jr. accused **Oldehoff** of a conflict of interest. **Oldehoff** is the attorney who sits on the Planning Commission, which is the second-to-last step before any development can move forward. But DeMarsh defended **Oldehoff**, saying it was his right as a homeowner to attend and that the assistant county attorney would recuse himself from any business dealing with the Lowe's store. That didn't satisfy Culver-house, whose attorneys asked the county in an Oct. 11 letter to conduct an independent investigation of the matter. "Palmer Ranch appreciates that Mr. **Oldehoff** will not have any future involvement in the processing of Palmer Ranch's Parcel Q-1 Application, but remains concerned about the influence that Mr. **Oldehoff** already appears to have imposed," wrote Culverhouse attorney Lawrence Kellogg.

According to Kellogg, **Oldehoff** was heard at the meeting saying: "This site plan will not work." **Oldehoff**, according to Kellogg, also asked several detailed questions, which reflected his intimate knowledge of the county's development standards. Palmer Ranch is also concerned about county planner Ed Wolfe's appearance at the meeting. Wolfe does not live in the community, which was invited to attend the meeting, and he reportedly conferred with **Oldehoff** outside the meeting room before **Oldehoff** asked some of his more critical questions.

Culverhouse said those same questions appeared on an official letter from the county's planning department, which listed the problems with the Lowe's development application. "It is also troubling that the questions asked at the Neighborhood Meeting by Mr. **Oldehoff** – which appeared to have been fed to him by Mr. Wolfe – have now found their way into (county

planner) Todd Dary's comments on the application, sent to Palmer Ranch's consulting firm on Oct. 3," writes Kellogg.

Shelley Hamilton, a senior project consultant at WilsonMiller, which represents the Lowe's project, and a former planner for the county, said it would be uncommon for Wolfe to attend the workshop. "It is unusual for county staff to show up," Hamilton said. "It is frowned upon. Staff is instructed not to attend, because it looks like you are in support or opposed, and (they) are supposed to be neutral." In his response, DeMarsh wrote: "I am satisfied that neither (Wolfe or Dary) as been asked by Mr. **Oldehoff** to assist him in any way with respect to concerns he may have regarding the (Lowe's store) … I have taken reasonable steps … to insure that your client continues to receive fair treatment in its dealings with Sarasota County Government and the Office of the County Attorney."

Wolfe's supervisor, Anne McClung, agreed that **Oldehoff** did not ask Wolfe to attend, saying Wolfe was just in the neighborhood Sept. 25, so he decided to stop by the meeting. McClung said Wolfe was at the development site the night of the meeting, so he stopped by to get some documents from the Lowe's representatives. "We typically don't attend neighborhood meetings, but (Wolfe) was there for pictures and thought it was an opportunity to coordinate with the applicant on some information," McClung said.

Sarasota Observer, The (FL)
October 4, 2007

Palmer ranch questions county ethics
Article Text:

After an assistant county attorney protested a development in his neighborhood, lawyers for Hugh Culverhouse Jr., owner of Palmer Ranch Holdings, sent a warning to Sarasota County. The letter requested assistant attorney **Gary Oldehoff**, who presides over the Sarasota County Planning Commission, recuse himself from any business concerning the proposed Lowe's home improvement store on Central Sarasota Parkway.

It also took the drastic step of asking that **Oldehoff** be prevented from working on any Palmer Ranch project in the future. Culverhouse claims **Oldehoff** violated ethical standards by speaking out against the Lowe's project at a neighborhood workshop Sept. 25. **Oldehoff** owns a condo next to the vacant land where the store would be built. The developer also admonished the county over the presence of a Sarasota County planner at the same neighborhood meeting. Palmer Ranch lawyers said Ed Wolfe's attendance contradicts ethical standards of objectivity.

In the Oct. 2 letter, Culverhouse lawyer Lawrence Kellogg cited a state law, which emphasizes impartial behavior and restricts public officials from using their office for private gain. According to the letter, **Oldehoff** was a vocal member of a small audience at the workshop, which is required as an initial step in the development approval process. Palmer Ranch lawyers said **Oldehoff** spoke out against the project, when he said: "This site plan will not work." **Oldehoff**, according to the letter, also asked several detailed questions, which reflected his intimate knowledge of the county's development standards. At one point in the workshop, Culver-house's attorneys said **Oldehoff** and Wolfe left the meeting, and it appeared they conferred outside, so that **Oldehoff** could re-enter the meeting and rebut the developer's representatives. "It has been a standing practice that county staff do not attend any neighborhood meeting," Kellogg writes. Wolfe does not live in the neighborhood surrounding the proposed store. Shelley Hamilton, a senior project consultant at WilsonMiller, which represents the Lowe's project, and a former planner for the county, said it would be uncommon for Wolfe to attend the workshop. "It is unusual for county staff to show up," Hamilton said. "It is frowned upon. Staff is instructed not to attend, because it looks like you are in support or opposed (to a project), and (they) are supposed to be neutral."

County Attorney Steve DeMarsh, **Oldehoff** 's boss, said a decision has been made to keep **Oldehoff** from working on the Lowe's project. "Mr. **Oldehoff** is a condominium owner, and he had a right to participate (in the workshop)," DeMarsh said. "But this means he will not be involved as a lawyer in the Lowe's case at all." But DeMarsh said he did not think the county would comply with Culverhouse's other request that **Oldehoff** be removed from all cases involving Palmer Ranch.

Bradenton Herald, The (FL)
August 20, 2004

STATE MAINTAINS LEGALITY OF SARASOTA 2050 PLAN
Author: Lisa Marie Lentz

Sarasota 2050 looks like it could be a go. The state's Department of Community Affairs handed down its final ruling on the legality of the controversial Sarasota growth plan this week, adopting the recommended order of administrative law Judge Donald Alexander. In May, Alexander ruled that Sarasota County acted within its citizens' best interests in shaping Sarasota 2050, a 50-year, incentive-based land use plan designed to manage and shape growth in the county. The ruling came after months of administrative hearings, prompted by lawsuits brought against the county and DCA by environmental group ManaSota-88 and Old Miakka resident Becky Ayech. Sarasota County attorney **Gary Oldehoff** said he was happy to see the process come to a conclusion, adding that all claims of the challengers had been rejected with no changes deemed necessary. Sarasota County planner Matt Lewis said he hasn't celebrated, or had the spirit to do so, in the aftermath of Hurricane Charley. "With everything going on, we haven't had time to breathe a sigh of relief yet," he said. "We'd like to be able to."

Although **Oldehoff** said ManaSota-88 or Ayech could seek an appeal within 30 days, he indicated they may have trouble establishing standing for such an appeal with the findings being as "compelling and conclusive" as they were. Dan Lobeck, attorney for ManaSota-88, agreed that while the group had standing to challenge the plan, they lack the same standing to appeal. Both Lobeck and Ayech expressed disappointment in the ruling. Lobeck said 2050 land development regulations recently adopted by Sarasota's County Commission could bring urban sprawl earlier than the county's comprehensive plan would have normally allowed. **Oldehoff** said the adoption of the land development regulations, a months-long process, should start to bring in applications for development under the 2050 plan.

First to the gate may be Lakewood Ranch developer Schroeder-Manatee Ranch, which participated with Sarasota County in a theoretical test run of 2050 on its Sarasota property just south of University Parkway. SMR officials were pleased with the ruling, but not surprised. "We were confident that the DCA's decision would be consistent with the judge's ruling," said Todd Pokrywa, SMR's vice president of planning. "This is a significant milestone in the process since, following the decision, the 2050 plan went into effect immediately." The ruling allows SMR to push forward without impediment. "SMR is diligently working on the Development of Regional Impact application and master plan for the Villages of Lakewood Ranch South," Pokrywa said, "and, subsequently, we anticipate filing an application before the end of the year."

Herald Tribune, Sarasota, FL
April 26, 2004

Seeking sanctions over 2050 challengers is taking it a step too far

The Sarasota County Attorney's office has ratcheted up the pressure in its legal battle over the Sarasota 2050 long-range growth strategy. The plan is being challenged by the predictable amalgam of environmentalists and anti-growthers who have turned to the courts to get what they could not get through the democratic process. It's a common strategy used by some, turning over every legal rock possible to block the represented will of the people.

Assistant County Attorney **Gary Oldehoff** has accused Dan Lobeck, an attorney and long-time foe of population growth, of "filibustering" and "offensive behavior." Both are believable based on historic precedent. But **Oldehoff** also criticized former planning commissioner Becky Ayech's claims as "completely irrelevant and clearly frivolous" and accuses her of trying to delay the case. Well, maybe. But that is what the judge is supposed to decide. Where things take a dubious turn is that **Oldehoff** filed a motion asking for sanctions against Ayech and the environmental group Manasota-88, which Lobeck is representing. If the judge rules for the county, the groups would be ordered to reimburse the county for the cost of defending the plan -- some $200,000 at this point.

Challenging amendments to county comprehensive plans, such as 2050, is part of the process of changing the plans. While it is often an end-run around the decisions of elected officials accountable to voters, the safeguard is still required. While I am sympathetic to county frustration with the challengers, the degree of intimidation in seeking sanctions is just not becoming of local government. The city of Sarasota wants to consolidate developers' money for transportation improvements rather than have the developers make road improvements at their condos and office buildings.

Currently, the city requires developers to build or widen roads associated with their development. The proposed change would allow the city to charge a "development impact fee" that would be used for public transit, bike paths and other such items. It's easy to see why the city might prefer this method. Having the money in one large pot for downtown gives city planners more flexibility. It would also be a way to pay for the $40.8 million downtown transportation plan - including some expensive roundabouts to help traffic flow. But some folks see a sinister motive behind it. Robert M. Johnson, a lawyer for the Bayfront Condominium Association, said: "It's very troubling. It says 'give developers whatever they want.'" Well, actually it says, "give the city whatever it wants." Developers will still be shelling out the bucks.

Government v. Government

There is just something distasteful about government using tax dollars to try to influence other levels of government. It's not new, but the trend is for ever more of it. Southwest Florida cities, counties and school boards are part of state and national associations that represent their interests

to lawmakers in Tallahassee and Washington, D.C. That's understandable, if still grating. But that is just the tip of the government-lobbying-government iceberg. More and more, local governments are hiring their own lobbyists to directly work the state Legislature for local interests.

Sarasota County has been on a trajectory for increasing its lobbying efforts in Tallahassee for several years. Now the county is paying $150,000 -- just a reminder, that's taxpayer money -- for a team of lobbyists from Holland and Knight, one of the state's powerhouse legal firms. That is in addition to the county's full-time lobbyist based in Sarasota and being paid $75,000 per year, which is in addition to $38,000 in dues to the Florida Association of Counties. The thing is, I thought this was the very purpose for which we had local representation in the Legislature in the first place -- unless, of course, local government has diverging interests from the local public.

Englewood Sun (FL)
April 5, 2004

Sarasota battles phosphate
Hearing set for May 10
Author: WARREN RICHARDSON

SARASOTA COUNTY -- Two weeks after commissioners agreed to increase participation in the litigation over phosphate mining, Sarasota County is officially in the battle. Last week, assistant county attorney **Gary Oldehoff** filed a petition with the Florida Division of Administrative Hearings challenging IMC Phosphates' plan to mine approximately 4,200 acres near Ona in Hardee County. After the Florida Department of Environmental Protection issued IMC a permit to open the Ona Mine in 2003, Charlotte County and the Peace River/Manasota Regional Water Supply Authority filed an administrative challenge to DEP's decision. Lee County has also intervened in the action because of the potential impact on the Charlotte Harbor Estuary into which the Peace River drains. Sarasota became able to file its own challenge when IMC applied for and received permission from DEP last month to construct a clay settling complex on property adjacent to the Ona Mine. The Ona Mine lies in the Peace River Basin near Troublesome Creek, Oak Creek, and Hickory Creek, all tributaries to the Peace River. Also in the area that would be affected by the mining activities are the West Fork of Horse Creek, Brady Creek and Brushy Creek. Phosphates are considered vital to all life and are mined to help agriculture, but the counties and the authority want to limit mining since most of it is on the headwaters of Horse Creek, a prime tributary of the Peace River. The counties rely upon the Peace River as a source of drinking water through the authority.

In his challenge, **Oldehoff** claims the mining will decrease the water quality and the flow in Horse Creek and the Peace River. Under state rules, the authority can only make limited withdrawals from the Peace River during high flow periods. Decreasing the level of flow in the Peace River would limit the authority's ability to take water from the river, ultimately affecting the amount of water available to its customers, **Oldehoff** claims. **Oldehoff** also claims the IMC has not provided "reasonable assurances" that the mining is not inconsistent with the objectives of the Southwest Florida Water Management District and won't violate state water quality standards, nor will it adversely affect the public health and safety or will not cause further pollution. In addition, he alleges that IMC has not performed an adequate cumulative impact analysis from opening the Ona Mine, and that the mining will also negatively affect wetlands in the area. Because Sarasota's challenge is similar to those of Charlotte County and the authority, Administrative Law Judge Robert Meale granted a request from DEP and ordered a consolidation of the two challenges so that they will be heard at the same time. Meale will hear the two challenges on May 10 in space provided by the Stetson University College of Law in Tampa. Sarasota County could also become involved in further phosphate challenges. Deputy county administrator Dave Bullock said IMC is expected to file applications to open the Wingate Mine in Manatee County, which is on the headwaters of the Myakka River. He did not know when that application would be filed.

Herald Tribune, Sarasota, FL
August 19, 2003

Lawyers spar over expert's opinions
Author: Dale White

SARASOTA COUNTY -- An expert in New Urbanism got caught in a verbal crossfire Monday as lawyers defended and attacked his opinions about the Sarasota 2050 growth plan. **Gary Oldehoff**, an assistant county attorney, and Dan Lobeck, attorney for the environmental group ManaSota-88, repeatedly objected to each other's tactics as an administrative hearing about the plan continued through its 11th day. New Urbanist planner R. Wayne Bennett, a witness for ManaSota-88, returned to the stand after a more than month long recess in the proceeding to undergo a lengthy grilling by **Oldehoff**. Bennett, a town planner based in Louisville, Ky., is a proponent of New Urbanism -- a concept that calls for compact, walkable communities with shared amenities and open spaces. The county wants to enact a growth plan that promotes New Urbanist-style villages in now-rural areas east of Interstate 75. Yet Bennett claimed the plan falls short of achieving New Urbanist goals because it could cause "leapfrog development" and "urban sprawl." Bennett referred to many of 2050's policies as "vague and uncertain." He concluded that the amendment to the county's comprehensive land use plan is "inconsistent" with the comp plan itself and "not in compliance" with state growth management laws.

Oldehoff cited portions of Cornerstone 2020, a growth plan for the Louisville region that Bennett helped craft. He quoted passages that also promote New Urbanism but could be construed as being as broadly worded as Sarasota 2050. Bennett said he had disagreed with others working on Cornerstone 2020 about some of its wording as well. **Oldehoff** noted that the 2050 plan recently won an award from the Congress for New Urbanism, the leading association of planners, architects, and others who specialize in neo traditional communities. He stressed that consultants, county planners, and the Florida Department of Community Affairs concluded that 2050 complies with all state and local growth laws. "Are you saying they're all wrong and you are right?" **Oldehoff** asked Bennett.

Lobeck frequently objected to such questions. He claimed that **Oldehoff** "mischaracterized" Bennett's earlier testimony and engaged in "a continual game to try to confuse, befuddle, and trip up this witness." **Oldehoff** fired back, accusing Lobeck of conducting "a filibuster" when he spent most of the previous 10 days of the hearing presenting ManaSota-88's witnesses. **Oldehoff** questioned whether Bennett, a former Orlando-area planner, was up to date on Florida growth policies and had sufficient knowledge of Sarasota County's terrain on which to base his opinions. He also challenged Bennett's motive for stepping into the 2050 debate. "You wouldn't be here if you hadn't been paid by ManaSota-88," **Oldehoff** told him. The hearing is expected to continue into September. A judge assigned by the Florida Division of Administrative Hearings will recommend that the DCA uphold or reject the comp plan amendment. Depending on who files an appeal, the case could head into the courts or be settled by the governor and the Cabinet.

Palm Beach Post, The (FL)
May 17, 2002

BUILDER NOT ABLE TO DITCH BUFFER PLANS
Author: Sarah Eisenhauer

When most residents in Palm City's Islesworth development bought their homes, they expected a 15-foot buffer of large trees between their modern community and the 5-acre property with horse pastures next door, their attorney argued Thursday. The owners of the 5 acres, Leslie and John Kingsley, agree. Islesworth's developer, Pulte Homes, left only 5 feet of space between the properties when it built the community in the late 1990s. On Thursday, Pulte's attorney asked the Martin County Development Review Committee to recommend the county commission eliminate the final site plan's requirement for a 15-foot buffer. But Pulte encountered another problem: the Kingsleys' accusations that Pulte's construction of Islesworth is to blame for causing their property to flood during hard rains. Because county staff reported Pulte had done little to address the drainage problem, development review committee members said Pulte should not get the commission's help with the buffer issue. The board unanimously voted to recommend the county commission deny Pulte's request. "They have not offered any specific solutions to the drainage problems," county planner Harry King told the committee. "This request does not appear reasonable until the drainage issues are addressed."

Pulte's attorney Johnathan Ferguson argued that the drainage issue is a private matter between Pulte and the Kingsleys and has nothing to do with the buffer request. He said the project's plat shows only the 5-foot separation, where Pulte has installed a solid wood fence. "It's unfortunate that the plat and site plan were not submitted at the same time, and now We're stuck with an inconsistency in the documents," Ferguson said. "We're talking about seven homes in Islesworth that would be affected by this. The 15-foot landscape buffer would have a minimal effect for Islesworth." But attorney Deborah Ross, who represents Islesworth's homeowners association, said the final site plan with the 15-foot buffer was what most of the 123 residents saw at Islesworth's sales office. "It's not seven homeowners, it's 123," Ross said. "If there's any ambiguity, you have to err on the side of caution and say the buffer is supposed to be there."

Gary Oldehoff, who represents the Kingsleys, said county codes spell out that the final site plan should be the ultimate guide in such disputes. He said it's the county's duty to look at the drainage issue when considering the buffer request. "I think it's very, very clear this buffer is needed," **Oldehoff** said. "You shouldn't excuse a failure to do something like this."

Palm Beach Post, The (FL)
September 21, 2001

WRONG - BUT 'ETHICAL'

The Florida Commission on Ethics has cleared Martin County Commission Chairman Dennis Armstrong of allegations that he broke ethics laws by voting to give public money to a project from which he stood to earn a real-estate commission. If that isn't a violation, you wonder what is. When the matter became public in April, Commissioner Armstrong apologized and took responsibility, though it seems unlikely he would have confessed if nobody had noticed. He voted to spend $137,424 on a 124-unit affordable-housing project for seniors in Stuart. He stood to make a $19,128 commission for being a "transaction broker" on the deal. After he was caught, Commissioner Armstrong first said the commission vote was not close, so his vote didn't matter. Then he blamed bad advice from former County Attorney **Gary Oldehoff**. Mr. **Oldehoff** noted, however, that while the tainted vote came in January, he had left the county three months earlier, the last time he saw Commissioner Armstrong. Mr. **Oldehoff** also said he advised the commissioner not to vote on another issue in March 2000 because of a similar conflict.

After Commissioner Armstrong's apology, the commission again approved public money for the housing project, this time with Commissioner Armstrong abstaining. The deal fell through, though it could be resubmitted. Two Stuart residents filed a complaint with the ethics commission, which last week dismissed the case, citing "insufficient evidence." The panel ruled that Commissioner Armstrong and his firm, Stuart Land Co., would stand to gain or lose from the commission's vote only if Commissioner Armstrong's vote decided the sale. "It's a pretty obscure point of law having to do with contractual relationships," conceded Kaye Starling, complaint coordinator for the Ethics Commission. "What on the surface may look unethical might be illegal. It might be immoral, or wrong or unwise. But it may not be unethical as our statutes cover it."

Justice may wear a blindfold, but the ethics commission appears to be blind to plain facts: A commissioner should not vote on any matter from which he stands to gain financially. Commissioner Armstrong has asked the new county attorney to draft a list of questions for the ethics group to help him figure out what to do in the future. That's a waste of a public employee's time. Anyway, the misguided ethics commission apparently has its own rule: If it's illegal, immoral, wrong or unwise, it's probably ethical.

Stuart News, The (FL)
April 7, 2001

OLDEHOFF: NO ADVICE ON TANGLEWOOD ARMSTRONG ADMITS HE DIDN'T TALK WITH FORMER COUNTY ATTORNEY
Author: SUZANNE LATSHAW

Former Martin County Attorney **Gary Oldehoff** says he never gave advice to commission Chairman Dennis Armstrong on whether to vote on giving county-controlled money to Tanglewood Village, a housing project on which Armstrong stood to make a real estate commission. "I had no involvement whatsoever in Commissioner Armstrong's violation of the ethics code," **Oldehoff** wrote Thursday in a letter to The Stuart News/Port St. Lucie News. The state ethics code requires public officials to abstain from voting and publicly declare their conflict of interest on issues that could financially benefit them.

Last week, Armstrong said **Oldehoff** had advised him "it wasn't a problem" to vote to fund developers of Tanglewood, a proposed $5.5 million low-income senior apartment complex. Armstrong is the real estate agent for the developers, The Gatehouse Group, on the Tanglewood project. Asked on Friday to respond to **Oldehoff's** statements, Armstrong acknowledged he never talked to **Oldehoff** about the Tanglewood issue, which came to a vote Jan. 9 - about three months after **Oldehoff** left county government. "I never spoke to **Gary Oldehoff** on the Gatehouse issue. I agree with **Gary** on that," Armstrong said in an interview with the News. Later in the interview, Armstrong continued, "I did not receive any advice from any one of the county attorneys, not **Gary Oldehoff**, not Krista Storey, not Stephen Fry, on this specific Gatehouse issue."

In his letter to the News, **Oldehoff** criticized the newspaper for not contacting him to get his response to Armstrong's initial comments on the voting issue before publishing articles and an editorial about the controversy. "If you had simply asked me, I could and would have told you that I never advised Commissioner Armstrong that his action on January 9, 2001 would not constitute a violation of the ethics law . . .," **Oldehoff** wrote. In response, Tom Weber, editor and president of the News, said, "I do regret that we did not get **Gary Oldehoff**'s statement earlier and I apologize."

In his letter, **Oldehoff** wrote, "I did not advise Commissioner Armstrong that he did not have a conflict of interest on the Tanglewood project, nor was I ever asked to render any opinion on whether he had a conflict with regard to that project." **Oldehoff** also emphasized that while county attorney he advised that "it would be a conflict of interest for a commissioner to vote on the county's acquisition of real property from which the commissioner or his office might benefit." **Oldehoff** continued: "My advice to Commissioner Armstrong was consistent throughout my employment with the county - do not vote on any land acquisition by the county which would tend to benefit you or your real estate office."

Oldehoff noted that in March 2000 he advised Armstrong about a potential conflict on an issue with "facts remarkably similar" to the Tanglewood project. In that case, Armstrong asked whether he could vote on the possible acquisition of 3,020 acres called the Pal-Mar Ninejem tract, which had as its real estate agent SLC Commercial, the company Armstrong has worked for since 1995. "He should consider himself to have a potential for a conflict of interest," **Oldehoff** said at that March 14, 2000, meeting. "He may not make a motion, he may not vote on a motion, but he may participate in discussions." **Oldehoff** continued at that meeting, "The law tends to try to proceed in a cautionary way and tries to avoid even appearances of impropriety."

Armstrong, asked on Friday to explain his earlier Tanglewood comments, said he had been referring to past broad discussions about the general conflict-of-interest issue. That issue, Armstrong continued, is "of me being a Realtor and trying to figure out what was a conflict and what I should do and what I shouldn't. I thought I understood but I guess I didn't." Armstrong said he never talked with **Oldehoff** regarding any specified land deals he was involved with, only general ethics questions. "I don't believe it is my responsibility or my need to divulge to the county attorney, or anyone for that matter, in what I'm involved as a business person. I can only divulge a situation," Armstrong said.

If the Tanglewood project was funded at the state and local levels, Armstrong would have received a commission on the sale of 8.3 acres on Central Parkway, appraised at $571,496. Commission for real estate agents range from 2 to 10 percent of the sale. A 5 percent commission would be $28,500. Armstrong did not abstain on the Jan. 9 vote to give The Gatehouse Group $137,424 in county-controlled State Housing Initiative Partnership (SHIP) funds. At Tuesday's county commission meeting, Armstrong requested a new vote on the SHIP allocation and a separate public meeting regarding land in which SLC Commercial has interest, and apologized for his January vote. "It would be nice to blame it on everybody," he said. "I thought I was pretty clear that it was my fault and I accept full responsibility for it."

Stuart News, The (FL)
April 7, 2001

OLDEHOFF: 'NEWS' DEFAMED ME
Author: **GARY K. OLDEHOFF**

My attention has been called to two recent articles in the News. The first was published on April 3, 2001 and was titled, "Armstrong owns up to ethics violation." The byline on that article was Suzanne Latshaw. The article included the following paragraph: Fry said Monday that he called the Commission on Ethics in Tallahassee and gave advice to Armstrong, who relied on the advice of former County Attorney **Gary Oldehoff** to vote on the measure in January.

The reference to my giving advice to Commissioner Armstrong to violate the law is a lie. I had no involvement whatsoever in Commissioner Armstrong's violation of the ethics code. I have not spoken to Commissioner Armstrong since Oct. 13, 2000 and I am certain that it would not be a surprise for you to learn that, after my departure, Commissioner Armstrong never again approached me requesting legal advice. I did not advise Commissioner Armstrong that he did not have a conflict of interest on the Tanglewood project, nor was I ever asked to render any opinion on whether he had a conflict with regard to that project. I was not the county attorney at the time of the vote.

You might imagine my distress, then, when I was advised of the similarly libelous News column by (Associate Editor) Nancy Smith, published the next day, April 4, 2001. Ms. Smith quotes Commissioner Armstrong as follows: "On the other hand, I did ask **Gary Oldehoff** about this last year, and he didn't see a conflict." Ms. Smith uses this quote as a springboard for her further comments in the article impugning my character, my ethics and the quality of my professional work.

Rather than investigate whether I did in fact advise Commissioner Armstrong on this project, much less whether I had even heard of it, your paper saw fit to publish this quote unsupported by any source other than Mr. Armstrong. I understand why Mr. Armstrong would seek to blame someone else for his violation of the ethics code. Why might your staff have been suspicious of the veracity of the commissioner's statement?

1) Commissioner Armstrong's improper vote occurred on Jan. 9, 2001, three months after I left the county.

2) To the best of my knowledge, neither the Tanglewood project nor the request for funding was even known to the county on or before Oct. 13, 2000, my last day with the county.

3) As your articles have reported, it would reasonably appear that Commissioner Armstrong had clearly violated the ethics law. Thus, he had a reason to try and place the blame on someone else.

4) According to the reports in your publication, by voting on the Tanglewood project, Commissioner Armstrong voted to give $137,424 of public money to the contract purchaser of a property for which he was a sales agent in order to keep the sale (and his "almost $30,000" commission) alive. The very notion that any attorney, or for that matter any reasonable person, would conclude that the commissioner did not have a voting conflict, or that his voting would not give an appearance of impropriety (which also calls for abstaining), defies logic and reason.

Commissioner Armstrong apparently never discussed this matter with Acting County Attorney Krista Storey or with Stephen Fry, the present county attorney, until the story of his ethics violation broke in the papers, despite the fact that Ms. Storey was right down the hall and the board had just hired Mr. Fry. When you interviewed Mr. Fry on Monday, April 2, 2001, he immediately acknowledged to your paper that the commissioner had committed an ethics violation.

In fact, it is a matter of public record that the Board of County Commissioners had requested that I research and advise them of a potential for conflict of interest by Commissioner Armstrong which arose in early 2000, regarding the Ninejem property which presented a set of circumstances strikingly similar to those referred to in your recent articles. As the record shows, Commissioner Armstrong and his office were the listing agents for a piece of property which was eligible to be purchased by public monies from the Save the Rivers project. The issue presented was whether Commissioner Armstrong could cast votes regarding the use of Save the Rivers funds when such votes would benefit the Ninejem property. My advice to Commissioner Armstrong was placed on the record at the March 14, 2000 County Commission meeting. A representative of your publication was at that meeting, and the written minutes, audio tapes and videotapes of that meeting reflect my advice. I urge you to review these immediately, but for your benefit, I have provided the following transcription of what occurred and the advice I gave:

Commissioner Melzer: "Is - is Commissioner Armstrong the broker on the Ninejem parcel?"

Dan Hudson: "I don't know what his particular role is on that. I know that the property was referred to us and we sent it on down to the Water Management District by the Stuart Land Company is the representative. I don't know if Commissioner Armstrong has a specific role in that acquisition or not."

Commissioner Gainey: "Mr. Chair - I would ask that our attorney clarify that because if I recall, when that question was asked before, Commissioner Armstrong said that his office had an interest in it, the office that he worked in and he was not a broker, so would you please clarify that for the record."

Gary Oldehoff: "Well, when this came up a few months ago, the Board asked me, directed me to research it and talk to Commissioner Armstrong about that situation and I have spoken to Commissioner Armstrong and he will proceed accordingly."

Commissioner Gettig: "Well, what was your research, what was the result?"

Gary Oldehoff: "The question was whether there was a potential conflict of interest that would prevent him from being able to vote and... . He should consider himself to have a potential for a conflict of interest. He may not make a motion, he may not vote on a motion, but he may participate in discussions." (Emphasis added.)

Commissioner Melzer: "Just for the general public, as I understand the way conflicts of interest work, it's not only if I would have a direct interest or Commissioner Armstrong would have a direct interest, but a business partner would also. Is that pretty close?"

Gary Oldehoff: "That's right. That's right. In this instance, it didn't matter whether he was the individual broker that was handling that property or the company that he is contracted with who is handling it. The law tends to try to proceed in a cautionary way and tries to avoid even appearances of impropriety."

Commissioner Melzer: "Thank you."

Commissioner Gainey: "Okay and that was the concern that I had that you had made the contact or there was not going to be an issue of impropriety."

Gary Oldehoff: "Right."

Commissioner Gainey: "Okay. Thank you."

For your information, the "research" and "review" I undertook of the above matter included review of several written communications from the Commission on Ethics in Tallahassee, confirming that the commissioner did have a conflict and could not vote on land acquisition matters in which he or his firm had an interest.

As Ms. Smith indicated in her column, I previously stated in 1996 that it would be a conflict of interest for a commissioner to vote on the county's acquisition of real property from which the commissioner or his office might benefit. I gave the same opinion in March, 2000 and my employment with the county ended in October, 2000. My advice to Commissioner Armstrong was consistent throughout my employment with the county - do not vote on any land acquisition by the county which would tend to benefit you or your real estate office. This statement, unlike your statements, is confirmed by the public record and written documentation.

It troubles me immensely, but does not surprise me, that neither you nor anyone else from the News ever contacted me to get my comments or response before you published these defamatory statements. You and your reporters have my home phone number, despite the fact that it is unlisted, and felt free to call me at home many times when I was the county attorney. Indeed, one of the News reporters actually came to my home once to obtain a quote. If you had simply asked me, I could and would have told you that I never advised Commissioner Armstrong that his action on Jan. 9, 2001 would not constitute a violation of the ethics law, and prevented you from

damaging me, my family and my professional reputation. Instead, you acted recklessly, maliciously, and with utter disregard of the truth to do just that.

I consider your publication of the above-quoted excerpt from the article by Suzanne Latshaw and all references to me in the column by Nancy Smith to be both defamatory and actionable. You clearly published a false, defamatory statement with actual malice, that is, with a reckless disregard as to whether it was false or not. Your false statements have directly and proximately resulted in serious injury to my reputation.

I will always have a deep love for Martin County and the wonderful people who live here. It was my honor and privilege to serve the county and its people for 11 years. I have no regrets about the quality of the services that I provided to the county, though at times my job was very stressful and sometimes even placed my personal safety in jeopardy. Had you ever seen my office, on the wall next to my chair you would have observed a quote from one of my first-year law professors expressing his and my philosophy of the practice of law. It is also on the wall of my new office, and it reads: "It is not good enough to be creative, or to have good ideas, or to be provocative; the obligation of a lawyer is to get it right." I demand that you immediately print a front-page retraction of the statements made concerning me in the above-mentioned articles. This should be considered notice of and demand for a retraction within five (5) days in accordance with Florida Statutes Section 770.01.

GOVERN YOURSELVES ACCORDINGLY.

Stuart News, The (FL)
October 29, 2000

HOW CAN 'NEWS' LET OLDEHOFF MATTER DROP?

The Stuart News has suddenly become very quiet about the almost 100-grand golden parachute handed outgoing County Attorney **Gary Oldehoff** by the outgoing County Commission majority and smacks of blatant cronyism. People in management positions get fired every day without cause. It's part of the game called politics, be they corporate or civic. When a new regime takes over, somebody has got to go to make room for the new management team and their players. It has happened to me on two occasions. In the back of your mind you know this could happen when you accepted the promotion your team leader gave you: new regime, new faces. In effect, you are fired without cause. When you reach a certain management level in the corporate world, from there to the top spot it's all corporate politics. Of the half-dozen men I know who have had this happen to them, not one ever received a reward such as Mr. **Oldehoff** is receiving.

The reason given by the outgoing commission, "To avoid a blood bath," is grossly theatrical. This is Martin County, U.S.A., not a coup d'etat in some banana republic. It appears Wetlands Wanda (Melzer) and go-along Gettig, along with good ole boy Wilcox, just want to pay off their buddy for services rendered. The whole thing has the odor of "So there, Martin County, take that!" Another slap in the face for Martin County taxpayers. Litigating Liza didn't even carry her own district, that should tell you something. The new commission should disallow the payment to **Oldehoff**. And by the way, congratulations to the new commission - it looks like a clean sweep for common sense.

Robert J. Naughton - Palm City

Stuart News, The (FL)
October 15, 2000

OFFICIALS VOW NEW LEGAL STRATEGY
"THE THING I DIDN'T LIKE IS THEIR PHILOSOPHY OF 'IF YOU DON'T LIKE WHAT I'M DOING, SUE ME.' I THINK GARY THOUGHT HIS OBLIGATION WAS TO THE THREE (MAJORITY) COMMISSIONERS . . . RATHER THAN THE RESIDENTS OF MARTIN." - LEE WEBERMAN, COMMISSIONER-ELECT
Author: Melissa E. Holsman

STUART - With the departure of County Attorney **Gary Oldehoff**, incoming county commissioners say there will be a change in legal strategy, with different priorities over when to sue, settle or accept defeat. Commissioner-elect Lee Weberman said the former majority of Janet Gettig, Donna Melzer and Marshal "Bud" Wilcox used **Oldehoff** to further their political agenda, often to the detriment of county taxpayers. "The thing I didn't like is their philosophy of 'if you don't like what I'm doing, sue me,'" said Weberman. "I think **Gary** thought his obligation was to the three (majority) commissioners . . . rather than the residents of Martin County - there is a big distinction there." Weberman, a former 11-year county engineer, said he thought **Oldehoff** "tailored" his advice to please the commission majority and acted as a de facto county administrator. "That's the way the commissioners wanted it," Weberman said. "I want to return to the way the county is supposed to function with a true county administrative type of government."

Commissioners on Tuesday chose two-year employee Krista Storey as acting county attorney to replace **Oldehoff**, whose last day was Friday. He was dismissed Sept. 26 by the outgoing majority, but received a compensation package of more than $93,000. Commissioner Dennis Armstrong agreed with Weberman that **Oldehoff** seemed often to tailor legal advice to majority policy. "**Gary** was way too interested in the politics instead of saying, 'Here's the law and here's where you can go.' Instead, I saw the majority say, 'Here's what we want to do' and then ask, 'Where within the framework of the law can we do it?'" Armstrong said. "I would be interested more in someone who was rooted in law and not so much of where the board wanted to go." **Oldehoff** did not return phone calls seeking comment.

In past debates over legal strategy, Gettig and Melzer argued lawsuits filed by the county reflected the commission's commitment to the environment and pioneering laws regulating growth. "Caving in to preposterous developer's plans . . . would be nothing short of gutting the Comprehensive Plan," Gettig said during a July discussion of lawsuits. "I believe the county Comprehensive Plan policies are worth defending and fighting for." Armstrong last week said when the new commission is seated Nov. 21, residents will see a distinct philosophical change. "The new board will be a more 'let's get along with . . . the school board and the city of Stuart' rather than take a position that says, 'We're right and you're wrong, and we are going to fight you on it every step of the way,'" he said.

Armstrong said he also wants the new commission to set policy guidelines for retaining outside counsel.

In the past, he said, an outside attorney hired at a flat rate has been allowed to charge the county for other related costs such as photocopies - a practice Armstrong said he wants stopped. "For example, we hire engineers and that's a flat fee that includes (their) expenses . . . and that's not something that's appropriate for outside attorneys," Armstrong said. "If you're paying $125 an hour, it should include expenses." Debate on how much the county spends on lawsuits became more heated earlier this year when the Palm City Chamber of Commerce issued a report stating the county has spent almost $2 million on outside legal help defending laws passed by the current majority.

After the chamber report, Armstrong requested a full litigation study, which **Oldehoff** presented to the commission in July. It showed the county has been involved in about 150 lawsuits since 1989 and more than $3 million has been spent. Chamber president Len Hoag said most lawsuits came about because of "actions of the commission." "All the litigation came about through (**Oldehoff**'s) understanding with the majority. He was their lackey," Hoag said. "The fact that he was paid so handsomely upon their departure makes you think that he had committed himself to whatever they wanted, not necessarily what he thought was right."

As an example, Hoag cited the former Section 28 Partnership, in which a judge slapped the county with a $100,000 judgment. According to court records, the lengthy case involved a land developer who in 1997 sued Martin County for the right to build an 810-home community in south county on a parcel referred to as Section 28. "That cost taxpayers about $1.5 million in litigation. The county kept appealing, even when the appeals were turned down," he said. "They thought they had the deepest pockets and kept bringing this thing back. At some point, a reasonable man would have said we are beaten. But that wasn't done." Hoag said the next commission needs to apply "reasonable regulations."

"There were no abilities for exceptions . . . and that resulted in lawsuits. The change in philosophy that I want to see is, don't use legislation and regulations to achieve your personal agenda," he said. "Use it to achieve what is in the best interest in the community." The county's wetlands ordinance, adopted in June by a 3-1 vote, was hailed by its supporters as the pinnacle of environmental protection efforts. Since then, critics say they've had trouble getting building permits and in some cases, after months and sometimes years of planning, developers' plans have been rejected by commissioners, who said they needed to scale projects back to protect wetlands before proceeding.

Incoming Commissioner Michael DiTerlizzi said there's more than one approach to approving land regulations that have such controversial potential. "With the wetlands policies, they rushed through and it caused some lawsuits. Then there's the thought that you go slow . . . and not have to fix it later. They're now fixing the wetlands ordinance," said DiTerlizzi, adding other ordinances passed under **Oldehoff's** watch should be examined. "There are some people that

think **Oldehoff** was filing suits to delay," said DiTerlizzi. "Part of his job was to warn the commission; it seemed like they were telling him what to do."

The ongoing annexation appeals filed against Stuart also are examples of what new commissioners consider the former majority's "unwarranted" legal maneuvers. "How many times do you have to lose before you get the message that you're off base?" Weberman said. "The only reason they were initiated in the first place is because the board had some rigid and uncompromising policies in place." Weberman said he wants the upcoming search for a county attorney to be "equitable" and he'll insist the new one provide sound legal advice without "interjecting their personal philosophy to the commission." DiTerlizzi said the attorney search should be "as open as possible" adding, if the new commission employs "fairness and public participation," the county could avoid future lawsuits. "With **Oldehoff**, it is all water under the bridge and it's time to look forward," DiTerlizzi said. "I want an attorney that will be open-minded and honest with the board and not what we want to hear - that's what happened in the past."

Stuart News, The (FL)
October 12, 2000

JOURNALISTS, TELL US TRUTH BEHIND OLDEHOFF FIRING

News readers cannot fairly judge the "antics" of their county commissioners in the firing of **Gary Oldehoff** because many important facts have not been ferreted out and reported. To list the many unanswered questions would make this letter unacceptably long. But based on the meager facts reported in the newspapers so far, readers must conclude the County Commission should not have fired **Gary** - not necessarily for the reasons given by the dissenting commissioners, but for too many more important ones.

The commission should not have succumbed to the arrogant, bullying threats (to fire **Oldehoff** and Blackburn) made by one commissioner-elect. The "majority" responded to "the handwriting on the wall." I've seen handwriting on the wall - it's called graffiti. It's characteristically put there by immature, irresponsible persons who have no respect for the property or sensitivities of others and cannot be considered sound basis for making serious decisions.

The commission must base its decisions on what is best for the citizens of Martin County and not necessarily on what is best for individual county employees. **Gary**'s expertise in land management issues and comprehensive planning will be needed more than ever during the next few years. The decision will deprive the incoming commission of this expertise at a very critical time. It probably will not easily be replaced, if at all. One commissioner-elect said he wanted **Gary** to stay on. Of course, if **Gary** wanted to leave, nobody can stop him. But that would be at his option, not the county's.

The reasons given by the "majority" commissioners for giving **Gary** the boot make very little sense. So I have come up with my own theory as to what went on. Other Martin Countians will do the same. Unless the News digs out all the facts and reports them, which is what good journalists are supposed to do, there will be all kinds of speculation and unproven theories floating around for years, as is still the case over the Peter Cheney firing.

Richard E. Towne - Hobe Sound

Stuart News, The (FL)
September 29, 2000

CHICKY, SMITH DIFFER ON OLDEHOFF ISSUE
THE CANDIDATES FOR THE DISTRICT 1 COUNTY COMMISSION SEAT WERE INTERVIEWED BEFORE PARTICIPATING IN A LIVE DEBATE ON WPSL/1590, WHERE THEY DISCUSSED TAXES, PARKS, AND THE INCOMING COMMISSION.
Author: Melissa E. Holsman

STUART - County Commission runoff candidates Jon Chicky and Doug Smith disagreed Thursday over the controversial firing of County Attorney **Gary Oldehoff**. Interviewed before a radio debate, Chicky wanted to say little about this week's 3-2 commission vote to fire **Oldehoff** "without cause," guaranteeing **Oldehoff** more than $93,000 in severance pay. Chicky is aligned with the commission majority that approved the deal - Marshal "Bud" Wilcox, Janet Gettig and Donna Melzer - but said he had no opinion about it. "That has nothing to do with me," Chicky said. "They are the commission until Nov. 21. That's out of my realm," Chicky said. "I've been in government. . . . Things take place by the seated commission. They can do what they want to." Smith, however, criticized the current majority's decision. "It's disappointing that it couldn't be handled by the incoming commission," Smith said in an interview. "Those kinds of decisions should have been handled in the next commission. . . . If there was a reason to discuss his contract and something came out that was wrong, then the new commission would have dealt with it."

The candidates in Tuesday's runoff for the District 1 seat were interviewed before participating in a live debate on WPSL/1590, where they discussed taxes, parks, and the incoming commission. Tuesday's election is open to all registered voters in Martin County. Chicky, 60, a former mayor of Sewall's Point, has been backed by several citizen-based political action committees that endorse what they consider the "slow growth" policies of the outgoing majority. He began by describing his background and stating his campaign goals. "I'm a 40-year resident of District 1 and an Air Force vet. For 28 years, I've owned Savannas Water Service," Chicky said. "I started months ago with three points to my message - protect our quality of life, preserve the comp plan and promote economic development."

Smith, 38, a Massachusetts native who moved here in 1990, has gathered numerous endorsements from business and development-related groups. Before the Sept. 5 primary, he was aligned with Commissioners-elect Lee Weberman and Michael DiTerlizzi to form a "business friendly" slate. Smith began by thanking his supporters, including the Realtors association and local firefighters. "In north county, people are really driven to produce for the county what's good for the whole," Smith said. "That's what excited the county in coming out Sept. 5, and we're looking forward to everyone coming back out on Oct. 3."

Of the incoming commission that will be seated Nov. 21, both candidates speculated on what might be expected in the coming months. "My campaign is about balance and I think the new

commission will continue that," Smith said. "There is an air of relief that good things are coming. . . . I think we'll see exciting things for the county." Chicky, who before the primary was closely aligned with the failed Melzer and Gettig campaigns, said he was taking a "wait-and-see attitude." "I can't say how this new commission will go. There's a lot of rhetoric out there," said Chicky. "I would hope they will balance themselves out. I hope they will not weaken our environmental laws." Chicky - referring to almost a dozen lease violations found during an audit of the Martin County Golf and Country Club - said that if elected, he would first request an audit of all county finances. "We did it in Sewall's Point when I became mayor," Chicky said. "You want to know where you're going, see where the money's at, how much is spent and where the money's going."

Smith said his first priority as a commissioner would be to "resolve the issues with the city of Stuart." "Let's do what we need to do to resolve it. . . . They are doing some fabulous things," said Smith. "In District 1, there will be many things that we'll work on. I think we'll look forward to working together." Chicky and Smith agreed that improving the tax base and spending tax dollars "wisely" need to be top priorities. "Taxes are a big thing. We have some really big issues coming up that I don't think we are ready for," Smith said. "We're going to have to be incredibly resourceful with our tax dollars. We always have to keep that tax base in mind. . . . Ending the lawsuits with Stuart will help return some of the money that's been spent." Chicky said he'd like to see taxes "stay the same." "Like death, they're inevitable," said Chicky. "A lot of things are coming down the pike - new roads, refitting storm water systems, parks - they all cost money. We need to look for ways to get our tax base up and look at economic development." Of the urban services district boundary, both candidates agreed that the boundary line should not be moved for development and that the county's Comprehensive Plan should continue to guide future growth. The WPSL broadcast was the last public debate scheduled before Tuesday's election.

Stuart News, The (FL)
September 28, 2000

LATEST ANTICS SHOW NEED TO ALTER MARTIN GOVERNMENT STRUCTURE
Author: Joe Crankshaw

The actions of the outgoing members of the Martin County Commission are very interesting to watch. Commissioners Marshal "Bud" Wilcox, Janet Gettig and Donna Sutter Melzer voted to "fire" County Attorney **Gary Oldehoff** to spare him a "bloodbath" when the new commissioners come on board. I guess they know something about "bloodbaths." They certainly chopped down former County Administrator Peter Cheney as he lay on his deathbed. They were certainly the epitome of concern then, so why should anyone be surprised at their concern for **Oldehoff**. For that matter, what sort of concern do they have for County Administrator Russ Blackburn? If the incoming commissioners are supposed to be ready to dump **Oldehoff**, what sort of plans do they have for an administrator who did everything the outgoing commissioners wanted done without objection?

The matter involving **Oldehoff** and Blackburn shows that the system of county government needs to be restudied. The two men are the only two people who actually work for the County Commission. **Oldehoff** had an advisory position as a lawyer, while Blackburn, in theory and theory only, is supposed to be the county's executive officer. The theory of commission-manager or commission-administrator is that the commission sets policy and the manager or administrator carries them out. The manager exercises full authority over all staff and employees, directing them to accomplish the policies and goals set out by the commission. Some people want you to believe that an administrator does the same thing, but, as local history shows, that is not the case.

A manager shields the staff and employees from politics. He sees that they discharge their duties in an efficient and professional way. Commissioners, as individuals, have no authority to tell a single employee (other than their aides) what to do. That is not the case for administrators. Blackburn showed that during the flap over the chartering of a jet flight from Witham Field, when he declared the employee who chartered the flight was not politically aware. County employees are supposed to do their best without considering politics.

Want further proof? Back in 1996, Melzer, just ten days on the board, gathered up the personnel files of County Engineer Don Holloman and Building and Zoning Director Mike Sinkey, Chief Building Official Bart Stuart, and Building Inspector Bobby Chambers, and sent them off to the state for examination of their qualifications. It wasn't her job, but Cheney was too sick to object. Sinkey made a complaint about the commissioners, saying they had violated open-meeting laws to plan on firing Cheney. A grand jury declined to indict the commissioners for the alleged violations. When Blackburn was hired in 1997, county government was restructured to leave Sinkey on salary, but without formal duties and isolated. Eventually the matter was settled in court, and Sinkey was paid $23,000 for legal expenses and restored to duty in another capacity at $68,000 a year. The settlement also guaranteed Sinkey his job through March 2003. It is

interesting to note that Melzer found that provision unfair. Maybe she wanted to give a severance package like the one received by **Oldehoff**.

Then there was the budget planning in May of this year, when the commission decided to write Commissioner Dennis Armstrong's aide out of the payroll. That sort of micromanaging was going down without a peep of objection from the county administrator. If the outgoing commissioners fear a "bloodbath" for staff, maybe they would consider starting a move to create a charter county with a real county manager, who could isolate employees from commissioners trying to micromanage local government.

Come to think of it, that might be a good idea for the incoming commissioners, just to keep them from doing any micromanaging of their own. I would think that right about now the outgoing and incoming commissioners could agree on a charter and a strong manager capable of enforcing our growth management laws in the face of political pressures. Our growth management laws need to be interpreted and enforced uniformly, without fear or favor. People wishing to build or develop should know what the rules and regulations are at the start, and not suddenly be subjected to changes demanded by one interest or the other. Only employees secure in their jobs, and able to act as professionals, can manage that sort of work.

The Palm Beach Post
September 27, 2000

MARTIN ATTORNEY FIRED - FAVORABLY
Author: Sarah Eisenhauer

The three Martin County commissioners most supportive of County Attorney **Gary Oldehoff** cast the votes needed to fire him Tuesday - a move they say spared him a possible "bloodbath" when the new board is seated in November and assured him a $93,994 severance package. The commission's outgoing majority all said they did not want **Oldehoff** to be subjected to a nasty and bitter ousting such as top employees have endured in the past when the commission changes power. They also said it seemed inevitable the new board would not keep **Oldehoff** around for long. "Clearly, the indications from the incumbents and elected folks are they pretty much have their minds made up," said Chairman Marshal "Bud" Wilcox, who proposed terminating **Oldehoff's** contract. "There's no question in my mind where the future board was going."

Commissioners Elmira Gainey and Dennis Armstrong voted against terminating the contract "without cause" - meaning no reason has to be specified - which ensured **Oldehoff** will receive the severance. "I find it surprising that the people most supportive of Mr. **Oldehoff** are the ones making the motion for his termination," Armstrong said. "I don't see any crystal balls at all. If the new board wants to do something, let them do it when it's their time to do it. I'm just wondering if this is just a bit of some sore losers showing." Janet Gettig and Donna Melzer lost their seats in the Sept. 5 primary election, and Wilcox opted to retire this year. The race for his seat will be decided in Tuesday's runoff.

Commissioner-elect Michael DiTerlizzi, who will replace Melzer, said he's not so sure the new board would have fired **Oldehoff**, let alone have done it in a bitter "bloodbath." DiTerlizzi added that he "had no intention" of terminating the contract and believes his leadership skills could have swayed two more votes in favor of keeping **Oldehoff**. "I don't think this was about Mr. **Oldehoff**," said DiTerlizzi. "This was a way for them to try to throw us in turmoil." But Commissioner-elect Lee Weberman, who will replace Gettig, said Monday night that he would have proposed terminating **Oldehoff's** contract. "It was inevitable. I think it would have come to a vote," Weberman said.

Gainey said she believed there was cause to fire **Oldehoff**, citing his role in recent allegations that the county had violated the Sunshine Law. If the board had found cause to fire **Oldehoff**, it would not have had to pay the severance package. "This is an extraordinary amount of money that is a waste of taxpayer dollars," Gainey said of the severance package. "I am also concerned about this item being brought up so quickly." Wilcox said he proposed the "emergency" agenda item because he wasn't sure the full board would be present at any more meetings before the new commissioners are sworn in.

Melzer and Gettig both praised **Oldehoff**, calling him an expert on land-management issues and the county's comprehensive plan, its strict blueprint for growth. "Mr. **Oldehoff** has done a stellar job in land-use cases. I want to make sure the public is aware of the quality of his legal services,"Gettig said. "I would be very much in favor of him not getting the boot with the connotation that he has done a miserable job." Melzer said she doesn't believe strict growth management will be a priority for new board members, so it would not be in their interest to keep **Oldehoff**. "I would suggest the writing is on the wall. You don't need a crystal ball to see the handwriting." DiTerlizzi countered that land-use and growth management are important to him, which is a primary reason he supported **Oldehoff**. **Oldehoff**, an 11-year county employee with a $117,000 salary, declined to comment after the meeting Tuesday. He said his last day would be Oct. 13.

The Palm Beach Post
September 26, 2000

POST WANTS MARTIN HELD IN CONTEMPT
Author: Pat Moore

The Palm Beach Post filed court papers Monday asking a judge to declare Martin County in contempt of court for repeatedly violating the Sunshine Law and a 1997 court order requiring them to settle lawsuits in public. The county has settled seven lawsuits this year totaling more than $2.5 million in violation of the law and a court judgment that ended a suit filed by The Post three years ago, the newspaper's attorney Martin Reeder said. The Post's request to reopen the lawsuit claims five cases settled this year by attorneys for the county's self-insurance group have never been settled in public. "I don't like this type of thing to continue," Commissioner Elmira Gainey said. "Look at what our taxpayers will be subjected to." A judge required the county to pay $15,900 for The Post's attorney's fees in 1997. The Post is seeking attorney's fees again.

Reeder said The Post gave commissioners written notice in December 1997 and May 1998 of other violations of the 1997 court judgment without taking court action. "We're trying to break the pattern of violations once and for all," he said. "Time has proved the county has basically ignored the judgment." The Post asked the court Monday to void settlements reached in violation of the Sunshine Law or the court judgment. Gainey and Commissioners Dennis Armstrong blamed County Attorney **Gary Oldehoff** for failing to make sure the five suits handled by attorneys for Treasure Coast Risk Management Program, known as TRICO, were settled in public meetings.

Commissioner Janet Gettig said County Administrator Russ Blackburn also should share the responsibility for making sure the cases were handled correctly. Commissioners are expected to call for **Oldehoff's** resignation at today's commission meeting. **Oldehoff** would not comment to a Post reporter Monday, but six weeks ago, when told of the TRICO settlements, he said he was shocked to learn attorneys were settling cases without his knowledge. He vowed to make sure future settlements were properly settled in public.

The Post's request for a court hearing to find the county in contempt also accuses commissioners of improperly settling two cases in a hurried Sept. 5 commission meeting after settlements in both cases had been announced in court a month earlier. Commissioners had discussed both of those cases - one brought by paralyzed Port St. Lucie resident Margaret Helm and a second by Steven and Veronica Pochopin of Jensen Beach - in closed-door sessions in July. Florida law allows the private sessions among elected officials and their attorney to discuss litigation strategy. Before going into the July closed-door meetings, commissioners announced they were going to discuss the Helm case, but did not mention as required by the Sunshine Law that they also would discuss the Pochopin case, the newspaper's attorney said. Within a week of the private session, the county's insurance attorney persuaded a Fort Lauderdale senator to file a

claims bill in Tallahassee that would allow the county to pay Helm $2.25 million more than the legal cap set for government.

The claims bill stated Helm and the county "have entered into a settlement agreement," a month before it was approved in a public meeting. Transcripts of those sessions remain sealed. Cases settled by TRICO attorneys without a public hearing include:

- a $50,000 settlement for David Smith, a former emergency operations center dispatcher struck by lightning.

- a $45,000 settlement for Elizabeth West and a $25,000 settlement for Bridget Rachel Lee, both of whom filed suits claiming they were injured when they slipped and fell on county property.

- a $19,000 settlement for Valerie Primm and a $15,500 settlement for Brenda Hile, both sheriff's dispatchers who said the mold and poor air quality at the sheriff's office made them sick.

Stuart News, The (FL)
July 26, 2000

COUNTY'S TOP-PAID OFFICIALS GET RAISES
Author: Paul T. Rosynsky

The administrator and attorney have received about $50,000 in raises combined in three years.
STUART - In a vote that highlighted past arguments about county lawsuits and free spending on administrators, a majority of the County Commission agreed Tuesday to give its two highest-paid officials raises totaling more than $10,000. During their second public review since being hired in 1997, County Attorney **Gary Oldehoff** and County Administrator Russ Blackburn were given 5 percent raises, hiking their salaries to $117,200 and $119,700, respectively. "We've made a lot of demands on them ... there has been a lot going on and I just think that these two executives and leaders deserve a lot of credit," County Commissioner Donna Melzer said. "It's changed and I think this administration has been a real part of that."

Commissioners agreed last week that both Blackburn and **Oldehoff** did a good job leading the county through a host of improvements, including land development changes, keeping taxes low and opening government to residents. But they could not agree on the amount of raise, and the debate continued Tuesday afternoon as commissioners argued whether Blackburn deserved a 5 or 3 percent increase and whether **Oldehoff** should get a 5 or a 2.5 percent raise.

Commissioner Elmira Gainey, who asked for the week postponement to talk with both administrators, asked the board to be fiscally responsible and suggested a 2.5 percent raise for **Oldehoff** and a 3 percent raise for Blackburn. Gainey said **Oldehoff** deserves a 2.5 percent raise because he has not properly warned commissioners that some of the ordinances they passed would be challenged in court. She also criticized the attorney for finding "loopholes" for some commission members. "A lot of the issues regarding Mr. **Oldehoff**, I think, they could have been avoided if he was more outspoken," Gainey said. "I think he needs to look at that more carefully. We've wasted tax dollars." Gainey's critique sparked a heated reaction from Commissioners Melzer and Janet Gettig, who defended **Oldehoff** and said the county has won many of the cases that have gone to court. "I'm getting tired of hearing about all the little lawsuits that have appeared," Gettig said. "You were able to provide the legal expertise so we would prevail in court."

Added Melzer, "Our two staff members are protecting what the residents want for their future and I admire what they have done." Tuesday's pay increase was the third for the two administrators since they were hired in 1997. After the first year on the job, both received an automatic 5 percent raise without commission discussion, and last year they both had increases of 15 percent, for a total of close to $50,000 in raises combined in three years. Citing those past increases, Gainey said the two have been amply compensated for their work. "Your salaries are comparable with the other counties," Gainey said. "This would still make yours a competitive salary."

Commissioner Marshal "Bud" Wilcox, however, reminded board members that a 5 percent raise means extraordinary performance. "A 3 percent raise reflects a merely satisfactory performance," Wilcox said. "I've just heard from you that you thought that both are doing a fine job. The 2.5 to 3.5 percent to me is saying, "Here's your hat; you better find a job because you are barely satisfactory.'" Commissioners voted 3-2, with Gainey and Commissioner Dennis Armstrong voting no, to give both a raise and an increase in their car allowance to $345 a month from $300 a month.

Stuart News, The (FL)
July 19, 2000

REPORT ON LITIGATION TRIGGERS ARGUMENT
Author: Paul T. Rosynsky

Growth management proponents lauded the report and county efforts. Foes called efforts a waste and the report incomplete. STUART - Depending on who was looking, the report that County Attorney **Gary Oldehoff** presented Tuesday was either a glowing tribute to strict growth management laws or a confusing and incomplete review of his office's expenses. As county commissioners analyzed the awaited report on the county's lawsuits, they argued about what all the numbers and explanations really meant for the community. But **Oldehoff**, who gave a 45-minute explanation of the 128-page report, tried to clear it up. "Sheer numbers may not be an indicator of whether things are good or things are bad." Those numbers - about 150 lawsuits since 1989 and more than $3 million spent so far on open cases - have caused considerable controversy in the county, as critics and supporters of the commission majority argue whether the county is spending too much on unnecessary lawsuits.

Opponents of the commission majority continually argue the county is wasting money by enacting illegal laws and proponents argue it's worth spending money to save the environment. Similar arguments surrounded the report Tuesday, as commissioners tried to emphasize their own take on a report **Oldehoff** said was intended "to present the facts of litigation in Martin County." Commissioners Janet Gettig and Donna Melzer said it reflected the county's commitment to the environment and pioneering laws regulating growth, but Commissioners Dennis Armstrong and Elmira Gainey said it failed to emphasize the cost incurred by the county in defending laws passed by the majority, which is committed to slowing growth in the county. "I like the report and am disappointed that some of the most vocal critics ... are not here," Gettig said. "I see that most of the outcry I have seen has been total misinformation. For the most part it's political churning of a position that is not true."

Gainey, however, said misinformation will only increase because of the report's lack of detail. "I understand what you are saying about the numbers not really telling everything but ... this doesn't reflect the numbers," Gainey said. "We looked at the report. It wasn't quite clear." Debate on how much the county spends fighting lawsuits increased earlier this year when the Palm City Chamber of Commerce issued its own report that stated the county spent almost $2 million on outside legal help defending laws passed by the commission's slow-growth majority.

Armstrong immediately requested a full report, which took the attorney more than three months to complete. Armstrong said Tuesday he was concerned the report was not complete. "There are some cases here that are not on your list," he said. "There's probably good reason for all them but there did seem to be differences." **Oldehoff** said he tried to supply the commission with the most complete report possible. Within the 128 pages, he detailed the number of lawsuits the county filed and those filed against the county since 1989, a breakdown on what those suits were about,

a detailed description of the 48 open cases being fought by his office and a comparison between Martin County and others facing similar problems.

The report "is the first of its kind in Martin County," **Oldehoff** said. "It is the most detailed and comprehensive report on litigation than any other county attorney's office that I know of." **Oldehoff** defended the amount of money spent by his office as he gave an explanation about the costs of a typical lawsuit and why every legal challenge must be taken seriously. "When people litigate, they don't litigate to lose. If you must litigate, it's important to use your best efforts," he said. "Not taking litigation seriously can lead to disaster."

Oldehoff also warned commissioners the report did not show the number of lawsuits his office was able to avoid with specific laws and successful negotiations sessions. Gettig also said she was disappointed that the report did not list the lawsuits won by the county. "One of the things I would have liked to see in the report is we have had some very big wins and they are not here," she said. "I think what has not been recognized in this report is the talent." Despite the differences, commissioners unanimously approved the report with Gainey and Armstrong saying they will meet with **Oldehoff** to clear up differences. "I guess, to me numbers can be figured in different ways and as a county under development pressures we are within the same line as other counties that have similar pressures," Melzer said. "I know my residents are very grateful."

Stuart News, The (FL)
June 30, 2000

LEGAL EXPENSE REPORT DRAWS COMMISSION FIRE
Author: Paul T. Rosynsky

STUART - A report detailing how much County Attorney **Gary Oldehoff** spent on outside legal help last year sparked a political storm Thursday as county commissioners argued over its content and purpose. In an 11-page report to County Commissioner Dennis Armstrong, who requested the numbers in April, the county attorney's office said it spent more than $300,000 in 1998 and 1999 on outside legal firms to help the county defend against more than 10 lawsuits. But the amount of money spent and the number of lawsuits defended became secondary issues for Armstrong, who said the report did not adequately fulfill his request. "It wasn't exactly what we were looking for," he said. "All the information requested wasn't there." Armstrong, along with fellow county minority member Commissioner Elmira Gainey, asked **Oldehoff** in April for a detailed description on how much his office spent for outside legal help since the 1996 elections, when Commissioner Donna Melzer took office, forming a commission majority committed to slowing growth in the county.

Their request was sparked by a report from the Palm City Chamber of Commerce that claimed the county spent nearly $2 million on outside help defending laws passed by the commission majority - made up of Melzer and Commissioners Marshall "Bud" Wilcox and Janet Gettig. It was also prompted by Lee Weberman, a former county engineer who is challenging Gettig for her District 3 commission seat. Weberman complained to the commission that **Oldehoff** was denying his repeated requests for the information about legal expenditures.

On Thursday, Weberman and Armstrong said they wanted the information because residents repeatedly ask how much the county is spending. "Everywhere I go, people ask me, they want to know how much we are paying for lawsuits," Weberman said. "It's an election issue." But Gettig, who defended the costs in a letter to the Palm City Chamber of Commerce, accused Armstrong of using the report to strengthen Weberman's campaign. "Dennis is very involved in a political campaign this year," she said. "In this election year, he is all of a sudden involved in every single issue." Gettig said she did not see Thursday's report and couldn't comment on it, but said money spent defending Martin County laws are a tiny portion of the overall county budget. "Caving in to preposterous developer's plans ... would be nothing short of gutting the Comprehensive Plan," she said. "I believe the county Comprehensive Plan policies are worth defending and fighting for." Melzer and Wilcox could not be reached for comment. Senior Assistant Attorney Fred Van Vonno, who wrote the report, did not return phone calls.

Stuart News, The (FL)
May 9, 2000

DENVER LAWYER URGED AS AIRPORT COUNSEL
Author: Jerry M. Gutlon

STUART - Martin County Attorney **Gary Oldehoff** today plans to recommend the County Commission hire a Colorado-based law firm as legal consultants for issues concerning Witham Field. After a search of several weeks, **Oldehoff** wants the board to retain the law firm of Cutler & Stanfield of Denver to act as the county's attorneys in matters involving the airport, which has been the center of controversy for several years. **Oldehoff** specifically named attorney Peter Kirsch of the firm as a lawyer well versed in aviation-related matters.

In a memorandum to the commission, **Oldehoff** wrote that he has worked out a financial agreement with Cutler & Stanfield for a basic rate of $225 an hour to serve as special counsel to Martin County. **Oldehoff** suggested the commission allocate as much as "$50,000 to $75,000" for legal fees, although he said that "the actual expense could be lower or higher" than that range. He also pointed out that the commission hadn't budgeted for special counsel. **Oldehoff** said Cutler & Stanfield has an extensive track record of representing municipal governments on airport- and aviation-related matters. Among Florida-based municipalities the Denver firm has represented are Palm Beach County, Boca Raton and Naples. "Eighty percent of Cutler & Stanfield's airport work is representing local governments throughout the United States," **Oldehoff** said. The criteria **Oldehoff** utilized in selecting potential legal representation included "experience with local governments, citizens' groups, pilots, and the Federal Aviation Administration."

Among the local issues **Oldehoff** noted that Cutler & Stanfield could assist on, he cited "noise abatement and reduction; weight and size restrictions; restrictions on touch and go operations; curfews; redrafting and updating the County's airport ordinance; assistance with Part 150 and Part 161 studies and related remedial options based on such processes." **Oldehoff** wrote that he thinks the Denver firm has experience in all the areas of concern the commission is grappling with. "Mr. Kirsch and the firm have extensive experience in each of the areas of particular concern to the board," **Oldehoff** wrote. "I am confident that Mr. Kirsch and his firm can give the county the kind of representation it desires."

Oldehoff said he began his search by surveying nearby local governments. He then made additional contacts within the legal realm and searched literature and databases. Ultimately, **Oldehoff** said he narrowed the field of candidates down to four firms: Spiegel & McDiarmid of Washington; Cutler & Stanfield of Denver; Winthrop, Stimson, Putnam & Roberts of Washington; and Schnader, Harrison, Segal & Lewis of Philadelphia and Washington. The county attorney wrote that lawyers with the experience and reputation of the finalists he cited don't come cheap. "Lawyers and law firms of this stature from cities like Denver, Washington, and Philadelphia come with a premium," he wrote.

Stuart News, The (FL)
April 19, 2000

COUNTY COURT COSTS TO BE EXAMINED
Author: Jerry M. Gutlon

Commissioner wants spending breakdown on outside attorneys

STUART - At the behest of Martin County Commissioner Elmira Gainey, County Attorney **Gary Oldehoff** has been instructed to compile a breakdown of all the public funds spent on outside attorneys and lawsuits the county is involved in. Lee Weberman, a candidate for incumbent Commissioner Janet Gettig's District 3 seat, broached the topic after The Stuart News/Port St. Lucie News published a story Tuesday recounting expenditures of nearly $2 million for outside counsel to defend the county in more than 40 lawsuits.

According to figures compiled by the Palm City Chamber of Commerce, Martin County has spent more than $1.4 million on one zoning lawsuit alone. The suit - which was initially lodged against Martin County in 1994 - involves a proposed upscale housing project that developers wanted to build straddling the county line with Palm Beach County. Martin County officials denied the zoning change request, effectively killing the project. The developers sued the county, initially winning a judgment of $200,000. Ultimately, attorneys for the county convinced an appellate judge to cut the amount of damages in half. At one point, the U.S. Supreme Court denied a request to review the case, but the litigation continues.

Last week, Weberman asked **Oldehoff** for a breakdown of legal fees the county has spent on outside representation. In a letter to Weberman, dated April 6, **Oldehoff** said he didn't have to provide Weberman with a summary of outside legal costs because "a public record is a document which already exists." When **Oldehoff** verbally requested the county records late in Tuesday's meeting, **Oldehoff** repeated his contention, telling Weberman that he was under no obligation to draft a new document in response to Weberman's "Sunshine Request."

In an earlier letter Weberman wrote to County Commission Chairman Marshal "Bud" Wilcox, Weberman requested estimates of the money on in-house counsel on an hourly basis. He said he never received a response. If it hadn't been for Gainey, Weberman would still be waiting for an answer. When Weberman, who is resigning his job as a county engineer to campaign full time, asked **Oldehoff** to respond to the request, **Oldehoff** refused to give Weberman a straight-from-the-shoulder answer. "Mr. **Oldehoff's** response was cute, but non-responsive," Weberman said. Turning to Wilcox, Weberman asked him to direct **Oldehoff** to gather and release the data. Wilcox didn't respond to Weberman's plea. Instead, he issued a lesson in the political realities of Martin County. "You've been around long enough," said Wilcox. "You know how it works. You (can) make your comments but we don't need to answer you right away." **Oldehoff** appeared heartened by Wilcox's response but the attorney's relief proved short-lived. Gainey then

announced that she wanted the data, too, and instructed **Oldehoff** to compile the information. In other action Tuesday, the commission:

*Voted unanimously to have county growth management staff provide Jensen Beach's Neighborhood Advisory Committee with a complete set of updated land development regulations - something committee members said they have been seeking for two years.

*Granted Commissioner Donna Melzer, who represents Palm City and western Martin County, $135,000 for renovations designed to slow traffic on Murphy Road. However, Melzer - who was looking to secure a "no strings" funding source - was foiled, as fellow commissioners refused to give her the money outright. Instead, Martin County "loaned" Melzer the money, which must be paid back from district funds within three years.

*Continued the tedious process of refining the proposed stormwater regulations, as well as the pending revisions to the county's zoning ordinances.

Stuart News, The (FL)
August 4, 1999

COUNTY TO WAIVE SELECTED BUFFERS
Author: Dan McCue

An internal report blamed staff members for erroneous advice over the years on wetlands rules.

STUART - The Martin County Commission on Tuesday blamed staff members for years of bad advice to local waterfront property owners seeking to build near wetlands. As an act of contrition, the commission voted to waive a 25-foot wetland buffer requirement for some of the residents. "What we have here is a half-dozen instances - and there are probably many more - where people were given an interpretation of our wetland protection buffer rules and relied on what they were told by county staff to make decisions about what land to buy and what they wanted to do with their property," Commissioner Janet Gettig said. "If staff presented these people with erroneous information, I think we're obligated, as a board, to try and do something to rectify the situation," she said. "With that, though, people have to understand that from this day forward, the staff's been put on notice - they have to follow what's been represented in our ordinances."

In an internal report, County Attorney **Gary Oldehoff** and acting Growth Management Director Nicki Van Vonno assert that for more than 15 years staff members erroneously informed local waterfront property owners about setback requirements under the county's Comprehensive Plan. In essence, these homeowners were first told they could develop their land as they saw fit, then told they couldn't. It wasn't until the new wetlands protection ordinance was adopted in mid-June that some began to have second thoughts about advice they'd received.

Donna Clasen, a zoning technician with the county's Growth Management Department, dismissed the charge that staff foul-ups are to blame for the wrong advice. "What I see here is a deliberate case of obfuscation," Clasen said. "It is a cavalier attempt to cast blame when none is deserved. "I believe this is being done to protect someone higher up," Clasen said. Ever since the new wetlands protection ordinance was adopted, the county's Growth Management Department has been contacted by waterfront property owners seeking clarification and relief from some of the requirements. Van Vonno said most people who've contacted her department own single-family waterfront lots that were legally bulkheaded and border man-made canals. In many cases, the property owners had received incorrect information on setback requirements from county staff, she said.

The **Oldehoff**/Van Vonno report found the property owners typically were not told their land was subject to the Comprehensive Plan's wetland buffer requirements. The county's Comprehensive Plan requires a wetland buffer of 25 feet on lots with a 10-foot setback, though the Board of Zoning Adjustments may reduce the requirement by 5 feet in some cases. Residents such as Frank Carofano of Hobe Sound say they were told by county staff - in writing - that they

could have buffers of as narrow as 15 feet. "It's a devastating situation to be in," Carofano said. "Here you plan for something to enjoy later in life, and when you finally get around to doing it, you're informed the county was wrong and you can't do to your property what you thought you could." After an extended debate in which Commissioners Elmira Gainey and Dennis Armstrong lobbied for a major revision of the wetlands protection rules, the commission voted 3-1, with Armstrong dissenting, to waive the 25-foot wetland buffer in cases in which the property owner shows:

*The lot is single-family residential.

*The lot is on a canal.

*The lot has been stabilized by a legally constructed bulkhead, retaining wall or other shoreline protection structure.

*The owner before July 1 was told by the county, verbally or in writing, that the lot could be developed without any wetland buffer.

*The owner bought the lot, designed a home and applied for permits on the basis of advice from county staff.

Commissioner Marshal "Bud" Wilcox was ill Tuesday and not at the commission meeting. After the vote, Armstrong said he was worried the exemptions would create a bigger mess in the long run by granting some land owners special privileges. He proposed that all legally permitted lots with legal bulkheads on man-made canals be exempt from shoreline and uplands setback criteria, but that motion failed to win the support of anyone but Gainey. Like Clasen, Morris Crady, a former county planner, said staff members should not be criticized for the misunderstandings. "We spent a lot of time talking about this," he said. "I don't think it was a case of our interpreting the rules incorrectly. ... I think it just didn't make sense to apply the buffer rules in instances where the shoreline had been hardened already with a buffer."

County Administrator Russ Blackburn said he didn't think the **Oldehoff**/Van Vonno report blames only the staff. "It makes everybody look bad," he said. **Oldehoff** agreed. "We never intended to cast blame," he said. "What happened in the past happened. Our sole intent was to determine where the county went wrong and set standards to assure it never happens again."

Stuart News, The (FL)
June 17, 1999

15% RAISES DON'T AMUSE CHAMBER
Author: Dan McCue

2 increases to cost county $38,000 STUART - When it was his turn to speak at the Stuart/Martin County Chamber of Commerce meeting Wednesday morning, Commissioner Dennis Armstrong got a big laugh with a joke most in the room thought wasn't funny. "I told them the raises we doled out the night before were just in keeping with the cost of living," Armstrong said. "And they told me, "Nobody in the private sector is giving out the kind of raises we do,"' he said.

On Tuesday night, Martin County commissioners voted 3-to-1, with Armstrong dissenting, to increase the base salaries of County Administrator Russ Blackburn from $97,650 to $114,000 and County Attorney **Gary Oldehoff** from $89,880 to $112,000 - an increase of about 15 percent and the second hefty raise for both men in the past six months. In support of the increases, Commissioners Marshal "Bud" Wilcox, Janet Gettig, and Donna Melzer said they were a reward for the work the men have done and an incentive to keep them from leaving. They backed up their contention with supplemental memos comparing **Oldehoff**'s and Blackburn's salaries with their counterparts in other parts of the state.

Charlotte County, for instance, which has a population of 110,975, pays its county attorney $114,343. Clay County, which has a population of 105,986, pays its county attorney $117,223. Indian River County, with a population of 90,208, pays its attorney $95,298 annually. But Armstrong said such comparisons were weak because they only showed base salary and did not provide any information on the size of the staffs being supervised. "Both our county administrator and our county attorney just received 7 percent raises not that long ago," Armstrong said. "Now we go and double those increases." "What kind of message are we sending to people?" he continued. "Are we now going to turn around and give everybody a 15 percent raise?" None of the commissioners who voted in favor of the pay raises could be reached for comment Wednesday, but Commissioner Elmira Gainey, who left Tuesday's meeting before the vote, was outraged. "We were only supposed to discuss their evaluations, then I come in this morning and discover my colleagues handed out a big fat raise," she said. "It's unconscionable." **Oldehoff** and Blackburn did not return phone calls Wednesday.

John Catrambone, president of the Stuart/Martin County Chamber, said his board members laughed at the raises, but didn't think they were funny. "I'll tell you one thing, our commissioners certainly aren't business people," Catrambone said. "They think they can do anything they want with taxpayers' money because they don't have to answer to a board of directors. "Well, soon, thankfully, they'll have to answer to the voters," Catrambone said.

Stuart News, The (FL)
March 19, 1999

PAY INCREASE EXPECTED FOR TOP ATTORNEY
Author: Dan McCue

Oldehoff overdue for review

STUART - Martin County's top lawyer is scheduled to receive a $4,200 pay raise next week, although he has yet to have the annual performance review called for in his contract. The raise would increase County Attorney **Gary Oldehoff**'s salary from $84,000 to $88,200, and be retroactive to the date of his first anniversary on the job, June 1, 1998. The retroactive pay is necessary because county commissioners are now nine months late in their evaluations, which **Oldehoff** concedes have not been done - at least in a formal manner. "I have received feedback from commissioners as they saw fit to give it to me," **Oldehoff** said. "I've sat down with some commissioners on occasion and talked about things. But, honestly, some of those discussions have been informal in nature, talking while we're walking down the hall, that kind of thing."

Commissioner Marshal "Bud" Wilcox, who is pushing for **Oldehoff's** raise, praised the attorney for his "tireless work" and "the level and quality of the legal counsel" he's given the County Commission. But although they say the five-member board will approve the raise at its Tuesday meeting, commissioners Dennis Armstrong and Elmira Gainey said Thursday they'll likely be voting against the proposal as well as an attached proposal that would amend **Oldehoff's** contract to mandate automatic raises in the future. "Frankly, I don't think he's done that great a job," Armstrong said.

Wilcox wrote in the raise proposal to be considered by the commission, "I have discussed **Oldehoff**'s performance with him and I believe my fellow commissioners have done so as well." But formal evaluations are another matter. Last July, in keeping with **Oldehoff's** contract, County Administrator Russ Blackburn asked commissioners to prepare reviews of the attorney's performance. Seeking to have those reviews done in a timely fashion, Blackburn requested they be completed by Oct. 1, 1998. As of Thursday, however, Armstrong's evaluation of **Oldehoff** was still sitting on his desk, and Gainey was hard pressed to find hers. "I did do one. I wrote down some comments regarding things I wasn't pleased with, but I never did anything with it," she said. **Oldehoff's** situation mirrors Blackburn's, who four months ago received a pay raise from commissioners without any formal review of his performance.

The raise increased Blackburn's annual salary from $93,000 to $97,650. **Oldehoff** supervises a staff of 10 - four lawyers and six staff people. He said a "fair amount" of his time each day is spent meeting with commissioners, commission staff, administrators and the general public on legal matters pertaining to the county. "I can literally arrive at work in the morning with nothing specific on my agenda and wind up leaving at the end of the day having had a full day of meetings and discussions," **Oldehoff** said.

Wilcox is unreserved in his praise of **Oldehoff**, saying the attorney's counsel and advice has been invaluable to the board. Asked to evaluate his own performance, **Oldehoff** was reserved. "I have a fairly strong sense of Christian values and normally don't tout my own accomplishments," he said. "I'd prefer just to say I've worked hard to be of benefit to the county and the county commissioners." Wilcox told fellow commissioners that a 5 percent increase would be consistent with raises given county attorneys in the past. He's also proposing to change **Oldehoff's** contract in regard to future salary increases.

When Blackburn took his job in summer 1997, his contract included a provision that gives him a 5 percent pay raise if the commission failed to evaluate his performance in a public meeting before his anniversary date. "That contract was a sample take from the International City and County Managers Association," said Cynthia Morris, the county's human resources specialist. "It is used in other areas." Wilcox said a change in the attorney's contract will prevent such a delay from happening again. "Mr. **Oldehoff** should not have had to wait this long for a raise he deserves," Wilcox said. Armstrong thinks the change would be a mistake. "Essentially then, a raise is a slam-dunk," he said. "Evaluations are a mechanism for employees to improve their performance."

The Palm Beach Post
December 28, 1998

OLDEHOFF IS MARTIN'S WISE MAN
Author: Howie Paul Hartnett

Everybody does it at least once each Martin County Commission meeting. Someone will say something, then look immediately at County Attorney **Gary Oldehoff**. Sometimes they look for confirmation. Sometimes for information. And sometimes they look to the county's top legal adviser to play the heavy. It's up to **Oldehoff** to tell a resident that the law won't allow a sea wall or a development of some kind. He doesn't mind being the messenger, though. It's part of the job. ``I don't have an opinion until the county commission tells me what it is," **Oldehoff** likes to say. But he is probably the only employee in the county who can tell commissioners no. More often than not, they heed his advice. ``I think we have to have a stronger reason not to follow his advice now than before," said Commissioner Donna Melzer. ``We don't have the give-and-take leeway anymore."

Blame it on a growing hypersensitivity to liability and lawsuits in society. Blame it on CourtTV and Judge Judy and books by John Grisham. Whatever the reason, the results are clear: More people are filing more lawsuits. Martin County has about 25 suits pending, ranging from developers challenging development laws to residents upset over the configuration of a county ballpark that means foul balls land in their back yards. Litigation is just one part of what **Oldehoff** and his four assistant attorneys handle daily. Every county contract and practically all memos bear the mark of the legal department. County staffers and commissioners also lean on legal staff for research.

By comparison, Stuart City Attorney Carl Coffin doesn't feel like his workload has increased that much the past 10 years. He also hasn't gotten a sense from city commissioners that they want him to increase his presence. ``I haven't been putting words in their mouth, but in **Gary**'s case it's probably an excellent idea," he said. Coffin was referring to **Oldehoff's** efforts to help commissioners craft motions using appropriate language, something Coffin doesn't generally do for city commissioners. Despite having a hand in almost all the county's pies, **Oldehoff** sees only his role, not his power, growing. ``I think that there has been more of a desire by the county commission, county administrator and staff to have the county attorney's office involved because they value the judgment of the legal department," he said. ``I don't think I make policy, but I may be asked to help them explore (an issue) so they can make a policy choice."

Melzer agrees with **Oldehoff's** job assessment and trusts his judgment. ``There are a tremendous number of court cases out there and if our attorney isn't up on them, we could lose our comprehensive plan," she said. ``(**Oldehoff**) has been through some really heavy-duty cases dealing with growth management issues. I think he's very professional." She may get an argument from Commissioner Dennis Armstrong. ``I'm not real comfortable with some of the advice he gives," Armstrong said. ``Sometimes it seems like he gives us a lot of juicy legalese

but you can't figure out what he says you can or cannot do." **Oldehoff** also has a tendency to stretch a law beyond its intent to fit the desires of the commission, or rather that of three commissioners, Armstrong said.

It's no secret Martin County politics are polarized, with Commissioners Melzer, Janet Gettig and Marshal ``Bud" Wilcox on one side and Armstrong and Elmira Gainey on the other. In general, the majority favors environmental issues, while the minority favors business issues. Outside of feel-good proclamations and issues of universal urgency, the commission typically votes 3-2. ``I've worked under several city and county attorneys," Armstrong said. ``In my estimation, the best one I've worked under is Carl Coffin at the city. He would lay out the parameters. I liked that. I don't get that type of feeling with **Gary**.' 'tell them the law."

Stuart News, The (FL)
May 13, 1998

INCREASE OK'D FOR LAWYER'S BUDGET
Author: Kevin Osborne

County commissioners approved the 157 percent increase amid a debate about county priorities and spending practices. STUART - County commissioners Tuesday approved a 157 percent increase in the county attorney's budget, but not before a heated debate about how the county sets priorities and spends money. Two commissioners spoke against the budget increase, saying legal spending is out of control. A commission majority, however, supported the increase. They called it essential to protecting Martin's quality of life and accused their colleagues of opposing the action solely for political purposes. Commissioners will use emergency reserve accounts to pay for the increase, possibly tapping a natural disaster fund.

In a 3-2 vote, the commission approved raising the county attorney's budget for litigation from $176,000 to $450,000. Commissioners Dennis Armstrong and Elmira Gainey were opposed. Until the pair pulled the item, commissioners weren't scheduled to discuss the increase before making a decision. It was part of the group's consent agenda, a slate of unrelated items that are approved by a single vote and without comment. "I am very concerned about the amount being expended and the number of attorneys being hired," Gainey said. "There's no limit. Everything is sort of wide open at this point. I'd like to see how we can put a limit or get a handle on this." Other commissioners questioned their motives, noting both Armstrong and Gainey are seeking re-election this year. "How are we to handle lawsuits when we are sued? Are you in favor of simply abandoning our rights?" asked Commissioner Janet Gettig, who supported the increase. "We are not the plaintiffs in the majority of these cases ... please represent the facts and not the politically expedient thing to say."

County Attorney **Gary Oldehoff** recommended against imposing a strict cap on spending, adding it would hamper legal strategies in the cases. "No lawyer would ever advise his client to proceed with one hand tied behind his or her back. The risks are too great," he said. "I have made and will make every effort to keep costs down." County budget documents indicate that most of the increase is needed because of three cases:

*An annexation dispute with the city of Stuart;

*A zoning violation against Pioneer Concrete Tile in Hobe Sound;

*A dispute with a developer who wants to build on land known as Section 28, near Jonathan Dickinson State Park.

Armstrong said the annexation and Pioneer cases were filed in response to actions the county had taken. Martin often becomes involved in litigation when there are other options such as mediation, he said. "I am certainly not suggesting we don't have suits. I'm suggesting that, at

some point, we prioritize these suits," Armstrong said. "The money just isn't there. We need to pick and choose our fights, and we need to pick the fights on (the basis of) the ones that most affect (residents) ... Now we're spending the money on any and all of them."

Commissioner Marshal "Bud" Wilcox likened some of the cases to being hit in the nose. The county has no choice but to fight back and must defend its zoning and development rules, he said. "If you have a high profile and are in business, you're going to get sued," he said. Then, primarily to Armstrong, he said, "I'm not running for office, so I'll call it like it is. This is baloney!" "There are more important things to spend our money on," Gainey said, citing libraries and a regional park. "To say this is politically motivated is absurd." Armstong criticized the all-GOP commission for not upholding Republican ideals. "Yeah, I guess it is political," Armstrong said. "It goes to the heart of what it is to be a Republican, less government and less taxes. I didn't see that at last budget time, either."

Last fall, Armstrong was the sole vote against a $251 million county budget, which included an 11-percent average increase on the part of the tax bill that is controlled by the county. Commission Chairwoman Donna Melzer said money spent on legal fees can yield great savings if it used to prevent bad developments that spark the premature expansion of sewer and water systems. The nation relies too heavily on lawsuits to solve disputes, and Martin County is falling prey to the trend, Gettig said. She wanted the commission to take another approach to reducing costs. "I would like to hear an impassioned plea for the public not to sue the county," Gettig said. "That might work a little better."

The Palm Beach Post
May 13, 1998

COMMISSIONERS CARP ABOUT REQUEST FOR MORE CASH FOR OUTSIDE COUNSEL
Author: Howie Paul Hartnett

County Attorney **Gary Oldehoff**'s request for more money to continue fighting lawsuits touched off a battle of its own among Martin County commissioners Tuesday. While some called the $275,000 for additional outside counsel and expert witnesses necessary, other commissioners said it was ``appalling.'' The request was approved 3-2, with Commissioners Elmira Gainey and Dennis Armstrong dissenting. ``We can't ask our community to continue funding all these legal expenses,'' Armstrong said. ``It just seems like this is a bottomless pit.'' Roughly half of the county's 32 active lawsuits use outside attorneys. As of April 26, the county attorney's office had spent $165,177 of its $176,324 outside counsel budget for the year.

Most of that money went to new lawsuits opposing Stuart annexations and new work on the Section 28 development case, **Oldehoff** said. But those and many other pending cases deal with the county's long-range planning document, which must be defended, Commission Chairwoman Donna Melzer said. ``It is pretty amazing that commissioners don't want to support the things that the people hold dear.'' Commissioner Janet Gettig wondered how much of the concern was from ``Commissioner Armstrong'' and how much was coming from ``Candidate Armstrong.'' ``I think this concern is politically motivated,'' Gettig told Armstrong, who is seeking re-election in the fall. ``I would like to know what your solution is.'' Make a decision and stick with it, Armstrong said. ``Every year we have our budget hearings and that is the forum where we determine what we need and want and how to fund them,'' he said. ``My problem is now in mid-stream we're trying to reprioritize.''

The only thing Armstrong wants to reprioritize is the importance given to existing cases. Fight the big cases and settle the little ones, he advised. Commissioner Marshal ``Bud'' Wilcox said the idea ``sounds a little stupid.'' ``I'm not running for office (this year) so I'll tell it like it is: This is baloney,'' he said. ``If you have a high profile and you're in business, you're going to get sued.''

Stuart News, The (FL)
May 10, 1998

COMMISSION MINORITY CRITICAL OF COUNTY ATTORNEY'S METHODS
Author: Kevin Osborne

STUART - The Martin County Commission has run afoul of state law in the past over the method it used to settle lawsuits, and some commissioners say the county almost did it again. But the county's attorney says he never planned to discuss a settlement offer outside meetings prescribed by law. Even if County Attorney **Gary Oldehoff** had reviewed the offer individually with commissioners, the state attorney general's office says it wouldn't have been necessarily illegal. But it would be easy for the conversation to stray into areas that would violate open-meeting laws, said Pat Gleason of the attorney general's office. For that reason, many local governments avoid separate sessions between elected officials and lawyers, Gleason said.

Last week, a former Martin County department head offered to drop his federal lawsuit against the county under certain conditions. County commissioners were told of the offer Wednesday, 13 days after **Oldehoff** received it. **Oldehoff** then scheduled appointments with each commissioner for the following day. "We were told it was to review the offer," said county Commissioner Elmira Gainey. "I was disturbed by that and with the delay in getting the offer in the first place." The use of separate meetings with commissioners also was met with skepticism from Barbara Petersen, director of the First Amendment Foundation in Tallahassee. Separate meetings could be a way for the county attorney to function as a liaison between commissioners, which is illegal, Petersen said.

Oldehoff said reviewing the offer wasn't his intention. Instead, he wanted commissioners to meet an outside attorney they hired to handle the case. "He was going to be here working on the case anyway, so I thought it would be good to introduce him to all of the commissioners," **Oldehoff** said. The length of the introductions varied widely among commissioners. Gainey's private session with **Oldehoff** and the attorney took about 10 minutes, but a meeting with another commissioner directly involved in the lawsuit lasted about an hour. Gainey and Commissioner Dennis Armstrong, who make up a commission minority at odds with how the board handles many issues, said conflicting information might have been given to some commissioners. Separate meetings to discuss a lawsuit are uncommon, Gleason said. The state's open-meetings law prohibits members of a commission from having private conversations about issues that will be voted on later. To discuss pending lawsuits, it recommends commissioners meet jointly in a closed-door executive session. However, any decision on a settlement must be voted on publicly.

Last year, commissioners settled a lawsuit with an area newspaper after it was revealed the group had a history of illegally voting on lawsuits in private. "There's nothing illegal with meeting individually, per se, as long as a person isn't used as a liaison or a decision isn't made," Gleason said. "I think a lot of counties prefer to do it together in a client-attorney session for that reason.

"Presumably, the county attorneys are careful to know what the limitations are," Gleason added. "All it would take is one word, and they'd have a real problem."

Oldehoff said the delay in getting the offer to commissioners was caused by scheduling problems. "We haven't deviated at all with the way we've dealt with other settlement offers when they come in," **Oldehoff** said. "We work with the person who submitted it to find out when we can get them all together" for an executive session. The offer to settle was made by Mike Sinkey, the county's former building and zoning director. Sinkey sued Martin County under the state "whistle-blower law," alleging he was improperly demoted last year after accusing commissioners of wrongdoing. Commissioners are scheduled to discuss Sinkey's offer Tuesday in a closed-door session.

The Palm Beach Post
May 6, 1998

MARTIN COUNTY COMMISSION

STUART - Commissioners took action Tuesday on the following issues: Coquina removal: Decided to start a program to remove coquina rock from unpaved roads in Martin County. The commission also decided to try an experimental procedure sealing coquina to the road along a mile stretch of North Boat Ramp Road. With the coquina gone, dirt roads will need grading at least once a week.

Legal: Granted County Attorney **Gary Oldehoff** the power to file another lawsuit against Stuart for adding county land to the city. The additions, approved by the city commission April 13, are the latest in a series. County commissioners believe the additions violate city law. **Oldehoff** also got permission to take legal action to stop an adult bookstore from opening in Port Salerno. County officials believe the store is too close to a gymnastics school. State law bars adult businesses within 1,000 feet of education centers.

Indian Riverside Park: Approved a scaled-down $3 million first phase for Indian Riverside Park. Some amenities, such as shoreline restoration, will be moved to future phases. Officials hope civic groups will help with other improvements, such as landscaping and picnic tables. The commission also directed county staffers to investigate buying land north of the park for parking and other uses.

Indian Street: Agreed to widen Indian Street between Kanner Highway and U.S. 1 from two to four lanes, which would allow Willoughby and other developments pending along Indian Street to expand.

The projects have been stalled since December 1996 when the county found its vehicle capacities for many county roads too low to allow for new developments. But part of Willoughby's agreement with the county charges the county with adding two lanes to Indian Street when necessary. The capacity problems have made it necessary.

The Palm Beach Post
September 17, 1997

MARTIN PAYS TWO LAWYERS $12,000
Author: Stephanie Desmon

Martin County paid more than $12,000 to a pair of Boca Raton lawyers in July and August for advice on growth management issues. Commissioners voted Tuesday to spend far more than that in coming months if needed. They voted unanimously to allow County Attorney **Gary Oldehoff** to seek the opinions of the two attorneys, who earn as much as $175 an hour, on whatever issues he chooses, including development applications. No limit was placed on how much **Oldehoff** can spend.

The county attorney's office has been running at half-staff for months since the resignations of County Attorney Robert Guthrie in April and Assistant County Attorney Tony Mutchler in June. **Oldehoff** said those two positions - and a third authorized during the recent budget process - won't be filled until at least the end of October and it will take time for the lawyers to get up to speed. Martin County regularly hires outside counsel for assistance. The county seeks advice on bonds, airport litigation and telecommunications issues, among other matters. Large trials are often handled by other attorneys. **Oldehoff** said he doesn't know how much the advice costs the county each year since different departments pay the bills.

Commissioner Elmira Gainey said she was worried about the apparent blank check being given to **Oldehoff**. ``I see it as an open-ended funding source that you have here," she said. Commissioner Donna Melzer, whose idea it was to increase the workload for the attorneys from Burke, Weaver & Prell, defended the move. ``It's not like he thinks he can make $1 million with this and walk away with it," Melzer said. ``He's very aware of our budget.

Palm Beach Post, The (FL)
August 24, 1997

LOOPHOLE LETS ATTORNEYS SPEND TAXPAYERS' CASH
Author: GLENN HENDERSON

Now, let me see if I have this straight. The Martin County Commission is responsible (is that too strong a word?) for spending the public's money in a manner that's sane and rational (OK, I know those words are too strong). With that in mind, we have this new policy adopted by commissioners in which they allow attorneys to decide how much of the public's money to spend. If YOU don't have a problem with this, then ... well ... you must be an attorney.

Commissioners have had trouble obeying Florida's Sunshine Law, which requires them to do their business in public view. One such problem involves the county's policy for settling lawsuits exceeding $5,000. The state says commissioners have to approve those settlements. The thinking here - probably good thinking - is that elected officials should have a say-so when large amounts of money pass from the public till into private hands. But the state's ruling used the word "approve" instead of "vote." And that ambiguity gave the county's attorneys, with some crafty assistance from Port St. Lucie's city attorney, the loophole they sought. So new Martin County Attorney **Gary Oldehoff** recommended, and commissioners approved without discussion, this new policy in which they hold public hearings on the settlements - but without voting on the recommended amount. That "non-vote" will be accepted as de facto approval of the proposal agreed to by attorneys for the county and the county's insurance carrier.

Commissioners will be giving their "approval" by, in reality, sitting on their hands. I am troubled by a number of things here, perhaps the biggest of which is this scary precedent of giving unparalleled significance to commissioners' inactivity. Can you imagine the scenarios?

Attorney: "Mr. Chairman, I recommend we pay this poor individual who stubbed his toe while distributing copies of the grand jury report throughout the county the sum of $375,562.13, along with 10 free copies of your new book, The Dark Side of the Sunshine Law."

Commissioners (sitting on hands): . . .

Attorney: "OK, thank you very much."

County administrator: "Commissioners, I suggest you approve a policy in which all employees whose names rhyme with `Stinky' be assigned to the Palm City Landfill, where their new duties will be to measure and document all bad smells."

Commissioners (gazing at the ceiling): . . .

County administrator: "OK, thank you very much."

Growth management director: "Commissioners, in view of how much you dislike vehicles using our highways, I suggest we put tollbooths at the county line and start demanding passports before allowing cars driven by Port St. Lucie residents to enter Martin County."

Commissioners (fumbling with their car keys): . . .

Growth management director: "OK, thank you very much."

As you can see, we have a problem on our hands.

Unless someone takes action - for real.

The Palm Beach Post
July 26, 1997

FLORIDA BAR CLEARS MARTIN ATTORNEY OF LYING IN DOCUMENT
Author: PAT MOORE

A Florida Bar committee has cleared Martin County Attorney **Gary Oldehoff** of any wrongdoing stemming from a complaint a developer filed against him in February. Woodrow Kantner, who sued the county in 1994 over the development of a marina, accused **Oldehoff** of lying in a court document about the date he received a letter from the Department of Environmental Protection regarding the review process for the project.

Oldehoff denied Kantner's accusations, calling them unjustified and intended to punish him for representing the county in the litigation. "That's great," **Oldehoff** said Friday, when told of the committee's decision. "I was confident once the committee looked at the complaint and reviewed it they would conclude as they did." Kantner's attorney, Tim Wright, said he was disappointed "because it means the committee found one of two things - either I'm lying when I told them (**Oldehoff**) knew about the letter and swore under oath he didn't or they don't care if he lied."

Kantner, who recently pledged $300,000 to a California foundation that plans to open an office in Stuart to fight environmental and growth-management laws, said he also was disappointed. "It was an absolute lie," he said. He accused **Oldehoff** of stating in court papers that he received a DEP letter notifying Kantner his marina project did not need to go under strict review more than a year after **Oldehoff** received a copy from Wright's office.

Oldehoff told the Florida Bar he couldn't find the letter when he initially responded to the court document. County commissioners were unaware of the Bar complaint against **Oldehoff** until a week after they selected him as the new county attorney in June. He said he assumed former County Attorney Robert Guthrie had told them.

Stuart News, The (FL)
June 26, 1997

ATTORNEY REJECTS CONTRACT PROPOSAL
Author: Kevin P. Connolly

County Attorney **Gary Oldehoff** plans to make a counterproposal today. STUART - Newly appointed Martin County Attorney **Gary Oldehoff** has rejected a contract offered by county commissioners because he is "uncomfortable" with the employment terms proposed earlier this month. **Oldehoff**, who was offered a salary of $84,000, is expected to make a counterproposal to commissioners today. He declined Wednesday to detail the problems he has with the offer commissioners made June 9, when he was selected from a short list of four attorneys to serve as the county's top legal adviser. **Oldehoff**, an assistant county attorney since 1989, also declined to elaborate on possible details of his counterproposal, saying "it's too early to tell" what he might ask for. "I just want to carefully look at it," said **Oldehoff**, noting that he planned to review the issue with his wife before turning the proposal over to acting County Administrator Randall Reid.

Commissioners asked Reid to forge a tentative agreement with **Oldehoff**. They were expected to approve his contract Tuesday. Reid told commissioners in a memo Wednesday that **Oldehoff** has rejected their offer to extend to him the same contract they had with former County Attorney Robert Guthrie. Guthrie, who was hired in 1995, resigned under pressure April 1. "Mr. **Oldehoff**, in our discussions of this contract, has indicated that he is uncomfortable with the terms of Mr. Guthire's contract and has implied that "it is not well-written,'" Reid wrote. He told commissioners **Oldehoff** is comparing Guthrie's contract to proposals for other "public executives," including the agreement commissioners forged with incoming Administrator Russ Blackburn.

Blackburn, a deputy administrator for Loudoun County, Va., was selected over Reid for Martin's top post in May. He negotiated a $93,000 salary, which is $8,000 more than the last county administrator, the late Peter Cheney, was paid. Commissioners also agreed to Blackburn's request for a six-month severance package, which is two months longer than Cheney's. Blackburn, who starts in Martin County on July 5, sought the additional severance because of the county's high turnover of administrators. Reid told commissioners to expect that **Oldehoff** will "have similar concerns ... regarding the tenure of attorneys in Martin County," noting that **Oldehoff** was appointed by a 3-2 vote. In addition to Guthrie's former annual salary of $84,000, **Oldehoff** was offered a severance package equal to six months' pay - or $42,000 - if he is fired without cause during his first two years. The severance package drops to an amount equal to five months' salary if he is fired without cause during the third and fourth year of employment. It would drop to four months' severance after the fifth year. The county wouldn't have to pay severance if **Oldehoff** is fired "for cause." The offer also includes a $300-per-month car allowance, a deferred compensation program and 15 vacation days a year. Other benefits include life insurance, medical coverage and contributions to Florida's retirement system.

The Palm Beach Post
June 18, 1997

STOP POINTING AT ME, EX-COUNTY ATTORNEY SAYS
Author: PAT MOORE

Former Martin County Attorney Robert Guthrie, who resigned under fire in April, lashed out Tuesday at his former colleagues for pointing the blame toward him "every time someone panics over there." Guthrie said he was "startled" to learn that new County Attorney **Gary Oldehoff** blamed him for not telling commissioners a Stuart developer filed a Florida Bar complaint against **Oldehoff** in February. Guthrie reminded **Oldehoff** in a letter Tuesday that the two of them had agreed initially the complaint was "confidential" unless **Oldehoff**, the developer or the Florida Bar decided to release the information.

Once the complaint advanced to the grievance committee level - which occurred after Guthrie resigned - he said it was **Oldehoff's** responsibility to notify the commissioners. **Oldehoff** called Guthrie's accusations a "misunderstanding between the two of us." Guthrie said he will not let the criticism go unchallenged. "I want to say to you and the others that I will respond ... if a pattern emerges in county government that elicits a reflex response that points to my empty chair and suggests `he did it' every time someone panics over there," Guthrie wrote.

Commissioners criticized Guthrie earlier this year, claiming he gave them poor advice that caused them to violate the state's Sunshine Law when settling lawsuits in private. They also blamed him for their appointment of Joan Wilcox - wife of Commission Chairman Marshal Bud" Wilcox - to a county board in January in violation of the state's anti-nepotism law.

Stuart News, The (FL)
June 17, 1997

ETHICS COMPLAINT FILED ON OLDEHOFF
Author: Kevin P. Connolly

STUART - A developer who has clashed with the county in the past has focused his attention on County Attorney **Gary Oldehoff**, accusing **Oldehoff** of violating bar rules by lying and filing "frivolous" legal actions against him. Woodrow Kantner filed a complaint against **Oldehoff** with The Florida Bar Association in mid-February, alleging **Oldehoff** lied about the date he received a letter from the Department of Environmental Protection dealing with one of Kantner's developments. **Oldehoff**, recently appointed the county's top lawyer, said last week Kantner's allegations are false. He declined to elaborate. "I completely deny it. That's crystal clear," **Oldehoff** said.

At least one county commissioner contacted Monday said he would have preferred that **Oldehoff** disclosed Kantner's ethics complaint before commissioners promoted him from assistant to top attorney June 9. "Don't get me wrong, I believe that everyone is innocent until proven guilty," said Commissioner Dennis Armstrong, who voted against **Oldehoff's** promotion. "(But) in my mind, it's something that we should have known before we made our decision." A Fort Pierce lawyer, Richard V. Neill Jr., is investigating the ethics complaint for the Bar's Grievance Committee, 19th Judicial Circuit. Kantner unsuccessfully sued the county in 1994 when commissioners didn't approve fully his development plans for 77 acres north of Kanner Highway and east of Interstate 95 along the South Fork of the St. Lucie River. The projects included a development called Lost River Cove, with 78 boat slips, which was the subject of the DEP letter.

Oldehoff received a copy of a June 9, 1994, letter from the DEP that said Lost River Cove didn't need to be reviewed as a "development of regional impact," a designation that requires scrutiny by a variety of local, regional, state and federal officials. Kantner says **Oldehoff** got a copy of the letter Sept. 22, 1994, and **Oldehoff** lied in a court brief when he wrote that he didn't get it until Dec. 14, 1995, the complaint alleges. **Oldehoff** said later he got the letter in January 1995, the complaint says. The original statement by **Oldehoff** "was not only a false statement, but it was a blatant lie," the complaint reads. Kantner "believes that Mr. **Oldehoff** acted unethically, and it cost him a lot of money to defend the case," said Kantner attorney Tim Wright of Stuart. **Oldehoff** filed a petition with DEP on March 15, 1996, in an attempt to overturn the DEP's decision. An administrative hearing officer upheld the DEP decision. But the DEP ordered a new hearing, which hasn't been conducted, Wright said.

In May 1996, a federal judge ruled against Kantner in his 1994 lawsuit against Martin County, rejecting the developer's claims that the county violated his rights when it didn't approve all of his plans for the Lost Lake projects. Kantner has asked that a federal appeals panel review that decision, Wright said.

Stuart News, The (FL)
June 10, 1997

COMMISSION CHOOSES NEW COUNTY ATTORNEY
Author: Kevin P. Connolly

STUART - Martin County commissioners Monday considered two other applicants before selecting in-house candidate **Gary Oldehoff** as their next county attorney. **Oldehoff**, an assistant county attorney since 1989, replaces former attorney Robert Guthrie, who was forced out by commissioners April 1. **Oldehoff**, one of four candidates who interviewed for the job, will make $85,000 a year, or the same salary Guthrie earned, commissioners decided. "It's glad it's over," said **Oldehoff**, who unsuccessfully tried for the job in 1995 when commissioners opted for Guthrie. "I look forward to being an effective county attorney for Martin County."

Oldehoff has been the interim lawyer since Guthrie's departure, and he made about $69,000 as an assistant attorney. Commissioners voted 3-2 for **Oldehoff**, with Commissioners Elmira Gainey and Dennis Armstrong casting the dissenting votes. The two commissioners pushed for candidate Joni Armstrong Coffey, an assistant attorney for Dade County since 1982, but a motion for her appointment died after the other commissioners - Marshal "Bud" Wilcox, Janet Gettig and Donna Melzer - voted against her.

The second motion for candidate Terrell Arline, the legal director for 1,000 Friends of Florida, a growth-management advocacy group, failed by a 4-1 vote, with Melzer offering the lone vote of support. "I would just reiterate the fact that Mr. Arline has a great deal of experience of being able to get up to speed on a lot of issues in a relatively short period of time," Melzer said. Melzer also said Coffey wouldn't be as dedicated to preserving Martin County's laws, noting that she has worked for officials in Dade County, who Melzer said have allowed unchecked growth and damage to the environment. Melzer said Arline, a former lawyer with the Florida Department of Community Affairs, had the experience to shield Martin County's tough growth rules against attacks from developers. But Arline's lack of experience in other legal areas - such as labor relations, public financing and departmental operations - didn't sit well with other commissioners. "He doesn't have any experience in any of the other areas," Gainey said. "I can appreciate his land-use and urban design experience, but I think we need more than that in our county."

After the motions failed for Coffey and Arline, Gettig nominated **Oldehoff** for the post. During his interview, **Oldehoff** noted the cases he won when he worked as an assistant attorney in the Dade County legal department from 1984 to 1986. He also reminded commissioners about several of the land-use battles he has fought for commissioners during the past eight years. "I know Martin County, and I know local government law," **Oldehoff** said. "I have been involved in some of the most important cases in the state of Florida since the adoption of the Growth Management Act in 1985." None of the commissioners mentioned the fourth applicant, Maria Chiaro, the former attorney for the city of Naples.

The Palm Beach Post
August 2, 1990

LAWYER ASKS FOR PUBLIC MONEY TO DEFEND NEELY
Author: PAT PLARSKI

Before ordering Martin County taxpayers to pay a private attorney about $12,000 to represent Todd Patrick Neely in his second attempted-murder trial, a retired Broward County judge Wednesday said he wants to know if the Public Defender's Office will take the case. Stuart attorney Joseph Negron asked retired Circuit Judge John Ferris to appoint him as a special public defender, so taxpayers can pay him to defend the Stuart man who has run out of money to pay attorneys. But Assistant Martin County Attorney **Gary Oldehoff** said he would rather see the Public Defender's Office represent Neely, so the state would pick up the tab, not the county. "Until the public defender disqualifies himself or the defendant asks the Public Defender's Office (to withdraw), I don't think the court has much discretion in the matter," Ferris told attorneys in a telephone conference hearing Wednesday.

Public Defender Phil Yacucci said it makes sense to have Negron handle the case, "from a judicial economy point of view." Neely, 22, was convicted and sentenced to 15 years in prison after his first trial for the 1986 burglary and stabbing a Port Salerno woman, but the 4th District Court of Appeal last month ordered a new trial because prosecutors improperly withheld information from his attorneys that would have led to a second suspect.

Ferris scheduled Neely's new trial to begin Sept. 4 in Martin County, but Assistant State Attorney Richard Barlow said he will ask it be moved because publicity. Yacucci said his office is preparing for a first-degree murder trial in September and would be hard-pressed to prepare for the Neely trial by that date. Negron told Ferris he is the logical choice for the job because he assisted Stuart attorney Russell Ferraro in Neely's trial in 1987 and represented him during a weeklong hearing last year before retired Circuit Judge William Frye. Miami attorney Ellis Rubin has agreed to represent Neely in his new trial for free, and Dallas attorney Ed Sigel, who has represented Neely in several hearings, will participate in the new trial. But Sigel won't be paid, Neely's mother, Edith Crosley, said. "We aren't paying any of the attorneys in the new trial. There isn't any money left," she said.

Two months ago, Neely paid Stuart attorney Richard Kibbey an initial fee of $1,000 to represent him in a misdemeanor drunken driving case. That case is pending. **Oldehoff** said he wants to investigate Neely's financial obligations more thoroughly. "He was under age 21 in his past trial and I'd like to get more information as to whether he's on the hood for those payments, not his parents." Neely owns an $11,000 Ford truck, but he still owes $66,500 to Ferraro for representing him in his first trial, Negron said.

Edith Crosley said she and her husband, Lewis Crosley, already have paid more than $108,000 in legal expenses-- more than 90 percent raised through contributions to the Todd Neely Defense

Fund. She said they consider all the donations loans, which they intend to repay. Barlow said he believes it is illegal for Negron, who is running for the legislative seat held by state Rep. Jim Hill, R-Jupiter, to receive a salary from taxpayers while he is campaigning. But Negron said his law firm-- not himself-- would be paid to represent Neely.

Research Compiled by: Levon Little
Colin Baenziger & Associates

COLIN BAENZIGER & ASSOCIATES

EXECUTIVE RECRUITING

Section 5

O. Reginald Osenton

Port St. Lucie City Attorney Candidate Report

Section 5

TABLE OF CONTENTS

	PAGE
RESUME	1
CANDIDATE INTRODUCTION	5
BACKGROUND CHECKS	13
CB&A REFERENCE NOTES	17
INTERNET SEARCH	27

Resume

O. REGINALD OSENTON

[redacted]
[redacted]
orosenton@gmail.com

SUMMARY

An attorney with broad experience in private practice and in the public sector, representing the interests of municipalities and other local government commissions and boards. Demonstrated ability to organize and lead teams to achieve the objectives of clients effectively and efficiently. Management responsibility as founder and senior partner in two successful law firms.

REPRESENTATIVE PUBLIC SECTOR ENDEAVORS

Mayor, Town of Mitchell Heights, West Virginia
Served the town which has a strong mayor form of government, responsible for the day to day management of the town, plus chairing town council meetings.

Town Attorney, Town of Man, West Virginia
Represented Town Council and the mayor in all matters, including aggressively defending lawsuit, advising council during public meetings, shepherding the town in the transition to a tourism-based economy, and assisting in annexing and developing large tracts of real estate into the town.

Logan County Prosecuting Attorney's Office
Represented the Logan County Board of County Commissioners and the State of West Virginia in numerous, various civil and criminal matters, including economic development issues, eminent domain cases, municipal annexation cases, and civil service matters.

Florida High Schools for Accelerated Learning
Serve as board counsel for the board of directors that operates three charter high schools in various and numerous matters. The mission of the schools is to focus on youth who are at-risk of dropping out of school, many of whom are in minority communities, to ensure they receive they receive their high school diplomas. Currently assisting the board in establishing a fourth high school, which includes many real estate development issues.

Logan County Board of Education
Represented the school system in eminent domain and real estate development issues on an as-needed basis, such as the acquisition and development of a large tract of land and development of it for the construction of a new middle school.

Logan County Deputy Sheriffs' Civil Service Commission
Chaired this commission which handled the hiring and firing of deputy sheriffs, administered promotion examinations, and resolved civil service grievances.

Logan County Economic Development Authority
Served as counsel for the board which was responsible for transitioning the economy from one based on coal mining to other industries. Led the effort to develop former coal mining properties into industrial/manufacturing centers.

RELEVANT PROFESSIONAL EXPERIENCE

President and Managing Attorney, Osenton Law Offices, PA, Brandon and Lakeland, FL 2008-Present
Established and manage this firm, whose practice focuses on business law, commercial real estate transactions and development, civil litigation, and bankruptcy (debtor and creditor). Responsibilities include all management functions, including managing, hiring and firing employees, collecting accounts receivable, setting and maintaining budgets, quality control, and ensuring the effective and efficient operation of the firm.

Business Department Managing Attorney, Pilka & Associates, PA, Brandon, FL 2006-2008
Managed the business department of the firm, which has a practice focusing in business law, commercial and residential real estate, estate planning and probate, taxation, and bankruptcy.

Member, Wetherington, Hamilton, Harrison & Fair, PA, Tampa, FL 2004-2006
Handled a wide array of cases in this commercial law firm, with a concentration in real estate transactions and development, corporate law, taxation, debtor/creditor, and commercial litigation.

Founder and Managing Partner, Osenton & Adkins, LLP, Logan, WV 1992-2004
Established, grew, and managed this law firm, with a primary focus in real estate (including title work and foreclosures), corporate law (including transactional work), estate planning, bankruptcy (representing both debtors and creditors), taxation, and civil litigation. Oversaw all daily business functions of the firm, including staff hiring & supervision, payroll and P&L.

Senior Tax Consultant, Ernst & Young, Washington, DC 1989-1992
Managed the full preparation and review of tax returns for major corporations and high net-worth individuals, along with performing estate planning and trust administration.

EDUCATION

J.D. Degree, George Washington University - National Law Center, Washington, DC

- Research Assistant to Professor Lewis D. Solomon.
- Key participant in various legal clinics such as Consumer Mediation, Small Business and Bankruptcy.

B.S. Degree in Accounting, West Virginia University, Morgantown, WV

- Graduated *Cum Laude.*
- Member of numerous academic honor societies; received several academic scholarships.
- Member of the Pi Kappa Alpha social fraternity; President, Treasurer.

PROFESSIONAL LICENSES / ORGANIZATIONS

- Licensed to practice law in Florida (2003), West Virginia (1991), the District of Columbia (1990), and Virginia (1989), as well as before the Internal Revenue Service.
- Admitted to U.S. District Court for the Middle District of Florida, U.S. District Court for the Southern District of West Virginia, and the U.S. Court of Appeals for the Fourth Circuit
- Agent for Attorneys Title Insurance Fund.
- Member of the American Bar Association.
- Member of the Hillsborough County Bar Association.
- Former Member of the Board of Governors of the West Virginia State Bar.
- Past Chairman of the Young Lawyer's Section of the West Virginia State Bar.

COMMUNITY ACTIVITIES

- Graduate and Senate President of Leadership West Virginia Class of 2000.
- Past President of the Brandon 86 Rotary Club.
- Former Assistant Governor, Rotary District 6890.
- Chairman of the Brandon 86 Rotary Endowment.
- Member of the Brandon Chamber of Commerce and Riverview Chamber of Commerce.
- Leadership Brandon Class of 2006.
- Past President and Past Secretary of the Logan Rotary Club; Paul Harris Fellow.
- Former Instructor in Business Law at Southern West Virginia Community and Technical College.
- Private Pilot's License; Member of Aircraft Owners and Pilots Association.
- Eagle Scout; Charter Organization Representative for Boy Scout Troop 11.
- Member, St. Andrew's United Methodist Church, Brandon, Florida.

HOBBIES / INTERESTS

Scuba Diving, Flying, Skiing, Golf, Attending Races and Other Sporting Events

Candidate Introduction

REGINALD OSENTON

EDUCATION

Juris Doctorate (1989), George Washington University National Law Center (a Top 20 Law School), Washington, D.C.
Bachelor of Science in Business Administration (Accounting, 1986), West Virginia University, Morgantown, West Virginia

EXPERIENCE

Founder and Managing Attorney, Osenton Law Offices, P.A. Brandon, Florida	2008 – present
Board Counsel, Florida High Schools for Accelerated Learning	2010 – present
Managing Attorney of the Business Department, Pilka & Associates, Brandon, Florida	2006 – 2008
Member, Wetherington, Hamilton, Harrison & Fair, P.A., Tampa, Florida	2004 – 2006
Founder and Managing Partner, Osenton & Adkins, LLP, Logan, West Virginia	1992 – 2004
Mayor, Town of Mitchell Heights, West Virginia	2003 – 2004
Town Attorney, Town of Man, West Virginia	1999 – 2003
Outside Counsel (Eminent Domain and Development Cases), Logan County Board of Education	1997 – 2003
Chairman, Logan County Deputy Sheriffs' Civil Service Council	2000 – 2004
Board Counsel, Logan County Economic Development Authority	1996 – 2000
Asst. Prosecuting Attorney, Logan County, West Virginia	1992 – 1996
Senior Tax Consultant, Ernst & Young, Washington, D.C., and Charleston, West Virginia	1989 – 1992

BACKGROUND

From the time I was an intern at the United States Senate during law school, I have had a keen interest in government, from the local to the national level. Throughout my career I have been involved in government and quasi-governmental boards, councils and agencies. In some instances, I served for pay, in other instances I volunteered in keeping with the spirit of community service instilled in me by my parents.

My most recent professional experience has been practicing in the firm I established in 2008, Osenton Law Offices, P.A., which has its main office in Brandon, Florida. Brandon is a suburb

of Tampa with a population of 250,000. Because Brandon is unincorporated there is no local government besides the county government of Hillsborough County. The Brandon Chamber of Commerce is the closest thing Brandon has to a local government, and I have been active in the chamber.

Osenton Law Office is a general civil practice firm, and my personal practice has been focused in representing businesses in a myriad of matters. Small businesses do not have the need or budget for a full-time attorney, so for many businesses I served as their general counsel in matters such as corporate governance, real estate, contracts, litigation, employee issues and related matters.

Brandon has no large law firms, unlike nearby downtown Tampa. The largest Osenton Law Office became was when I supervised and mentored three other attorneys, plus five staff members. Managing all aspects of the business of the firm, plus being active in the community to "make rain", is very fulfilling for me, but it is very challenging doing so while handling my own case load of busy and demanding clients. Multitasking and being an effective attorney and business manager is challenging, but these are skills I possess "in spades."

What I would bring to the city attorney position is a breadth of experience. I have experience as a mayor being primarily responsible for the day-to-day operation of city government, as chair of a civil service Council dealing with county employees and civil service issues, and as counsel for a county board of education and an economic development authority focusing on eminent domain and real estate development issues. However, my experience serving as town attorney for my hometown of Man, West Virginia, probably is most relevant to the open position here.

Man is a town nestled in the mountains of southwestern West Virginia, near the Kentucky border. Sadly, Man (and Logan County where Man is located) is in an area of economic decline as the coal under the ground there has been slowly mined out. I served on the Logan County Development Authority because I wanted to see the area diversify and develop the economy from one based solely on coal. As town attorney I was instrumental in seeing Man develop into a tourist destination as it developed the mountain trail system for four wheelers and dirt bike motorcycles. Helping to shepherd the town through that transition and putting the legal infrastructure in place was gratifying, even though at times it was nerve-wracking guiding town Council through contentious public meetings with a sometimes irate constituency. In addition, as the town's financial position improved, I helped the town grow through annexation and development of outlying areas. I would have enjoyed continuing in that position, but my duties as the newly-elected mayor of Mitchell Heights prohibited me from doing so.

GENERAL, MANAGEMENT STYLE AND EXPERIENCE

I want to become the city attorney for Port St. Lucie because I am a leader looking for a new challenge, and what the city needs is a leader to guide the City Attorney's Office out of its current chaos. Quite frankly, when I saw the job posting and read the required skills, I kept saying to

myself, "This is me. This is me." In essence the City Attorney's Office is a law firm with one client, and I would run it efficiently and effectively much in the same way I have run my successful law firms. Simply stated, my goal would be to rebuild and refine the City Attorney's Office to make it the best in Florida within two years.

There are many important attributes for a city attorney, but I will discuss four. First, the city attorney must be an effective manager. There are many attorneys who have great legal skill, but have zero skill managing an office or keeping clients happy and informed. I know how to hire and manage top-notch talent. I know how to mentor less-experienced attorneys. I know how to coordinate my subordinates in their work and keep a command of the successful operation of the office. I know how to ensure the office completes its mission of providing superior legal service to its client, the city council.

Second, a successful city attorney must have a command of the law that is relevant to a given situation. An attorney's job is to give legal advice and counsel which is be grounded in the law. Sometimes knowledge of the law is based on broad prior experience, but many times a lawyer must recognize a lack of knowledge and "hit the books" to check the law. In other words, the city attorney should NOT shoot from the hip, but only provide legal advice based on a command of relevant law.

Third, a city attorney must have integrity. This means he/she must be honest and forthright, even if the counsel he/she gives is not what members of Council or the public wants to hear. This means he/she must be consistent, such as telling different members of Council the same thing (and not changing what he/she says depending on the audience). This also means that he/she must follow through and do what he/she promises to do.

Fourth, a city attorney must be responsive. He/she must be available and open to members of City Council and others in city government, as well as the public. He/she must be able to prioritize and take care of the most important tasks first, realizing at times priorities will change. Also, he/she must be responsive to assistant city attorneys and staff so that the City Attorney's Office is run effectively and efficiently.

My approach to any lawsuit is to be aggressive to the limits of the law. I always approach a suit under the assumption it is going to trial to place my client in the strongest possible position to win, but also to be able to negotiate a settlement from a position of strength.

When Port St. Lucie is sued, I will investigate the facts thoroughly and check the relevant law. Then I will discuss the suit with the City Manager and City Council as soon as possible, in compliance with the law. I will outline the possible courses of action and recommend which course the city should take. I will be sure I understand what goals City Council wants to achieve in the lawsuit and which course of action is most likely to accomplish those goals. Then I will pursue the litigation accordingly, keeping City Council and the City Manager informed of our progress.

My management style is simple but effective. On a given task I tell my subordinate what needs to

be done and when the task must be completed. I encourage questions and answer them, and provide appropriate guidance. Then I let the subordinate go about doing the work, which in some cases means he/she must figure things out. This makes the work more interesting for the employee and helps him/her learn.

I do not micromanage, but I do check progress of the work, thereby keeping my finger on the "pulse" of the office. My role is one of quality control. I give the subordinate autonomy to do the work, but I ensure it is correct. Likewise, I often ask subordinates to check my work, whether it is discussing strategy on cases with another attorney or having a staff member proofread a document for errors I might have missed.

It is important for elected officials to have all the information they need to do their jobs. Certainly the first thing a city attorney must do is answer elected officials' questions accurately and completely. Elected officials are busy, and they do not need to be inundated with a lot of information not necessary to do their jobs, so in many instances the city attorney must pare down the information to give officials the material facts and relevant law in layman's terms. It is a fine line for an attorney to break down legal concepts so as to not speak "legalese" while not sounding condescending.

As for how to communicate with elected officials, that also depends on the situation. A city attorney must be responsive, but he/she also must ensure any communication complies with the Sunshine Law whether the communication is in person, by telephone, by memo or by email.

Elected officials I have worked with will say I am a very good attorney with excellent legal skills. They will say I am a "straight shooter" giving my honest opinion, but I am proactive in finding solutions when the law provides difficulties. They will say I am outgoing and engaging. They will say I am good at taking complex legal issues and breaking them down into layman's terms so that they can decide what to do. They will say I am an effective and aggressive advocate when a situation calls for aggressiveness.

My primary strength is my broad experience in both the public and private sector. I have the legal skills you would expect of an attorney who graduated from a top 20 law school. I have an innate ability to read people very quickly, as well as the ability to understand the politics of any situation, even when they concern a board that is supposed to be non-partisan. I am a believer in the "two ears, one mouth" principle, which means I listen intently and make my words count.

My biggest weakness is I am too hard on myself. I am working on realizing I will make mistakes and forgiving myself for doing so. Also, I tend to be an over-thinker. I am working on understanding that my first thought in a given situation most likely is the correct one.

Professionally, I am most proud of establishing, growing and managing two successful law firms. The first time was in my home county, grown during a time of economic decline. The second time was in Florida during the Great Recession. I take pride knowing I grew the firm, including providing stable employment for my employees during a time job security was nearly non-existent.

Personally, while it sounds cliché, I am most proud of my two children. I recently took what was dubbed the "Daddy Daughter Senior Trip" with my youngest before she goes to [redacted] this fall. It was a real pleasure stepping back and watching her in New York City and Toronto as a young adult.

The biggest mistake I made was not doing my due diligence on a position I took. I learned to not take a managing partner at his word, but to see documentation. I took over the book of business of a retiring attorney which was less than half of what I was told it was. After telling the managing partner I felt duped, I resolved to market the practice and grow the book of business. Within six months I more than doubled the book.

Sometimes terminating an employee becomes necessary. The expectations of every employee should be communicated to him/her very clearly. Periodic reviews of all employees help in that communication. If an employee falters, his/her supervisor should clearly communicate how performance is lacking and work with him/her to correct the deficiencies. However, once it is clear an employee must be terminated, it should be done quickly and humanely.

I have been fortunate because my employees like working for me, but twice I have fired a staff member. I followed the principles outlined in the preceding paragraph, but as soon as it became apparent the employees could not do the job I fired them. As I had frank yet brief conversations with the employees letting them know they were fired and why, my office manager secured the employees' computers, passwords, etc. Immediately we had them clear out their desks, turn in their keys, and leave.

Assuming the city chooses me, before my start date I will study intently the city code plus all ordinances and regulations that comprise the local body of law. To the maximum extent possible, before my start date I would meet with City Council members, the City Manager and department heads to get to know each other and to discuss the needs and expectations they have of the City Attorney's Office, including what changes they would like to see. Also, before my start date I would study who the local players are, both in and out of government, as well as what the local issues of the day are. In hopes I will be the successful candidate, I already have been reading the TC Palm and listening to local radio online.

Once I start I would make a seamless transition from the law firm that is serving as the acting city attorney's administration to mine. I have a fresh set of eyes to look at the office and see what is working well and what is not. Of course, I would have extended discussions with the assistant city attorneys and staff about the operation of the office. In the first week I would begin recruiting for any vacancies. Realizing that change is unsettling to employees I would make only those changes that are truly necessary.

By the end of the first six months I want to have a command of all the cases and issues the office is handling. I want to have established a working relationship with all City Council members and government officials, as well as those in county government and nearby cities.

REGINALD OSENTON

On a personal level, I want to have settled in to Port St. Lucie and put down roots. I want to find a church to attend, as well as civic/community activities to enjoy.

To handle local media first I will learn who are the various players in the local media and what their agendas are. I will be responsive to the media, keeping in mind attorney-client privilege and the Sunshine Law. I will inform those in city government who need to know that I have been in contact with the media. In speaking with members of the media I am always mindful that there really is no conversation that is truly off the record.

My free time is scarce so I try to make good use of it. I spoke of my love of Nascar above. I like other sports, especially the Tampa Bay Lightning, my beloved West Virginia Mountaineers and the Washington Redskins. I enjoy community service and plan on finding a Rotary club in Port St. Lucie to serve. I love to travel. Any day on the beach is a great day. I want to get back to using my private pilot's license. I do not get to play often and I am terrible, but I like golf. As much as possible I include my children in these activities.

I have not done anything that would embarrass the city if it became public knowledge. There is nothing in my background that would embarrass the city client if it became public knowledge. There is nobody here that would contact the city with "the dirt" on me.

SIX ADJECTIVES OR PHRASES I WOULD USE TO DESCRIBE MYSELF

- Hardworking
- Intelligent
- Straightforward
- Pragmatic
- Adaptable
- Proactive/Creative

REASON FOR DEPARTING CURRENT POSITION

I am ready for new challenges and am at a crossroads in life. I have been a leader since first grade, and am ready for the challenge of leading the City Attorney's Office. I enjoy working as a trusted advisor to government boards, as well as leading, mentoring and managing subordinates. On a personal level, my daughter is heading off to college, and I am ready for a change. Quite frankly, when I read the posting my first thought was this is my dream job in my dream location.

CURRENT / MOST RECENT SALARY

As an attorney in private practice my compensation varies with the success of the office, but my income typically is in the $200,000.00 range.

CB&A Background Checks

Background Check Summary for
O. (OWEN) REGINALD OSENTON

Criminal Records Checks:	
Nationwide Criminal Records Search	No Records Found
County	
Hillsborough County, FL	No Records Found
Polk County, FL	No Records Found
Pinellas County, FL	No Records Found
Logan County, WV	No Records Found
State	
Florida	No Records Found
West Virginia	No Records Found
Civil Records Checks:	
County	
Hillsborough County, FL	No Records Found
Polk County, FL	No Records Found
Pinellas County, FL	No Records Found
Logan County, WV	No Records Found
Federal	
Florida	No Records Found
West Virginia	No Records Found
Motor Vehicle	
Florida	April 2013, Unlawful Speed 39/30 Disposition = June 2013; Guilty 3 points
Credit	Mediocre
Bankruptcy	No Records Found
Education	Confirmed
Employment	Confirmed
Bar Certification/License	Member in Good Standing Bar #693251

Background Check Summary for
O. (OWEN) REGINALD OSENTON
Personal Disclosure

Personal Disclosure Questionnaire

Name of Applicant: O. Reginald Osenton

The following questions are designed so that we will be able to make full disclosure to our client concerning your background. Please answer them honestly. Cutting corners or misrepresenting your past will result in you being eliminated from all further searches conducted by this firm. We understand that frivolous charges are sometimes made and that charges do not mean you were guilty. We also understand that you may have been wronged and needed to seek compensation. The bottom line is that we want to be certain that our client is fully informed. If you have any questions, please contact us for clarification.

Please explain any yes answers on a separate sheet of paper.

1. Have you ever been charged or convicted of a felony?
   Yes ☐ No xx☐
2. Have you ever been accused of or have been involved in a domestic violence or abuse incident?
   Yes ☐ No xx☐
3. Have you ever declared bankruptcy or been an owner in a business that did so?
   Yes ☐ No xx☐
4. Have you ever been the subject of a civil rights violation complaint that was investigated or resulted in a lawsuit?
   Yes ☐ No xx☐
5. Have you ever been the subject of a sexual harassment complaint that was investigated or resulted in a lawsuit?
   Yes ☐ No xx☐
6. Have you ever been convicted of driving while intoxicated?
   Yes ☐ No xx☐
7. Have you ever sued a current or former employer?
   Yes ☐ No xx☐
8. Do you have a personal My Space, Face Book or other type of Web Page?
   Yes xx☐ No ☐
9. Do you have a personal Twitter Account?
   Yes xx☐ (Inactive) No ☐
10. Is there anything else in your background that, if made public, would cause you, our client or our firm embarrassment if it came to light through the press or any other mechanism?
    Yes ☐ No xx☐
11. Please provide a list of any lawsuits in which you are or have been a party either as plaintiff or defendant.
    a. Osenton vs Osenton, 13-DR-4777, Hillsborough County Circuit Court, Uncontested divorce, Divorce granted 4/15/13.
    b. JP Morgan Bank National Association vs. Owen R. Osenton and [redacted] Osenton, 13-CA-5586, Hillsborough County Circuit Court, Mortgage Foreclosure, Dismissed 12/27/13 (Short sale/settlement).
    c. Citifinancial Services vs. Osenton, 10-CC-30437, Hillsborough County Court (Small Claims), Contract dispute/collection, Dismissed 1/10/11.

Property of Colin Baenziger & Associates

Background Check Summary for
O. (OWEN) REGINALD OSENTON
Personal Disclosure

THE FLORIDA BAR

ABOUT THE BAR | NEWS & EVENTS | FOR THE PUBLIC | MEMBER SERVICES | LOG IN | FIND A LAWYER

Search The Florida Bar

THE FLORIDA BAR / Find A Lawyer / Profile

Owen Reginald Osenton

Member in Good Standing — Eligible to Practice Law in Florida

Bar Number:	693251
Mail Address:	Osenton Law Offices, P.A. Osenton Law Office 869 W Iumsden Rd Brandon, FL 33511-5911 United States Office: 813-654-5777 Fax: 866-941-5609
Email:	bro@brandonlawoffice.com
Personal Bar URL:	www.floridabar.org/mybarprofile/693251
vCard:	?
County:	Hillsborough
Circuit:	13
Admitted:	12/22/2003
10-Year Discipline History:	None
Law School:	George Washington University Law School, 1989
Firm:	Osenton Law Offices, P.A.
Firm Size:	One
Firm Website:	www.brandonlawoffice.com

The Find a Lawyer directory is provided as a public service. The Florida Bar maintains limited basic information about attorneys licensed to practice in the state (e.g., name, address, year of birth, gender, law schools attended, admission year). However, through this directory The Florida Bar allows individual attorneys the opportunity to provide for public information certain expanded personal and professional data. It is the attorney's responsibility to routinely review and update those expanded listings. The information contained in those expanded listings is presented by the Bar "as is" with no warranty of any kind, express or implied. The Florida Bar, its Board of Governors, employees, and agents thereof are not responsible for the accuracy of that additional data. Publication of attorneys' contact information within this listing should not be construed as their consent to receive unsolicited communications in any form. Certain unauthorized uses of this data may result in civil or criminal penalties. The Find a Lawyer directory is not a lawyer referral service.

CB&A Reference Notes

John Perry - Former Mayor, Man, WV 304-583-9177

Mr. Osenton has known Mr. Perry his entire life. They developed a working relationship once Mr. Osenton became the City Attorney. They worked together through the City of Man from 1992 to 2004. Mr. Osenton did a terrific job.

During his time as City Attorney Mr. Osenton interacted with the elected officials on a weekly basis. He kept everyone informed and made good recommendations on the various issues that arose. He made sure that the Council knew when something was illegal. They always followed his advice because they trusted him completely.

Mr. Osenton participated in community groups such as the Lions Club and Rotary Club. He was in touch with the needs of the City and helped the Town address those needs. Man is a small town with very few issues. The majority of his time was spent dealing with contracts, land use and utilities. He was involved in working with the state to create ATV trails in the Town.

Man, WV has a strong mayor form of government and did not have a city manager. However, Mr. Osenton would have no problem working with anyone in city hall because he is very likeable.

Mr. Perry was not happy when Mr. Osenton moved on from the Town and would hire him in an instant if he could. Mr. Osenton would make an outstanding City Attorney.

Words or phrases used to describe Reggie Osenton:

- Communicative,
- Good person,
- Puts forth best effort,
- Consensus builder, and
- Innovative.

Strengths: Gets along with people from all walks of life, proactive and likeable.

Weaknesses: None identified.

Bill Weese - Former Councilmember, Man, WV 304-687-6413

Mr. Weese has known Mr. Osenton and his family his entire life. In about 1992 the Town of Man contracted with Mr. Osenton to perform the duties of a city attorney. Mr. Osenton did everything he was asked and did it well.

Mr. Osenton was always extremely responsive. It never took him long to return phone calls or emails. He also completed tasks within a reasonable amount of time. As a small town, Man did

not have a great deal of controversy or unions. As a result he did not gain very much experience negotiating contracts. He was fortunate to work with a council that worked well together and followed his guidance. On rare occasions he was faced with having to tell the elected officials that they could not proceed as they would have liked, but he would follow up the bad news with several different options to meet the same goal.

Some of the areas that Mr. Osenton dealt with for the Town of Man were contracts, land use and utilities. Man is well known in the region for its ATV trails which brought its own set of issues to overcome. New lodging and zoning laws had to be written and land annexed into the Town to provide additional trails. Mr. Osenton wrote ordinances that allowed ATVs to drive on the road in town as well. The Department of Justice had awarded the Town a grant but the Police Department was not fulfilling its obligation with those funds. He had to work with the DOJ and the Town to determine the best course of action.

During Mr. Weese's time on the council he worked with four different attorneys and Mr. Osenton was the strongest. He understands all aspects of the law in regards to a municipality and will make a superb City Attorney.

Words or phrases used to describe Reggie Osenton:

- Easy to talk to,
- Down to earth,
- Outgoing, and
- Good public speaker.

Strengths: Willing to do research to find the best solution and thorough.

Weaknesses: None identified.

Bill Anderson - Client, Logan County, WV 304-752-7682

Mr. Anderson has known Mr. Osenton for over thirty years. In fact, Mr. Osenton's mother was Mr. Anderson's piano teacher. Once Mr. Osenton graduated from law school he became Mr. Anderson's personal and corporate attorney. He handled issues such as fraud, estate planning, wills, deeds and forming of a LLC. He has done a great job in all areas.

No matter what problem Mr. Anderson has, he has confidence in Mr. Osenton to resolve it. Mr. Osenton's advice is always spot on and people follow his advice because they respect him and know how intelligent and knowledgeable he is with the law. He responds promptly to emails and phone calls. Generally he will answer emails within a couple hours of receiving one. While in the middle of working on a case he keeps all parties involved well informed.

On several occasions Mr. Osenton spoke to the local Rotary Club. He knows how to address his audience in order to keep their attention. In court he is straightforward and articulate. He has always been able to negotiate or convince the opposing party to concede to benefit his clients.

Mr. Osenton has not done anything remotely controversial. His ethics are beyond reproach. He should be highly considered for the City Attorney position.

Words or phrases used to describe Reggie Osenton:

- Straightforward,
- Ethical,
- Follows the law,
- Handles tough situations, and
- Genuine.

Strengths: Capable, provides good advice and respected.

Weaknesses: None identified.

Neal Scaggs - Chairman/President, Bucane Inc. and Subsidiaries, Logan County, WV
304-752-3775

Mr. Scaggs and Mr. Osenton's father were business partners at one time, so they have known each other since Mr. Osenton was twelve years old. Mr. Osenton is Mr. Scaggs' corporate attorney for his many businesses that include a mining equipment shop, twelve NAPA auto parts stores, a home center, hardware store and an auto store in Orlando. He also takes the minutes at corporate meetings. Mr. Osenton has done a superior job as an attorney.

Mr. Osenton fully represents the interests of his clients. He seeks to understand their goals and finds ways to meet those goals. In all of his dealing with Mr. Scaggs he has successfully won all cases. He handled the sale of the twelve NAPA auto parts stores and put together lease contracts that would benefit Mr. Scaggs.

Every quarter Mr. Osenton and Mr. Scaggs meet. They review the past quarter and discuss expectations for the future quarter. In between these sessions Mr. Osenton is accessible and responsive. He makes good recommendations and good decisions when dealing with the law. Mr. Scaggs has always followed Mr. Osenton's advice.

Mr. Osenton has the knowledge, experience and skills to be a successful City Attorney.

Reference Notes
O. Reginald Osenton

Words or phrases used to describe Reggie Osenton:

- Accommodating,
- Reserved,
- Friendly,
- Professional, and
- Comes from a good family.

Strengths: Reliable, responsive and prompt.

Weaknesses: None identified.

Pete Cajigal - Client, Brandon, FL 813-655-8881

Mr. Cajigal and Mr. Osenton were neighbors and met in 2004. Mr. Osenton has represented the Cajigal family on real estate matters. He is a great attorney and an even better friend.

Mr. Osenton is a prominent member of the Rotary Club. He participates in fundraisers and has served as president in previous clubs. He has a true interest in helping people, which is seen in how hard he works for his clients. He does not back down or give up when things get tough.

One important aspect of working with Mr. Osenton is his ability to communicate. He provides feedback every step of the way and his executive assistant is extremely professional and great at returning phone calls. Mr. Cajigal relied heavily on him and his advice, which Mr. Cajigal followed explicitly.

The major case that Mr. Osenton handled for Mr. Cajigal involved recouping a property. The Cajigal's had sold a home in the Florida Keys. They held the mortgage for the buyers but they stopped making payments. Mr. Osenton filed the necessary paperwork and was able to convince the other party to settle out of court. In the end the Cajigal's recovered their property.

Mr. Osenton is a huge NASCAR fan. He loves to attend racing events and watches all of the races he can. He would be a great addition as City Attorney for Daytona Beach not only because he understands the culture of NASCAR which is so important to the City, but also because his attorney skills are top notch.

Words or phrases used to describe Reggie Osenton:

- Sociable,
- Professional,
- Well thought of,
- Involved in community,
- Family oriented, and
- Makes people feel comfortable.

Reference Notes
O. Reginald Osenton

Strengths: Good with people, listens, respectful and high integrity.

Weaknesses: None identified.

Kim Wells - Attorney, Wells Law Group, P.A., Brandon, FL 813-413-7377

Mr. Wells worked with Mr. Osenton at the law firm of Pilka and Associates, beginning in 2006. When Mr. Wells decided to open his own firm he made Mr. Osenton both his corporate and personal attorney. As an attorney himself, Mr. Wells had a network of people to chose for the job but he knew Mr. Osenton would be the best and he has fulfilled those expectations.

Mr. Osenton is timely in his responses. If he is in the middle of a specific case he makes sure that his client is aware of the progress. He never lets issues go unattended but rather addresses them immediately. He has won every case that Mr. Wells has put him in charge of. His staff consists of only one or two office personnel but he manages them well and is able to accomplish all tasks in a reasonable amount of time. One of his employees at Pilka and Associates he mentored and encouraged to go to law school. She completed law school and worked with him as an associate attorney after she had passed the bar exam.

Over the years Mr. Wells has referred Mr. Osenton cases and vice versa. Mr. Wells understands his limits and has seen what happens when clients do not listen to their attorneys, so he follows Mr. Osenton's advice. Mr. Osenton also understands his limits and is not afraid to reach out to others when he has questions.

Mr. Osenton has experience working on contracts. He helped draft an intricate contractual agreement during his time at Pilka and Associates. He also has experience with land use issues and drafting wills. For Mr. Wells he puts together annual reports required by the state and any other needs as corporate council. The majority of Mr. Wells' business is personal injury and bankruptcy. One case Mr. Osenton was helping with he had to establish a probate for a defendant that had died before the case was resolved.

In addition to his work with the law, Mr. Osenton is also heavily involved in the chamber of commerce. He meets face to face with business owners. He acts as a facilitator for new businesses that join the chamber to aid them in assimilating to the organization and participating in chamber functions.

Mr. Osenton has two children, one of which is a special needs son who is confined to a wheelchair. He has raised his son to have courage and drive despite his disability. In fact, his son has achieved the rank of Eagle Scout, which is difficult under normal circumstances, let alone with the additional challenges his son faces. Mr. Osenton's true character comes shining through when seen through his achievements in his personal life.

Any municipality would be lucky to have Mr. Osenton as City Attorney.

Reference Notes
O. Reginald Osenton

Words or phrases used to describe Reggie Osenton:

- Incredible person,
- High integrity,
- Sincere,
- Likeable, and
- Intelligent.

Strengths: Mentor, solid moral character and involved in the community.

Weaknesses: None identified.

Kristi McCart - Attorney, Brandon Legal Group, Brandon, FL 813-902-3576

Ms. McCart was Mr. Osenton's receptionist and paralegal for the entire year of 2010. She then went to law school, in part due to Mr. Osenton's encouragement. After law school she returned to work for him but as an associate attorney from 2013 to 2015. Through it all Mr. Osenton has been a mentor and example of the type of lawyer Ms. McCart wants to be.

Mr. Osenton is especially knowledgeable in business and litigation law. He has experience with contracts and personnel matters as well. In his past positions he probably had exposure to other parts of the law. He believes in giving back to the community and regularly makes presentations to the rotary club and nursing homes. He has organized seminars for the public regarding estate planning, bankruptcy and much more.

Mr. Osenton is not only responsive to his employees, but also to his clients. If Ms. McCart ever had a question or concern she felt comfortable going to him. He would generally have an immediate response but would also ask for time to think things through before giving his final answer. He is thorough and never overlooks any aspect of a given situation. He also understands his limits and knows when he should bring in outside council.

Negotiating on behalf of his clientele is one of Mr. Osenton's strengths. He is able to break a problem down to the heart of the real issue and tactically make decisions based on that issue. He had a personal friend that owned a business and was contemplating filing for bankruptcy. He was able to get his friend to confess that the goal was to liquidate some of the assets through the bankruptcy but not lose others. Mr. Osenton negotiated with the bank that held the lean for the friend's business and developed a deal that would benefit both parties. In the end the friend was able to keep his home and business.

Ms. McCart was not aware of a situation when a client did not follow Mr. Osenton's advice. He is so well respected and trusted that people follow his guidance. He ran his office in an organized

and high performance manner. He is kind and compassionate but authoritative when he needs to be.

Mr. Osenton does not stop researching until he has found a solution for the party he represents. One of his cases involved a husband and wife who opened a store front homemade chocolate business. They had entered into a bad contract for the store space and were faced with having to move despite still being bound by the contract, which would involve extensive fees. Mr. Osenton was able to not only get them out of their contract, but also find them a better location for less.

Without a doubt Mr. Osenton will make a phenomenal City Attorney. He has previous experience in that area of the law. Combine his experience with his ethical nature and he is a great candidate for the position.

Words or phrases used to describe Reggie Osenton:

- Receptive,
- Open minded,
- Innovative,
- Funny,
- Compassionate, and
- Patient.

Strengths: Tactical, intelligent, thorough, open to suggestions and works well under stress.

Weaknesses: Used to working for himself and able to come and go whenever he pleases, which could be a difficult transition back to a normal work schedule.

Mavis Toler - Former Councilmember, Man, WV 304-583-6850

Ms. Toler has known Mr. Osenton since he was a little child. His family is well liked and respected in the community. Ms. Toler was the City Clerk for part of the time Mr. Osenton was City Attorney and served on the Council the other portion. Altogether they worked together from 1992 to 2004. Ms. Toler was very pleased with Mr. Osenton's performance.

Mr. Osenton is extremely knowledgeable in law. He made solid recommendations that allowed the elected officials to accomplish their goals within the limits of ordinances, codes, etc. They always listened to his advice because they trusted him completely. They knew his motives were pure and his only concern was for helping the Town progress.

Over the years Mr. Osenton completed a great deal. The majority of tasks he was given were small. However, he treated each project as important and fulfilled his duties within a timely manner. He attended all council meetings and had a part in most of those meetings. He is

comfortable speaking to the public in a variety of settings. He can communicate well in both public speaking and one-on-one interactions.

Contracts and land use issues were the most common issues that Mr. Osenton dealt with for Man. He kept those involved in each project well informed. He wrote ordinances for the Town. He has not been implicated in anything controversial.

Mr. Osenton will be an asset for whichever community hires him for the City Attorney position.

Words or phrases used to describe Reggie Osenton:

- Good personality,
- Outgoing,
- From good family,
- Never in trouble, and
- Well respected.

Strengths: Leader and vision.

Weaknesses: None identified.

Prepared by: Emilee Anderson
Colin Baenziger & Associates

Section 5

CB&A Internet Research

Law Firm Newswire
April 13, 2016

Reggie Osenton, Brandon Bankruptcy Attorney, Warns Against Title Loans
Brandon, FL

Title lenders are coming under fire from the federal government and ordinary Florida citizens. The lenders issue loans to individuals using titles to the borrowers' automobiles as collateral. Despite existing state law limiting certain controversial practices, the companies remain under scrutiny for what some call predatory lending. Federal regulators may weigh in on the matter soon, and at least one Florida couple is suing one of the state's biggest lenders.

Reggie Osenton, a Tampa bankruptcy attorney, strongly cautions against borrowers turning to title lenders. "Even the best of these lenders have rates that are very high," **Osenton** said. "And even savvy borrowers often find themselves trapped in cycles of debt and end up feeling taken advantage of."

In 2000, Governor Jeb Bush signed into law a group of reforms designed to curtail the worst abuses by title lenders. The law capped annual rates at 30 percent, prohibited lenders from selling insurance or issuing finance charges, and required them to accept partial payments. But lenders soon began to offer optional insurance after becoming licensed under Florida's consumer-finance laws and created other pricey loan options of dubious value.

Janet and James Schmitt of Jacksonville claim they were told this "optional" insurance was in fact mandatory. They borrowed $2,500 using their Ford pickup as collateral, and after making more than $1,400 in payments, they still owe the entire original principle. Now they are suing InstaLoan, Florida's largest title lender.

Meanwhile, the federal Consumer Financial Protection Bureau is considering broad reforms on certain short-term loans, including title loans and payday loans. Private consumer advocacy groups including the Pew Charitable Trusts and the Center for Responsible Lending have recommended state-level reforms, but no such reforms are currently pending in Florida.

"Borrowers with bad credit who find themselves in a jam are often sorely tempted to turn to a title or payday lender," **Osenton** said. "But I strongly encourage anyone to think twice about that. Seek debt counseling from a nonprofit company, look into offerings from government or charity, and consider asking friends and family for help. And if you feel trapped by debt, speak with an experienced bankruptcy attorney."

Law Firm Newswire
February 17, 2016

Bankruptcy Attorney Reginald Osenton Remarks on Student Loan Discharges

Brandon, FL (Law Firm Newswire) - A pair of recent cases show bankruptcy courts may be increasingly receptive to discharging student loans. In December 2015, the 8th Circuit Bankruptcy Appellate Panel approved the discharge of 11 of 15 student loans Chelsea Conway owed to a private lender. Also in December, a Missouri bankruptcy court discharged the entirety of Michael Abney's federal student loans, even after an income-based repayment plan absolved him of any current payments on the basis of a lack of disposable income.

Reginald Osenton, a Tampa-area bankruptcy attorney, said the cases show courts are beginning to understand the hardships debtors face. "In the Conway case, the appellate court overturned a trial court ruling in which none of the loans were discharged, partly on the basis that her income was expected to increase as the economy improved," **Osenton** said. "The appellate court disagreed, and ordered a 'loan-by-loan undue hardship analysis,' which found that Conway could afford to make payments on just four of her loans. The remaining 11 were discharged."

In the second case, debtor Michael Abney owed over $37,000 in federal student loans after having already made payments totaling $11,000. At the time he filed for bankruptcy, Abney was not required to make any payments on his current balance. That is because under federal income-based repayment rules, he effectively had no discretionary income with which to pay the loans. The bankruptcy court for the Western District of Missouri discharged all of Abney's student loans on the basis that his income was unlikely to increase. "What's interesting in Abney's case is the court's concern for his retirement savings," **Osenton** said. "Abney was making small contributions to a retirement plan, but had only amassed about $500. His contributions were counted among his necessary living expenses. Furthermore, the court emphasized his meager retirement savings as a reason why he should not be expected to make loan payments in the future."

To **Osenton**, these cases represent a hope that bankruptcy judges understand the reality of a struggling economy. "Bankruptcy courts have too often relied on an assumption the economy, and individuals' incomes, will improve. Middle-class wages have basically flat-lined for years now. Much of the nation's nearly $1.4 trillion in student loan debt will likely go unpaid, and the sooner we deal with that fact, the better," **Osenton** said.

Law Firm Chronicle (http://www.lawfirmchronicle.com/2016/02/man-sentenced-to-prison-in-florida-bankruptcy-and-foreclosure-scheme-says-brandon-bankruptcy-attorney-o-reginald-osenton/)
February 8, 2016

Man Sentenced to Prison in Florida Bankruptcy and Foreclosure Scheme Says Brandon Bankruptcy Attorney O. Reginald Osenton

Brandon, FL (Law Firm Newswire) – Bankruptcy preparers who charge a fee to help with bankruptcy filings are getting into trouble with the law for providing legal advice. Bankruptcy law is complex, and even filling out the forms correctly can be a challenge for many. In an effort to save on legal expenses, many individuals may be tempted to hire a preparer instead of a bankruptcy attorney. But it is illegal for preparers to give legal advice. "Only an attorney can provide legal advice as part of a service for which a fee is charged," said Tampa bankruptcy lawyer **O. Reginald Osenton**. "Preparers of bankruptcy forms generally have little or no legal training."

The Milwakee Journal Sentinel reported that bankruptcy judges in the Eastern District of Wisconsin are cracking down on preparers who overstep their bounds. Several preparers have been ordered to pay fines or refund clients' fees last year. And two others had to appear in court to answer to charges of violating court rules. One bankruptcy judge told reporters that people come to her courtroom with claims of paying preparers and getting nothing in return.

Milwaukee has had problems with bankruptcy preparers for years. Judges cracked down in 2011 and 2012, capping fees at $75 per case, referring several preparers for potential criminal prosecution, and barring some individuals from the profession within the Eastern District. Most fines and refunds go unpaid, judges told the Sentinel, and one complained of a lack of investigation or charges against the individuals that had been referred to the U.S. Attorney's office. "The U.S. Attorney's office should prosecute those who break the law," added **Osenton**. "If they don't, they risk serious damage not only to individual filers, but also the bankruptcy system."

A faulty filing can result in the dismissal of a case, denying the debtor the protection from creditors that bankruptcy provides and endangering their assets and financial livelihood."If you feel bankruptcy may help you, consulting with a bankruptcy attorney should be your first step," **Osenton** said. "The possibility of worsening your financial situation is not worth saving a little money on fees."

Tampa Bay Times
January 29, 2014

Teen becomes Eagle Scout despite Duchenne muscular dystrophy
Author: Shannon Powell

Ben Osenton steered his electric wheelchair into the large multipurpose room at St. Andrew's United Methodist Church in Brandon for his final official Boy Scout meeting with Troop 11. For 11 years, 36 merit badges, and six ranks, he has been attending meetings, but Tuesday night was just a bit different. For a Scout who uses a wheelchair because of Duchenne muscular dystrophy, the 18-year-old just cannot stay still. His wheelchair is constant motion — forward, back, left, right, repeat, repeat again. It is not nerves or excitement that has him moving.

According to his father, that is just Ben, who despite his disability, will be presented the rank of Eagle Scout at a Court of Honor on Friday night. "I'm most proud of everything," said Ben, following the presentation of the colors, the Pledge of Allegiance and the Scout Oath that has opened every meeting for all those years. "I'm proud of everything I've done."

Ben began Scouting in 2002 as a Tiger Cub in Logan, W.Va., where his mother, Lesa Osenton, served as cub master. Throughout the years, he advanced to Webelos and earned the Arrow of Light, Cub Scouting's highest honor, then crossed over to Boy Scouts. He has held a number of leadership positions including troop historian and assistant patrol leader. However, it is not just the years of service and merit badge achievements that have earned him Eagle Scout status. Most recently, Ben completed his Eagle project, the biggest task facing boys who strive for the Boy Scouts of America's highest rank.

Because of his disability, a disease that causes progressive muscular degeneration, and the Boy Scouts' policy, **Osenton** was able to achieve this final feat through alternate comparable requirements. For his project, he wrote, illustrated, published and distributed a children's book, *Mooseman and Beagle Boy Save the Children*, a story about a superhero and his sidekick seeking to find a cure for children's cancer. "He saw this character and started drawing it," said **Reginald Osenton**, Ben's father. "Then, of course, he has been to Shriners Hospital several times, even though he's never been admitted, and at some point thinking about the project it clicked." Said Ben: "I made it for the kids in the hospital with disabilities." Because a major component of the project is leadership, Ben organized a distribution network, sending Boy Scouts from Troop 11 to local hospitals and pediatricians' offices to deliver copies of *Mooseman and Beagle Boy Save the Children*.

According to Gulf Ridge Council executive director George McGovern, the Eagle project involves identifying a need within the community for another organization outside of Scouting. Once identified, the Scout must plan the activity, prepare, raise money, provide leadership in carrying it out and then write the entire thing up. "We're talking hundreds of hours of community service," McGovern said. "This rank is hugely significant in how difficult it is. And on top of

that, to do it with a disability is incredible." How incredible is it? According to McGovern, of the current participants in Boy Scouts of America, only 6 percent will attain Eagle Scout. Of the 110 million Boy Scouts alumni, less than 2 percent made Eagle. "Holding these leadership positions requires dedication to stick with something for years — years in an age where we want everything now," McGovern said.

For Ben, finding the motivation for the perseverance wasn't difficult. No matter the path he took, becoming an Eagle Scout was inevitable because Scouting is sort of in his blood. Ben is now a third-generation Eagle Scout. **Reginald Osenton** earned Eagle Scout in 1982 as a senior in high school, and his father, Owen Osenton, was an Eagle Scout prior to becoming **Reginald**'s scoutmaster. It is to his grandfather, who died in July of last year, that Ben dedicated his *Mooseman* book. During the ceremony on Friday, Ben will receive his grandfather's Eagle pin. "It's a family tradition, it's a way of life," said **Reginal Osenton**. "Of all the skills you learn, some are practical, like first aid. More importantly, it's about having the right attitude. "It's been such a big part of our lives and it's nice that the tradition has continued."

For any Scout, reaching Eagle Scout is a daunting journey that takes dedication, perseverance and leadership. A Scout must progress through the ranks of Tenderfoot, Second Class, First Class, Star and Life, each with its own time, experience and leadership requirements. In addition, a boy must earn 21 of the more than 120 possible merit badges available, 12 of which are mandatory. According to the *Scouting for Youth with Disabilities Manual* produced by the Boy Scouts, the organization began making accommodations for Scouts with disabilities in the 1970s, including flexible advancement requirements (1972) and substitution of merit badges for the Eagle Scout rank (1979).

Ben Osenton's father earned 21 merit badges. When Ben earned his 22nd, his father conceded that his son bested him by one. Eventually, Ben recorded 14 more, including his favorite: reptiles. "He said that? For that one, he got two fire belly toads and we had to keep them for three months," **Reginald Osenton** said. "We had to buy crickets every week and he decided not to keep them at the end." Ben, a senior at Durant High School, has without doubt faced many challenges on the way to Eagle Scout, from expected physical disadvantages (it is easy to get stuck in deep sand at a campsite) to less-anticipated mental ones. "He is smart and observant," said **Reginald Osenton**. "He has watched the other boys grow taller, while he grows weaker. That's not easy."

Law Firm Newswire, **Brandon, FL**
March 28, 2013

Bankrupt Company's Owner Jailed for Contempt of Court

- The owner of a company in bankruptcy proceedings was recently jailed for three days for contempt of court.

Marvin Chaney, 61, founder of RoboVault, was taken into custody by U.S. Marshals on January 29 on the orders of U.S. Bankruptcy Judge John K. Olson for violation of court orders.

Brandon bankruptcy attorney **O. Reginald Osenton** commented, "This goes to show you how important it is to follow carefully a judge's instructions, no matter what type of case you are involved in."

Olson issued the arrest order after Chaney and his attorney, Lawrence Wrenn, did not show up for a court hearing on January 17. Appearing shackled before the judge, Chaney said that Wrenn had advised him not to attend the hearing and that he had tried his best to produce the records that had been requested of him. Days later, Olson ordered Chaney released, finding that he had made an effort to produce RoboVault's financial information since his arrest.

Federal agents are still looking for Wrenn, who called Olson's chambers just prior to the Jan. 17 hearing, saying he was out of the country. Olson recently issued an order authorizing U.S. Marshals to enter Wrenn's house and arrest him.

RoboVault is a highly secure storage facility in Fort Lauderdale with a wealthy clientele. The building can withstand a Category 5 hurricane and features automated retrieval of items, allowing customers access to their possessions without any human interaction. The facility contains motion sensors, fingerprint scanners and hundreds of security cameras and specializes in the storage of rare wines and exotic cars. RoboVault filed for Chapter 11 bankruptcy protection in September, 2012, three years after opening.

"This case illustrates the importance of hiring an experienced, reliable bankruptcy attorney," added **Mr. Osenton**. "Bad legal advice will only add to your troubles, which is the last thing you need when facing bankruptcy."

Legal Monitor Worldwide (Jordan)
December 24, 2012

American Airlines May Lay Off up to 1,400 South Florida Employees

Employees have been waiting anxiously since then to find out whether they would be out of a job, and how soon. Florida-based employees recently received some news on that front, and it is not very encouraging. "When big employers like this go bankrupt, it can be devastating to large numbers of people and even whole communities," said Tampa bankruptcy lawyer **O. Reginald Osenton**. The worst-case scenario for the airline's 9,000 South Florida employees is gloomy. The company said that more than 1,400 of them could be affected, mostly at Miami International Airport. But a representative said that they expect the number to be much lower.

The company issued Worker Adjustment and Retraining Notification, or WARN, notices to all potentially affected workers, as required by law, but expects that most of those notified will in fact be able to keep their jobs. The airline is offering "early out" incentives to encourage workers near retirement to retire early. The airline filed a notice with Florida's labor agency detailing the numbers of employees that could be affected and the applicable dates. About 47 employees at the Fort Lauderdale-Hollywood International Airport and about 158 at Miami International Airport may lose their jobs. And on Dec. 16, another 1,209 workers at Miami International could face layoffs.

The majority of the positions in the notice are those of fleet service clerks and crew chiefs at MIA. Others include mechanics, plant maintenance workers, and airport agents. American Airlines representatives stressed that they are working to minimize the number of employees who will involuntarily lose their jobs. They expect to have to lay off only a third of the number originally estimated company-wide. "These numbers are surely worrying for Florida workers," added Mr. **Osenton**. "Hopefully the outlook for will improve as the picture becomes clearer."

Tampa Tribune, The (FL)
July 6, 2011

Rotary of Brandon '86, Durant High Interact receive prestigious awards
Author: YVETTE C. HAMMETT

BRANDON The Rotary Club of Brandon '86 has received the Rotary International Presidential Citation with Distinction Award for its service to the community. And the Interact Club it sponsors at Durant High also received a Presidential Citation. The awards were presented by District Gov. Ed Odom to **Reggie Osenton**, president of Brandon '86 at District 6890's annual conference in June.

There are 46 clubs in Rotary's District 6890, which includes Hillsborough, Polk, Highlands and Hardee counties. Only one of the three clubs receiving the citation also had an Interact club that received a citation. "Our big service project that we do each year is Denizens of the Deep, a huge fish fry we hold every November," said newly elected President Jeni Chatraw. "This was our 18th annual fish fry and we netted $20,000."

Brandon '86 helps support 15 charities including the Emergency Care Help Organization, the Center Place Fine Arts & Civic Association and the Boys & Girls Clubs. Rotary uses a point system to determine who wins the Presidential Citation and only clubs that go above and beyond are given the award "with distinction," Chatraw said. Durant's Interact Club is also involved in numerous service projects, she said.

Tampa Tribune, The (FL)
December 16, 2009

Lawyer has found new life, home in Brandon.
Reggie Osenton realized his calling as a child.
Author: DEREK MAUL

BRANDON - One day in 2002, **Reginald "Reggie" Osenton** found himself on Interstate 4 once again, driving his family to Disney. "We're down here so much, why aren't we living here?" he said. "I don't know," his wife, [redacted] replied. Two years later, **Osenton** had sold his West Virginia law practice, taken the Florida bar, found a position with a downtown Tampa law firm, and moved his family to Valrico. "One thing just let to another," **Osenton** explained. "We arrived in 2004, just in time for all those hurricanes." The family's previous home was in Logan, W.Va., population 1,630 at the 2000 census. **Osenton** was mayor of Mitchell Heights (population 301) and practiced law in the county seat.

Born in 1964 and raised around Logan, where his father was a CPA, **Osenton** knew he wanted to be a lawyer from the fifth grade. "I thought it was the coolest idea to do something like that," he said. "I earned my accounting degree at West Virginia University (Morgantown) and then attended George Washington Law School with the view to becoming a D.C. tax lawyer." Attending law school close to Capitol Hill was a heady experience.

Osenton visited the Supreme Court, paged for the U.S. Senate, and became familiar with the halls of power. "I sat for the Virginia bar and was hired as a tax consultant by Ernst & Young accounting," he said. Before long, **Osenton** realized his calling was to work with a more personal clientele. He returned to West Virginia to set up practice in his hometown in 1992. Twelve years later the family pulled roots and moved to Brandon. "We made a conscious effort to get involved in things: Rotary, church, children's activities. We thought we'd re-evaluate after a year. It wasn't easy but we still felt this was the right place to be."

In 2006, looking to practice hometown law once again, **Osenton** accepted an offer from Brandon's Pilka & Associates, P.A., heading their business department before establishing **Osenton** Law Offices and moving into his current Lithia Pinecrest quarters. "It doesn't get any better than this," he said, referring to the yellow house with a tin roof, nestled in a hammock of old oaks. "I believe the future is bright," **Osenton** said. "You can get bogged down, but two, three, five years down the road I'll be struggling with the idea of needing more space. "Our direction in the short term is going to be bankruptcy; for the next couple of years it will be a significant portion of the practice; but then just a part. "I enjoy bankruptcy. But if you want to make me happy give me an estate plan, or probate, a real estate closing, a good contract to tear into and go back and forth with opposing council; those are the things I like to do. I've done a lot over 20 years."

Ultimately, he said, his work is about people. "When you're dealing with the client chances are this is the most important thing going on in their life. They're upset, apprehensive and nervous; they want to be put at ease." Married for 20 years this month to the former [redacted] **Osenton** has arranged his life so family comes first. "[redacted] is a teacher and we have two children; [redacted] 14, and [redacted] 11. There is so much for them to be involved in around here." Not just family, but a strong sense of community. **Osenton** is on the leadership council at St. Andrew's Methodist Church, liaison to the scouting program, president-elect at the Brandon 86 Rotary Club, and active as a Brandon Foundation Angel. **Osenton** enjoys scuba diving, golf, professional sports, reading and NASCAR. He's driven 600-plus horsepower at the Richard Petty Experience.

Tampa Tribune, The (FL)
July 30, 2008

Rotary Officers

BRANDON - The Brandon 86 Rotary Club named new officers and directors at its Installation Banquet on June 29 at the Columbia Restaurant in Ybor City. Outgoing president Larry Westberry gave awards to several people, including the Rotarian of the Year Award to Secretary Michael Meegan. District 6890 Governor Beverly Hunt congratulated the club on its work, and proceeded with the installations of new officers: president elect Becky Jordan, vice president **Reggie Osenton**, Secretary Michael Meegan and Treasurer Dick Russo. The newly elected board of directors included Bob Boettger, Jeni Chatraw, Bob Davis, Deger Saner, Carol Dolphin, Tom Linsky, Kerri McDougald, Jake Piascik, Connie Smaldone and Ted Wilson.

Research Compiled by: Levon Little
Colin Baenziger & Associates

COLIN BAENZIGER & ASSOCIATES

EXECUTIVE RECRUITING

Section 6

Philip N. Sherwin

Port St. Lucie City Attorney Candidate Report

Section 6

TABLE OF CONTENTS

	PAGE
COVER LETTER AND RESUME	1
CANDIDATE INTRODUCTION	7
BACKGROUND CHECKS	15
CB&A REFERENCE NOTES	19
INTERNET SEARCH	35

Cover Letter and Resume

Philip N. Sherwin
P.O. Box 2330
Arcadia, FL 34265

April 14, 2016

Colin Baenziger
Colin Baenziger & Associates
2055 South Atlantic Avenue - Suite 504
Daytona Beach Shores, FL 32118

Re: City Attorney Position, Port St. Lucie, Florida

Dear Mr. Baenziger:

I would like to express my interest in the position of City Attorney for Port St. Lucie, Florida. I consider myself a strong candidate having a diverse legal background with 15 plus years in-house local government experience.

In addition to being Board Certified in City, County and Local Government Law, I spent the last 11 plus years as a senior assistant attorney in the Polk County Attorney's Office. The progressive responsibility I acquired throughout my career, in-house government experience and mentoring of younger, less experienced attorneys provides me with the experience and versatility necessary to handle and manage the operations of the Port St. Lucie City Attorney's Office. As one of the cornerstones and workhorses of the office, I was called upon to trouble shoot some of the most difficult legal problems and challenges facing the office. Having been assigned to jump start the Procurement Division, my responsibilities included reviewing, revising and/or drafting 90% of the County's contracts during a period of time when the County was procuring $100 million dollars' worth of goods and services a year. When assigned to the Utilities Division (water and wastewater), I provided the requisite legal advice and assistance to take it from a struggling entity under multiple consent orders issued by the regulatory agencies SWFWMD and DEP, and transformed it into a well-organized, strategically focused utility. I represented almost every major division within Polk County, including Procurement, Utilities, Solid Waste, Parks and Natural Resources, Information Technology, Human Resources, and Fire Rescue. I was also the substitute Planning & Zoning Commission Attorney for a period of 6 years and reviewed subdivision plats for the County's Land Development Division to ensure their legal sufficiency. I have a strong background in litigation and helped coordinate and manage the County's lawsuits with our outside counsel in complex legal matters. Since 1992, I have been certified as a circuit court civil mediator and am intimately familiar with the mediation process. I am also very accustomed to interacting and working closely with county boards, management, and staff at all levels of local government.

Earlier in my career, I was the first full-time Assistant City Attorney for the City of Cape Coral, Florida and working together with the City Attorney, handled the vast majority of litigation in-house which included among other matters, constitutional challenges to ordinances, challenges to impact fees, land use issues, foreclosure of special assessments and civil forfeiture cases which I brought on behalf of the City of Cape Coral Police Department. In private practice I was involved with hundreds of tort claims.

Based on the breadth of my legal experience, I am confident that I would be able to take on the duties and responsibilities of the City Attorney on day one, build a strong in-house team and deliver the highest quality legal service to the City Council and City Administration.

Although I do not currently live in Port St. Lucie, I would be willing to relocate if offered the position. If you need further information, please do not hesitate to contact me on my cell phone at (239) 560-3624 or via email at pnsherwin@gmail.com.

Sincerely,

Philip N. Sherwin

Philip N. Sherwin

PHILIP N. SHERWIN

P.O. Box 2330 • Arcadia, Florida 34265
863.494.2875 (home) • 239.560.3624 (cell)
pnsherwin@gmail.com

EDUCATION

- Northern Illinois University College of Law, DeKalb, Illinois (1979), Juris Doctor
- University of Miami, Coral Gables, Florida (1974), B.A. in Psychology
- University of Iowa, Iowa City, Iowa (1972)

STATE BAR/COURT ADMISSIONS

- United States Supreme Court (1988)
- U.S. Court of Appeals for the Eleventh Circuit (2014)
- United States District Court, Middle District of Florida (1986)
- Florida Bar (1983)
- United States District Court, Northern District of Illinois (1980)
- Illinois Bar (1980)

CERTIFICATIONS/TRAINING

- Board Certified by the Florida Bar as a specialist in City, County, and Local Government Law (2010)
- Certified as a Circuit Court Mediator through participation in the American Arbitration Association State Certified Circuit Court Mediator Training Program (1992)
- Participated in an intensive language training program, Center for Foreign Students, National Autonomous University of Mexico, Mexico City, Mexico (1980, 1982)

LEGAL EXPERIENCE

Polk County Attorney's Office (2003–2015)
330 W. Church Street, Bartow, Florida 33830
Assistant County Attorney III

- Primary responsibilities included providing legal counsel and assistance to the Utilities, Procurement, Waste Resource Management, Fire Rescue, Parks and Natural Resources, Communications, Fleet Management, Human Resources, Information Technology Divisions; reviewed subdivision plats for legal sufficiency for the Land Development Division. Also provided legal counsel to the Contractor's Licensing Board, Stormwater Technical Advisory Committee (STAC), and the Conservation Lands Acquisition Selection Advisory Board (CLASAC).
- Duties arising from the representation of the above departments and divisions included but have not been limited to: in-house litigation matters; attending court hearings and mediation conferences; preparing, reviewing, and/or negotiating utility agreements, deeds, easements, use permits, license agreements, sponsorship agreements, leases, cooperative funding agreements with the Florida Department of Environmental Protection and the Southwest Florida Water Management District; drafting and revising ordinances and resolutions.
- Other responsibilities included but have not been limited to: assisting in the negotiation of consent orders and modifications to consent orders between Polk County and various permitting agencies; preparing interlocal agreements between Polk County and various municipalities or other governmental agencies; reviewing and revising contracts for the purchase of goods and professional services; and collaborating with other agency attorneys and utility departments as part of an entity known as the STOPR Group, which is comprised of the City of St. Cloud, the Tohopekaliga Water Authority, Orange County, Polk County, and the Reedy Creek Improvement District on regional water supply planning, permitting, and environmental monitoring, as well as issues relating to the Central Florida Water Initiative.

Philip N. Sherwin, P.A. (1989-2003)
1227 N.E. 2nd Place, Cape Coral, Florida 33990
Proprietor and President

- Practiced general civil law including but not limited to medical malpractice and personal injury law; quiet title, foreclosure, and eminent domain actions; and contract disputes. As a member and agent of Attorneys' Title Insurance Fund, Inc., performed title searches, issued title policies and opinions, performed examinations of real property and reviewed real estate contracts, including those involving 1031 exchanges, as well as the handling of zoning matters.

City of Cape Coral (1985-1989)
P.O. Box 150027, Cape Coral, Florida 33915-0027
Assistant City Attorney

- Handled foreclosure of special assessment liens; drafted ordinances and resolutions; represented the City of Cape Coral before the Contractors Regulatory Board; provided legal advice and assistance to city staff; handled personnel matters; prosecuted forfeiture cases for the Cape Coral Police Department; represented the city in both federal and state court matters; prepared briefs and argued appeals.

Fetterman and Associates (1984-1985)
630 U.S. Highway 1, North Palm Beach, Florida 33408
Associate

- Prepared plaintiff's personal injury actions, including the preparation of complaints, interrogatories, requests to produce, legal memoranda, briefs, and handled motions and related matters before the court.

Broad and Cassell (1982-1984)
2 South Biscayne Boulevard, Miami, Florida 33131
Law Clerk/Research Assistant

- Worked with Lewis Horowitz, Of Counsel with the firm and Town Attorney for Bay Harbor Islands, Florida; performed research, wrote legal memoranda and briefs, drafted town ordinances and resolutions, prepared legal documents related to mortgage foreclosure actions.

OTHER WORK EXPERIENCE

- English Language Instructor, Communication International, Mexico City, Mexico (1981-1982)
- Worked with Lic. Lucio Cabrera, Professor of Law, National Autonomous University of Mexico, Mexico City, Mexico

PROFESSIONAL/COMMUNITY VOLUNTEER SERVICE

- Florida Bar Judicial Nominating Procedures Committee (2008-2014)
- Cape Coral Firefighters Memorial Committee (2001)
- Board of Directors, Southwest Florida Audubon Society (1991-1993)

PROFESSIONAL ASSOCIATIONS

- Florida Bar Association
- Illinois Bar Association

References available upon request.

Candidate Introduction

EDUCATION

Northern Illinois University College of Law, DeKalb, Illinois (1979), Juris Doctor
University of Miami, Coral Gables, Florida (1974), B.A. in Psychology
University of Iowa, Iowa City, Iowa (1970-1972)

CERTIFICATIONS/TRAINING

- Board Certified by the Florida Bar as a specialist in City, County and Local Government Law (2010)
- Certified as a Circuit Civil Court Mediator through participation in the American Arbitration Association State Certified Circuit Court Mediator Training Program (1992)
- Participated in an intensive language training program, Center for Foreign Students, National Autonomous University of Mexico, Mexico City, Mexico (1980, 1982)

EXPERIENCE

Assistant County Attorney III, Polk County, Bartow, FL	2003-2015
Philip N. Sherwin, P.A., Cape Coral, FL	1989-2003
Assistant City Attorney, City of Cape Coral, FL	1985-1989
Associate Attorney, Fetterman and Associates, WPB, FL	1984-1985
Law Clerk/Research Assistant, Broad and Cassel, Miami, FL	1982-1984

BACKGROUND

Polk County is the geographical center of the State of Florida and is Florida's ninth most populous county with a population of well over 600,000 people. It is home to the largest collection of Frank Lloyd Wright architecture in the world. It has numerous institutions of higher education including technical schools, community colleges and public and private universities. One of these, Florida Polytechnic University, is Florida's only public university dedicated to science, technology, engineering, and mathematics. Another esteemed institution is the International Baccalaureate School at Bartow High School, which was ranked as the second best high school in America in 2013 by Newsweek.

Phosphate, citrus, and tourism industries continue to remain powerful economic engines in Polk County. However, because Polk County has a relatively low cost of living and attractive tax rates and because it is in close proximity to Tampa and Orlando and has an extensive transportation system of highway, rail, nearby airports and deep water ports, it is an attractive place to do business and has a rapidly expanding export base. In 2014, Amazon opened a warehouse distribution center in Polk County.

The tourism industry has undergone change in Polk County with the opening of LEGOLAND in 2011. In addition, the world class Streamsong Golf Resort and Spa celebrated its grand opening in 2013 and Premier Golf, the official travel company for the PGA, placed Streamsong on its list of "The Magnificent Seven" golf resorts in the U.S. Both facilities have contributed to record tourism tax collections for the county.

Polk County government employs nearly 2000 people and has a budget of over 1.27 billion dollars. The County Attorney's office employs six lawyers and has a support staff of three people and a combined budget in excess of 1.25 million dollars. The lawyers in the County Attorney's office operate as a collegial group with the senior attorneys mentoring the less experienced attorneys, while the entire office functions as a team. With a county population of over 600,000 and nearly 2000 employees, the focus of the County Attorney's office is on handling the day to day issues that arise out of the county departments and divisions, resulting in a very heavy workload. The senior ranking attorneys on the team were very adept at heading off lawsuits and I was one of those attorneys. Code enforcement matters, county receiverships, certain constitutional claims, claims arising out of the decisions of the Contractor's Regulatory Board and some contractual claims were handled in-house. The most complex litigation was outsourced. I often coordinated the County's lawsuits with our outside counsel. Also, some regulatory matters with the Southwest Florida Water Management District (SWFWMD) and the Department of Environmental Protection (DEP) were handled in-house. These regulatory matters arose out of the county's utilities (water and wastewater) and solid waste operations. An example of a regulatory matter with which I was involved was collaborating with a newly hired County Utility Director and outside counsel to bring about the first ever inter-district transfer of water between two Water Management Districts, the South Florida and Southwest Florida Water Management Districts. Lawsuits that were brought against the county or were brought by the county arose out of contract disputes and the use of the eminent domain statute, as the county had a very active transportation program that involved taking property for roads. Other lawsuits arose out of decisions by the Planning and Zoning Commission and the BOCC as they related to land development regulations. There were also personal injury and property damage claims.

GENERAL MANAGEMENT STYLE AND EXPERIENCE

At my very core I am a lawyer. I grew up in a family of attorneys. My father was a Martindale-Hubbell AV-rated attorney for almost 50 years and I have two older brothers who are attorneys practicing law in another state. I was very fortunate to land my first job in Florida as a law clerk and research assistant for Lewis Horwitz, at the law firm of Broad and Cassel. Mr. Horwitz was Of Counsel with the firm and the Town Attorney of Bay Harbor Islands, Florida. Mr. Horwitz had been the head of the litigation department. Earlier in his career he had been a prosecutor at the Nuremberg war trials. Both he and my father had an enormous influence on my legal thinking. One of my earliest assignments was to research a claim Mr. Horwitz wanted to bring. After thoroughly researching the matter, I had to report that I could find no precedent for making such

claim. Mr. Horwitz replied, "Phil, this is going to be a matter of first impression." Thus, at a very early stage in my career in Florida I learned to think outside the box.

In addition to being Board Certified in City, County and Local Government Law by the Florida Bar in 2010, I spent 11 plus years as a senior attorney in the Polk County Attorney's Office. The progressive responsibility that I acquired throughout my career provides me with the experience and versatility necessary to manage and handle the operations of the Port St. Lucie City Attorney's Office. I represented almost every major division within Polk County including Utilities, Procurement, Solid Waste, Information Technology, Human Resources, Fire Rescue, Parks and Natural Resources and was the substitute Planning and Zoning Commission Attorney for a period of six years. I also reviewed subdivision plats for the County's Land Development Division to ensure their legal sufficiency. Since 1992, I have been certified as a Circuit Court Civil Mediator and am intimately familiar with the mediation process. I am also very accustomed to interacting and working closely with county boards, management and staff at all levels of local government.

Earlier in my career I was the first full-time Assistant City Attorney for the City of Cape Coral, and together with the City Attorney, handled the vast majority of litigation in-house including among other matters, constitutional challenges to ordinances, challenges to connection fees, land use issues, foreclosure of special assessments and civil forfeiture cases which I brought on behalf of Cape Coral Police Department. In private practice I was involved with hundreds of tort claims.

Becoming the chief legal counsel of the City of Port St. Lucie would fulfill a lifelong career goal of being the lead attorney of a local government agency. Based on the breadth of my legal experience, the 15 plus years of in-house local government experience and mentoring of younger, less experienced attorneys, I am confident that I would be able to take on the duties and responsibilities of the City Attorney of Port St. Lucie on day one, build a strong in-house team and provide the highest quality legal service to the Mayor, City Council members and City Administration.

Excellent customer service would be the hallmark of my office. The support staff and attorneys would all understand that the primary goal of the City Attorney's office is to provide excellent customer service to the Mayor, City Council members and City Administration. In hiring attorneys, I would seek to hire those who have a blend of transactional and litigation experience. Litigators tend to understand risk better and transactional attorneys tend to be wordsmiths. I would foster an open door atmosphere in the office where everyone felt comfortable exchanging ideas, as I believe this fosters mutual respect among colleagues. I would also have periodic staff meetings, the exact frequency of which would need to be determined.

The City Attorney's office would be proactive in analyzing risks. Much of what local government attorneys do deals with contracts. As such, you must always ask yourself what the commercial risks are on the vendor versus those on the city. The goal is always to keep as much of the commercial risk on the vendor through language in the contract. If Port St. Lucie has experienced or has been dissatisfied with some of the results of its procurement process, one avenue the city

may want to explore is something called Best Value Procurement, which was developed by Dr. Dean Kashiwagi at Arizona State University. One of the divisions I represented that was involved in large infrastructure projects was very pleased with outcomes using this approach.

Lawsuits that are served on the city need to be addressed promptly. As a practical matter, I always forward a copy of the served lawsuit to the Risk Manager to determine whether or not insurance coverage exists and to assign an attorney to the matter so an answer can be filed in a timely manner. As a Certified Circuit Civil Court Mediator, I understand the value of mediation. In handling lawsuits everything must be weighed with the city's best interest in mind, which entails a cost/benefit analysis as the matter progresses and a determination whether to settle or not. The City Attorney makes the recommendation to the City Commission, which ultimately determines how one proceeds with a lawsuit. In some cases, you may have a matter that will be particularly imperative to pursue to the end to deter others from bringing similar actions, while in other cases you must go to trial when there is no reasonable basis to settle the matter. Litigation is both time consuming and expensive, which must be kept in mind at all times.

The City Attorney owes the same duty to the Mayor and each and every City Council member, one of honesty and fairness in dealing with them and a commitment to provide them with the best possible legal advice. Here again, I would have an open door policy and would be available to them as is necessary and to the degree they desire. All communications with the Mayor and City Council members must be made in accordance with Florida Sunshine Laws. During my tenure with Polk County I prepared and gave numerous PowerPoint presentations to various boards on the subject of Public Records and the Sunshine Laws. By the same token, I would also have an open line of communication with the City Manager and develop a close working relationship, so I could assist him in carrying out the policies of the City Council in a legal manner. Having a close working relationship and an open line of communication with the City Manager are indispensable and help to avoid lawsuits in the first instance and make them easier to address when they do arise. At the same time, the City Attorney must maintain his independence as the chief legal advisor to the City Council.

Elected officials would describe me as someone who has the ability to build an excellent rapport with my clients, intelligent, knowledgeable, thorough, thoughtful, experienced, approachable, and highly ethical. They would also describe me as a good communicator. The County Manager and/or the Deputy County Manager with whom I worked would add that I am an excellent problem solver. The above qualities are my strengths, and I would also add that I am detailed oriented, a tenacious negotiator and have an excellent sense of humor.

A weakness that has been most frequently pointed out to me by my paralegal or legal assistants over the years is my tendency to revise documents too often. My response to them is that once I sign off on the document, I am confident of its contents and the position(s) I have taken.

While in private practice I had some very nice pay days that resulted from handling personal injury matters and while that kind of success is exciting to experience, my greatest achievement has been

the collaboration I had with the newly hired Utility Director and his successor in Polk County. As a result of the legal advice and assistance I gave the Utility Department, I helped take it from a struggling entity under multiple consent orders to a well-organized strategically focused utility. Three examples of my assistance include the following: 1) Collaborating with the Utility Director and outside counsel to bring about the first ever inter-district transfer of water between two Water Management Districts. This allowed development to continue in Northeast Polk County in proximity to Orlando during the real estate boom, which otherwise could not have occurred because the county was placed under a consent order for years of over pumping a well in the Northeast Regional Utility Service Area in violation of its SWFWMD permit. 2) Successfully assisting in-house project managers/engineers with administering multi-million-dollar utility plant expansion projects. 3) Changing the trajectory of a county receivership involving an abandoned, privately owned, unpermitted wastewater treatment facility that festered for 20 plus years before I was assigned to the matter and which allowed the county to get out from under it as a result of my recognition of the need to change the way Polk County did business with another local government agency. That agency became the future owner of the wastewater treatment facility.

Polk County is now a member of the Water Cooperative of Central Florida and a member of the STOPR group, which is comprised of the City of St. Cloud, the TOHO Water Authority, Orange County, Polk County and the Reedy Creek Improvement District. The Utility Department is now considered a cutting edge water supply planning department within the State of Florida.

Another major accomplishment was when I was assigned to and jump started the Procurement Division and was responsible for reviewing, revising and/or drafting 90% of the County's contracts during a period of time when the County was procuring $100 million dollars' worth of goods and services a year.

One of the most important lessons I learned occurred while I was in private practice. I had a client that was not forth coming with her medical history in a personal injury matter, which had serious consequences when it was uncovered by the attorney on the opposing side just weeks before trial and which led to a disastrous outcome at trial. The lesson learned was to put in place a system designed to overcome such behavior on the part of a client, by doing rigorous due diligence in the gathering of all facts at the outset.

If you are thinking of terminating an employee, you must first determine if the employee is in a probationary period, if the employee is an "at will" employee or whether employment is governed by a set of personnel rules or contract. This initial determination is your guide as to what procedures you must follow. As a general rule, I believe in giving an employee a chance to improve their performance. However, if an employee's conduct is willful, wanton, reckless and detrimental to the organization, I would seek to have the employee dismissed. I had to let one employee go while in private practice, but gave her a period of time to find another job.

In the first six months of my employment in Port St. Lucie, I would work on getting the big picture of the organization, determine where the problems are and how best the City Attorney's office

could remedy the problems and be of most assistance to the City Administration. I would meet with the Mayor and City Council members to find out what their expectations were, as well as the Interim City Attorneys to garner and benefit from their institutional knowledge. I would also meet with the City Manager immediately and with his permission, the city department heads in order to begin building a rapport with them and strong partnership. In building an effective in-house team, I would look to hire those attorneys whose skill sets would best facilitate the remedy of existing problems within the organization.

Polk County has a Communication Director that works with the media.

I am an avid bicyclist, enjoy film, especially independent and foreign films and exploring new places through travel. I also enjoy hiking and kayaking in Florida State Parks and Aquatic Preserves.

There is nothing in my background that would prove embarrassing to the City of Port St. Lucie, nor will any community activists come forward with any dirt on me.

SIX ADJECTIVES OR PHRASES I WOULD USE TO DESCRIBE MYSELF

- An excellent problem solver
- A keen intellect
- Approachable, with the ability to build an excellent rapport with clients
- Experienced
- Highly ethical
- A good sense of humor

REASON FOR DEPARTING MOST RECENT POSITION

To seek new opportunities and challenges, having accomplished everything I could accomplish in Polk County and to fulfill a lifelong professional career goal of becoming the lead attorney of a local government agency.

CURRENT / MOST RECENT SALARY

My final compensation was $94,400, which was the highest salary in the office apart from the County Attorney's.

Section 6

CB&A Background Checks

Background Check Summary for
PHILIP N. SHERWIN

Criminal Records Checks:

Nationwide Criminal Records Search	No Record Found
County	
DeSoto County, FL	No Record Found
Polk County, FL	No Record Found
Lee County, FL	No Record Found
Federal	
Florida	No Record Found

Civil Records Checks:

County	
DeSoto County, FL	No Record Found
Polk County, FL	No Record Found
Lee County, FL	No Record Found
Federal	
Florida	No Record Found

Motor Vehicle	
Florida	No Record Found
Credit	Excellent
Bankruptcy	No Record Found
Education	Confirmed
Employment	Confirmed
Bar Certification/License	Member in Good Standing Bar #366471

Background Check Summary for
PHILIP N. SHERWIN
Personal Disclosure

Personal Disclosure Questionnaire

Name of Applicant: PHILIP N. SHERWIN

The following questions are designed so that we will be able to make full disclosure to our client concerning your background. Please answer them honestly. Cutting corners or misrepresenting your past will result in you being eliminated from all further searches conducted by this firm. We understand that frivolous charges are sometimes made and that charges do not mean you were guilty. We also understand that you may have been wronged and needed to seek compensation. The bottom line is that we want to be certain that our client is fully informed. If you have any questions, please contact us for clarification.

Please explain any yes answers on a separate sheet of paper.

1. Have you ever been charged or convicted of a felony?
   Yes ☐ No ☒
2. Have you ever been accused of or have been involved in a domestic violence or abuse incident?
   Yes ☐ No ☒
3. Have you ever declared bankruptcy or been an owner in a business that did so?
   Yes ☐ No ☒
4. Have you ever been the subject of a civil rights violation complaint that was investigated or resulted in a lawsuit?
   Yes ☐ No ☒
5. Have you ever been the subject of a sexual harassment complaint that was investigated or resulted in a lawsuit?
   Yes ☐ No ☒
6. Have you ever been convicted of driving while intoxicated?
   Yes ☐ No ☒
7. Have you ever sued a current or former employer?
   Yes ☐ No ☒
8. Do you have a personal My Space, Face Book or other type of Web Page?
   Yes ☐ No ☒
9. Do you have a personal Twitter Account?
   Yes ☐ No ☒
10. Is there anything else in your background that, if made public, would cause you, our client or our firm embarrassment if it came to light through the press or any other mechanism?
    Yes ☐ No ☒
11. Please provide a list of any lawsuits in which you are or have been a party either as plaintiff or defendant.
    None

Attested to: Philip N. Sherwin
Signature of Applicant

Please email this form via PDF DOCUMENT to Lynelle@cb-asso.com **or via fax to**
(888) 539-6531 no later than 5:00 PM CST 05/03/16.
(Note: Please be sure to sign the form with your actual signature if you are sending Fax or PDF Document)

Property of Colin Baenziger & Associates

Background Check Summary for
PHILIP N. SHERWIN
Florida Bar License

Philip N Sherwin

Member in Good Standing — **Eligible to Practice Law in Florida**

Bar Number:	366471
Mail Address:	PO Box 2330 Arcadia, FL 34265-2330 United States Office: 239-560-3624
Email:	pnsherwin@gmail.com
Personal Bar URL:	www.floridabar.org/mybarprofile/366471
vCard:	?
County:	Desoto
Circuit:	12
Admitted:	05/03/1993
10-Year Discipline History:	None
Law School:	Northern Illinois University College of Law

Board Certifications:	Area	Year
	City, County and Local Government Law	2010

Sections:	City, County & Local Govt Law
Languages:	English
Federal Courts:	U.S. Court of Appeals for the Eleventh Circuit U.S. Supreme Court U.S. District Court, Middle District of Florida U.S. District Court, Northern District of Illinois
State Courts:	Florida Illinois
Firm Size:	One
Firm Position:	Private Law Practice

The Find a Lawyer directory is provided as a public service. The Florida Bar maintains limited basic information about attorneys licensed to practice in the state (e.g., name, address, year of birth, gender, law schools attended, admission year). However, through this directory The Florida Bar allows individual attorneys the opportunity to provide for public information certain expanded personal and professional data. It is the attorney's responsibility to routinely review and update those expanded listings. The information contained in those expanded listings is presented by the Bar "as is" with no warranty of any kind, express or implied. The Florida Bar, its Board of Governors, employees, and agents thereof are not responsible for the accuracy of that additional data. Publication of attorneys' contact information within this listing should not be construed as their consent to receive unsolicited communications in any form. Certain unauthorized uses of this data may result in civil or criminal penalties. The Find a Lawyer directory is not a lawyer referral service.

CB&A Reference Notes

Michael Craig – County Attorney, Polk County, FL 863-534-6482

Mr. Craig first met Mr. Sherwin in approximately 2006. They worked together from 2008 to 2015.

Mr. Sherwin's capabilities as an attorney are excellent. He is definitely responsive and Mr. Craig has never experienced any problems concerning timeliness with Mr. Sherwin. He is a good problem solver. He makes sure he speaks with all stakeholders, gathers the facts, then develops recommendations based upon and addressing all the complexities of the problem.

With regard to strengths, Mr. Sherwin is incredibly dependable and extremely gifted at building wonderful rapport with his clients, especially those who might prove challenging. Mr. Craig gave Mr. Sherwin the leeway to get his job done because he was confident the job would be completed in a proper, effective manner. Mr. Sherwin was one of the cornerstones of the Polk County staff.

Mr. Craig is the primary conduit when recommendations must be presented to the elected body, but Mr. Sherwin has significant influence because he handles the two largest income producing divisions in the County. He is very conservative and cautious when making decisions which deal with the law, and Mr. Craig prefers it that way. Furthermore, Mr. Craig trusts him enough to delegate the authority to Mr. Sherwin to handle all legal negotiations for the Divisions he represents.

Mr. Sherwin is definitely well versed in many aspects of the law, especially with contracts, as most of Mr. Sherwin's work in Polk County involved contracts. He is also well versed in environmental law and utilities. In fact, when assigned to the Utilities Department he was primarily engaged in sorting through a substantial number of consent orders which had been placed upon the Department. He was instrumental in making sure the Department was in compliance with the orders and bringing it up to par.

Although a different attorney handles land use issues, Mr. Sherwin is no stranger to this area of the law. When asked by the Planning Commission or the Board of Adjustments he steps in quite capably and knows his way around the subject matter without difficulty.

Within the Utilities Department Mr. Sherwin had anywhere from three to five major projects on the go at any one time. Through frequent personal meetings he did a phenomenal job of keeping Mr. Craig abreast of what is happening. When high profile issues arose they met on an as needed basis. Occasionally they talked three or four times per day, depending on the urgency of the matter.

Without a doubt, Mr. Sherwin has experience with and is superb at dealing with the public. He has a good nature about him. He is likeable and sincere. He has a knack for disarming people and calming any anxieties they might have when coming into the office to deal with legal issues.

Polk County fosters an open and accessible culture in the area of customer service. Mr. Sherwin definitely understood and performed well in this area. Each of the two divisions he handled is housed in a different building, but he had no difficulty going to the client rather than asking them

to come to him, as most attorneys would request. He was highly regarded by his clients and was happy to do whatever he could to make them comfortable and keep them satisfied.

Mr. Craig does not know of any controversies other than regular, job related issues involving Mr. Sherwin. He is a very down to earth, conservative family man. Mr. Craig knows him very well and is unaware of anything in his background that might be considered embarrassing if the press were to investigate.

If Mr. Craig were looking for a City or County Attorney, he would definitely hire Mr. Sherwin to fill the position. He is poised and ready, and will serve the taxpayers of any community quite well.

Words or phrases used to describe Philip Sherwin:

- Dependable,
- Sincere,
- Friendly,
- Smart,
- Enjoyable, and
- Intuitive.

Strengths: Pays very close attention to details and extremely talented at resolving issues with others, without them walking away angry.

Weaknesses: Mr. Craig only wishes he had exposed Mr. Sherwin to legal areas other than primarily utilities. Unfortunately, he feels more at fault for this weakness because he relied so heavily on him in this particular area. It should not reflect negatively on his performance, as this was simply the nature of the position and organization.

Jean Reed – Former Polk County Commissioner, Polk County, FL 863-324-0702

Mr. Sherwin and Ms. Reed first met when she was elected in 2006, and they worked together until her term was up in 2010. They have not had any contact since she left office.

Mr. Sherwin is a very capable attorney who was always very responsive to Ms. Reed's requests. He was consistently available to her and willing to meet with her when she needed any legal assistance. He was good at resolving problems and did his work in a timely manner. She had full confidence and trust in Mr. Sherwin, in whatever capacity he served in.

Mr. Sherwin not only made good decisions when dealing with the law, he also negotiated extremely well on behalf of the County, especially with the Utilities Department. As far as Ms. Reed can recall he has knowledge and experience in all aspects of the law.

With regard to communications, Mr. Sherwin was open and did a fine job of keeping Ms. Reed informed of actions in his area of responsibility, thus practicing good customer service with those he served in the County. Additionally, he has experience with the public and is a good speaker. He says what he is thinking and has a fantastic demeanor when speaking and dealing with others whether Commissioners, the staff, or County constituents.

Ms. Reed is not aware of anything that might be considered controversial involving Mr. Sherwin nor does she have knowledge of anything in his past that could cause embarrassment to any future employer.

Given the chance, Ms. Reed would definitely hire Mr. Sherwin as a City or County Attorney. She was disappointed when he did not apply for the position in Polk County when it became available halfway through her term. She speaks very highly of him.

Words or phrases used to describe Philip Sherwin:

- Likeable,
- Hirable, and
- Good communicator.

Strengths: Always available, and very knowledgeable in the law.

Weaknesses: None identified.

Jonathon B. Trohn – Attorney, Valenti Campbell Trohn Tamayo & Aranda, Lakeland, FL 863-686-0043

Mr. Trohn first met Mr. Sherwin in 2003. The County retains Mr. Trohn to do a fair amount of litigation; so he worked with Mr. Sherwin on a variety of issues.

Mr. Sherwin is a very good attorney with a fantastic grasp of legal issues. He maintains a good balance between the law and the political aspects of working for a public entity. He is extremely capable and has a varied law background with experience in many areas of law pertaining to any municipality.

Mr. Sherwin is first rate in how he responds. When he first arrived in Polk County the entire Utilities Department was a huge mess. Mr. Trohn was impressed with the way Mr. Sherwin dove right in and got to work. He brought the County into the next century and, under his guidance, the County is now in full compliance with the DEP. He tackled a massive amount of consent orders against the County.

Mr. Sherwin is excellent at following up with Mr. Trohn. He always returns calls and gets the job done. Additionally, he solves problems and is very timely in accomplishing tasks. Furthermore, Mr. Trohn has made a point of building relationships with the Commissioners, so he knows they have all been very pleased with Mr. Sherwin. He is one of the workhorses of the County and one of the strongest members of their team.

Mr. Trohn has never observed Mr. Sherwin make any bad decisions when dealing with the law. He is even tempered and measured. Mr. Trohn has never seen Mr. Sherwin lose his temper. He is not impetuous and will not make decisions without thoroughly analyzing the situation first.

Mr. Sherwin negotiates well on behalf of the County and the Departments he represents. Mr. Trohn has been involved with him on various mediations and knows him to be a tough negotiator. He understands the implications of each issue and knows when a situation necessitates either going to trial or reaching a settlement.

Mr. Sherwin operates with a customer first attitude. He got along wonderfully with the elected officials, the County Manager, the staff, and the public at large. Mr. Trohn has never heard a single complaint about Mr. Sherwin in all the years he has known him.

Mr. Trohn is not aware of anything controversial or embarrassing in Mr. Sherwin's background. Given the opportunity, he would absolutely hire him. Mr. Sherwin is more prepared to take on a City or County Attorney role than any of the other talented attorneys Mr. Trohn knows who worked at Polk County.

Words or phrases used to describe Philip Sherwin:

- Reliable,
- Capable,
- Even keeled,
- Deliberate,
- Affable, and
- Congenial.

Strengths: A very good listener, easy to work with, and has a broad knowledge of the law.

Weaknesses: None identified.

Lisa Conran – Paralegal, Office of the Attorney, Polk County, FL 863-534-6435

Ms. Conran first met Mr. Sherwin when he came to the County in 2003. She was assigned to work directly for him from 2005 to 2015. They worked very closely on several issues involving the Departments he was responsible for within the County.

Reference Notes
Philip N. Sherwin

Mr. Sherwin is very knowledgeable and knows the law. He is thorough and detail oriented and handled two of the largest divisions in the County without any problems. He is an excellent negotiator, and he had a good working relationship with the Utilities Director and Division employees as well as any outside counsel the County employs from time to time.

Mr. Sherwin's strengths include his working knowledge of the County's governance system as well as his understanding of civil law. He was also an excellent teacher who took time to explain matters to Ms. Conran when needed. He was a very kind, understanding person, and she felt comfortable approaching him with any problem or issue. Additionally, he was level headed and listened to both sides of a situation before offering any advice.

Mr. Sherwin's work was very timely, and he was very responsive when dealing with both daily items and larger, more complicated issues. He made fantastic recommendations to the elected officials whether they like to hear his advice or not. He did not tell them what they wanted to hear just to appease them, but rather operated with the County's best interest at heart.

Mr. Sherwin is very thorough when making decisions regarding the law. He investigates every avenue and does not make snap decisions. If he does not know all the intricacies of and issue off of the top of his head, he does his research first, then follows up promptly.

Mr. Sherwin is experienced in many aspects of the law. He understands contract law and at one time handled all purchasing for the Solid Waste and Utilities Divisions. He frequently dealt with environmental law in conjunction with the Utilities Department and with surrounding counties on matters of water issues and permitting. He has experience with land use cases as he was the person in charge of reviewing the plats for the County.

Ms. Conran worked very closely with Mr. Sherwin and is quite involved with the workflow in the office. She always felt well informed of all the items and issues on their agenda. Although they did not field very many calls from the public at large because such issues generally go directly to the responsible division, when Mr. Sherwin was involved he was responsive and very personable.

Mr. Sherwin has never been involved in anything controversial other than the regular work related issues that come up for a County Attorney. He has not caused any personal controversy. If Ms. Conran were looking for a City or County Attorney, she would definitely hire Mr. Sherwin and very highly recommends him. He will be tremendous given his experience and how he operates as a team player even while he must give direction to others. He will bring a positive attitude to the organization and any municipality hiring him will not be disappointed.

Reference Notes
Philip N. Sherwin

Words or phrases used to describe Philip Sherwin:

- Smart,
- Detail oriented,
- Kind,
- Willing to learn,
- Teacher, and
- Exceptional manager.

Strengths: Responsive and has a varied legal background.

Weaknesses: When he first came to the County, Mr. Sherwin was not very computer savvy, but he has definitely improved since that time.

Randy Mink – Assistant County Attorney, Polk County, FL 863-534-7679

Mr. Sherwin and Mr. Mink first met when Mr. Mink came to Polk County in 2006. Although they worked in separate departments, on occasion they had cause to interact on issues. As a new attorney, Mr. Mink was most grateful for his mentorship and his help in learning the ropes.

Mr. Sherwin is very capable and confident in his abilities as an attorney, but at the same time he is very personable and down to earth. As a young attorney, Mr. Mink did not feel intimidated by Mr. Sherwin because he always willingly offered help by not just providing him with the answers, but working through them to ensure full understanding of the required knowledge.

Mr. Sherwin is very responsive. Mr. Mink has never heard of any issue he had not taken care of. He is a talented problem solver and good at bringing the right people to the table to resolve and problems at hand. The County is an extremely hands-on organization in which employees are expected to respond promptly. Mr. Mink never heard any complaints against Mr. Sherwin with regard to customer service.

The Commissioners never questioned his advice when Mr. Sherwin made recommendations to the elected body. He was thoughtful in his approach to decisions and did not pass the buck, but rather dealt with them himself and takes care of all the assignments he is given.

Mr. Mink observed Mr. Sherwin in a few negotiation sessions promoting items on behalf of the County. He is an excellent negotiator.

Mr. Sherwin is very experienced in various aspects of the law. He has vast knowledge of contracts, utilities, land use, and environmental law. When he first came arrived he inherited several issues with the Southwest Florida Management District (SWFMD) and the Department of Environmental Protection (DEP). He resolved all the problems and, by applying his expertise, brought the County

into compliance. Additionally, as part of his duties he reviewed all of the land use plats for the County.

Mr. Mink was always well informed by Mr. Sherwin and received timely updates on all changes. He is customer service oriented and always worked hand in hand with the County Manager's office to keep the County Manager updated on matters under his jurisdiction.

Mr. Mink does not know of any controversies involving Mr. Sherwin, nor is he aware of anything embarrassing in his background. He will be an excellent City or County Attorney. Mr. Mink would hire him if he were looking for someone to fill such a position.

Words or phrases used to describe Philip Sherwin:

- Personable,
- Hands on,
- Leader,
- Knowledgeable of the law, and
- Likeable.

Strengths: Excellent knowledge and control of the law, and is first rate at handling many different types of personalities.

Weaknesses: None identified.

Todd Dantzler – Commissioner, Polk County, FL 863-534-6422

Mr. Dantzler first met Mr. Sherwin when he was elected to the Board of Commissioners in 2010. They served together on a few RFP's which Mr. Sherwin brought before the Board for review.

Mr. Sherwin is quite a capable attorney and was very competent at his job. He did a wonderful job of explaining issues to those who do not have a legal background and who might otherwise get lost in the technical jargon.

The County Attorney ran a tight ship, and Mr. Sherwin did a fabulous job of responding to requests and issues in a timely manner. Mr. Dantzler has never known him to drop the ball in his area of responsibility.

As they worked together on RFP's with a few members of the public Mr. Dantzler has never heard anyone complain about Mr. Sherwin regarding to how he interacts with community members. Additionally, he is customer service oriented, especially with the Commissioners. He is friendly and had good rapport with each of them.

Mr. Dantzler is not aware of anything controversial or embarrassing concerning Mr. Sherwin. Mr. Dantzler would hire Mr. Sherwin. He will do quite well as a City or County Attorney.

Words or phrases used to describe Philip Sherwin:

- Steady,
- Calm,
- Confident, and
- Pleasant.

Strengths: Has a very calm demeanor, and is not an excitable person.

Weaknesses: None identified.

Bill Beasley – Deputy County Manager, Polk County, FL 863-534-6429 863-370-4876

Mr. Beasley was hired in Polk County in 2006 and he worked with Mr. Sherwin until 2015. They interacted on an almost weekly basis on issues related to large County government functions. Polk County is the third or fourth largest County in Florida.

Mr. Beasley is an engineer by training and they worked very well together. Mr. Sherwin was assigned to support infrastructure divisions like Public Works. He dealt with contracts, policies, decisions, and issues related to Florida statutes. He could see the end game and help others navigate to where they needed to be. He quickly grasped what they were trying to accomplish and told them the upside and downside of each option they considered and what the consequences would be. He did a great job and did not involve himself in policy decisions.

Mr. Sherwin asked the department heads to not press him for a decision when research was needed. Mr. Beasley sometimes wanted an immediate answer and his expectations were not always realistic. Mr. Sherwin achieved a good balance between being responsive and being thorough. He always kept others informed.
At times they loved Mr. Sherwin's recommendations but other times they did not. He provided good, solid, legal advice even when it was not the answer they wanted. Mr. Beasley is not aware of any recommendations made by Mr. Sherwin to the elected officials that they did not follow, but if any existed they were not devastating to the County.

Mr. Sherwin was not the lead negotiator in Polk County but he was an advisor to the team. He provided good counsel for policy decisions and contract negotiations. He has experience in constitutional law, contracts, environmental law, land use, and utilities. He occasionally provided advice on labor or personnel matters but his main focus were matters related to infrastructure.

Mr. Sherwin attended meetings with Mr. Beasley. Mr. Sherwin advised the standing committees on Florida sunshine laws and records requests. He did not have occasion to interact with the public a great deal. When he had the opportunity he was not flamboyant but gave information in a straightforward manner.

Mr. Sherwin interacted directly with department heads on infrastructure contract matters, agreement matters, and matters between local governments. His involvement with staff level issues was much more frequent than his interactions with the elected body. He is very good at local government law.

The character of Mr. Sherwin is impeccable and as such he has not been involved in anything controversial. He has dealt with one or two items at the local government level that were sensitive from a public policy perspective but none of them rose to the level of a media scandal. He managed contract disputes and claims.

Mr. Sherwin would excel as the City or County Attorney of a small progressive municipality with good open communication. His disposition is as not well-suited for a city like Chicago or Los Angeles. Everyone that Mr. Beasley knows views Mr. Sherwin in a positive light.

Words or phrases used to describe Philip Sherwin:

- Knowledgeable,
- Personable,
- Builds a relationship of trust with his client,
- Treats others with respect,
- Cautious,
- Practical,
- Fair, and
- Realistic in how to manage local government affairs from a legal perspective.

Strengths: Foresight, really analytical thinker, did great research, good with contract law.

Weaknesses: His job was not to be involved in policy decisions and he did not become involved even when Mr. Beasley wanted him to.

Jeff Spence – Parks & Natural Resource Director, Polk County, FL 863-534-7377
863-559-9248

Mr. Spence has known Mr. Sherwin for a number of years and cannot recall when they met. Mr. Sherwin was the Assistant County Attorney assigned to Parks & Recreation. Mr. Spence handled drainage issues throughout Polk County and managed 84 parks. He also handled aquatic and mosquito control, and water quality. He worked primarily with Mr. Sherwin.

Mr. Sherwin did great work for Polk County. He was enjoyable to work with because he was very professional and extremely calm. When something happens he does not immediately make a judgment but looks at the issues and the options. He is easy to talk to about any topic.

Mr. Spence has offices all over the County but his primary office is near Bartow so he often stopped by to talk to Mr. Sherwin in person. Mr. Sherwin was always available even without an appointment. They also spoke on the phone.

Mr. Sherwin solves problems. His recommendations to the elected body were good and everything he worked on had a positive outcome. He reviewed documents from a legal perspective and modified them as needed.

Mr. Spence cannot recall a recommendation made by Mr. Sherwin that was not accepted by the elected body. He tries to find solutions that adhere to the laws and statutes. He did not ignore those who were breaking the rules but he was willing to work with them to find a solution within the legal constraints.

Mr. Spence can only confirm Mr. Sherwin's legal experience on matters in his area of responsibility, which were primarily environmental law and utilities. Mr. Sherwin cares about the environment and liked working on those issues. He kept everyone well informed. He attended some public meetings and contributed to them, but he did not work with the public on a routine basis. All of Mr. Spence's dealings with Mr. Sherwin were good.

Mr. Spence is not aware of anything controversial that involves Mr. Sherwin either personally or professionally. He is definitely one to consider for a City or County Attorney position.

Words or phrases used to describe Philip Sherwin:

- Calm,
- Thorough,
- Pleasant,
- Intelligent,
- Nice person, and
- Environmentally conscious.

Strengths: His principal strength is thoroughness. Does not jump to conclusions. Very mild mannered and pleasant to work with.

Weaknesses: He was in charge of many divisions and had to prioritize. Sometimes Mr. Spence's items did not have the highest priority. However, this is not a personal weakness of Mr. Sherwin, it related more to the vast quantity of work in a very large County.

Joseph Jarret – Former County Attorney, Polk County, FL 865-566-5393

Mr. Jarret hired Mr. Sherwin as a Deputy County Attorney for Polk County in 2001. Mr. Jarret trusted Mr. Sherwin implicitly because he is an outstanding lawyer. Everything that a municipality does has to adhere to the sunshine law, which includes public scrutiny. Mr. Sherwin was assigned the more thorny issues because he is mature, very measured, and he worked without direct supervision.

Mr. Sherwin has a lexiconic knowledge in many ways. He was frequently asked to mentor the junior attorneys. He has a good grasp of the law and keeps abreast of any changes. He consistently accomplishes his work in a timely manner.

The recommendations given by Mr. Sherwin were very solid and never had to be retracted. When he gave a recommendation, Mr. Jarret presented it to the client without any adjustments. Mr. Sherwin's decisions in relation to the law were very good. He had complete autonomy with high end negotiations that were politically and legally challenging. Mr. Jarret had a high level of confidence in Mr. Sherwin, he was the go-go guy.

Frequently Mr. Sherwin had to respond to residents during a public meeting. He was very tactful and if he said that the law did not permit the action they were considering; it was only after an exhaustive search. His responses were always well researched.

Mr. Sherwin has experience with constitutional law, contracts, environmental law, land use, utilities, labor and personnel matters. He always kept Mr. Jarret informed. Mr. Sherwin worked hard and achieved results. When an issue could potentially become politically sensitive he brought the matter to Mr. Jarret.

When dealing with code enforcement issues, Mr. Sherwin had a calming effect on irate citizens. He worked extremely well with others in the organization. When Mr. Jarret hired an employee, he did an informal walk around after a few months to see what others thought of the new hire. Everyone was very pleased with Mr. Sherwin.

Mr. Jarret has not heard of any incident in Mr. Sherwin's past that could be construed as embarrassing. Mr. Jarret was the President of the Association of County Attorneys, which is a gossip hotline, and Mr. Sherwin's name never even came up.

Mr. Jarret would hire Mr. Sherwin without hesitation. He is an excellent chief counsel. He is mature, knows when to delegate, and has a good rapport with the political body. He is apolitical but politically savvy. He understands that discretion is the order of the day. He is good at giving both legal and political advice. He is a solid attorney.

Reference Notes
Philip N. Sherwin

Words or phrases used to describe Philip Sherwin:

- Intelligent,
- Dedicated,
- Motivated,
- Trustworthy,
- Loyal, and
- Mature.

Strengths: Competent, ethical, zealous advocate peppered by common sense.

Weaknesses: When he was working with a struggling colleague, he took over the job to make sure it was done. At times he took on too many responsibilities.

Craig Sherman – Town Attorney, Bay Harbor Islands, FL 561-300-5888 ext. 207
305-793-4666

Mr. Sherman hired Mr. Sherwin as an associate lawyer in his law firm in 1984. They later worked together while Mr. Sherwin was employed by the city of Cape Coral and Polk County. Mr. Sherwin is honest, hardworking, very competent, and has a very nice client demeanor.

Mr. Sherwin is an exceptional attorney. He recognizes legal issues, gets right to the bottom line, knows the issues, and has a strong command of the facts. He is very strong in client relations. He is always timely and accurate in his responses.

Mr. Sherwin has made good recommendations to the elected body. Because he is analytical and to the point he makes good decisions in regards to the law. He has a great grasp of legal theories.

Another of Mr. Sherwin's strong points is negotiation. He has a non-confrontational manner. While he is very firm, he is also flexible and listens to the other side. Because he is sincere and has a warm personality, matters are easily settled and resolved. He is good at negotiating a middle ground.

Elected officials do not always follow the advice of their lawyer. Mr. Sherwin recognizes that they have the final say, but he is also experienced and authoritative enough to let them know if their actions might cause liability. The elected officials he has worked with really like him and have always said good things about him. Even when they did not follow his advice, he maintained good relationships with them. He has a wonderful way about him.

In terms of experience Mr. Sherwin is excellent in constitutional and contract law. He has been exposed to environmental law. He has much experience in zoning, building codes, and land use.

He has experience with laws related to utilities. Labor and personnel matters were a significant area of responsibility for him.

Mr. Sherwin has not been involved in anything personally or professionally controversial. When cities have an opening for City Attorney and they ask Mr. Sherman for his recommendation, he always endorses Mr. Sherwin. Mr. Sherwin is a pleasure to work with and will be an asset for any municipality.

Words or phrases used to describe Philip Sherwin:

- Honest,
- Hard working,
- Resourceful,
- Persuasive, and
- Compromising.

Strengths: Very analytical, conveys legal opinions and analysis in a collegial and concise manner with good finesse, translates legal issues for the non-lawyers.

Weaknesses: Some people believe he is shy but Mr. Sherman does not agree. He is soft spoken and only speaks when he needs to speak.

David Dee – External Counsel, Gardner Bist Bowden Bush Dee LaVia Wright, Tallahassee, FL 850-566-5810

Mr. Dee was an outside attorney working on solid waste issues when he met Mr. Sherwin in 2004. They worked closely on a development franchise agreement, RFP's, land use and environmental law issues. They have not seen each other since 2011.

Mr. Sherwin is very solid, level headed, thoughtful, and rational. He has a good understanding of the law on the issues they discussed, but all lawyers have to research to answer questions at times. He is perfectly capable as a municipal attorney.

Mr. Sherwin is responsive and his responses are timely. He meets deadlines and makes good recommendations to the elected body. Mr. Dee was generally the lead for negotiations but Mr. Sherwin offered assistance and did fine in terms of evaluating issues.

Mr. Sherwin is solution oriented. Communication was Mr. Dee's responsibility but they coordinated well together. Mr. Dee did not witness Mr. Sherwin with residents but he did well when dealing with vendors.

Reference Notes
Philip N. Sherwin

Mr. Dee was hired to develop an RFP and contract for the collection of solid waste. A business man in the community condemned the County staff. He was not referring to Mr. Sherwin personally but to the staff in the solid waste department. The situation became very controversial but Mr. Dee does not know how it played out or if Mr. Sherwin was affected. Nothing in Mr. Sherwin's background would embarrass an employer should the press investigate his past.

If Mr. Dee were in charge of hiring, he would review the entire pool but Mr. Sherwin would be on his short list because he is right up there with the best. He is a good person and would do a good job for any community, he has the right personality for the job.

Words or phrases used to describe Philip Sherwin:

- Responsible,
- Level headed,
- Solid,
- Thoughtful, and
- Good guy.

Strengths: Bright, articulate, level headed, thoughtful, sincere, diligent, not malicious or ill intended, has a good disposition for a city/county attorney.

Weaknesses: He has been trained as an advocate so he is not forceful when public speaking but he conveys his thoughts well enough.

Prepared by: Lynelle Klein and Heather Linares
Colin Baenziger & Associates

CB&A Internet Research

The Florida Bar
September 15, 2010

Florida Bar certifies 181 attorneys as specialists

The Board of Legal Specialization & Education in 2010 certified 181 Florida Bar members as specialists in 21 areas of law, an increase of 15 percent over the number who earned certification in 2009.

FORMER FLORIDA BAR PRESIDENT Herman Russomanno, ABA President Steve Zack of Miami, Florida Bar Executive Director Jack Harkness, and Coral Gables Mayor Don Slesnick display the certification program flag in San Francisco at ABA's Annual Meeting. Certified attorneys are the only Florida lawyers allowed to identify themselves as specialists or experts or to use the letters "B.C.S." to indicate board certified specialist. Florida now offers 24 specialty areas of practice for which board certification is available, the greatest number of state-approved certification areas of any state.

"Board certification by The Florida Bar demonstrates that lawyer's high level of skill, excellence, and a commitment to professionalism," said Florida Bar President Mayanne Downs. "Every new certification enhances our profession, and gives the public a meaningful way to evaluate lawyers."

Board certification evaluates attorneys' special knowledge, skills, and proficiency in various areas of law and professionalism and ethics in practice. Certification is the highest level of evaluation by The Florida Bar of the competency and experience of attorneys in areas of law approved for certification by the Supreme Court of Florida.

A lawyer who is a member in good standing of The Florida Bar and who meets the standards prescribed by the state's Supreme Court may become board certified in one or more of the 24 certification fields. Approximately 4,400 of Florida's 88,000 lawyers are board certified.

"We believe that certification numbers are up because lawyers are placing increased value on the benefits of marketing their 'specialist' or 'expert' statuses," said BLSE Chair Richard R. McCrea, Jr., of Tampa. "The professionalism and peer review components of board certification provide the public with objective standards by which to evaluate attorneys, and it appears that Florida lawyers are finding that evaluation more relevant to their practices."

Updated Logos Available On Website: The U.S. Patent and Trademark Office has issued trademark approval for the board certification program logo. Updated versions of the logo that include the ® trademark symbol are available in JPEG, PDF, and EPS formats for download at FloridaBar.org/certification.

Use of "B.C.S" for Certified Lawyers: Among numerous Florida Bar rule changes addressed in a Florida Supreme Court Nov. 19, 2009, opinion is a rule that allows board certified

lawyers to use the letters "B.C.S." for board certified specialist. The rule, which became effective February 1, states: "A member having received a certificate in an area may list the area on the member's letterhead, business cards, and office door, in the yellow pages of the telephone directory, in approved law lists, and by such other means permitted by the Rules of Professional Conduct. The listing may be made by stating one or more of the following: 'Board Certified (area of certification) Lawyer;' or 'Specialist in (area of certification);' or use of initials B.C.S. to indicate Board Certified Specialist. If the initials B.C.S. are used, the area(s) in which the member is board certified must be identified; if used in court documents or a non-advertising context, the initials may stand alone."

Admiralty & Maritime Law
Kris Elliott, Gulf Breeze

Michael C. Black, Miami

Tonya J. Meister, Miami

Richard Dennis Rusak, Miami

Appellate Practice
Laura Keats Wendell, Coral Gables

Daniel Lawrence Wallach, Ft. Lauderdale

Alina Alonso, Miami

Cristina Alonso, Miami

Elliot B. Kula, Miami

Michael Ross D'Lugo, Orlando

Rosemary Hanna Hayes, Orlando

Lamar D. Oxford, Orlando

Judge Edward Thomas Bauer, Tallahassee

Tracy Lee Cooper, Tallahassee

Aviation Law
Ricardo Manoel Martínez-Cid, Miami

Business Litigation

K.C. Bouchillon, Bartow

Aaron Andrew Haak, Ft. Myers

John C. Clough, Naples

David Eric Cannella, Orlando

Steven J. Gard, Ponte Vedra Beach

Daniel J. DeLeo, Sarasota

Martin Garcia, Sarasota

John W. Madden, Stuart

Shelly J. Stirrat, Stuart

Casey Walker, Vero Beach

C. Wade Bowden, West Palm Beach

City, County and Local Government Law
Philip N. Sherwin, Bartow

Scott Ellis Rudacille, Bradenton

Terrill C. Pyburn, Delray Beach

Clay C. Brooker, Naples

Karen Z. Consalo, Orlando

Jeannine Smith Williams, St. Petersburg

Danielle R. Green, Tampa

Gayle A. Owens, Winter Park

Civil Trial
Nicholas P. Evangelo, Altamonte Springs

Steven H. Meyer, Boca Raton

John B. Patterson, Boca Raton

David S. Becker, Bradenton

Michael B. Feiler, Coral Gables

John Cottle, Ft. Walton Beach

Blane McCarthy, Jacksonville

Timothy S. Moran, Jacksonville

Angelo M. Patacca, Jr., Jacksonville

Michael S. Sharrit, Jacksonville

Keith R. Taylor, Lecanto

Mark Alexander Sessums, Lakeland

Manuel L. Dobrinsky, Miami

John W. Gautier, Miami

John Davis Hoffman, Miami

James Edward Leano, Miami

Sagi Shaked, Miami

Andrew M. Westhafer, Miami

David W. Grossman, North Miami

Timothy Michael O'Brien, Pensacola

Michael Patrick Murphy, Sarasota

Robert Lewis Blank, Tampa

Nadine S. Diaz, Tampa

Scott Distasio, Tampa

Christine Ann Donoghue, Tampa

Stephanie Weber Ritt, Tampa

Matthew Edward Haynes, West Palm Beach

Rodney Janis, West Palm Beach

Jason D. Weisser, West Palm Beach

Sherri L. Scarborough, Winter Haven

Construction Law
Jason Hunter Korn, Bonita Springs

Scott D. Rembold, Coral Gables

Blaik P. Ross, Coral Gables

Michele C. Ammendola, Ft. Lauderdale

Caryl Sandler Shuham, Ft. Lauderdale

William H. Strop, Ft. Lauderdale

Kristin M. Davis, Gainesville

Barry Barnett Ansbacher, Jacksonville

Bryan Robert Rendzio, Jacksonville

Charles R. Walker, Jr., Jacksonville

Brent Taylor Zimmerman, Jacksonville

Gregory S. Martin, Maitland

Jason Daniel Salvin, Miami

Gary M. Stein, Miami

Michael E. Utley, Miami

J. Keith Ramsey, Orlando

Glenn Todd Williams, Orlando

John Rocco Cafaro, Tampa

Brian R. Lambert, Tampa

Ty G. Thompson, Tampa

Adam Marc Wolfe, Tampa

Kenneth M. Curtin, West Palm Beach

Daniel A. Thomas, West Palm Beach

Criminal Appellate
Glen P. Gifford, Tallahassee

Criminal Trial
Eduardo A. Brodsky, Bradenton

Val Ellsworth Winter, Key West

Michael D. Weinstein, Ft. Lauderdale

Gerard S. Williams, Ft. Lauderdale

Katheryn Elizabeth Smith Calvo, Ft. Myers

Howard S. Lidsky, Gainesville

Jeremy Lasnetski, Jacksonville

Jonathan D. Sacks, Jacksonville

Chalon Carroll Young, Orlando

John C. Beroset, Pensacola

David Christopher Hardy, Tampa

Elder Law
Holly M. O'Neill, Boca Raton

Alex Cuello, Miami

Patricia T. Fuller, Orlando

Margaret R. Hoyt, Oviedo

Michael D. Fowler, Port St. Lucie

Kathleen Flammia, Winter Park

Health Law
Troy A. Kishbaugh, Orlando

Chris M. Morrison, Orlando

Immigration and Nationality
Maud Poudat, Arlington, VA

Lourdes Maria Guiribitey, Coral Gables

Carol Ann Bernstein, Miami

Scot A. Silzer, Orlando

Elizabeth Rose Blandon, Weston

Intellectual Property Law
Steven C. Stewart, Alpharetta, GA

David Kenneth Friedland, Coral Gables

Richard Stuart Vermut, Jacksonville

Randi Lisa Karpinia, Lantana

Michael W.O. Holihan, Maitland

Richard Guerra, Miami

Sandra Marie Sovinski, New Smyrna Beach

Anton Hopen, Oldsmar

Ronald E. Smith, Oldsmar

Ferdinand M. Romano, Orlando

David L. Sigalow, Orlando

Lonnie Richard Drayer, Plant City

Eric Robert Pellenbarg, Tampa

International Law
Peter M. Haver, West Palm Beach

Melissa R. Ferrari, Glashuetten, Germany

Labor and Employment Law
Denise L. Wheeler, Ft. Myers

Mauricio Arcadier, Melbourne

Jennifer Taylor Williams, Miami

Jason Adam Collier, Sarasota

Nikhil Nalin Joshi, Sarasota

Robert L. Kilbride, Stuart

M. Kristen Allman, Tampa

Marital and Family Law
Sharon Patricia O'Day, Bradenton

Michael B. Gilden, Ft. Lauderdale

Jonathan Z. Schiller, Ft. Lauderdale

Lawrence C. Datz, Jacksonville

Thomas Leroy Duggar, Tallahassee

Scott Paul Davis, Tampa

Kim Lora Kaszuba, Tampa

Linda I. Braithwaite, Trinity

Amanda Lea Colón, Trinity

Real Estate
Michael H. Merino, Davie

Charles Gregory Mann, Ft. Myers

Laura Lynn Newlin, Lakeland

James Marx, Miami

Leonardo Spitale, Jr., Miami

Meredith E. Level, Orlando

Rania A. Soliman, Orlando

Diana Davis Basta, Palm Harbor

Franchesca Rhodis, Pompano Beach

Thomas Brian Luzier, Sarasota

Juan Carlos Villaveces, Sarasota

Jennifer L. Williamson, Stuart

James McClung DuRant, Jr., Tallahassee

Susan Katherine Frazier, Tampa

Henry West Hicks, Tampa

Mark Herges Dahlmeier, West Palm Beach

State and Federal Government and Administrative Practice
David William Bundy, Orlando

Timothy P. Atkinson, Tallahassee

Donna E. Blanton, Tallahassee

Kenneth Brian Hayman, Tallahassee

Patricia Nelson, Tallahassee

Daniel H. Thompson, Tallahassee

Tax Law
Marc A. Hetzner, Boca Grande

Ryland F. Mahathey, Boca Raton

Alan S. Lederman, Ft. Lauderdale

Christopher R. D'Amico, Orlando

Barbara E. Ruiz-Gonzalez, Miami

Adi Rappoport, West Palm Beach

Wills, Trusts and Estates
Holly M. O'Neill, Boca Raton

Jeffrey S. Goethe, Bradenton

Alex Espenkotter, Coconut Grove

Shannon Powell Valentine, Jacksonville

Curtis B. Cassner, Naples

R. Craig Harrison, Sarasota

Charles Woods Callahan, III, Tampa

Joshua Thomas Keleske, Tampa

Brian Curtis Sparks, Tampa

Workers' Compensation
Andrew Serano, Orlando

The Ledger
August 30, 2010

ALLIANCE FOR INDEPENDENCE has announced its 2010-11 board of directors and officers. They were elected at the annual board of directors meeting earlier this month. They are: chairman, Ron Losch, retired from Publix; chairman elect/chairman, performance oversight monitoring committee, Scott Sloman, The Lakeland Center; secretary and chairman, external relations and resource development committee, Bart Ross, TMR Agency; treasurer/chairman, audit committee, David R. Ramos, CPA; chairman, planning and program development committee, Andrew Hernan, Griffin Pools Inc.; Jennifer L. Adams, Bank of Central Florida; Carol N. Asbill, Publix Super Markets; John C. Burton, Sun 'n Fun Inc., immediate past chairman; Deborah Heatherley, Publix Super Markets; Timothy Kiley, Peterson & Myers, P.A.; Charles Lake, retired; Sherrie D. Long, Allen & Company; Philip Mowry, Florida Southern College; Jim Rehberg, J-Reh, Inc.; Sena E. Schirm, SunTrust Bank; Anthony J. Senzamici Jr., Pioneer Medical Company; Tom Patterson, Saddle Creek Corp.; Anne-Marie Wendel, Lakeland Police Department; William H. Wheeler Jr., Wheeler & Wheeler, Inc.; Richard Wills, FITniche.

ASHLEE'S HAIR STUDIO has been remodeled. Address is 720 Honeycomb Lane, Auburndale. Phone number is 863-412-8716. Owner is Ashlee Sam.

ANDY BALDAUF, formerly a branch manager for CitiFinancial, has joined the staff of Home Solution Title in Lakeland as a market representative. He has a bachelor's degree in marketing management from Webber International University in Babson Park.

BCI ENGINEERS & SCIENTISTS INC., a Lakeland-based engineering firm, has made the list of Engineering News-Record's Top 200 Environmental Firms.This is is BCI's first time on the list, ranking 196 out of 200 with reported revenue of $18.4 million for its environmental services.

BOARD OF LEGAL SPECIALIZATION & EDUCATION has certified the following Polk County lawyers as specialists: K.C. Bouchillon, Bartow, business litigation; **Philip Sherwin**, Bartow, Mark Sessums, Lakeland, Sherri Scarborough, Winter Haven, all city, county, and local government law; Laura Lynn Newlin, Lakeland, real estate.

BETSY CÉNÉUS, P&C marketer at Lanier Upshaw, has been received the insurance designation of registered professional liability underwriter by the Professional Liability Underwriting Society.

KATHRYN KOCH, vice president of Lanier Upshaw, attended a personal insurance seminar conducted by Ohio National Financial Services in Cincinnati on Aug. 16-19. Training focused on product information, marketing, sales ideas, business planning and best business practices.

FLORIDA FFA has announced the 2010 FFA Hall of Fame inductees. They are Elton L. Hinton, deceased, William R. Jeffries, Fenwick D. McCormick, Floyd Lorrain, Janice Culligan Northrop,

deceased, and Daniel Eugene Ryals Jr. They will be inducted during the fourth-annual awards celebration Oct. 5 at the Florida FFA Leadership Training Center in Haines City.

LEADERSHIP POLK has announced members of Class IV. They are: Rodney Carson, Central Florida Development Council; Susan Copeland, Polk Education Foundation; Michael Craig, Polk County Board of County Commissioners; TR Croley, City of Frostproof; Mike DeNeve, Mosaic; Kay Fields , Girls Inc. of Lakeland; Dorsey Hightower, Hightower Veterinary Services; Tim Jackson, Nujak Companies; Janice T. Jones, The NCT Group; Kelly Lane, Boys & Girls Club of Lakeland & Mulberry; Carl "Ed" Locke Jr., SEMCO Construction; Robert Loftin, BB&T Bank; Ed Lunz, Lunz Prebor Fowler Architects; Alex Mahalak, Dodge-Chrysler-Jeep of Winter Haven; Carole McKenzie, Clear Springs; Jenn Montague, Fantasy of Flight; Tonja Mosley, Heart of Florida Regional Medical Center; Bill Mutz, Lakeland Automall; Cindy Price, TECO; David Price, Bok Tower Gardens; Alan Rayl, Rayl Engineering and Surveying LLC; Don Selvage, SHR Human Resources LLC; Donna Sheehan, City of Winter Haven; Shawn Sherrouse, City of Auburndale; Scott Smith, Florida's Natural Growers; Monti Sommer, AMIkids Polk; Lana Swartzwelder, St. Joseph's Academy; Deena Ware, City of Fort Meade; Reggie Webb, Polk State College; Matt Werd, Foot and Ankle Associates; Bobby Yates, Lakeland Volunteers in Medicine. Nelson Kirkland, Leadership Polk Class I graduate and founder of the Central Florida Media Group, will serve as chairman for Class IV.

INNA MARKOVSKY has been named salesperson of the month for July at Southern Homes of Polk County.

KERRY NIKOLAISEN has joined BCI Engineers & Scientists as senior hydrogeologist for its St. Louis Office. BCI is based in Lakeland.

SARA OLSON has joined the American Red Cross Mid-Florida Region as chief fund development officer for the Polk County Chapter. She has more than six years of experience with nonprofits.

LESLIE OWEN has been named employee of the month for September at Waller Construction.

CHAS P. SMITH, CPA/PFS, president of CPS Investment Advisors, was a guest speaker at the Florida Institute of CPA's Financial Planning Conference in Tampa. His topic was "Importance of Dividends in Stock Investing."

KIMBERLY WYANT has joined the staff at Michael Rose Hair Designs.

The Ledger
July 13, 2007

Zoning Proposal Draws Questions: Waverly
Author: Tom Palmer

BARTOW - A zoning proposal intended to promote the revitalization of a shuttered citrus-packing plant in Waverly encountered questions from community residents and the Polk County Planning Commission. Commissioners voted unanimously Tuesday to approve a less-ambitious change, leaving the rest to an area-wide planning study that's in the offing. The case before the commission involved a proposal by Waverly Growers Cooperative to remap 47 acres on and around the former packinghouse to promote industrial development. Waverly shut down the plant in 2005 after major acreage owned by growers who supplied fruit to the plant was sold for development.

Lawyer Jack Brandon argued the request corrects an error on the growth map that depicts the land around the plant as the site of heavy commercial development. County planners recommended denial because the proposal doesn't match the county growth plan's limits on the location of new industrial zoning. The plan requires new industrial land to be within a half-mile of major highways. This property is three-quarters of a mile from U.S. 27.

Residents from the community showed up to oppose the proposal, arguing they had not been adequately consulted and were concerned that the additional industrial development could leave them with no evacuation route from their homes in case of an accident in the industrial area. "We'd like an independent study of the environmental and traffic impacts," said resident Felix Baker Jr. But John Husted, Waverly Growers' general manager, said they were simply looking for a way to renovate and market the property to a business interested in warehousing and distribution or light industrial facilities. "We don't want to be bad neighbors," he said, promising to work to make land available for alternative routes to the residential areas to relieve residents' safety concerns.

Planning Commissioner Ellis Hunt Jr., who is in the citrus business, said he supported what Waverly Growers was trying to do. "The packinghouse was the cornerstone of this community and can be again," he said. "This is a great opportunity that is really important to work out." Planning Commissioner Barbara Douglas agreed. "The area's economically depressed," she said. Douglas tried to win approval of Waverly's complete proposal even though Assistant County Attorney **Phil Sherwin** warned that it was inconsistent with the county's growth plan. Her motion failed. Planning Commissioner John Langford proposed a change that would alter the growth map to recognize the existing industrial land, but not the proposed expansion. That motion passed. County planner Chanda Bennett told commissioners a special planning study that also will include the area east of Dundee will examine future land uses in Waverly and will bring back a comprehensive recommendation that could yield a proposal for the kind of expansion Waverly Growers is seeking. That study is just beginning and it will likely take more than a year to complete, she said.

The Ledger
January 27, 2007

Polk Needs Water Board Replacement
Author: Tom Palmer

BARTOW - Polk County needs to continue to have a strong representative on the Peace River Basin Board, members of the Water Policy Advisory Committee agreed Friday. Committee member Roger Griffiths raised the issue in connection with an upcoming vacancy on the six-member board. The current Polk representative is Ann Dunlap of Bartow, who was appointed in 2001, replacing Jim Moore of Indian Lake Estates. Her term ends March 1. Dunlap said Friday she supports the committee's intent. "Water is the most important issue facing all of Florida, especially Polk County," she said, explaining Polk is too far upriver to be able to tap water from the Peace River and too far from the coast to use desalination. She said whoever is appointed needs to be willing to put in a lot of time educating himself or herself and be someone who understands Polk's water issues. "I hope whoever is appointed feels that way," she said.

The Peace River Basin Board levies property taxes to pay for local water projects in Polk, Hardee, Highlands, DeSoto and Charlotte counties. The current budget is $16 million. The money pays for local projects ranging from efforts to solve local flooding to water conservation and stormwater treatment. Basin board members, who serve without pay, are appointed by the governor and confirmed by the Florida Senate. They typically are limited to two three-year terms, Griffiths said. Griffiths said he was supporting Steve Enzor, a member of the Lake Region Lakes Management District board, commonly known as the Canal Commission. County officials tried unsuccessfully to persuade the governor's office to name Enzor to the board in 2001. The plan was to seat him in the at-large seat - each county is guaranteed one seat - in an effort to increase Polk's influence on the board.

Then-Gov. Jeb Bush appointed someone from Charlotte County instead. It is unclear whether Enzor could be appointed to the Peace River Basin Board without first resigning from the Canal Commission because of a state law against dual office holding, said Assistant County Attorney **Phil Sherwin**. **Sherwin** said he will research the issue and give committee members a formal opinion next week. Griffiths said he thinks local officials should become involved to guarantee Dunlap's replacement represents local interests. "If we don't, it will be some kind of political appointment, and the water management district may have more input into who that person might be," he said.

Committee member Gene Engle said other nominees may be easy to attract, given water's importance locally. "The issue is more visible now than it was five years ago," he said. Dunlap's appointment isn't the only local seat scheduled to expire soon. Also expiring March 1 is the seat held by Steve Bissonette of Lakeland on the Alafia River Basin Board. He has served only one term. Although the Southwest Florida Water Management District Governing Board doesn't involve appointments from Polk County, the terms of two members, Jerry Rice of Dade City and Judy Whitehead of Brooksville, will expire March 1 as well. Natural Resources Director Jeff

Spence said his staff would be willing to provide information to anyone interested in applying for the Peace River Basin Board seat. Interested candidates can call 863-534-7377 for more information.

The Fort Meade Leader
June 12, 2003

Polk Hires Two New County Attorneys
Author: Staff Writer

Polk County commissioners agreed to hire two new assistant county attorneys at salaries of $54,000 each, but Commission Chm. Randy Wilkinson said the county attorney's budget is growing too fast. At the recommendation of County Atty. Joe Jarret, the commission approved starting salaries of $54,000 for two lawyers hired at the Attorney I level, the lowest rank on the newly-approved pay plan for lawyers hired by the county. Wilkinson said that the county attorney's budget has increased by 18.77 percent the highest of any department in county government.

Jarret replied that the problem is the cost of lawyers hired to represent indigent defendants, not the cost of his own staff. "We're currently skirting malpractice with the caseload we're handling," Jarret said, adding that Polk hires fewer lawyers than other counties of comparable size. Commissioners approved the contracts over Wilkinson's objection, with Commissioners Neil Combee, Charles Richardson and Don Gifford voting for them. Commissioner Jack Myers was not present for the vote. The new lawyers are **Philip N. Sherwin** and Ngozichukwu C. Acholonu.

Research Compiled by: Tammie Gardner & Lynelle Klein
Colin Baenziger & Associates

COLIN BAENZIGER & ASSOCIATES

EXECUTIVE RECRUITING

Section 7

James "Jim" D. Stokes

Port St. Lucie City Attorney Candidate Report

Section 7

TABLE OF CONTENTS

	PAGE
COVER LETTER AND RESUME	1
CANDIDATE INTRODUCTION	9
BACKGROUND CHECKS	17
CB&A REFERENCE NOTES	21
INTERNET SEARCH	33

Cover Letter and Resume

James D. Stokes
Attorney at Law

April 21, 2016

Honorable Gregory J. Oravec, Mayor
Honorable Linda Bartz, Vice Mayor
Honorable Michelle Berger, Councilmember
Honorable Shannon Martin, Councilmember
Honorable Ron Bowen, Councilmember

Attention:

Mr. Davud Collier, M.P.A.
Senior Vice President
Colin Baenziger & Associates
2055 South Atlantic Avenue, Suite 504
Daytona Beach Shores, Florida 32118

Re: Application for Appointment as City Attorney

Dear Mayor and Members of the City Council:

It is with a great deal of respect and excitement that I apply for consideration to be your next City Attorney. I have devoted my entire professional career to public service, with nearly all of the past twenty (20) years being devoted to practicing law in or for the public sector. I am absolutely confident that you will be satisfied with my level of professionalism, with my protection of the city in all legal matters, with my ethics and with my unabashed ability to provide the City Council, the City Manager, and the city's staff with the best legal advice and counsel available.

As a public sector attorney, I have been directly responsible for nearly every aspect of representing my municipal employer -- either directly or by supervising in-house attorneys or outside law firms. Even when using outside firms for specialized matters (*i.e.*, bond counsel, *etc.*), I closely monitored both the work performed and the hours billed, ensuring that the city was being treated fairly. In addition, I have personally litigated cases in both state court and federal court, both at the trial level and the appellate level. I also have significant experience before administrative agencies and tribunals.

I am Board Certified by The Florida Bar as a Specialist in two significant areas of law: **Labor & Employment Law** (since 2004) and **City, County & Local Government Law** (since 2008). Less than two-tenths of one-percent (0.2%) of Florida lawyers are certified in either of these areas of law and, to my knowledge, I am the only attorney certified in both areas. In addition, I have served as a member of the city's Risk Management Committee, I am a

THE FLORIDA BAR BOARD CERTIFIED
Board Certified Specialist | *Labor & Employment Law*
Board Certified Specialist | *City, County & Local Government Law*

frequent instructor of legal topics before local government attorneys, internal auditors and human resource professionals, as well as being certified by FDLE to teach law topics to law enforcement officers. My personal experience serving as a sworn law enforcement officer allows me to have a good rapport with the city's police officers (who often distrust even their own lawyers) and serves the city well in my role as the police legal advisor on day-to-day issues (including after-hours).

One of my strongest passions is ethics in government. I can assure you, should I be selected as your City Attorney, you will get sound legal advice that will not be influenced by political games or improper influence. While I will be as creative as possible to support the mission of the Council and the Manager – at the end of the day, I will tell you what the law says and what risks are associated with any proposed matter. I will never attempt to usurp the executive function of Manager or the policy function of the Council, nor will I ever jeopardize my professional or personal ethics.

I am absolutely confident that – given my nearly 20 years of experience representing governmental entities, my 12 years law enforcement experience, my continued advancement in function and responsibility, my certified knowledge of local government law and labor & employment law, as well as my general abilities and demeanor – I will be a successful City Attorney for the City of Port Saint Lucie.

I appreciate your spending time reviewing my submission. I genuinely hope to be given the opportunity to serve the residents, business owners and visitors of Port Saint Lucie by attending to the City's legal needs in a competent and professional manner.

Respectfully Submitted,

JAMES D. STOKES
Attorney at Law

James D. Stokes
Attorney at Law

Education:

Southwestern University School of Law (1995) | Juris Doctorate
Los Angeles, California
- American Jurisprudence Book Award *(Contracts)*
- American Jurisprudence Book Award *(Remedies)*
- Dean's Merit Award
- University Scholarship

University of Notre Dame (2014) | M.A., Theology
South Bend, Indiana

University of Redlands (1993) | B.S., Business & Management
Redlands, California

Certifications:

- Board Certified Specialist | Labor & Employment Law, Florida Bar *(2004 - present)*
- Board Certified Specialist | City, County & Local Government Law, Florida Bar *(2008 - present)*
- Certified Circuit Civil Mediator | Florida Supreme Court *(2011 - present)*
- Certified Appellate Mediator | Florida Supreme Court *(2011 - present)*
- Qualified State Court Arbitrator | Florida Supreme Court *(2012 - present)*

Appointments & Positions:

- Special Prosecutor (Code Enforcement) | Town of Grant-Valkaria *(2015 - present)*
- Special Counsel (Code Enforcement Board) | City of Palm Bay *(2015 - present)*
- Special Counsel (Planning & Zoning Board) | City of Palm Bay *(2014 - present)*
- Commercial Arbitrator | American Arbitration Association *(2014 - present)*
- Special Magistrate (Code Enforcement) | City of Indian Harbour Beach *(2014 - present)*
- Special Magistrate | Florida Public Employees Relations Commission *(2013 - present)*
- Labor Arbitrator | Federal Mediation & Conciliation Service *(2013 - present)*
- Special Magistrate (Code Enforcement) | Town of Palm Shores *(2013 - present)*
- Special Magistrate (Red Light Camera) | City of Boynton Beach *(2013 - present)*
- Labor Arbitrator | American Arbitration Association *(2012 - present)*
- Member, Arbitrator Panel | Public Risk Management of Florida *(2012 - present)*
- Special Magistrate (Employee Appeal) | Town of Melbourne Beach *(2013)*
- Member, Risk Management Committee | City of Palm Bay *(2008 - 2011)*
- Special Magistrate (Code Compliance) | Town of Golden Beach *(2003 - 2010)*
- Special Magistrate (Vehicle Impoundment) | City of Hollywood *(2002 - 2005)*
- Special Magistrate (Code Compliance) | City of Hollywood *(2002 - 2005)*
- Special Counsel for Labor Relations | City of South Miami *(2003 - 2005)*
- Special Investigative Counsel | Miami Beach Housing Authority *(2004 - 2005)*

Community Positions:

- Assistant District Legal Officer | U.S. Coast Guard Auxiliary *(2015 - present)*
- Deacon | Diocese of Orlando *(2008 - present)*
- Chaplain | Boy Scout Troop 520; Cub Scout Pack 520 *(2009 - present)*
- Board Member | Catholic Campus Ministry, Florida Tech *(2013 - present)*
- Board Member | Melbourne Central Catholic High School *(2007 - 2011)*

Legal Memberships:

The Florida Bar *(admitted to State & Federal Courts)*
State Bar of California *(admitted to State & Federal Courts)*
Florida Municipal Attorneys Association
International Municipal Lawyers Association
Saint Thomas More Society of South Florida

Instructional Experience & Speaking Engagements:

"Professional Ethics in Fraud Examination"
Florida Association of Certified Fraud Examiners
October, 2013 | Brevard County, Florida

"So They Say You Can't Do That In Mediation? The Local Government Perspective."
35th Annual Local Government Law in Florida, The Florida Bar
May, 2012 | Saint Augustine, Florida

Diversity Issues & Tolerance for the Law Enforcement Officer (8 sessions)
Winter Park Police Department
January, 2012 | Winter Park, Florida

Social Media in the Public Sector Workplace
Space Coast Public Personnel & Risk Management Association
February, 2010 | Viera, Florida

501(c)(3) Corporations in the Public Sector, A Good Tool or A Risky Business?
Annual Conference, International Municipal Lawyers Association
October, 2009 | Miami, Florida

Attendance Issues: Aren't Employees Supposed To Attend And Ask To Leave?
Annual Conference, National Public Employers Labor Relations Association
April, 2008 | Clearwater, Florida

Privileges, Exemptions and Ex Parte Communications.
33rd Annual Public Employment Labor Relations Forum, The Florida Bar
October, 2007 | Orlando, Florida

Military Leave and USERRA in the Public Sector
Space Coast Public Personnel & Risk Management Association
May, 2007 | Viera, Florida

Conducting Workplace Investigations: Weingarten, Bill of Rights, and Other Issues.
31st Annual Public Employment Labor Relations Forum, The Florida Bar
October, 2005 | Orlando, Florida

College Teaching Positions:

Adjunct Professor | Labor Law & Employee Standards (Aviation Management Program)
Florida Institute of Technology, College of Aeronautics *(2012 – present)*

Visiting Professor | Labor Relations & Employee Rights (Legal Studies Program)
University of Central Florida *(2012)*

Academy Instructor | Law Topics for Law Enforcement Officers
Broward College, Institute of Public Safety *(2003 – 2007)*

Adjunct Professor | Business Law
The Union Institute, Los Angeles *(1996 – 1998)*

Reserve Academy Instructor | Firearms, Impact Weapons & Use of Force
Cerro Coso Community College, Ridgecrest *(1986 – 1988)*

Employment History:

City of Greenacres
(2015 - present) City Attorney

Law Office of James D. Stokes
(2011 - present) Arbitrator, Mediator, Special Magistrate

Office of the City Attorney | City of Palm Bay
(2006 - 2011) City Attorney, Deputy City Attorney

Office of the City Attorney | City of West Melbourne
(2006 - 2008) Interim City Attorney

Office of the City Attorney | City of Pompano Beach
(2002 - 2006) Senior Assistant City Attorney, Chief Litigator

Muller Mintz, P.A. *(Miami, Florida)*
(1998 - 2002) Associate Attorney, Senior Associate

Franscell, Strickland, Roberts & Lawrence, P.C. *(Pasadena, California)*
(1995 - 1998) Associate/Graduate Attorney

Office of the City Attorney | City of Los Angeles
(1995) Certified Legal Intern *(full-time)*

Riverside County Sheriff's Department *(California)*
(1988 – 1992) Deputy Sheriff

China Lake Police Department *(California)*
(1984 – 1988) Police Officer, Corporal, Detective Sergeant
(1980 – 1984) Police Dispatcher

Ridgecrest Police Department *(California)*
(1982 – 1986) Reserve Police Officer

Published Cases:

- ***Barakat v. Broward County Housing Authority***, 771 So.2d 1193 (Fla. 4th DCA 2000)
  (An executive employment contract with a severance provision which does not provide an exception for terminations "for cause" renders executive entitled to full benefit of severance provision even upon a termination based upon criminal conduct).

- ***Alloca v. City of Coral Gables***, 221 F. Supp. 2d 1317 (S.D. Fla. 2002); *aff'd without op.*, 88 Fed. Appx. 380 (11th Cir. 2003)
  (University security personnel who are also Reserve Police Officers are not entitled to city employment benefits and pension, and failure to file a tort claim rendered state law claims time-barred).

- ***Frank A. Ciolli v. City of Palm Bay***, 59 So. 3d 295 (Fla. 5th DCA 2011)
  (In defense of the foreclosure of a code enforcement lien, the property owner has the right to dispute the validity of the notice by claiming that the return receipt from the post office was inaccurate or signed by a person unrelated to him).

- ***City of Palm Bay v. Wells Fargo Bank, N.A.***, 114 So.3d 924 (Fla. 2013)
  (Supreme Court decided that code enforcement liens attached to real property pursuant to an ordinance enacted by Home Rule Power cannot have super-priority over a previously recorded purchase-money mortgage).

Public Sector Entities in California for which legal services have been performed:

- City of Beverly Hills
- City of Chino
- City of Colton
- City of Fontana
- City of Los Angeles
- County of Los Angeles
- Metropolitan Transit Authority
- City of Ontario
- County of Orange
- City of Pasadena
- City of Pomona
- City of Rialto
- County of San Bernardino
- City of Santa Monica

Public Sector Entities in Florida for which legal services have been performed:

- Broward County Housing Authority
- City of Boynton Beach
- City of Cooper City
- City of Coral Gables
- Town of Davie
- City of Florida City
- Town of Golden Beach
- Town of Grant-Valkaria
- City of Greenacres
- City of Hialeah
- City of Hollywood
- City of Indian Harbour Beach
- City of Lighthouse Point
- City of Melbourne Village
- City of Miami
- City of Miami Beach
- Miami Beach Housing Authority
- City of North Miami Beach
- City of North Miami
- City of North Bay Village
- City of Palm Bay
- County of Palm Beach
- City of Palm Shores
- Village of Pinecrest
- City of Plantation
- City of Pompano Beach
- Village of Sea Ranch Lakes
- City of South Miami
- City of Surfside
- City of Sunrise
- City of West Melbourne
- Utility Board of Key West

Candidate Introduction

James D. Stokes

EDUCATION

Juris Doctorate | Southwestern University School of Law
Master of Arts (Theology) | University of Notre Dame
Bachelor of Science (Business & Management) | University of Redlands

EXPERIENCE

City Attorney | City of Greenacres	2015 - present
Attorney, Private Practice *(various local government clients)*	2011 - present
City Attorney | City of Palm Bay	2006 - 2011
Interim City Attorney | City of West Melbourne	2006 - 2007
Assistant City Attorney | City of Pompano Beach	2002 - 2006
Associate Attorney (various local government clients)	
Muller Mintz, P.A. (Miami, FL)	1997 - 2002
Associate Attorney *(various local government clients)*	
Franscell, Strickland, Roberts & Lawrence, P.C. (Pasadena, CA)	1995 - 1997
Deputy Sheriff | Riverside (CA) Sheriff's Department	1988 - 1992
Police Sergeant, Detective, Officer | China Lake (CA) Police Department	1983 - 1988
Police Dispatcher (non-sworn) | China Lake (CA) Police Department	1980 - 1983

BACKGROUND

The City of Greenacres is a community of approximately 38,000 residents located in central Palm Beach County, west of the City of Lake Worth along the Turnpike corridor. The City utilizes a Council/Manager form of government, with five City Council members each representing a single district, and a mayor elected at-large. The Mayor participates in all Council discussions, but only votes in the event of a tie.

Greenacres is comprised primarily of working class and retired residents, with many of the residential areas controlled by condo or homeowner associations. The City enjoys fairly strong commercial development along a variety of main thoroughfares, although there are few industrial areas in the City. The City is currently experiencing political adjustment as a slow shift in elected officials resulted in the termination of the City Attorney last year, followed by the termination of the City Manager in the Fall. There is a sharply divided City Council which has difficulty deciding nearly every issue. The City is a full-service local government, although a divided Council contracted out its law enforcement function to the Palm Beach County Sheriff's Department effective February 1st of this year.

I inherited the City Attorney's office last year in its current form. As City Attorney, I am fully and completely responsible for the legal affairs of the City, making myself available to the elected officers, manager and staff on a full-time basis; however, my contract only requires my presence

in City Hall two (2) days a week. Liability matters are referred to an outside law firm through the City's insurance carrier (FLoC), although we have had no such matters during my tenure. The City has historically used an outside labor attorney and I brought in the labor attorney to negotiate the impact of the Sheriff's Department merger with the PBA, while I handled the other aspects of the merger between the City and the Sheriff. We were without a manager during this time and the merger dominated most of my time. I supervise no legal or administrative staff in house. All other legal matters are handled by myself alone.

In addition to Greenacres (during the past year) and for several years prior, I focused my career on serving as a labor arbitrator, commercial arbitrator, mediator, special magistrate and hearing officer. The vast majority of the parties utilizing my services were local government entities throughout the state. In addition, I served as Board Counsel or prosecutor for local government Code Enforcement Boards or other quasi-judicial or advisory boards. Specifically, I have served as Board Counsel to the Code Enforcement Board and the Planning & Zoning Board for the City of Palm Bay, as well as serving as Code Prosecutor for the City of Grant-Valkaria. During this time, I have served as Special Magistrate for Code Enforcement for Indian Harbour Beach, Palm Shores, Palm Bay. I also serve as a Special Magistrate for the Public Employees Relations Commission (PERC), resolving collective bargaining impasse matters, and I serve as the Special Magistrate for the red light camera adjudication hearings for the City of Boynton Beach.

The City of Palm Bay was a terrific opportunity to grow and develop into a professional City Attorney. The City is approximately 110,000 residents and is primarily a bedroom community (although its commercial and industrial growth has been notable). As a charter officer I was hired by and answered to the City Council, five members all elected at-large. I supervised four (4) attorneys and a support staff of three employees. I was brought in at a time when the City was switching from a contract law-firm to an in-house legal office, and I was primarily responsible for setting-up the new office and hiring most of the staff. Throughout my tenure, I was working to slowing bring more of the legal work in-house – first bringing in the labor & employment work, followed by retaining less complex litigation matters. Complex litigation (i.e., police shootings) and financial matters (i.e., bond issues) remained with outside counsel.

The most significant aspect of Palm Bay is the fact that it is a former GDC community and throughout my tenure as City Attorney I was continually dealing with the remaining fall-out of the GDC/Atlantic Gulf bankruptcies and the infrastructure issues left for the City to address.

Another one of the most significant accomplishments during my Palm Bay tenure was dealing with the housing downturn and massive foreclosure issue the City faced. Palm Bay was at one point listed as the fasted growing residential area in the state. As the recession hit and the "housing bubble" burst, this resulted in Palm Bay facing the highest foreclosure rate in the state. Discovering that the City had an ordinance from 1997 which gave its municipal liens super-priority over other liens, including purchase-money mortgages, my office started defending every municipal lien zealously in court. While the validity of the city's ordinance was eventually struck-down, the City had secured the majority of its liens during the main years of the recession.

My years as an Assistant City Attorney in Pompano Beach gave me the skills to handled almost any municipal law issue. Pompano Beach is an urban municipality in Broward County with a population of over 120,000 residents. Its popular beachfront areas swell that number considerably with vacationing individuals or weekend beachgoers on a regular basis. My supervisor (City Attorney Gordon Linn) was an excellent supervisor and mentor who truly taught me how to be a good City Attorney.

During my time in Pompano Beach, I handled all the in-house litigation myself, while serving as Board Counsel to the Zoning Board of Appeals, the Employee Board of Appeals, and most significantly, the Pompano Beach Airpark. In this latter function, I dealt with the FAA, with FBOs (fixed base operators – businesses situated on airport property) and I had to answer more than one Part 16 complaint (an administrative proceeding in which the FAA alleges a breach in its regulations by the Airpark).

Another significant issue was a lawsuit which alleged that the City failed to put forth a citizen ballot initiative calling for a change in the Charter. The Charter amendment called for a mayor to be elected at-large. After the court required the Charter question to be put the voters, and after its successful passage, I worked with the City Attorney to formulate how this City Commission would change from five, single-member districts, to a Commission of six (6) members, all with full voting rights, still with five districts and a sixth member serving as a mayor at-large.

My prior experience involved law firm work which gave me the opportunity to work with a variety of local government entities throughout Florida and, before 1998, throughout Southern California.

GENERAL, MANAGEMENT STYLE AND EXPERIENCE

I have always been impressed with Port St. Lucie. As a resident of Brevard County, with strong ties and family still living in South Florida, my family and I travel through Port St. Lucie quite frequently. While it stands as a beautiful and well-developed community, it has always stood in contrast to Palm Bay, which is also a former GDC/Atlantic Gulf community. I have always been amazed at how much better Port St. Lucie dealt with the issues (and problems) left behind by GDC/AGC. Regardless of its beginning, however, Port St. Lucie stands as a garden-spot of the state and anyone should want to live or work here.

The most important aspect of being a City Attorney is remembering and maintaining my role in city government. The City Attorney's function is to provide legal advice and direction. The City Attorney should never get involved in the policy-making function of the Council, or the executive function of the Manager. I have seen municipal attorneys who will send back a contract, because they think it's a bad deal, or that the city could get a better price, etc. That's not my job. My job is to keep abreast of changes in the law and to analyze every function of government for its legality or its risk. Additionally, when risks are assessed, my practice is always to let the Manager and Council know this information at a preliminary stage (avoiding such discussion publically) because my primary focus is the legal protection of the City. Should Council decide to proceed

despite my advice to the contrary, I would not want a public declaration that the City Attorney believes such action to be unlawful. This would only expose the City to a poor legal position should litigation ensue.

When the City is faced with litigation (which it will be), my litigation style has always been to evaluate such claim thoroughly for the purpose of making a competent recommendation, and then defending the lawsuit with extreme zealousness. I always evaluate lawsuits for initial defects that could result in them being dismissed (many of our foreclosure successes was challenging the plaintiff-bank's standing because they were not the actual mortgage-holder). My success rate in litigation has always been high.

My management style is management-by-walking-around. I respect the individuals working for me as valued professionals that do not need me micro-managing. However, I am always available to assist and mentor as needed. Mentoring is a big aspect to my management style. I have had the benefit of terrific mentors and I try to return that by not just supervising, but mentoring those who work for me, hopefully forming them into excellent future municipal attorneys.

I work very hard to keep in contact with my elected officials, although I do not push. Different people are different – some elected officials need constant communication, where as I rarely hear from others. I always make it clear that I am available to all of them and, most importantly, when I communicate important information, I share it equally with all my elected officials. I do not "play favorites". I believe my current and former elected officials would say that I am an excellent City Attorney, always being available and always handling matters as needed in a friendly and competent manner. I believe my City Managers would say the same.

My strength lies in my experience, my skills, my friendly personality, but most importantly, my character and ethics. I hold my ethics as being one of my most important traits and I will not surrender them for anything. Part of this strength is being well-aware of my place in local government and not ever attempting to exceed my authority by getting involved in policy or management. My weakness is that I have always had a tendency toward procrastination. It is an issue of which I am well aware and I have to make a constant effort toward addressing it.

One of my greatest professional achievements was getting the City of Palm Bay through the recession and its extreme residential foreclosure crises through creative legal theories and zealous advocacy, which resulted in the City retaining hundreds-of-thousands of dollars in lien value. This, of course, is only one area of many of which I am proud. My greatest failure was how I handled the Mayor in Palm Bay when he wanted me to do things which I believed were ethically questionable. In retrospect, I could have and should have handled the matter with more finesse and avoided an untimely separation.

Through my years supervising other employees, I have had occasion to address poor performance. My practice has been to evaluate and provide as much assistance as possible in an attempt to get the employee to a place where his/her performance is acceptable. In one case, this could not be done and termination was necessary. In that case, I worked with the employee to make the

separation as painless as possible. Unfortunately, after her separation, while going through her desk, we discovered the problem was much worse than suspected, as correspondence was unanswered and hidden, etc.

During my first six months I expect to evaluate the current legal office and its employees. There is no need to fix what is not broken; however, it is important that the staff learn the nature of my management style and expectations. I would plan on meeting with every department director (with the approval of the City Manager) to ascertain what needs the various departments have and what has been working or not been working in their relationship with the legal department. I would make sure that every department director had my cell phone number and a strong understanding that they can call me anytime. Lastly, I would evaluate the relationship with risk management, the system in place for evaluating claims, and what matters are referred to outside counsel. I would want to meet those outside attorneys and evaluate what is working for the benefit of the City and what may need to be addressed.

I generally avoid interacting with the media to the extent possible. I believe that press releases, etc., belong within the purview of the Manager and his public relations personnel, and my experience has been that little is gained by an attorney making a comment to the press. I do have significant experience providing advice on how to address matters with the press, and I would make myself available to staff as desired.

In my leisure, I spend time with my family. I have a thirteen-year old son and I volunteer as an adult leader in Boy Scouts and in Sea Cadets, both of which he is involved. I am also a deacon in my church and much of my leisure time is spent on church matters or helping at my son's school (which is associated with the church).

I do not know of anything in my past that would prove embarrassing to the City of Port St. Lucie. While things in Greenacres are very polarized right now and some community activists are unhappy with particular legal opinions, I would hope that it is generally accepted that I make my legal opinions based upon the facts and the law, and my opinions are never influenced by the politics of the day.

REASON FOR WANTING TO LEAVE CURRENT OR MOST RECENT JOB?

I would not normally leave a new job after only one year; however, because Greenacres is effectively a half-time position and involves such a significant commute, I felt that a change would be in the best interest of my family and understandable to my current employer.

SIX ADJECTIVES OR PHRASES I WOULD USE TO DESCRIBE MYSELF

Competent; creative-thinker; team-player; strong character; highly-ethical; good-natured.

CURRENT / MOST RECENT SALARY

I am currently making approximately $82,000 plus generous executive benefits with the City of Greenacres. My private practice (arbitrations, etc.) is more fluid but has been increasing year-to-year. Last year was approximately $85,000, although I am exceeding that pace already this year.

Section 7

CB&A Background Checks

Background Check Summary for
JAMES "JIM" D. STOKES

Criminal Records Checks:

Nationwide Criminal Records Search	No Records Found
County	
Palm Beach County, FL	No Records Found
Brevard County, FL	Results Pending
Broward County, FL	No Records Found
Miami-Dade County, FL	No Records Found
State	
Florida	No Records Found

Civil Records Checks:

County	
Palm Beach County, FL	No Records Found
Brevard County, FL	No Records Found
Broward County, FL	No Records Found
Miami-Dade County, FL	No Records Found
Federal	
Florida	No Records Found

Motor Vehicle	
Florida	No Records Found
Credit	Mediocre
Bankruptcy	No Records Found
Education	Confirmed
Employment	Confirmed
Bar Certification/License	Member in Good Standing Bar #157163

Background Check Summary for
JAMES "JIM" D. STOKES
Personal Disclosure

Personal Disclosure Questionnaire

Name of Applicant: James D. Stokes

The following questions are designed so that we will be able to make full disclosure to our client concerning your background. Please answer them honestly. Cutting corners or misrepresenting your past will result in you being eliminated from all further searches conducted by this firm. We understand that frivolous charges are sometimes made and that charges do not mean you were guilty. We also understand that you may have been wronged and needed to seek compensation. The bottom line is that we want to be certain that our client is fully informed. If you have any questions, please contact us for clarification.

Please explain any yes answers on a separate sheet of paper.

1. Have you ever been charged or convicted of a felony?
   Yes ☐ No ☑
2. Have you ever been accused of or have been involved in a domestic violence or abuse incident?
   Yes ☐ No ☑
3. Have you ever declared bankruptcy or been an owner in a business that did so?
   Yes ☐ No ☑
4. Have you ever been the subject of a civil rights violation complaint that was investigated or resulted in a lawsuit?
   Yes ☐ No ☑
5. Have you ever been the subject of a sexual harassment complaint that was investigated or resulted in a lawsuit?
   Yes ☐ No ☑
6. Have you ever been convicted of driving while intoxicated?
   Yes ☐ No ☑
7. Have you ever sued a current or former employer?
   Yes ☐ No ☑
8. Do you have a personal My Space, Face Book or other type of Web Page?
   Yes ☑ No ☐
9. Do you have a personal Twitter Account?
   Yes ☑ No ☐
10. Is there anything else in your background that, if made public, would cause you, our client or our firm embarrassment if it came to light through the press or any other mechanism?
    Yes ☐ No ☑
11. Please provide a list of any lawsuits in which you are or have been a party either as plaintiff or defendant.
    ☑ See attached

Attested to: _____
Signature of Applicant

Please email this form via PDF DOCUMENT to Lynelle@cb-asso.com or via fax to (888) 539-6531 no later than 5:00 PM CST 05/03/16.
(Note: Please be sure to sign the form with your actual signature if you are sending Fax or PDF Document)

Background Check Summary for
JAMES "JIM" D. STOKES
Florida Bar License

THE FLORIDA BAR

ABOUT THE BAR | NEWS & EVENTS | FOR THE PUBLIC | MEMBER SERVICES | LOG IN | FIND A LAWYER

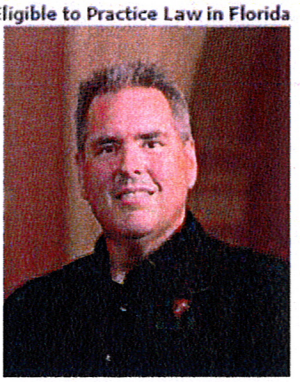
Search The Florida Bar

THE FLORIDA BAR › Find A Lawyer › Profile

James David Stokes

Member in Good Standing

Eligible to Practice Law in Florida



Bar Number:	157163
Mail Address:	100 Rialto Pl Ste 700 Melbourne, FL 32901-3071 United States Office: 321-704-0046
Email:	jstokes1627@gmail.com
Personal Bar URL:	www.floridabar.org/mybarprofile/157163
vCard:	?
County:	Brevard
Circuit:	18
Admitted:	10/26/1998
10-Year Discipline History:	None
Law School:	Southwestern University School of Law, 1995

Board Certifications:	Area	Year
	City, County and Local Government Law	2008
	Labor and Employment Law	2004

Sections:	Alternative Dispute Resolution
	City, County & Local Govt Law
	Labor and Employment Law
Practice Areas:	Administrative
	Civil Litigation
	Education
	Environmental and Land Use
	Government
	Labor and Employment
State Courts:	California
	Florida

The Find a Lawyer directory is provided as a public service. The Florida Bar maintains limited basic information about attorneys licensed to practice in the state (e.g., name, address, year of birth, gender, law schools attended, admission year). However, through this directory The Florida Bar allows individual attorneys the opportunity to provide for public information certain expanded personal and professional data. It is the attorney's responsibility to routinely review and update those expanded listings. The information contained in those expanded listings is presented by the Bar "as is" with no warranty of any kind, express or implied. The Florida Bar, its Board of Governors, employees, and agents thereof are not responsible for the accuracy of that additional data. Publication of attorneys' contact information within this listing should not be construed as their consent to receive unsolicited communications in any form. Certain unauthorized uses of this data may result in civil or criminal penalties. The Find a Lawyer directory is not a lawyer referral service.

CB&A Reference Notes

Reference Notes
James "Jim" D. Stokes

Jim Linn – Attorney, Lewis Longman & Walker, Tallahassee, FL 850-443-0086

Mr. Linn met Mr. Stokes around 2000. They worked together more recently when Mr. Stokes was the City Attorney in Palm Bay and in Greenacres.

In terms of capabilities Mr. Stokes is excellent. He is responsive to the point of wearing himself out. To work in Greenacres he commutes 150 miles each way, which is difficult for him and his family but he is always there and responsive.

When making recommendations Mr. Stokes does not vacillate. He recognizes his jurisdiction and makes the best recommendations that he can, while adapting to the political environment. The best legal advice will not always win the day from a political perspective, so he tries to construct the best legal position based on the political reality.

Mr. Linn does not sit at the table during negotiations but is very close to them. Mr. Stokes has been as successful as he can be in trying to achieve the objectives of the client, which is not always 100% possible in the labor arena. He is very effective because he earns the respect and the trust of the other side.

The elected body has not always followed Mr. Stokes advice. Sometimes the only answer is no, but he looks for alternatives to accomplish things lawfully. He is very good at seeking options.

In the matters they interface on, Mr. Stokes has been involved in constitutional law, contracts, utilities, labor and personnel matters. He was good about sharing information with those involved. He has interacted with residents in packed public meetings and did a nice job.

Mr. Stokes is a talented lawyer with a great understanding of the political process as it affects his role in local government law. Because he tries to achieve objectives in the best way possible under the law, he has not been involved in controversy. Some elected officials might have a different opinion of his job performance, but their perspective is political and not personal. Mr. Linn would hire Mr. Stokes; he is a great Attorney.

Words or phrases used to describe Jim Stokes:

- Excellent,
- Background in labor and employment law,
- Navigates polarized situations well,
- Responsive,
- Effective, and
- Good understanding of the political process.

Reference Notes
James "Jim" D. Stokes

Strengths: Background in labor and employment law, deals well with the political give and take of elected city commissions, navigates the environment well, is straight with everyone and gives all the elected officials the same information.

Weaknesses: Though rare, at times he has a tendency to over analyze a situation. He started as a management / labor lawyer and views situations from that perspective, which is not a negative to Mr. Linn.

Elizabeth Counsman – Former Deputy City Attorney, Palm Bay, FL 321-536-3038

Ms. Counsman was a law professor when Mr. Stokes hired her in 2007 as his Deputy City Attorney in Palm Bay.

Mr. Stokes is the most amazing attorney that Ms. Counsman has ever met or heard of. He can explain any legal concept to anyone and has a great understanding of current issues and how they apply to local government. He provided enough autonomy, encouragement, and guidance that the employees wanted to do more. He cared about employees and created a team atmosphere in his department. He is absolutely excellent.

Mr. Stokes was always very responsive. He solved many problems in Palm Bay. He was very good about meeting deadlines and completing work in a timely manner. His recommendations to the elected body were excellent. He taught employees to follow the law and not become caught up in the politics. Because he abided by this philosophy his decisions were always good.

When negotiating Mr. Stokes is outstanding. He quickly adjusts his style based on who is on the other side of the table. He is very genuine. He has experience in constitutional law, contracts, environmental law, land use, utilities, labor and personnel law. Ms. Counsman learned so much from him.

The elected officials in Palm Bay wanted to develop a downtown area near the waterfront property. They had a proposal where the city would work with a private developer but assume all of the risk, which violates the Florida constitution. Mr. Stokes reviewed the contract and stated that nothing was wrong with the overall project concept but the steps taken to arrive there did not fall within the purview of what a local government could do in a project with a developer. They still wanted to move forward, so he explained what was permitted and asked other cities and private developers to review the contract.

Mr. Stokes created a positive environment. He had a complete open door and listened to Ms. Counsman's ideas on projects she managed related to public works and contracts. He is very collaborative.

Mr. Stokes is very well liked and very involved in the community. From all that Ms. Counsman has seen, everyone adores Mr. Stokes because they know he is a good person. He worked very well with the staff in Palm Bay.

While Ms. Counsman cannot recall a controversial incident involving Mr. Stokes she does remember an article that referred to him as one of the only good attorneys. A municipality will never be embarrassed by hiring him. Palm Bay wanted to go in a different direction and most of the managers either resigned or were asked to leave without due cause. While some may have a different opinion of Mr. Stokes, everyone that Ms. Counsman knows speaks highly of him.

If Ms. Counsman were hiring, she would choose Mr. Stokes. He adheres to the law, not politics. He lets policy makers make decisions and does not treat others like he is the all-knowing and ever present attorney. He is a team player and can work with anyone in any department. One of the best jobs she has ever had was working with him, he is an amazing attorney.

Words or phrases used to describe Jim Stokes:

- Intelligent,
- Creative,
- Effective leader,
- Talented strategist,
- Great communicator, and
- Encyclopedia of local government law.

Strengths: Extremely knowledgeable of local government law, labor, personnel, and human resources. Knows how to structure issues. Very knowledgeable in litigation and knows how to balance political concerns. Great strategist, very empathetic with employees, great leader. Created a team atmosphere for employees.

Weaknesses: He needs to learn how to say no.

Michele Paccione – Councilmember, Palm Bay, FL 321-480-9295

Ms. Paccione has been on the Council in Palm Bay for several years. They worked together from 2008 to 2011. Mr. Stokes was very understanding and kind when she needed legal advice. He was very good at his job and very accommodating to the elected officials. She did not want to see him leave and misses working with him.

Mr. Stokes was always very responsive. When Ms. Paccione was newly elected, he frequently met with her to explain city matters, particularly those involving land use. He accomplished tasks in a timely manner. He made good recommendations to the elected body.

Negotiations were handled by Human Resources and the Union Representatives, but Mr. Stokes was an integral part of the process in outlining the legal ramifications of decisions. After meetings he met with Ms. Paccione to explain what she did not understand. Their current City Attorney learned much of what he knows from Mr. Stokes.

The elected body did not follow Mr. Stokes advice on a situation related to the charter school but Ms. Paccione cannot recall the outcome. He was not afraid to give advice or share how he felt. He was very good about finding solutions. In their interactions they dealt primarily with contracts, land use, utilities, labor, and personnel matters.

Mr. Stokes did a great job keeping others informed of what he was working on. He seemed to work well with other department heads and employees. He has experience working with the public and always interfaced well with residents in Palm Bay.

Nothing embarrassing will be found in Mr. Stokes' background. He is still serving on the code enforcement board in Palm Bay. The City Attorney serves at the pleasure of the Council and Mayor. The Mayor wanted to terminate the employment of Mr. Stokes but Ms. Paccione voted against it. She never saw any issues with his performance, but the majority of the elected officials sided with the Mayor. In addition, the City Manager was playing games and Mr. Stokes was honest in outlining the consequences of certain actions, which also may have contributed to this decision. Ms. Paccione watched Mr. Stokes and his team, they did a great job.

Ms. Paccione would absolutely hire Mr. Stokes and greatly admires him. He is very good at what he does and should be at the top of the list for any city or county attorney position.

Words or phrases used to describe Jim Stokes:

- Intelligent,
- Patient,
- Competent,
- Pleasant, and
- Knowledgeable.

Strengths: Background, knowledgeable in his field, very articulate, explained matters in simpler terms so they were understandable, hard worker.

Weaknesses: He is too nice, sometimes you have to be stronger in government.

Hal Rose – Mayor, West Melbourne, FL 321-795-2164 321-768-7518

Mayor Rose has known Mr. Stokes since 2006. Mr. Stokes was their Interim City Attorney and did many good things for West Melbourne.

Reference Notes
James "Jim" D. Stokes

Mr. Stokes deserves high marks on his reasoning and communication skills. The elected body sets policy and Mr. Stokes job is to determine how to accomplish it within the confines of the law. He is very creative and a good problem solver.

In terms of communication Mr. Stokes is very responsive and timely. His writing skills are very good. One of his strengths is meeting deadlines. He can grasp a good summary of matters and understands a situation before giving an answer. When he does not know the answer, he researches it. His background in law enforcement, city government, and as a mediator is beneficial. He knows how to handle others and is a good listener.

The recommendations Mr. Stokes gave to the elected body were definitely good. Mayor Rose cannot recall a time they did not follow his advice. During his tenure in West Melbourne he worked in constitutional law, contracts, environmental law, land use, utilities, labor and personnel matters. West Melbourne had an annexation, Mr. Stokes helped with the mitigation. He provided good direction during a dispute with a neighboring city over water contracts. One of his strengths is handling labor and personnel matters.

Mr. Stokes called each elected official individually to keep them informed. They had his cell phone number and could call him at any time. Though he did not work at City Hall because he was the Interim Attorney and had a full time position with another community, he worked well with employees. He made everyone feel as if their questions were important. He saw potential issues and took steps to minimize the impact. He did his homework and had good two-way communication with everyone.

Mayor Rose has not heard of, or read about, any incident involving Mr. Stokes that was controversial. Because he represents the law, and at times the Council does not want to adhere to the law, friction can exist. He is a man of integrity and does not succumb to the pressures of opinion. He is not a policy maker and does a good job balancing the law with the politics.

If Mayor Rose were hiring an attorney, Mr. Stokes would be in the top two. He was a candidate for the position in West Melbourne but they ended up hiring someone else. He was given top consideration because he is a good attorney.

Words or phrases used to describe Jim Stokes:

- Caring,
- Compassionate,
- Understanding,
- Creative,
- Good listener, and
- Good communicator.

Strengths: He did not try to set policy but when the conversation was going awry he offered suggestions to get them back on track.

Weaknesses: None identified.

Andrew Lannon – City Attorney, Palm Bay, FL 321-292-0450

Mr. Lannon reported to Mr. Stokes from 2008 to 2011. Mr. Stokes is a smart attorney. He is board certified in labor and employment. While he prioritized and put tasks off when he could, he always completed his work on time. He never missed a deadline in litigation.

The recommendations that Mr. Stokes gave to the elected officials were good. He is a litigator, and they are not soft spoken in general. He fights tooth and nail for his client, and is successful in litigation. He is also very skilled at negotiation.

The City Manager in Palm Bay liked to take chances, even if the action might result in a lawsuit. He was very persuasive, bright, and accomplished. The Council followed his recommendations, rather than the advice of Mr. Stokes, which resulted in many lawsuits. Mr. Stokes gave legal advice to prevent liability but once it occurred he tried to avoid litigation. If litigation was necessary, he defended the community very well.

In terms of communication, Mr. Stokes was very good about keeping others up to date. He managed the office well. He was very receptive to the public and met with residents to listen to their complaints.

Mr. Stokes was a former law enforcement officer and has held several high profile positions, all of which required an in-depth background investigation. Mr. Lannon would hire Mr. Stokes for a municipality that is in transition. He knows what he is doing.

Words or phrases used to describe Jim Stokes:

- Smart,
- Competent,
- Skilled,
- Expert in local government law, and
- Advocate.

Strengths: Very good at analysis, strategy, and litigation. Knows everything about labor, employment, and local government law.

Weaknesses: He often loses his temper, which was his downfall in Palm Bay. At a public meeting the Mayor wanted to retool the sign code, Mr. Stokes disagreed. They argued and Mr. Stokes lost his temper. His employment was terminated at the next meeting. His temper also affected his relationships with other employees.

Reference Notes
James "Jim" D. Stokes

Mitch Burnstein – Attorney, Weiss Serota Helfman Cole & Bierman, Fort Lauderdale, FL
954-763-4242

Mr. Burnstein specializes in a very narrow area of the law. They met in 2002 when Mr. Stokes asked Mr. Burnstein to help with a matter for Pompano Beach.

Mr. Stokes is a very sharp attorney. He is great to work with. He is very capable of handling matters in-house but also knows when to utilize an expert. He has a significant nucleus of knowledge and was tasked with handling employment matters and litigation in Pompano Beach.

In all of their dealings Mr. Stokes was very responsive. They primarily communicated through phone calls. Mr. Burnstein represents cities throughout Florida, Mr. Stokes is very highly regarded in southern Florida.

Mr. Stokes is very pragmatic and a solutions guy. He keeps others informed. He is board certified in two areas, which is a significant achievement.

The Palm Bay City Council wanted Mr. Stokes to take an action and he refused because of the legal ramifications. His departure was not based on his performance or capabilities. While he has ruffled some feathers, in the circles that Mr. Burnstein is involved in Mr. Stokes is highly regarded and has a great reputation. Mr. Burnstein would hire Mr. Stokes in a heartbeat, he is more qualified than most city attorneys.

Words or phrases used to describe Jim Stokes:

- Knowledgeable,
- Accommodating,
- Highly regarded,
- Great character,
- Family guy,
- Talented, and
- Board certified in two areas.

Strengths: Does not compromise morals or character, always takes the high road, very well versed in municipal law, diplomatic, builds consensus and takes direction well.

Weaknesses: He should handle more litigation because he is very talented in that regard.

Reference Notes
James "Jim" D. Stokes

Paul Ryder – Private Practice, Law Offices of Paul T. Ryder, Sunrise, FL 305-310-9347

Mr. Ryder met Mr. Stokes in 1998. They worked together regularly during Mr. Stokes tenure at Muller Mintz. Mr. Stokes has retained Mr. Ryder as outside counsel during his tenure in Pompano Beach, Palm Bay, and currently in Greenacres.

Mr. Stokes is an excellent attorney. He is very bright, methodical, and analytical. In Muller Mintz he covered a wide range of topics. They currently interact primarily on labor and employment matters. As City Attorney he has exposure to many areas of the law and has excelled in every respect.

Employment is Mr. Stokes' area of expertise and he is very responsive to the Commissioners in labor sessions. He is methodical and leans conservative when making decisions. He follows the law regardless of the politics.

Mr. Stokes wants the best outcome for his client and he does not settle for less. In private meetings with lawyers and clients he tries to find solutions. He does not take unreasonable risks but makes sure that no or yes is the right answer, and the only answer, based on the law.

Mr. Stokes keeps others informed. In public bargaining he works well with those on the other side of the table. He established good relationships with union representatives.

Mr. Stokes worked on important cases, but none of them became controversial. Mr. Ryder is not aware of anything controversial in Mr. Stokes' background. Mr. Ryder does not know anyone who has a negative opinion of Mr. Stokes.

Mr. Ryder would definitely hire Mr. Stokes. He has been a good attorney for Pompano Beach, Palm Bay, and Greenacres. He is a good family man who does a great job for his employer.

Words or phrases used to describe Jim Stokes:

- Methodical,
- Hard working,
- Definitely responsive,
- Thinks things through, and
- Self-controlled.

Strengths: Competent, excellent at labor law.

Weaknesses: He is a little conservative and prudent in making sure his client gets the right advice, but at times they might want a quicker answer. He can shoot from the hip, but he will not be pressured into giving an answer that may not be right.

Reference Notes
James "Jim" D. Stokes

Lee Feldman – Former City Manager, Palm Bay, FL 954-999-2115

Mr. Feldman met Mr. Stokes in 2006 when he was hired in Palm Bay as the Assistant City Attorney. He later became the City Attorney.

Mr. Stokes was very knowledgeable. He had an exceptional understanding of land use and employment law. He was always very responsive and he solved problems. He met deadlines and accomplished tasks in a timely manner.

The recommendations Mr. Stokes made to the elected officials were good. He negotiated from a position of strength. The elected officials in Palm Bay did not follow his advice regarding one situation which resulted in a very costly lawsuit.

Mr. Stokes finds a way to accomplish goals within the confines of the law. Years ago before the state passed a statute on red light cameras he drafted an ordinance to allow the City to move forward with the program. He also crafted a solution to give them more authority over code enforcement.

In terms of experience Mr. Stokes knows Florida constitutional law and has some experience with federal regulations. He also has experience with contracts, land use, utilities, labor, and personnel matters.

Their communications were mostly in person. Mr. Stokes always relayed pertinent information and managed the office well. He had occasion interactions with the public, Mr. Feldman was not told of any issues. He worked very well with others in the organization.

Mr. Stokes has not been involved in anything controversial on a personal or professional level. People on the other side of an issue might have a different opinion of Mr. Stokes but Mr. Feldman cannot recall anyone in particular who would disagree with this reference.

Mr. Feldman is not responsible for hiring attorneys but if he were, he would consider Mr. Stokes. He is a good municipal attorney.

Words or phrases used to describe Jim Stokes:

- Thorough,
- Thoughtful,
- Open minded,
- Solution oriented,
- Purposeful, and
- Strategic.

Strengths: Very innovative, concise, thoughtful, can structure a solution.

Weaknesses: He is very thorough which sometimes lengthened the decision making process but resulted in a better outcome.

Bill Mettrick – Councilmember, West Melbourne, FL 321-728-5609

Mr. Mettrick has known Mr. Stokes since 2006. Mr. Stokes was the attorney for Palm Bay when the attorney in West Melbourne quit. He filled in as their interim until they could hire a City Attorney. Mr. Stokes knows what he is doing in regards to City regulations and ordinances.

Mr. Stokes was always very responsive. His recommendations for West Melbourne were good. He did not lead the negotiations but he attended the meetings, prepared the documentation, and made sure the ordinances were in order. They postponed really difficult decisions until a full time attorney was hired.

Mr. Stokes tried to find solutions within the boundaries of the law. At times the answer was no because of legal restraints. During his tenure in West Melbourne he handled contracts, land use and utilities. He kept others informed and worked well with everyone.

Mr. Mettrick is not aware of anything controversial that involves Mr. Stokes. Mr. Mettrick does not know anyone who has a negative opinion of Mr. Stokes. Mr. Mettrick would hire Mr. Stokes. He is a good attorney and working with him was a positive experience.

Words or phrases used to describe Jim Stokes:

- Caring,
- Honest,
- Very devoted to his job,
- Fairness,
- Knows what he is doing, and
- Did what he was told.

Strengths: On top of things, very intelligent, knows the law.

Weaknesses: None identified.

Prepared by: Lynelle Klein
Colin Baenziger & Associates

CB&A Internet Research

Palm Beach Post, The (FL)
January 5, 2016

Magistrate will oversee code violation cases
Author: Kevin D. Thompson

Following the lead of numerous municipalities, Greenacres is planning to appoint a special magistrate to oversee code violation cases now handled in Palm Beach County court. Having a local magistrate rule on code violations ranging from a barking dog to loud music could benefit the city's police force, scheduled to be merged with the Palm Beach County Sheriff's Office on Feb. 1, City Attorney **Jim Stokes** said. "Deputies won't have to go to county court and be tied up," **Stokes** told the City Council at the Dec. 21 meeting. "The overtime would funnel to us ... things would be more streamlined ... and a number (of those violations) can be handled internally." Several cities already use a special magistrate, including Wellington and Royal Palm Beach, with meetings normally held monthly.

While Councilwoman Paula Bousquet favored appointing a magistrate, she wondered if the city would keep all the money from fines. Public Safety Director Mike Porath said Greenacres would keep a "good portion" of the money after paying the magistrate. The council unanimously supported appointing a magistrate. The issue came up at the council's Dec. 21 meeting during its discussion on drafting an open alcohol container ordinance the city believes will help curb drinking in public places. The council wrestled with the issue before, opting to step up its efforts in enforcing the county's ordinance, which prohibits the possession of open alcoholic-beverage containers in or within 500 feet of a commercial establishment parking lot.

If the city decides to draft its own ordinance, Councilwoman Judy Dugo said she would like the city to adopt the county's panhandling ordinance, as well. That ordinance prohibits anyone from soliciting money on county roads and medians. "We can mirror Wellington on panhandling," Dugo said, referring to the Village Council last month passing on first reading an ordinance that formally extended the county's legislation on panhandling to Wellington. Assistant City Manager Tom Lanahan said that would be the best course of action. "This is a particularly complicated part of law and has constitutional issues with it," Lanahan said. "It makes a lot of sense to pattern (an ordinance) after the county's."

PalmBeachPost.com
October 20, 2015

Greenacres axes city manager, names attorney interim manager
Author: Kevin Thompson

GREENACRES — In what can be seen as a coup d'etat by a band of three city council members, City Manager Wadie Atallah was fired effective immediately at Monday's meeting. "We cut the head off the serpent," Deputy Mayor Jonathan Pearce, who made the motion to replace Atallah, told The Palm Beach Post Tuesday morning. "It's time to make a change. Pearce, Lisa Rivera and Judy Dugo voted in favor of ousting Atallah, the city's manager since 2001. Council members Peter Noble and Paula Bousquet were in opposition.

Mayor Sam Ferreri doesn't vote on council matters except if there's a tie, but said he was also opposed to the change, made after a heated 30-minute discussion on why Atallah should be axed. "They had no cause to fire him other than they don't like him," Ferreri said. Ferreri also took exception to Pearce's "serpent" quote. "The serpent really has three heads," he said, referring to Pearce, Rivera and Dugo.

Earlier this year, Pearce tried to get former City Attorney Pam Terranova to step down sooner from her August retirement date by hiring an interim replacement, a move that incited some council members and many residents. The city named newly hired City Attorney **Jim Stokes** as interim city manager until a replacement is found, which Pearce said should take up to seven weeks. **Stokes**, an arbitrator, mediator, special magistrate and former police officer and deputy sheriff, said he was caught off-guard by Monday's events. "I've heard rumors of discontent, but not to the extent that action was going to be taken," he said. "It was a surprise to me."

As for why the council didn't name Assistant City Manager Tom Lanahan the new city manager, Pearce pointed to Lanahan's close ties to Atallah. "Tom is a great guy, but comes from the same mold," he said. Pearce said he took issue with the city manager's contract, which he said states the city has to pay Atallah one month for every year of service. But, instead of the year of service starting in 2001 when Atallah became city manager, Pearce said Atallah's year of service starts in 1989 when Atallah was hired as a city engineer.

Atallah's severance pay amounts to close to $380,000, Pearce said. Atallah's annual salary is about $175,000, he added. Atallah did not return a call seeking comment. Rivera also said Atallah's contract didn't sit well with her. "How many people get a perk like that?" she asked. "I give him respect, but his salary is a liability." Ferreri disagreed. "This will cost the taxpayers $400,000 plus the cost to replace him," he said. "There will be some chaos and people looking for jobs."

Pearce and Rivera also said they were concerned about low morale among city workers, particularly fire-rescue workers whose futures are up in the air after the city merged its police department with the Palm Beach County Sheriff's Office. "They don't want the fire department

to go the way our police department went," Rivera said. Dugo declined to comment. Pearce said he's heard numerous complaints from city workers on Atallah's management style and how he uses fear as a motivator. City workers, Pearce said, are often afraid to speak up over job concerns, fearing retribution.

In August 2013, Atallah denied those claims to The Palm Beach Post, saying all city workers who have a complaint can have those issues addresses through the proper channels and that each complaint is dealt with independently. "I'm not really sure where this is coming from or what it really means," Atallah said at that time.

Ferreri also questioned the timing of the firing since the city is still ironing out details with the sheriff's office over their 10-year contract. "There's a bunch of nuances that still need to be negotiated," Ferreri said. "Wadie was the only one who has any knowledge on what's going on." Estelle Friedman, a long-time resident, said she's sorry to see Atallah go. "I always respected him for his professionalism and calm demeanor," she said. "I hope the city goes in a positive direction."

PalmBeachPost.com
July 13, 2015

Former cop, deputy sheriff hired as new city attorney
Author: Kevin Thompson

GREENACRES — It's official: Greenacres has a new city attorney. By a unanimous vote at this past week's City Council meeting, the city hired **James D. Stokes**, an arbitrator, mediator, special magistrate, and former police officer and deputy sheriff. **Stokes**, a Ridgecrest, Calif., native, starts on Thursday, replacing Pam Terranova, who is retiring on Aug. 5. "Local government is my passion," said **Stokes**, who formerly served as city attorney in Palm Bay, West Melbourne and Pompano Beach. "I find that more rewarding than being in a law firm that does work for cities." Vice Mayor Jonathan Pearce said the city made the right choice.

James D. Stokes starts as Greenacres' new City Attorney on Thursday. "He's a no-nonsense guy and won't play any politics," said Pearce, who often clashed with Terranova. "He's multi-dimensional and will reduce our legal budget because we won't have to hire counsel to negotiate with unions. We can do that in-house now." The city said **Stokes** was signed to work 20 hours a week. He has a continuous contract which will be evaluated each year, the city said. In recent months, the council meetings have seen members publicly sniping at each other and audience members booing the proceedings. "I've read all the articles and know what's been going on," **Stokes** said. "Like any city, there's good stuff and there are going to be rough patches. That's to be expected. I know what I'm getting into."

One of the most contentious issues was determining if the city charter allows Mayor Sam Ferreri to vote in certain instances. Terranova has said the charter is open to interpretation, with Pearce arguing the mayor should not have a vote. **Stokes** said it's premature for him to voice an opinion on that hot-button topic. "I'll have to take a more comprehensive look at the charter," he said.

Stokes, 53, worked for the China Lake Police Department in California for four years as a police dispatcher and another four as a police officer, corporal and detective sergeant. He was also a deputy sheriff for four years for the Riverside County Sheriff's Department in California. **Stokes** has a juris doctor from Southwestern University School of Law in Los Angeles, a master's in Theology from the University of Notre Dame and a bachelor's of science in business management from the University of Redlands.

Replacing Terranova, the city's attorney for more than two decades, took a loopy turn in the spring after Pearce tried to have Terranova ousted sooner than her retirement date. Pearce claimed his attempt was business and nothing personal as he wanted to save the taxpayers' money by paying Terranova one less year in pension benefits. The council, however, didn't buy it, defeating Pearce's motion at the April 20 meeting, with only Judy Dugo and Pearce in favor.

Sun-Sentinel.com
November 8, 2010

Broward's pick for School Board attorney turns down job
Author: Rafael A. Olmeda

The Broward School Board's plan to create a new job for its outgoing attorney was stymied Monday when the lawyer picked to replace him blasted the terms of the offer and turned it down. Palm Bay City Attorney **James Stokes** bitterly objected to the idea that the board would pay Ed Marko more than $266,000 to be a mentor. It was more than **Stokes** would be making and came with fewer responsibilities. Now the board must decide whether to yet again extend the contract for Marko, who has held the job for 42 years and whose contract is up on Dec. 31. Previous contracts with Marko were extended three times.

Stokes was chosen last month from a field of 31 applicants to be the new general counsel. **Stokes** said he felt his 15 years of experience as a government lawyer, along with the resources of five in-house lawyers, would be enough to prepare him for the job without a higher-paid mentor standing over his shoulder. "It is clear to me that, based upon the employment contract being offered, the School District does not wish to embrace its new General Counsel with the dignity the position deserves," he wrote. But the board's Legal Services Committee had its hands tied. A 2008 contract extension called for the creation of general counsel emeritus position for Marko, who in 1968 began working as outside counsel and since 1996 as a school district employee.

Compensation for the emeritus position was not a part of that contract. The Legal Services Committee, consisting of Marko, Superintendent Jim Notter, Board Chairwoman Jennifer Gottlieb, board member Bob Parks and, until her suspension, board member Stephanie Kraft, voted to continue paying Marko at his current salary of more than $216,000 for the year he would serve as a mentor with the title general counsel emeritus. With benefits, the position would have cost taxpayers more than $266,000 at a time when teacher salaries have stagnated and the district has fallen short of the state's class size limits. Marko did not participate in the vote.

Broward Teachers Union President Pat Santeramo said the district's desire to spend more than $500,000 on salary and compensation for two lawyers proves the district can find the money when it considers something important. "It's not only a quarter of a million for Marko, but it's another quarter-million for **Stokes**," Santeramo said. "They have the money. It depends on their choices and their priorities. The people in the trenches are not the priority of the school system."

The salary item for Marko's new position was placed on Tuesday's consent agenda, a list of items that typically get approved without discussion unless a board member removes it. Gottlieb removed the item last Friday as a public outcry against the deal began to mount. "I felt it was in the best interest of the district to have the input of the incoming board members," Gottlieb said. Four new board members are due to take office on Nov. 16. With **Stokes'** withdrawal, the

discussion of the emeritus contract is off the table. **Stokes** said he grew increasingly bothered by the terms he was offered, which included a salary in the range of $180,000 to $216,000 and Marko's continued presence. "The fact that [Marko] was still going to be there would make it even harder for me," **Stokes** said in an interview Monday. "How do I take ownership of the office?"

But Notter justified the salary, arguing that Marko's experience and knowledge entitled him to the compensation. "It seemed the extension of his current salary for one year was within reason," Notter said. Not everyone agreed. "There are legitimate questions about whether he needs to stay on for a full year, whether he should be paid at the same rate even with fewer responsibilities, and whether a full-time adviser is really needed, considering there are attorneys on staff who can fill that role," said outgoing board member Kevin Tynan. But he also said it was better for the next board to tackle those questions and make those decisions.

Incoming board member David Thomas said he could see the wisdom of extending Marko's employment, but not for a full year. "It doesn't take a year for a new captain to learn from the old captain the ways of the ship," said Thomas, a former U.S. Navy lieutenant commander. Thomas and fellow incoming board member Nora Rupert said they were glad they would be part of deciding what happens next. "We are the ones who'll have to live with it," said Rupert. **Stokes'** blistering withdrawal letter made it obvious he felt professionally insulted by the terms being offered. "Why I am now being made to feel under-qualified for this position and why my compensation is being limited because of this supposed under-qualification remains a mystery and is downright insulting," he wrote.

Sun-Sentinel.com
October 11, 2010

Broward School Board picks new attorney
Author: Akilah Johnson

FORT LAUDERDALE — After more than 42 years on the job, Broward School Board Attorney Ed Marko is looking at his replacement. The School Board voted Monday to hire **James Stokes**, city attorney in Palm Bay, to replace Marko, who has served as general counsel since 1968. Marko prolonged his departure by more than three years. Once his regular contract expires on Dec. 31, he plans to return as the general counsel emeritus, though those details must still be negotiated. "The board thought it was time to go, but I didn't," Marko said before Monday's meeting. He makes more than $216,000 a year and supervises five in-house lawyers and about 20 outside counsel.

On Monday, the board got down to the business of interviewing his replacement, who will earn between $180,000 and $216,000 a year, as well as receive pension, health insurance and other benefits. **Stokes**, 49, was the sole candidate after the pool was whittled down from 31. The board started looking for qualified attorneys in February. Six of the 31 candidates were to be interviewed by the Legal Services Committee, which includes Superintendent James Notter, and School Board members Bob Parks and Jennifer Gottlieb.

Two candidates made it to the next round, but one was disqualified because he didn't want his current employer contacted. So, only one candidate was interviewed Monday — **Stokes**. Some were concerned about that. "It's been very difficult to get people to apply for this position," Gottlieb said. "We have not taken action and moved on this, so I don't think people are willing to apply or willing to provide us their references because they don't want to jeopardize their current position." The other concern was that **Stokes** has little background in education law. "I'm definitely strong in local government law and weak on education law," he admitted. "It's going to involve a learning curve for me to come up to speed on, but it's not impossible."

Stokes worked as a police officer in California for 11 years before graduating from University of Redlands with a bachelor's of science in business management. He continued on to Southwestern University School of Law and graduated in 1995, according to district documents. He moved to Florida in 1998, working as an assistant city attorney in Pompano Beach before moving to Palm Bay. "I stay out of policy, I stay out management," he said. "I give legal advice. If you're sticking with the law, you are on excellent ground." He applied for the job with the district because he and his wife want to return to Broward County. **Stokes** said his family visits at least once a month. He applied for the city attorney job in Hollywood in 2008 and was picked as a finalist before dropping out.

Orlando Sentinel
November 21, 2009

Palm Bay argues over code flap
Author: Florida Today

PALM BAY -- City Attorney **Jim Stokes** said officials might not have notified code violators of hearings from 2004 through spring 2008 -- a mistake at least one City Council member says should nullify hundreds of pending liens. "When I came here, I found out they weren't being done," said **Stokes**, who started his job as city attorney in March 2008. "We now send them a letter of notice." **Stokes** said a 2004 ruling in Charlotte County court said property owners must be notified of hearings so they can defend themselves. He said many Florida cities began voluntarily complying, but Palm Bay officials chose not to do that. In addition, the city was not notifying owners that a fine and lien had been placed on their property, a policy that changed in the past year.

About half a dozen people contacted Florida Today to say they never were notified of fines or liens on properties. They discovered the problem when code-enforcement officials mailed letters earlier this year to inform them they qualified for "amnesty," which would allow them to pay 10 percent to settle the lien. Code-enforcement officials insist letters were sent notifying property owners of violations and hearings. But before last year, they admit the letters did not notify the violators of fines or liens.

City Council member Kristine Isnardi has long said that the city's code enforcement department is "out of control." And she wants some help for property owners in light of **Stokes'** admission that procedures weren't followed. "We're taking the position that these are all valid until a court tells us otherwise," **Stokes** said.

Hometown News (Melbourne, FL)
October 5, 2007

New Queries over Hiring, Interview Process for City Attorney may be reviewed in West Melbourne
Author: Gretchen Sauerman

http://ufdc.ufl.edu/UF00081229/00040/1x

New queries over hiring

Interview process for city attorney may be reviewed in West Melbourne

By Gretchen Sauerman
Staff writer

WEST MELBOURNE — Upon reflection, several City Council members believe they may have inadvertently violated Florida's Sunshine Law when they hired Jim Stokes as city attorney.

While city manager David Reynal argued that no Sunshine Law violations occurred when he surveyed council members regarding the interview process, Florida Press Association general counsel Samuel Morley is not as certain.

"In AGO 89-23, the Attorney General's Office advised that a city manager should refrain from asking each commissioner to state his or her position on a specific matter which will foreseeably be considered by the commission at a public meeting in order to provide the information to members of the commission," said Mr. Morley in an e-mail.

The city had planned to interview five candidates during a special meeting Aug. 11. Four days before the meeting, city manager David Reynal canceled the interviews and scheduled acting city attorney Jim Stokes as the only candidate to be interviewed.

At the time of the meeting, council member Jan Lieson and former council member Charles Settgast expressed concerns about the meeting.

"I'm not even sure if this is a legal meeting," Mrs. Lieson said at the time. "We don't

▶ See HIRING, A4

Internet – Newspaper Archives Searches
James (Jim) Stokes
(Articles are in reverse chronological order)

Hiring

Latest In Hurricane Protection In the Comfort of our Air-Conditioned Mobile Showroom

SNOW BIRD SHUTTER EXPRESS

351-2227

Shutters • Impact Windows
Impact Doors • Hurricane Screens
Garage Doors

Buying A Home?

NO MONEY DOWN

321-2107

Thank You Brevard

CARLTON JEWELERS

12 Years of Serving You!

JOIN US
Thurs. October 18th 5:30-8:30pm
Men's Night Out!

LIVE REMOTE!
The 98.5 Beach

Enjoy Hot Wings, Beer & Wine from Beef's!

BEEF O'BRADY'S

Putt for Prizes!
Grand Prize Giveaway
TAG Heuer Link Series
Valued at $2,895

GOLF ETC

Hometown News (Melbourne, FL)
June 15, 2007

Attorney's Letter on Personal Conduct Sparks Controversy
Author: Gretchen Sauerman

http://ufdc.ufl.edu/UF00081229/00024/1x

Hostilities at issue in West Melbourne

Attorney's letter on personal conduct sparks controversy

BY GRETCHEN SAUERMAN
Staff writer

WEST MELBOURNE — Mayor Shirley Bradshaw wants newly appointed council member Charles Settgast to resign.

Her call for his ouster came after reading a letter warning Mr. Settgast to avoid making suggestive remarks to city staff.

The letter, drafted by interim city attorney James Stokes, was issued one day after Mr. Settgast's appointment to the City Council.

"In the months prior to your appointment, several female employees of the city made complaints to the city manager and myself regarding your conduct," Mr. Stokes wrote. "Specifically, they claimed that they have repeatedly been subject to comments consisting of sexual innuendos and double-entendres which make them very uncomfortable."

During Mr. Settgast's second meeting as a council member, Ms. Bradshaw asked him to step down.

"This is not acceptable behavior," said Mayor Bradshaw. "Do we need him more than we need our women in City Hall?"

To emphasize her point, Mayor Bradshaw organized a June 8 rally in front of City Hall.

"We need to show (the women who complained about Mr. Settgast) that we are in support of them," said Mayor Bradshaw. "I know what it feels like."

Kaidin Norton/staff photographer
West Melbourne Mayor Shirley Bradshaw, right, is joined by Pat Schrum, Tammi Jones and Judi Stassus during a rally to protest sexual harassment. The mayor organized the rally.

Approximately a dozen of Mayor Bradshaw's supporters attended the rally, holding signs discouraging sexual harassment.

"I think that in this day and age, we should not be dealing with this," said Carol Mathers. "You should be able to go about your job without being harassed."

None of the protesters said they filed complaints against Mr. Settgast, nor did they say they knew the alleged victims.

Council member John D'Amico opposed the idea of the rally and supported Mr. Settgast.

"To conduct a 'sexual

▶ See SETTGAST, A2

Newly appointed City Council member Charles Settgast takes the oath of office last month. Mr. Settgast has questioned the timing and motivation of a memo issued the day after his appointment, warning him to maintain a professional relationship with female city staff members.

Staff photo by Gretchen Sauerman

Internet – Newspaper Archives Searches
James (Jim) Stokes
(Articles are in reverse chronological order)

Settgast

From page A1

harassment rally' without a fair hearing for Mr. Settgast flies in the face of fairness, due process and the American way," said Mr. D'Amico in an e-mail.

He called Ms. Bradshaw "a divider who has a venomous attitude against opposing views."

"Mr. Settgast is a valuable asset to the city," said Mr. D'Amico. "I think this was politically motivated."

Council members Jim Lieson and Bill Mettrick said they were disappointed with the way the situation was handled and wanted further investigation.

"Until I know all the facts, I will not make a judgment," said Ms. Lieson. "I'm disappointed that the council was not briefed on this situation."

"My theory is someone is innocent until proven guilty," said Mr. Mettrick. "The mayor and certain individuals are playing judge, jury and executioner."

Mr. Mettrick questioned the timing of the letter from Mr. Stokes.

"This could have been addressed sooner rather than later; sooner being when it happened," said Mr. Mettrick. "Mr. Settgast was representing our city when he sat on our city boards. If it was a serious offense, he should have been reprimanded by a letter at that time."

Mr. Settgast agreed. In a letter to *Hometown News*, he expressed frustration over the letter's lack of details, including the names of the persons he offended and the specific actions that were objectionable.

"My experience in both business and government has taught me that it is better to confront problems as soon as possible and to include all those persons who might be affected," wrote Mr. Settgast.

Because he did not know which female employees complained, Mr. Settgast went to City Hall the day after he received the letter and told them he would no longer attempt humor or compliments, "since it appeared I might be incompetent at both."

Mr. Settgast lambasted city manager David Reynal for his handling of the situation.

"(Mr. Reynal) could have prevented the issue from possibly festering," said Mr. Settgast. "He assured that the matter became public record by ignoring employee concerns, avoiding discussion and paying for an attorney (to write the) letter."

Mr. Settgast believes Ms. Bradshaw's attacks are politically motivated.

"After my appointment to the council, the mayor, who supported another candidate, demonstrated publicly that she objects to my membership on the council," said Mr. Settgast.

City attorney James Stokes said no action was taken at the time of the complaints because the "complaints were minor."

"It's actually more significant now that he is a council member," said Mr. Stokes. "Elected officials live in a tough spot."

Mr. Stokes, who specializes in labor law, said the letter was drafted to protect the city from possible lawsuits.

"But I don't know if the comments would render him incapable of being a council member," said Mr. Stokes.

Mr. Stokes added that he was not consulted about Mayor Bradshaw's plans for a protest in front of the city's police station.

Council member Bill Mettrick has asked city manager David Reynal to schedule a discussion of the issue at the top of the agenda for the next regular council meeting, 7 p.m. June 19.

Contact Gretchen Sauerman at (321) 751-[illegible] or e-mail her at sauerman@hometownnewsol.com.

OVER 62 years of age?
Own your own home?
It is time to learn more about a
REVERSE MORTGAGE!
Never a consultation charge.
ONSITE CERTIFIED SPECIALIST!
Local, Full Service Family Business!
CALL TODAY!
(321) 255-5367
workmanmortgage.com

HIGH QUALITY & 3MM LAMINATE

Research Compiled by: Cara Slade
Colin Baenziger & Associates

FLORIDA TODAY
SUNDAY June 12, 2011
SPACE COAST

It's expensive to fire your attorney

Palm Bay likely to suffer without someone to say no on some issues

PALM BAY — Palm Bay taxpayers are about to learn how much it costs to fire a city attorney. What they won't hear soon from their mayor and council members: Why they fired attorney Jim Stokes in the first place.

ly take from interviews and public records?

Besides some workflow issues that were his responsibility, Stokes ultimately lost his job because he too strenuously played the role of "Mr. No" in a city that sometimes pushes the limits of ethics and fiscal responsibility.

Stokes publicly — and fatefully — called out Mayor John Mazziotti at a May 19 meeting over His Honor's backhanded efforts to help a proposed gambling arcade win a private parking dispute with the successful Long Doggers restaurant on Minton Road.

Mazziotti lost it. And a government attorney can never forget that he serves at the pleasure of his client. In Palm Bay, that's the mayor and council, not taxpayers.

"That's when it hit the fan, big time," Councilman Ken Greene said of Mazziotti's motion to fire Stokes at the next regular council meeting. "I think it was more personal than professional."

The council voted 3-2 to fire Stokes on June 2, with Mazziotti, councilwoman Christine Isnardi and councilman William Capote voting yes. Greene and Councilwoman Michelle Paccione voted no.

Matt Reed

FLORIDA TODAY

Price tag: At least $150,000. Taxpayers will cut a check to Stokes for about $83,500 in severance pay and up to $60,000 in accrued sick and vacation time, plus pay his health and retirement benefits and possibly his car allowance for the next six months.

Meanwhile, Palm Bay's tax roll just dropped 23.6 percent.

Stokes, a labor-law expert and Catholic church deacon in his spare time, was fired "without cause."

That means he committed no crimes or ethics violations, wasn't disciplined by the bar and had not committed legal malpractice, according to his contract.

It simply means at least three council members didn't like his style or thought he posed a problem on issues.

That's their prerogative. Stokes declined to comment.

But going forward, residents should remember two big-time "Nos" from Stokes on issues that could affect their pocketbooks, quality of life or votes in 2012.

At that May 19 meeting, Stokes'

See REED, 5B

Firing will cost city more than just money

REED, from 1B

all but refused the mayor's request to rewrite the city's brand-new special-events ordinance to give the mayor or city hall veto power over otherwise legal events on private property that bother other private parties.

Mazziotti wants to be able to clamp down on events such as the popular Bike Night at Long Doggers northwest of Minton and Palm Bay roads.

In March, the owners of an ar[illegible]e Mazziotti frequents pu[illegible]ased a vacant building next door to Long Doggers with plans to open a better gambling arcade, county tax records show.

But they need all of the spillover parking at an adjoining mini-mall to meet zoning codes and to open. Bikers and diners are known to fill some of those spots on busy nights.

Stokes told the mayor and council it would be wrong if not unconstitutional for city hall to rewrite its law to intervene in such a private dispute.

The owner-managers of Long Doggers — which has a $500,000-a-year payroll and pays a load of taxes — told me they were worried they were in a politician's crosshairs because of a sudden increase in visits from police and state and local inspectors.

Police records show a smattering of routine calls to Long Doggers from January through March — before the arcade backers bought the neighboring property — but no specific problems with Bike Night.

City police officers took meal breaks there 16 times during that time, records show.

But after the first week in April: no meal breaks, six police "security checks" and a parking call. The city has not yet produced public records I requested in May that could confirm reasons for that.

The last time Mazziotti went to work for an arcade-owner friend, he sicced city officials on the friend's competitor, who had to shut down her Internet cafe, lost her $40,000 investment and spent the next 18 months fighting trumped-up gambling charges that could have sent her to prison for 10 years. She got six months probation.

A $23M 'No'

What happens next with Mr. No out of the way?

My pick for Stokes' potentially most valuable "No?"

Two years ago, Stokes warned the city council and Manager Lee Feldman not to inadvertently take responsibility for $23 million in bond debt from the construction of Palm Bay's unique municipal charter school, a 2009 memo and meeting minutes show. The city had opened the Patriot Campus because it thought the school district couldn't keep up with its rapid growth.

Stokes

The debt payments were supposed to be paid by school district dollars that follow students who choose to attend a charter school.

Technically, a separate nonprofit foundation owns the school. But it names the city council and manager as its board of directors.

Stokes warned that the "corporate veil" of the shell foundation would not shield taxpayers from jilted bondholders and contractors who would surely sue to recover losses if enrollment stalled and the Patriot Campus failed financially — which appears to be happening now, a new audit shows.

But council members and managers didn't seem to agree with that "No" from Stokes and have pushed ahead with efforts to restructure and save the school.

Past proposals have included shifting responsibility for the $23 million debt to the shell foundation.

That would be irresponsible. On the school issue, Palm Bay taxpayers could use another Mr. No.

'Not a fit'

For now, all sides in Stokes' firing declined to comment publicly on the reasons for it, beyong simple statements.

Isnardi and Capote told me they feared inflaming Stokes and being sued.

Stokes told me he simply wants his check and to get on with his job search.

"He wasn't a fit," Capote said, adding, "On a personal level, I had no problems with Mr. Stokes."

"As much as I would like to explain my reasons, it's safer at this point not to," Isnardi said.

"I didn't really have a problem with Mr. Stokes or his job performance," Greene said. "This came out of the blue for me."■

Contact Reed at 321-242-3631 or mreed@floridatoday.com.

FLORIDA TODAY

COLIN BAENZIGER & ASSOCIATES

EXECUTIVE RECRUITING

Section 8

John S. Turner

Port St. Lucie City Attorney Candidate Report

Section 8

TABLE OF CONTENTS

	PAGE
COVER LETTER AND RESUME	1
CANDIDATE INTRODUCTION	5
BACKGROUND CHECKS	13
CB&A REFERENCE NOTES	17
INTERNET SEARCH	25

Cover Letter and Resume

JOHN S. TURNER, ESQ.
1937 Grace Avenue
P.O. Box 670
Fort Myers, FL 33902
floridafirm@embarqmail.com
(239) 691-0575

- Board Certified City, County, Local Government Law
- Admitted in Florida and Oklahoma

March 29, 2016

Mr. David Collier, M.P.A.
Senior Vice President
Colin Baenzinger & Associates
2055 South Atlantic Avenue
Daytona Beach Shores, FL 32118

RE: Port St. Lucie City Attorney Position

Dear Mr. Collier:

Pursuant to the posted position of City Attorney for the City of Port St. Lucie, attached to this cover letter is a copy of my resume for review and consideration by your office as consultant for the Mayor and City Council.

From a review of the required qualifications, this is a position that fits my professional experience, knowledge, and skills as outlined in the enclosed resume. It is my desire to return to working in and with local government on a full-time basis because of the unique challenges and opportunities that are presented in such a position, the high-level of professionalism exhibited by staff, and the chance to serve the community and the taxpayers in a meaningful way.

Thank you for your time and attention to this matter, and please feel free to contact me if you have any questions or need additional information.

Yours truly,

John S. Turner

cc: Colin Baenzinger
JST/hs

JOHN S. TURNER, ESQ.
P.O. Box 670
Fort Myers, FL 33902
239-691-0575
floridafirm@embarqmail.com

Senior-level trial attorney with excellent qualifications and experience in all areas of trials and appeals of civil cases in state and federal courts. Proven ability to work under pressure with attention to detail and meeting critical deadlines to provide the highest quality legal representation possible to the client and its departments and employees. Highly developed skills in analyzing/interpreting issues and problem solving. Board certified by the Florida Bar in City, County, and Local Government Law.

CAREER HIGHLIGHTS:

1. Represented local government in $24 million civil rights and inverse condemnation claims by developer in Federal court and on appeal, resulting in favorable verdict and award of attorney's fees and costs for the client.

2. Successfully defended local government in federal courts involving the following issues: Family Medical Leave Act, Title VII claims, ADEA claims, ADA claims, FAA claims, violations of First Amendment free speech, Fourteenth Amendment due process and equal protection claims, inverse condemnation and civil rights claims, Telecommunications Act claims, and abandonment proceeding before Surface Transportation Board.

3. Initiated in-house defense of Workers' Compensation claims by local government saving substantial amounts on outside counsel costs and fees.

4. Successfully represented local government in attempts to stop construction of bridge projects.

5. Defended local government in attempt to overturn adoption of County Charter.

6. Represented local government in personal injury and property damage claims under the sovereign immunity provisions of section 768.28, Fla. Stat. saving substantial amounts on outside counsel costs and fees.

7. Handled numerous eminent domain and Bert Harris claims and trials for local government projects including Department of Transportation, Utilities, Natural Resources, and County Lands.

PROFESSIONAL EXPERIENCES:

- Private practice since 2015 in the areas of civil trial and city, county, and local government law, including eminent domain, inverse condemnation, Bert Harris claims, personal injury and employment law.

- Senior Assistant and Chief of Litigation Section in the Lee County Attorney's Office, P.O. Box 398, 2115 Second Street, Fort Myers, FL, 33902, from 1991 to 2015. Responsible for trial and appeal of federal and state actions involving eminent domain, inverse condemnation, due process takings, Bert Harris claims, personal injury defense, workers' compensation defense, employment law, contract disputes, construction actions, constitutional law, civil rights claims, public records complaints, zoning, land use issues and actions, and quasi-judicial proceedings. Hired, supervised and trained attorneys, paralegals, and legal assistants.

- In addition to primary litigation responsibilities, I was required to interpret and apply state and federal statutory and case law and the County Codes to specific factual situations. Research legal issues and writes ordinances and resolutions, prepare and negotiate contracts, settlements, and other documents and assist in adjusting claims made against the County. Legal counsel was provided to County boards and commissioners, County departments, committees and manager.

- Prior to moving to Florida in 1991, I was in private law practice in Tulsa, Oklahoma, and also served as a Municipal Court Judge in Tulsa, Oklahoma.

EDUCATION:

Juris Doctorate, University of Tulsa College of Law, Tulsa, OK; B.A. in Business Administration, University of Tulsa.

DESIGNATIONS/AFFILIATIONS:

- Certified by The Florida Bar in City, County, and Local Government Law.
- AV rated by Martindale-Hubbell.
- Circuit Court Mediator.
- Oklahoma Bar Association.
- Florida Bar Association.
- Member of the U.S. Supreme Court, Eleventh Circuit Court of Appeals, United States District Court for Middle District of Florida.

Candidate Introduction

JOHN S. TURNER

EDUCATION

Bachelor of Science, Business Administration, University of Tulsa, Tulsa, OK
Juris Doctorate, University of Tulsa College of Law, Tulsa, OK
National Judicial College, University of Nevada, Reno, Special Judges Certificate

PROFESSIONAL EXPERIENCE

Private practice, Fort Myers, FL	2015-present
Lee County Attorney's Office, Fort Myers, FL	1991-2015

Prior to moving to Florida, I was in private practice in Tulsa, Oklahoma, with the firms of Rosenstein, Fist, and Ringold (associate); Martin-Turner-Zeigler (partner); and Guthery & Smith (of counsel). I was also a Judge of the Municipal Court for the City of Tulsa, a court of record (four years full-time and three years part time conducting jury and non-jury trials for criminal misdemeanor and traffic offenses).

BACKGROUND INFORMATION

My wife and I moved to Fort Myers, Florida in 1991, after accepting a position with the Lee County Attorney's Office in the trial section. My first assignment was to assemble a team to defend the County in a multi-million-dollar lawsuit brought by a land developer for inverse condemnation, civil rights violations, and regulatory takings action for the County NOT taking his property for a road improvement project. Seven different federal judges touched the case before being dismissed after four days of trial in Federal Court. Not only were we successful in defeating the claims, but we obtained a judgment for attorneys and costs against the plaintiff and his counsel in excess of $600,000.00.

Lee County in the 1990's experienced explosive growth in population and business expansion, for which it was unprepared. New and improved roads had to be built, water and sewer services had to be expanded and installed, and proposed development had to be balanced against the environment resources which are such a large and important part of living in Southwest Florida. The LCAO played a key role in providing these needed public services by directing actions to acquire property and protect the County's legal interests.

During my tenure with the LCAO I advanced to Senior Assistant County Attorney and Chief of the Trial Section. I was responsible for hiring, training and supervising the attorneys and staff, including a paralegal. There were four attorneys in the section and a total of 14 attorneys in the office divided into three sections: Trial, Land-Use, and General Services. It was the goal of the previous County Attorney to perform as much legal work in-house as possible, so long as we had qualified attorneys and the time to devote to the matter. Our section handled all the eminent

domain, inverse condemnation, Bert Harris claims, personal injury defense, workers' compensation, construction litigation, employment defense such as Title VII, ADA, ADEA, FMLA, civil rights, constitutional law claims, whistleblowers' claims, claims for sunshine law and public records violations, environmental issues, land-use and zoning claims among others.

In recent years, Lee County has faced several important legal issues:

- The major issue facing Lee County is the environmental and economic damage caused by the release of polluted fresh water from Lake Okeechobee into the Caloosahatchee River impacting beaches, the Gulf of Mexico, and the river. This is a problem our office dealt with for many years, including the filing of civil actions against the SFWMD and the Army Corps to seek injunctive relief from the devastation attributable to the water releases.
- Lee County has been a "target rich" area for developers and land speculators attempting to permit large areas of undeveloped tracts with projects that fail to obtain staff approval or are rejected by the Board of County Commissioners due to public opposition. The developers/speculators would file inverse condemnation claims, Bert Harris claims, and claims for regulatory "takings," and demand large settlements to dismiss their claims.
- Lee County has also dealt with problems involving economic development projects. It approved a grant for a start-up for $5M without properly vetting the company or its principals and without proper controls and guarantees. The money disappeared and the promised jobs never materialized. Other companies have received grants without creating new jobs and not returning the funds.

For the past year I have been in private practice in association with two other attorneys. My practice focuses on civil trials and appeals, local government law, constitutional law, and land-use issue, plus consulting with local governments on various matters. Depending on the results of this interview process, we intend on forming a formal partnership to represent the Florida Division of Administrative Services in various personal injury claims in our area.

GENERAL, MANAGEMENT STYLE AND EXPERIENCE

Over the past 25 years of working with local governments, with increasingly responsible experience in management and practice of local government law, I have developed a passion for the daily challenges and opportunities presented in this area. It is my desire to return to full-time representation of local government, particularly on a municipal level, where I feel my skill set and talents are best suited. I want to captain the ship-I don't want to be the first mate.

As an experienced attorney who has worked with some of the finest and most principled attorneys in local government law, I believe there are several important attributes that all successful city attorneys exhibit: Integrity; well-rounded knowledge of local government law with a common sense approach to solving problems; a team player who works well with elected officials and staff

to protect the legal interests of the entity; a person who gives council members all legal options relating to the matter without stating his opinion on policy issues; and possess the highest level of professionalism, ethics, and dedication.

Full-time, in-house assistant city attorneys under the supervision of the City Attorney or his/her deputy should direct the vast majority of litigation. The approach must be to win on the issues and protect the legal interests of the City and its taxpayers. Unless the council has given its direction on a principled issue important to the City's interests, there comes a point in most civil litigation where the risk of proceeding and obtaining a favorable outcome is out-weighed by the possibility of losing and the costs to be incurred. As a learned trial judge told me several years ago, "[I]n litigation, you can't afford to be right." At some point the Council must decide if settling is advisable or a "bet the business" defense should be made because the issue is so important no settlement short of dismissal is acceptable.

In a law office the size of Port St. Lucie's, leadership and management should go hand-in-hand because the city attorney is setting the direction or vision for the team and directing the people/resources according to established principles or policies. I intend on instituting a new direction and vision for the City Attorney's office to create an award winning organization utilizing a management style that practices The Golden Rule. The City Attorney, and when appropriate the Deputy City Attorney, will work closely with all individuals and strive to bring out the best in and motivate all by building relationships, taking people development seriously, and investing in the attorneys and staff as a means of developing the firm for the future. This includes providing the resources needed to effectively perform their jobs and stating clear and unambiguous performance objectives each member is expected to meet or exceed. I would also conduct regular scheduled meetings with staff and attorneys, in addition to the daily contact in the office with an open door policy to discuss legal matters and exchange information.

Open and frequent communication with elected officials is key to effective resolution of issues and avoiding surprises. For sharing information relating to changes in the law effecting city business, status of cases and administrative complaints, and other important matters, I would generally use official sources or inter-office mail. Fully aware of the public records law, any information relating to city-involved litigation would be shared only by individual briefings or telephone. Use of the "shade meeting" exception to the public meeting laws should generally be avoided. I have found the limited uses for shade meetings make them a waste of council's time and other means of communication as noted above should be utilized. I would request weekly briefings with each council member to discuss agenda items and be available to answer questions.

Most of my experiences with elected officials and management were on the county level and were positive and professionally rewarding. I would anticipate most would report my legal advice and opinions were accurate and given timely with the county's best interests in mind, in addition to being presented in a professional and impartial manner.

Among my strengths I would include:

- Strong Work Ethic/Diligent. I am definitely old school when it comes to getting the work completed ahead of schedule and with complete ownership. I have never worked "normal" office hours. The project(s) dictates the time it takes for completion, even if it means working holidays, weekends, and evenings.
- Partnering/Communication. A primary role of a good legal strategist is to partner with internal and client teams in the service of solving stated briefs tactically, creatively. and empathically. This takes communication skills (verbal, written and active listening) to define the core challenge, discover the relevant insights and related opportunities, design strategic recommendations and solutions, while keeping all stakeholders informed.
- Creativity. I strive to create innovative and effective solutions that are ethical and lawful and which would be up to the standard of excellence established by the City of Port St. Lucie. An example of such legal creativity was an eminent domain case I prosecuted against a railroad to acquire property for a public park. After depositing the money for the "quick take" and acquiring the right to proceed, the property owner never responded even though it had the legal right to the proceeds. After researching the issue, I convinced the Judge to refund the money to the County because the property owner rejected any claim to the proceeds. This freed up an additional $275,000.00 for the park project without liability to the County for fees or costs.
- Dedicated/Loyal. The highest forms of appreciation an employee can express for having the privilege of representing a local government are these virtues. These, along with passion and ability, are also necessary in order to build a customer-driven, award-winning department.
- Independent Judgment. To effectively represent local government, one has to have independent judgment and to outline all legal options available to the client. This requires problem solving skills, interpersonal skills, and research skills. The client deserves a city attorney who will search for solutions and show it "how to get to where it wants to go" which is important for an active city council such as Port St. Lucie's.

Addressing my weaknesses-one would be a lack of patience for those who don't follow directions or fail to accept responsibility for their actions. We had a person in the office that constantly failed to follow policy in dealing with the public. This led to several complaints from staff and resulted in several warnings. This person never accepted responsibility for the complaints and acted as the victim.

I have also been accused of "projecting my self-expectations." After researching this "disorder," I would say that is partially correct. At times I would project my expectation that an attorney should know how to handle a particular problem or case because that is the way it was always done. An example is handing him/her a court file and saying, "there's the courthouse and good luck." I have to step back and realize that each person is different with different skills and levels of ability. My aim should be to bring the best out of everyone and expect that each person on the team contribute per their responsibilities to make a high quality law office.

Among the most satisfying and successful achievements was the transfer of representation of the personal injury and workers' compensation cases from outside counsel into the county attorney's office. This saved hundreds of thousands of dollars each year with no reduction in success rate and an increase in client satisfaction.

A major disappointment to me was the loss of a case before the Surface Transportation Board of the U.S. Department of Transportation, in which we were seeking the abandonment of a railway spur for a road-widening project. The spur was underutilized and permission was obtained from companies that had previously used the spur for shipping but no longer needed the service. Obtaining the property from the railroad would have saved the county over $1M in additional construction costs on the project. The railroad objected and the STB agreed with its position that there might be a future unforeseen need for the spur (such as the circus coming to town) and denied our petition. I learned then that you can't fight the railroad, and in fact a condemning authority, such as the county, cannot acquire property from a railroad through eminent domain without the railroad's consent. They're called "robber barons" for a reason. This experience led me to write an unpublished article on the procedures of dealing with railroad property before the STB.

Any supervising attorney who has been doing his or her job cannot be surprised if results are sometimes disappointing. The very best litigators lose cases-that's the nature of our civil trial system. It was my position not to penalize a lawyer who fought hard and lost. We always conducted a debriefing after a trial to discuss what went right and what went wrong so we could learn and go forward. If the same mistakes happened again then additional training and direction was be in order. I am less forgiving of ethical lapses because the reputation of the attorneys' office, the City Council, and staff are paramount-serious breaches should result in immediate termination. One example of unsatisfactory work product was an attorney who wanted to transfer from the general services section to the trial section to learn how to become a "trial lawyer." Although very enthusiastic, the attorney was fearful of the courtroom and constantly missed appearances due to "illnesses." The final straw occurred when the attorney called the day before a final hearing to advise that he could not make it to the hearing, leaving the matter up to another attorney (me). You cannot have an unreliable co-worker in the office-especially a trial attorney. This resulted in the lawyer bring terminated since there was no longer a job opening in the office.

My action plan for the first six months as City Attorney would include:

- Seek direction from the City Council on its goals, objectives, and expectations of the City Attorney's office.
- Review and rebuild the City Attorney's Office, which would include: hiring a deputy city attorney; addressing changes to operating procedures and policies; analyze the strengths and skill levels of current staff and make necessary changes in duties, assignments, and responsibilities; establish proven training methods and CLE, mentoring program, and evaluation procedures; prepare a blue print for the office with the vision to help create a best-in-class city.

JOHN S. TURNER

- Update legal options for City Council concerning VGTI, Torrey Pines, Digital Domain, Cross Town Parkway, City Center, rehab housing, water quality issues, and other subject matters as directed by Council.
- Establish professional working relationship with City Manager and staff through meetings, workshops, and compliance with City's strategic plan.
- Review the necessity for outside counsel in existing matters and invoices.
- Prepare office budget for 2016-17.

It has been my experience that in most cases the City Attorney's Office should defer media contact to the city's Public Information Officer. There may be exceptions to matters needing comment in a specific legal context, but the comments should come from the City Attorney not from assistants or staff.

Any leisure time is spent reading, writing, and studying. When I get out of the office I tend to my flora and orchids, hit the gym, or go to the golf course to take out my frustrations.

In conclusion, I'm not aware of any "dirt" or embarrassing information that might surface if I'm selected City Attorney.

REASONS FOR LEAVING

As indicated above, I have a passion for local government work. No two days are the same, with each day presenting new challenges and opportunities. This is exciting to me and to have a chance to practice in Port St. Lucie makes it even more special and rewarding. My wife and I have deep roots in Fort Myers, having lived here for over 25 years. However, we both agree that the possibility of moving to and working in Port St. Lucie would be a great opportunity that we should not forgo.

SIX SELF-CONGRATULATORY ADJECTIVES

- Sedulous
- Ethical
- Competent
- Analytical
- Confident
- Sense of humor

JOHN S. TURNER

MOST RECENT SALARY

Final yearly salary from Lee County was approximately $149,850.00.

CB&A Background Checks

Background Check Summary for
JOHN S. TURNER

Criminal Records Checks:

Nationwide Criminal Records Search	No Record Found
County	
Lee County, FL	No Record Found
Federal	
Florida	No Record Found

Civil Records Checks:

County	
Lee County, FL	No Record Found
Federal	
Florida	No Record Found

Motor Vehicle	
Florida	No Record Found
Credit	Excellent
Bankruptcy	No Record Found
Education	Confirmed
Employment	Confirmed
Bar Certification/License	Member in Good Standing Bar #869570

Background Check Summary for
JOHN S. TURNER
Personal Disclosure

Personal Disclosure Questionnaire

Name of Applicant: ___John S. Turner_____

The following questions are designed so that we will be able to make full disclosure to our client concerning your background. Please answer them honestly. Cutting corners or misrepresenting your past will result in you being eliminated from all further searches conducted by this firm. We understand that frivolous charges are sometimes made and that charges do not mean you were guilty. We also understand that you may have been wronged and needed to seek compensation. The bottom line is that we want to be certain that our client is fully informed. If you have any questions, please contact us for clarification.

Please explain any yes answers on a separate sheet of paper.

1. Have you ever been charged or convicted of a felony?
   Yes [] No X
2. Have you ever been accused of or have been involved in a domestic violence or abuse incident?
   Yes [] No X
3. Have you ever declared bankruptcy or been an owner in a business that did so?
   Yes [] No X
4. Have you ever been the subject of a civil rights violation complaint that was investigated or resulted in a lawsuit?
   Yes [] No X
5. Have you ever been the subject of a sexual harassment complaint that was investigated or resulted in a lawsuit?
   Yes [] No X
6. Have you ever been convicted of driving while intoxicated?
   Yes [] No X
7. Have you ever sued a current or former employer?
   Yes [] No X
8. Do you have a personal My Space, Face Book or other type of Web Page?
   Yes [] No X
9. Do you have a personal Twitter Account?
   Yes [] No X
10. Is there anything else in your background that, if made public, would cause you, our client or our firm embarrassment if it came to light through the press or any other mechanism?
    Yes [] No X
11. Please provide a list of any lawsuits in which you are or have been a party either as plaintiff or defendant.

Attested to: _____
Signature of Applicant

Please email this form via PDF DOCUMENT to [redacted] or via fax to (888) 539-6531 no later than 5:00 PM CST 05/03/16.
(Note: Please be sure to sign the form with your actual signature if you are sending Fax or PDF Document)

Property of Colin Baenziger & Associates

Background Check Summary for
JOHN S. TURNER
Florida Bar License

THE FLORIDA BAR

ABOUT THE BAR | NEWS & EVENTS | FOR THE PUBLIC | MEMBER SERVICES | LOG IN | FIND A LAWYER

Search The Florida Bar

THE FLORIDA BAR / Find A Lawyer / Profile

John Stanley Turner

Member in Good Standing

Eligible to Practice Law in Florida

Bar Number:	869570
Mail Address:	PO Box 670 Fort Myers, FL 33902-0670 United States Office: 239-337-2345 Cell: 239-691-0575
Email:	floridafirm@embarqmail.com
Personal Bar URL:	www.floridabar.org/mybarprofile/869570
vCard:	?
County:	Lee
Circuit:	20
Admitted:	11/26/1990
10-Year Discipline History:	None
Law School:	University of Tulsa College of Law

Board Certifications:	Area	Year
	City, County and Local Government Law	1997

The Find a Lawyer directory is provided as a public service. The Florida Bar maintains limited basic information about attorneys licensed to practice in the state (e.g., name, address, year of birth, gender, law schools attended, admission year). However, through this directory The Florida Bar allows individual attorneys the opportunity to provide for public information certain expanded personal and professional data. It is the attorney's responsibility to routinely review and update those expanded listings. The information contained in those expanded listings is presented by the Bar "as is" with no warranty of any kind, express or implied. The Florida Bar, its Board of Governors, employees, and agents thereof are not responsible for the accuracy of that additional data. Publication of attorneys' contact information within this listing should not be construed as their consent to receive unsolicited communications in any form. Certain unauthorized uses of this data may result in civil or criminal penalties. The Find a Lawyer directory is not a lawyer referral service.

CB&A Reference Notes

Reference Notes
John Turner

Mike Figueroa – Risk Manager, Lee County, FL 239-533-2221

Mr. Figueroa first met Mr. Turner in 2004. They worked together on various legal issues until Mr. Turner left in 2015. They have had no further contact since then.

Mr. Figueroa and Mr. Turner interacted on a daily basis during the time they were both employed at the County. Mr. Turner was the attorney of record for all of the personal injury and worker's compensation cases. He was a fountain of knowledge in regards to legal issues, however, if he did not know an answer off the top of his head he researched it and quickly followed up. He ensured to take his time and go over all aspects of an issue to ensure the best outcome for the County.

Mr. Turner was always responsive and operated with an open door policy. He gave sound legal advice, however, when working with Mr. Figueroa they both came to the mediation table with input on how to proceed in regards to each case. Even though they did not always agree on issues, Mr. Turner made decisions based on the best interest of the County ensuring that he represented his client well.

Mr. Figueroa is aware of several circumstances where the elected body did not follow Mr. Turner's legal advice and went in a different direction. Unfortunately, he is unaware of the outcomes as most of those issues were discussed during board meetings where he was not present.

Mr. Turner was good at keeping Mr. Figueroa informed of what was happening in regards to their mutual cases. He was excellent at finding solutions for problems and had a good command of many areas of the law including; contracts, land use, and labor and personnel issues.

Mr. Figueroa is not aware of Mr. Turner being involved in anything controversial that was not part of his job description as a County Attorney. He knows of nothing in his background that would be construed as embarrassing if the press were to investigate. He is uncertain why he left the County, but suspects he was a casualty of the new Administration. He would absolutely hire him as a City or County Attorney because of his wealth of knowledge and experience. It was a pleasure working with him.

Words or phrases used to describe John Turner:

- Interesting,
- Knowledgeable,
- Confident, and
- Pleasure to work with.

Strengths: Extremely knowledgeable in several aspects of the law and operates with the best interest of his client in mind.

Weaknesses: None identified.

Reference Notes
John Turner

John J. Renner – Chief of Trial Section, Lee County Attorney's Office, Lee County, FL
239-560-3915

Mr. Renner first met Mr. Turner in 1991. He became Mr. Turner's direct supervisor in the mid to late 1990's until 2010. They have seen each other on occasion since that time, but have had no real further contact.

Mr. Turner is a capable attorney. He was much easier to deal with than some of the other attorneys in the County. Mr. Renner was confident sharing the heavy lifting with Mr. Turner and could delegate his workload to him without second chairing it. He has a good command of the law, but because it is always evolving he does his research and keeps up with current information on his given subject matter.

In their work with the County Commissioners, Mr. Renner and Mr. Turner worked closely with the Board and made the best recommendations that they could. It was their job to make the recommendations so that the Commissioners could make their decisions based on their advice. Mr. Turner did a fine job of walking that tightrope and navigated the political waters well. Mr. Renner cannot recall the elected officials ever rejecting Mr. Turner's recommendations.

Mr. Renner eventually handed over all of the liability cases to Mr. Turner where he worked closely with the Risk Manager to negotiate on behalf of the County. He did a fine job negotiating each case and always tried to resolve each one based on a cost benefit analysis. He did not want to bankrupt the County just to prove that they were right and always had the best interest of the client at the forefront of his process.

Mr. Turner has experience in many aspects of municipal law. He is knowledgeable in constitutional law, contracts, environmental law, land use, and labor and personnel matters. He has fantastic trial skills and works well independently. Mr. Renner did not have to do much supervising or hand holding when it came to Mr. Turner. Additionally, he was good at keeping Mr. Renner informed of what was happening in his area of responsibility through weekly meetings and daily information sharing.

Mr. Renner is not aware of Mr. Turner having been involved in anything controversial nor does he have any knowledge of any embarrassing item in his background. He has the skill set, experience, and knowledge to handle a City Attorney position.

Words or phrases used to describe John Turner:

- Bright,
- Works independently,
- Somewhat reserved, and
- Familiar with the rules and can be aggressive without being brash.

Reference Notes
John Turner

Strengths: Extremely capable attorney who is easy to work with and works well independently.

Weaknesses: Because Mr. Turner did like to work independently he did not work well as a co-chair on cases. On a case for which he is given full responsibility, he prefers to have full discretion of the decisions.

Donna Marie Collins – Chief Hearing Examiner, Lee County, FL 239-533-8100

Ms. Collins first met Mr. Turner in 1991. She was an Assistant County Attorney and they both became Chief Litigators during the time they worked together in Lee County. She left that office in 2013 but continued to have contact with him and his staff in relation to her current position. Since Mr. Turner left Lee County in 2015 they have had some occasional contact.

Mr. Turner is a highly skilled litigator. In his role at the County he worked on all matters with litigation that local government faces. He has much experience in many areas of law including contracts, environmental law, land use, and labor and personnel matters. In closed meetings with the Board he gave the elected officials sound advice. She did not always agree with him, but the intended outcome was always reached. The only instances where the elected body did not follow his advice is when the Commissioners did not want to settle a matter right away, but wanted to keep it going a little longer.

Mr. Turner is the type of attorney who looks for solutions. He was on the end of the law where all of the issues were already escalated, therefore he was constantly searching for solutions to resolve them. He offered input on a very high level of workings in that office while he was there.

Working with the elected officials was something Mr. Turner did well. He was keenly aware of what was involved in regards to certain decisions regarding litigation. He prepared them as witnesses if necessary and helped them to navigate through litigation issues.

Ms. Collins is not aware of Mr. Turner being involved in anything controversial since she has known him. She is not privy to any information in his past that would be considered embarrassing. She would certainly consider him as a candidate for a City or County Attorney position because of his intelligence and experience.

Words or phrases used to describe John Turner:

- Intelligent,
- Reliable,
- Humorous,
- Can become cranky at times, and
- Focused.

Strengths: Highly intelligent and experienced litigation attorney who works well with his elected officials.

Weaknesses: At times his personal style can be a little rigid.

Cecil Pendergrass – Commissioner, Lee County, FL 239-533-2227

Mr. Pendergrass grew up in the Lee County area and has known Mr. Turner since about 1991. However, he did not truly work with him until he was elected to the Board in 2012. He has had some occasional contact with Mr. Turner since he left in 2015.

Mr. Pendergrass was happy with Mr. Turner's performance as an attorney. He was professional, proficient, and managed his time well. They worked together on a few cases and Mr. Pendergrass was always confident in his recommendations. He made substantial decisions and recommendations weighted with good merit.

Mr. Turner was solution oriented, but was also clear about what was allowed by the law. He did well to find a fair balance between those two items. Although Mr. Turner was a knowledgeable and experienced attorney, Mr. Pendergrass only worked with him on land use issues and can only speak to his experience in that area.

In regards to communication, Mr. Turner kept Mr. Pendergrass in the loop regarding those issues in which they were involved. He sent him emails or spoke with him during scheduled meetings. He had a calm demeanor and an easy going communication style. Mr. Pendergrass always felt comfortable speaking with him.

Mr. Pendergrass is not aware of Mr. Turner being involved in anything controversial. He does not know of anything in his background that would be thought to be unflattering if the press were to investigate. He was surprised at Mr. Turner's departure, but a new County Attorney had come on board and the elected officials are not involved with those personnel aspects because of their County charter. He would definitely be in Mr. Pendergrass' top three picks if he were hiring a City or County Attorney.

Words or phrases used to describe John Turner:

- Calm demeanor,
- Informative,
- Knowledgeable about the issues, and
- Good communication skills.

Strengths: Proficient attorney who has excellent communication skills and is knowledgeable about the law.

Weaknesses: None identified.

Reference Notes
John Turner

John Manning – Commissioner, Lee County, FL 239-533-2224

Mr. Manning first met Mr. Turner in 1991. He was on the Commission until 2001 and then left. He then returned in 2010 and worked somewhat with Mr. Turner from that time until Mr. Turner left in 2015. They have had no further contact.

Although Mr. Manning did not work with Mr. Turner much he knows that he was a diligent worker. He spoke with him on occasion and was always given sound legal advice. He is the type of attorney to work through the issues and not just say that the law does not allow something to happen.

When Mr. Turner did interact with the elected officials he did so professionally and gave them a clear interpretation of the law. He was experienced and knowledgeable and knew the answers when the Commissioners asked about legal matters.

Mr. Manning is not aware of Mr. Turner being involved in anything controversial. He does not know of any item in his past history that would be construed as embarrassing if the press were to investigate. The only reason he can think of as to why he was let go is because the new County Attorney is moving in a different direction. He would be a good City or County Attorney for a small municipality.

Words or phrases used to describe John Turner:

- Diligent,
- Hard working,
- Gives good legal advice, and
- Knowledgeable of the law.

Strengths: Diligent professional who knows the law and gives sound legal advice.

Weaknesses: None identified.

Frank Mann – Commissioner, Lee County, FL 239-533-2225

Mr. Mann knew of Mr. Turner before joining the Commission in 2006, however, he did not really get to know him and work with him until that time. He has run into him in town a few times since he left in 2015.

Mr. Mann has always had a good opinion of Mr. Turner. He knows him through his fairly successful litigation practices with the County. He seemed to have picked up on the culture of the County fairly quickly and performed quite well.

Reference Notes
John Turner

Mr. Turner was the expert and Mr. Mann always felt that he was given good recommendations. He does not recall the Council ever not taking his advice and going in a different direction. He was always inclined to take his advice and had no regrets in doing that.

Although Mr. Turner was one to find solutions to issues, he did strike a balance between solutions and upholding the restrictions of the law. He was very good at keeping Mr. Mann informed and up to speed in regards to issues for which he was responsible.

Mr. Mann is not aware of Mr. Turner being involved in anything controversial since he has known him. He does not have any information about his past history that would be considered embarrassing if the press were to go digging. He would certainly make the short list if he were looking to hire a City Attorney.

Words or phrases used to describe John Turner:

- Competent,
- Balanced,
- Good communicator, and
- Gives sound legal advice.

Strengths: Successful litigator who gives good legal advice to his elected body and ensures to keep them well informed.

Weaknesses: None identified.

Prepared by: Heather Linares
Colin Baenziger & Associates

Section 8

CB&A Internet Research

News-press.com (http://www.news-press.com/story/money/2015/07/04/business-briefs-dys-acquiring-mattos-marine/29705343/)
July 4, 2015

John Turner joins Fort Myers law firm

The Law Office of Kevin F. Jursinski & Associates announced the addition of its newest associate attorney, **John S. Turner**.

Turner specializes in the practice area of civil trial law. He is board certified in city, county and government law with special emphasis in business, real estate and construction litigation.

He was previously the senior assistant county attorney for Lee County. For more than 20 years, he represented and defended the county in cases involving real estate and business related legal matters.

News-press.com (http://www.news-press.com/story/news/2015/03/07/purge-county-attorneys-office-lee/24557759/)
March 7, 2015

Two fired at county attorney's office in Lee County
Author: Heather Wysocki

Lee County Attorney Richard Wesch's office is down three attorneys but up two new ones in a recent internal shakeup. On Feb. 20, Assistant County Attorneys **John Turner**, Jack Peterson and Dawn Perry-Lehnert were "no longer employees of Lee County," Wesch stated in a memo to county commissioners. Perry-Lehnert, a 21-year employee of the office, retired. But **Turner**, a 23-year veteran who served in some supervisory capacities as chief assistant county attorney, and Peterwson, a 25-year employee, were terminated, county spokeswoman Betsy Clayton said in an email.

Wesch released a brief statement on the terminations, thanking the employees and stating only that his office "has an ongoing commitment to analyzing efficiencies in furtherance of its commitment to continuous quality improvement." Both **Turner** and Peterson's annual employee evaluations from the past five years show an overall level of work that was deemed at the very least average, and often well above that. But each had specific marks on their records as well, according to those documents.

Turner is described in the reviews as an "extremely skilled trial attorney" but as "inconsistent" in terms of how he treats attorneys under him. He "tolerates low performance in some employees yet (is) rigid in expectations of others which creates tension in the Section," Deputy County Attorney Andrea Fraserwrote in a 2012 review.

The biggest black mark on Peterson's file in the last five years was that he was "not prepared" for a trial "and it showed in the verdict," which **Turner**, his supervisor at the time, wrote in a 2012 evaluation. In that case, county commissioners eventually approved a $2 million settlement, according to county documents. Peterson disagreed with **Turner**'s assessment

Wesch's office has already filled in the gaps left by two of the former attorneys with two new hires. Corris McIntosh, formerly of Buchanan Ingersoll Rooney/Fowler White Boggs, and Mark Trank, who ran his own practice, started as assistant county attorneys Thursday, according to a Tuesday memo from Wesch.

The Pine Island News (http://pineislandnews.com/Pine_Island_News_Blog/content/lee-county-commissioners-discuss-ceitus-controversy)
February 16, 2013

Lee County Commissioners Discuss the Ceitus Controversy
Author: Phil Buchanan

John Turner, Assistant Lee County Attorney, today as scheduled, provided the Lee Commissioners a briefing on the Ceitus mediation and litigation. Neither the public nor any experts on the subject were allowed to speak, and only the commissioners were allowed to respond. He said what started off as a boat lift or sheet flow issue has, per his consultant Kevin Erwin, become a broader issue and they need to develop a strategy for the entire area, which he described as 15 to 16 miles of shoreline. He said as regards pre-trial mediation, which is scheduled for 6 March, they have three options: (1) go to mediation and present our data, or (2) delay mediation and gather more data, or (3) end mediation. He asked for BOCC guidance.

Commissioner Tammy Hall said the Natural Resources Director (Roland Ottolini) should be in charge of this issue and not the County's Attorney's Office. [Note: Ottolini lives only a block or two behind the Barrier and in fact was one of the Cape Coral people that arranged for the Barrier to be removed—he was excluded from the mediation/litigation because he has a direct conflict of interest.] Hall said the $1.5 million set aside for the barrier reconstruction should be used for more worthwhile environmental projects. She said the "citizens committee spent two years coming up with a list of projects that would be better than rebuilding the Barrier." [Note: That statement is incorrect. Cape Coral presented that group a list of city projects that they preferred the money (including County money) be spent on; but the group, which is known as the Environmental Management Agreement, voted 14 to 4 to reject that list based on a finding that restoration of the Barrier would provide greater environmental benefits. The EMA vote was and still is legally binding.] Hall noted that the consultants have spent $300,000 of the $500,000 set aside for the litigation and have accomplished nothing—she claimed that eventual costs of the litigation could be $1.5 million. Hall also claimed the BOCC had not approved Commissioner Manning as the BOCC representative to the pre-trial mediation. She said the matter should be turned over to Ottolini, who should start doing other projects.

Commissioner John Manning said we should go to mediation, which is a precondition to litigation, and then revisit the issue. Commissioner Frank Mann said he was frustrated. He noted they had previously voted unanimously to continue the fight, but there was no progress—"only talking and no listening." He said he "accepted at face value the word of the Cape representatives" that (1) "tidal increase changes science" and (2) that "no evidence of damage has been presented—where are the dead mullet, where are the dead sea grasses?" [Note: We have presented dozens of photographs of dead marine life including tunicates, sponges, oysters, and sea grasses as well as sea grass beds and oyster beds smothered in siltation, plus dozens of photographs of horrendous algae blooms. We even presented to the EMA sample bodies of the

dead marine life (not including mullet and other fish, which in adult form are generally unaffected by the excess fresh water). Second note: Sea level rise has been about 4 inches since the North Spreader was built, but it takes 16 inches of spreader canal rise provided by the Ceitus Barrier to regain historical flows into the wetlands—that's real science and it does not change.] Mann said we should give the Cape one last chance to agree, and that we should ask the DEP for their view.

Commissioner Larry Kiker demanded to know who is in charge of this issue, and said having "lawyers running business" is bad. He insisted that "Ottolini be involved." He also said he prefers that Ceitus funds be reallocated. Commissioner Cecil Pendergrass said he personally wanted to know why the Ceitus permit was denied by DEP. He also said the big issue is water quality. **Turner** said a formal motion was unnecessary and that he had the guidance he needed. He said they would proceed with the 6 March mediation proceeding and that Ottolini would be involved. He also said they would check with DEP and the Corps of Engineers.

My personal comment: The loss of environmental expert Ray Judah and his leadership from the Board of County Commissioners has changed the BOCC from a dependable protector of the environment (with consistent 5 to 0 votes on Ceitus and many other environmental matters) to what you see in the above discussion.

Nbc-2.com (http://www.nbc-2.com/story/16697154/boat-lift-has-country-threatening-to-sue-cape-coral)
February 7, 2012

Boat lift has county threatening to sue Cape Coral
Author: Alex Boyer

LEE COUNTY - The City of Cape Coral could be headed to court. Lee County is threatening to sue the city if the city council refuses to reinstall the controversial Ceitus Boat lift. A contentious meeting Tuesday ended with no deal in sight. "Why are we hear today? Because the law requires it. We're not here to share information," said Cape Coral Finance Director Victoria Bateman.

On one side of the table were Cape Coral city leaders - including the interim city manager and finance director. On the other side was Assistant Lee County Attorney **John Turner**, who was only interested in having one question answered. "What we need to know is what the city wants to do as far as the boatlift is concerned," he asked Tuesday. He was referring to the controversial Ceitus Boat Lift, which the county wants to see reinstalled in north spreader canal system.

The city refuses to reinstall the barrier - opting for a water quality improvement plan that doesn't include the barrier. "That's exactly what we want to do by unanimous consent of council," said Cape Coral Civil Engineer Oliver Clarke. But that's not what the county wants. "Frankly, that plan has been reviewed and, as determined by the county commissioners, does not solve the problem," **Turner** said.

According to **Turner**, the "lack of barrier" is depriving the large areas of mangroves west of the north spreader canal from seasonal flushing required to support the ecosystem and estuaries. So the county's only offer to the city is reinstall the Ceitus Boat Lift, or they will be taken to court. "It appeared Mr. **Turner** was under the direction of his client to come here and say, 'We'll see you later,'" said interim Cape Coral City manager Steve Pohlman. We tried talking to **Turner** after the meeting, but he wasn't interested in speaking to the media. The next step will be for the Cape Coral City Council and the Lee County Commissioners to meet. That meeting date has not been set.

Bonita Daily News (Bonita Springs, FL)
August 12, 2006

Lee, disabled citizens group settle suit
Author: Kristen Zambo

Lee County and a disabled citizens advocacy group have settled a year-old federal lawsuit accusing the county of discriminating against the physically impaired at more than a dozen parks. Disabled residents Dana Lamb and Tony Lucibello and Access Now Inc. filed suit against the county in U.S. District Court in Fort Myers in May 2005. They said in the discrimination suit that a Bonita Springs site and 13 Lee County parks violated the Americans with Disabilities Act. Court records show the two sides have settled the lawsuit, but terms of the agreement were not disclosed.

A message was left Friday for Stephan Nitz, the attorney for Lamb, Lucibello and Access Now, but he was unavailable for comment. Lamb and Lucibello could not be reached for comment on the settlement. A message was left Friday for **John Turner**, a county attorney, but he was unavailable for comment.

The suit named the Bonita Springs Community Hall, 27381 Old 41 Road, as one of the parks that did not make adequate provisions for those with disabilities. It was unclear, though, if the suit instead meant to name the Bonita Springs Recreation Center at 26740 Pine Ave. The recreation center has tennis courts, a swimming pool, picnic tables, playing fields, recreational center and a playground, some of the amenities that could not easily be accessed by wheelchair-bound visitors. None of those amenities are available at Community Hall. The city was not named as a defendant in the lawsuit.

Other sites listed in the lawsuit were Alva Community Park/Center, Boca Grande Community Park, Pine Island Park, Hancock Community Park, Lehigh Acres Community Park, Veteran's Community Park, Bay Oaks Community Park/Recreation Center, Brooks Community Park, Harlem Heights Community Park, Judd Community Park, Milton Burke Community Park, Matlacha Community Park, and North Fort Myers Community Park.

Naples Daily News (FL)
November 23, 2005

Lee County ready to sue over Corps' Lake O releases
Author: KATE SPINNER

If Lee County sues the U.S. Army Corps of Engineers and the South Florida Water Management District over Lake Okeechobee releases, it won't be the first time. County attorneys advised commissioners Friday that if they bring suit, they will be fighting an uphill battle. But attorneys said the county will at least have lessons from the past to draw upon. County commissioners met after their regular session Tuesday to discuss putting a stop to the Army Corps' practice of sending high levels of polluted water from Lake Okeechobee down the Caloosahatchee River.

To prevent flooding, the Army Corps releases lake water into the river when stormwaters fill the lake beyond its capacity. Local leaders, environmentalists and residents say the lake water is ruining the river, its estuaries and business interests that depend on a healthy environment. In hopes of pressuring the South Florida Water Management District (SFWMD) and the Army Corps into finding an alternative to releasing water west, commissioners and leaders in Sanibel, Fort Myers Beach, Bonita Springs and Cape Coral have been considering legal action. "The time for politeness is gone and we need to just cut to the chase on this," Sanibel City Councilman Steve Brown said. Almost directly opposite from the mouth of the Caloosahatchee River, water quality around Sanibel Island and in San Carlos Bay has been particularly damaged from the lake releases.

Commissioner Ray Judah said that instead of exploring all the options available to them, the Army Corps and the district have been destroying the Caloosahatchee River and its estuaries by sending lake waters west. He said the district has not made a strong enough effort to find farmers south of the lake who are willing to be compensated for storing water on their fields. Chip Merriam, deputy executive director of water resources for SFWMD, said Judah's suggestion could cause damage to unwilling property owners. "The problem is you don't have the ability to surgically place water in that system," Merriam said.

Judah disagreed, saying the fields are in cells that are routinely flooded to rid the fields of pests without affecting adjacent fields. Commissioner John Albion agreed the district had not explored its options thoroughly, but he said it is not up to the county to decide where water should be stored. Albion, Judah and Hall agreed the county should urge the district and the corps to invoke emergency measures to send water anywhere but the Caloosahatchee River or the St. Lucie River to the east. Merriam warned that quick fixes don't solve long-term problems. "Should we delay a permanent fix for the short-term benefit to the estuaries?" Merriam asked. He said moving water to the farm fields will not provide a meaningful remedy to the problem.

Almost five years ago, when the Army Corps and the SFWMD adopted the shared adversity plan, which called for sending lake overflows to the east and west estuaries, Lee County filed suit in circuit court. Seeking a temporary injunction, the county argued that introducing the lake's nutrient-laden waters into the river violated the Environmental Protection Act. The water management district argued that the discharges resulted from the unpredictable variability of nature, Lee County Attorney **John Turner** told commissioners. The court ruled in the district's favor. The county appealed, but the ruling was not overturned. "From the 2000 litigation we learned a lesson," **Turner** said.

That lesson was that if the county wants the courts to impose a temporary injunction, the county has to prove the lake releases are not due to the variability of nature, but rather to the district's failure to remedy a known problem. While Lee County contemplates, the River's Coalition, a task force formed around the St. Lucie estuary, has already decided to pursue a lawsuit with the help of Earthjustice -- a non-profit organization that helps other entities fight environmental battles in court. "The conduct of the district and the Corps of Engineers has caused an environmental and ecological catastrophe to the people of Martin County," said David Guest, attorney with the Earthjustice office in Tallahassee. "That catastrophe will not go unchallenged."

Judah said Lee County should also consult with Earthjustice. At the next commission meeting on Tuesday, commissioners will hear more legal advice. Judah said he hopes to put the matter to a vote then. "I would like to see a time frame and what it means to us," Commissioner Tammy Hall said. "If we can't receive an injunction immediately, it's not going to give us any relief."

County Attorney David Owen will tell commission members at their board meeting next Tuesday how long it could take to stop the lake releases through the court system. He said the time-frame depends on the theory behind the suit and whether the suit is filed with the state or federal court. Albion warned that if the county does sue, much needed communication between the county and the corps will shift to the attorneys.

Commissioners on Tuesday expressed a desire to keep relations amicable between the Army Corps and the district. They asked the district to provide them with frequent updates on long-term projects that will help the river, the lake and the estuaries on both coasts recover from decades of management that did not take environmental considerations into account.
"Once you shoot the bullet, it doesn't go back in the gun," Albion said.

Naples Daily News (FL)
November 16, 2005

Businesses sue county over Alico Road median
Author: JAMIE HENLINE

The businesses are seeking an injunction to prevent the county from building the median because they say they cannot safely navigate U-turns with their equipment. Tractor-trailers loaded with thousands of tons of asphalt and oversized machinery will be forced onto U.S. 41 if the Lee County Department of Transportation builds a median across the Alico Road-Pennsylvania Avenue intersection, representatives of three San Carlos Park businesses and a property owner said Tuesday in Lee County Circuit Court. Three Florida companies, Coastal Precast, Guymann Construction and Ajax Paving Industries, and James L. Mann, owner of the property the businesses are on, are suing Lee County. The suit accuses the county of reneging on a promise to leave the intersection open so the companies could make left turns onto Alico Road to access Interstate 75. The four businesses are seeking an injunction to prevent the county from building the median because they say they cannot safely navigate U-turns with their equipment.

U-turns are possible at the Schwab Driveway-Alico intersection, and larger trucks can still get to I-75 via another interchange, said Assistant Lee County Attorney **John Turner**, who moved to dismiss the case. Lee DOT moved the traffic signal from Pennsylvania to Schwab to satisfy a settlement with Seminole Gulf Railway, a railroad company that owns a short spur on Alico Road. Plans for projects such as roadway improvements often change, **Turner** added, and there was no written agreement between the county and the plaintiffs. "This is part of the police powers of the county to control how traffic travels on the right of way as a matter of public interest," **Turner** said.

James Mann, who has owned property on Pennsylvania Avenue since 1979, said that in his 29 years in the construction business, he had never seen plans change so drastically that an entire intersection was moved. "If most (plans) changed as much as Alico Road — I use a walking stick — I would have most likely broke it on that guy's head," Mann said. The larger trucks would have to take up all six lanes to navigate a U-turn, and some trucks would not be able to do it at all, said Theodore Petritsch, a consultant who acted as an expert witness for the plaintiffs. Both situations create public safety issues, he said. "The issue with the railroad is about money. It's not a public safety issue," said Rebein. "If it costs the county more, then the county will have to live with that." The plaintiffs will have to increase their prices to accommodate the extra 13 or so miles added to each of the hundreds of truck trips made daily, which will make them uncompetitive in the market and damage their businesses, said their attorney, Paul Rebein. Lee Circuit Judge William C. McIver said he would make his decision after both sides submitted detailed orders listing what their ideal outcomes of the case would be. The documents are due Dec. 1.

Nbc-2.com (http://www.nbc-2.com/story/10674707/four-counts-of-causeway-lawsuit-dismissed)
May 7, 2004

Four counts of causeway lawsuit dismissed

LEE COUNTY- Friday afternoon Judge James Seals dismissed the city of Sanibel's lawsuit against Lee County over replacing the drawbridge on the Sanibel causeway. The judge said an interlocal agreement between the city and the county is null and void because the county doesn't have the power to make promises about county road maintenance to a city.

The city of Sanibel opposes the replacement of the span A drawbridge with a fixed span bridge and sued the county claiming the county violated an interlocal agreement that allowed Sanibel a say in causeway improvements. County officials are pleased with the decision. "Legally we are ready to proceed, we are able to proceed. The judge has given us the go ahead for the public safety and the various reasons we can't wait to get started full force," said Assistant County Attorney **John Turner**.

County officials say the county is looking into recovering the cost of defending themselves against the lawsuit. The judge dismissed all but one point in the lawsuit. Sanibel has 20 days to provide more information on that issue, whether the county maintained the causeway as it should have.

Naples Daily News (FL)
December 23, 2003

Stadium transfer deal violated city's own law, suit says: Fort Myers' City of Palms Park was transferred to Lee County as part of a 15-year lease agreement with the Boston Red Sox
Author: CHARLIE WHITEHEAD

A Fort Myers resident has sued the city and Lee County over the deal that transferred the Boston Red Sox Spring Training stadium from the city to the county. Earl Smith, brother of former mayor Wilbur Smith, whose administration built the City of Palms Park, says in the suit that the city violated its own ordinance in making the transfer. Smith, who couldn't be reached for comment, said the city didn't follow its own legal guidelines on the transfer, including not giving adequate public notice. The county took over the stadium complex as part of a deal that included a new 15-year lease with the Red Sox. The team had threatened to leave the city because of poor maintenance of the facility.

Mayor Jim Humphrey structured the deal. He said the county's ability to provide the maintenance the Red Sox wanted and keep the team in town was the most important reason for the transfer. "With the county maintenance and operation, the Red Sox agreed to extend the lease for 15 years, and also to expand the use," he said. "We had a beautiful facility that cost a lot of money and it was used two months a year." The Red Sox's use of the stadium was exclusive, meaning the stadium and its practice facilities sat empty most of the year. The cash-strapped city had also let the maintenance slip to the point the county will be spending $1.5 million on repairs almost immediately.

Humphrey said that's money the city won't have to spend. He said transferring ownership to the county will save city taxpayers around $500,000 every year. That's less than it's been costing. The city is still paying between $700,000 and $900,000 every year to retire the bonds that built the stadium, and those payments will not go away. Humphrey said the city has lost money every year. "I compare it to having a nice boat," he said. "When you buy it it's only the beginning."

The city and the county will jointly defend against the lawsuit, with the city hiring outside counsel. Humphrey had asked that the county do the same, making the request after two assistant county attorneys wrote a letter to the News-Press criticizing the city for the deal. Assistant county attorneys **John Turner** and Jack Peterson, both Fort Myers residents, wrote in their letter the city was mismanaged and talked of creating a new town and calling for citizen involvement. Humphrey called County Attorney Jim Yaeger, the men's boss. "First I confirmed it was them that wrote the letter," Humphrey said. "I was certain it was, because I know them."

Humphrey said he has no problem with citizens expressing their opinions, but worried about two lawyers potentially involved in the city's defense. "I'm concerned if the office is aggressive and

diligent," he said. "I understood one was assigned to the case." Neither is, Yaeger said. "What they do on their own time as citizens and taxpayers is really their issue," he said. "They are city taxpayers."

Yaeger said he talks with all his employees about what it means to represent the county. "They always represent the office, but there is a line," he said. "They have a right on their own to express their opinions." Yaeger said he wasn't sure that the lawsuit had been filed when the letter was sent. The county was served with lawsuit papers on Dec. 10. The letter appeared in the paper Dec. 14.

Regardless, Humphrey said he was assured by Yaeger the county will vigorously defend against the suit. Humphrey was himself the first full-time Lee County attorney back in the 1970s. He said he was shocked by the letter. "I would have expressed my disappointment," he said. "I don't mind them of course having a private life, but this is an issue of a client. You publicly expressed an opinion that's different than the client has." The city and county have until mid-January to respond to the suit.

Naples Daily News (FL)
June 20, 2000

The county will pay out a total of $174,200 to three property owners.; Lee County ready to settle Old 41 lawsuits
Author: CHARLIE WHITEHEAD

FORT MYERS -- The Old 41 Road project is almost done -- physically and fiscally. Lee County is ready to settle lawsuits with three Old 41 property owners today, paying out a total of $174,200. The settlements, assuming county commissioners approve them this morning, will leave three outstanding cases, two of which Assistant County Attorney **John Turner** said he expected to be settled only in court.

Project Manager Saeed Kazemi said there were only a few minor items left to wrap up, and the four-laning project through the heart of Old Bonita Springs is coming in under budget. The project, which got under way early last year, was expected to cost $4.8 million, but Kazemi said today's settlements will bring the project cost to about $3.7 million. "We did very good financially," he said. "Especially on the right of way." Business damages were expected to be a major part of the right-of-way cost, Kazemi said, but it hasn't happened that way.

Turner said settlements have included waivers of buffering requirements, and relocations of parking lost to the widening. The Community Redevelopment Agency is installing landscaping through a voluntary program that provides matching funds, but the waivers are for requirements included in the countywide land development code. "There is a certain amount of landscaping the county is putting in as part of the project," CRA planner Ellie McKuen said. "Anything above that is voluntary."

The Old 41 landscaping is the final chapter for the Bonita Springs CRA. McKuen said the county will probably be out of the mix by the end of July. The remaining land cases involve a private home, and two businesses owned by James Harris: Bonita Radiator and J & G Auto. **Turner** said the business cases are likely to end up in court, since the two sides remain far apart and court-ordered mediation has failed to produce a settlement. As for the project itself, Kazemi said the county and city are planning a ribbon-cutting ceremony for later this month. "We know we'll be under budget," he said. "We just don't know how far."

Naples Daily News (FL)
January 20, 1999

The panel's acceptance closes the door on a legal battle with speculator Ron Francisco that dates back to the late 1980s.
Lee County Commission
$300,000 lawsuit settlement OK'd
Author: CHARLIE WHITEHEAD

FORT MYERS -- A long, sad chapter in Lee County history could finally be drawing to a close. County commissioners approved the settlement Tuesday of a legal battle that dates back to the late 1980s, when speculator Ron Francisco first sued the county over a future road that county officials moved away from his property near Southwest Florida International Airport. The bankrupted Francisco, who filed suit against the county in 1991, is out of the picture, with the land trust he represented now being handled by local accountant Gerald McHale.

The lawsuit claimed county officials, including then-County Administrator Marsha Segal George, now Fort Myers Beach town manager, conspired first to delay development orders for a resort and convention center he planned and to move the route of Daniels Parkway, which became the main busy route to the airport, away from Francisco's property. Media accounts probed Francisco's supposed chummy relationships with some commissioners and other officials, and ethics complaints were filed against attorneys on both sides. Francisco eventually lost the $28 million suit, and the county was awarded attorneys fees and costs. The $300,000 settlement commissioners agreed to on a unanimous vote Tuesday isn't the millions county attorneys once claimed to have invested their time and effort, an amount the court disputed, but it does cover the county's out-of-pocket expenses. The money would come from the land trust. "I didn't think I'd be here at this point," Assistant County Attorney **John Turner** said. "My recommendation is to accept this to close the case, hopefully, after eight years."

Francisco's troubles began in the high-flying 1980s, when Lee County land development was booming. He has provided inside information to federal investigators and private attorneys looking to clean up after several land deals of that era, including the deals that landed prominent local attorney Morton Goldberg in federal prison and litigation a West Coast financial institution is still pursuing against Barnett Bank and former bank officers. Some of Francisco's trust lands have already been bought by the airport, but the buy came much too late for him.

Land speculation was rampant in the late 1980s as huge public works projects such as the airport and the $200 million county incinerator were under way. The settlement would close the chapter, but only if the promised $300,000 payment is received within 90 days. If the payment isn't received, commissioners told **Turner**, they want him to pursue recovering taxpayers' money on all available fronts.

Naples Daily News (FL)
March 21, 1997

ACTIVISTS LOSE BID TO OVERTURN CHARTER VOTE
Author: CHARLIE WHITEHEAD

FORT MYERS - A circuit court judge has rejected a move by two Lee County activists to overturn voters' approval last November of a charter form of government for the county. Circuit Judge William McIver turned down claims that the ballot language was misleading and that county attorneys improperly changed the wording on the ballot after commissioners approved the language. McIver ruled the ballot language was sufficiently clear and unambiguous and that the ballot question voters answered was substantially in the same form as the one county commissioners approved. McIver also ruled the addition of the words Home Rule to the ballot question, the change that Brian Griffin of Matlacha and Steve Maxwell of Alva claimed county attorneys made to assure the success of the referendum, would not mislead a person of ordinary intelligence.

We're very pleased with the decision, said **John Turner**, the assistant county attorney who argued the county's case. He said we followed the statute and the allegation "Home Rule' was ambiguous was without merit. I think it means the people of Lee County have opportunities they never had before, said County Administrator Don Stilwell. It gives local control, which was what it's all about. Maxwell said Thursday he's not yet seen the judge's ruling. We haven't really read it yet, he said. But we'll look it over and decide about an appeal. County voters have approved a new government charter twice. In 1994, 56 percent voted to adopt a charter, but Griffin chal-
CHARTER2D

JUMP INFORMATION APPENDED

Hopefully, this will end the litigation, said Commissioner John Albion, who supported the charter. We're still basically headed the same direction, but it's good to have it over with. Charter supporters point to the initiative and recall powers it gives voters. Under a charter form of government, voters also can place ordinances on the ballot through petition. Opponents, however, say so many areas are excluded from that process - including matters like taxes, budget, salaries and individual capital improvement projects - that charter government has no real power.

Turner said he's confident the county would win any appeal. I'm definitely confident if there's an appeal, he said. I think they'd have a very difficult time. McIver specifically reserved jurisdiction on a possible award of fees and costs. Even though Griffin won the first challenge, he ended up paying portion of his own legal bills. Since the pair lost this round, Griffin and Maxwell could end up paying the county's tab. **Turner** said that's a possibility he'd have to take up with county commissioners.

Naples Daily News (FL)
March 28, 1996

PUTATIVE PUEBLO PROBERS STAY MUM
Author: ALISON GERBER

The federal team that toured the Pueblo Bonito site won't say what they're doing, but the accusations of housing discrimination leveled against Lee County are no secret. BONITA SPRINGS - When attorneys with the Justice Department came to Lee County earlier this month, they toured the site of proposed farmworker community Pueblo Bonito, Manna Christian RV Park and other sites in Bonita Springs. But don't ask Justice Department officials whether they're conducting an investigation into whether the county discriminates in providing housing. They won't tell you.

The tricky thing, said Justice Department spokesperson Myron Marlin, is that we cannot comment on whether an investigation exists. The county already is under investigation by the U.S. Department of Housing and Urban Development, which is examining why Lee County rejected the zoning needed to build Pueblo Bonito - a 150-unit farmworker housing development in Bonita Springs.

While HUD has the authority to pull the county's community block grant money, the Justice Department could file a civil suit, asking for damages and punitive awards. If HUD determines the county discriminated against Hispanic farmworkers, it could turn their findings over to the Justice Department for legal action. The Justice Department also has the power to act alone against the county - but only if it has evidence of a pattern of discrimination.

PROBE2D
JUMP INFORMATION APPENDED

Some Hispanics see a pattern of discrimination1DThe visit from Justice Department officials in early March is one of the worst-kept secrets in Lee County. But when county attorneys contacted Justice Department attorneys recently, all they could get was a confirmation that the Justice Department had been here. That's about all they said, said Assistant County Attorney **John Turner**. I initiated the call. They said they were down here, but it's my understanding that they let HUD do all the investigating work and then they come in if they decide to. They weren't necessarily here because of the (Pueblo Bonito) case. It could have been anything else in Lee County or Fort Myers or the City of Naples.

Some Hispanic advocates say a pattern of discrimination emerged during last year's floods in eastern Bonita Springs. They say Lee County did not act swiftly enough to find alternate housing for 1,700 flood victims - many of them Hispanic residents left homeless by the disaster. Those victims spent up to 10 weeks in shelters.

In October, as they chanted "We need housing", members of the Farmworker Association of Florida protested outside the county emergency management center in North Fort Myers. Protesters said Hispanic flood victims were not provided adequate shelter nor enough interpreters. More recently, Lee County dropped plans to apply for federal hazard mitigation funding to buy Manna Christian RV Park after a flood committee, under the wing of the Bonita Springs Chamber of Commerce, objected. The county instead combined the Manna application with the South Florida Water Management district's application for funding. Manna Christian has flooded three times in the past five years. It is home to about 1,100 flood victims.

In December, Lee County commissioners refused to re zone from mobile home to multi-family the 26.5-acre tract on which Partnership in Housing wanted to build Pueblo Bonito. Commissioners said the development proposed too great a density to be compatible with surrounding neighborhoods. HUD stepped in at the request of several would-be Pueblo Bonito residents who claimed discrimination. Chris Larson, attorney for Florida Rural Legal Services and Partnership vice president, said she is hopeful the intervention of the federal government will result in an agreement. I'm hoping there will be a solution, she said. We don't want to be deadlocked

---

Research Compiled by: Cara Slade
Colin Baenziger & Associates

Current Salaries

Candidate Salaries

The following are the base salaries that the semi-finalist candidates gave to us. Although salary is always a consideration, we recommend that it not be the determining factor. A highly qualified, experienced candidate may warrant a higher salary. That individual may well save the City several times the difference in salary by making better decisions.

We should also add that we have spoken with all the candidates and made it clear what the City wants to pay. Each has agreed to accept a salary in the advertised range.

Candidate	Current / Most Recent Salary
Gary M. Glassman	$ 155,000
Ramon Irizarri	*
Gary K. Oldehoff	160,000
O. Reginald Osenton	*
Philip N. Sherwin	94,400
James D. Stokes	167,000+
John S. Turner	149,850

We suggest you ask the finalists about their salary requirements when you interview them.

*These individuals are in private practice and as such, their salaries are not relevant. They have agreed to accept a salary within the advertised range.