

INTERVIEW OF:
KENNETH FISCHER

DATE TAKEN: FEBRUARY 12, 2014

TIME: 9:05 A.M. - 10:12 A.M.

PLACE: HOMEWOOD SUITES BY HILTON
154 BILL FRANCE BOULEVARD
DAYTONA BEACH, FLORIDA 32114

1 APPEARANCES:

2 JONATHAN KANEY, ESQUIRE
3 Kaney & Olivari, P.L.
4 55 Seton Trail
5 Ormond Beach, Florida 32176
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 THEREUPON,

2 KENNETH FISCHER,
3 was called as a witness and, having first been
4 duly sworn, testified as follows:

5 BY MR. KANEY:

6 Q. Mr. Fischer, we're here on an investigation
7 that the county council has called for into what's --
8 what they call the Waverly matter, which is the issue
9 of political contributions by the Waverly Company,
10 which has the bus bench contract with the county.
11 And they deputized me, you might call it, to be
12 special counsel to take -- to do this investigation.
13 And it is -- this is an interview, not a deposition
14 or not trial testimony. I'm interested in knowing
15 what you know and what you suspect, or what your
16 intuition is, your inferences. And hearsay is not an
17 issue here. So. She wants me to tell you not to nod
18 your head when you answer like you just did.

19 It's going to be hard for me to call you
20 Mr. Fischer, because you're Ken. I've always known
21 you as Ken.

22 (Simultaneous speaking.)

23 BY MR. KANEY:

24 Q. When did you -- when did you first start
25 working with the county in the Votran operation?

1 A. 1981.

2 Q. 1981. And what were you doing at that
3 time?

4 A. I was the general manager for Votran.

5 Q. And that was as an employee of the county?

6 A. That was as an employee of McDonald
7 Transit.

8 Q. Always it's been McDonald Transit?

9 A. Always been McDonald Transit.

10 Q. So McDonald Transit has a contract to
11 manage the Votran operation?

12 A. Yes, sir.

13 Q. When you started, was that about the time
14 that Votran got started?

15 A. Votran got started in 1975.

16 Q. Okay. In 1981 you were general manager of
17 Votran working under a contract that McDonald Transit
18 has with the county?

19 A. Yes.

20 Q. Did -- were there bus benches available at
21 bus stops at that time?

22 A. I think the bench contract that we first
23 got into, I can't remember the name of the bus -- the
24 bench company at that time, happened maybe three or
25 four years after 1981. I may be mistaken. I think

1 the county gave an outline of the bench contract, but
2 if I remember correctly, it happened not long after I
3 took over as general manager.

4 Q. And you don't remember the name of that
5 first contract?

6 A. I remember the name of the gentleman. Ted
7 Micker was the gentleman that owned the company. I
8 believe it was Associated Marketing.

9 Q. When the -- when the program of putting the
10 benches out there began, was that -- did that include
11 the advertising on the benches?

12 A. Yes.

13 Q. What are the benefits to the county of
14 allowing the advertising on the benches?

15 A. When I first got involved in it, the big
16 advantage to the county was the bench company
17 provides the bench and maintains the bench, and,
18 therefore, we don't have to invest resources in
19 purchasing capital equipment in the way of benches
20 and we don't have the responsibility to maintain the
21 benches.

22 Q. Um-hum.

23 A. So for most of the time I was the general
24 manager at Votran, Votran simply placed the bus stop
25 in the different municipalities. And in the

1 unincorporated area, in the case of the county, would
2 either provide the bench or do it through a company
3 that provided a bench with advertising on it.

4 Q. And our county deal was with advertising
5 from the beginning?

6 A. Yes.

7 Q. How -- that started, you would say,
8 somewhere in '85 or '86, somewhere around there?

9 A. Yeah.

10 Q. Was that contract ever rebid during your --

11 A. No.

12 Q. -- term?

13 Did it expire on its terms?

14 A. If I recall correctly, there was a
15 provision that it could be renewed with mutual
16 agreement of both parties.

17 Q. And so during the time you were there, it
18 rolled over each time on mutual consent?

19 A. Yes. In about 2005, we began the attempt
20 to issue an RFP.

21 Q. Okay. That's my next question. How did
22 that begin?

23 A. I believe I issued a letter to the company,
24 and it went from Associated Marketing, then to
25 Maverick, I believe, and we issued a letter saying we

1 were intending to rebid the contract for benches with
2 advertising.

3 Q. What -- go ahead.

4 A. And at that point we found out, we didn't
5 know this, that staff had changed the sign ordinance
6 to prohibit, essentially, benches with advertising,
7 in the right-of-way. Now, we had this ongoing
8 contract, and then we found out that, well, that may
9 not work.

10 Q. How was that handled?

11 A. Well, we talk -- as I recall, we talked to
12 the management staff, and --

13 Q. That's the county?

14 A. County management staff. And it didn't
15 seem to be a priority to get it rebid. And what
16 was -- what needed to happen is if we were going to
17 rebid it, they had to go back and amend the sign
18 ordinance to allow for the provision of benches with
19 advertising.

20 Q. Was that ever done?

21 A. Yes. What happened -- well, what happened
22 in 2009, Lois Bollenback, who took over as the
23 general manager, went to county council with a
24 recommended amenities program to make improvements at
25 the bus stop. At that point in time, the management

1 staff, since the ordinance did not allow for benches
2 with advertising, recommended -- we recommended to
3 council to go ahead and start providing benches
4 without advertising. That was the recommendation
5 that was made to council back in 2009. The council
6 did not agree with that recommendation, and
7 instructed the county manager and the legal staff to
8 amend the sign ordinance to allow for benches with
9 advertising, and then we were to reissue the RFP.
10 Well, I shouldn't say reissue.

11 Q. Continue?

12 A. Continue the effort to get the RFP out.

13 Q. Were you aware of the discussion when Lois
14 Bollenback presented that recommendation to the
15 county?

16 A. Yes.

17 Q. What was the discussion among the members
18 of the council regarding the signs?

19 A. Well, in regards to advertising on the
20 benches and the buses, the council never really had a
21 strong consensus for advertising on buses or
22 advertising on benches. There were always a group of
23 two to three council members that didn't like it, and
24 a group of about three to four that did like it,
25 so we could -- you know, we never had that strong

1 consensus on the advertising. As I remember the
2 discussion with the council, Frank Bruno was a
3 chairman at the time, he felt strongly that we should
4 have the benches with advertising. And I think the
5 vote was five to two in favor of the amending the
6 sign ordinance and issuing an RFP for benches with
7 advertising.

8 Q. Okay. Then what happened?

9 A. We -- I think it took the legal staff maybe
10 six months. They amended the sign ordinance to allow
11 for the benches -- to allow for benches with
12 advertising and we drafted -- Votran staff drafted an
13 RFP for benches with advertising. And at that time,
14 FDOT got involved and was recommending that if a
15 bench was at a bus stop, that that bus stop had to be
16 in compliance with the Americans With Disabilities
17 Act. So our -- at that point, we had a draft RFP
18 ready, but that draft RFP did not address the ADA
19 issue.

20 Q. Yeah.

21 A. And so I met with our staff. At that point
22 I took back over as general manager. Lois Bollenback
23 had resigned. And I met with our staff and we
24 started going through the process of trying to
25 understand what FDOT was recommending.

1 Q. Okay. How did that go?

2 A. Well, I brought some notes for that.

3 Q. Okay.

4 A. It was too hard to get them out of the
5 binder, so that's why I left them out of the binder.
6 The initial -- the initial discussion with FDOT is we
7 were going to have to put a landing pad for
8 wheelchairs at every bus stop. Well, that really
9 starts changing our way of doing business. If you
10 recall earlier in our discussion, I basically said we
11 planted the bus stops, and after that the street
12 furniture associated with that bus stop was handled
13 by the municipality and the county. If we're going
14 to have to lay concrete throughout the county, that
15 was going to be a bigger issue.

16 So we started analyzing bus stops to figure
17 out what -- what was in -- what was ADA compliant and
18 what was not ADA compliant. And this bus would have
19 been considered compliant because there is a pad, and
20 this bus -- after we talked to FDOT, they said this
21 bus would be compliant as well, even though it
22 doesn't have a pad, because we have para-transit
23 service. We have the ADA para-transit service that,
24 basically, says if a person can't utilize the regular
25 bus service, then they qualify for the ADA service.

1 So to make us put --

2 Q. So somebody comes and picks them up?

3 A. Somebody picks them up. So FDOT said,
4 well, you don't have to invest in this
5 infrastructure. But that's what we were trying to
6 figure out is, you know, you have all of these
7 different conditions at bus stops, what is in
8 compliance with ADA and what is not. An example,
9 this one's in compliance because it has the landing
10 pad and then it has the sidewalks. This would not be
11 in compliance because it's missing the landing pad.

12 But we went through that type of discussion
13 to figure out how -- and this one starts getting into
14 if you have a bench and a trash receptacle, you know,
15 the designs on what has to be incorporated into that
16 bus stop. So what happened, it got real complicated
17 very quickly on what were the requirements -- what
18 were the requirements for the concrete pad at each
19 bus stop. And, again, since we were issuing an RFP
20 that dealt with benches, FDOT said they have to be
21 ADA compliant and you've got to make sure the vendor
22 provides -- make sure they're in compliance with the
23 ADA law.

24 Q. Okay. Let me just say for the record, what
25 Ken is showing me here are drawings of potential

1 layouts for bus stops with landing pads to illustrate
2 the different variations and the complexity. I don't
3 see a need to put that in the record.

4 A. And just to demonstrate what happened is --
5 and this is what Waverly did. Waverly started
6 doing -- adding concrete pads for the benches, but
7 there is no concrete landing pad. So when we're --
8 as we were going through this and we're watching
9 Waverly do their work, they weren't doing it
10 correctly. So that, you know -- again, we kept
11 saying, okay, what is the correct way of doing this.
12 And finally we hired a consultant to provide a design
13 guideline that we could attach to the RFP.

14 Q. Okay.

15 A. I can -- there's a bench of pictures there.
16 But what Waverly ended up doing -- well, even FDOT.
17 This is out on 92 near Red John Road.

18 Q. I've seen that one just yesterday.

19 A. Well, they built that, and I scratched my
20 head and said, what are they doing? And then they
21 admitted they overdesigned this one, you know,
22 because this bus stop doesn't get much usage, but the
23 investment in -- it's a beautiful bus stop.

24 Q. And every now and then there's a potential
25 passenger there who looks very lonely.

1 A. And so that's what we were dealing with in
2 terms of trying to figure out -- obviously we didn't
3 want to do the investment that FDOT made, and we
4 didn't want to do what Waverly was doing, because
5 that wasn't in compliance. So we ended up hiring
6 Tindal-Oliver, a consulting firm, to help us develop
7 a design guideline for bus stops, which they
8 completed -- let me look at my notes. I think they
9 completed somewhere in 2011, 2012 time frame.

10 Q. And what did you do with the guidelines?

11 A. We attached the guidelines to the RFP, and
12 I believe they have now been issued. That RFP has
13 been issued.

14 Q. But Waverly is still --

15 A. The -- I believe the county issued notice
16 to Waverly and they're terminating the contract. So
17 my understanding is Waverly is no longer under
18 contract.

19 Q. Now, the guidelines -- let's make sure I
20 get the timeline. It was 2009 that Lois Bollenback
21 took that question to the council.

22 A. Yes.

23 Q. And got the five to two vote.

24 Then following that, still within 2009 or
25 '10, Votran drafted the RFP.

1 A. Yes.

2 Q. Then you heard from FDOT that you had to
3 comply with the ADA, American Disabilities Act.

4 A. Yep.

5 Q. At what point -- at what point do you show
6 that FDOT gave you that edict that you had to do
7 that?

8 A. We're showing February of 2010 that FDOT
9 establishes ADA guidelines and sends to
10 municipalities or vendors which are handling bus stop
11 placement.

12 Q. All right. So when you got that, then you
13 had to go back to the drawing board with the RFP
14 after you figured out what it would take to comply?

15 A. Yes.

16 Q. Which was a good bit of study?

17 A. Yes.

18 Q. Ultimately, as any good government agency
19 would do, you hired a consultant.

20 A. Well, you're an attorney. We had done all
21 this work ourselves. We gave it to the legal
22 department, and the legal department says, well, we
23 think you need to hire a consultant to make sure in
24 case we get sued that we have somebody to point to.

25 Q. I stand corrected.

1 So that -- and that process is following
2 along after the February, 2010 announcement from
3 FDOT?

4 A. Yes.

5 Q. And somewhere that you hired Tindal-Oliver
6 would have been later in 2010, do you think?

7 A. I'm trying to -- we're showing -- I'm
8 showing 2012 Votran issues task order assignment to
9 Tindle Oliver to create document titled Votran
10 Technical Design Standards.

11 Q. Were -- were any members of the council
12 involved in the process of creating the RFP or
13 modifying it?

14 A. Josh Wagner asked to review the RFP.

15 Q. How did he communicate that request?

16 A. I'm not sure how the request came to me. I
17 have a -- this binder is my meetings with the
18 manager's office on a monthly basis. I noticed I
19 went back and pulled my monthly meeting notes, and
20 in May 26th of 2010, it talks about street side
21 amenities. And on a draft RFP for benches, I've got
22 a note that Josh Wagner has asked to review it. I
23 can't recall -- I don't have any e-mail that
24 indicates that he did it through e-mail, so I'm
25 assuming it was verbally, either through a phone call

1 or a conversation.

2 Q. Do you think your notes reflect something
3 that was communicated to you during your meeting with
4 the manager?

5 A. I'm not sure what you're saying.

6 Q. Well, if you don't have an e-mail from
7 Josh, but your notes say Josh had asked to review it,
8 when do you think you got that information? Would it
9 be during a meeting with --

10 A. No, it would have been prior. The note I
11 have here -- the reason I have it in my notes is to
12 let the managers know -- manager's office know there
13 was a request made, and make sure they were okay with
14 me talking to Josh about it.

15 Q. So you would then -- as you recall it, the
16 contact from Josh came directly to you, not through
17 the manager?

18 A. As far as I can tell, it came directly to
19 me.

20 Q. Did you ever ask him to do that?

21 A. Did I ask him to --

22 Q. Yeah. Did you recruit or request --

23 A. Did I initiate the request?

24 Q. Yes.

25 A. No, I don't believe I initiated that

1 request.

2 Q. Did you discuss that matter with him?

3 A. Yes. I have an e-mail that -- where I
4 asked him, do you have any comments on the draft RFP
5 that we provided you.

6 Q. Now, that e-mail would have -- if you
7 didn't initiate it, that e-mail would not have been
8 the first communication on that?

9 A. No. I'm showing May 26th, 2010, as the
10 meeting with the manager's office to discuss Votran
11 items. I'm showing the e-mail that I just mentioned
12 to you as September of 2010.

13 Q. So on the 26th when you discussed this with
14 the manager, obviously he had no objection?

15 A. And it was the assistant county manager,
16 Dave Byron, that I discussed it with, just to -- just
17 to clarify. That's -- that's the manager -- or
18 assistant county manager that I reported to within
19 the county structure.

20 Q. And Dave Byron had no objection to --

21 A. Yeah, I -- I have a note next to my -- a
22 written note saying, okay. So --

23 Q. All right. And then -- so then,
24 apparently, then, as far as you recall, the next
25 communication was when you sent the e-mail to Josh

1 asking for his comments.

2 A. Yes.

3 Q. Would that have been as a follow-up to the
4 discussion with Dave Byron?

5 A. Yes.

6 Q. And we still don't remember how you came to
7 know Josh wanted to do that?

8 A. Yeah. I can't -- again, I'm assuming it
9 was a verbal or phone conversation. That adds an
10 assumption on my part. I have nothing in my records
11 that indicate any formal -- formal request.

12 Q. Okay. And then did Josh have comments?

13 A. Yes. He provided me with comments.

14 Q. Did he do that in an e-mail?

15 A. He did that in an e-mail.

16 Q. Obviously, I've got a copy of that e-mail.
17 Did -- did you take any action, based on his
18 comments?

19 A. We incorporated some of his -- I have an
20 e-mail, an internal e-mail, with our assistant
21 general manager for operations and maintenance, that
22 I don't know if we ever provided it to Josh, but she
23 took the comments -- there were some -- some of the
24 comments were incorporated and some of them were not.

25 Q. Have you got that e-mail here?

1 A. Yes.

2 Q. So this is a -- this is a draft response
3 that --

4 A. It would be from Liz Suchsland, the
5 assistant general manager of operations and
6 maintenance.

7 Q. Liz Suchsland?

8 A. She was the --

9 Q. Can I have this?

10 A. Yes.

11 Q. Can you mark this?

12 (Exhibit 1 was marked.)

13 A. She was the staff member that I assigned to
14 manage the RFP process.

15 BY MR. KANEY:

16 Q. Now, what we're marking here is -- is a set
17 of e-mails that show Josh Wagner communicating with
18 Ken Fischer, and then Ken communicating with Liz --

19 A. Suchsland.

20 Q. -- Suchsland. And then her response -- the
21 draft response here on these last two pages would be
22 her comments on Wagner's comments?

23 A. Yes.

24 Q. And what, then, was done with these
25 comments?

1 A. The ones that we felt were good comments
2 and helpful to the RFP were incorporated. The ones
3 that we did not agree with, we did not incorporate
4 in.

5 Q. And as a general -- as a generalization,
6 what proportion of his comments were incorporated?

7 A. Let me see. The first one was, number one,
8 we did not incorporate specifying a minimum number of
9 spots. The -- Liz recommended due to the graphical
10 nature, a minimum number of spots was not
11 recommended, so we did not incorporate that. Ten
12 percent seems high, and this was the availability of
13 public advertisement on bus stops.

14 Q. And Josh said 10 percent was high?

15 A. He said, 10 percent seems high. A minimum
16 of five percent. We incorporated that one in.
17 Obviously minimizing the amount of public
18 advertisement did not seem to have a negative impact
19 to the county, so we agreed to incorporate that one
20 in.

21 Q. Would it be true that minimizing the amount
22 of public advertising would allow the operator -- the
23 vendor of the sign program more opportunity for
24 revenue?

25 A. Yes.

1 Q. So that would be in favor of the potential
2 vendor?

3 A. And the county.

4 Q. And the county, yes. Because the county
5 had a piece of that?

6 A. Right.

7 Q. Okay.

8 A. (Witness is reading from a document, and
9 very difficult to understand.)

10 But in regards to no interest in utilizing
11 for this, leaves it pretty open. Can we put a max on
12 this. For location of the contractors no interest in
13 utilizing advertising. Volusia County shall have the
14 right to purchase up to 25 additional benches of the
15 contractor's cost.

16 So we did put in a number of buses --
17 benches that we could purchase, which we set at 25.
18 He did not include a number, but we went ahead and
19 included a number.

20 I have concerns about requiring trash
21 collection. Do we have this anywhere right now. The
22 information on financial capability -- let me -- I
23 have concerns about requiring this because it will
24 then become public record. Also, the trash
25 collection aspect, do we have this anywhere right

1 now. The response was the information on financial
2 capabilities. His comment was about becoming public
3 record. Will review. You know, that would -- the
4 decision on the financial capabilities would be
5 purchasing. We would not comment on that. We'll
6 just review that section with purchasing. And then
7 on the trash collection, some municipalities are
8 contracted with another company that provides trash
9 collection. So we did not incorporate any of his
10 concerns there. Page 7, we should change approved
11 equal to minimum. My hope is that a few local
12 companies will make much better benches. I think --
13 I don't think we incorporated that. We just stated
14 what we did is replaced it with an example of what we
15 considered a minimum bench.

16 Then there was language. Can we lessen
17 this language a bit. My concern is that some areas
18 for the benches will be impossible to fit this
19 language. Would be illegal permissible for us to
20 lessen the requirement. Also, would we -- should we
21 possibly bump up the 10 percent recycle materials to
22 25 percent? And, again, what we emphasized on the
23 language that he was looking to lessen was, we
24 believe, in regards to the ADA that we were
25 struggling with, so we did not make any changes

1 there. We did increase the recycled materials from
2 10 percent to 25 percent.

3 The next question was, did we require
4 permits for benches, if not, could we probably (tape)
5 be out. Liz responded as, My understanding Volusia
6 County will require permit for benches in cases where
7 concrete is required. Which we knew that was going
8 to be one of the big issues, so we did not concur
9 with his comment there. Can they just have their
10 website for full contact information? We did revise
11 the language to allow for their website to be used
12 for full contact information.

13 Q. Obviously you're personally acquainted with
14 Josh. When did you first become acquainted with
15 Josh?

16 A. When he first became a county council
17 member.

18 Q. And how -- how did he first contact you?
19 How did that --

20 A. I cannot recall the first conversation that
21 I had with him. I don't think it was about the bench
22 issue. I think he had some questions on some other
23 issues, but I cannot recall what those issues are.
24 But I'm pretty sure it wasn't the bench issue that
25 was the first contact that I had with him?

1 Q. As time progressed, was there -- were there
2 occasions when he showed interest in the bus -- in
3 the bus benches?

4 A. After this -- this contact with him, did he
5 come back and ask questions about what we
6 incorporated? Did he -- did we have any further
7 conversations? No.

8 Q. Before that e-mail, what -- what interest
9 had he expressed in the benches?

10 A. As I recall -- and, again, I'm trying to
11 recall that contact before the request for the review
12 of the RFP. I think -- I think there were some
13 discussions about the bus bench company. I became
14 aware that there was a relationship between him and
15 the owners of the bus bench company, and so he had an
16 interest in taking a look at the RFP.

17 Q. Did he tell you that he had the
18 relationship?

19 A. Yeah, I think so.

20 Q. Has any other -- did any other member of
21 the county council express interest in the RFP as you
22 were developing it?

23 A. Not that I recall, no.

24 Q. Assuming that Josh was trying to make the
25 RFP a happier thing for his friends at Waverly, did

1 his suggestions track to that -- to an assumed
2 purpose like that?

3 A. There probably were a couple suggestions in
4 there that would be helpful to them, but I don't
5 think the overall tenor of his recommendations were
6 that way. But there were a couple of them in there
7 that I think would be beneficial.

8 Q. The level of detail of his comments, on a
9 scale where policy is at the top end and the merest
10 of administrative details is the bottom end, where
11 would you rate those recommendations, from a
12 legislator?

13 A. I think they start getting into the -- more
14 of the detail rather than the policy.

15 Q. You said -- you said that none of the other
16 council members showed any -- showed that kind of
17 interest in the RFP while it was in progress. Did
18 you ever have similar contacts with council members
19 regarding any other aspect of your operation of
20 Votran?

21 A. From time to time, yes.

22 Q. Would those times have included when Big
23 John was in office?

24 A. Yes.

25 Q. Okay. Other than Big John and Josh?

1 A. Frank Bruno had a great deal of interest.

2 Q. What was the nature of Frank's interest?

3 A. I think most of Frank's was more on the
4 policy side. He served on our -- on the local
5 coordinating transportation board for the
6 disadvantaged, so he always had an active interest in
7 the operation.

8 Q. Following that original discussion with
9 Dave Byron, did you discuss the matter of Josh's
10 e-mail comments with county management?

11 A. I don't -- I don't remember going back and
12 discussing with the county manager's office those
13 comments. I believe Ms. Suchsland and I reviewed
14 those comments, felt that the way we responded was
15 not detrimental to the county, so we didn't need to
16 go any further.

17 Q. Can I have this back? There's a sentence I
18 want to look at.

19 Josh begins his e-mail of September 2,
20 2010: Thanks, Ken. I have a couple of suggestions.
21 Paren. I do not, at any point, want you to think I
22 am requiring or expecting you to make these changes.
23 Close paren. Did that strike you as an unusual
24 comment?

25 A. I think he was aware that people knew there

1 was a relationship between him and the bench company,
2 so I think he was trying to make it clear that he --
3 you know, take these comments for what they're worth
4 and you decide whether or not to incorporate them.

5 Q. Did you feel free to disregard any and
6 everything that he said?

7 A. Well, I never feel when a councilman
8 comments that I can disregard everything. I think,
9 at the time, I probably didn't realize what pressure
10 was being put on me to read through these and make a
11 determination of what was appropriate and what was
12 not. You know, at that point in my career, I hadn't
13 dealt with councilman for that many years. I just
14 accepted it, took a look at it. I believe I made the
15 decision that I don't think it detrimentally had an
16 impact on the county, and incorporated what I felt
17 was appropriate and move on.

18 Q. Well, you used the word "pressure." Did
19 you feel there was pressure there of any degree?

20 A. At the time, no.

21 Q. In retrospect?

22 A. In retrospect, I probably should have
23 stopped and gone through it much more thoroughly.

24 Q. Did you take that -- that statement: I do
25 not, at any point, want you to think I am requiring

1 or expecting you to make these changes, did that
2 imply to you that it would be appropriate for you to
3 interpret his remarks in that way?

4 A. Yes.

5 Q. Nevermind what I'm saying, watch my hand.

6 Okay. After you digested these comments
7 and revised the RFP, what was the next step?

8 A. Well, remember, that was 2010, so we were
9 still mired in the ADA. And I know since then that
10 RFP has been revised several times, and so I -- I
11 don't think I can tell you today if -- if those
12 comments are still in there. I think we drafted the
13 RFP, we incorporated those comments we felt were
14 appropriate, but because we got involved in the -- in
15 the ADA issue, I know there's been several more
16 revisions of that RFP.

17 Q. And relative to that time of that work on
18 the RFP, when did you leave the county and go to work
19 for the parent company?

20 A. I left the county, again, in May of 2012.

21 Q. So as of that time, there had been no
22 further input from Josh regarding the RFP?

23 A. No.

24 Q. And Lois Bollenback came back and --

25 A. No. We have new manager. Steve Sherrer is

1 the new general manager.

2 Q. When did he start?

3 A. It was right in that May time frame.

4 Q. So he would be the one that succeeded you?

5 A. Yes.

6 Q. So, presumably, any further developments
7 along this line would be something that Steve Sherrer
8 could talk about?

9 A. Yes. And I talked with him. So I can tell
10 you I've talked with him about this, and I don't know
11 of any further comment that Josh had with him. He
12 would have indicated that to me. So I'm -- I'm not
13 aware of any.

14 Q. Ken, are you following the story of the
15 political advertisements?

16 A. Yes.

17 Q. What is your impression? What do you know
18 or think you know about that story?

19 A. The best I can make out is it appears that
20 Waverly provided in-kind advertising in the way of
21 political advertising to candidates, but the
22 recording of those in-kind -- that in-kind political
23 advertising was not done properly. Was not done or
24 was not done properly by Waverly.

25 Q. The processing of administering the

1 contract with the revenues, how was that handled?

2 A. That was handled by the finance officer for
3 Votran, and for years we -- we simply received checks
4 from the company.

5 Q. Was there any process to audit those
6 checks?

7 A. No. I can tell you for the many years that
8 I was there, most of the time the revenue on an
9 annual basis was less than a thousand dollars.

10 Q. Did that seem right to you, such a paltry
11 sum?

12 A. Because we're only dealing with a hundred
13 bus stops in the unincorporated areas of the county,
14 no. Or I wouldn't expect that much revenue from
15 those bus stops.

16 Q. Are you acquainted with Jimmy Sotolongo?

17 A. I've never met the gentleman, no.

18 Q. Are you acquainted with Ramara Garrett?

19 A. I've met -- I've met her, yes.

20 Q. How did you meet her? What was the
21 occasion?

22 A. The -- I think there was one occasion where
23 we met to discuss the upcoming RFP, to get their
24 comments, but I believe I met her once before when
25 they took over the company.

1 Q. Did she have comments on the RFP?

2 A. Yeah, they had -- they had some comments on
3 the RFP. Most of the comments were regarding the
4 term of the RFP. I believe we were starting out with
5 a five-year term. There were some concerns, since
6 you're investing in capital infrastructure such as a
7 benches, that there should be a 10-year term on the
8 contract in order for them to recover their capital
9 investment. Then there was some comment on the type
10 of benches. There was just a back -- back and forth
11 discussion on what -- what would be an appropriate or
12 minimum bench.

13 Q. How did you respond to the comment about
14 the term of the contract?

15 A. I think in the revision contract, we did
16 make it a longer term contract, a 10-year contract.
17 We did receive the same comment from another company
18 that had some interest on proposing, and they were
19 making a recommendation of 10 years as well.

20 Q. Is -- do you believe there is a substantial
21 prospect for revenue for the operator of the bus
22 bench franchise?

23 A. In the -- if you're just dealing with the
24 unincorporated area, I don't believe that's the case.
25 If you're dealing with the entire county and all of

1 the contracts within the county, there's that
2 opportunity.

3 Q. Do you have any idea why Waverly would be
4 so interested in the RFP by the county?

5 A. I think the interest in the county RFP,
6 recognizing that we were -- we were looking at the
7 ADA reqs and trying to develop a good RFP, was that
8 it -- I think Waverly was seeing it as becoming the
9 template for the rest of the county in terms of the
10 next time the municipalities went out to bid.

11 Q. In your career, you've had dealings with
12 vendors for county services. Have you ever had an
13 experience where a vendor showed so much interest in
14 the election of the governing board of the county?

15 A. No, I can't say that I have.

16 Q. Even though that may -- that contract may
17 have become a template, do you think -- can you
18 imagine that there might be a broader purpose for
19 the -- their political interest in the candidates?

20 A. Well, I was having a hard time making that
21 connection with a bench contract with a hundred
22 stops, that that be such a critical piece. So, no,
23 you know -- again, if you go back to my original
24 thinking, for me, the bench -- the advantage of the
25 bench contract is the provision of the benches and

1 maintaining the benches. I -- I have to be honest
2 with you, you know, the revenue and anything else, I
3 thought the revenue was just an enhancement on that.
4 But, you know, for us, the win was getting the
5 benches provided and the maintenance provided.

6 Q. If someone were to look at that story and
7 line up what you've said, would it be reasonable to
8 conclude that there must have been a broader agenda
9 behind the political activity?

10 A. Yes. I -- you know, I have to admit, when
11 I saw the political ads popping up on the benches --
12 and, again, ours is unincorporated areas. Most of
13 the ads that I did see were in the incorporated areas
14 there. That was the first time I had seen so many
15 political ads on benches. And it -- and, again,
16 we've always seemed to treat the bench contract a
17 little bit differently than the advertising on the
18 buses. With the advertising on the buses, we've
19 never had any political advertising. We've always
20 kept that off the buses. But, again, on the
21 unincorporated, I -- again, being a limited number of
22 bus stops, I just never thought we needed to be --
23 you know, have that much control on it. I suggested
24 to Mr. Sherrer that we may want to make that part of
25 the bus advertising contract as an easier way to

1 control it.

2 Q. How would that work?

3 A. The company that holds the advertising for
4 the buses would also be responsible for the
5 advertising for those benches in the unincorporated
6 area.

7 Q. Are the buses more revenue productive than
8 the benches?

9 A. Oh, yeah.

10 Q. Real money there?

11 A. Three-hundred-thousand a year.

12 Q. Wow.

13 A. So when you asked me about the value of the
14 bench contract, I know about the value of the bus
15 contract, and we've worked that value up to where
16 it's over \$300,000 a year now.

17 Q. Okay. What am I forgetting?

18 A. I think that covers it.

19 Q. Let me see if -- would this be helpful as
20 part of the record for the county?

21 A. That's the county's chronology that they
22 built. Now, that's a draft, so I don't know if they
23 provided you with a final, or if you've seen that.

24 Q. Well, I think I have, and that's part of
25 the reason why I was a little bit late getting here

1 this morning, although I got here as soon as you did.

2 A. Thanks for reminding me.

3 Q. I couldn't find it in my file. Can we mark
4 this and put it in?

5 A. Sure.

6 (Exhibit 2 was marked.)

7 BY MR. KANEY:

8 Q. Ken, this is -- Number 2 is the draft,
9 working draft of the timeline of the relevant events
10 in the bus contract -- bench contract.

11 A. Yes.

12 Q. Okay. We'll have that in.

13 A. This is one that I put together -- these
14 are the meetings with the manager's office. And I
15 tried to go back in and list all the ones that dealt
16 with bus bench advertising. And then street sign
17 amenities we were changing -- we're trying to develop
18 a program county-wide on street sign amenities that
19 included the bench contract. And then I highlighted
20 when different things came up regarding the benches
21 or the bus stops.

22 Q. To kind of supplement the timeline?

23 A. Supplement the timeline.

24 Q. Okay. Let's mark this, and -- this is
25 Monthly Assistant County Manager Meetings.

1 (Exhibit 3 was marked.)

2 BY MR. KANEY:

3 Q. I think with that, we can say we're done.

4 A. Okay.

5 MR. KANEY: And, Shannon, I don't think I
6 mentioned --

7 BY MR. KANEY:

8 Q. Did I send you a subpoena?

9 A. No.

10 Q. Okay. Mr. Fischer is appearing voluntarily
11 without the need for a subpoena, and he's very
12 cooperative.

13 (WHEREUPON, the interview was concluded.)

1
2 CERTIFICATE OF REPORTER OATH3
4
5 STATE OF FLORIDA)6 COUNTY OF VOLUSIA)
78 I, Shannon Green, Registered Professional
9 Reporter, the undersigned authority certify that
10 Kenneth Fischer named herein personally appeared
11 before me and was duly sworn on the 12th day of
12 February, 2014.
1314 WITNESS my hand and official seal this
15 23rd day of February, 2014.
16
1718 _____
19 Shannon Green
20 Registered Professional Reporter
21 Notary Public - State of Florida
22 My Commission No. EE852120
23 My Commission Expires 1-8-2017
24
25

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 23rd day of February, 2014.
19
20
21

22 _____
23 Shannon Green
24 Registered Professional Reporter
25

ERRATA SHEET

INTERVIEW OF: KENNETH FISCHER

ERRATA

PAGE	LINE	CORRECTION
------	------	------------

_____	_____	_____
-------	-------	-------

_____	_____	_____
-------	-------	-------

_____	_____	_____
-------	-------	-------

_____	_____	_____
-------	-------	-------

_____	_____	_____
-------	-------	-------

_____	_____	_____
-------	-------	-------

_____	_____	_____
-------	-------	-------

_____	_____	_____
-------	-------	-------

_____	_____	_____
-------	-------	-------

_____	_____	_____
-------	-------	-------

_____	_____	_____
-------	-------	-------

_____	_____	_____
-------	-------	-------

Under penalties of perjury, I declare that I have
read the foregoing document and that the facts
in it are true.

_____	_____
-------	-------

From: Joshua Wagner
To: Ken Fischer
Date: 9/2/2010 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

EXHIBIT

2-12-14

From: Ken Fischer
To: Elizabeth Suchsland
Date: 9/6/2010 8:58 AM
Subject: Re: Reminder Bus Bench Advertising

Liz,

Did you get my email with Councilman Wagner's comments?

Ken

>>> Elizabeth Suchsland 09/03/10 11:59 PM >>>

You requested a reminder for the RFP for Bus Bench Advertising.

Thank you.

Elizabeth

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

CONFIDENTIALITY NOTICE: This e-mail and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to which they are addressed. This communication may also contain material protected and governed by the Health Insurance and Portability and Accountability Act (HIPAA). If you are not the intended recipient of this e-mail and the information it contains or if you are not the employee or agent responsible for delivering this e-mail and the information it contains to the intended recipient, be advised that you have received this e-mail in error and that any use, dissemination, forwarding, printing or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please contact the sender of this message.

Draft Response to Mr. Wagner

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.

This RFP covers the unincorporated areas of Volusia County. Due to the geographical nature, a minimum number of spots are not recommended.

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

Language revised:

The Contractor must provide for a minimum of five percent (5%) of the benches installed to be made available to the County for advertisement of public service announcements or public art at no cost.

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.

Language revised:

For locations, the contractor has no interest in utilizing for advertising, Votran / Volusia County shall have the right to purchase up to twenty-five (25) additional benches at the contractor's cost.

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?

The information on financial capabilities may be a Purchasing Department requirement. We will review this section with Purchasing. Some municipalities are contracted with 20/20 Media. 20/20 Media provides trash collection.

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

Language revised:

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 meeting minimum specifications. Approved bus bench is Belson Outdoors Model #PB6-CPA or a model that meets the minimum specifications. Belson Outdoors Model #PB6-CPA information is provided in Attachment 1 (one). All proposed bus benches must be submitted to Votran for approval as meeting minimum specifications. No bus bench shall be installed without Votran's approval on the bus bench specifications.

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%+.

The Florida Department of Transportation recommended the language concerning MOT, and FDOT regulations.

Language revised:

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.

Language revised:

Bus bench specifications must include a minimum of 25% recycled materials.

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

It is my understanding Volusia County will require a permit for benches in cases where concrete is required.

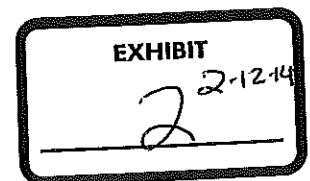
Page 10 (G.e.): Can they just have their website for "full contact information"?

Language revised:

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 and / or their website information.

Bus Bench Advertising in Volusia County – WORKING DRAFT

Date	Description
10/01/1979	County enters into “exclusive” bus bench advertising agreement with AMI (Associated Marketing, Inc.) for a period of five (5) years through September 30, 1984. Council approved this at the 9/13/79 Council meeting.
11/01/1992	<p>County enters into a second bus bench advertising contract with AMI for a period of one (1) year through November 1993, which contract will automatically be renewed for one year unless notice of cancellation is provided in writing by either party to the other on a date sixty days before the end of the contract period.</p> <p>The agreement gives AMI the right to place benches at (i) bus stops in unincorporated Volusia County and (ii) at such other rights-of-way in the unincorporated areas of the County that are mutually acceptable to AMI and Votran. The agreement disallows placement within DBIA, County parks, or a municipality (<i>i.e.</i>, incorporated areas).</p> <p>Rights and title to benches is vested in AMI, and AMI agrees immediately to remove any such benches from County property at the request of Votran upon termination of the Agreement unless extended by the parties hereto.</p> <p>Votran is to receive compensation in the amount of fifteen (15%) of gross revenues (not defined) collected for rental or \$500.00 per year (whichever is greater), which sum is to be paid quarterly or semi-annually. AMI agrees to maintain accurate records open to inspection by Votran to verify gross revenues and the percentage received by Votran therefrom.</p> <p>Termination without cause may be demanded only by providing 180 days written notice of such termination to the other party.</p>
06/07/2001	Council Member Pat Northey requests that “staff agenda the bus bench advertising contract.”
07/05/2001	Council Member James Ward asks when the Council is going to “discuss the bus bench advertising issue.”
08/16/2001	Agenda Item #23 proposes that the County’s agreement with AMI be modified to allow benches to be placed only at Votran bus stops. Staff summary notes



	that AMI had previously placed two benches at locations that were not designated bus stops. After some discussion, Council votes for approval of the measure and to have removed the benches that are not located at bus stops.
01/23/2003	<p>Agenda Item #10 pulled by Council Members Pat Northey and Joseph Jaynes. Item #10 seeks council approval of the following policies:</p> <ol style="list-style-type: none"> (1) Bus stop amenities should be provided by each municipality through a contract with a vendor that results in the purchase, installation and maintenance of bus benches and shelters, that is off-set by revenue from advertising on the benches and shelters; (2) In municipalities that do not allow advertising on benches and shelters, Votran will assist with the capital costs of purchasing bus benches and shelters; and (3) In municipalities that allow advertising on benches or shelters and derive revenue from such arrangements, the municipalities should assume responsibility for maintenance of Votran benches and shelters <p>Council approves the foregoing policies, and further directs staff NOT to accept advertising on shelters for bus stops in the unincorporated areas of Volusia County and to provide separate contracts for cities that want to accept advertising on shelters at bus stops.</p>
08/07/2003	<p>Proposed Transit Development Plan for 2003-2007 is approved. TDP refers to the establishment of a countywide policy related to the implementation of bus stop amenities, under which, Votran would continue to provide bus benches through a contract with AMI and shelters with advertising to those communities that want them. However, for those municipalities that do not allow advertising, provisions would be established that would enable them to address their own needs for amenities, including installation and maintenance.</p> <p>Staff prefers utilizing advertising to offset maintenance costs of amenities while recognizing the autonomy of each jurisdiction regarding design. TDP further reiterates the result of the January 23, 2003 meeting, where Council directed staff to take no advertising on shelters located in unincorporated areas while acknowledging that contracts could be made separate from the County for those cities that wish to advertise.</p>
08/26/2004	Updated TDP for 2003-2007 refers to the establishment of a countywide policy related to the implementation of bus stop amenities, under which, Votran would

	<p>continue to provide bus benches through a contract with AMI and shelters with advertising to those communities that want them. However, for those municipalities that do not allow advertising, provisions would be established that would enable them to address their own needs for amenities, including installation and maintenance.</p> <p>The preferred policy would utilize advertising to offset the maintenance cost of the amenity, while recognizing the autonomy of each jurisdiction with regards to design.</p> <p>The updated TDP omits reference to the 2003 County Council direction to take no advertising on shelters located in unincorporated areas.</p>
02/21/2005	<p>Ken Fischer sends letter to Mr. Nat Gerhardt of Maverick Bench Media (successor to AMI), informing him that the County intends to issue an RFP to install and maintain bus benches in unincorporated Volusia County and notifying him that the intent of the RFP is for bus bench service to begin at least 181 days from his receipt of the notice (in accordance with the provisions of the County's existing contract with Maverick Bus Bench Media). Letter appears to be seeking termination of services.</p>
06/29/2005	<p>Memo from Ms. Bollenback to Reggie Williams, Community Services Director, and Kenneth R. Fischer, General Manager for Votran. The memo details a potential conflict between County ordinances and bus bench advertising efforts and outlines the cost/benefit of Votran continuing the advertising program vs. Votran purchasing its own benches.</p>
08/04/2005	<p>Annual update to TDP indicates that Votran will continue to provide benches through a contract with AMI (Maverick Bus Bench Media?) to those communities who want them. The preferred policy recognizes the autonomy of each jurisdiction regarding advertising, style selection, and maintenance of street furniture.</p> <p>The updated TDP omits reference to the 2003 County Council direction to take no advertising on shelters located in unincorporated areas.</p>
06/13/2006	<p>Letter addressed to Mr. Harold Gallup of Maverick Bench Media, LLC from Ms. Lois Bollenback, stating that on February 21, 2005, the County notified Nat Gerhardt of the County's intent to issue an RFP to install and maintain bus benches in unincorporated Volusia County, beginning as soon as 181 days from receipt of such notice.</p>

	Letter states that the County was unable to move forward with the RFP and requests that the parties extend their current agreement, subject to review of Maverick's liability insurance certificates.
12/01/2008	Letter from Ms. Lois Bollenback, General Manager of Votran, is sent to Ms. Michelle Jura of Waverly Media, LLC (successor to Maverick Bus Bench Media and AMI) providing notice of discontinuance of the 1992 bus bench advertising agreement, effective June 1, 2009.
06/01/2009	Effective date of termination letter sent on 12/01/2008 (180 days after).
06/04/2009	<p>County Managers office upon the recommendation of Votran, proposes to County Council a program to facilitate installation of streetside amenities for public transit. As part of its proposal, the County Managers office and Votran further recommends to discontinue advertising on public transit benches in the unincorporated area of the County.</p> <p>During the meeting, concerns arose over the loss of bus bench advertising revenue; however, Votran noted that the County had received little more than \$1,000 from the prior year through its advertising program. Votran representatives noted that many cities have now set their own bus bench advertising policies and that there were several issues with advertising in the unincorporated areas of the County.</p> <p>The County Attorney noted that "the County's longstanding bench advertising policy" needed to comply with the zoning ordinances of the county, which, at the time, prohibited signs from being erected on public property or public rights-of-way.</p> <p>Council Member Pat Northey recommends approval of Votran's request. Joie Alexander seconds the motion. However, the county council voted down the motion in a 2-5 vote.</p> <p>Chair Frank Bruno states that if the County is going to continue with bus bench advertising, the sign ordinance should be amended to allow it. Motion is made and approved to amend the sign ordinance accordingly and to revisit the procurement process for the selection of a bus bench advertising firm. The streetside amenities program is further adopted with the exception of those parts referring to bus benches, shelters, and advertising.</p>
02/18/2010	

Bus Bench Advertising in Volusia County – WORKING DRAFT

	The County's sign ordinance is amended to allow for "signs erected on public property or public rights-of-way" when such signs are placed on public transportation benches or shelters as approved through a competitive selection process of the county. The ordinance is adopted by a 6-1 vote.
02/2010-08/2010	FDOT establishing ADA guidelines, and sending to any municipality or vendor which handles bus bench placement.
05/2010	Issues brought forward dealing with Wilbur of the Sea and placement of bus benches.
8/5/2010	Votran sends a preliminary scope of work for the bus bench advertising RFP to County Purchasing.
9/20/2010	Votran sends a formal request for RFP to County Purchasing
9/21-10/18/2010	Votran works with County Purchasing on finalizing the scope, deliverables and schedules a pre-proposal meeting date.
9/27/2010	Attorney requested for project, assigned to Mike Dyer.
10/20/2010	Final RFP for bus bench advertising sent to Legal
1/2011	Ken Fisher held meetings with Council members with an update on street side amenities.
1/2011	The RFP process was slowed due to issues and direction on the bus bench standards. Inconsistencies between "Accessing Transit – Design Handbook for Florida Bus Passenger Facilities" (Version II, 2008) and FDOT's "Statewide Transit Facility Standards, Criteria, and Guidelines" (January 2011) were such that it was impossible to distinguish between the recommended best practices and mandated requirements at bus passenger facilities. These inconsistencies caused FDOT to reevaluate their standards and consider updating their guideline document. Additionally, questions remained unresolved regarding treatment of Orange City's designated planning area (DPA) and their desire for the unincorporated areas of Volusia County located within the DPA to be excluded from the installation of bus bench advertisements.
3/22/2011	Votran modifies the scope of the RFP adding a detailed map of the unincorporated areas to the solicitation before it is released. The purpose was to show clearly what areas were included in the solicitation and what areas were not.
7/11/2011	Orange City raises concerns with Bus Bench advertising, solicitation still on hold. Legal from both Orange City and Volusia County involved.

08/2011	Tindale-Oliver, under contract with FDOT, conducts workshops across the state titled “Statewide Transit Accessibility & Facilities Design”. Votran staff attended a number of these workshops. Following the workshops, Votran staff met with Tindale-Oliver for clarification on the discrepancies described above. As a result of this meeting it was decided that Votran needed to hold off on issuing the RFP until Tindale-Oliver could finalize the FDOT document “Accessing Transit – Design Handbook for Florida Bus Passenger Facilities” document. It was also decided that Votran would pursue the development of a Votran-specific handbook that could be used as an attachment to our RFP to outline the design standards required at bus passenger facilities.
10/2011	FDOT document “Accessing Transit - Design Handbook for Florida Bus Passenger Facilities” update Phase I was started by Tindale-Oliver. This document is updated every four years.
06/2012	Accessing Transit-Design Handbook for Florida Bus Passenger Facilities update Phase I complete. Currently- Phase II of Accessing Transit-Design Handbook is underway but not yet complete.
8/2012	Votran issues task order assignment to Tindale-Oliver to create document titled “Votran Technical Design Standards for Accessible Bus Stops”.
10/10/2012	Votran Bus Bench Advertising Meeting – Dave Byron requested meeting which included Dave Byron, Jim Dorsten, Jeaniene Jennings, Steven Sherrer, Tura Schnebly
10/31/2012	Bus Benches meeting – Dave Byron requested meeting which included: Dave Byron, Jim Dorsten, Daniel Eckert, Tura Schnebly, Charlene Weaver, Steven Sherrer
12/11/2012	Bus Benches meeting – requested by legal which included: Dave Byron, Jim Dorsten, Daniel Eckert, Tura Schnebly, Steven Sherrer
02/06/2013	<p>Votran and Volusia County are in the process of developing a solicitation for bus bench advertising in accordance with prior directives. Tindale-Oliver recently completed the document titled “Votran Technical Design Standards for Accessible Bus Stops” and their recommendations regarding ADA-compliant construction specifications and guidelines for new benches; however, the County is currently in the process of selecting another consultant to advise and develop the remainder of the solicitation.</p> <p>Law enforcement recently (Thursday, January 31, 2013) raided Waverly Media, LLC’s Port Orange office, presumably seeking additional evidence in the fraud</p>

	<p>investigation of Ramara Garrett, formerly of Waverly Property Group, LLC, as well as other persons.</p> <p>Waverly continues to maintain benches and place advertising in the unincorporated portions of the County despite the County's notice of termination sent on December 1, 2008. No further action has been taken with regard to Waverly; however, Votran staff has continued to receive regular checks from Waverly for advertising revenues associated with bus bench signage.</p> <p>Given the foregoing history, staff requests direction from management as to how to proceed.</p>
2/25/13	Votran submits RSQ (request for statements of qualifications) for an engineering firm to survey and analyze existing bus bench locations in unincorporated areas of the County in order to create construction documents to be used to improve existing stops to ADA standards. Construction documents will be used as an attachment to an invitation to bid for concrete work at bus bench locations.
03/04/2013	Waverly Contract meeting – meeting requested by County Manager's office and included: Dave Byron, J. Giffin Chumley, Mary Connors, Jim Dinneen, Jeaniene Jennings, Steven Sherrer. Staff directed by County Manager to put out a solicitation for Bus Bench Advertising for a period of one year.
03/15/2013	Purchasing posts RSQ 13-SQ-77JD for surveying and design of existing bus stops in unincorporated Volusia County.
3/19/2013	RFP 13-P-82IF posted for Bus Bench Advertising for a one year period.
04/04/2013	<p>RFP 13-P-82IF cancelled due to pending legislation related to this RFP and questions from vendors, these included:</p> <ul style="list-style-type: none"> - ADA requirements not mentioned but per FDOT. - Short contract time, vendor could not recoup cost if they were required to provide the benches and comply with ADA requirements. - How the pending RSQ for engineering would affect this contract. <p>RSQ 13-SQ-77JD also put on hold as result of pending legislation.</p>
04/04/2013	County Council discussion on pending legislative changes to bus bench advertising.
04/21/2013	Pending legislative changes do not make it through session.
05/22/2013	Request for statements of qualification released for engineering work and construction documents for ADA improvements at bus bench locations.
6/2013	Final document titled "Accessing Transit - Design Handbook for Florida Bus Passenger Facilities" completed by Tindale-Oliver for FDOT.
06/27/2013	RSQ 13-SQ-77JD closed. One response received.

Bus Bench Advertising in Volusia County -- WORKING DRAFT

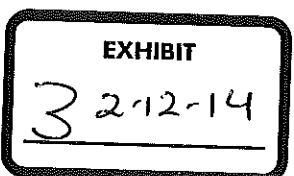
7/10/2013	RSQ 13-SQ-77JD evaluation committee met to discuss RSQ respondent. Committee decided to send RSQ back out with revised scope of work after only one response was received. The scope was determined to be too narrow thus limiting the number of respondents that could complete the work within the stated budget of \$95,000.
07/30/13	Request for statements of qualification for engineering work re-released with revised scope of work. RSQ 13-SQ-151 JD
8/29/13	RSQ 13-SQ-151 JD Closed with three responses received.
9/18/13	Evaluation committee met to rank the three responses.
10/3/13	Three presentations were heard by the evaluation committee. The evaluation committee selected Lassiter Transportation Group. Recommendation to council for award will occur 10/24/13.
10/10/13	Volusia County Council was provided with options for consideration and direction in moving forward with the passenger amenities program in unincorporated Volusia County. Council directed staff to give Waverly Media 60-days notice to remove all of their bus benches located in unincorporated Volusia County. It was Mr. Dinneen's recommendation that Votran replace Waverly benches with temporary benches that, once replaced with a permanent bench, could be used along the Volusia County trails network. In the meantime, staff would work towards a permanent solution that would include procurement of permanent benches and completing ADA improvements at bus bench locations. Council did not direct Votran or county staff to replace the benches once removed by Waverly.
10/24/13	Council will consider award of engineering work to Lassiter Transportation Group. If approved, Lassiter will be tasked with creating construction documents that will be used as guidelines for the bidding of concrete work to be performed at bus bench locations in unincorporated Volusia County.

Monthly Assistant County Manager Meetings

Date	Manager	Item
2/12/2007	Ms. Bollenback	None
3/12/2007	Ms. Bollenback	None
4/9/2007	Ms. Bollenback	None
5/14/2007	Ms. Bollenback	None
6/11/2007	Ms. Bollenback	None
7/9/2007	Ms. Bollenback	None
8/6/2007	Ms. Bollenback	None
9/5/2007	Ms. Bollenback	Bus Bench Advertising
10/3/2007	Ms. Bollenback	Bus Bench Advertising
11/8/2007	Ms. Bollenback	Bus Bench Advertising
12/31/2007	Ms. Bollenback	Bus Bench Advertising
2/8/2008	Ms. Bollenback	Bus Bench Advertising
3/7/2008	Ms. Bollenback	Bus Bench Advertising
4/30/2007	Ms. Bollenback	Bus Bench Advertising
6/6/2008	Ms. Bollenback	Streetside Amenities
7/9/2008	Ms. Bollenback	Streetside Amenities
8/1/2008	Ms. Bollenback	Streetside Amenities
10/8/2008	Ms. Bollenback	Streetside Amenities
11/17/2008	Ms. Bollenback	Streetside Amenities
12/1/2008	Ms. Bollenback	Streetside Amenities
2/4/2009	Ms. Bollenback	Streetside Amenities
3/2/2009	Ms. Bollenback	Streetside Amenities
4/6/2009	Ms. Bollenback	Streetside Amenities
5/20/2009	Ms. Bollenback	Streetside Amenities
6/3/2009	Mr. Fischer	Streetside Amenities
7/9/2009	Mr. Fischer	Streetside Amenities
8/5/2009	Mr. Fischer	Streetside Amenities
8/31/2009	Mr. Fischer	Streetside Amenities
10/8/2009	Mr. Fischer	Streetside Amenities
11/4/2009	Mr. Fischer	Streetside Amenities
12/9/2009	Mr. Fischer	Streetside Amenities
1/27/2010	Mr. Fischer	None
2/24/2010	Mr. Fischer	Streetside Amenities
3/23/2010	Mr. Fischer	None
5/26/2010	Mr. Fischer	Streetside Amenities

Attachment

Monthly Meeting with Manager's Office



Comparison of purchasing benches with Waverly contract
Letter terminating Waverly services

Indicated meeting with Waverly

*Indicated draft RFP for benches with advertising is ready - this included an RFP for the restrooms/amenities program.
Provided outline of amenities cost*

Draft interlocal agreement

Draft RFP attached

Indicated that Mr. Wagner asked for draft RFP

7/28/2010	Mr. Fischer	None	
8/25/2010	Mr. Fischer	None	
9/22/2010	Mr. Fischer	Meeting with Waverly	
10/27/2010	Mr. Fischer	Streetside Amenities	
12/3/2010	Mr. Fischer	Streetside Amenities	
1/11/2011	Mr. Fischer	Streetside Amenities	
2/8/2011	Mr. Fischer	Streetside Amenities	
3/9/2011	Mr. Fischer	Streetside Amenities	
4/14/2011	Mr. Fischer	Passenger Amenities	
5/10/2011	Mr. Fischer	Passenger Amenities	
6/9/2011	Mr. Fischer	Passenger Amenities	
7/9/2011	Mr. Fischer	Passenger Amenities	
8/23/2011	Mr. Fischer	None	
9/15/2011	Mr. Fischer	Passenger Amenities	
10/19/2011	Mr. Fischer	None	
11/8/2011	Mr. Fischer	Passenger Amenities	
12/13/2011	Mr. Fischer	None	
1/9/2012	Mr. Fischer	None	
2/14/2012	Mr. Fischer	None	
3/12/2012	Mr. Fischer	Bus Stop Improvements	
4/10/2012	Mr. Fischer	Bus Stop Improvements	
5/8/2012	Mr. Fischer	Bus Stop Improvements	

Indicated meeting with Waverly

First presentation on ADA requirements at bus stops attached.

Note - This initial interpretation was that a concrete landing pad would be required at every bus stop.

Directed to schedule one on one meetings with Councilmembers to update the on status.

Meetings with Councilmembers scheduled, draft talking points attached
Based on meetings with Councilmembers revised outline of streetside amenities program attached. Also attached FDOT's Final Report on Bus Stop Standards, Criteria and Guidelines.

Attached letter from Creative Outdoor Advertising, company interested in providing benches.

Attached updated outline of ADA requirements at bus stops

Attached updated outline of ADA requirements that show an interpretation of compliant and non compliant stops

Attached revised updated outline of ADA requirements that show an interpretation of compliant and non compliant stops

Indicated that Votran will be meeting with Legal Department to move forward with an RFP for benches with advertising in the unincorporated areas of the county.

Attachment outlined next steps, questions for Legal Department and County Manager's Office

Met with Legal Department, they advised additional policy direction is required.