

INTERVIEW OF:

JOSH WAGNER

DATE TAKEN: FEBRUARY 24, 2014

TIME: 4:12 A.M. - 5:56 P.M.

PLACE: KANEY & OLIVARI, P.L.  
55 SETON TRAIL  
ORMOND BEACH, FLORIDA 32176

## 1 APPEARANCES:

2 JONATHAN KANEY, ESQUIRE  
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JOSH WAGNER

was called as a witness and, having first been  
duly sworn, testified as follows:

BY MR. KANEY:

Q. Can I call you Josh?

A. Yes. That's what I go by.

Q. You are presently a member of the Volusia  
County Council?

A. Yes.

Q. When were you first elected to that?

A. Elected in 2008, but started in 2009. Same  
year as presidential, Barack Obama.

Q. And then you were reelected in --

A. Reelected in '12, but started in '13. Ours  
is a little different than the City's.

Q. Yeah. Are you in your second or third?

A. Second.

Q. Second term.

A. Second. And you get termed out after two,  
so I'm in my final term.

Q. Oh, that's right. Okay. So then you're  
going to disappear from public life?

A. Done. At least for a while. I've got two  
little kids. That's all I need for a little bit.

1 When I started, I didn't have any kids. Now I have  
2 two.

3 Q. When -- your last election was in 2012?

4 A. Um-hum.

5 Q. 2012?

6 A. 2012, correct.

7 Q. Did you advertise your candidacy on bus  
8 benches?

9 A. Yes. In many ways, but bus benches were  
10 one of the mediums.

11 Q. When did you qualify for that race?

12 A. Oh, that's a good question, Jon. I could  
13 tell you right now. I'll look on the Supervisor of  
14 Elections' website. I believe it was a year before,  
15 but I'll give you the specifics. I'm going on the  
16 Supervisor of Elections website. It has the -- my  
17 first report was in July -- in between July 1st,  
18 2011, and September 30th, 2011. I believe I opened  
19 my account on September 30th, 2011.

20 Q. 2011?

21 A. Um-hum. Correct.

22 Q. Well, one thing, of course, we're  
23 interested in is these in-kind contributions.  
24 According to the web -- the Supervisor's website --

25 A. Those would have been -- are you talking

1 the bus benches?

2 Q. Bus benches.

3 A. That would have been marketing. That would  
4 have been 2012. That would have been August 9th,  
5 2012, so it would have been 11 months later.

6 Q. Are you looking at your campaign report?

7 A. Yeah.

8 Q. That's pretty precise.

9 A. Yeah. I'm good at it because I look at  
10 everybody else's through the years.

11 Q. So is that when you -- you first put those  
12 signs up?

13 A. Yeah. I think -- well, I don't -- I don't  
14 believe they went up until quite some time after  
15 that, though, is my understanding. That's when --  
16 that's when I was told that the in-kind contribution  
17 took place. I don't know the distance of time  
18 between that moment and the time the benches went  
19 out.

20 Q. Well, the election was in -- your election  
21 was in September?

22 A. I had benches up before the election. Let  
23 me look up -- but not long before. That was one of  
24 the issues, they were only up for a short time period  
25 for the primary, but they were up. The primary

1 was -- they don't list the primary on this sheet, but  
2 I remember it only being a couple weeks, Jon, while  
3 they were up.

4 Q. Okay.

5 A. Less than a month.

6 Q. So this -- there is a series of in-kind  
7 contributions, all of which are reported as occurring  
8 on August 9 --

9 A. Correct.

10 Q. -- 2012.

11 So then, or some time after that, would  
12 have been when you put the benches up -- put the --  
13 the signs were put on the benches?

14 A. Correct. I believe -- I can't remember if  
15 that election was in August. It was late August, I  
16 think, usually. Early September. Late August. I  
17 think late August.

18 Q. Well, this -- the first one here listed is  
19 Marilyn Garrett.

20 A. Um-hum.

21 Q. You're acquainted with her. Tell me about  
22 your relationship with her.

23 A. I know her through her daughter, Ramara  
24 Garrett.

25 Q. She's Ramara's mother?

1 A. Um-hum. Correct.

2 Q. How about William Stone?

3 A. Only the -- let me think if I can get this  
4 right. William's -- I know -- I'll tell you the list  
5 because -- are we going to go through the list?

6 Q. Yeah.

7 A. It might be easier. Okay. Marilyn  
8 Garrett, Kim Was are the main ones I know. I believe  
9 other people I have met at either fundraisers, or  
10 just events, but I don't know them personally.

11 Q. Do you know Marg Hill?

12 A. I think there's -- I'll read the names for  
13 you. Just -- William Stone, Chuck Wills, William  
14 Hill, Marg Hill, Frank Rigler, Michael Kiepert, Susan  
15 Kiepert, Angela Kiepert, Terry Was, and then Diane  
16 Was.

17 Q. How about Matt Zvorak (phonetic)?

18 A. That's -- that has nothing to do with  
19 signs. That's a -- even though it's in-kind and it  
20 looks like it's part of it, they have no -- there's  
21 no relation. I know Matt well. There's no --

22 Q. What was the kind that he --

23 A. I think for that I was using a bus. It was  
24 a bus. Like an old bus. He has nothing to do -- I  
25 don't think he even knows them, like, any of the sign

1 people. And they just happened to be the same  
2 timing.

3 Q. Okay.

4 A. Like, there is an in-kind one, like, on  
5 8/7. Yeah, I mean, there's no relation between  
6 those.

7 Q. Well, Zvorak -- how does he say that?

8 A. Exactly like that.

9 Q. Zvorak?

10 A. Yeah.

11 Q. His is listed as 8/9, the same as --

12 A. It's the same day. I think it's -- 8/9  
13 must also be the -- my guess is it's probably the end  
14 of the reporting period, would be my assumption, as  
15 well. You're getting your reporting in. People are  
16 giving you things during that time. That's why I  
17 think it's probably the same time. But that one was  
18 not for bus benches. If you saw the early voting,  
19 any of the pictures, like in the News-Journal, there  
20 were signs showing a bus. That was the bus I was  
21 using.

22 Q. I missed that.

23 A. That's what it was. That's what -- that's  
24 what that in-kind was for.

25 Q. Okay. Who is William Stone?



1           A.    I know he's -- he's friend's with -- it's  
2 my understanding he's friends with Jim Brown, as well  
3 as a lot of other people on this list.

4           Q.    Who was Jim Brown?

5           A.    Jim Brown was the manager -- I had met  
6 him -- originally he was the manager of -- I believe  
7 the company was Waverly Media. I don't know if it  
8 was something -- I've heard things called different  
9 names throughout the years. I'm not sure at what  
10 point it was what, but I know he was working for the  
11 bench company.

12          Q.    Do you know him well?

13          A.    I would say, you know, if I saw him I'd  
14 walk up and say hello and shake his hand and ask him  
15 how he's doing. That type relationship through the  
16 years. I haven't been to his house type  
17 relationship, you know, vice-versa. But I would say  
18 a friendly -- friendly relationship. But it's  
19 somewhat of a professional relationship.

20          Q.    Did he contribute to your campaign?

21          A.    I believe -- I believe he did. I think  
22 he -- I think he may have come to an event, though,  
23 and I think he may have contributed with financial  
24 support. I raised 114,000, so it's kind of hard when  
25 I break it down into little ones.

1 Q. I see that on the bottom line here.

2 A. But I could go -- I could go through -- and  
3 a lot of them were small contributions. So I could  
4 go through it and look. But that's off memory. I  
5 believe that's -- I think he did donate, yes. My  
6 guess is -- I'll check the first one.

7 Q. Did he raise funds on your behalf?

8 A. Yeah, especially the in-kind. I mean,  
9 he -- he is the one who gave me the list of who  
10 donated what. A lot of times in campaigns, what  
11 happens is people group contributions together, as  
12 you know. I mean, it's very common in political  
13 campaigns that someone will get all of the campaign  
14 money together and bring it to you, because, one,  
15 they like to know that they're working on your  
16 behalf. But, two, they like to, you know, be part of  
17 it.

18 Q. Did -- did Brown bring you contributions?

19 A. He did. And I found out on March 27th,  
20 2012, he made a contribution to my campaign. That  
21 was a financial contribution. And, yes, he -- he  
22 is -- he brought that group together for the benches.

23 Q. Do you know Marg Hill?

24 A. Hum-um.

25 Q. Are you aware that she testified to the

1 State Attorney that she had no clue that she was  
2 contributing in-kind to you?

3 A. I heard. And I think that -- yeah. And I  
4 can tell you, like, if you look at my list, I  
5 probably don't know -- realistically, I probably  
6 don't know 30 to 40 percent of the people that  
7 contributed to me. I just don't know them. Maybe  
8 more. So it's not uncommon for me not to know them.

9 However, that being said, it would be  
10 uncommon for someone donating not to know that they  
11 donated, obviously. But as a candidate, there's no  
12 way to know one way or another. If you get a  
13 contribution, you assume the person knew. At  
14 least --

15 Q. So you think that Jim Brown was recruited,  
16 brought into the fold by -- that Marg Hill was  
17 brought into the fold by Jim Brown?

18 A. I mean, if he provided the name, we would  
19 assume that either there was confusion on some part,  
20 or after the fact, someone may have said they didn't  
21 contribute. I'm not sure.

22 Q. I think her testimony was that she never  
23 gave any money to buy a sign.

24 A. Yeah. Well, my understanding was -- and  
25 this is after the fact. But my understanding was

1 that it wasn't just money, that people were donating  
2 time, as far as the in-kind contributions were  
3 concerned. But I don't know. I've never seen the  
4 testimony. I'm not sure.

5 Q. How would that work donating time to create  
6 a bus bench?

7 A. My understanding of the bench industry is  
8 that you put the -- it's a big sticker. And you put  
9 the sticker on the bench and then you apply it. You  
10 put the bench kind of over the wood, is my  
11 understanding.

12 Q. Um-hum.

13 A. Screw it in, I suppose. I guess if someone  
14 does that, it has value, more than your normal  
15 volunteer. So I think that's what -- I've heard  
16 different things. I wasn't there for that testimony.  
17 But through, you know, the last year, you hear all  
18 sorts of things of people talking, and that was  
19 something I had heard. But I know at one point --  
20 I'm trying to find the names. I filed an amended  
21 report, but I'm trying to see if she was one of the  
22 ones that was amended. It might take me a second to  
23 find that, Jon.

24 Q. Okay.

25 A. Yes, that was one of the ones. On an

1       amended report I was told that the contribution  
2       wasn't given, the in-kind contribution wasn't given.  
3       And she was one of them. There was Marg Hill,  
4       William Hill, and Frank Rigler.

5           Q. Did you ever find out how that came to be  
6       misreported?

7           A. No. All I believe I was told at the time  
8       is that there was either confusion, or something  
9       along those lines in that the -- either the in-kind,  
10      or the donation, however it was set up, was not  
11      fulfilled. And then, obviously, I needed to reflect  
12      that on my statement.

13          Q. Who is Kim Was?

14          A. Kim is -- she works at Waverly. I believe  
15      when I first met her she worked with another part of  
16      the company, or -- I can't remember if Waverly -- I  
17      believe it was Waverly Media at the time. I think  
18      just maybe in a different location. The -- that's  
19      how I met her. That's how I've known her. Always  
20      very nice, very pleasant.

21          Q. Is it accurate that she gave Waverly \$500  
22      for an in-kind bench for you?

23          A. I -- like I said, I'm not sure. It could  
24      have been either money, or it could have been -- he  
25      said she worked for the company, and as long as

1       you're taking off -- my understanding is as long as  
2       you're taking off, you're not getting paid to do a  
3       service that is more than the volunteer aspect, that  
4       that in and of itself is in-kind. So it could have  
5       been either/or.

6           Q.     Do you know Terry Was?

7           A.     I believe that's her husband or father. I  
8       don't know, to answer your question. Just from what  
9       I was told, same last name.

10          Q.     What about Diane Was?

11          A.     Hum-um.

12          Q.     Are you aware that Kim testified to the  
13       State Attorney that the contributions shown for Terry  
14       and Diane Was weren't -- were not made by them?

15          A.     Did they say that or she say that? To  
16       answer your question, I don't know. I wasn't given  
17       that information. I don't believe I was given that  
18       information.

19          Q.     Would it surprise you to know that Terry  
20       and Diane Was were asked to lend their names to a  
21       contribution for you that they never actually made?

22          A.     Who did they make it to?

23          Q.     They didn't make it to anybody.

24          A.     No, no. Who asked them to make it?

25          Q.     That would be Diane -- I mean, Pam. Pamela

1 Was.

2 A. No, who -- who asked them to make a  
3 contribution -- use their name?

4 Q. Pam's testimony was that Jim Brown asked  
5 her to get her mother to approve putting her name on  
6 those contributions. Does that surprise you?

7 A. Not after reading what I read. I believe  
8 he pled guilty to it, so, no, it doesn't surprise me.  
9 I think after reading the newspaper articles, it  
10 sounds like that was the mistake.

11 Q. Well, let me ask the question a little  
12 differently. When you first read that article, did  
13 it surprise you to know he had done that?

14 A. Yes, and I'll tell you why.

15 Q. That was my next question.

16 A. Yeah. My interactions with Jim Brown have  
17 always been -- he's very aboveboard. So when -- when  
18 this happened and the way he had the signs set up, it  
19 made sense that somebody was trying to do it the  
20 right way, and I'll tell you why I thought that, from  
21 deductive reasoning, later on. Is that if someone  
22 wanted to give illegal campaign contributions, why  
23 would they leave -- why would they go through all  
24 these steps to try to hide it? Why wouldn't they  
25 just do it? And I can tell you, there's a couple of

1 people in town I've seen that happen, where they  
2 just -- they get illegal campaign contributions, or  
3 at least you make assumptions, because you know they  
4 didn't pay for it, it's not on their list, and  
5 you're, like, how did that happen? A particular  
6 party I keep seeing it come up. And, you're, like,  
7 well, where's the -- where is the -- where's the  
8 financials of that taking place, because it would be,  
9 you know -- if he was trying to do something illegal,  
10 why would he go through all of these steps to set up?  
11 Why wouldn't he just do it? He'd have a better  
12 chance of getting away with it, would be the point.  
13 So by trying to do it this way, I honestly believe  
14 the guy was trying -- and he thought it was okay to  
15 do it that way through the in-kind, but -- that's my  
16 original thought. That's what I thought, why would  
17 someone go through all these steps if they could have  
18 just put up benches and probably not get caught and  
19 have no evidence of it whatsoever? That was my  
20 original thought about it. Because I can tell you  
21 all the interactions with Jim Brown were always --  
22 always stand up. He always seemed to be by the book.

23 Q. Did he ever tell you that he was recruiting  
24 these strawman contributions?

25 A. No, no. Absolutely not. The only thing I



1 was given was just, these are the people that  
2 donated. I wasn't -- I do not believe I was ever  
3 told if they were -- donated money or donated time.  
4 I don't think it was ever that specific, other than  
5 it was just an-in kind contribution. Like I said,  
6 it's not uncommon for me to get groups of  
7 contributions at once and from people I don't know.

8 Q. What do you think your obligation is  
9 regarding the accuracy of your campaign finance  
10 reports?

11 A. To make sure you put down a list. One, if  
12 it's a financial contribution, to list what it is,  
13 the addresses, the occupations, if it's over a  
14 hundred bucks. If it's in-kind, to accurately  
15 reflect what the in-kind contribution was. In this  
16 situation, as you can tell from my list, I'm very  
17 specific as to my in-kind contributions of where the  
18 people live, who they are. I believe I sent them  
19 thank you notes thanking them for in-kind  
20 contributions. So I would assume that if someone got  
21 a thank you note from a candidate that says, Thank  
22 you for your contribution, it probably puts you on  
23 notice that maybe it didn't happen. But, you know --  
24 and then when I found out that three of the  
25 contributions didn't take place, I made sure to

1 clearly reflect it. That's what I think our duty is.  
2 Because there's no way -- there's no way to know  
3 everyone and know everything during a campaign. It  
4 has to follow some sort of guidelines, and those are  
5 the ones I was following.

6 Q. If you can't know personally, what do you  
7 think you should do to verify that the people that  
8 are telling you these things are telling you the  
9 truth?

10 A. We can all play Monday morning quarterback  
11 and hindsight is 20/20. Then when you're in a  
12 campaign and someone who has the company is saying,  
13 hey, here's the campaign contributions, I think your  
14 duty stops there. You're reporting it. If it's  
15 illegal, it's not illegal on the candidate. They  
16 didn't do anything wrong. They did -- their duty is  
17 to report what they were given. Obviously Mr. Brown  
18 made a mistake and he pled to it. I mean,  
19 obviously -- I don't believe he -- I think there's a  
20 misunderstanding of what was pled to. You know,  
21 there was an article with my name in it with the  
22 criminal case, but yet the affidavit had not gone out  
23 yet. And I asked the media outlet if they had a copy  
24 of it so I could know what I'm being questioned  
25 about. They ran the story saying I was one of the

1 people involved. Three weeks later the affidavit  
2 comes out, and I wasn't.

3 Q. What affidavit are you talking about?

4 A. I believe it was with Jim Brown when he got  
5 arrested. So I think there's a lot of confusion  
6 around what really happened, what was said, and  
7 things like that, in the media and in the community.

8 Q. So this list of in-kind contributions was  
9 provided to you by Jim Brown?

10 A. Jim Brown, correct.

11 Q. And it's your understanding that he  
12 recruited these contributions?

13 A. I don't know if it's -- recruited, I don't  
14 think, would be the word I'd use. It's my  
15 understanding that this was the group of people that  
16 were donating money for the services, or donating  
17 time. Anything else I -- it would be -- I would have  
18 no knowledge of. I wouldn't know. I couldn't know.

19 Q. Do you know Michael Kiepert?

20 A. I do not. I know the name. I believe I  
21 may have met him, but I don't know him personally. I  
22 believe he's from West Volusia.

23 Q. Then I guess you don't know Susan Kiepert,  
24 whose address is the same as his?

25 A. No. And I believe there's one more

1 Kiepert.

2 Q. Angela. Same address. Must be -- that  
3 must be all one family.

4 A. Yeah, I would make that assumption as well.

5 Q. Of course you know Jim Sotolongo?

6 A. Yes.

7 Q. Tell me about your relationship with him.

8 A. I met Jim in 2008, I believe. It was my  
9 first campaign. He was campaigning for somebody --  
10 somebody else. And that person did not win their  
11 election. He had been friends with friends of mine  
12 as well. And I met him, I met Ramara Garrett.

13 Q. Have you been in business with Sotolongo?

14 A. Not Sotolongo, but with Ramara, who's her  
15 boyfriend. I don't believe Jimmy was part of the --  
16 part of it.

17 Q. What business was that?

18 A. The first one was we -- we put in for an  
19 RFP for the pier. It was very short lived. It was  
20 just a couple months. I put together the package,  
21 the majority of the package. There were, I believe,  
22 12 to 14 investors in that, I being one of them,  
23 Ramara being another. A lot of people were involved.  
24 It was a big project. We got voted to get the RFP,  
25 but it later fell through, which was unfortunate.

1 Q. What was the hang up?

2 A. I believe the -- the election the following  
3 year, there was an election right after that RFP, I  
4 think there was a change of -- a change of opinion as  
5 to if it should be a local company or if it should be  
6 a brand. It would have been nice to have known that  
7 about four months before I did all the work, but  
8 that's the reality of it.

9 Q. Was there an issue about the City wanting  
10 financial disclosures?

11 A. Yeah. What happened was the City wanted  
12 financials, so they hired a third party to come in to  
13 work on the financials. They did it offsite to kind  
14 of deal with the Sunshine issues. Because one of our  
15 partners owned a pier and there was some -- obviously  
16 all the financials were with their private company,  
17 even though it kind of ended up being public record  
18 anyways. They were the main investors with the other  
19 pier. So --

20 Q. Who are you talking about now?

21 A. The Sunglow Pier.

22 Q. Who's -- who's that -- who's that investor?

23 A. It was --

24 (Off the record discussion was held, after  
25 which the following proceedings were had:)

1 THE WITNESS: Marilyn Hooper.

2 BY MR. KANEY::

3 Q. Oh, yeah. Okay.

4 A. Very, very nice. I like Marilyn, although  
5 she's probably mad at me right now because I'm trying  
6 to get the pier poles smaller, so.

7 Q. You're trying to get what?

8 A. I'm friends with Marilyn, I'm friends with  
9 Luke, and her husband as well. There's the zones to  
10 surf. And Marilyn and I, I mean, we worked on this  
11 project. We have a great relationship. And I'm  
12 trying to get the pier zone smaller. She wants them  
13 to remain the same. So it's hard -- you know, I'm  
14 friends with a lot of people, but sometimes I have to  
15 vote against them, and she respects that. That's  
16 Marilyn and Russ Hooper. Very, very nice couple.  
17 But they were part of the group with the pier as  
18 well.

19 Q. And -- and they have an interest in the  
20 Sunglow Pier?

21 A. Yes. They -- they are the -- there's a  
22 couple main owners, and they're one of the main  
23 owners of that pier. They do a good job. But they  
24 were part of that project, as well as a group -- big  
25 group. Danny Veltri was the chef. He was part of

1 it. He was part of Hell's Kitchen. I don't know if  
2 you ever watch that show, but he was part of that.

3 Q. Oh, yeah, I've heard of it.

4 A. So that lasted maybe three or four months  
5 probably, until we knew it was the end. And it was a  
6 short-lived -- I mean, once it was done, it was done.  
7 Once you don't have the RFP, it's over.

8 Q. Marilyn Garrett was one of the investors?

9 A. No. Ramara Garrett was.

10 Q. Excuse me. Ramara.

11 A. Yeah.

12 Q. Is that her mother's name?

13 A. Yes.

14 Q. And was Jim Sotolongo?

15 A. No, it was Ramara.

16 Q. Were there other businesses that you were  
17 in with --

18 A. After that there was -- because of the way  
19 that whole thing was handled, I thought we got the  
20 raw end of the deal for all of us. It was really --  
21 I put a lot of time in it. My family history goes  
22 back pretty far, so, really, I think I had a strong  
23 emotional attachment to that, so it probably made it  
24 worse for me. I was really upset. We didn't like  
25 how we were portrayed in the media.

1           So I can't remember how long afterwards,  
2       Jon. I could probably find out if I went through --  
3       but after that, we started a magazine called  
4       Floridian View. And that was with Ramara and one  
5       other investor.

6           Q. Was Jim Sotolongo an investor?

7           A. No. It was Manny Bornia was the editor of  
8       it. That was -- the magazine outlasted me. It was  
9       short lived for me.

10          Q. You're still here. The magazine's gone.

11          A. Well, I guess I meant -- good point. My  
12       partnership in that magazine. I left before the  
13       magazine ended because I just -- as you know, it was  
14       a very nice magazine, it looked really nice, but it  
15       took strong positions editorially, and that does not  
16       work well when you're in politics. And I got tired  
17       of people being mad at me for stuff that just wasn't  
18       my views. I mean, things would be in the editorial  
19       aspect of the magazine and I'd be, like, I didn't  
20       write it. Why are you mad at me? I would literally  
21       have people yelling at me and I had not even seen it.  
22       So I left the magazine. Just -- it just wasn't worth  
23       it to be in politics at all and own a magazine.

24          Q. Is it your sworn testimony that you don't  
25       like to be yelled at? Now, you can't expect me to



1 believe that.

2 A. I don't mind a good fight, but when it's my  
3 fight, if that makes sense. Do you know what I mean?  
4 It's -- when I'm getting accused -- and it attacked  
5 people sometimes that I really respected, and it was  
6 really hard for me. Because I found, in reality,  
7 what happened, I thought we were treated and we were  
8 bullied with the pier project, and all the magazine  
9 did was made us a bully. And I didn't like it. I  
10 didn't like that dynamic and --

11 Q. Who do you think was the bully in the pier  
12 project? Who's the bad guy there?

13 A. I thought the media was --

14 Q. The media.

15 A. I thought the media did us a disservice.

16 Q. You're talking the News-Journal?

17 A. Yeah. I thought they did us a disservice  
18 in that one. Some of it, partially, you know, maybe  
19 I'm to blame on how I handled it. But I didn't like  
20 how that was handled. And I think that's why the  
21 magazine came about was because of that, I think,  
22 personally. Because I think if you look at it and  
23 just make it on a complete just financial decision,  
24 there are probably other investments that would make  
25 more sense than print in this day in age. But -- so

1 I think the emotional side was there. But the  
2 magazine was a good experience. I learned a lot, but  
3 not one in which I'll do again.

4 Q. Was Manny Bornia an investor in the pier  
5 project?

6 A. Oh, no. No, he wasn't. One of the big  
7 rumors with the pier project was that he was, and he  
8 was not. He had nothing to do with it.

9 Q. So the magazine project, you got involved  
10 and it came about as -- as a result of the way the  
11 group was treated?

12 A. Yeah. I thought we -- what we wanted to  
13 do, at least our goal, was to provide an outlet,  
14 almost like a -- an alternative voice to also be  
15 heard. And, you know, I have background in it -- I  
16 have a background in it from my undergrad degrees in  
17 advertising through the School of Journalism at U.F.,  
18 so it kind of made sense from that standpoint.

19 Q. I mean, how do you -- how do you mean that  
20 the magazine became a bully?

21 A. I just think editorially it just took such  
22 strong positions. And I think any time you do that,  
23 you just have to be careful of why you're taking  
24 certain positions. And it's hard when you have three  
25 different people and you're never going to agree on

1 everything. But it was literally the day the  
2 magazine was coming out, the radio shows were talking  
3 about it. It was -- it became a strong voice at one  
4 point. And I -- but I believe it was because it was  
5 so divisive. But it was such a pretty piece that it  
6 gave it some credibility, you know. So I think  
7 it's -- it was smart in how it was done. It just --  
8 just when you're in politics, it just doesn't work.

9 (Off the record discussion was held, after  
10 which the following proceedings were had:)

11 A. But I believe that -- to follow up on your  
12 question, I don't believe there is -- it was the --  
13 my relationship with Ramara was the pier project and  
14 then the Floridian View, which was the magazine. And  
15 we had some events and little things like that. But  
16 it was primarily just the magazine.

17 Q. When did you first meet Jim Sotolongo?

18 A. It would have been -- I can tell you it was  
19 the early -- not early voting. It was the primary  
20 election 2008 I met Ramara and Jimmy, I believe at  
21 the same time.

22 Q. You know -- are you familiar with the  
23 Waverly Properties, LLC?

24 A. Is that the short-term rental company that  
25 was around?

1 Q. I asked you first.

2 A. Oh, sorry. If that's the short-term rental  
3 company, if it's Waverly Properties that was right  
4 there on AlA, if that's the LLC, then, yes. If  
5 that's it.

6 Q. We can take that as an assumption?

7 A. Yes. Yeah, an assumption. I would assume  
8 that's it, because there were a couple things called  
9 Waverly.

10 Q. Did you ever have any dealings with Waverly  
11 Properties?

12 A. No. No financial dealings. I believe -- I  
13 had been there, but no -- I never closed a house or  
14 anything.

15 Q. What was the short-term rental business?  
16 What was that about?

17 A. They provided short-term rental. Like, my  
18 understanding was, like, say someone wants to come  
19 into town, and instead of renting a hotel -- or  
20 getting a hotel room, they would rent a house for a  
21 week or so.

22 Q. Do you know if that was always in  
23 compliance with the city codes?

24 A. There was -- it's interesting you brought  
25 that up, because it's actually in the Florida House

1 right now, with the Senate, I believe, as far as  
2 trying to -- one side wants it to be allowed, the  
3 other side doesn't want it to be allowed. I know  
4 Wilbur-By-The-Sea -- there's some people in  
5 Wilbur-By-The-Sea that don't like it, there's some  
6 people that do like it. I think it's often violated.  
7 I pushed hard a couple months ago to get the council  
8 to support being more aggressive on letting people  
9 know they need to pay their bed tax dollars. For me  
10 the issue isn't so much allowing the short-term  
11 rental. I'm a pro property rights kind of guy, and I  
12 think you should be allowed to do it. But the  
13 problem is, if you're not enforcing them to pay the  
14 bed tax, they're giving an unfair advantage to the  
15 hotels, and it's not the right thing to do. So I've  
16 been aggressive on that one.

17 Q. Did you ever have occasion to discuss the  
18 short-term rental issue, as a matter of public  
19 policy, with Jim Sotolongo?

20 A. I believe either with Jim -- Jimmy or  
21 Ramara. I'm not sure. Maybe both. But nothing  
22 really, really in depth. But I do -- I do remember  
23 having conversations. Because I believe the  
24 Wilbur-By-The-Sea group was mad at them, but they  
25 were mad at them more for the bus benches than they

1       were, I think, for short-term rentals. Because  
2       Wilbur-By-The-Sea did not like bus benches in their  
3       city -- or their unincorporated area. I would  
4       actually use the word "hate." They hated the bus  
5       benches in Wilbur-By-The-Sea.

6           Q.     Did you ever have an argument with Jim  
7       Sotolongo about the short-term rental issue?

8           A.     I've had an argument with him, but I don't  
9       know if it was about short-term rentals. I don't  
10      know if I would. I don't know if it would be -- I  
11      don't know if it would be inconsistent with someone  
12      owning a short-term rental, because I -- like I said,  
13      property rights-wise, I think everyone should be  
14      allowed to short-term rent their house. As an  
15      attorney, I think there's a way around it, anyways,  
16      the way you write the lease. So I don't -- I don't  
17      remember, Jon.

18          Q.     Okay. I think I want to get you to talk to  
19      me about the RFP and the e-mail. You know what I'm  
20      talking about there?

21          A.     Which e-mail?

22          Q.     The e-mail that you wrote --

23          A.     Oh, to Ken?

24          Q.     Yeah.

25          A.     Yeah. I made it easier on you, because I

1 thought that would come up. Yeah, I think there's  
2 been a -- kind of a misunderstanding of how that all  
3 occurred, so I made it easier on you. I think it's  
4 in here. Hopefully I brought it. I've got so much  
5 stuff in here. I brought my computer, too, if we  
6 needed to go into e-mails. I was thinking I could  
7 get into the county e-mail system. I hope I brought  
8 it. I thought this would help.

9 The way that happened, the -- is not what  
10 the media made it out to be. And I don't know how,  
11 really, that worked out. The RFP, the reason it came  
12 about -- and I have all the e-mails for you in this  
13 little document --

14 Q. Let's mark that and make it part of your  
15 transcript.

16 (Exhibit 1 was marked.)

17 A. Yeah. If you look at it, what happened was  
18 on -- I go through a little thing with Votran, the  
19 timing of it. But in May, 2010 -- or April, in 2010,  
20 I started receiving -- remember I told you a minute  
21 ago that Wilbur-By-The-Sea hated bus benches in  
22 Wilbur?

23 Q. Yeah.

24 A. Well, I have the e-mails to show you. I  
25 got an e-mail from a constituent in Wilbur that says,

1 County staff was really responsive in answering  
2 questions. She learned that the advertising company  
3 plans to place commercial signs in the area. Because  
4 I guess they were on, they were off, on, they were  
5 off. And she goes through a very long e-mail about  
6 why it shouldn't happen. And then I believe it's the  
7 next day, a constituent that I -- I like a lot and I  
8 respect him, basically says, Government's going to do  
9 it as one -- government's going to do it at once, and  
10 the administrative arm is actually more powerful than  
11 the elected arm. I was very upset when I got this  
12 e-mail, because I respect this person. I e-mailed  
13 back, told her, I'll look into it. Soon after that I  
14 e-mailed Dan and I asked him to take a look at her  
15 three questions.

16 Q. Dan Eckert?

17 A. Dan Eckert. And to get back to me. The  
18 next day, after I e-mailed Dan, I e-mailed Ken. And  
19 I said, I hope you had a great weekend. I've been  
20 receiving many calls and e-mails in regards to bus  
21 advertising in Wilbur, which I just showed you. I  
22 heard that -- it's my understanding RFP's going to be  
23 released sometime in the near future. Can you please  
24 e-mail, fax or inner office, whichever better  
25 protects the RFP -- obviously I didn't want to put it



1 in a weird situation -- before it's released. I need  
2 to make sure I have a good understanding of what's  
3 going out. Also, is there a specific date? He wrote  
4 me back just saying that they're going to amend it to  
5 allow benches. Because I guess we were doing it  
6 county-wide, a couple other areas. The draft is  
7 being prepared. I get in here about what people  
8 don't realize is this wasn't a battle -- you've got  
9 to look at it this way, Jon. This wasn't a battle of  
10 a sign company wanting to keep its contract, because  
11 it was going to RFP. I mean, no one RFP'd this in  
12 such a long time. If anything, these people should  
13 hate my guts, because I'm part of the group that was  
14 trying to send their contract to an RFP. What was  
15 happening was Votran wanted to do it, too, which is  
16 McDonald Douglas. So you had a private -- the battle  
17 really wasn't outside companies. It was really an  
18 outside company and an inside company. And I think  
19 that's what's getting -- people are failing to  
20 realize is that McDonald Douglas, you know, had these  
21 grant -- this big grant they wanted to use for  
22 shelters and work with cities. So, really, that was  
23 the battle. It wasn't really county government,  
24 although they're involved, but it was really that  
25 private company. And then I go through that in here.

1 Q. Excuse me, if I could --

2 A. Yeah, of course.

3 Q. What was -- what was it that McDonald  
4 wanted that was in conflict with what Votran wanted?

5 A. It wasn't really -- I mean, in reality,  
6 McDonald Douglas is Votran, for the most part. I  
7 mean, they're managing the whole thing, the director  
8 is. It's just they wanted to control -- it appeared  
9 they wanted to control that part of the marketing,  
10 which I can understand. But, for me, the whole  
11 reason I like the RFP process is why pay someone to  
12 do it when we can get it done and they pay us?  
13 That's why I liked it. It wasn't for one company.  
14 It was just the RFP was the RFP.

15 And then in July, which was -- my e-mail to  
16 Ken was in May. In July, Ken sends me, Hey, here's a  
17 rough draft of the RFP. I guess responding to two  
18 months ago, or -- yeah, two months ago, over two  
19 months ago. I didn't reply, because the issue,  
20 honestly, was already resolved. Because what  
21 happened was -- Wilbur did not want bus benches, and  
22 it was going to go in the RFP to get them. And I  
23 remember -- I believe I was -- I think I was talking  
24 to Ramara, Jimmy, one of them. And I remember asking  
25 them not to put bus benches in Wilbur and just let it

1 go because it was taking up too much of my time and  
2 it was annoying. I don't think that was  
3 inappropriate to ask a company just to not do it any  
4 more, because it was creating too much fighting and I  
5 was tired of the fight. So the issue, in my opinion,  
6 was resolved.

7 So I got the RFP -- because that was the  
8 whole reason of asking to see it. So I got it in  
9 July, I didn't respond. Then in September I received  
10 another e-mail from Ken saying, The purchasing is  
11 ready to issue the RFP. Do you have any comments on  
12 the draft? And you've got to realize, at this point,  
13 I can't -- it's not like I can go talk to a county  
14 council member. I don't know if I'm receiving this  
15 or if all seven. I mean, this is -- I'm just -- I've  
16 only been in office for a year and-a-half, you know  
17 what I mean? I don't know if other people are  
18 getting it. So I respond to him and say, Hey, here's  
19 some of my changes, some things that I thought were  
20 silly that I thought were too -- too global and we  
21 could be more specific, like, you know, how much you  
22 want recycled and things like that. And then I made  
23 sure to put into it, and I thought this was really  
24 important, Jon, is I have some suggestions. And I  
25 put specifically, I do not, at any point, want you to

1 think I'm requiring or expecting you to make these  
2 changes. Just because I thought they were just  
3 suggestions.

4 Q. Why did you --

5 A. And thanked him for doing his job.

6 Q. Why did you make that disclaimer?

7 A. Because it was -- I don't know. I'm always  
8 careful of my role as a county councilman. Even in  
9 the beginning I kind of -- you know, I'm only one of  
10 seven, so I'm pretty good at making sure I -- I mean,  
11 you could probably go through my e-mails. I -- I'm  
12 not a betting man, but I think if you went through my  
13 e-mails, I probably have three times as many as the  
14 next person, just because I e-mail a lot. That's a  
15 guess. But I make sure that if I ask a staff member  
16 to do something in county government, I always say,  
17 you know, I can't tell you what to do, but if you  
18 could get me this, if this is in your capacity, that  
19 would be helpful. But I thought that was important  
20 to put in there because it was just a suggestion.  
21 And then, as you know, it was never brought forward  
22 as a -- it never came for a vote. And I've been  
23 consistently publicly accused of ethics complaints,  
24 so that's why -- that's why I did this.

25 Q. What we've marked as 1, just to make the

1 record clear, these are copies of e-mails?

2 A. Correct.

3 Q. What else is in here?

4 A. I believe the RFP is in there as well.

5 Q. Okay.

6 A. I just went ahead and put it all together.

7 Q. Okay. So it's copies of e-mails relating  
8 to the RFP and the RFP?

9 A. Correct.

10 Q. Thank you.

11 A. Thank you. Hopefully it's helpful.

12 Q. When you -- when you made that disclaimer  
13 to Ken Fischer, were you conscious of the appearance  
14 that your relationship with Sotolongo and Ramara  
15 Garrett, and their company, Waverly Media?

16 A. Yeah. I mean, I think that would be part  
17 of my reasoning is that, you know, it's weird the way  
18 the ethics rules are set up. You know, they -- you  
19 can't -- you can't stay out of the conversation, but  
20 yet when it comes time to vote, that's when, you  
21 know, the real issue arises as far as your conflict.  
22 I mean, you still have to state things. So as far as  
23 saying it, yeah, I think that would be part of it.

24 And it's really -- I mean, it's not that --  
25 friendships don't matter, just like I said with

1 Marilyn. I'm, you know, pushing to have the pier  
2 poles changed, and she and I have been fighting about  
3 that for five years. You vote against friends all  
4 the time. That's just part of the deal. That's just  
5 the way it works. The tricky part is when you have  
6 relationships, you know, business relationships, it  
7 does make it more interesting. And I've had it  
8 happen a couple times to where I've had to -- you  
9 know, when it comes time to vote, I'd have to sign  
10 the sheet and say I have a conflict and not do it.  
11 But if anything, if you look at what I had changed,  
12 it actually hurt them. So it would actually make it  
13 harder. So I don't necessarily think those things  
14 that I wanted changed would do anything but make it  
15 more difficult.

16 Q. Would it -- would it make it more difficult  
17 to reduce the public service percentage?

18 A. I thought that was stupid of how they did  
19 it, because no one ever did it. It's such a waste.  
20 I don't think that helped or hurt. I think that was  
21 just my view of, why are we doing these things when  
22 we don't do them now? I can go -- if you want to go  
23 through all of them, I can, if you want.

24 Q. Yeah, why don't you do that.

25 A. Yeah.

1 Q. This is the 9/2/2010 e-mail?

2 A. I have my opening statement, you know,  
3 thanking him, obviously, for what he does. I asked a  
4 question. I said, Are we going to specify the  
5 specific minimum number of spots? I have missed it  
6 in the RFP, or maybe it's not appropriate in this  
7 type of RFP. I just thought, you know, if people  
8 want to sit on bus benches, why wouldn't we required  
9 them to put them in places. I mean, you have a  
10 company that comes in, or companies, whoever does  
11 it -- I'll give you an example. The reason -- my  
12 mindset behind this. It's just like the beach. We  
13 allow the golf cart companies to come in. And I was  
14 specific on the record to say, Look, we provide them  
15 here now. I don't want to see you reduce them,  
16 because then you're going to have people that used to  
17 go get golf carts somewhere and it no longer is there  
18 in New Smyrna or somewhere. And you're just going to  
19 focus on the ones that make money. So it was that  
20 one. It's, like, I want to force them to put them in  
21 areas that maybe they can't sell advertising because  
22 just there's not that many cars going by. The next  
23 one -- do you have the RFP, Jon?

24 Q. No. You've got it.

25 A. That's the public service one. I thought

1 it was silly. We've never used it. Don't get me  
2 wrong, it would have been great for me in my  
3 election. I'd say put Josh Wagner on there and say,  
4 learn how to swim. So, if anything, it would be nice  
5 to have. Some -- you'd see some counties do that, by  
6 the way.

7 Q. You wouldn't -- you wouldn't do something  
8 like that?

9 A. No, not any more. No way. The -- I mean,  
10 you see -- you go to -- I mean, look what the  
11 Governor did. Governor wanted -- remember in Tampa  
12 when they had the --

13 Q. Oh, yeah.

14 A. You know, so it's not uncommon for elected  
15 officials to have their names on things. Not  
16 uncommon at all. So bottom of four -- there was -- I  
17 just thought it was unfair the way that one was set  
18 up, because it mixes Votran into the bench company.  
19 That was what that fight was all about, about the  
20 grant money. They wanted to use the grant money for  
21 benches when you could also use that money for --  
22 there were a lot of things you could use it for, and  
23 I believe it was for -- to update it for  
24 disabilities, to use cement pads. To do all sorts of  
25 these good things that I thought the money should be



1       used for. So I thought if we opened the door, that  
2       if you do that, you'll start spending money on --  
3       shelters are important, don't get me wrong, but why  
4       not have a private company do them and spend your  
5       money on the stuff that I think's -- they're not  
6       going to spend money on. They're going to spend  
7       money on the shelters, private companies, because  
8       they can put marketing on it. They're not going to  
9       put money on a -- on our cement ramp, you know what I  
10      mean? So that's where that one came in. That was  
11      more to that internal kind of external fight.

12                 Six, I thought was just -- oh, I'm on the  
13      wrong page. Sorry. Page 6. That was from what I  
14      learned of working on RFPs. At this point I had  
15      already worked on quite a few as a lawyer.

16                 Q. You're referring to Page 6, 9.2 --

17                 A. Yeah. You know how sometimes it's hard to  
18      take your -- when you're a lawyer, you're kind of  
19      always a lawyer.

20                 Q. Yeah.

21                 A. So that was just my personal preference.  
22      Page 7, 13.1. I thought minimum level was better,  
23      because what if someone wanted to make it better than  
24      that. You know, why not -- if you do equal, then  
25      it's just going to have standard, but if someone

1 wanted to do something more, I thought, why not allow  
2 them to.

3 Page 8, the second part is per recycling,  
4 but let me look at 13.1. 13.1 -- I think just  
5 specifics. And if you read that, can you see why.  
6 Look at C. Talking about indexes from, like,  
7 multiple different things, and county standards, and  
8 then other requirements, and state and FDOT. I  
9 thought that was just a nightmare. And then,  
10 obviously, with D, I wanted to bump it up to 25  
11 percent recycle just because 10 seemed pretty  
12 ridiculously low. I'm a per recycler.

13 Q. Do you think that increasing that would  
14 have had any effect on the potential companies that  
15 could bid?

16 A. For -- I think it would make it harder and  
17 more expensive for whoever got the contract. 10  
18 percent recycle material to 25 percent was a pretty  
19 big jump. So, yeah, I think that definitely made it  
20 harder. I don't think 9 -- or Page 8, that that  
21 requirement where it's talking about the language, I  
22 do think that loosens it up a bit, but I don't  
23 think -- the point is, even if the one, like that  
24 one, could be taken as -- maybe it's a lower  
25 standard -- lower standard for FDOT and things like

1 that, but higher standard for the recycling. None  
2 would be specific to one company over another, you  
3 know what I mean? It's very -- it would help or hurt  
4 all companies.

5 Then 9 -- 9 talks about permits. I just  
6 thought it was stupid that you would require a permit  
7 for a bench. It just seemed ludicrous to me.

8 And Page 10, Section E. I think it was  
9 just from looking at signs. That one was kind of a  
10 nothing one anyways. Yeah, those -- I mean, those  
11 are my thoughts, because I kind of walked through  
12 this pretty quickly. I mean, obviously that was a  
13 couple years ago. But I think that, for the most  
14 part, reflects my mindset at the time.

15 Q. Thank you for that. That's very helpful.

16 A. Yeah.

17 Q. Did anybody at Waverly ask you to review  
18 that RFP?

19 A. No, I don't believe so. I think there  
20 were -- I think something else came out a while back  
21 that even reflected that they didn't -- they didn't  
22 know anything about it. Either it was an e-mail that  
23 someone had -- I remember seeing it, going, huh, it  
24 kind of proves the point. Because someone had said  
25 that -- I think a newspaper article, that they made

1       it seem like I got the RFP to get to Waverly, but  
2       when you read the e-mails and you look at it, it was  
3       for Wilbur. So, you know, it was kind of against  
4       them for that purpose. But, no.

5           Q.     So Jimmy didn't ask you to look at it?

6           A.     No. The only the conversations I had with  
7       the bench company, that I can think of, like I can  
8       actually remember, or with Jim Brown, very rarely did  
9       I have -- I mean, he ran the company. He really --  
10      he did a good job, too. I mean, he built that  
11      company up. I remember when they weren't many  
12      benches and, you know, he really -- he really put his  
13      time into it. So any conversation I had would have  
14      been Jim Brown.

15          Q.     Did he ever ask you to go over the RFP?

16          A.     I don't believe so. I don't think -- I  
17      mean, I know we had discussed the RFP going out at  
18      some point through the years. Just on time of, is it  
19      coming? Like, more of a time thing. Like, when is  
20      it coming? I think there may be e-mails or something  
21      along those lines, but I don't think the specifics of  
22      it, other than the conversation I had with Jimmy that  
23      one time -- I believe it was Jimmy or Ramara -- about  
24      the Wilbur-By-The-Sea. That I do remember. And it  
25      may have been Jim Brown, as well. It could have been

1 any of the three.

2 (Off the record discussion was held, after  
3 which the following proceedings were had:)

4 BY MR. KANEY::

5 Q. You said a moment ago that you're only one  
6 of seven on the council?

7 A. Yeah.

8 Q. Aren't you just one of three?

9 A. One of three?

10 Q. Referring to the division of the council  
11 between four and three.

12 A. It's definitely been an interesting year.

13 Q. Yeah.

14 A. Yeah. It's -- it's changed a little bit in  
15 the last couple -- couple meetings. I've seen --  
16 I've seen the groupings break up a little bit more,  
17 which I think's healthy. I think the problem was  
18 it's just getting in office that first little bit,  
19 your strong -- strong ties, but I think over the  
20 course of time, they kind of have a way of working  
21 themselves out. Maybe not right now. I think we're  
22 facing a really big issue, as well, with the new  
23 situation that's arisen. Luckily I have nothing to  
24 do with it. I can just sit back.

25 Q. The trails?

1           A.     (Nods head affirmatively.)

2           Q.     Has it -- has it been a concern to you,  
3           though, that it seemed like on the big issues to you,  
4           you were coming up one vote shy of a majority?

5           A.     Not all of them. And the ones in the  
6           paper, I mean -- I'll give you an example. The CRA  
7           one. That was a brutal one, and that broke up the --  
8           you know, I think -- so as many as I've lost, I've  
9           won. It's just the ones that are -- seem to make it  
10          in the paper are the ones that are the four-three. I  
11          don't mean to say "I," because there's really no I,  
12          and there really shouldn't be. But it's kind of  
13          become that, which is silly and sad at the same time.  
14          But, yeah, it's -- that was hard on a couple of them.

15          Q.     Has it ever occurred to you to try to  
16          effect that majority by supporting candidates that  
17          would be sympathetic to you?

18          A.     Absolutely. Why wouldn't I? Not  
19          sympathetic to me. Sympathetic to my beliefs.

20          Q.     To your cause, yes.

21          A.     Yeah. Like democrats or republicans. Very  
22          rarely do you see me support a republican, because  
23          I'm a democrat, you know what I mean? So part of our  
24          bylaws, we have to. I have swayed off it a couple  
25          times and people get really mad, but for the most

1 part -- and it works both ways. I mean, you see the  
2 republicans supporting each other. That's just how  
3 it works. It's partisan politics.

4 Q. Have you -- I guess what you're saying is  
5 you have been active in supporting candidates?

6 A. Oh, absolutely. That have similar beliefs,  
7 or I think they do a good job. I've done that with  
8 city elections as well. Quite a few. Judges, people  
9 that I think would make a good judge, I've donated  
10 money. I donate time. I think if they're going  
11 to -- I want people in office that I think act  
12 similar or think similarly to me, because I think I'm  
13 doing the right thing. I know that's a little  
14 narcissistic, but, I mean, we all want government.

15 Q. You'd be crazy to think otherwise.

16 A. Yeah. I mean, it would be silly for me to  
17 have someone in there that doesn't reflect my views.  
18 But, yeah.

19 Q. And your friends, Jimmy and Ramara,  
20 Sotolongo and Garrett, have they worked with you on  
21 those political campaigns?

22 A. Quite a few. I think they're democrats as  
23 well. A lot of democrats. You've got your democrat  
24 group, your republican group. The republican group's  
25 kind of split in two right now, I think.

1 Politically, I think it's getting back together.  
2 That's national as well as local. But I think that's  
3 kind of the -- it's probably why I originally got to  
4 know them in the first place was being a democrat. I  
5 don't know if I was a republican I would have, just  
6 because of my views. Even though local stuff, it  
7 only goes so far, but it still does.

8 Q. Would -- you know, Waverly -- Waverly  
9 Media's in-kind contributions, there was a large  
10 number of that. A large amount of support in that --  
11 this last election.

12 A. Um-hum.

13 Q. Were there any candidates that Waverly  
14 supported that you didn't support?

15 A. Do you have -- you don't happen to have a  
16 list, by any chance, do you, of who they gave? I  
17 could tell you, if you know. I can be specific.

18 Q. I don't have that. I've got it on my desk.  
19 Let's take a little break and I'll get it off my  
20 desk.

21 \*(Recess was taken, after which the  
22 following proceedings were had:)

23 BY MR. KANEY::

24 Q. Josh, let me -- let's mark that as Number  
25 2, please.



1 (Exhibit 2 was marked.)

2 A. Thanks for doing this. This will be  
3 easier.

4 Q. Josh, we're looking at Number 2. Do you  
5 know what this is?

6 A. It looks like a campaign contribution --  
7 contribution database.

8 Q. From the News-Journal?

9 A. From the News-Journal.

10 Q. Okay.

11 A. Me, obviously I supported myself. If I  
12 didn't, we'd have problems.

13 Q. Nobody would vote for you if you didn't.

14 A. That was in 2008. 2010, Joyce Cusack,  
15 yeah -- Joyce Cusack, in 2008, I had not really met.  
16 She didn't know me. And when I met her through a  
17 couple of my friends that were firefighters, I was at  
18 an event and they introduced me to her, and she was  
19 so nice. She said, We need more -- talked to her a  
20 while. She said, We need more young democrats like  
21 you. And she gave me her -- and I thought it was  
22 neat, she gave me her endorsement right then on the  
23 spot. And I thought that was really, really neat for  
24 a state representative to do that. And I just, you  
25 know -- that was pretty -- pretty cool. So later on

1 when Joyce said she was going to run for county  
2 council, I may have been the first person that  
3 endorsed her, because -- I was happy to do it,  
4 obviously. Because when I was running for office the  
5 first race, I was in no -- you know, not that I'm  
6 anyone now, but I was a no one. I mean, no one knew  
7 me. You knew me, obviously, from being a lawyer, but  
8 most people didn't politically at all. I mean, I was  
9 unknown. So that was really neat for Joyce to do  
10 that.

11 Q. I know you from being a fellow assistant  
12 state attorney.

13 A. Yes. I was going to say it, but I wasn't  
14 sure. You never know -- nowadays you can't say  
15 things and things are blocked.

16 Q. This is a public record. We can't hide  
17 from our past.

18 A. Yeah, you're right. And then 2010, it says  
19 Joyce -- I supported Joyce as well, as I said. Andy  
20 Kelly, 2010, on the county council. I was -- I  
21 supported Andy. We were democrats together. But I  
22 kind of stayed out of that one, because I think that  
23 was one with -- that was with Dwight Louis, I think,  
24 and I was friends with Dwight. He's a long-time  
25 family friend. And I like Dwight, so I kind of

1 stayed off of that one, because that was just hard  
2 for me.

3 Q. Yeah.

4 A. It was hard. Jeff Allebach. I know Jeff.  
5 I would say I have a friendly relationship with Jeff,  
6 but our ideologies do not reflect each other at all,  
7 which is okay -- I mean, which is fine. I appreciate  
8 that one. Judy Conte I didn't really know that well,  
9 so I really didn't have much to do with her race.

10 Ida, yes. I supported Ida in both of her elections.

11 Q. Ida who?

12 A. Ida Duncan Wright.

13 Q. Oh, yes.

14 A. She's -- I think she's a -- I mean, it was  
15 hard in the first election because I was friends with  
16 Dr. Williams, so I kind of -- you know, I told her  
17 there was only so much I could do. But the next  
18 election I had committed. Because what I told her,  
19 If there's ever something you want to run for later,  
20 I would support you, and I did. The next one is the  
21 person who ran against me, so I didn't support them.  
22 Frank Bruno. Yes, I contributed to his campaign as  
23 well. Derek Henry, Mayor Henry, yes. He and I go  
24 way back. Good guy, good family. Andy. It was hard  
25 with Supervisor of Elections, because I had committed

1 to helping, and then Ann decided to go back, and I  
2 think Ann does a good job, so that was hard. So I  
3 was kind of committal, noncommittal, because of Ann  
4 deciding to come back in that race. Missy, I  
5 supported, because she's just always been so nice.  
6 Justin I'm friends with and supported him. Dennis,  
7 supported. Stony, I did not.

8 Q. Maybe we should say last names so the  
9 record --

10 A. Sorry. Justin Kennedy I supported. Dennis  
11 Mulder I supported. Stony Sixma, I did not. And as  
12 you notice, the ones that are democrats, I supported.  
13 The ones that are republicans, I did not. However, I  
14 did stay out of some of the democrat races, like Andy  
15 Kelly's in 2010, because of that relationship with  
16 Dwight Louis. And then with the Andy Kelly race, it  
17 changed when Ann came back in, Ann McFall came back  
18 in, because I respect Ann. And I respect incumbents  
19 for the most part, too. I have a hard time people  
20 running against incumbents. That was hard for me in  
21 Andy's race. But that's -- I think that reflects all  
22 of them.

23 Some I gave money to. Some I just -- we  
24 spoke together at the democratic events, you know,  
25 and I would be supportive in words, not money, so --

1       because, yeah, not all of these I gave money to.

2           Q.     The rest of this paper is --

3           A.     Ads.

4           Q.     What the Internet does to ruin our forest.

5           A.     Are there a couple more?

6           Q.     No, I think that's it.   Okay.

7           A.     Yeah, and I'm on the -- I'm on the campaign  
8       committee for the Democratic Executive Committee, and  
9       there's specific rules about publicly endorsing  
10      non-partisan races, partisan races.   I've always had  
11      a little bit of a hard time with it, as you can tell  
12      on my support, but somewhat consistent.

13          Q.     Do you know Tim Davis?

14          A.     The realtor?

15          Q.     The employee of Waverly.

16          A.     Oh.   I thought you were talking about the  
17      realtor.   I know that Tim Davis.   I don't believe he  
18      was ever an employee.

19                 The only thing I know of Tim Davis -- I  
20      don't believe I had ever met him.   Is that the guy  
21      who put benches up, drove around?

22          Q.     Yes.   I think so.

23          A.     That's the only way I knew that there was a  
24      position there.   I don't know if I've ever really met  
25      him.

1 Q. Do you know if -- if he ever lost his job  
2 with Waverly?

3 A. I think most people lost their job. I  
4 don't know. But I don't know.

5 Q. Are you aware of any occasion where he  
6 would have been dismissed, terminated?

7 A. No.

8 Q. You know in a depo when they start flipping  
9 pages, it's getting close to the end.

10 A. Take your time. And would you mind if I  
11 put on the record that I am friends with -- I do have  
12 a lot of respect for Jeff Allebach. I really want to  
13 make sure on the record that I do. And I thought  
14 he's done a good job. But just, philosophically, I'm  
15 not -- you know, with the politics involved, I don't  
16 want that to reflect on what I thought he did,  
17 because he contributed a lot of the TPO. He did a  
18 good job. Just on the partisan politics, it was a  
19 different view. Thank you.

20 Q. Thank you for that.

21 A. I appreciate it.

22 Q. Would it surprise you to know that there  
23 are witnesses who I've talked to who give you credit  
24 for being the mastermind, or the coordinator, of the  
25 program of Waverly doing the in-kind contributions

1 for signs?

2 A. That's silly. It goes back to the whole  
3 thing of if someone wanted to do something illegal,  
4 why wouldn't you just do it? So it's -- Jim Brown,  
5 like I said, I honestly believe that fellow really  
6 was trying to do it the right way, because why would  
7 he -- why would you even do it? You know, it  
8 wouldn't make any sense at all to -- I think he  
9 thought, you know, he was doing it right. It's just  
10 he, obviously, wasn't. He pled to it.

11 But, I mean, there's -- from what I  
12 understand, a lot of people have said -- I have  
13 enemies out there, so I'm sure those are some of the  
14 ones saying it. They've gotten the same information,  
15 like saying, hey, these are the people that donated.  
16 I don't know the people, so it would be kind of hard  
17 for me to mastermind, you know -- put these people  
18 down and I don't even know who they are. And then I  
19 sent thank you notes. You know what I mean? It's,  
20 like, sure, you're involved in it. Why would I send  
21 a thank you note? You know what I mean? It kind of  
22 puts them on notice that --

23 Q. Well, you know, but no offense, but the  
24 obvious suggestion is that was to cover your trail?

25 A. Well, that could always be the case, like

1 anything. You know what I mean? It's -- there's no  
2 way to -- for a candidate to know in that situation  
3 that something like that is really taking place.

4 Q. Did you -- did you ever recommend to Jimmy  
5 and Ramara -- I feel like I'm on a first name basis  
6 with them and I've never even met them, but I've  
7 heard their names for these last few weeks.

8 A. I understand. I understand.

9 Q. Did you ever recommend to them that they  
10 support any of these candidates that we see on their?

11 A. I think most of them, other than -- you  
12 have a couple republicans in there. I think most of  
13 them are just because of the democrat part of it. I  
14 mean, of course I would vouch for anyone on this  
15 sheet. I would totally vouch for them. But to say  
16 go out and support this person, I'm trying to think  
17 if there was anyone -- maybe people that aren't on  
18 this sheet. I'm trying to think.

19 Q. How do you think Jimmy and Ramara -- well,  
20 first, Waverly is playing a role here in supporting  
21 these candidates. Would you agree with that?

22 A. I think we all are.

23 Q. Okay.

24 A. Yeah.

25 Q. With your understanding of Waverly, who do



1       you think made the call that the resources of  
2       Waverly, through the in-kind program, would be  
3       devoted to supporting a particular candidate?

4           A.     From my understanding is -- I mean, it's  
5       hard to know the inner operation. But from what I  
6       gathered, I'd see Jimmy and Ramara at events more,  
7       but specifics to it, based on my own experience, it  
8       was always with Jim Brown. So it's -- you know, it  
9       was never like I met with Jimmy or Ramara and said, I  
10      have this much money, this is what I'm thinking of  
11      doing. Because one thing that's left out is I also  
12      spent money with Waverly. A lot. A lot. There was  
13      a lot of money spent. So it wasn't just in-kind  
14      contributions. They're a media outlet, so I spent  
15      the money as well. But that was always with Jim  
16      Brown. Always.

17           Q.     Is it your impression that Jim Brown had  
18      the authority from Jimmy and --

19           A.     You make --

20           Q.     -- Ramara?

21           A.     You make the assumption, but it's just an  
22      assumption. I don't know.

23           Q.     Do you think Jimmy's the kind of fellow  
24      that would be indifferent to who his employee was  
25      using his company's resources to support?

1           A.    I mean, based on -- based on -- I know  
2           Jimmy's philosophical views and I know a couple of  
3           these guys, and I definitely think they're in  
4           conflict. So I can tell you that's definitely a  
5           possibility. But it would be an assumption, Jon. I  
6           know most of these people, if not all. Well, other  
7           than one personally. There are a couple that don't  
8           reflect each other's views, and they stand out.

9           Q.    Who are you looking at there?

10          A.    I think Jeff Allebach would be part of  
11          that. I think Stoney Sixma. And I think Jimmy  
12          Wetherell. But you're playing the -- I don't even  
13          know if Stoney's is a democrat or republican,  
14          honestly. I just knew he ran against Pat Northey.  
15          So I'm making an assumption. So, yeah, I think there  
16          has to be, unless there's something I don't know.

17          Q.    You think it has to be that Jim Brown was  
18          making those calls?

19          A.    I think it's probably both. But, like I  
20          said, I'm making an assumption. I'm trying to base  
21          it on what I know about myself.

22          Q.    Well, that's the way I put the question to  
23          you. What you know of them, what would you deduce?

24          A.    What I would deduce is, based on my  
25          experiences, that it would be a mixture of both, but

1 with the caveat that all of my dealings were always  
2 with Jim Brown. But, obviously, Jim and Ramara  
3 supported my campaign as well.

4 Q. Do you know Charlie Lydecker?

5 A. Um-hum. Yes, of course.

6 Q. How do you know him?

7 A. I first met Charlie, I believe, in 2008. I  
8 have the highest respect for him. I've always liked  
9 Charlie. I've always looked to him for advice on  
10 things, for political running for office to being in  
11 office. I think he has a good grasp of what's going  
12 on. Even though he travels so much now, but he still  
13 has a good grasp of what's going on. But that's how  
14 I first met him, through events. And he supported my  
15 campaign. He did, Brown and Brown, both.

16 Q. Of course you know Doug Daniels?

17 A. Of course.

18 Q. Is -- is Doug Daniels a democrat, to your  
19 knowledge?

20 A. Depends on how you define democrat.

21 Q. Well, start -- start with --

22 A. Party affiliation, yes, he is.

23 Q. Have you ever supported him in a campaign?

24 A. I did significantly.

25 Q. When he ran?

1 A. Um-hum.

2 Q. Would you do it again?

3 A. No. I would -- I haven't hidden the fact  
4 that Doug and I have been opposed to many different  
5 things. I would probably just stay out of the race  
6 or move into his district and run as well.

7 Q. Could you do that when your term's up?

8 A. (Nods head affirmatively.)

9 Q. You can change districts?

10 A. I say that in jest. I represent Doug. I  
11 do. I do. I just think some things have -- I  
12 don't -- I don't share a similar style of how I  
13 believe I represent a community. And that's okay. I  
14 can still respect someone and feel that way.

15 Q. Have you ever heard anybody refer to the  
16 bus bench in-kind program as "dirty"?

17 A. Dirty?

18 Q. As in dirty politics.

19 A. I don't think so. I mean, I don't think  
20 it's as dirty politics as -- I just think with  
21 anything you're going to have -- when you're running  
22 for office, you're going to have people support you  
23 and people that don't. And obviously the people that  
24 don't are going to say one thing, and another group's  
25 going to say another. But I don't believe someone's

1       come up and said I was dirty.

2           Q.    Not you.  That wasn't the question.

3           A.    To me?

4           Q.    The bench -- said to you -- the reference  
5       was describing that program of the in-kind bench  
6       contribution.

7           A.    I just think it -- like I said, I think Jim  
8       Brown made a mistake in how he set it up.  I think if  
9       he went back, it wouldn't have been.  Because, I  
10      believe, it was my understanding, and I don't know if  
11      this is true, but my understanding is he tried to  
12      contact the Supervisor of Elections to walk through  
13      the process.  I may have read that in an article, I  
14      think, when he sat down with the News-Journal.  So I  
15      do think the guy -- and I can tell you my -- I'll  
16      deduce something again.  Every time I ever worked  
17      with him, he was very busy like.  So that's what I  
18      deduce from the situation.

19          Q.    In your dealings with him, do you find him  
20      to be truthful?

21          A.    Other than this bench thing, which I don't  
22      know what the truth was, you know -- I don't know,  
23      really, how that part worked out because I wasn't  
24      privy to that information.  But everything else,  
25      yeah.  I mean, I thought when, you know, I bought

1 stuff from them for the campaign, I thought it was  
2 priced fairly.

3 Q. Did you ever spend much time at the Waverly  
4 office?

5 A. I did when the magazine was going on. That  
6 was the old office. I wouldn't say a ton of time.  
7 It was more just we'd have magazine meetings, kind of  
8 just talk about where it was going, you know.  
9 Advertising. I'd go to layout. I drew some stuff.  
10 I was one of the artists for the magazine, so I had  
11 to submit.

12 Q. You're an artist?

13 A. If you define it as art. You know the  
14 little caricatures that were in there?

15 Q. Yeah.

16 A. The little in and out? That was me. I  
17 made all those little pictures.

18 Q. Those were good.

19 A. Now that's on the record. So if someone  
20 didn't like theirs, come back and get em. But I kept  
21 them all. I have all their little caricatures. I  
22 didn't put the words. My words would often be  
23 changed, just so everyone -- I want that on the  
24 record, too. I wasn't mean. I wasn't mean at all.

25 Q. Is there anything else you need to say?

1           A.    If something comes up and you need me  
2           again, I'm obviously okay with it. I think  
3           everything I can think of -- obviously I wanted to  
4           talk about that. I brought it. I thought that was  
5           important. Just that there are other little battles  
6           going on that I just think people didn't understand.  
7           The Wilbur to the county, the benches. But I think  
8           the internal Votran and the grants, should that be  
9           public or private? Those things were going on, and  
10          people don't care about stuff. It's boring. You  
11          know, it's -- you know that. I mean, it's the stuff  
12          in county government that people don't care about  
13          because it's small. No, that's it.

14          Q.    Okay. Well, thank you very much.

15          A.    Of course.

16               (WHEREUPON, the interview was concluded.)  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE OF REPORTER OATH

STATE OF FLORIDA )

COUNTY OF VOLUSIA )

I, Shannon Green, Registered Professional  
Reporter, the undersigned authority certify that  
Josh Wagner named herein personally appeared before  
me and was duly sworn on the 24th day of February,  
2014.

WITNESS my hand and official seal this 6th  
day of March, 2014.

---

Shannon Green  
Registered Professional Reporter  
Notary Public - State of Florida  
My Commission No. EE852120  
My Commission Expires 1-8-2017



## 1 CERTIFICATE OF REPORTER

2  
3 STATE OF FLORIDA )4 COUNTY OF VOLUSIA )  
5

6 I, Shannon Green, Registered Professional  
7 Reporter, certify that I was authorized to and did  
8 stenographically report the foregoing proceedings;  
9 that a review of the transcript was requested, and  
10 that the transcript is a true and complete record of  
11 my stenographic notes.

12 I FURTHER CERTIFY that I am not a  
13 relative, employee, attorney or counsel of any of  
14 the parties, nor am I a relative or employee of any  
15 of the parties' attorney or counsel connected with  
16 the action, nor am I financially interested in this  
17 action.

18 Dated this 6th day of March, 2014.  
19  
20  
21

22 \_\_\_\_\_  
23 Shannon Green  
24 Registered Professional Reporter  
25

Re: Statement of Facts

In 1975, the Volusia County Council created a public transportation system called VOTRAN. The system was, and is, managed by a third party vendor named McDonald Transit. McDonald Transit is a professional transportation management firm based in Fort Worth, Texas.

In 1979, Volusia County entered into an exclusive agreement with a private company to provide bus benches at bus stop locations. The company provides the bus benches for use by the public and in return sells advertising on the bus bench. The county receives shared revenue on the advertising sales. The agreement was renewed repeatedly from 1979 to the present. Over the years, the agreement was assigned a few times as the company was sold. Waverly Media LLC has been the owner since 2007.

In 2008, I was elected to the Volusia County Council.

In June 2009, VOTRAN recommended to the County Administration to discontinue advertising on bus benches and thus bring all expenses of providing bus benches in house. The County Council voted 5-2 to not bring the bus bench service in house and continue with the RFP process. The initial expenses would have been somewhat offset by grants. However, the reoccurring expenses would have been significant into perpetuity. Later that year, rumors were that VOTRAN was using some of its federal grant money in ways that were not consistent with the majority vote. However, after some fact finding, VOTRAN seemed to be mostly consistent with the majority.

In late April and early May 2010, I received many comments, including many emails, in regards to bus advertising in a residential area called Wilbur by the Sea (Wilbur). As part of my position with the County, I am required to sit on the Wilbur Neighborhood Board. Since I took office in January 2009 and long before, advertising in this residential area had been very controversial as some residents were very against it. I became very familiar with the advertising issues because I was being questioned on it at our board meetings.

On April 26, 2010, I received an email in regards to advertising on bus benches in Wilbur from a resident who I respect (see attachment 1 - Email from Chris to me). She was against advertising in her residential neighborhood to say the least. The email stated:

Joshua,

-On Friday, County Staff was very responsive and helpful answering my query about a February code change which will now permit commercial advertising to be placed on ten benches erected within the past two weeks at Votran stops in Wilbur by the Sea. Additionally, I have learned that an advertising company plans to place commercial signs on these benches in the very near future. Although these sign benches appear to be located on public property and the right away, they are immediately adjacent to homes in this



residential area. Additionally, some of the benches are very close (approx one foot) to the roadway and may pose a safety concern. (please see photos below)

- Permitting these sign benches to be erected in Wilbur by the Sea will also violate the "Purpose and Intent" stated in the Code sec 72-32 i.e.: "These regulations are also designed to preserve the character, appearance and aesthetic qualities of Volusia County by regulating the erection, maintenance, size, height and number of signs permitted.... to ensure that signs do not have a detrimental effect on the character, appearance and property values of the County. ..to allow the county to rationally plan its physical surroundings in such a way that visual blight is minimized and that no sign constitutes a traffic or safety hazard".

- Erecting so many commercial signs is also inconsistent with the approved Wilbur by the Sea Local Plan including its "Goal: Maintain the existing residential, cultural and scenic values associated with the Wilbur Community...."

-I am not opposed to benches although I have observed very little use of Votran in Wilbur, am concerned about safety because of the narrow right of way and conclude the benches will be primarily sign platforms creating a visual blight and benefiting commercial profits rather than residential interests.

- In considering this matter, request Council/staff take into account that Votran advertising benches do not exist in Ponce Inlet, Daytona Beach Shores and areas of Daytona indicating this type of commercial advertising is undesirable, inappropriate, and adversely impacts the character, appearance and aesthetic qualities of surrounding areas.

-I would also ask council/staff to imagine themselves in the position of Wilbur residents and decide if a commercial sign bench in front of their homes or two on every block of their neighborhood would be acceptable from an aesthetic and property value basis.

-In summary request:

--- Volusia County/Votran prohibit commercial advertising on the ten Votran benches in Wilbur because such advertising is inconsistent with the purpose and intent of the overlaying code and the approved Wilbur Local Plan/Overlay.

--- County and Votran follow the Ponce Inlet/Daytona Beach Shores example by requiring Votran benches in Wilbur be positioned parallel to the roadway rather than diagonally to maximize setback in order to mitigate the safety concern.

--- Staff appropriately revise new ordinance No 2010-03 to prohibit commercial advertising in Wilbur and other unincorporated residential areas with approved and conflicting Local Plans/Overlays..

-Thank you for your attention to this matter.

Sincerely and respectfully, Chris Gigicos, 4221 South Atlantic Ave, Tel 761 0653

On April 27, 2010, I was copied on a response to the prior email from another resident in Wilbur by the Sea (see attachment 2 – Email from Bob to Chris). I also respect Mr. Bob Mills' input as he was a long time Volusia County employee. He and I share very similar views on many governmental issues. His concerns were also similar with the other resident in regards to advertising in Wilbur. He stated:

Hi chris:

All great points, but I think we can assume (or at least I do) that government is going to do what it wants. In Volusia, the administrative arm is actually more powerful than the elected arm. It's been that way for at least 20 years.

The overlay states also that Volusia county is charged with implementing the overlay via supporting ordinances and inter-local agreements by 2005.....none of which I have seen materialize. I think that's where our efforts need to be so we don't need to fight the little fires. But, you are right, we need to fight this little fire to set the record straight.

Bob

In regards to the concerns of my constituents, I emailed a follow up to the Wilbur resident (see attachment 3 – Email from me to Chris). I stated:

Hello Chris,

I will look into this to see what is going on.

Josh

On May 2, 2010, I emailed our County attorney to look into the legal matters. I stated in the email (see attachment 4 – Email from me to Dan):

Hello Dan,

Can you take a look at the three questions in her summary to see if there is something to them?

Thanks,  
Josh

It is my recollection that I had a phone conversation with our county attorney to discuss the matter further.

On May 3, 2010, I sent the following email to the Manager of VOTRAN (see attachment 5 – email from me to Ken):

Hello Ken,

I hope you had a great weekend. I have been receiving (many) calls and emails in regards to bus advertising in Wilbur by the Sea. It is my understanding that a RFP is going to be released sometime in the near future. Can you please email, fax or inner office (whichever better protects the RFP) a copy before it is released? I need to make sure I have a good understanding of what is going out. Also, is there a specific date the RFP is going out?

Thanks,  
Josh

On May 4, 2010, the Manager of VOTRAN responded with the following email (see attachment 6 – email from Ken to me):

Josh,

In June of 2009, the Council instructed staff to amend the County's sign ordinance to allow for benches with advertising in the unincorporated areas. Once the sign ordinance was amended, Council instructed the staff to issue an RFP for vendors to provide benches with advertising. We are at the point that the sign ordinance has been amended and a draft RFP is being prepared. Once it is completed, staff will turn it over to the County's Purchasing Department for processing. We have not set up a time frame for release of the RFP.

Based on a request from County's Parks and Recreation Department, Votran asked Waverly if they would place benches without advertising in Wilbur by the Sea. That is how the benches being questioned ended up in Wilbur by the Sea. Let me know if you have any other questions.

Thanks,  
Ken

Based on the questions I had been receiving in regards to Wilbur and my skepticism of how VOTRAN and our third part vendor was handling the majority of the County Council voted for, I thought it was appropriate to look into this matter. However, much of the preceding info was unknown to most people in relation to my intent for the inquiry and the following is what is only being mentioned in public as a possible ethics violation.

In May 2010, I was part of a group of investors that bid to operate a restaurant on city owned property. The restaurant LLC was owned by twelve members. I was one of the twelve members. One of the other twelve members, was then and is now, a partner in Waverly Media LLC. Ultimately, the restaurant group disbanded within a year because we were not successful in our negotiations to operate on the city property. Stemming from that group, three investors, including a partner from Waverly Media LLC and myself, started a magazine. After six months, I left the magazine group because I soon found that owning a media outlet and being a public servant was too difficult.

On July 28, 2010, at a time when I was an investor in the restaurant group, I received an email from the Manager of VOTRAN requesting questions/comments on a draft of the request for proposal to bid out the County bus bench provider contract (see attachment 7: email from Ken to me). It stated:

Josh,

Please find attached a rough draft for the RFP for benches with advertising in the unincorporated area of the County. Let me know if you have questions/comments.

Thanks,  
Ken

On September 1, 2010, I again received an email from the manager of VOTRAN asking me for comments (see attachment 8 - email from Ken to me). The email state:

Mr. Wagner,

Good morning. Votran is ready to have the Purchasing Department issue the RFP for Benches with Advertising in the County's unincorporated areas. Do you have any comments on the draft RFP that we provided you?

Thanks,

Ken

The RFP was open to all companies to provide their best proposal to be the bus bench provider for Volusia County. As I stated, this RFP was open to all companies including Waverly Media LLC, the vendor who presently had the contract and the company that had a common investor with me in the restaurant group.

On September 2, 2010, I responded to the email from the manager of VOTRAN (see attachment 9: email from me to Ken). I stated:

Thanks Ken, I have a couple of suggestions...(I do not at any point want you to think I am requiring or expecting you to make these changes). On a side note, I think you and your staff are doing an amazing job. Times are tough and you and your staff are really doing your part to help the County. Thank you.

Are we going to specify the specific minimum number of spots? I may have missed it in the RFP. Or, maybe it is not appropriate for this type of RFP.

Page 4 (top): 10% seems a bit high (maybe put in a range for the Contractor "minimum of 5%...")

Page 4 (bottom): In regards to "no interest in utilizing for advertising...". This leaves it pretty open. Can we put a max on this? I don't want to run any companies off with this provision.

Page 6 (9.2.4): I have concerns about requiring this (because it will then become public record). Also, the trash collection aspect...do we have this anywhere right now?

Page 7 (13.1): We should change "approved equal" to "minimum." My hope is that a few local companies will make much better benches.

Page 8 (13.1): Can we lessen this language a bit? My concern is that some of the areas for the benches will be impossible to fit this language. Would it be legally permissible for us to lessen the requirement? Also, we should possibly bump up the 10% recycled materials to 25%+.

Page 9 (G.b.): Do we require permits for the benches? if not, we could probably leave line b out.

Page 10 (G.e.): Can they just have their website for "full contact information"?

Thanks,  
Josh

I provided suggestions and predicated my suggestions with the statement, "I do not at any point want you to think I am requiring or expecting you to make these changes." None of the suggestions gave any special advantage to one particular company over another.

The RFP was never brought forward for finalization by a vote by the County Council; accordingly, I never voted for or against the RFP as written. The reason staff provided for not bringing the RFP forward was because the Florida Department of

Transportation was re-evaluating their standards and they feared possible legislative changes that would alter the RFP. The County Council will soon be voting on putting the request for proposal out to the public.

Now, over 3 years later, I have been publicly accused of violating the Ethics Rules.

## Votran Benches with Commercial Advertising in Wilbur by the Sea

From: <Jcgigi@aol.com>  
 To: <jwagner@co.volusia.fl.us>  
 CC: <marfoglia@att.net>, <millsatwilbur@mindspring.com>, <sashley@co.volusia.fl.us>, <jdimneen@co.volusia.fl.us>, <hblanck@co.volusia.fl.us>  
 Date: Monday - April 26, 2010 9:36 AM  
 Subject: Votran Benches with Commercial Advertising in Wilbur by the Sea  
 Attachments: Mime.822

Joshua,

-On Friday, County Staff was very responsive and helpful answering my query about a February code change which will now permit commercial advertising to be placed on ten benches erected within the past two weeks at Votran stops in Wilbur by the Sea. Additionally, I have learned that an advertising company plans to place commercial signs on these benches in the very near future. Although these sign benches appear to be located on public property and the right away, they are immediately adjacent to homes in this residential area. Additionally, some of the benches are very close (approx one foot) to the roadway and may pose a safety concern. (please see photos below)

- Permitting these sign benches to be erected in Wilbur by the Sea will also violate the "Purpose and Intent" stated in the Code sec 72-32 i.e.: "These regulations are also designed to preserve the character, appearance and aesthetic qualities of Volusia County by regulating the erection, maintenance, size, height and number of signs permitted..... to ensure that signs do not have a detrimental effect on the character, appearance and property values of the County. ..to allow the county to rationally plan its physical surroundings in such a way that visual blight is minimized and that no sign constitutes a traffic or safety hazard".

- Erecting so many commercial signs is also inconsistent with the approved Wilbur by the Sea Local Plan including its "Goal: Maintain the existing residential , cultural and scenic values associated with the Wilbur Community...."

-I am not opposed to benches although I have observed very little use of Votran in Wilbur , am concerned about safety because of the narrow right of way and conclude the benches will be primarily sign platforms creating a visual blight and benefiting commercial profits rather than residential interests.

- In considering this matter, request Council/staff take into account that Votran advertising benches do not exist in Ponce Inlet, Daytona Beach Shores and areas of Daytona indicating this type of commercial advertising is undesirable, inappropriate, and adversely impacts the character, appearance and aesthetic qualities of surrounding areas.

-I would also ask council/staff to imagine themselves in the position of Wilbur residents and decide if a commercial sign bench in front of their homes or two on every block of their neighborhood would be acceptable from an aesthetic and property value basis.

-In summary request:

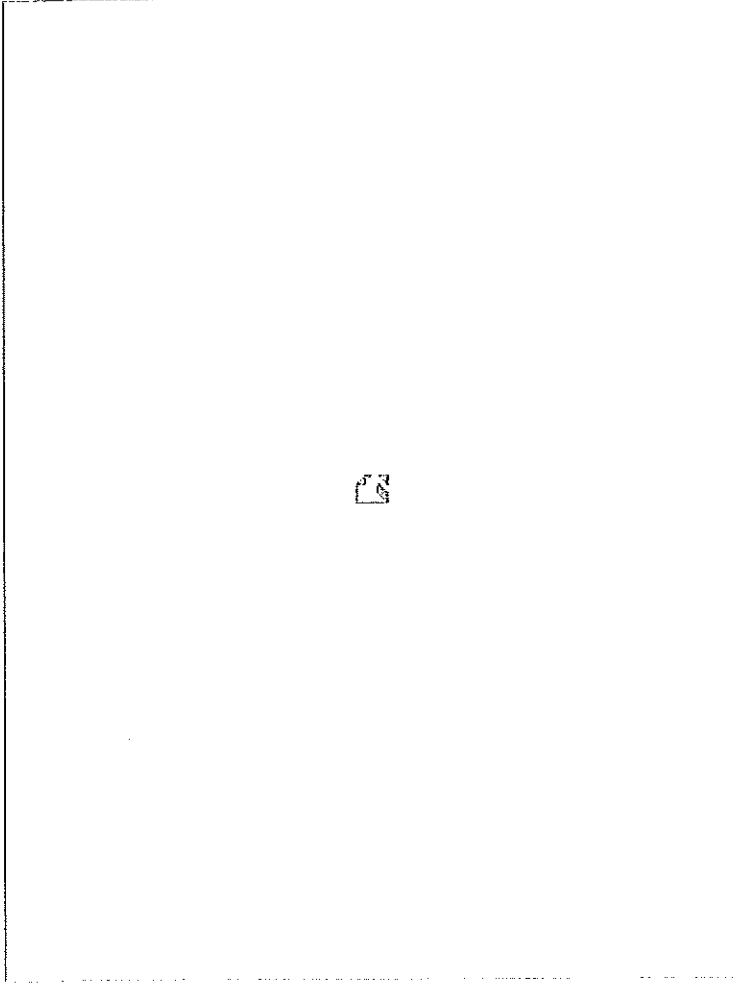
- Volusia County/Votran prohibit commercial advertising on the ten Votran benches in Wilbur because such advertising is inconsistent with the purpose and intent of the overlaying code and the approved Wilbur Local Plan/Overlay.
- County and Votran follow the Ponce Inlet/Daytona Beach Shores example by requiring Votran benches in Wilbur be positioned parallel to the roadway rather than diagonally to maximize setback in order to mitigate the safety concern.
- Staff appropriately revise new ordinance No 2010-03 to prohibit commercial advertising in Wilbur and other unincorporated residential areas with approved and conflicting Local Plans/Overlays..
- Thank you for your attention to this matter.



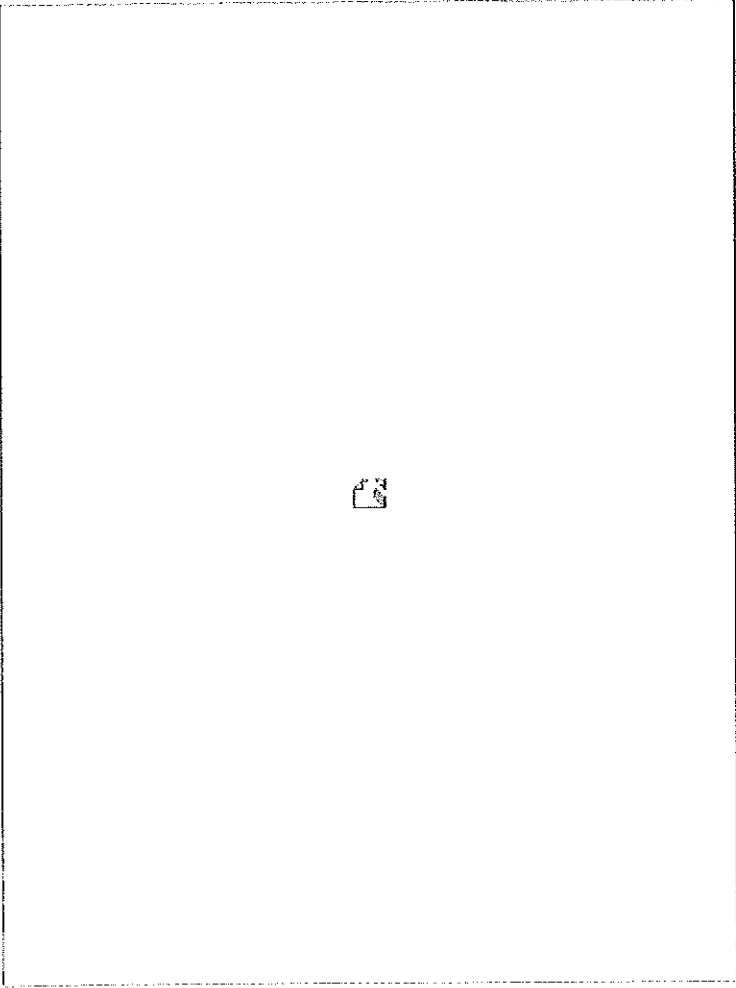
11/5/13

Votran Benches with Commercial Advertising in Wilbur by the Sea

Sincerely and respectfully, Chris Gigicos, 4221 South Atlantic Ave, Tel 761 0653







11/5/13

Re: Fw: Re: bench advertising

Attachment 2

Re: Fw: Re: bench advertising  
From: Robert Mills <millsatwilbur@mindspring.com>  
To: <Jcgigi@aol.com>  
CC: Marfoglia Arnold & Luci <marfoglia@att.net>, Wagner Josh <jwagner@co.volusia.fl.us>  
Date: Tuesday - April 27, 2010 7:39 AM  
Subject: Re: Fw: Re: bench advertising  
Attachments: Mime.822

Hi chris:

All great points, but I think we can assume(or at least I do) that government is going to do what it wants. In Volusia, the administrative arm is actually more powerful than the elected arm. It's been that way for at least 20 years.

The overlay states also that Volusia county is charged with implementing the overlay via supporting ordinances and inter-local agreements by 2005.....none of which I have seen materialize. I think that's where our efforts need to be so we don't need to fight the little fires. But, you are right, we need to fight this little fire to set the record straight.

Bob

---

-----Original Message-----

From: Jcgigi@aol.com  
Sent: Apr 26, 2010 11:33 PM  
To: millsatwilbur@mindspring.com  
Cc: marfoglia@att.net  
Subject: Re: Fw: Re: bench advertising

Bob, Thanks for the info.

— I have not changed the position stated in my email to Josh. The Association can also cite the Overlay as basis for keeping the commercial profit generating benches out. The specific rationale can be found in Local Plan para W1.10.1.4 "Commercial use should be limited to areas currently designated for that purpose and in use." It is my understanding the Local Plan was approved in 2005 by both the County and the State. Our opponents are likely to say they can change the Local Plan via Council approved zoning ordinance changes.

— The only question Ms Blanck's email raises is why did the advertising agency put up benches if they haven't yet run the competition. Thanks to you and Arnold for taking on this

In a message dated 4/26/2010 10:06:47 P.M. Eastern Daylight Time, millsatwilbur@mindspring.com writes:

---

-----Forwarded Message-----

>From: "Robert Mills, CPA" <wilburbeach@mindspring.com>  
>Sent: Apr 26, 2010 10:05 PM

11/5/13

Re: Fw: Re: bench advertising

> To: millsatwilbur@mindspring.com  
> Subject: Fw: Re: bench advertising  
>  
>  
>  
>  
> —Forwarded Message—  
>> From: Heather Blanck <hblanck@co.volusia.fl.us>  
>> Sent: Apr 26, 2010 2:39 PM  
>> To: CPA Robert Mills <wilburbeach@mindspring.com>  
>> Cc: Robert Davenport <RDavenport@co.volusia.fl.us>  
>> Subject: Re: bench advertising  
>>  
>> Good afternoon Bob,  
>>  
>> The bus bench program has been under review since June 4, 2009. At the County Council's February 18, 2010 meeting the Zoning ordinance No. 2010-03 was adopted to allow advertising in the public right of way "on public transportation benches or shelters as approved through a competitive selection process of the county". The competitive selection process has not been initiated with the County. We will keep you informed of progress as developments occur.  
>>  
>>  
>>  
>>  
>>  
>> Heather Blanck  
>> Assistant General Manager of Planning,  
>> Marketing, and Customer Service  
>> Votran  
>> 950 Big Tree Road, South Daytona, FL 32119-8815  
>> 386-756-7496 ext. 4112  
>> fax 386-756-7487  
>> http://www.votran.org  
>>  
>>  
>>>> "Robert Mills, CPA" <wilburbeach@mindspring.com> 4/26/2010 10:24 AM >>>  
>> In Wilbur by the Sea, our community association, the Wilbur Improvement Association, inc. is interested in the possibility of advertising on the benches in Wilbur. Can you provide me with any information about such a program?  
>> Bob Mills, Director & treasurer  
>> Wilbur Improvement Association, Inc.  
>> 386-299-2200  
>>  
>

11/5/13

|| Robert Mills, CPA

Robert Mills, CPA

Re: Fw: Re: bench advertising

Re: Votran Benches with Commercial Advertising in Wilbur by the Sea

From: Joshua Wagner

To: Jcgigi@aol.com

BC:

Date: Sunday - May 2, 2010 5:00 PM

Subject: Re: Votran Benches with Commercial Advertising in Wilbur by the Sea  
Hello Chris,

I will look into this to see what is going on.

Josh

>>> <Jcgigi@aol.com> 04/26/10 9:36 AM >>>

Joshua,

-On Friday, County Staff was very responsive and helpful answering my query about a February code change which will now permit commercial advertising to be placed on ten benches erected within the past two weeks at Votran stops in Wilbur by the Sea. Additionally, I have learned that an advertising company plans to place commercial signs on these benches in the very near future. Although these sign benches appear to be located on public property and the right away, they are immediately adjacent to homes in this residential area. Additionally, some of the benches are very close (approx one foot) to the roadway and may pose a safety concern. (please see photos below)

- Permitting these sign benches to be erected in Wilbur by the Sea will also violate the "Purpose and Intent" stated in the Code sec 72-32 i.e.: "These regulations are also designed to preserve the character, appearance and aesthetic qualities of Volusia County by regulating the erection, maintenance, size, height and number of signs permitted..... to ensure that signs do not have a detrimental effect on the character, appearance and property values of the County. ..to allow the county to rationally plan its physical surroundings in such a way that visual blight is minimized and that no sign

constitutes a traffic or safety hazard".

- Erecting so many commercial signs is also inconsistent with the approved Wilbur by the Sea Local Plan including its "Goal: Maintain the existing residential, cultural and scenic values associated with the Wilbur Community...."

-I am not opposed to benches although I have observed very little use of Votran in Wilbur, am concerned about safety because of the narrow right of way and conclude the benches will be primarily sign platforms creating a visual blight and benefiting commercial profits rather than residential interests.

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-I would also ask council/staff to imagine themselves in the position of Wilbur residents and decide if a commercial sign bench in front of their homes or two on every block of their neighborhood would be acceptable from an aesthetic and property value basis.

-In summary request:

--- Volusia County/Votran prohibit commercial advertising on the ten Votran benches in Wilbur because such advertising is inconsistent with the purpose and intent of the overlaying code and the approved Wilbur Local Plan/Overlay.

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--- Staff appropriately revise new ordinance No 2010-03 to prohibit commercial advertising in Wilbur and other unincorporated residential areas with approved and conflicting Local Plans/Overlays..

-Thank you for your attention to this matter.

Sincerely and respectfully, Chris Gigicos, 4221 South Atlantic Ave, Tel 761



11/5/13

Re: Votran Benches with Commercial Advertising in Wilbur by the Sea

0653

11/5/13

Fwd: Votran Benches with Commercial Advertising in Wilbur by the Sea

Fwd: Votran Benches with Commercial Advertising in Wilbur by the Sea

From: Joshua Wagner

To: Daniel Eckert

BC:

Date: Sunday - May 2, 2010 5:02 PM

Subject: Fwd: Votran Benches with Commercial Advertising in Wilbur by the Sea

Attachments: Envelope

Hello Dan,

Can you take a look at the three questions in her summary to see if there is something to them?

Thanks,

Josh

## Mail Message



Mail Properties

**From:** Joshua Wagner  
**To:** Ken Fischer  
**Subject:** Bus Advertising

Hello Ken,

I hope you had a great weekend. I have been receiving (many) calls and emails in regards to bus advertising in Wilbur by the Sea. It is my understanding that a RFP is going to be released sometime in the near future. Can you please email, fax or inner office (whichever better protects the RFP) a copy before it is released? I need to make sure I have a good understanding of what is going out. Also, is there a specific date the RFP is going out?

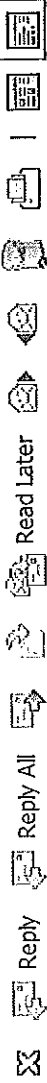
Thanks,  
Josh

Monday - May 3, 2010 1:13 PM

11/5/13

Novell WebAccess

## Mail Message



Mail Properties

Tuesday - May 4, 2010 8:27 AM

**From:** Ken Fischer  
**To:** Wagner, Joshua  
**Subject:** Re: Bus Advertising  
**Attachments:** Ken Fischer.vcf (1 KB) [View] [Open] [Save As] [Import to Contacts]

Josh,

In June of 2009, the Council instructed staff to amend the County's sign ordinance to allow for benches with advertising in the unincorporated areas. Once the sign ordinance was amended, Council instructed the staff to issue an RFP for vendors to provide benches with advertising. We are at the point that the sign ordinance has been amended and a draft RFP is being prepared. Once it is completed, staff will turn it over to the County's Purchasing Department for processing. We have not set up a time frame for release of the RFP.

Based on a request from County's Parks and Recreation Department, Votran asked Waverly if they would place benches without advertising in Wilbur by the Sea. That is how the benches being questioned ended up in Wilbur by the Sea. Let me know if you have any other questions.

Thanks,  
Ken

Ken Fischer  
General Manager  
Votran  
950 Big Tree Road  
South Daytona, FL 32119  
(386) 756-7496, ext. 4126  
kfischer@co.volusia.fl.us

>>> Joshua Wagner 5/3/2010 1:13 PM >>>  
Hello Ken,

Fwd: Draft Bus Bench Advertising RFP w/ 2 Attachments

From: Ken Fischer  
To: Wagner, Joshua  
Date: Wednesday - July 28, 2010 9:51 AM  
Subject: Fwd: Draft Bus Bench Advertising RFP w/ 2 Attachments  
Attachments: Envelope

Josh,

Please find attached a rough draft for the RFP for benches with advertising in the unincorporated area of the County. Let me know if you have questions/comments.

Thanks,  
Ken

Ken Fischer  
General Manager  
Votran  
950 Big Tree Road  
South Daytona, FL 32119  
(386) 756-7496, ext. 4126  
kfischer@co.volusia.fl.us

## Draft Bus Bench Advertising RFP w/ 2 Attachments

From: Elizabeth Suchsland  
To: Fischer, Ken  
Date: Thursday - June 24, 2010 6:39 PM  
Subject: Draft Bus Bench Advertising RFP w/ 2 Attachments  
Attachments: RFP BUS BENCH ADVERTISING.doc; Belson benches.pdf; Volusia County Map.pdf  
Thank you.

Elizabeth Suchsland  
Assistant General Manager of Operations and Maintenance  
VOTRAN  
950 Big Tree Road  
South Daytona, FL 32119  
Telephone: 386-763-3727  
Fax: 386-756-7487  
Cell Telephone: 239-438-7222

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DRAFT

**VOLUSIA COUNTY**

**VOTRAN**



**REQUEST FOR PROPOSAL**

**RFP#:**

---

**BUS BENCH ADVERTISING**

**2010**

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# **SPECIFICATIONS AND REQUIREMENTS FOR BUS BENCH ADVERTISING FOR VOLUSIA COUNTY /VOTRAN**

## **1 Introduction**

In an effort to provide benches for the transit passengers in the unincorporated areas of Volusia County, Volusia County / Votran requests proposals from qualified firms to provide all aspects of a transit bench with advertising program.

These aspects include bench design, installation, removal, maintenance and advertising at specified locations throughout the County. The total number of benches shall be determined by the County and will be located exclusively at designated and signed bus/transit stop locations unless otherwise approved by Votran.

The services are to include fabrication, installation, maintenance, sales, and administration of the transit benches with advertising. The contactor is responsible for all costs related to the fabrication, installation and maintenance of the transit benches as all as all costs incurred in the marketing and administration of the program.

Proponents must provide detailed proposal and all items in this document and all items in the document must be addressed. Failure to respond to any requirement outlined in the Request for Proposal (RFP) may disqualify the proponent.

Submittals must include, but are not limited to the following.

Five (5) samples of bench advertising displays that will be used in this contract;

- A sample bench sales contract;
- A specified percentage of gross advertising revenue and a minimum quarterly guarantee for each year of the base term of the bench-advertising contract and for each option year of the bench-advertising contract;
- An estimated rate card from your firm detailing the advertiser cost for advertisement on benches, including all applicable discounts for increased showing, frequency or length of posting special packages/programs, etc;
- A brief history of the firm along with an overview of its principles;

- The Contractor must provide for a minimum of ten percent (10%) of the benches installed to be made available to the County for advertisement of public service announcements or public art at no cost.

Proponents should be available for oral presentations, if such presentations are deemed necessary to determine the most qualified firm. Any such oral presentation will be scheduled at the transit system's offices at a mutually convenient time.

## **2 Notifications**

All proponents will be notified of their award status within sixty (60) days of the close of accepting proposals.

## **3 Postponements of the RFP Opening**

Volusia County / Votran reserves the right to postpone the proposal opening for its own convenience.

## **4 Right to Reject Proposals**

Volusia County / Votran reserves the right to reject any or all proposals or portions thereof, or to accept a proposal or portions thereof, if it appears to be in the best interest of Votran.

## **5 Contract**

The successful proponent shall enter into a contract with Volusia County / Votran in accordance with the terms and conditions of this RFP.

## **6 Term**

The specifications described in the placing and maintenance of benches with advertising along Votran's fixed routes in the unincorporated areas of Volusia County is for a period of five (5) years with an option to renew for an additional five (5) year periods thereafter.

## **7 Ownership**

The benches will remain the property of the contractor along with all liabilities, which accompany ownership.

For locations, the contractor has no interest in utilizing for advertising, Votran / Volusia County shall have the right to purchase additional benches at the contractor's cost.

## **8 Evaluation Process**

Each proposal submitted must contain the following elements in order for Volusia County to effectively evaluate each proposal in a similar manner.

All proposals will be subject to review by a committee appointed by Volusia County.

Proposals are evaluated based on the following criteria:

Fees paid / Guaranteed Minimum	15 points
Bench construction, installation and work plan	20 points
Financial Stability of Contractor	15 points
Marketing Plan and successful experience of the Contractor	15 points
Maintenance Program and Experience	30 points
Local Vendor Preference	5 points

## **9 Proposal Contents**

### **9.1 Introductory Letter**

Each proponent must submit a letter of introduction from the qualifier representing the company. This letter must include the company name and address. The letter must state that the qualifier has read the RFP, understands and accepts all conditions and is authorized to sign as a representative of the submitting company. The introductory letter should also state that the proposal shall remain in full force and effect for sixty (60) days following the date of opening.

### **9.2 Company Background and Experience**

#### **9.2.1 Company History**

The proponent must submit a description of the company history. Such information should contain the company background, including the number of years in advertising, sales and management, as well as street furniture advertising sales and management.

#### **9.2.2 Experience of Key Personnel**

Proposals must contain a description of the qualifications of the company key personnel.

### **9.2.3 Competence**

The proponent shall identify professional competence in related fields, including a list of transit operations the company is currently contracted with for similar type of work. The proponent shall also submit names and address of current transit contractors and suppliers.

### **9.2.4 Financial Information**

The proponent must state how the transit bench project will be funded. Each proposal must include the company's most recent audited financial statement (including the auditors seal or assessment) and shall submit other financial information deemed by the proponent to be pertinent to the proposal or the proposed method of operation. The proponent must provide the projected costs of the project and how the proponent will finance these costs.

### **9.2.5 Qualification / Responsibility of Key Personnel**

Proponents must include a brief biography for each key member of the local personnel.

Proponents must include a job description of each personnel member's position as it relates to the local transit project. This description should include specific job responsibilities to he / she held on a local level.

If trash collection services are to be provided, Proponents must have a minimum of five (5) years of experience in providing such collection services.

Proponents must have a minimum of five (5) years experience in advertising sales and administration and three (3) years of experience in transit advertising sales and administration.

Proponent is required to have a Volusia County business license, and submit a copy of the license with the response to this proposal.

## **10 Payments to Volusia County**

The proponents must include in their proposal revenues to be paid to Volusia County. If the proponent offers a percentage of collected revenues from advertising sales and / or any other method of computing revenue to be paid to Volusia County, the respondent should clearly describe the offered revenue and method of payment for evaluation purposes.

The proponent will submit a format showing payment formula to be utilized when calculating payment to Volusia County.

## **11 Insurance Requirements**

*Insert Volusia County RFP Purchasing Template / Volusia County / Votran insurance requirements.*

## **12 Hold Harmless Agreements**

Each proponent shall submit a document as the enclosed Hold Harmless Agreement, properly signed and completed before a contract is offered as a result of this RFP.

## **13 Proposed Method of Accomplishing Work**

The proponent must detail how the company will meet the terms and conditions and meet the services requested as follows.

### **13.1 Fabrication, Installations and Specifications**

A. Bus bench with advertising panels will be located throughout the service area, adjacent to Votran routes, where agreed upon between the successful proponent and Votran. The bench design / specification as agreed upon by Votran and the contractor shall be installed and maintained by the contractor. Proponent must submit bus bench specifications to be considered as an approved equal. Approved bus bench is Belson Outdoors Model #PB6-CPA or approved equal. Belson Outdoors Model #PB6-CPA information is provided in Attachment 1 (one). All proposed bus benches must be submitted to Votran as an approved equal. No bus bench shall be installed without Votran's approval on the bus bench specifications.

B. Proponent must submit a time schedule for construction and installation. The time

schedule should include plans for providing adequate personnel to install and maintain benches and advertising panels.

- C. The awarded bidder shall meet or exceed with all applicable Federal Transit Administration (FTA) regulations as indicated in the FTA Master Agreement and Best Practices Procurement Manual, Florida Statutes, Chapter 427, part 1, the American with Disabilities Act (ADA) and the Florida Department of Transportation Rule Chapter 14-20. The successful proponent shall ensure that the installation / construction meets or exceeds the Florida Department of Transportation Design Standards, including but not limited to Maintenance of Traffic (MOT) and FDOT Index 600, Index 17302, Index 700 Series. Installation / construction must meet or exceed MUTCD, Volusia County local standards / requirements, and must ensure the design is in conformance with FDOT Plan Preparation Manual (PPM) standards.

- D. Bus bench specifications must include a minimum of 10% recycled materials.

### **13.2 Maintenance Plan**

The proponent shall state in detail, its plan for cleaning, repairing, and addressing vandalism on the benches in the service area. The Maintenance plan should include the planned time line to respond to repair, replacement and / or removal of a bus bench.

### **13.3 Marketing / Sales**

The successful proponent will be required to perform complete advertising, servicing and sales functions including but not limited the following.

- A. The proponent must explain how it will establish and maintain a physical office in Volusia County providing a continuous sales effort within the service area conducted by a professional staff of sufficient size to assure adequate service to all advertising clients.
- B. The proponent must submit an explanation of marketing strategies and literature it will use to promote transit advertising.

### **13.4 Advertising Content and Control**

The proponent must ensure that only displays of a high quality standard with regard to artwork and advertising content will be shown.

Proponents must ensure the following.

- A. Advertising shall be of reputable character, shall conform to recognized business standards and shall not conflict with the laws of the United States or any state or political subdivision thereof.
- B. Graphics, artwork and copy of the advertisements are expected to be of high quality and good taste.
- C. Vulgar, disreputable or to other advertising that may be offensive to the public shall not be acceptable.
- D. All advertising shall be displayed in a neat and workmanlike manner.
- E. The successful proponent shall maintain all displayed advertising to ensure its neat appearance and promptly remove all advertising, which is torn or otherwise unsightly in appearance.
- F. Volusia County / Votran reserve the right to require the successful bidder to promptly remove, at the proponent's own expense, any advertising which in the opinion of Volusia County / Votran, is unsightly in appearance.
- G. The Contractor shall comply with generally accepted industry principles with respect to good taste and all applicable laws and regulations including but not limited to truth in advertising, copyrights and trademarks. Additionally, the Contractor shall:
  - a. Remove unapproved or damaged advertising within twenty-four (24) hours of written notice given by the County.
  - b. Pay all fees, costs and permit charges regularly assessed by the County in any way related to the maintenance, cleaning or repair of the advertising benches.

- c. Remove all dated advertising materials within five (5) calendar days from its expiration date. Dated advertising materials refers to advertising materials that are relevant to a specific time period or relevant to an event that occurs on a date certain.
- d. Allow any unsold spaces to be made available to the County for the purpose of inserting Public Service Announcements or other public purpose as determined by Votran, until the space is needed for a customer.
- e. Notwithstanding the above, the Contractor shall fill all unsold spaces with full size, high quality posters advertising the space as available. Posters will be printed with full contact information of the Contractor.

#### **14 Administration and Reporting Services**

The proposal must contain information regarding the methods by which the proponents will, if requested by Votran, submit reports at least annually. The reports should contain the following information.

- A. List of advertisers.
- B. Type and current rates charged to advertisers for each display space.
- C. Annual collected revenue data, furnished to Votran with each payment.

The proponent should also submit its plan to maintain original copies of all required records for a period of three (3) years after final payment under the terms of the operating contract.

The successful proponent will permit Votran to inspect all records and financial data involved in the operation of the concession during regular business hours maintained by the successful proponent, and at such times upon fifteen (15) days notice.

#### **15 General Terms and Conditions**

All proposals shall be submitted in a sealed envelope clearly marked "Proposal for Bus Bench Advertising." Any proposal found not to be in compliance with the instructions



contained in this section and / or not containing the information requested and / or not in compliance with any part of this Request for Proposals may be declared “non-responsive” and may not be considered. Clearly marked original and 3 copies of the proposal must be submitted.

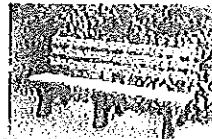
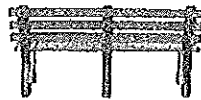
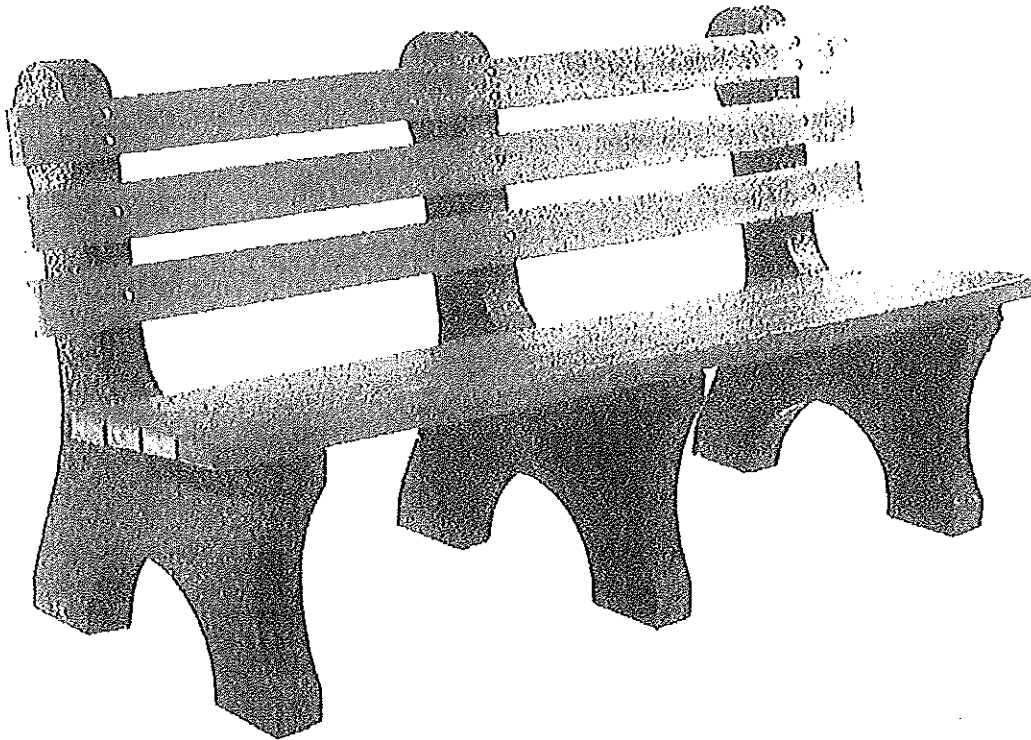
## **16 Attachments**

**16.1 Attachment One - Belson Outdoors Model #PB6-CPA**

**16.2 Attachment Two – Map of Unincorporated Volusia County**

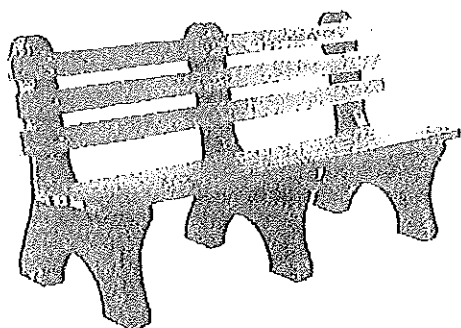
**BELSON<sup>®</sup>**  
OUTDOORS

Model # PB6-CPA | 6' Comfort Park Avenue Bench



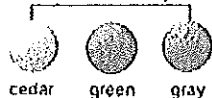


## Comfort Park Avenue Benches



Model PB6-CPA | Green

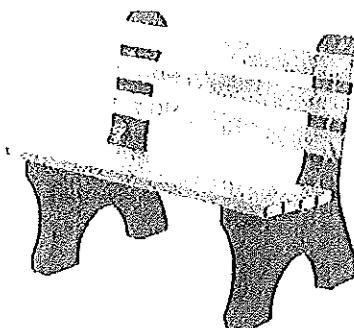
### Resinwood Color Options



cedar green gray

### Comfort plus Style

Looking for that comfortable, classically styled weather resistant recycled plastic park bench? The Comfort Park Avenue Benches are ready to be your solution. Made with seven durable 2" x 4" resinwood slats and sturdy black recycled plastic bases. The Comfort Park Avenue Benches are available in several lengths and the variety of colors as shown.



Model PB4-CPA | Cedar

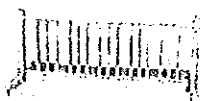
ENTER QUANTITIES FOR THE ITEM(S) YOU WOULD LIKE TO ORDER

Comfort Park Avenue Recycled Plastic Benches					Qty
PB4-CPA	4' Bench	Gray	2 Black Bases	(110 lbs)	\$289.00
PB6-CPA	6' Bench	Choose Back/Seat Color	3 Black Bases	(160 lbs)	\$439.00
PB8-CPA	8' Bench	Choose Back/Seat Color	4 Black Bases	(215 lbs)	\$519.00
Accessories					Qty
PB1999	In-ground Mount Kit		4 "J" Bolts	(1 lbs)	\$15.00
PB1008	Surface Mount Kit		2 "L" Brackets	(1 lbs)	\$15.00

(Prices F.O.B. Origin)  
Some Assembly Required

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Free Catalog

## RFP for Benches with Advertising in Unincorporated Area

From: Ken Fischer

To: Wagner, Joshua

Date: Wednesday - September 1, 2010 9:54 AM

Subject: RFP for Benches with Advertising in Unincorporated Area  
Mr. Wagner,

Good morning. Votran is ready to have the Purchasing Department issue the RFP for Benches with Advertising in the County's unincorporated areas. Do you have any comments on the draft RFP that we provided you?

Thanks,  
Ken

Ken Fischer  
General Manager  
Votran

950 Big Tree Road  
South Daytona, FL 32119  
(386) 756-7496, ext. 4126  
kfischer@co.volusia.fl.us

Re: RFP for Benches with Advertising in Unincorporated Area

From: Joshua Wagner

To: Ken Fischer

BC:

Date: Thursday - September 2, 2010 10:11 AM

Subject: Re: RFP for Benches with Advertising in Unincorporated Area

Thanks Ken, I have a couple of suggestions...(I do not at any point want you to think I am requiring or expecting you to make these changes). On a side note, I think you and your staff are doing an amazing job. Times are tough and you and your staff are really doing your part to help the County. Thank you.

Are we going to specify the specific minimum number of spots? I may have missed it in the RFP. Or, maybe it is not appropriate for this type of RFP.

Page 4 (top): 10% seems a bit high (maybe put in a range for the Contractor "minimum of 5%...")

Page 4 (bottom): In regards to "no interest in utilizing for advertising..." This leaves it pretty open. Can we put a max on this? I don't want to run any companies off with this provision.

Page 6 (9.2.4): I have concerns about requiring this (because it will then become public record). Also, the trash collection aspect...do we have this anywhere right now?

Page 7 (13.1): We should change "approved equal" to "minimum." My hope is that a few local companies will make much better benches.

Page 8 (13.1): Can we lessen this language a bit? My concern is that some of the areas for the benches will be impossible to fit this language. Would it be legally permissible for us to lessen the requirement? Also, we should possibly bump up the 10% recycled materials to 25%+.

Page 9 (G.b.): Do we require permits for the benches? if not, we could probably leave line b out.

Page 10 (G.e.): Can they just have their website for "full contact information"?

Thanks,  
Josh

>>> Ken Fischer 09/01/10 9:54 AM >>>  
Mr. Wagner,

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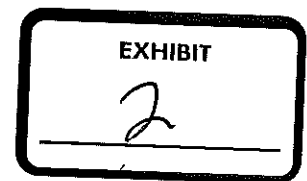
Thanks,  
Ken

Ken Fischer  
General Manager  
Votran  
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kfischer@co.volusia.fl.us

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## Campaign contributions database



Published: Monday, May 6, 2013 at 6:12 p.m.

Last Modified: Thursday, October 10, 2013 at 10:23 a.m.

Campaign contributions between 2008-2012 associated with Waverly Media. In some cases the contributors did not know contributions were being made in their names. Click on a column title to sort by contributor, candidate, date or type of contribution.

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6/23/2012	Henry, Derrick	Mayor, Daytona Beach	Waverly Media	\$500.00	In kind	Details
8/10/2012	Henry, Derrick	Mayor, Daytona Beach	Waverly Media	\$150.00	In kind	Details
10/19/2012	Henry, Derrick	Mayor, Daytona Beach	Waverly Media	\$500.00	Check	Details
7/5/2012	Kelly, Andy	Supervisor of Elections	Waverly Media	\$500.00	In Kind	Details
7/11/2012	Kelly, Missy	County Council Member, District 1	Waverly Media	\$500.00	Check	Details
5/1/2012	Kennedy, Justin A.	County Council Member, District 3	Waverly Media	\$500.00	In Kind	Details
6/19/2012	Mulder, Dennis	State Rep.	Waverly Media	\$500.00	In Kind	Details
7/9/2012	Sixma, Stony	County Council Member, District 5	Waverly Media	\$500.00	In Kind	Details

8/10/2012	Henry, Derrick	Mayor, Daytona Beach	Was, Terry	\$500.00	In kind	Details
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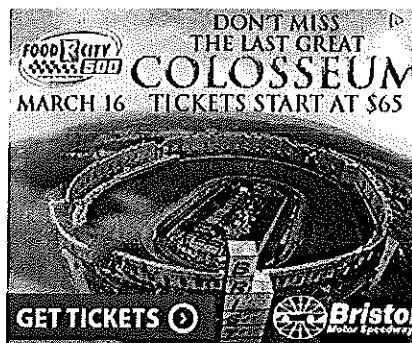
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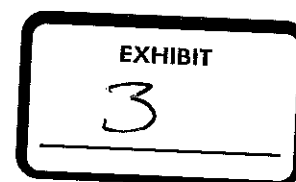
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10/19/2012	Henry, Derrick	Mayor, Daytona Beach	Waverly Media	\$500.00	Check	Details
7/5/2012	Kelly, Andy	Supervisor of Elections	Waverly Media	\$500.00	In Kind	Details
7/11/2012	Kelly, Missy	County Council Member, District 1	Waverly Media	\$500.00	Check	Details
5/1/2012	Kennedy, Justin A.	County Council Member, District 3	Waverly Media	\$500.00	In Kind	Details
6/19/2012	Mulder, Dennis	State Rep.	Waverly Media	\$500.00	In Kind	Details
7/9/2012	Sirma, Stony	County Council Member, District 5	Waverly Media	\$500.00	In Kind	Details

8/10/2012	Henry, Derrick	Mayor, Daytona Beach	Was, Terry	\$500.00	In kind	Details
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Show per page 25

Page 1 of 6

Records 1-25 of 133

[Online Database by Caspio](#)

Source: Volusia County Elections, City of Daytona Beach

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[2]

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Narrative 707-B  
Supplement

☐ Arrest  
☐ Affidavit  
☐ Notice to Appear

☐ Adult  
☐ Juvenile

Court Case  
Number

Page # 2 of 3

Defendant Name: <b>Brown, James Heflin, III</b>		Agency Case Number: <b>SAI-DB-120801001</b>	
<b>CHARGES</b>	DOMESTIC VIOLENCE? <input type="checkbox"/> YES <input type="checkbox"/>	Attachments: Affidavit(s) <input type="checkbox"/> Statement(s) <input type="checkbox"/> NTA Schedule <input type="checkbox"/> Report <input type="checkbox"/> Traffic Infraction(s) <input type="checkbox"/>	Total Charges: <input type="checkbox"/>
# Charge:	FEL <input type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	PS/ORD:	Chaffin No: Bonds:
# Charge:	FEL <input type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	PS/ORD:	Chaffin No: Bonds:
# Charge:	FEL <input type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	PS/ORD:	Chaffin No: Bonds:

Justin Kennedy, 2012 candidate for Volusia County Council District 3 (Cont'd)

Campaign Fund from Terry Was and Money Order 19958421385 (exhibit 1B) in the amount of \$500 made payable to Justin Kennedy Campaign Fund from William Stone were received and deposited into his campaign account. However, in sworn statements provided by D. Was, T. Was and W. Stone they did not make financial contributions via Money Order to the campaign of Justin Kennedy. W. Stone said Jim Brown asked if Brown could make the contribution via Money Order in the amount of \$500 in Stone's name. Also, in a sworn statement Kim Was said Jim Brown asked her to check with her parents Terry and Diana Was and use their names on Money Order contributions Jim Brown made to the Justin Kennedy Campaign. However, the investigation did not reveal Kennedy had any knowledge of Brown's campaign contribution violations.

According to the treasurer's report filed with the Volusia County Supervisor of Elections for Justin Kennedy, candidate for Volusia County Council District 3, in-kind contributions were reported on 05/01/12 in the amount of \$500 each from Chuck Wales, Kim Was, William Hill, Margo Hill, Michael Klepert, Susan Klepert, Angela Klepert, Kateryna Brown and Ron Klagg; additionally an in-kind contribution was made on 04/01/12 in the amount of \$450 from Marilyn Garrett all for advertising provided by Waverly Media. However, in sworn statements provided by C. Wales, K. Was, W. Hill, M. Hill they stated they did not make any in-kind contributions for goods and/or services to Waverly Media on behalf of the Justin Kennedy campaign. In sworn statements from M. Klepert, S. Klepert and A. Klepert they could not explain what goods or services were provided to Waverly Media with a value of \$1,500 on behalf of the Justin Kennedy campaign. In a sworn statement Justin Kennedy said Jim Brown provided his campaign with the list of in-kind contributions made through Waverly Media. However, the investigation did not reveal J. Kennedy had any knowledge of Brown's campaign contribution violations.

Jeff Allebach, 2012 candidate for Volusia County Council District 1 (Count 2)

According to the treasurer's report filed with the Volusia County Supervisor of Elections for Jeff Allebach, candidate for Volusia County Council District 1, check contributions were reported on 4/23/12 in the amount of \$500 each from Charles Wales and Kim Was. However, in sworn statements C. Wales and K. Was said they did not make any financial contributions to Jeff Allebach's campaign. According to Was, Jim Brown provided her with Money Orders and requested she complete them with hers and C. Wales's names, which she did and returned the Money Orders to Brown. According to records produced by TD Bank pursuant to a subpoena duces tecum, US Postal Money Order #20161119071 (exhibit 2A) in the amount of \$500 from Kimberly Was dated 04/23/12 and US Postal Money Order #20161119061 (exhibit 2B) in the amount of \$500 from Chuck Wales dated 04/23/12 were deposited into the Jeff Allebach campaign account on 04/25/12.

Also, according to the treasurer's report filed with the Volusia County Supervisor of Elections for Jeff Allebach, candidate for Volusia County Council District 1, in-kind contributions were reported on 07/05/12 in the amount of \$500 from William Stone, on 07/24/12 in the amount of \$500 from Kateryna Brown, on 09/18/12 in the amount of \$500 from Waverly Media and Jim Brown for advertising expenses provided by Waverly Media. However, in a sworn statement provided by W. Stone he said he did not make any financial and/or in-kind contributions for goods and/or services to Waverly Media on behalf of the Jeff Allebach campaign. In a sworn statement Jeff Allebach said Jim Brown provided his campaign with the list of in-kind contributions made through Waverly Media. However, the investigation did not reveal J. Allebach had any knowledge of Brown's campaign contribution violations.

Derrick Henry, 2012 candidate and present Daytona Beach Mayor (Count 3)

According to the treasurer's report filed with the Volusia County Supervisor of Elections for Derrick Henry, candidate for Daytona Beach Mayor, a financial contribution was reported on 08/01/12 in the amount of \$500 in the form of a check from Kim Was. According to bank account records and sworn testimony provided by Kimberly Was, check #1087 (exhibit 3A) in the amount of \$500 made payable to Derrick Henry Campaign from Kimberly Was was received and deposited into the Derrick Henry Campaign Account. However, K. Was stated she was reimbursed on 08/01/12 for the contribution made in her name with a check #1610 (exhibit 3D) from Waverly Media, LLC in the amount of \$1,050, which was signed by James Brown.

Sworn to and subscribed before me, this Undersigned this <u>11</u> day of <u>April</u> , 2013.	I swear/affirm the above statements are correct and true.	Notary Public <input type="checkbox"/> Law Enforcement Officer <input checked="" type="checkbox"/> Personally Known <input type="checkbox"/> Produced Identification <input type="checkbox"/>
Name: <u>[Signature]</u>	OFFICER/COMPLAINANT'S SIGNATURE <u>[Signature]</u>	Notary Public <input type="checkbox"/> Law Enforcement Officer <input checked="" type="checkbox"/> Personally Known <input type="checkbox"/> Produced Identification <input type="checkbox"/>
Type of Identification	NAME (PRINTED) <u>Michael R Taylor</u>	ID NUMBER <u>711</u>

707-B - COURT COPY

EXHIBIT

4

Narrative 707-B  
Supplement

☐ Arrest  
☒ Affidavit  
☐ Notice to Appear

☐ Adult  
☐ Juvenile

Court Case  
Number

Page # 3 of 3

Defendant Name: Brown, James Heflin, III		Agency Case Number: SAI-DB-120801001	
<b>CHARGES</b>	DOMESTIC VIOLENCE? YES <input type="checkbox"/>	Attachments: Affidavit(s) <input type="checkbox"/> Statement(s) <input type="checkbox"/> NTA Schedule <input type="checkbox"/> Report <input type="checkbox"/> Traffic Infraction(s) <input type="checkbox"/>	Total Charges: 1
#	Charge:	PEL <input type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	FS/ORD: Citation No: Bond:
#	Charge:	PEL <input type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	FS/ORD: Citation No: Bond:
#	Charge:	PEL <input type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	FS/ORD: Citation No: Bond:

Derrick Henry, 2012 candidate and present Daytona Beach Mayor (Cont'd)  
 According to the treasurer's report filed with the Volusia County Supervisor of Elections for Derrick Henry, candidate for Daytona Beach Mayor, in-kind contributions were reported on 06/23/12 all in the amount of \$500 each from Ramona Garrett, Jim Brown, William Stone, Marilyn Garrett, and Kateryna Brown; also reported on 06/23/12 was an in-kind contribution in the amount of \$350 from Waverly Media for advertising provided by Waverly Media. However, in a sworn statement provided by W. Stone he did not make any financial and/or in-kind contributions for goods and/or services to Waverly Media on behalf of the Derrick Henry campaign. Marilyn Garrett has refused to comply with a subpoena issued for her to appear before the prosecutor and provide a sworn statement pertaining to this matter.

Also according to the treasurer's report filed with the Volusia County Supervisor of Elections for Derrick Henry, candidate for Daytona Beach Mayor in-kind contributions were reported on 08/10/12 all in the amount of \$500 each from Chuck Wales, Kim Was, Terry Was and Diane Was; also reported on 08/10/12 was an in-kind contribution in the amount of \$150 from Waverly Media for advertising provided by Waverly Media. However, in sworn statements provided by C. Wales, K. Was, T. Was and Diane Was they said they did not make any financial and/or in-kind contributions for goods and/or services to Waverly Media on behalf of the Derrick Henry campaign. In a sworn statement Derrick Henry said Jim Brown provided his campaign with the list of in-kind contributions made through Waverly Media. However, the investigation did not reveal D. Henry had any knowledge of Brown's campaign contribution violations.

Sworn to and subscribed before me, the undersigned, this <u>17</u> day of <u>April</u> , 2013.	I swear/affirm the above statements are correct and true.	Right thumb
Name: <u>[Signature]</u>	<u>[Signature]</u> OFFICER'S/COMPLAINANT'S SIGNATURE	
Notary Public <input type="checkbox"/> Law Enforcement Officer <input checked="" type="checkbox"/> Personally Known <input type="checkbox"/> Produced Identification <input type="checkbox"/>	NAME (PRINTED): <u>Michael R Taylor</u>	ID NUMBER: <u>711</u>
Type of Identification:		

707-B - COURT COPY

D



Re: Statement of Facts

In 1975, the Volusia County Council created a public transportation system called VOTRAN. The system was, and is, managed by a third party vendor named McDonald Transit. McDonald Transit is a professional transportation management firm based in Fort Worth, Texas.

In 1979, Volusia County entered into an exclusive agreement with a private company to provide bus benches at bus stop locations. The company provides the bus benches for use by the public and in return sells advertising on the bus bench. The county receives shared revenue on the advertising sales. The agreement was renewed repeatedly from 1979 to the present. Over the years, the agreement was assigned a few times as the company was sold. Waverly Media LLC has been the owner since 2007.

In 2008, I was elected to the Volusia County Council.

In June 2009, VOTRAN recommended to the County Administration to discontinue advertising on bus benches and thus bring all expenses of providing bus benches in house. The County Council voted 5-2 to not bring the bus bench service in house and continue with the RFP process. The initial expenses would have been somewhat offset by grants. However, the reoccurring expenses would have been significant into perpetuity. Later that year, rumors were that VOTRAN was using some of its federal grant money in ways that were not consistent with the majority vote. However, after some fact finding, VOTRAN seemed to be mostly consistent with the majority.

In late April and early May 2010, I received many comments, including many emails, in regards to bus advertising in a residential area called Wilbur by the Sea (Wilbur). As part of my position with the County, I am required to sit on the Wilbur Neighborhood Board. Since I took office in January 2009 and long before, advertising in this residential area had been very controversial as some residents were very against it. I became very familiar with the advertising issues because I was being questioned on it at our board meetings.

On April 26, 2010, I received an email in regards to advertising on bus benches in Wilbur from a resident who I respect (see attachment 1 – Email from Chris to me). She was against advertising in her residential neighborhood to say the least. The email stated:

Joshua,

-On Friday, County Staff was very responsive and helpful answering my query about a February code change which will now permit commercial advertising to be placed on ten benches erected within the past two weeks at Votran stops in Wilbur by the Sea. Additionally, I have learned that an advertising company plans to place commercial signs on these benches in the very near future. Although these sign benches appear to be located on public property and the right away, they are immediately adjacent to homes in this



residential area. Additionally, some of the benches are very close (approx one foot) to the roadway and may pose a safety concern. (please see photos below)

- Permitting these sign benches to be erected in Wilbur by the Sea will also violate the "Purpose and Intent" stated in the Code sec 72-32 i.e.: "These regulations are also designed to preserve the character, appearance and aesthetic qualities of Volusia County by regulating the erection, maintenance, size, height and number of signs permitted..... to ensure that signs do not have a detrimental effect on the character, appearance and property values of the County. ..to allow the county to rationally plan its physical surroundings in such a way that visual blight is minimized and that no sign constitutes a traffic or safety hazard".

- Erecting so many commercial signs is also inconsistent with the approved Wilbur by the Sea Local Plan including its "Goal: Maintain the existing residential, cultural and scenic values associated with the Wilbur Community...."

-I am not opposed to benches although I have observed very little use of Votran in Wilbur, am concerned about safety because of the narrow right of way and conclude the benches will be primarily sign platforms creating a visual blight and benefiting commercial profits rather than residential interests.

- In considering this matter, request Council/staff take into account that Votran advertising benches do not exist in Ponce Inlet, Daytona Beach Shores and areas of Daytona indicating this type of commercial advertising is undesirable, inappropriate, and adversely impacts the character, appearance and aesthetic qualities of surrounding areas.

-I would also ask council/staff to imagine themselves in the position of Wilbur residents and decide if a commercial sign bench in front of their homes or two on every block of their neighborhood would be acceptable from an aesthetic and property value basis.

-In summary request:

--- Volusia County/Votran prohibit commercial advertising on the ten Votran benches in Wilbur because such advertising is inconsistent with the purpose and intent of the overlaying code and the approved Wilbur Local Plan/Overlay.

--- County and Votran follow the Ponce Inlet/Daytona Beach Shores example by requiring Votran benches in Wilbur be positioned parallel to the roadway rather than diagonally to maximize setback in order to mitigate the safety concern.

--- Staff appropriately revise new ordinance No 2010-03 to prohibit commercial advertising in Wilbur and other unincorporated residential areas with approved and conflicting Local Plans/Overlays..

-Thank you for your attention to this matter.

Sincerely and respectfully, Chris Gigicos, 4221 South Atlantic Ave, Tel 761 0653

On April 27, 2010, I was copied on a response to the prior email from another resident in Wilbur by the Sea (see attachment 2 – Email from Bob to Chris). I also respect Mr. Bob Mills' input as he was a long time Volusia County employee. He and I share very similar views on many governmental issues. His concerns were also similar with the other resident in regards to advertising in Wilbur. He stated:

Hi chris:

All great points, but I think we can assume (or at least I do) that government is going to do what it wants. In Volusia, the administrative arm is actually more powerful than the elected arm. It's been that way for at least 20 years.

The overlay states also that Volusia county is charged with implementing the overlay via supporting ordinances and inter-local agreements by 2005.....none of which I have seen materialize. I think that's where our efforts need to be so we don't need to fight the little fires. But, you are right, we need to fight this little fire to set the record straight.

Bob

In regards to the concerns of my constituents, I emailed a follow up to the Wilbur resident (see attachment 3 – Email from me to Chris). I stated:

Hello Chris,

I will look into this to see what is going on.

Josh

On May 2, 2010, I emailed our County attorney to look into the legal matters. I stated in the email (see attachment 4 – Email from me to Dan):

Hello Dan,

Can you take a look at the three questions in her summary to see if there is something to them?

Thanks,  
Josh

It is my recollection that I had a phone conversation with our county attorney to discuss the matter further.

On May 3, 2010, I sent the following email to the Manager of VOTRAN (see attachment 5 – email from me to Ken):

Hello Ken,

I hope you had a great weekend. I have been receiving (many) calls and emails in regards to bus advertising in Wilbur by the Sea. It is my understanding that a RFP is going to be released sometime in the near future. Can you please email, fax or inner office (whichever better protects the RFP) a copy before it is released? I need to make sure I have a good understanding of what is going out. Also, is there a specific date the RFP is going out?

Thanks,  
Josh

On May 4, 2010, the Manager of VOTRAN responded with the following email (see attachment 6 – email from Ken to me):

Josh,

In June of 2009, the Council instructed staff to amend the County's sign ordinance to allow for benches with advertising in the unincorporated areas. Once the sign ordinance was amended, Council instructed the staff to issue an RFP for vendors to provide benches with advertising. We are at the point that the sign ordinance has been amended and a draft RFP is being prepared. Once it is completed, staff will turn it over to the County's Purchasing Department for processing. We have not set up a time frame for release of the RFP.

Based on a request from County's Parks and Recreation Department, Votran asked Waverly if they would place benches without advertising in Wilbur by the Sea. That is how the benches being questioned ended up in Wilbur by the Sea. Let me know if you have any other questions.

Thanks,  
Ken

Based on the questions I had been receiving in regards to Wilbur and my skepticism of how VOTRAN and our third part vendor was handling the majority of the County Council voted for, I thought it was appropriate to look into this matter. However, much of the preceding info was unknown to most people in relation to my intent for the inquiry and the following is what is only being mentioned in public as a possible ethics violation.

In May 2010, I was part of a group of investors that bid to operate a restaurant on city owned property. The restaurant LLC was owned by twelve members. I was one of the twelve members. One of the other twelve members, was then and is now, a partner in Waverly Media LLC. Ultimately, the restaurant group disbanded within a year because we were not successful in our negotiations to operate on the city property. Stemming from that group, three investors, including a partner from Waverly Media LLC and myself, started a magazine. After six months, I left the magazine group because I soon found that owning a media outlet and being a public servant was too difficult.

On July 28, 2010, at a time when I was an investor in the restaurant group, I received an email from the Manager of VOTRAN requesting questions/comments on a draft of the request for proposal to bid out the County bus bench provider contract (see attachment 7: email from Ken to me). It stated:

Josh,

Please find attached a rough draft for the RFP for benches with advertising in the unincorporated area of the County. Let me know if you have questions/comments.

Thanks,  
Ken

On September 1, 2010, I again received an email from the manager of VOTRAN asking me for comments (see attachment 8 – email from Ken to me). The email state:

Mr. Wagner,

Good morning. Votran is ready to have the Purchasing Department issue the RFP for Benches with Advertising in the County's unincorporated areas. Do you have any comments on the draft RFP that we provided you?

Thanks,

Ken

The RFP was open to all companies to provide their best proposal to be the bus bench provider for Volusia County. As I stated, this RFP was open to all companies including Waverly Media LLC, the vendor who presently had the contract and the company that had a common investor with me in the restaurant group.

On September 2, 2010, I responded to the email from the manager of VOTRAN (see attachment 9: email from me to Ken). I stated:

Thanks Ken, I have a couple of suggestions...(I do not at any point want you to think I am requiring or expecting you to make these changes). On a side note, I think you and your staff are doing an amazing job. Times are tough and you and your staff are really doing your part to help the County. Thank you.

Are we going to specify the specific minimum number of spots? I may have missed it in the RFP. Or, maybe it is not appropriate for this type of RFP.

Page 4 (top): 10% seems a bit high (maybe put in a range for the Contractor "minimum of 5%...")

Page 4 (bottom): In regards to "no interest in utilizing for advertising...". This leaves it pretty open. Can we put a max on this? I don't want to run any companies off with this provision.

Page 6 (9.2.4): I have concerns about requiring this (because it will then become public record). Also, the trash collection aspect...do we have this anywhere right now?

Page 7 (13.1): We should change "approved equal" to "minimum." My hope is that a few local companies will make much better benches.

Page 8 (13.1): Can we lessen this language a bit? My concern is that some of the areas for the benches will be impossible to fit this language. Would it be legally permissible for us to lessen the requirement? Also, we should possibly bump up the 10% recycled materials to 25%+.

Page 9 (G.b.): Do we require permits for the benches? if not, we could probably leave line b out.

Page 10 (G.e.): Can they just have their website for "full contact information"?

Thanks,  
Josh

I provided suggestions and predicated my suggestions with the statement, "I do not at any point want you to think I am requiring or expecting you to make these changes." None of the suggestions gave any special advantage to one particular company over another.

The RFP was never brought forward for finalization by a vote by the County Council; accordingly, I never voted for or against the RFP as written. The reason staff provided for not bringing the RFP forward was because the Florida Department of

Transportation was re-evaluating their standards and they feared possible legislative changes that would alter the RFP. The County Council will soon be voting on putting the request for proposal out to the public.

Now, over 3 years later, I have been publicly accused of violating the Ethics Rules.

## Votran Benches with Commercial Advertising in Wilbur by the Sea

From: <Jcgigi@aol.com>  
 To: <jwagner@co.volusia.fl.us>  
 CC: <marfoglia@att.net>, <millsatwilbur@mindspring.com>, <sashley@co.volusia.fl.us>, <jdimdeen@co.volusia.fl.us>, <hblanck@co.volusia.fl.us>  
 Date: Monday - April 26, 2010 9:36 AM  
 Subject: Votran Benches with Commercial Advertising in Wilbur by the Sea  
 Attachments: Mime.822

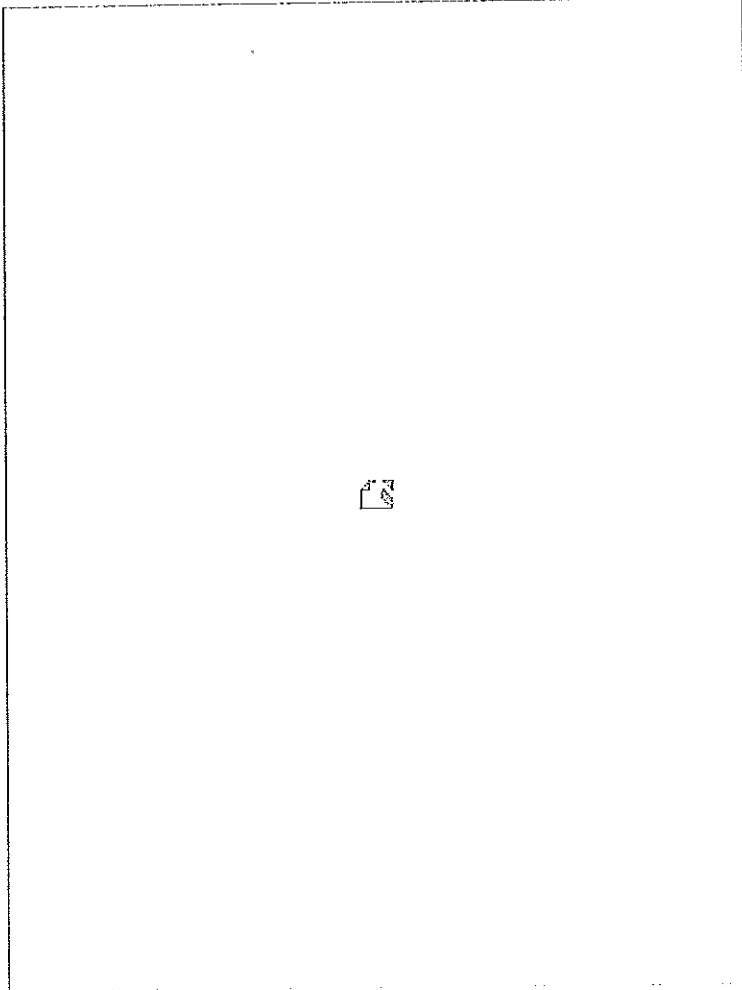
Joshua,

- On Friday, County Staff was very responsive and helpful answering my query about a February code change which will now permit commercial advertising to be placed on ten benches erected within the past two weeks at Votran stops in Wilbur by the Sea. Additionally, I have learned that an advertising company plans to place commercial signs on these benches in the very near future. Although these sign benches appear to be located on public property and the right away, they are immediately adjacent to homes in this residential area. Additionally, some of the benches are very close (approx one foot) to the roadway and may pose a safety concern. (please see photos below)
- Permitting these sign benches to be erected in Wilbur by the Sea will also violate the "Purpose and Intent" stated in the Code sec 72-32 i.e.: "These regulations are also designed to preserve the character, appearance and aesthetic qualities of Volusia County by regulating the erection, maintenance, size, height and number of signs permitted..... to ensure that signs do not have a detrimental effect on the character, appearance and property values of the County. ...to allow the county to rationally plan its physical surroundings in such a way that visual blight is minimized and that no sign constitutes a traffic or safety hazard".
- Erecting so many commercial signs is also inconsistent with the approved Wilbur by the Sea Local Plan including its "Goal: Maintain the existing residential ,cultural and scenic values associated with the Wilbur Community..."
- I am not opposed to benches although I have observed very little use of Votran in Wilbur , am concerned about safety because of the narrow right of way and conclude the benches will be primarily sign platforms creating a visual blight and benefiting commercial profits rather than residential interests.
- In considering this matter, request Council/staff take into account that Votran advertising benches do not exist in Ponce Inlet, Daytona Beach Shores and areas of Daytona indicating this type of commercial advertising is undesirable, inappropriate, and adversely impacts the character, appearance and aesthetic qualities of surrounding areas.
- I would also ask council/staff to imagine themselves in the position of Wilbur residents and decide if a commercial sign bench in front of their homes or two on every block of their neighborhood would be acceptable from an aesthetic and property value basis.
- In summary request:
  - Volusia County/Votran prohibit commercial advertising on the ten Votran benches in Wilbur because such advertising is inconsistent with the purpose and intent of the overlaying code and the approved Wilbur Local Plan/Overlay.
  - County and Votran follow the Ponce Inlet/Daytona Beach Shores example by requiring Votran benches in Wilbur be positioned parallel to the roadway rather than diagonally to maximize setback in order to mitigate the safety concern.
  - Staff appropriately revise new ordinance No 2010-03 to prohibit commercial advertising in Wilbur and other unincorporated residential areas with approved and conflicting Local Plans/Overlays..
- Thank you for your attention to this matter.

11/5/13

Votran Benches with Commercial Advertising in Wilbur by the Sea

Sincerely and respectfully, Chris Gigicos, 4221 South Atlantic Ave, Tel 761 0653









Re: Fw: Re: bench advertising

From: Robert Mills <millsatwilbur@mindspring.com>

To: <Jcgigi@aol.com>

CC: Marfoglia Arnold & Luci <marfoglia@att.net>, Wagner Josh <jwagner@co.volusia.fl.us>

Date: Tuesday - April 27, 2010 7:39 AM

Subject: Re: Fw: Re: bench advertising

Attachments: Mime.822

Hi Chris:

All great points, but I think we can assume (or at least I do) that government is going to do what it wants. In Volusia, the administrative arm is actually more powerful than the elected arm. It's been that way for at least 20 years.

The overlay states also that Volusia county is charged with implementing the overlay via supporting ordinances and inter-local agreements by 2005.....none of which I have seen materialize. I think that's where our efforts need to be so we don't need to fight the little fires. But, you are right, we need to fight this little fire to set the record straight.

Bob

---

-----Original Message-----

From: Jcgigi@aol.com

Sent: Apr 26, 2010 11:33 PM

To: millsatwilbur@mindspring.com

Cc: marfoglia@att.net

Subject: Re: Fw: Re: bench advertising

Bob, Thanks for the info.

— I have not changed the position stated in my email to Josh. The Association can also cite the Overlay as basis for keeping the commercial profit generating benches out. The specific rationale can be found in Local Plan para W1.10.1.4 "Commercial use should be limited to areas currently designated for that purpose and in use." It is my understanding the Local Plan was approved in 2005 by both the County and the State. Our opponents are likely to say they can change the Local Plan via Council approved zoning ordinance changes.

— The only question Ms Blanck's email raises is why did the advertising agency put up benches if they haven't yet run the competition.

Thanks to you and Arnold for taking on this

In a message dated 4/26/2010 10:06:47 P.M. Eastern Daylight Time, millsatwilbur@mindspring.com writes:

---

-----Forwarded Message-----

>From: "Robert Mills, CPA" <wilburbeach@mindspring.com>

>Sent: Apr 26, 2010 10:05 PM

11/5/13

Re: Fw: Re: bench advertising

> To: millsatwilbur@mindspring.com  
> Subject: Fw: Re: bench advertising  
>  
>  
>  
>  
> -----Forwarded Message-----  
>> From: Heather Blanck <hblanck@co.volusia.fl.us>  
>> Sent: Apr 26, 2010 2:39 PM  
>> To: CPA Robert Mills <wilburbeach@mindspring.com>  
>> Cc: Robert Davenport <RDavenport@co.volusia.fl.us>  
>> Subject: Re: bench advertising  
>>  
>> Good afternoon Bob,  
>>  
>> The bus bench program has been under review since June 4, 2009. At the County Council's February 18, 2010 meeting the Zoning ordinance No. 2010-03 was adopted to allow advertising in the public right of way "on public transportation benches or shelters as approved through a competitive selection process of the county". The competitive selection process has not been initiated with the County. We will keep you informed of progress as developments occur.  
>>  
>>  
>>  
>>  
>>  
>> Heather Blanck  
>> Assistant General Manager of Planning,  
>> Marketing, and Customer Service  
>> Votran  
>> 950 Big Tree Road, South Daytona, FL 32119-8815  
>> 386-756-7496 ext. 4112  
>> fax 386-756-7487  
>> http://www.votran.org  
>>  
>>  
>>>>> "Robert Mills, CPA" <wilburbeach@mindspring.com> 4/26/2010 10:24 AM >>>  
>> In Wilbur by the Sea, our community association, the Wilbur Improvement Association, inc. is interested in the possibility of advertising on the benches in Wilbur. Can you provide me with any information about such a program?  
>> Bob Mills, Director & treasurer  
>> Wilbur Improvement Association, Inc.  
>> 386-299-2200  
>>  
>>  
>

11/5/13

|| Robert Mills, CPA

Robert Mills, CPA

Re: Fw: Re: bench advertising

Re: Votran Benches with Commercial Advertising in Wilbur by the Sea

From: Joshua Wagner

To: Jcgigi@aol.com

BC:

Date: Sunday - May 2, 2010 5:00 PM

Subject: Re: Votran Benches with Commercial Advertising in Wilbur by the Sea  
Hello Chris,

I will look into this to see what is going on.

Josh

>>> <Jcgigi@aol.com> 04/26/10 9:36 AM>>>

Joshua,

-On Friday, County Staff was very responsive and helpful answering my query about a February code change which will now permit commercial advertising to be placed on ten benches erected within the past two weeks at Votran stops in Wilbur by the Sea. Additionally, I have learned that an advertising company plans to place commercial signs on these benches in the very near future. Although these sign benches appear to be located on public property and the right away, they are immediately adjacent to homes in this residential area. Additionally, some of the benches are very close (approx one foot) to the roadway and may pose a safety concern. (please see photos below)

- Permitting these sign benches to be erected in Wilbur by the Sea will also violate the "Purpose and Intent" stated in the Code sec 72-32 i.e.:

"These regulations are also designed to preserve the character, appearance and aesthetic qualities of Volusia County by regulating the erection, maintenance, size, height and number of signs permitted.... to ensure that signs do not have a detrimental effect on the character, appearance and property values of the County. ..to allow the county to rationally plan its physical surroundings in such a way that visual blight is minimized and that no sign

constitutes a traffic or safety hazard".

- Erecting so many commercial signs is also inconsistent with the approved Wilbur by the Sea Local Plan including its "Goal: Maintain the existing residential, cultural and scenic values associated with the Wilbur Community...."

-I am not opposed to benches although I have observed very little use of Votran in Wilbur , am concerned about safety because of the narrow right of way and conclude the benches will be primarily sign platforms creating a visual blight and benefiting commercial profits rather than residential interests.

- In considering this matter, request Council/staff take into account that Votran advertising benches do not exist in Ponce Inlet, Daytona Beach Shores and areas of Daytona indicating this type of commercial advertising is undesirable, inappropriate, and adversely impacts the character, appearance and aesthetic qualities of surrounding areas.

-I would also ask council/staff to imagine themselves in the position of Wilbur residents and decide if a commercial sign bench in front of their homes or two on every block of their neighborhood would be acceptable from an aesthetic and property value basis.

-In summary request:

--- Volusia County/Votran prohibit commercial advertising on the ten Votran benches in Wilbur because such advertising is inconsistent with the purpose and intent of the overlaying code and the approved Wilbur Local Plan/Overlay.

--- County and Votran follow the Ponce Inlet/Daytona Beach Shores example by requiring Votran benches in Wilbur be positioned parallel to the roadway rather than diagonally to maximize setback in order to mitigate the safety concern.

--- Staff appropriately revise new ordinance No 2010-03 to prohibit commercial advertising in Wilbur and other unincorporated residential areas with approved and conflicting Local Plans/Overlays..

-Thank you for your attention to this matter.

Sincerely and respectfully, Chris Gigicos, 4221 South Atlantic Ave, Tel 761

11/5/13

0653

Re: Votran Benches with Commercial Advertising in Wilbur by the Sea



11/5/13

Fwd: Votran Benches with Commercial Advertising in Wilbur by the Sea

Fwd: Votran Benches with Commercial Advertising in Wilbur by the Sea

From: Joshua Wagner

To: Daniel Eckert

BC:

Date: Sunday - May 2, 2010 5:02 PM

Subject: Fwd: Votran Benches with Commercial Advertising in Wilbur by the Sea

Attachments: Envelope

Hello Dan,

Can you take a look at the three questions in her summary to see if there is something to them?

Thanks,

Josh

## Mail Message



Mail Properties

**From:** Joshua Wagner  
**To:** Ken Fischer  
**Subject:** Bus Advertising

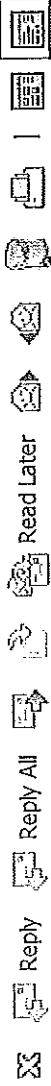
Hello Ken,

Monday - May 3, 2010 1:13 PM

I hope you had a great weekend. I have been receiving (many) calls and emails in regards to bus advertising in Wilbur by the Sea. It is my understanding that a RFP is going to be released sometime in the near future. Can you please email, fax or inner office (whichever better protects the RFP) a copy before it is released? I need to make sure I have a good understanding of what is going out. Also, is there a specific date the RFP is going out?

Thanks,  
Josh

## Mail Message



Mail Properties

Tuesday - May 4, 2010 8:27 AM

**From:** Ken Fischer  
**To:** Wagner, Joshua  
**Subject:** Re: Bus Advertising  
**Attachments:** Ken Fischer.vcf (1 KB) [View] [Open] [Save As] [Import to Contacts]

Josh,

In June of 2009, the Council instructed staff to amend the County's sign ordinance to allow for benches with advertising in the unincorporated areas. Once the sign ordinance was amended, Council instructed the staff to issue an RFP for vendors to provide benches with advertising. We are at the point that the sign ordinance has been amended and a draft RFP is being prepared. Once it is completed, staff will turn it over to the County's Purchasing Department for processing. We have not set up a time frame for release of the RFP.

Based on a request from County's Parks and Recreation Department, Votran asked Waverly if they would place benches without advertising in Wilbur by the Sea. That is how the benches being questioned ended up in Wilbur by the Sea. Let me know if you have any other questions.

Thanks,  
 Ken

Ken Fischer  
 General Manager  
 Votran  
 950 Big Tree Road  
 South Daytona, FL 32119  
 (386) 756-7496, ext. 4126  
 kfischer@co.volusia.fl.us

>>> Joshua Wagner 5/3/2010 1:13 PM >>>  
 Hello Ken,

Fwd: Draft Bus Bench Advertising RFP w/ 2 Attachments

From: Ken Fischer

To: Wagner, Joshua

Date: Wednesday - July 28, 2010 9:51 AM

Subject: Fwd: Draft Bus Bench Advertising RFP w/ 2 Attachments

Attachments: Envelope

Josh,

Please find attached a rough draft for the RFP for benches with advertising in the unincorporated area of the County. Let me know if you have questions/comments.

Thanks,  
Ken

Ken Fischer  
General Manager  
Votran  
950 Big Tree Road  
South Daytona, FL 32119  
(386) 756-7496, ext. 4126  
kfischer@co.volusia.fl.us

## Draft Bus Bench Advertising RFP w/ 2 Attachments

From: Elizabeth Suchsland  
To: Fischer, Ken  
Date: Thursday - June 24, 2010 6:39 PM  
Subject: Draft Bus Bench Advertising RFP w/ 2 Attachments  
Attachments: RFP BUS BENCH ADVERTISING.doc; Belson benches.pdf; Volusia County Map.pdf  
Thank you.

Elizabeth Suchsland  
Assistant General Manager of Operations and Maintenance  
VO TRAN  
950 Big Tree Road  
South Daytona, FL 32119  
Telephone: 386-763-3727  
Fax: 386-756-7487  
Cell Telephone: 239-438-7222

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DRAFT

VOLUSIA COUNTY

VOTRAN



REQUEST FOR PROPOSAL

**RFP#:** \_\_\_\_\_

BUS BENCH ADVERTISING

2010

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# **SPECIFICATIONS AND REQUIREMENTS FOR BUS BENCH ADVERTISING FOR VOLUSIA COUNTY /VOTRAN**

## **1 Introduction**

In an effort to provide benches for the transit passengers in the unincorporated areas of Volusia County, Volusia County / Votran requests proposals from qualified firms to provide all aspects of a transit bench with advertising program.

These aspects include bench design, installation, removal, maintenance and advertising at specified locations throughout the County. The total number of benches shall be determined by the County and will be located exclusively at designated and signed bus/transit stop locations unless otherwise approved by Votran.

The services are to include fabrication, installation, maintenance, sales, and administration of the transit benches with advertising. The contractor is responsible for all costs related to the fabrication, installation and maintenance of the transit benches as all as all costs incurred in the marketing and administration of the program.

Proponents must provide detailed proposal and all items in this document and all items in the document must be addressed. Failure to respond to any requirement outlined in the Request for Proposal (RFP) may disqualify the proponent.

Submittals must include, but are not limited to the following.

Five (5) samples of bench advertising displays that will be used in this contract;

- A sample bench sales contract;
- A specified percentage of gross advertising revenue and a minimum quarterly guarantee for each year of the base term of the bench-advertising contract and for each option year of the bench-advertising contract;
- An estimated rate card from your firm detailing the advertiser cost for advertisement on benches, including all applicable discounts for increased showing, frequency or length of posting special packages/programs, etc;
- A brief history of the firm along with an overview of its principles;



- The Contractor must provide for a minimum of ten percent (10%) of the benches installed to be made available to the County for advertisement of public service announcements or public art at no cost.

Proponents should be available for oral presentations, if such presentations are deemed necessary to determine the most qualified firm. Any such oral presentation will be scheduled at the transit system's offices at a mutually convenient time.

## **2 Notifications**

All proponents will be notified of their award status within sixty (60) days of the close of accepting proposals.

## **3 Postponements of the RFP Opening**

Volusia County / Votran reserves the right to postpone the proposal opening for its own convenience.

## **4 Right to Reject Proposals**

Volusia County / Votran reserves the right to reject any or all proposals or portions thereof, or to accept a proposal or portions thereof, if it appears to be in the best interest of Votran.

## **5 Contract**

The successful proponent shall enter into a contract with Volusia County / Votran in accordance with the terms and conditions of this RFP.

## **6 Term**

The specifications described in the placing and maintenance of benches with advertising along Votran's fixed routes in the unincorporated areas of Volusia County is for a period of five (5) years with an option to renew for an additional five (5) year periods thereafter.

## **7 Ownership**

The benches will remain the property of the contractor along with all liabilities, which accompany ownership.

For locations, the contractor has no interest in utilizing for advertising, Votran / Volusia County shall have the right to purchase additional benches at the contractor's cost.

## **8 Evaluation Process**

Each proposal submitted must contain the following elements in order for Volusia County to effectively evaluate each proposal in a similar manner.

All proposals will be subject to review by a committee appointed by Volusia County.

Proposals are evaluated based on the following criteria:

Fees paid / Guaranteed Minimum	15 points
Bench construction, installation and work plan	20 points
Financial Stability of Contractor	15 points
Marketing Plan and successful experience of the Contractor	15 points
Maintenance Program and Experience	30 points
Local Vendor Preference	5 points

## **9 Proposal Contents**

### **9.1 Introductory Letter**

Each proponent must submit a letter of introduction from the qualifier representing the company. This letter must include the company name and address. The letter must state that the qualifier has read the RFP, understands and accepts all conditions and is authorized to sign as a representative of the submitting company. The introductory letter should also state that the proposal shall remain in full force and effect for sixty (60) days following the date of opening.

### **9.2 Company Background and Experience**

#### **9.2.1 Company History**

The proponent must submit a description of the company history. Such information should contain the company background, including the number of years in advertising, sales and management, as well as street furniture advertising sales and management.

#### **9.2.2 Experience of Key Personnel**

Proposals must contain a description of the qualifications of the company key personnel.

### **9.2.3 Competence**

The proponent shall identify professional competence in related fields, including a list of transit operations the company is currently contracted with for similar type of work. The proponent shall also submit names and address of current transit contractors and suppliers.

### **9.2.4 Financial Information**

The proponent must state how the transit bench project will be funded. Each proposal must include the company's most recent audited financial statement (including the auditors seal or assessment) and shall submit other financial information deemed by the proponent to be pertinent to the proposal or the proposed method of operation. The proponent must provide the projected costs of the project and how the proponent will finance these costs.

### **9.2.5 Qualification / Responsibility of Key Personnel**

Proponents must include a brief biography for each key member of the local personnel.

Proponents must include a job description of each personnel member's position as it relates to the local transit project. This description should include specific job responsibilities to he / she held on a local level.

If trash collection services are to be provided, Proponents must have a minimum of five (5) years of experience in providing such collection services.

Proponents must have a minimum of five (5) years experience in advertising sales and administration and three (3) years of experience in transit advertising sales and administration.

Proponent is required to have a Volusia County business license, and submit a copy of the license with the response to this proposal.

## **10 Payments to Volusia County**

The proponents must include in their proposal revenues to be paid to Volusia County. If the proponent offers a percentage of collected revenues from advertising sales and / or any other method of computing revenue to be paid to Volusia County, the respondent should clearly describe the offered revenue and method of payment for evaluation purposes.

The proponent will submit a format showing payment formula to be utilized when calculating payment to Volusia County.

## **11 Insurance Requirements**

*Insert Volusia County RFP Purchasing Template / Volusia County / Votran insurance requirements.*

## **12 Hold Harmless Agreements**

Each proponent shall submit a document as the enclosed Hold Harmless Agreement, properly signed and completed before a contract is offered as a result of this RFP.

## **13 Proposed Method of Accomplishing Work**

The proponent must detail how the company will meet the terms and conditions and meet the services requested as follows.

### **13.1 Fabrication, Installations and Specifications**

A. Bus bench with advertising panels will be located throughout the service area, adjacent to Votran routes, where agreed upon between the successful proponent and Votran. The bench design / specification as agreed upon by Votran and the contractor shall be installed and maintained by the contractor. Proponent must submit bus bench specifications to be considered as an approved equal. Approved bus bench is Belson Outdoors Model #PB6-CPA or approved equal. Belson Outdoors Model #PB6-CPA information is provided in Attachment 1 (one). All proposed bus benches must be submitted to Votran as an approved equal. No bus bench shall be installed without Votran's approval on the bus bench specifications.

B. Proponent must submit a time schedule for construction and installation. The time

schedule should include plans for providing adequate personnel to install and maintain benches and advertising panels.

- C. The awarded bidder shall meet or exceed with all applicable Federal Transit Administration (FTA) regulations as indicated in the FTA Master Agreement and Best Practices Procurement Manual, Florida Statutes, Chapter 427, part 1, the American with Disabilities Act (ADA) and the Florida Department of Transportation Rule Chapter 14-20. The successful proponent shall ensure that the installation / construction meets or exceeds the Florida Department of Transportation Design Standards, including but not limited to Maintenance of Traffic (MOT) and FDOT Index 600, Index 17302, Index 700 Series. Installation / construction must meet or exceed MUTCD, Volusia County local standards / requirements, and must ensure the design is in conformance with FDOT Plan Preparation Manual (PPM) standards.

- D. Bus bench specifications must include a minimum of 10% recycled materials.

### **13.2 Maintenance Plan**

The proponent shall state in detail, its plan for cleaning, repairing, and addressing vandalism on the benches in the service area. The Maintenance plan should include the planned time line to respond to repair, replacement and / or removal of a bus bench.

### **13.3 Marketing / Sales**

The successful proponent will be required to perform complete advertising, servicing and sales functions including but not limited the following.

- A. The proponent must explain how it will establish and maintain a physical office in Volusia County providing a continuous sales effort within the service area conducted by a professional staff of sufficient size to assure adequate service to all advertising clients.
- B. The proponent must submit an explanation of marketing strategies and literature it will use to promote transit advertising.

### **13.4 Advertising Content and Control**

The proponent must ensure that only displays of a high quality standard with regard to artwork and advertising content will be shown.

Proponents must ensure the following.

- A. Advertising shall be of reputable character, shall conform to recognized business standards and shall not conflict with the laws of the United States or any state or political subdivision thereof.
- B. Graphics, artwork and copy of the advertisements are expected to be of high quality and good taste.
- C. Vulgar, disreputable or to other advertising that may be offensive to the public shall not be acceptable.
- D. All advertising shall be displayed in a neat and workmanlike manner.
- E. The successful proponent shall maintain all displayed advertising to ensure its neat appearance and promptly remove all advertising, which is torn or otherwise unsightly in appearance.
- F. Volusia County / Votran reserve the right to require the successful bidder to promptly remove, at the proponent's own expense, any advertising which in the opinion of Volusia County / Votran, is unsightly in appearance.
- G. The Contractor shall comply with generally accepted industry principles with respect to good taste and all applicable laws and regulations including but not limited to truth in advertising, copyrights and trademarks. Additionally, the Contractor shall:
  - a. Remove unapproved or damaged advertising within twenty-four (24) hours of written notice given by the County.
  - b. Pay all fees, costs and permit charges regularly assessed by the County in any way related to the maintenance, cleaning or repair of the advertising benches.

- c. Remove all dated advertising materials within five (5) calendar days from its expiration date. Dated advertising materials refers to advertising materials that are relevant to a specific time period or relevant to an event that occurs on a date certain.
- d. Allow any unsold spaces to be made available to the County for the purpose of inserting Public Service Announcements or other public purpose as determined by Votran, until the space is needed for a customer.
- e. Notwithstanding the above, the Contractor shall fill all unsold spaces with full size, high quality posters advertising the space as available. Posters will be printed with full contact information of the Contractor.

#### **14 Administration and Reporting Services**

The proposal must contain information regarding the methods by which the proponents will, if requested by Votran, submit reports at least annually. The reports should contain the following information.

- A. List of advertisers.
- B. Type and current rates charged to advertisers for each display space.
- C. Annual collected revenue data, furnished to Votran with each payment.

The proponent should also submit its plan to maintain original copies of all required records for a period of three (3) years after final payment under the terms of the operating contract.

The successful proponent will permit Votran to inspect all records and financial data involved in the operation of the concession during regular business hours maintained by the successful proponent, and at such times upon fifteen (15) days notice.

#### **15 General Terms and Conditions**

All proposals shall be submitted in a sealed envelope clearly marked "Proposal for Bus Bench Advertising." Any proposal found not to be in compliance with the instructions

contained in this section and / or not containing the information requested and / or not in compliance with any part of this Request for Proposals may be declared “non-responsive” and may not be considered. Clearly marked original and 3 copies of the proposal must be submitted.

## **16 Attachments**

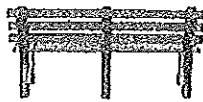
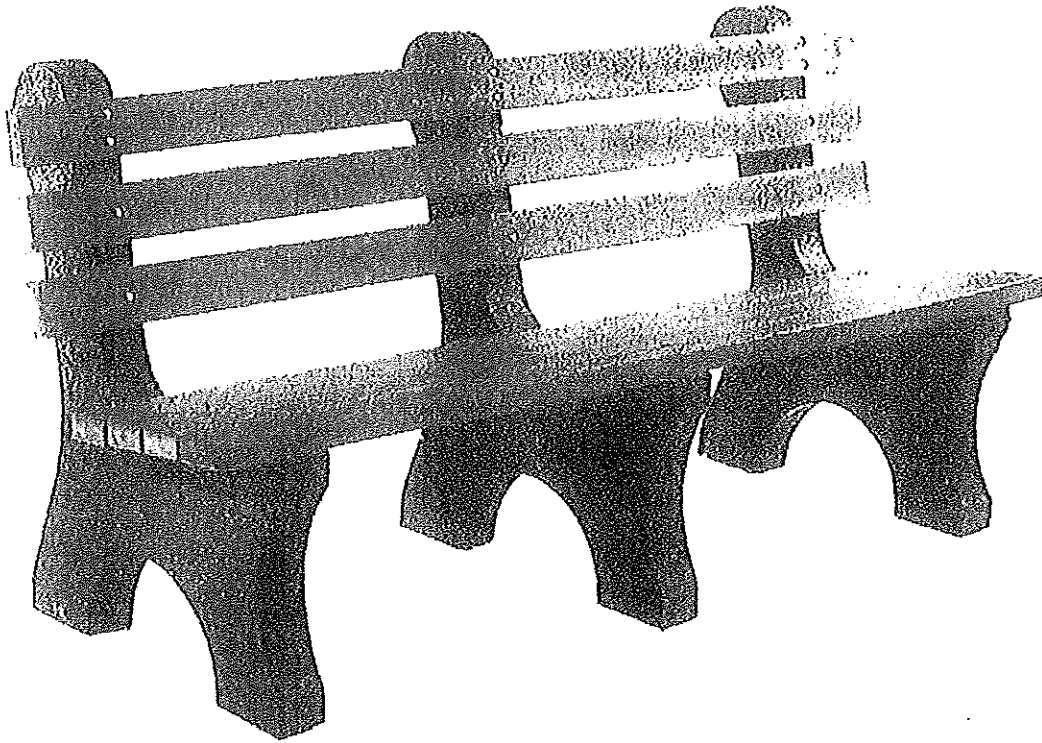
**16.1 Attachment One - Belson Outdoors Model #PB6-CPA**

**16.2 Attachment Two – Map of Unincorporated Volusia County**



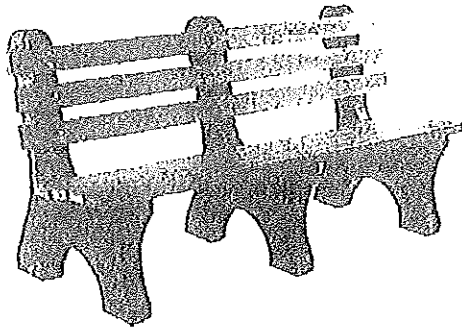
**BELSON<sup>®</sup>**  
OUTDOORS

Model # PB6-CPA | 6' Comfort Park Avenue Bench





## Comfort Park Avenue Benches



Model PB6-CPA | Green

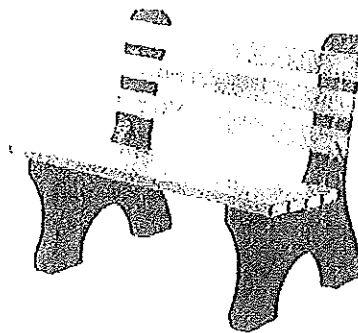
### Resinwood Color Options



cedar green gray

### Comfort plus Style

Looking for that comfortable, classically styled weather resistant recycled plastic park bench? The Comfort Park Avenue Benches are ready to be your solution. Made with seven durable 2" x 4" resinwood slats and sturdy black recycled plastic bases. The Comfort Park Avenue Benches are available in several lengths and the variety of colors as shown.



Model PB4-CPA | Cedar

ENTER QUANTITIES FOR THE ITEM(S) YOU WOULD LIKE TO ORDER

Comfort Park Avenue Recycled Plastic Benches					Qty
PB4-CPA 4' Bench	Gray	2 Black Bases	(110 lbs)	\$289.00	
PB6-CPA 6' Bench	Choose Back/Seat Color	3 Black Bases	(160 lbs)	\$439.00	
PB8-CPA 8' Bench	Choose Back/Seat Color	4 Black Bases	(215 lbs)	\$519.00	
Accessories					Qty
PB1999 In-ground Mount Kit		4 "J" Bolts	(1 lbs)	\$15.00	
PB1008 Surface Mount Kit		2 "L" Brackets	(1 lbs)	\$15.00	

 (Prices F.O.B. Origin)  
 Some Assembly Required

[Add to Order Form](#)
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### Related Products


 Recycled Plastic  
Bike Racks

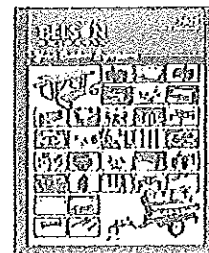
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Free Catalog

## RFP for Benches with Advertising in Unincorporated Area

From: Ken Fischer  
To: Wagner, Joshua  
Date: Wednesday - September 1, 2010 9:54 AM  
Subject: RFP for Benches with Advertising in Unincorporated Area  
Mr. Wagner,

Good morning. Votran is ready to have the Purchasing Department issue the RFP for Benches with Advertising in the County's unincorporated areas. Do you have any comments on the draft RFP that we provided you?

Thanks,  
Ken

Ken Fischer  
General Manager  
Votran  
950 Big Tree Road  
South Daytona, FL 32119  
(386) 756-7496, ext. 4126  
kfischer@co.volusia.fl.us

Re: RFP for Benches with Advertising in Unincorporated Area

From: Joshua Wagner

To: Ken Fischer

BC:

Date: Thursday - September 2, 2010 10:11 AM

Subject: Re: RFP for Benches with Advertising in Unincorporated Area

Thanks Ken, I have a couple of suggestions...(I do not at any point want you to think I am requiring or expecting you to make these changes). On a side note, I think you and your staff are doing an amazing job. Times are tough and you and your staff are really doing your part to help the County. Thank you.

Are we going to specify the specific minimum number of spots? I may have missed it in the RFP. Or, maybe it is not appropriate for this type of RFP.

Page 4 (top): 10% seems a bit high (maybe put in a range for the Contractor "minimum of 5%...")

Page 4 (bottom): In regards to "no interest in utilizing for advertising..." This leaves it pretty open. Can we put a max on this? I don't want to run any companies off with this provision.

Page 6 (9.2.4): I have concerns about requiring this (because it will then become public record). Also, the trash collection aspect...do we have this anywhere right now?

Page 7 (13.1): We should change "approved equal" to "minimum." My hope is that a few local companies will make much better benches.

Page 8 (13.1): Can we lessen this language a bit? My concern is that some of the areas for the benches will be impossible to fit this language. Would it be legally permissible for us to lessen the requirement? Also, we should possibly bump up the 10% recycled materials to 25%+.

Page 9 (G.b.): Do we require permits for the benches? if not, we could probably leave line b out.

Page 10 (G.e.): Can they just have their website for "full contact information"?

Thanks,  
Josh

>>> Ken Fischer 09/01/10 9:54 AM >>>  
Mr. Wagner,

Good morning. Votran is ready to have the Purchasing Department issue the RFP for Benches with Advertising in the County's unincorporated areas. Do you have any comments on the draft RFP that we provided you?

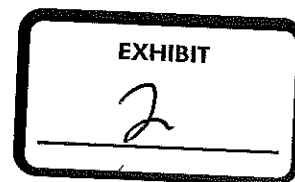
Thanks,  
Ken

Ken Fischer  
General Manager  
Votran  
950 Big Tree Road  
South Daytona, FL 32119  
(386) 756-7496, ext. 4126  
kfischer@co.volusia.fl.us

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## Campaign contributions database



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Campaign contributions between 2008-2012 associated with Waverly Media. In some cases the contributors did not know contributions were being made in their names. Click on a column title to sort by contributor, candidate, date or type of contribution.

Date	Candidate	Office sought	Contributor	Amount	Type of contribution	
10/24/2008	Wagner, Joshua J.	County Council Member, District 2	Waverly Property Group, LLC,	\$500.00	Check	Details
8/17/2010	Cusack, Joyce M	County Council At Large	Waverly Property Group	\$500.00	In Kind	Details
9/24/2010	Cusack, Joyce M	County Council At Large	Waverly Property Group	\$500.00	In Kind	Details
8/7/2010	Kelly, Andy	County Council Member, District 1	Waverly Property Group	\$500.00	In Kind	Details
9/18/2012	Allebach, Jeff	County Council Member, District 1	Waverly Media, LLC	\$500.00	In Kind	Details
7/30/2010	Kelly, Andy	County Council Member, District 1	Waverly Media, LLC	\$500.00	In Kind	Details
3/27/2012	Wagner, Joshua	County Council Member, District 2	Waverly Media, LLC	\$500.00	Check	Details
8/9/2012	Wagner, Joshua	County Council Member, District 2	Waverly Media, LLC	\$1,000.00	Refund	Details
10/31/2012	Wagner, Joshua	County Council Member, District 2	Waverly Media, LLC	\$500.00	In Kind	Details
9/24/2010	Cusack, Joyce M	County Council At Large	Waverly Media, LCC	\$500.00	In Kind	Details
10/23/2012	Conte, Judy	School Board Member, District 4	Waverly Media LLC	\$500.00	Check	Details
1/10/2013	Duncan-Wright, Ida	School Board Member, District 2	Waverly Media LLC	\$500.00	Check	Details
10/24/2008	Wagner, Joshua J.	County Council Member, District 2	Waverly Media LLC	\$500.00	Check	Details
8/21/2008	Wetherell, James N	County Council Member, District 2	Waverly Media LLC	\$500.00	Check	Details
12/7/2011	Bruno, Frank T.	State Senate	Waverly Media	\$500.00	Check	Details
8/17/2010	Cusack, Joyce M	County Council At Large	Waverly Media	\$500.00	In Kind	Details
6/23/2012	Henry, Derrick	Mayor, Daytona Beach	Waverly Media	\$500.00	In kind	Details
8/10/2012	Henry, Derrick	Mayor, Daytona Beach	Waverly Media	\$150.00	In kind	Details
10/19/2012	Henry, Derrick	Mayor, Daytona Beach	Waverly Media	\$500.00	Check	Details
7/5/2012	Kelly, Andy	Supervisor of Elections	Waverly Media	\$500.00	In Kind	Details
7/11/2012	Kelly, Missy	County Council Member, District 1	Waverly Media	\$500.00	Check	Details
5/1/2012	Kennedy, Justin A.	County Council Member, District 3	Waverly Media	\$500.00	In Kind	Details
6/19/2012	Mulder, Dennis	State Rep.	Waverly Media	\$500.00	In Kind	Details
7/9/2012	Sixma, Stony	County Council Member, District 5	Waverly Media	\$500.00	In Kind	Details

8/10/2012	Henry, Derrick	Mayor, Daytona Beach	Was, Terry	\$500.00	In kind	Details
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Online Database by Caspio

Source: Volusia County Elections, City of Daytona Beach

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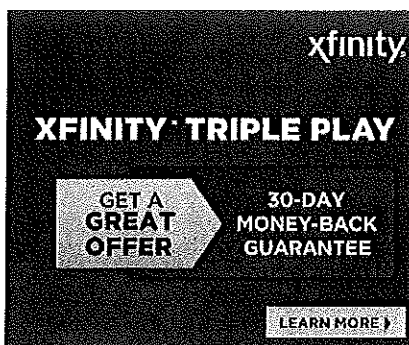
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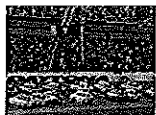


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