

COLIN BAENZIGER  ASSOCIATES

EXECUTIVE RECRUITING

Section 4

Paul R. Gougelman

*Fort Lauderdale City Attorney
Candidate Report*

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Cover Letter and Resume

PAUL R. GOUGELMAN, III

1050 Seminole Drive - Unit 204
Ft. Lauderdale, Florida 33304
Telephone (321) 508-7800
e-mail: paulgougelman@gmail.com

Mr. Colin Baenziger
Colin Baenziger & Associates
2055 South Atlantic Avenue – Suite 504
Daytona Beach Shores, FL 32118

Dear Mr. Baenziger:

I am submitting my application to serve as City Attorney for the City of Ft. Lauderdale. I have practiced both as an in-house City Attorney and as outside counsel. I have served as City Attorney in house for the City of Melbourne, bringing the office in house and building a new City Attorney's office. I served as City Attorney for 18 years, of which roughly 14 years was as in house attorney.

I have also served as outside City Attorney for several municipalities, including Cocoa Beach (3 years), Indialantic (almost 30 years), and Melbourne Beach (25 years). I have represented numerous municipalities as special counsel, including Maitland, Longwood, and Lake Mary, primarily in the areas of land use and growth management.

I have served as general counsel for the Space Coast League of Cities since the early 1990s. In 2004, the Florida League of Cities selected me as the City Attorney of the Year. One of the reasons was a solid track record of trying to keep cities out of litigation and attempting to resolve matters through negotiation.

I also have a strong background in community redevelopment, having represented numerous community redevelopment agencies and created several such agencies. In addition, I have a strong background in transportation planning law, representing the Florida Metropolitan Planning Organization Advisory Council since 1993, which is the statewide governmental agency consisting of 27 Metropolitan Planning Organizations. I also served as General Counsel to three MPOs, including Space Coast, Sarasota/Manatee, and Palm Beach.

I am a believer in public service, having been appointed by three different Florida Governors, both Republican and Democrat, to serve on the East Central Florida Regional Planning Council for thirteen years, where I chaired the Project Review Committee which provided oversight and regulatory review of over thirty Developments of Regional Impact. In Brevard County, I chaired County's Charter Commission in the mid-1990s, which brought charter government to Brevard County. County voters had twice rejected a county charter in Brevard County, but the Charter that the Commission wrote received over 60% of the vote.

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I have served as a member and Chairman of the Brevard County Planning and Zoning Board for many years. In the 1990s, I was Chairman of the Board of Directors of the Harbor City Volunteer Ambulance Squad, a public ambulance squad with over 100 employees and 500 volunteers. During my Chairmanship, the Squad was awarded the distinction of the top ambulance squad in America at the annual Clincon competitions for emergency rescue.

I am currently a partner with Weiss Serota Helfman Cole & Bierman, P.L., having joined that firm in 2014. My primary area of practice is local government law and land use.

Significantly, I think I have a good understanding of the community. My family moved to Ft. Lauderdale in 1958, and I have lived in the City off and on since that time.

Please advise me of any additional information needed for consideration.

Very truly yours,

Paul R. Gougelman

PRG/-

RESUME

PAUL R. GOUGELMAN, III

Cell: 321-508-7800

Born: March 16, 1951
paulgougelman@gmail.com

OCCUPATIONAL EXPERIENCE: Practicing Attorney since 1980.

2014 to Present:

Partner, Weiss Serota Helfman Cole & Bierman, P.L.
200 East Broward Blvd. – Suite 1900
Ft. Lauderdale, FL 33301

Serving as general counsel to the Town of Indialantic, Space Coast TPO (the local MPO), Florida MPOAC, land use counsel to the City of Marco Island, land use counsel to the City of Miramar, General Counsel to the Space Coast League of Cities, General Counsel, Palm Beach TPA (the local MPO), General Counsel, Sarasota/Manatee MPO, and special counsel to other local governments.

*Martindale-Hubbell Rating: AV (highest rating for an attorney)
CV, BV and AV are registered certification marks of Reed Elsevier Properties Inc., used in accordance with the Martindale-Hubbell certification procedures, standards and policies.*

1996 to 2014:

City Attorney, City of Melbourne
900 East Strawbridge Avenue
Melbourne, Florida 32901

Serving as in house counsel to a City of 80,000 and 3 community redevelopment agencies. During this time period I brought the office in house (including myself) and built an in house office and staff.

1999 to 2014:

Paul R. Gougelman, Esq., Private Practice
2220 S. Front Street - Unit 204
Melbourne, Florida 32901
Operating as a private practitioner

Representative Clients: General Counsel, Florida Metropolitan Planning Organization Advisory Council; General Counsel, Space Coast League of Cities; Town Attorney, Town of Indialantic; Town Attorney, Town of Melbourne Beach; and General Counsel, Space Coast TPO

1996 to 1999:

Of Counsel, Holland & Knight LLP
1499 S. Harbor City Blvd.
Melbourne, Florida 32901
(merger with Maguire, Voorhis, & Wells, P.A.)

Representative Clients: City Attorney, City of Cocoa Beach; General Counsel, Florida Metropolitan Planning Organization Advisory Council; General Counsel, Space Coast League of Cities; Town Attorney, Town of Indialantic; Town Attorney, Town of Melbourne Beach; General Counsel, City of Cocoa Redevelopment Agency; and General Counsel, Space Coast TPO

1987 to 1996:

Partner, Reinman, Harrell, Graham,
Mitchell, & Wattwood, P.A.
1825 S. Riverview Drive
Melbourne, Florida 32901

Representative Clients: General Counsel, Florida Metropolitan Planning Organization Advisory Council; General Counsel, Space Coast League of Cities; Town Attorney, Town of Indialantic; Town Attorney, Town of Melbourne Beach; General Counsel, City of Cocoa Redevelopment Agency; and General Counsel, Space Coast TPO

1984 to 1987:

Associate, Broad & Cassel, P.A.
1051 Winderley Place
Maitland, Florida 32751

Representative Clients: Special Land Use Counsel, City of Maitland; Special Land Use Counsel, City of Lake Mary; Land Use Hearing Officer, Orange County, Florida

1980 to 1983:

Staff Attorney/Law Clerk
District Court of Appeal, First District
Tallahassee, Florida 32399

General Work - Local Government Experience:

- * Represented six Community Redevelopment Agencies and created four Community Redevelopment Agencies.
- * Served as a Hearing Officer for Orange County, Florida.
- * Special Litigation: Board of County Commissioners of Brevard County v. Snyder, 627 So.2d 469 (Fla. 1993) – representing City of Melbourne and Space Coast League of Cities in this key zoning litigation; State v. City of Port Orange, 650 So.2d 1 (Fla. 1994) - representing Florida Bar/Florida Bar Local Government Law Section in arguing for the constitutionality of transportation utility fees.
- * Worked with local government planning and zoning departments and private planning firms since 1983, specializing in comprehensive planning, zoning, and site planning.
- * Worked as a private practitioner in the 1980's and 1990's, representing numerous property owners/developers in real estate development projects.
- * Worked with Palm Beach County, Maitland, Melbourne, and other local governments in designing development exaction/impact fee and concurrency ordinances. The program designed for Palm Beach County was a transportation impact fee program which was the first such program determined to be legal by a Florida appellate court.
- * Worked with Indialantic, Melbourne, and Melbourne Beach in the preparation of their Rule 9J-5, Fla. Admin. Code, consistent Comprehensive Plans, which plans were the first plans adopted under the new 1985 growth management law.
- * Determined by the Circuit Court for the 18th Judicial Circuit to be an expert witness in local government law.
- * Supervisory experience of junior attorneys.

LEGAL EDUCATION:

J.D., 1980
Nova University Law Center
Fort Lauderdale, Florida

- * Top 11% of the class
- * Member, Nova Law Journal
- * Author, IMPACT FEES: National Perspectives to Florida Practice, 4 Nova L.J. 137 (1980)
- * Book Awards - Legislation, Professional Responsibility
- * Dean's List

HONORS: 2013 Top Rated Lawyers in Land Use and Zoning
American Lawyer Media – Martindale-Hubbell

Metropolitan Who's Who Among Executives
and Professionals, 2006/2007

City Attorney of the Year, Florida League
of Cities - 2004

Best Law Student Paper on Florida Real
Property Law, 1979 - Florida Lawyer's
Title Guaranty Fund

Outstanding Man of the Year, 1979 - 1980
Jaycees of America

Nova University Academic Merit Scholarship

Harbor City Volunteer Ambulance Squad –
Volunteer of the Month - July, 1990

2017, Space Coast League of Cities Public Service Award

Harbor City Volunteer Ambulance Squad Community Service Award, 1994

REPORTED CASES:

- Board of County Commissioners of Brevard County v. Snyder, 627 So. 2d 469 (Fla. 1993) *amicus curiae* counsel for the City of Melbourne, Town of Indialantic, and Space Coast League of Cities in this major zoning litigation

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- State v. City of Port Orange, 650 So. 2d 1 (Fla. 1994) *amicus curiae* counsel for Florida Bar/Florida Bar Local Government Law Section; arguing for the constitutionality of transportation utility fees.
- City of Melbourne v. Puma, 630 So. 2d 1097 (Fla. 1994)
- City of Melbourne v. Puma, 635 So. 2d 159 (Fla. 5th DCA 1994)
- City of Melbourne v. Puma, 616 So. 2d 190 (Fla. 5th DCA 1993)
- Battaglia Fruit Co. v. City of Maitland, 520 So. 2d 940 (Fla. 5th DCA 1988)
- Paul Gougelman was cited with authority in zoning matters in Lee County v. Sunbelt Equities, II, Ltd. Partnership, 619 So. 2d 996 (Fla. 2d DCA 1993)

PRESENTATIONS:

- A City Clerk's Guide to Ordinance Drafting & Legal Notices, Florida Association of City Clerks (Oct., 2014)
- Florida Update: State & Local Government Law, National Business Institute (Nov., 2013)
- A City Clerk's Guide to Legal Notices, Florida Association of City Clerks (Oct., 2012)
- A City Clerk's Guide to Florida Statutes, Florida Association of City Clerks (Oct., 2011)
- Analyzing the Land Subdivision Process in Florida, National Business Institute (Nov., 2007)
- Handling Quasi-Judicial Hearings; Judicial Review of Zoning Decisions, Florida Chamber of Commerce Land Use Seminar (2003)
- Handling Quasi-Judicial Hearings; Judicial Review of Zoning Decisions, Florida Chamber of Commerce Land Use Seminar (2002)
- Handling Quasi-Judicial Hearings; Judicial Review of Zoning Decisions, Florida Chamber of Commerce Land Use Seminar (2001)
- Handling Quasi-Judicial Hearings; Judicial Review of Zoning Decisions, Florida Chamber of Commerce Land Use Seminar (2000)
- Handling Quasi-Judicial Hearings; Judicial Review of Zoning Decisions, Florida Chamber of Commerce Land Use Seminar (1999)
- Handling Quasi-Judicial Hearings; Judicial Review of Zoning Decisions, Florida Chamber of Commerce Land Use Seminar (1998)
- Handling Quasi-Judicial Hearings; Judicial Review of Zoning Decisions, Florida Chamber of Commerce Land Use Seminar (1997)
- Handling Quasi-Judicial Hearings; Judicial Review of Zoning Decisions, Florida Chamber of Commerce Land Use Seminar (1996)
- Handling Quasi-Judicial Hearings; Judicial Review of Zoning Decisions, Florida Chamber of Commerce Land Use Seminar (1995)
- Handling Quasi-Judicial Matters, Florida Chamber of Commerce Land Use Seminar (1994)
- Handling Cases Before Local Governments: A Formula for Success, Florida Bar (Mar., 1991)

PUBLICATIONS:

The Death of Zoning As We Know It, Published as a feature article in the March, 1993 Florida Bar Journal

Impact Fees, printed in Florida Environmental and Land Use Planning Law (1980)

Moratoria and Interim Growth Management Control, printed in Florida Environmental and Land Use Law (Florida Bar Continuing Law Education Treatise)

ADMITTED TO PRACTICE:

Florida Bar
U.S. Court of Appeal, Eleventh Circuit
U.S. District Court, Middle District
U.S. District Court, Middle District

BAR AFFILIATIONS:

Broward County Bar Association
The Florida Bar
Brevard County Bar Association

PROFESSOR:

Adjunct Professor, Florida Institute of Technology, Melbourne, Florida
(teaching Environmental & Land Use Law, 1989 to 1998)

Adjunct Professor, Webster University
St. Louis, Mo. (Melbourne, Florida campus; teaching Public Administration Law, 1989 to 1996)

Adjunct Professor, University of Central Florida, Brevard County campus; teaching Land Use Law, 1994 to 1999)

ACTIVITIES:

Chairman, Brevard County Charter Commission, 1993 to 1994

Chairman, Brevard County Charter Review Commission, 1997

Chairman, 36 member Brevard County School Board Search Committee for new Superintendent, 1993

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Chairman, Brevard County Planning and Zoning Board/Local Planning Agency (1991 and re-elected 1992); Member, 1989 to 1992

Governor's Appointee, East Central Florida Regional Planning Council, 1986 to 1997 - Appointed by Governors Graham, Martinez, and Chiles

Chairman, Board of Directors, Harbor City Volunteer Ambulance Squad, Inc., 1994 – Squad was selected in National Clincon Competition as the #1 ambulance squad in America

Member, Board of Directors, Harbor City Volunteer Ambulance Squad, Inc., 1990-1992; 1994-1996

Member, Seminole County Charter Advisory Committee, 1987

Member, American Bar Association, Special Committee on Creative Growth Management Techniques, 1988 to 1990

Member, Florida Municipal Attorney's Association, 1986 to Present

Member, Executive Council, Florida Bar Environmental and Land Use Law Section (1983 to 1987)

Chairman, Judging Committee of the Dean Emeritus Frank E. Maloney Environmental and Land Use Law Essay Contest, 1981 & 1982

Member, Greater Orlando Chamber of Commerce Project 2000 Governance Task Force, 1986 (studying proposal for charter government in Orange County)

Member, Florida Bar City, County, and Local Government Law Section

Member, City of Orlando, Land Development Code Citizens Review Task Force, 1984

Member, Urban, State, and Local Government Law Section, American Bar Association

Founding Member, American Planning Association, Florida Atlantic Coast Chapter

Member, Urban Land Institute, 1990-1996

Member Board of Directors, Marine Resources Center, 1996

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LAW CLERKING : Palm Beach County Attorney
West Palm Beach, Florida (1978 & 1979)
Key Case: Assisted in drafting first roadway impact fee to be upheld by a Florida appellate court; see Home Builders and Contractors Ass.n., Board of County Commissioners of Palm Beach County, 446 So.2d 140 (Fla. 4th DCA), *rev. denied*, 451 So.2d 848 (Fla.), *appeal dismissed*, 469 U.S. 976 (1984).

PRE-LAW SCHOOL EMPLOYMENT: Florida House of Representatives (1972 - 1974)
Tallahassee, Florida

UNDERGRADUATE EDUCATION: Florida International University
Miami, Florida
B.A. - Political Science (1975)

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Candidate Introduction

Paul R. Gougelman, III

EDUCATION

Florida International University, B.A. (political science), 1975
Nova University, J.D., 1980

EXPERIENCE

Partner, Weiss Serota Helfman Cole & Bierman, P.L., Ft. Lauderdale - 2014 to present
Municipal, land use & zoning law representing local government
City Attorney (in house), City of Melbourne – 1996 to 2014
Additional Representative Clients: Town Attorney (outside counsel), Town of Indialantic – 1989 to present; Town Attorney (outside), Town of Melbourne Beach – 1990 to 2014; General Counsel (outside counsel), Florida Metropolitan Planning Organization Advisory Council – 1993 to present; General Counsel (outside), Space Coast Transportation Planning Organization – 1993-Present; General Counsel (outside), Sarasota/Manatee MPO – 2017 to Present; General Counsel (outside), Palm Beach Transportation Planning Agency – 2018 to Present; General Counsel (outside counsel), Space Coast League of Cities, 1990 to present

Holland & Knight (of counsel), Melbourne - 1996 to 1999
Partner, Reinman, Harrell, Graham Mitchell & Wattwood, P.A., Melbourne - 1987 to 1996
Associate, Broad & Cassel, Orlando – 1984 to 1987; Special Land Use Counsel – City of Maitland and City of Lake Mary; Hearing Officer, Orange County
Associate, Fishback Davis Dominick & Bennett, Orlando – 1983 to 1984
Attorney/Law Clerk, First District Court of Appeal, Tallahassee - 1980 to 1983

BACKGROUND

1. Describe the community where you work or have worked recently? Include the population. If you are a private sector, please describe your law firm. From 1987 to late 2014, I lived and worked in Melbourne. Melbourne is a rapid growing. Brevard County population is close to 600,000. Melbourne has a mix of retirees and high technology workers moving into the area. From 1958 to 1980, I lived in Ft. Lauderdale. I bought a home here around 2000 and moved back home full-time in late 2014. I joined Weiss Serota Helfman Cole & Bierman, P.L., with 60+ attorneys. A major emphasis of firm practice is representing local government.

2. Tell us how many employees in the organization and how many employees do you or did directly supervise? Tell us how many attorneys did you supervise? In Melbourne, there were 850 employees. I supervised 3+ attorneys and outside counsel. In Ft. Lauderdale, I supervise only my legal assistant.

3. Tell us how much of the legal work was performed by your staff versus the work which

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was contracted out to outside counsel. In Melbourne, 75% of the work was in house. In Ft. Lauderdale, the work performed is either as special counsel or as outside city attorney.

4. Tell us what the most significant legal issues are that your organization faces. Land Use – affordable housing, ACLFs, Developments of Regional Impact, Comprehensive Land Use Amendments (LUPAs), Vested Rights Cases, Rezoning, Land Development Code (LDC) revisions. Presently, I am working on LDC revisions for both Miramar and Marco Island. Some of the issues have been quite contentious.

Real Property – Subdivision review, Condominiums, Real Property Closings; obtaining numerous parcels of land for park property along the Intracoastal Waterway
Ethics Investigations of Elected Officials; Sunshine Law Issues; Creation;
Representation of Numerous Community Redevelopment Districts
Adult Entertainment; Soup kitchens; homeless issues; Incentives for job growth and new facilities; Northrop Grumman & Embraer aircraft manufacturing; Utility service rates and supply areas; Slot machines; arcades; sign codes; charter government; bond offerings (Both revenue and general obligation)

GENERAL, MANAGEMENT STYLE AND EXPERIENCE

1. Tell us about yourself and why are you interested in Fort Lauderdale? Three Primary Reasons:

- (a) I find in house representation more appealing. It is more hands-on, and you develop a closer working relationship with both the governing body and staff.
- (b) Reduction of work-related travel.
- (c) Most importantly, I have lived in Ft. Lauderdale, off and on since 1958. I grew up here, attending Ft. Lauderdale High School. I am a Flying L. This is my home town. I care about this community. There have been City Attorney positions open in Hollywood, Pompano Beach, and Margate, and although I find in-house work more appealing, I did not apply to those cities.

2. Describe what do you believe the most important attributes are of a successful City or County Attorney? Loyalty and Honesty both to Commissioners, who are the clients, and staff. Being professional in an effort to gain respect. Truly caring about the welfare of the community. Being easy to talk with. Timely returning phone calls, whether it is to Commissioners, staff, the press, or the public.

3. Tells us your approach to handling law suits filed against your city/town/county? My goal is to try to avoid lawsuits in the first place. They waste the public's time and money. With regard to handling the lawsuit, if the lawsuit is significant, I would want to notify the Commission and the City Manager immediately. This is important, because either of the foregoing may be contacted by the media. If I were an elected official, I wouldn't want the surprise of a phone call

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from a reporter without some prior notice of the lawsuit. Having said that, sometimes reporters contact elected officials before the City is even served. In advising elected officials and the Manager of the lawsuit, one point of discussion is what the best response is to be given to the media. The City Attorney should work with elected officials in that regard.

The next step is to coordinate with risk management (if damages are sought) and make arrangements for a response to be prepared by whatever individual attorney will be handling the lawsuit. Among the preliminary points to discuss would be what the outlook would be for success in the litigation, and whether pre-suit resolution of the lawsuit is possible and in the City's best interest. In the case of a significant lawsuit, the City Attorney needs to be ready to respond to the media. There is nothing that will upset some reporters more than a non-responsive public official. The goal should be to try to get out ahead of the issue.

4. Describe your management style. My management style is democratic, participatory. Decisions reached by group thought are sometimes much better for the organization. Thus, having a working, respectful relationship with other attorneys in the office should be one in which they can feel free to work through issues, and that they know I will respect their thoughts. Notwithstanding the foregoing, I am not afraid to make the final decision. Legal assistants and secretarial help need to feel that they are part of the process as well. It is good for morale, and I have found that anyone who has worked as a legal assistant for a significant period time becomes somewhat like a chief petty officer in the Navy. They have experience and have probably seen more situations than young attorneys have.

5. Tell us what information you feel is important for elected officials to have and how you communicate with them. How do you communicate with elected officials? With regard to what information elected officials should have, the simple answer is that elected officials should have access to whatever information they desire. Some attorneys tend to be less than forthcoming. I reject that approach. I would note, anecdotally, that about 20 years ago, some City Commissioners had a problem with a failure by the City Attorney's Office to fully notify them of litigation. One goal that I would have is to meet with each City Commissioner to find out what information they want on a regular basis and in what form. My job is to make the free flow of information easy and not complicated. The flip side of the "how much information should be provided" issue is that elected officials have limited time to review information. Therefore, I would seek to present easy to understand answers, sometimes with and sometimes without back-up analysis, as needed.

I communicate in two primary ways – by memorandum and face-to-face. I am aware that written memos and e-mails are public record, and that sometimes, care needs to be taken not to transmit legal information. Additionally, part of acting as an attorney involves providing counsel on an individual level. I consider that an important part of the job.

6. Tell us what you think the elected officials would say about you? What would the City Manager say about you? Most elected officials would say that I work with them on a personal level. I try to be constructive and warn them of problem areas. I try to point out the pros and cons

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of issues. I am generally well liked and easy to talk to. Elected officials know that I understand that they make the final decision on issues. I am part of a team, and I understand and accept their decision-making role. I think most City Managers would say that I try to create a constructive and professional working relationship. Most City Managers have a good degree of trust in my advice. They know that I view my job as not to running the City but to assist them and the department heads in their managerial role. City Managers know that I understand that my client is the City Commission. I always try to develop a relationship on a personal, yet professional, level with Commissioners and City Managers. I know that in any working relationship, “chemistry” is important.

7. Tell us what your strengths are? Experienced but willing to learn; analytical, excellent communication skills, sound judgment, research, conflict resolution, compassionate, collaborative. With regard to areas of practice, my strong points are land use and zoning, ordinance drafting, transportation planning. and real property.

8. Tell us what your weaknesses are? At times I am too compassionate, have poor handwriting, stress; time management involving taking on too much; high expectations of staff; sometimes I elaborate too much rather than giving a short and to the point answer

9. Describe your greatest achievement (success)? Tell us about it. I assume that this relates to professional work. I think the greatest success was in setting up a professional and respected City Attorney’s Office in the City of Melbourne. The office was respected by others in the field, the general public in the community, and the City Council. In the community, as Chairman of the County Charter Commission, I had success in developing and getting voters to adopt a county charter. With regard to legal issues, I worked on projects for many years to annex large unincorporated areas for the City’s future development that the City could guide growth management. With regard to personal professional success, I was selected as City Attorney of the Year in 2004 by the Florida League of Cities, and I have been asked to serve as General Counsel for the Space Coast League of Cities since 1990.

10. Describe your greatest failure (or mistake) of your career? What did you learn from it?
Taking on too much work.

11. Describe the approach you use when you find an employee’s work is not satisfactory and you feel you may have to terminate the individual’s employment. Provide an example of a situation where you had to fire someone. Examples: I have participated in the termination of several police chiefs in several cities. Process terminating employment: As a general rule, unsatisfactory work requires counseling and progressive discipline. I first review personnel rules, applicable union contracts (if any) and proceed from there. If we are at the point of termination, depending upon the sensitivity of the situation, I may work with labor counsel, and I prepare a plan for separation. There are several major issues to be considered as part of a termination. For example, if the employee is not removed quickly, if they are angry, they can do damage to the City’s interests, and immediate removal from the premises may be necessary. Another problem

to be considered is office morale and the effect that any separation might have on the particular department involved.

12. Explain what you would do and hope to achieve during the first six months on the job.

- (a) Meet with each individual Commissioner and key members of City staff. Understand what they need and how I can not only facilitate that, but make their job easier;
- (b) Scope out and understand the City Attorney staff organization, the strengths and weaknesses of each attorney, and learn their professional goals;
- (c) Re-organize the City Attorney's Office as needed to be more effective;
- (d) Begin working with individuals in the City Attorney's office who are weak links to improve their productivity;
- (e) Study the land development regulations and other key provisions in the City Code to learn weaknesses and meet with planning staff;
- (f) Become fully understanding of the routine operation of the City, City Commission meetings, City Manager's Office. Every organization has its own ebb and flow and operational norms.

13. Describe how you work with the media, assuming you do. I have worked with the media for many years. I have found that it is important to develop a good working relationship with the media. Most reporters are just trying to do their job, and obfuscation with regard to issues merely causes a reporter to become suspicious of some sort of wrong-doing. At the same time, many times there are legal issues that shouldn't be discussed with the media. To some extent one has to learn through experience how to work with the media in a positive manner. The bottom line is to be responsive to their request for comment.

14. Tell us what do you do in your leisure time? Spending time with two grandchildren (a new one in mid-July); I am a news junkie, and I enjoy reading newspapers and watching TV news. I have a small circle of friends that I enjoy socializing with. When possible, I like to travel. My favorite spots include going out West (California, Oregon) and would like to travel more in Europe.

15. If you have ever done anything that would embarrass our client if it became public knowledge, please tell us about the incident. While I am not perfect, I don't know of anything that would be embarrassing.

16. Is there anything in your background that would embarrass our client if it became public knowledge? No.

17. When it becomes known in your community that you are a finalist in Fort Lauderdale, are there any community activists that are likely to contact our client with "the dirt" on you? Doubtful. I do not know any community activists in Ft. Lauderdale. With regard to activists in Brevard County, it is possible but doubtful. I recently had to participate in a Council meeting in

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which a Member of the Council was censured by the City Council on a 4 to 1 vote. Although I worked to assure a fair hearing/due process, the Council Member is upset with everyone at City Hall, myself included.

REASON FOR WANTING TO LEAVE CURRENT OR MOST RECENT JOB?

I enjoy my work with Weiss Serota law firm. The attorneys are talented and professional. However, I have a strong commitment to my home town, and I think this would be a good opportunity.

SIX ADJECTIVES OR PHRASES I WOULD USE TO DESCRIBE MYSELF

Good listener, consensus builder, loyal, respected, honest, tolerant

CURRENT / MOST RECENT SALARY

Current: Weiss Serota Helfman, et al. - \$165,000/year base plus bonuses and fringe benefits
Immediate previous: Melbourne City Attorney - \$160,000/year plus fringe benefits plus income from several other local governments for a total yearly compensation of \$250,000+.

Longtime municipal attorney steps away, sort of

Gougelman accepts new position in South Fla.

By **Stacey Barchengger**
FLORIDA TODAY

MELBOURNE — Paul Gougelman, his gray side-parted hair a bit tousled and his suit jacket slung over an extra chair, was on the phone with another attorney. Bookshelves in his fifth-floor office at City Hall were filled with such titles as "The Urban Lawyer."

"It's odd," he said into the phone, reclined in his chair behind a desk piled with paper. "I've lived here longer than

I've been anywhere. I've been here longer than I expected. It's a bittersweet opportunity."

Gougelman, 63, will retire as Melbourne city attorney in early November. He's handled legal matters here for 27 years. At first a private attorney working under contract, he was appointed city attorney in 1996 when the in-house office was created (based on his own recommendation). That move reduced costs spent hiring out-

See ATTORNEY, Page 9A



Melbourne's City Attorney Paul Gougelman is retiring from many of his roles but will still serve the city of Indialantic, and perhaps others.
TIM SHORTT/FLORIDA TODAY

Paul R. Gougelman, III

MONDAY, SEPTEMBER 8, 2014

SPACE COAST

When I have a few hours to read the minutes," Gougelman joked to Assistant City Clerk Kevin Keown, who stopped in with another thick binder. Gougelman is leaving a post at Weiss Serota

Boniske, a Fort Lauderdale firm that handles business and government law. His retirement plan with Melbourne says he has to leave at 67, but Gougelman said he won't be ready and his mortgage won't be paid off, so he's

leaving now for the private firm. But he is not completely ending his ties with local governments. Indialantic at least is keeping him on — Gougelman said he'd appear at meetings by phone — and some other

boards are considering doing the same. As he packs up, Gougelman asks himself if he would do it all again. "And my answer is 'Yeah, I'd do it again,'" he said. "I made the right decision in coming here. I

thought I was just passing through. Never say I'm here."

Contact Barchenger at 321-242-0100 or sbarchenger@floridatoday.com. Follow her on Twitter @sbarchenger and Facebook.com/StaceyBarchenger.

Attorney

Continued from Page 3A

side firms when lawsuits were filed, and gave city departments better access to initial legal reviews that in many cases avoided litigation.

When he packs up his office, he'll also pack up institutional knowledge of the city and its history. Mayor Kathy Meehan called him a "great storyteller on facts" who would often end conversations with "more to follow."

He is not only an expert on Melbourne. Gougelman has served for nearly as long as town attorney in Indialantic and Melbourne Beach. He started working for Melbourne with an agreement that he could continue those extra duties. He's also worked as special counsel to the Space Coast Transportation Planning Organization, Space Coast League of Cities and Florida Metropolitan Planning Organization Advisory Council.

Staying with those cities and towns for so long — through a rotation of elected officials with different temperaments and agendas — is a testament to Gougelman's trustworthiness and competence, said Chip Morrison, general counsel to the Florida League of Cities. The league named Gougelman "City Attorney of the Year" in 2004.

"He's just given tirelessly..."

and unselfish to Florida's municipal community," Morrison wrote in an email to FLORIDA TODAY. "He's one of the good ones."

After coming to Brevard in 1987, Gougelman took on responsibilities that laid the groundwork for local governments.

He helped develop Melbourne's comprehensive plan when it was first mandated by the state legislature and served on the county's planning and zoning board. Three governors appointed him to a total of 11 years on the East Central Florida Regional Planning Council. He was asked to lead the 1994 commission that drafted Brevard County's charter, essentially its constitution, increasing home-rule for citizens.

Then-County Commissioner Truman Scarborough would call on Gougelman for guidance even when Gougelman wasn't working for the charter commission. Not only Scarborough called.

"He was an attorney's attorney in the area of municipal law," said Scarborough, now an attorney in Titusville. "When attorneys throughout the state had questions, Paul would be the person they would call upon."

What's kept Gougelman here nearly three decades is an ever-changing job. One day, it's reviewing proposals to curb panhandling and limit the First Amendment. Another, the issue is adult entertainment. Or there's a three-inch binder containing a labor contract waiting to be reviewed and then topped by a Gougel-

A-18 The Orlando Sentinel, Monday, December 21, 1987

The Orlando Sentinel

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305 420-5000

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Wanted: A hero for Wekiva

Who's going to be the hero of the Wekiva River? Is anyone coming to save the day?

There are plenty of candidates on the horizon, including county commissions, the water management district, the governor and Cabinet, the Legislature and the East Central Florida Regional Planning Council.

Let's hope that at least one of them is up to the job and displays a little of the gumption needed to protect the river and its wetlands from being destroyed by an onslaught of urban development.

All eyes now are on the regional planning council. Thanks to council member **Paul Gougelman**, the council is considering a policy for protecting the Wekiva area.

The council has no direct power to control the Wekiva. But if it includes a policy for the river area in its plan for the region, Orange, Seminole and Lake counties will have to follow suit. That's because the state requires that local plans be consistent with the region's.

That could be enough to keep the river from being ruined.

Of course, the most obvious candidate for saving the river is the St. Johns River Water Management District. But the district so far has been more wimp than hero.

Members ran like frightened deer last summer when Jeno Paulucci, who owns a big chunk of land near the Wekiva ripe for development, threatened a legal challenge if the board passed a rule to ban development next to the wetlands.

The district even claims — against all

sense — that it doesn't have the authority to pass such a rule. Great. So what is a river management district for if it can't act to prevent the river from being wrecked?

So timid is the board that it even shoved under the table, without a hearing, a study on the Wekiva that it commissioned from the University of Florida.

The study said that keeping the river clean, the wetlands from being destroyed and wildlife safe means keeping development away. It recommended a protective buffer ranging from 50 to 400 feet wide.

It isn't enough just to keep houses and roads off the river bank. The wetlands have to be shielded so that they can continue to filter out pollutants before they get to the river. And in some cases, that requires saving higher land areas, which can provide water for wetlands and habitat for wildlife.

The district still can redeem itself at its January meeting and pass a rule to prevent development from closing in on the Wekiva. But no one is betting that the district will find its courage between now and then.

If it doesn't, then Gov. Bob Martinez and members of the Cabinet, who already have endorsed the idea of a ban, can order the district to take action. And if that doesn't work, then the Legislature can take up the cause in the next session.

The development pressure is relentless. The point is to save the Wekiva, the most precious and most vulnerable river in Central Florida, from being crushed by that pressure before it's too late.

Whoever it takes.

CB&A Background Checks

**Background Check Summary for
PAUL R. GOUGELMAN III**

Criminal Records Checks:

Nationwide Criminal Records Search	No Records Found
County	
Broward County, FL	No Records Found
Brevard County, FL	No Records Found
State	
Florida	No Records Found

Civil Records Checks:

County	
Broward County, FL	No Records Found
Brevard County, FL	No Records Found
Federal	
Florida	No Records Found

Motor Vehicle

Florida	No Records Found
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Credit

Excellent

Bankruptcy

No Records Found

Education

Confirmed

Employment

Confirmed

Under the Fair Credit Reporting Act, 15 U.S.C. 1681-1681Y, credit and bankruptcy information are very sensitive and should not be used in the consideration of hiring. The information is included for each candidate because we do not want you to be surprised if third parties raise what they consider to be a concern.

**Background Check Summary for
PAUL R. GOUGELMAN III
Personal Disclosure**

Personal Disclosure Questionnaire

Name of Applicant: Paul R. Gougelman III

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

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

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


11. Please provide a list of any lawsuits in which you are or have been a party either as plaintiff or defendant.
Dissolution of Marriage – Gougelman vs. Sikora, Case No. 05-2012-DR-045174-XXXX-XX (Fla. 18th Cir.Ct. filed 5/23/2012)
Contract indebtedness of Windjammer cruises to Paul Gougelman - Gougelman v. Windjammer – Case No. 05-2001-CC-028257-XXXX-XX (Fla 18th Cir. Ct. filed 2001)
In Re: Paul Gougelman – Declaration of Preneed Guardian - Case No. RPC080003412 (17th Cir. Ct. filed 2008); I have no record of this case. The case was opened and closed the same day.

**Background Check Summary for
PAUL R. GOUGELMAN III
Personal Disclosure**

In Re Estate of Paul Gougelman – Probate proceeding for my father – Case No. RPC08000781 (17th Cir.Ct filed Feb. 2, 1989)

Alonso v. Weiss, Case No. 12-cv-07373 (U.S. N.D. Ill. Filed 2012) – action by numerous investors with regard to the alleged mis-handling of the trust by the receiver. There is also a related bankruptcy involved by the investment fund, the Nutmeg Fund. I was one of many, many investors in this case.

Attested to: _____



Signature of Applicant

Please email this form via **PDF DOCUMENT** to Lynelle@cb-asso.com or via fax to (888) 539-6531 **no later than 5:00 PM PST 07/16/18.**

(Note: Please be sure to sign the form with your actual signature if you are sending Fax or PDF Document)

CB&A Reference Notes

**Reference Notes
Paul Gougelman**

Chris Chinault – Town Manager, Town of Indialantic, FL 321-723-2533

Mr. Chinault has known Mr. Gougelman since March 2000. They have worked together extensively over the years because of Mr. Gougelman's role as general counsel for Indialantic.

Mr. Gougelman is tremendously knowledgeable about local government and its laws. He understands and has an historical perspective of how government works in Florida. He is not shy, but also does not dominate the conversation. He provides legal direction with some options, giving Mr. Chinault perspective and an opportunity to focus on the best avenue for the City and the Council.

Mr. Gougelman is a comfortable attorney. Mr. Chinault appreciates that he works informally, is accommodating, and deals well with his and the Council's scheduling. He interacts well with the elected officials and the public. He makes people feel at ease.

In terms of making recommendations to the elected body, Mr. Gougelman looks at what is best for the town and always gives them sound recommendations. He does not necessarily tell them what they want to hear, but what they need to hear. It may not be the popular opinion but they respect him for his honesty. He also knows how to deal with the decisions that the Council makes whatever direction they chose to take. Mr. Chinault is not aware of a circumstance where the elected officials did not follow Mr. Gougelman's advice and did something different.

Mr. Gougelman follows the law and will not do anything that is outside of it, however, he will find creative solutions to issues when possible. The Town had been battling some issues with its pipes being out of date and in pretty bad shape. They do not have any debt and the Council and Mr. Chinault decided they wanted to set up a pay as you go plan to repair them so as not to incur any debt. Mr. Gougelman explained to them that that was not permitted. According to the law they had to take on debt to fix the issues and they wound up borrowing the money. The voters were accepting of the millage rate increase and it passed without an issue. Mr. Gougelman worked him through the process and as revenue comes in they pay down the debt.

In terms of experience, Mr. Gougelman has a plethora of it in several different areas. He is good at reviewing contracts and knows what they need to contain and what they do not. He is very understanding when dealing with the other parties in the contracts, but protects the Town at the same time. He works closely with the Board of adjustment in terms of Development and Land Use. He gives them good advice and steers them in the right direction. Although Mr. Chinault is not certain about his experience with Constitutional Law, Mr. Gougelman is good at dealing with issues in terms of the State Constitution and straightening the Town out in terms of Supreme Court regulations.

Mr. Chinault is not aware of anything in Mr. Gougelman's background that would be looked upon as unflattering. He would be any excellent City Attorney for the City of Ft. Lauderdale. He fits well into an environment where he can be of assistance on a regular basis rather than going to meetings in several different municipalities. He understands that an organization and its players

**Reference Notes
Paul Gougelman**

are an integral part of helping the government function. He has the temperament, interest, and ability to do that serving as one of its pillars.

Words or phrases used to describe Paul Gougelman:

- Knowledgeable,
- Comfortable,
- Helpful, and
- Competitive.

Strengths: Extremely knowledgeable individual who works well with others making people feel comfortable.

Weaknesses: None Identified.

Stuart Glass – Deputy Mayor, Town of Indialantic, FL 321-223-6650

Mr. Glass has known Mr. Gougelman since approximately 2003. He works with him at the Town of Indialantic as well as on the Space Coast League of Cities and the Space Coast TPO.

Mr. Gougelman's job performance in all aspects of his duties has been excellent. He is one of the most knowledgeable people that Mr. Glass knows as far as municipal government. He has amazing recall and knowledge of the law, but he does research when it is required.

Mr. Glass finds Mr. Gougelman to be easy to talk to and is good about giving responses in layman's terms. He lays everything out and gives the pros and cons to whatever they are discussing. He gives the elected officials fine recommendations and shares his opinions with them so they can solve problems effectively. He will tell them when something is not permitted by law, however, he will provide options of how to get to the end result in a different manner within the confines of the law.

Mr. Gougelman is quite experienced in many different aspects of municipal government and law such as constitutional law, contracts, utilities, development, redevelopment, and land use. He is particularly well versed in terms of land use. In fact, Mr. Glass attended a public meeting where he presented about land use. He did an excellent job of taking a fairly complex subject and presenting it in a way that the everyday person could understand.

In terms of interacting and working well with the elected officials, the city manager, and the staff, Mr. Gougelman does a wonderful job with everyone. He communicates to the Council about what he is working on and is 100% responsive as far as Mr. Glass is concerned.

**Reference Notes
Paul Gougelman**

Mr. Glass is not aware of anything controversial involving Mr. Gougelman. He would be shocked if the press found anything embarrassing in his past history. If he were looking to hire a city attorney he would not hesitate to hire Mr. Gougelman.

Words or phrases used to describe Paul Gougelman:

- Approachable,
- Diverse experience, and
- Tremendous institutional knowledge.

Strengths: Extremely knowledgeable professional who is easy to talk to and who does an excellent job of explaining the law.

Weaknesses: None Identified.

Kathy Meehan – Mayor, City of Melbourne, FL 321-480-4621

Ms. Meehan has known Mr. Gougelman since the mid 1990's. She first worked with him in Melbourne in 2004 until he left in 2014. She continues to work with him in her role as the Chair for the Space Coast TPO where he serves as general counsel.

Mr. Gougelman's capabilities as an attorney are excellent. He has a good command of the law. He works well with people, listens to both sides of an issue, and represents the best interest of his client as well as the community. He is responsive and his responses are always timely. In addition to solving problems he also negotiates well on behalf of the party he represents.

In terms of making good recommendations to the elected officials, Mr. Gougelman does very well. Ms. Meehan is not aware of any circumstance where the commission did not follow his advice and decided to go in a different direction. He is very in depth and thorough in the research that he conducts on behalf of the commission ensuring to give them the best advice possible. Even if something could not be done in a particular way because of the law, he usually came up with an alternative plan to find a resolution, but always within the law.

As previously stated, Mr. Gougelman knows the law. He is well versed in many aspects and has experience in constitutional law, contracts, development, redevelopment, and land use. He also dealt with utilities during his time in Melbourne as they are a full service city with all utilities, fire, and police. In addition he worked with them regarding their issues and the homeless population implementing a no pan handling zone in the downtown area. Even though he does have experience with labor and personnel matters, they brought in a labor attorney when conducting negotiations.

**Reference Notes
Paul Gougelman**

When it came to communication, Mr. Gougelman did a fine job of keeping Ms. Meehan informed of what was happening in his area of responsibility. He interacted well with the public and had a good relationship with the city manager as well as the other staff members.

Ms. Meehan is not aware of anything controversial involving Mr. Gougelman. She has no knowledge of anything in his personal or professional background that would be looked upon as unflattering if the press were to go digging. He will do an excellent job as a city attorney for any future employer.

Words or phrases used to describe Paul Gougelman:

- Well-rounded individual,
- Knowledgeable, and
- Works well with others.

Strengths: A professional who is knowledgeable in his field and works well with others.

Weaknesses: None Identified.

Cliff Repperger – Town Attorney, Town of Melbourne Beach, FL 321-984-2700

Mr. Repperger first met Mr. Gougelman in approximately 1999. Mr. Repperger was the Assistant County Attorney at Brevard County when Mr. Gougelman was with the City of Melbourne. They worked on some cross over issues between the municipalities. When Mr. Gougelman resigned from general counsel at Melbourne Beach in 2014 Mr. Repperger took over. They have continued to stay in contact regarding significant issues pertaining to the Town of which Mr. Gougelman has knowledge.

Mr. Gougelman is one of the best local government attorneys in Brevard County. He may well be one of the best at what he does. He is competent, thorough, and knowledgeable. He is excellent at analysis of the technical requirements of contracts, statues, and ordinance provisions. He is adept at the technical review of documents. He has been an attorney for an extremely long time and Mr. Repperger has relied upon him and his advice over the course of his career.

In terms of resolving issues, Mr. Gougelman is extremely adept. He is very much interested in and diligent about trying to find a compromise and a productive solution to problems, rather than going through litigation.

Mr. Gougelman has experience in several areas of law and municipal government. He has experience in constitutional law, contracts, and the primary capacity in which Mr. Repperger worked with him was in terms of development, redevelopment, and land use. He also worked with Melbourne extensively on trying to resolve its homeless issues in the downtown district.

**Reference Notes
Paul Gougelman**

Additionally, he and Mr. Repperger and the firm he worked for served as special outside council on issues relating to disputes between Melbourne in respect to water utilities.

The entities that Mr. Gougelman works for and has worked for value his opinions greatly and give him great deference on his opinions. Melbourne relied heavily on his expertise and they were sad to see him leave. Mr. Repperger is not aware of any circumstance where his elected body did not follow his advice and did something different.

Mr. Gougelman has sat in on commission meetings for several years during the course of his career. He has a vast amount of experience in a public meeting setting and does a fine job of explaining himself at a level that people at varying degrees of understanding can understand. He does well when it comes to dealing and interacting with the public.

When it comes to controversial issues, Mr. Gougelman has been involved in some highly political issues over the years, but nothing specifically related to him where he became the focal point. Mr. Repperger is not aware of anything in his background that would be considered embarrassing if the press were to go digging. He would hire Mr. Gougelman if he were given the opportunity. Without question Mr. Gougelman would be an excellent selection for the City Attorney at the City of Ft. Lauderdale. Very few attorneys in the state are as experienced as he is at the local level.

Words or phrases used to describe Paul Gougelman:

- Knowledgeable,
- Professional,
- Personable,
- Respectful,
- Modest, and
- Generous.

Strengths: Extremely experienced and knowledgeable attorney who is well respected and highly qualified and competent.

Weaknesses: None Identified.

**Georganna Gillette – Executive Director, Space Coast Transportation Planning
Organization (TPO), Melbourne, FL 321-690-6890**

Ms. Gillette first met Mr. Gougelman in approximately 2003 when she was with the Florida Department of Transportation. She has been with the Space Coast TPO since 2010 and she has seen him in action on several occasions. She has worked with him in her role as the Executive Director for two months.

**Reference Notes
Paul Gougelman**

Mr. Gougelman is well respected throughout Brevard County and the state. He is very engaged during meetings and if he feels the need to add any direction he speaks up. He is always prepared and Ms. Gillette feels that her organization is well represented and she is comfortable that he will take care of any issues that arise. He is most excellent at offering counsel and options where she can take that counsel and use it in the most appropriate manner for her particular situation.

Mr. Gougelman is extremely honest, has an immense amount of integrity, and genuinely cares about people. The people around whom he works, he considers them to be family which goes a long way when building relationships. He is well liked by everyone and when he speaks, people listen because they know that what he says is important and they need to pay attention.

Mr. Gougelman is very responsive. He reviews policies for the TPO. They are a creature of Federal Laws which means they have set deadlines for everything on which they work. He is quite good about meeting those deadlines and being responsive in a timely manner.

From what Ms. Gillette knows he looks at each situation according to the law and makes good decisions when dealing with it. She is not aware of any situation where an elected body did not follow his advice.

In terms of communication, Mr. Gougelman is quite personable. He keeps Ms. Gillette informed about the items he is working on for their organization. He will communicate via email, but prefers to have a conversation and will not hesitate to pick up the phone to call her. He is proactive with situations or issues that may come up on the radar and ensures to communicate them to her.

Ms. Gillette is not aware of anything controversial involving Mr. Gougelman. She has no knowledge of any item in his past history that would be construed as unflattering if the press were to investigate him. If she were in a position to hire a city attorney she would absolutely hire him in that role.

Words or phrases used to describe Paul Gougelman:

- Honest,
- Strong sense of integrity,
- Extremely loyal,
- Trustworthy,
- Personable, and
- One of the smartest people she knows.

Strengths: An extremely well liked, highly respected, and knowledgeable individual.

Weaknesses: None Identified.

**Reference Notes
Paul Gougelman**

Jim Simmons – Mayor, Town of Melbourne Beach, FL 321-984-8357

Mr. Simmons and Mr. Gougelman have known each other since the early 1990's. Mr. Simmons observed him as a citizen until he became a town official. They interacted in that capacity until 2014 when Mr. Gougelman resigned from his duties at the Town. They continue to stay in contact and Mr. Simmons uses him as a sounding board and asks for his advice.

Mr. Gougelman always did a fine job for them and from what Mr. Simmons has heard from Mr. Gougelman's colleagues is that he is the expert in his field. He has an extensive and broad background and a definite command of the law.

Mr. Gougelman is personable, always willing to take the extra step to educate others and explain the whys, wherefores, and the alternatives to a situation along with the best way to approach it. He also solves problems and negotiates well on behalf of the parties he represents.

When it comes to making recommendations to the elected body, Mr. Gougelman gives those recommendations within the limitations of the law. He lays out the argument for both sides, but can be hard to pin down, in public, which way is the best way. He is better in private when it comes to that as he has explained to Mr. Simmons that he does not want to be on record in a potentially contentious situation. Mr. Simmons is not aware of an instance where the elected body did not follow his advice.

Mr. Simmons is not aware of anything controversial of which Mr. Gougelman has been involved. He has nothing in his background that would be looked upon as unflattering if the press were to go digging. Whoever decides to hire him would be making a good decision in bringing him on staff.

Words or phrases used to describe Paul Gougelman:

- Honest,
- Competent,
- Professional,
- Personable,
- Always willing to help achieve a positive outcome, and
- Non-controversial.

Strengths: A professional with an extensive background in the law who is personable and works well with others.

Weaknesses: As with most municipal lawyers, he seems to only give both sides of an outcome rather than telling the best course of action, leaving the decision up to the elected officials.

**Reference Notes
Paul Gougelman**

Norma Salgado – Legal Assistant, Weiss Serota Helfman Cole & Bierman, P.L., Ft. Lauderdale, FL 954-763-4242

Ms. Salgado first met Mr. Gougelman in 2014 when he first came to the firm. She reports to him, along with other attorneys in the office, in her role there.

Mr. Gougelman has a good command of the law and knows his job. His specialty is in land use and government matters. He is well versed in several types of law. She has never had any issues with him during the time they have worked together.

Mr. Gougelman is responsive and his responses are generally timely. He is a problem solver who makes good decisions in when it comes to dealing with the law. In terms of elected officials not taking his advice, she does not know as she has not observed him in that capacity.

In regards to communication, Mr. Gougelman is friendly and informative. Additionally, he is the type of person who will find solutions. He is helpful with her and also with clients seeking his advice and counsel.

Ms. Salgado is not aware of anything controversial involving Mr. Gougelman. She does not know of anything from his background that would be considered embarrassing if the press were to investigate him. He would be a good candidate for a city attorney at the City of Ft. Lauderdale as he has experience in municipal law.

Words or phrases used to describe Paul Gougelman:

- Nice,
- Approachable,
- Knowledgeable,
- Experienced, and
- Gets along with others.

Strengths: Has a good command of the law in several different aspects and works well with people.

Weaknesses: Not the best at working with computers.

Michael Kahn – Michael Kahn PA, Melbourne, FL 321-242-2564

Mr. Kahn has known Mr. Gougelman since approximately 1993. Mr. Kahn works with attorneys all over the state on First Amendment law issues.

Mr. Gougelman is easily one of the finest attorneys Mr. Kahn has had the privilege of working with and representing. He was once selected as the municipal attorney of the year which speaks

Reference Notes Paul Gougelman

volumes of his experience and caliber of work. He has an outstanding memory for any number of different municipal areas of law. The power of his intellect is that he knows when and where to acquire outside help.

One thing that Mr. Kahn appreciates is that Mr. Gougelman is a delegator who does not micro manage, but allows Mr. Kahn to do his job. For someone of his intellect, that is saying a great deal about the kind of person he is. He is also a consensus builder with a keen sense of politics. He gets along well with and is well thought of by everyone.

Mr. Gougelman has been able to hold onto his positions with his jurisdictions as long as he has because of his problem solving skills. He makes good recommendations to his elected officials based on sound legal advice. Mr. Kahn has seen him up close doing his job for close to 25 years and knows that is why he has lasted so long doing what he does. He will be creative where the law is flexible, but he also says no to alternative solutions where the law is not malleable. His elected officials listen to what he has to say and Mr. Kahn is not aware of a situation where they did not follow his advice.

Mr. Gougelman's experience in various aspects of the law and municipal government is quite vast. He has experience in constitutional law far beyond what is normal or routine for municipal attorneys. He is also well versed in contracts, land use and homeless issues. In fact, Mr. Kahn has worked with him on pan handling ordinances which overlap with homelessness.

In terms of working with the public, Mr. Kahn has always respected that Mr. Gougelman is very low key and does not have an ego. In a respectful way he steers public attention towards the elected officials. When he does work with people in the public he does deal with them well, but he sees his place correctly as a counselor.

Mr. Kahn is not aware of controversies surrounding Mr. Gougelman. He does not attract attention or let his personal beliefs color what is in the best interest of his clients. He has nothing in his background that would be thought of as embarrassing to any potential employer. He is a well-respected lawyer throughout the entire state of Florida. Any person or organization that would have him representing him would be fortunate. Mr. Kahn would absolutely hire him and he wishes that every jurisdiction had a Mr. Gougelman on staff because it would make his job infinitely easier.

Words or phrases used to describe Paul Gougelman:

- Experienced,
- Hardworking,
- Brilliant,
- Uncontroversial,
- Kind, and
- Family oriented.

**Reference Notes
Paul Gougelman**

Strengths: Exceptionally knowledgeable and capable attorney who understands politics and gets along with everyone.

Weaknesses: Tremendously loyal and sometimes in a political world that is not always at a premium and does not always help him.

Molly Tasker – Council Member, City of Melbourne, FL 321-626-3369

Ms. Tasker first met Mr. Gougelman in 2005. She worked with him at the city until he left in 2014. They continue to have occasional contact.

Mr. Gougelman has an excellent command of the law. He knows the subject of municipal law very well. He has a plethora of experience and talent and is excellent at working with politicians. He has a way about him that he can get things done in a persuasive, yet pleasant, manner.

Mr. Gougelman always gave Ms. Tasker and the other elected officials good guidance with alternatives to lead them down the right path. She is not aware of the council not taking his advice and going in a different direction. If he said that they should not pursue a certain direction he backed it up with facts and the law and then they discussed it further. However, he tried to find a way for them to accomplish what they wanted to do. If he did have to tell them the law did not permit something he always explained to them why and in a manner that they could understand.

Mr. Gougelman has experience in various aspects of the law including constitutional law, contracts, development, redevelopment, and land use. He also worked on some homeless issues, utilities, and labor/personnel issues with the help of outside counsel.

In terms of working with the elected officials, the city manager, and the staff, Mr. Gougelman did a fine job. He and the city manager would have small disagreements once in a while, but they were never contentious. He always steered the manager in the right direction to stay within the law. They had mutual respect between each other. Additionally, he is a very well-liked person in the public and is adored all over the county.

Ms. Tasker is not aware of anything controversial involving Mr. Gougelman. She does not know of any embarrassing item in his background that would be uncovered if he were to be researched by the press.

Words or phrases used to describe Paul Gougelman:

- Well respected,
- Fine gentleman,
- Bright,
- Hard worker, and
- Public servant.

Reference Notes
Paul Gougelman

Strengths: An experienced professional who thinks about what is good for the city and its residents when giving his counsel and advice.

Weaknesses: None identified.

Prepared by: Heather Linares
Colin Baenziger & Associates

CB&A Internet Research

Internet – Newspaper Archives Searches
Paul R. Gougelman
(Articles are in reverse chronological order)

Marco Island Eagle (FL)
November 21, 2017

'Signs' of future discussions
Planning Board holds 'tutorial' and workshop on signage ordinance
Author: Lance Shearer

After the relative fireworks of the previous Planning Board meeting, with heated words and two measures failing on close votes, the session on Friday morning had no contentious votes, and little animated discussion.

Meeting as always in City Council chambers, the board instead absorbed a lesson on the legal underpinnings of signage law, nearly three hours of going over the minutiae of sign ordinances past and future. In the weeks and months to come, however, this same signage issue is likely to come back with a vengeance, as the sign code affects signage for real estate firms, builders and commercial establishments.

Opening the meeting, board members had some problems with the minutes of the previous meeting as presented, both words spoken by Vice Chair Ed Issler and the size of the event tent granted to the JW Marriott. Board Chair Eric Brechnitz directed city staffer Lisa Smith to "go to the video," and check to ensure they were recorded correctly. "The sign ordinance is envisioned to take up quite a bit of time. I thought this discussion would take up the balance of our time," Brechnitz said. He was right.

First, though, Erik Condee of Condee Cooling & Electric presented an update on a new building at the company complex. He was unhappy with a delay since January, on an agreement that has been pending City Council approval.

The holdup, said planning board attorney **Paul Gougelman**, is the Condee building being right at the edge of a lot in the Marco Lake district, touching the adjacent building. No vote from the Planning Board was required. Condee again addressed the board several additional times under public comment.

Kathy Mehaffey, attorney with **Gougelman's** firm, Weiss, Serota, Helfman, Cole & Bierman, gave the equivalent of a civics class lesson on legal requirements for the city's sign code, going back to the First Amendment to the U.S. Constitution. She laid out classes of speech with varying levels of protection, from "fighting words" and obscenity, which are not permissible, to hate speech and flag desecration, which are protected. "We have to be viewpoint neutral," she said.

A city can regulate "time, place and manner" of signage, but may not attempt to regulate message content. "We have an issue called prior restraint...any government action that prohibits speech before it takes place," Mehaffey said. "If you are required to get a permit before you put up a sign, that is a prior restraint. I can't put up my sign – or speak – until I get a permit."

Internet – Newspaper Archives Searches**Paul R. Gougelman***(Articles are in reverse chronological order)*

Municipalities are required to provide speedy timeframes so as not to unduly restrain potential speakers. Looking at sign codes, she told the board, "no one size fits all." Mehaffey threw in a bit of legal history, sharing the case of Reed vs. the Town of Gilbert, Ariz., which went all the way to the U.S. Supreme Court and upended the way that signs are regulated in this country. The town's ordinance, which granted various sizes to political candidates' signs, "ideological" signs and event signs advertising a specific event, was found to be unconstitutional.

Signage can be regulated based on where it stands, with different standards for public and private property, commercial vs. residential areas and on-premises as opposed to off-premises signs. "In your typical land use case, the city usually wins," she said. "If it's a tie, the government wins.

That changes when we get into a sign case. Sign codes are being challenged left and right, and local governments are losing."

Discretion is limited, and using any discretion hurts the city's chance of prevailing. Any content-based discrimination is extremely problematic. "After the fact" regulations will never be considered. Attorney fees and money damages are a real prospect for cities such as Marco Island, Mehaffey said.

Going through the existing sign code line by line "will help me understand (in) real life what you all want and what works for Marco Island," Mehaffey said. "We're having to wrap our mind around a new way of regulating signage." Noncommercial signage is a new concept for the city's municipal code, but will need to be considered, she said. Nonconforming signage is another point the city will have to consider.

Board member David Vergo asked about how enforcement would take place, but Mehaffey and Brechnitz agreed that was a separate discussion, not really under the purview of the Planning Board. The board did consider specific classes of signs as included in the sign code, including real estate and political candidate signage. As part of public comment, Marv Needles spoke up to advocate for the maximum leeway for political signs, in aid of a more informed citizenry.

Highlighting the importance stakeholders on the island attach to the signage regulations, City Council Chair Jared Grifoni and councilor Joe Batte sat in, along with Shirley English of the Marco Island Area Association of Realtors. The planning board is scheduled to meet again on Friday, Dec. 1, and will revisit the sign code at their meeting on Dec. 15.

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Paul R. Gougelman

(Articles are in reverse chronological order)

Hometown News (Fort Pierce, FL)

August 22, 2014

City attorney to resign Nov. 1

Author: Chris Fish

MELBOURNE -- Melbourne City Attorney **Paul Gougelman** announced his resignation from the City of Melbourne, as well as from several other municipalities, earlier this month. His resignation is effective Nov. 1. "It has truly been an honor to work with Mr. **Gougelman** for the past 10 years," said Kathy Meehan, mayor of Melbourne, in a press statement. "He has been an outstanding leader, attorney and adviser for many working in the city."

Mr. **Gougelman** said he plans to return to work in the private sector in Fort Lauderdale, after serving the city for 27 years. He has been the city attorney for Melbourne since 1996. "The opportunity to serve has been incredible," Mr. **Gougelman** said in an email. "I think good things for the community have been accomplished during my time here; the most important of which was to avoid the expense of litigation and to keep the city out of court."

During his time with the city, Mr. **Gougelman** created an in-house attorney office, which reduced costs for taxpayers, city officials said. Mr. **Gougelman** has also served as town attorney for Indialantic and Melbourne Beach for the past 20 years, and he is general counsel for the Space Coast Transportation Planning Organization, Space Coast League of Cities and Florida Metropolitan Planning Organization Advisory Council. "Mr. **Gougelman** is a gifted attorney and a dedicated public servant," Mayor Meehan said in a press statement. "He has always been guided by what he believes is best for our community and the city. We will miss him greatly. I wish him much success, as he returns to private law."

Officials with the towns of Indialantic and Melbourne Beach said they are also conducting searches to replace Mr. **Gougelman**. "He's going to be missed," said James Titcomb, interim town manager for Melbourne Beach. "He is such a nice guy and a bright attorney. It will be big shoes to fill."

At a recent Melbourne City Council meeting, the council authorized the city manager and city attorney to formulate a plan for the creation of a selection committee to assist in conducting a search for a new city attorney and to bring the plan to the Council at its Sept. 11 meeting. During the meeting, Councilman Mike Nowlin and Councilwoman Betty Moore expressed an interest in appointing one of the assistant city attorneys as the new city attorney. The Council then authorized the city manager and city attorney to immediately advertise the position of city attorney.

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Paul R. Gougelman

(Articles are in reverse chronological order)

ClickOrlando.com

May 18, 2011

Ex-Cop Files Suit Against City

Former Police Officer Frank Carter Seeking \$25 Million - \$50 Million In Lawsuit

Author: unknown

MELBOURNE, Fla. - Lawyers for former Melbourne police officer Frank Carter are seeking between \$25 million and \$50 million in a lawsuit filed against the city of Melbourne on Wednesday in federal court. Carter was let go from the force after being arrested 15 months ago amid allegations that he engaged in racial profiling and falsified records. The State Attorney's Office dropped charges of misconduct earlier this year.

Shortly after 11 a.m., Carter's attorney, James Byrd, was at the courthouse and was filing the suit as he spoke with Local 6 News partner Florida Today. "The complaint fairly well lays out Frank's claims," said Byrd of the law firm Morgan & Morgan.

In a faxed letter to Melbourne City Attorney **Paul Gougelman** on May 9, Byrd asked the city to pay Carter's full salary and benefits from the date of his firing as well as \$3 million in damages in order to settle out of court. Another option, according to the letter, was for the city to agree to mediation in the case.

Carter claimed that he became the target of former Police Chief Don Carey and City Manager Jack Schluckebier when he openly complained about the chief in his position as chairman of the Fraternal Order of Police. "I cannot imagine how a jury would react to the wholesale destruction of this man's life and career by a police chief and city manager, people who hold positions of trust and who acted in a most malicious manner toward a highly decorated police officer," Byrd wrote in the letter.

Internet – Newspaper Archives Searches
Paul R. Gougelman
(Articles are in reverse chronological order)

Hometown News (Fort Pierce, FL)
July 30, 2010

Daily Bread may find home after 5-year bid to expand

Author: Dan Garcia

MELBOURNE - The prolonged legal battle over whether Daily Bread can expand its facility to provide services to Brevard County's poor and homeless seems to be nearing an end. The City of Melbourne and Daily Bread have zeroed in on a plan that would allow Daily Bread to move its soup kitchen to a site of nearly seven acres on Sarno Road.

City Attorney **Paul Gougelman** described the proposed plan as "a significant milestone." Daily Bread Executive Director John Farrell told his supporters: "This is the first time ever that city personnel, directed by City Council, have offered a solution that may be viable for all parties concerned."

However, Mr. Farrell emphasized that he was being "guardedly optimistic" about the proposal because of Daily Bread's history of failing to negotiate a suitable location after five years of trying. "We were given money five years ago to expand, and we have not been able to do it," Mr. Farrell said. "So we're not jumping through hoops thinking this is some kind of major breakthrough, because it may be and it may not be. "When all is said and done, we will get our new kitchen. We have a mission to fulfill, and we'll fulfill our mission - even if we have to go back to court."

City planners and Daily Bread are negotiating a plan that allows Daily Bread to create a one-stop center on Sarno Road and leave its current site on Fee Avenue. Mr. **Gougelman** described the proposed facility as "a very unique concept undertaken in a couple of communities around the country, but none in Florida."

However, the proposal requires the City Council's approval, and a vote on July 13 ended in a 3-3 tie because Councilman Mike Nowlin was hospitalized for an undisclosed condition. Another meeting was scheduled on July 27, but it was expected to be tabled until Aug. 10 because Mr. Nowlin was expected to remain in the hospital. Mr. Nowlin voted in favor of Daily Bread's expansion at a previous hearing.

The latest Daily Bread proposal could end an impasse that began in 2005 when several Melbourne residents and merchants appeared before City Council to complain about Daily Bread's proposal to expand to a property it owns next to its Fee Avenue soup kitchen. The city denied Daily Bread's expansion plan, citing potential neighborhood nuisances, but Daily Bread won rulings in Circuit Court and in the 5th Circuit Court of Appeals.

On July 13, Mayor Harry Goode and City Council members Kathy Meehan and John Thomas voted in favor of the Sarno Road proposal. Council members Joanne Corby, Molly Tasker, and Mark LaRusso opposed it. For Mr. Farrell, the July 13 stalemate was just another setback. He

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Paul R. Gougelman

(Articles are in reverse chronological order)

said over the years, Daily Bread has talked with the city about potential relocation sites on Evans Road, Harper Road, NASA Boulevard, Apollo Boulevard and U.S. 1 - and all of the proposals have fallen through. "We thought the vote on July 13 was the light at the end of the tunnel, but it was another oncoming train," Mr. Farrell said.

"When you think about all of the places we have considered in the past, do you think we should be excited at this point in time? Maybe yes, maybe no," Mr. Farrell said. Mr. **Gougelman**, the city attorney, said that if the City Council votes in favor of the Sarno Road site, "it will only be a conceptual approval. If the City Council approves, we will still need to sit down with Daily Bread and negotiate the fine-point details."

Mr. **Gougelman** said it has been difficult for the city to find a suitable location for Daily Bread because homeowners don't want it situated near a residential area. "About the only suitable location that is left is the center of one of the runways at Melbourne Airport," Mr. **Gougelman** said. Mr. **Gougelman** said the Daily Bread case suffers from the NIMBY syndrome, or "Not In My Backyard."

"We call this situation a LULU," Mr. **Gougelman** said. "That's the term for Locally Unpopular Land Uses. With this type of facility, wherever it's located, it generates some type of concern." Mr. Farrell agreed that "the devil is in the details." Mr. Farrell said Daily Bread would choose to move to Sarno Road "at a no-cost situation to Daily Bread" and if there are provisions for bus service, sidewalks and safety features, and if other social-service agencies also move into the one-stop facility.

Mr. Farrell said 65 percent of Daily Bread's clients travel by foot or by bus, so they would need free bus service. "There are many caveats and requirements," Mr. Farrell said. Mr. Farrell said Daily Bread is currently providing meals for 215 people daily. He said the agency interviewed 1,173 people needing help over an eight-week period this year, compared to 626 people over an eight-week span in 2008.

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Paul R. Gougelman

(Articles are in reverse chronological order)

Hometown News (Fort Pierce, FL)

December 3, 2009

Daily Bread wins court case against Melbourne

Author: Jennifer Nessmith

Daily Bread officials are making plans to resubmit a site plan to build an administrative building next to its soup kitchen after a three-judge panel ruled that Melbourne's economic development and planning director misinterpreted the city's official definition of a "lot." Judges David Dugan, Charlie Crawford and John Harris, members of the circuit court of the 18th judicial circuit for Brevard County, heard the case between Daily Bread and Melbourne Oct. 21.

Daily Bread filed its petition for "writ of certiorari" after Melbourne's Zoning Board of Adjustment, a body of seven members, upheld economic development and planning director Cindy Dittmer's decision to deny the soup kitchen's request to build an administrative office on an adjoining lot.

Daily Bread's soup kitchen resides on lot 815, which is zoned C2, a designation allowing soup kitchens. Last year, the nonprofit asked the Melbourne City Council to approve a zoning change at 805, the lot adjacent, which is zoned C1, or light commercial, so the organization could build a new facility spanning both lots, containing a soup kitchen, a multi-purpose area, showers, administrative offices and a mail facility, among other things.

The council denied that request. Then, roughly a year later, Daily Bread officials returned with a plan to expand and rehabilitate the soup kitchen building on the site zoned C2 and to construct a new administration building containing the above-mentioned resources, minus the soup kitchen, on the lot zoned C1.

Ms. Dittmer rejected that plan, saying that the reason Daily Bread could not build a new building was because it was simply going to be an accessory use to the soup kitchen, or, in essence, an expansion of the facility, which had previously been rejected. Essentially, what Ms. Dittmer was saying was that the administrative building would not exist without the soup kitchen, and therefore, it is an accessory to the soup kitchen.

Daily Bread continued to argue that the lots were separate, with two separate zoning designations. But Melbourne city attorney **Paul Gougelman**, when arguing the city's position to the Board of Adjustment, referred to a legal concept, called the doctrine of merger, which states that as far as the definition of a lot for zoning purposes, the lot expands to whatever the building site is - and, according to the court's decision, "general zoning law provides that zoning ordinances are to be construed broadly in favor of the property owner absent clear intent to the contrary." In its decision, the panel also explained their interpretation of city code regarding the definition of the terms "lot" and "accessory use."

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Paul R. Gougelman

(Articles are in reverse chronological order)

"The definitions of an accessory use and accessory structure come into play only where a single lot is involved," the decision states. "It is not relevant if the lots are, in fact, two separate lots." The court further cited four definitions of lot in Melbourne's city code and explained the one which they felt appropriately described Daily Bread's lot at 805 E. Fee Ave, which says a lot is, "a parcel of land described by metes and bounds." The court further stated that the panel members believe Ms. Dittmer incorrectly interpreted the code.

"There is a complete absence of facts in the record to support the Development Director's combining the two lots into one over the landowner's objection. The two lots have been considered separate lots from the time they were first platted to the time of the Development Director's interpretation. Each has a separate address, is taxed separately, and has a different zoning classification, and therefore different permitted uses ... In fact, if Daily Bread owned a lot a mile away and sought to build the same project it is now seeking to build, these two noncontiguous lots could conceivably be merged under the city's theory."

The court concluded by saying, "it finds there is no competent evidence to support the Board's conclusion that Daily Bread's two lots are one, and that this interpretation of the municipal code is, in fact, arbitrary, unreasonable and a departure from controlling law. It quashes the Board's denial of Petitioner's application and remands the matter for further proceeding in accordance with this opinion."

John Farrell, executive director of Daily Bread, said he was pleased with the court's decision, which came three days before Thanksgiving. "I feel good," Mr. Farrell said. "Finally, a rule of law, rather than emotion, made the decision. It's great to have the approval of the court."

Melbourne has 30 days to file an appeal, said city attorney **Paul Gougelman**. However, the decision whether to pursue an appeal is up to the city council, which will discuss the matter at its regular meeting Tuesday, Dec. 8, at 6:30 p.m. at Melbourne City Hall. Until then, Mr. **Gougelman** said he and his staff would "comb through" the court's opinion to make sure the city is in compliance with "what the court is telling us to do."

Internet – Newspaper Archives Searches**Paul R. Gougelman***(Articles are in reverse chronological order)*

Hometown News (Fort Pierce, FL)

August 29, 2008

Melbourne, West Melbourne lawsuit on 'backburner'

Author: Gretchen Sauerman

A judge has ordered Melbourne and West Melbourne to continue negotiations before the cities go to court over an ongoing water dispute. Last month, West Melbourne filed a 26-page complaint in court, asking a judge to intervene in the cities' dispute over water service to properties expected to be annexed in the future.

On Aug. 1, Circuit Court Judge George Turner sent an order to the two cities, directing both staffs to continue negotiations, said Melbourne city attorney **Paul Gougelman**. "The entire lawsuit is being placed on the back burner," said Mr. **Gougelman**. Further evidence that communication between the cities is strained: the cities haven't even agreed that West Melbourne is following the proper procedure to initiate a lawsuit. "If you read the (state) statute, the first step is (for the City Council) to pass a resolution that initiates the process," said Mr. **Gougelman**. "I'm a little confused as to why they (filed in court prior to passing a resolution)."

West Melbourne city attorney Jim Wilson disagreed, saying the judge won't rule on a lawsuit "until all procedural options (spelled out in Chapter 164 Florida Statutes) are exhausted," but that the resolution and negotiations don't have to take place before the lawsuit is filed. The resolution will be on the next City Council agenda, he said. Because of the summer break, West Melbourne council members have not had a regular meeting since early July.

Mr. **Gougelman** warned that any plans for West Melbourne to seek another water source would result in higher costs to residents. "What is the goal here?" he said. "Is the goal disengagement (from Melbourne) or to (maintain the lowest) the water rates for individual customers?"

Earlier this summer, the Melbourne City Council heard from hired consultant Gerald Hartman, who said West Melbourne residents would pay higher rates if they got their water from Palm Bay or from a newly constructed water plant in West Melbourne. Mr. Wilson argued that Melbourne already plans to increase rates for West Melbourne residents, and more hikes might be planned. "They have already announced an increase to their rates effective Oct. 1," he said. "In addition to that increase, Melbourne has publicly stated that they 'subsidize' the West Melbourne rates."

No such subsidy exists, said Mr. Wilson, because West Melbourne pays the same rate per thousand gallons as Melbourne customers. "The misrepresentation that West Melbourne is subsidized is one of the issues that led to this lawsuit," he said. "The only question is how much Melbourne intends to increase rates to West Melbourne." As part of the state-mandated conflict resolution process, staff members from both cities must meet to try to resolve the issue - something that has already been happening monthly for the past two years. If no resolution is achieved, a joint meeting of both city councils will be next. The two councils met on July 25, 2007 in a similar attempt to resolve the dispute.

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Paul R. Gougelman

(Articles are in reverse chronological order)

Hometown News (Fort Pierce, FL)

November 23, 2007

Town moves past legal fight Relief and concern expressed at recent town meeting

Author: Karen Braynard

MELBOURNE BEACH - After 10 months of controversy and debate, the town has come to a final agreement with Thijs Stelling, owner of the Chevron station on Oak Street. In a special meeting Nov. 13, the Town Commission swiftly approved a settlement agreement of the Chevron lawsuit after listening to a few comments from residents. "Contrary to rumors, this is not the commission overruling the board of adjustment," said **Paul Gougelman**, town attorney. "This procedure, called confessing error, has the legal effect of reinstating the variances. Mr. Stelling will release the Town, Commission, and town employees from any liability for circumstances up to today," said Mr. **Gougelman**.

Residents were afforded the opportunity to voice opinions, however their comments were not addressed prior to the board voting unanimously to settle the lawsuit. Resident Frank Cariou, used his three minutes of allotted time to say he believes Mr. Stelling sued the town knowing he negotiating with Walgreens. "He misled the town, therefore it should be negated," Mr. Cariou said.

Another resident, George Walters, said he's didn't believe Mr. Stelling's hardship and said he called the Chevron regional office and they would not substantiate any hardship requirements for the Melbourne Beach Chevron station. "I'm happy and relieved this has been settled. We hope things can now go smoothly and I'm looking forward to a good year with the newly elected commissioners," said Mayor William Stacey.

Charles "Chad" Tennant, the newest commissioner, and former board of adjustment member, said he was glad for the resolution and hopes that Mr. Stelling can now move forward with his life and his business. "The board of adjustment is five people who are trained and have extensive experience. They're not afraid to make difficult decisions and follow procedures," said Mr. Tennant. "The meeting granting the variances was legal, the vote was appropriate and four out of five felt the threshold of hardship was proven," he said. Mr. Tennant also said it's the board's job to determine hardship. "It's a very subjective thing."

Walgreens' interest in the site met reality in recent weeks as the company applied for a special exception to the 8B zoning, which is residential, and a variance for the number of loading zones required by code. Jim Bursick, town manager, said the Walgreens applications would use Mr. Stelling's property and the vacant lot to the west, which belongs to Melbourne Beach resident Wendy Murray. "The special exception is to allow a retail establishment in this zoning which is residential/retail," said Mr. Bursick.

Mr. Stelling said he can now move forward. "In a way I'm glad this part is over, but I'm disappointed that it took so long and I lost so much money fighting this," said Mr. Stelling. "Now

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Paul R. Gougelman

(Articles are in reverse chronological order)

that I have the variances, I can go back to the bank to ask for financing," he said. His original loan was approved more than a year ago, he said, and is no longer valid. "I'll be starting from scratch," he said.

As for the rumors, Mr. Stelling confirmed that he has received interest from several businesses, in addition to Walgreens, concerning his property now that the lawsuit is over. "Banks, oil companies and McDonald's have approached me," said Mr. Stelling.

Internet – Newspaper Archives Searches**Paul R. Gougelman***(Articles are in reverse chronological order)*

Hometown News (Fort Pierce, FL)

August 3, 2007

Melbourne, West Melbourne solve issues in rare meeting

Author: Gretchen Sauerman

INDIALANTIC - Melbourne and West Melbourne city councils, attorneys and staff gathered on neutral territory to settle some of the cities' most contentious issues. After more than three hours, the cities' leaders discovered they had much in common. The first-ever joint summit was called as part of the state's conflict resolution process - essentially the last step before the cities begin filing lawsuits against each other.

At issue: which city would annex and supply utilities to a 21-acre parcel of land located near the northeast corner of U.S. 192 and Interstate 95. The land owner, Craig Hesse, signed a pre-annexation and utility service agreement with the city of Melbourne in September 2005. Last April, West Melbourne annexed the property, drawing immediate fire from Melbourne's leaders. Because the cities' technical staff and attorneys were unable to reach a settlement, the case seemed destined for a lengthy court battle.

Before cities can go to court against each other, Florida Statutes require a joint meeting between the two councils as part of the conflict resolution process. On July 25, members of the two councils, flanked by their attorneys and staff, filed into the Indialantic council chambers for a faceoff. Melbourne's outside counsel, Tom Cloud, described the city's position. "If we reach an impasse, Melbourne has to make a decision whether to sue or not to sue," said Mr. Cloud. After contending that Mr. Hesse had broken his contract with Melbourne, he said the city was prepared to escalate the dispute. "A deal's a deal," said Mr. Cloud.

When Mr. Cloud finished his presentation, West Melbourne's outside counsel, Scott Glass, outlined his city's position. "We prefer to avoid litigation," said Mr. Glass. "We're going to be living next to each other for a long time." Mr. Glass presented a timeline of Mr. Hesse's negotiations with Melbourne for water and sewer service to his property. After a frustrating process with Melbourne's staff resulted in no progress, Mr. Hesse turned to West Melbourne for help, Mr. Glass said.

Melbourne's officials disputed Mr. Glass's timeline, and Melbourne Mayor Harry Goode asked Mr. Hesse why he never brought his complaints to the council's attention. "I've been mayor for nearly three years," said Mayor Goode. "Nobody has ever come to our council saying 'You've got a problem with our staff.'"

Mr. Hesse countered that he has never been in front of the West Melbourne council, but that council was well aware of his tribulations because West Melbourne's staff kept the council informed. "You'd have to talk to your own city administrators for that answer," said Mr. Hesse. After hearing from both cities and the property owner, the meeting facilitator, former state Sen. Rick Dantzer, described the situation as a three-legged stool.

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Paul R. Gougelman

(Articles are in reverse chronological order)

The main questions: Who would supply water to the property? Who would supply sewer to the property? Who would annex the property? "Help me out here," said Mr. Dantzer. "What is a potential settlement? We need to try to put in enough sweet to overcome the sour." The two councils appeared deadlocked for more than two-and-a-half hours. "You don't go behind the other entity's back and breach the agreement," said Melbourne council member Cheryl Palmer.

Mr. Hesse counter that Melbourne had breached its agreement by delaying decisions and not being responsive. "I agree with Mr. Cloud on one count," said Mr. Hesse. "A deal's a deal." After taking a brief break to allow parties to cool off, Mr. Dantzer took a closer look at the counteroffers from both cities. "I see commonality with the two offers," said Mr. Dantzer. "(They both suggest) West Melbourne annex the property and Melbourne supply the water." He asked the two parties to consider the commonality and negotiate which city could best provide sewer service.

From the start, one of the biggest technical questions has been whether Melbourne was able to offer adequate transmission lines to move sewage from the property to the city's water treatment plant. A \$15,000 study commissioned by Melbourne was inconclusive, with engineers from Melbourne and West Melbourne citing the study for the basis of their position. "I think there is a big disagreement over the engineering report," said Ms. Palmer.

As the meeting reached another impasse, West Melbourne city manager David Reynal presented a new counteroffer that involved another disputed property near Mr. Hesse's. "If we can resolve Mr. Hesse's and the Coastal Commerce property on the east side," said Mr. Reynal, "that's a solution I'd recommend." Staff members from both cities performed some quick calculations and decided the offer was palatable for both sides. In the end, the councils decided on a plan that would allow West Melbourne's annexation of Mr. Hesse's property to stand, while Melbourne would supply water and sewer service to the property.

Melbourne, in turn, would free-up permitting for the Coastal Commerce project, owned by Kansas developer Shad Cunningham. Council members from both sides approved the move, with the exception of West Melbourne's Virginia Blanchard and Jan Lieson, who were concerned that Melbourne would use the utility service to Mr. Hesse's property as leverage to annex more land near their city's western border. "This is a Trojan horse," said Ms. Blanchard.

After the meeting, members from both councils spent time shaking hands and making plans for a future meeting to discuss more of the cities' disputes. "We're leaving the table feeling like we've accomplished something for two property owners," said Ms. Palmer.

Melbourne's city attorney, **Paul Gougelman**, praised the group's efforts. "I think we need to get back together and start talking," said **Mr. Gougelman**. "This is very unique." West Melbourne city manager David Reynal agreed. "I'm pleased we reached an agreement," said Mr. Reynal. "Hopefully, we will set the pace for future negotiations."

Internet – Newspaper Archives Searches

Paul R. Gougelman

(Articles are in reverse chronological order)

Hometown News (Fort Pierce, FL)

March 2, 2007

Town hires municipal council

Author: G.W. Pomichter

After months of searching, Melbourne Beach commissioners chose attorney Gary Sacks as their municipal council. The position opened up in October 2005, when former town attorney **Paul Gougelman** resigned as the commission faced several controversies, including a lawsuit over its height restrictions and increasing commission pressures on town staff. After more than a year, Mr. **Gougelman** reapplied for the job, telling commissioners that in hindsight he might have made a different decision. Since that time, Gary Sacks has acted as the town's interim legal council. "He has done a great job, and he is always available to us," said Mayor Bill Stacey. "That is a large part of why he has been selected as our permanent town attorney."

Among the top candidates for the job were former town attorney **Paul Gougelman** and municipal attorney Karl Bohne, who represents neighboring Indian Harbour Beach. "All of the attorneys are very capable and had excellent resumes," Mayor Stacey said. "It was a very hard decision to make."

At a four-hour special meeting of the Melbourne Beach Town Commission Saturday, Feb 17, officials interviewed each of the attorneys with an eye toward the small town's unique political climate. "I know you are used to the small quiet meetings in Indian Harbour Beach. Things are a lot different down here," Commissioner Sandy Wilson said during Mr. Bohne's interview. "We have a very active and outspoken community." That is one of the key reasons commissioners gave for hiring Mr. Sacks. "He's done well working with our community as the interim attorney," said Mayor Stacey. Another key to the commission's decision was availability. In fact, Mayor Stacey said that was a big part of the reason the commission didn't select its former town attorney.

"Mr. **Gougelman** was really only available to us after 5 p.m.," he said. "We wanted someone who could be accessible regularly during the day. I was particularly interested in someone who could work with Jim Bursick, our town manager." The selection of Mr. Sacks as the permanent town attorney is the latest in a series of administrative hirings town officials hope will bring stability to the municipality.

In the past year, the town has replaced its town manager, town clerk, building inspector and is looking for a permanent police chief in the wake of former chief, Dave Syrkus's, felony conviction. Mayor Stacey said he was hopeful that his community was becoming more stable. "I think we have a great community, and our people deserve the best town staff we can hire to serve them."

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Paul R. Gougelman

(Articles are in reverse chronological order)

Hometown News (Fort Pierce, FL)

May 26, 2006

City may ban sexual predators

Author: G.W. Pomichter

"This is not punitive, it's protective," said Mary Cogshall, as she spoke to Indialantic city officials about increasing restrictions on sexual offenders and predators within the city limits. Ms. Cogshall said that state standards are not tough enough to protect the city's children from harm, and she believes more stringent municipal laws would help. That's why the city of Indialantic will consider joining other municipalities throughout the state in implementing stricter guidelines to track and restrict the movements of sexual predators and offenders in their 1-square-mile city.

While the state standard currently forbids these stigmatized felons from living within 1,000 feet of schools, parks, bus stops and other places where children gather, and provides for semi-annual registration, new municipal restrictions could go even further. They may even drive these offenders out of the oceanside town altogether.

Last week the Council asked city attorney **Paul Gougelman** to prepare an ordinance, which, if passed, could increase the distance restrictions to 2,000 feet. "At 2,000 feet from every park or school, they're pretty much gone," said Councilman Dave Berkman. "That's a good thing."

Mr. **Gougelman** did caution council members the measure would help, but still would not have the same effect as state legislation. "Because this would be a city ordinance, it doesn't carry the same penalties that the state regulations do," he said. "Violators will be subject to fines and in some cases up to 60 days in jail, but the ordinance does not rise to the level of misdemeanor or felony crimes in the state's eyes."

Additionally, the new restrictions would have to be enforced solely by local police. That is something Indialantic police said would not have a great effect on their duties, as they currently have only one registered sexual predator within the city limits and no registered sexual offenders.

Mr. **Gougelman**, who has testified in numerous state legislative committees on the subject, described the problems associated with these types of restrictions as two-fold. The first he said was about safety. "We have a desire to keep our children and our citizens safe," Mr. **Gougelman** said. "These types of ordinances do not necessarily keep predators and offenders away from our city, they simply make it so they can't live here."

The second element of the issue is what Mr. **Gougelman** called the citizen "fear-factor," which he said the added restrictions would help to reduce. "No one wants to be afraid," he said. "These types of ordinances do help to make people in the community to feel more secure." That sense of security is something that may outweigh other concerns.

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Paul R. Gougelman

(Articles are in reverse chronological order)

Ms. Cogshall said she has even heard concerns about where predators and offenders will live and said she is far less concerned with that than with the safety of children in the community. "I do believe we need a more comprehensive approach to stopping recidivism and treating these problems. But until we have such a plan that really works, we have to protect our kids," Ms. Cogshall said. This was a sentiment that council members shared. "If we can do this and remove these people from our city without too much added expense, why wouldn't we do it," said Councilman Berkman. If passed the new ordinance would also include added reporting to the registration of those predators and offenders who might already live in the community and would not be affected by any new distance regulations.

Since the city doesn't currently have any registered offenders and police said the one predator is expected to relocate soon, the added registration requirements may only serve as another protective measure. Through the added restrictions, the city of Indialantic joins other Brevard municipalities including Melbourne and palm bay, who are taking steps to enhance what many feel are lax state regulations.

Brevard County has also considered county wide restrictions, which local governments feel are still not strong enough. At last week's council meeting, residents and council members seemed to be satisfied that any new ordinances should remove any sexual offenders or predators from within the city limits.

While restricting the entire city may seem extreme, Mr. **Gougelman** said similar restrictions with the same results have been upheld in courts throughout the country because of the nature of these types of crimes. "So far the courts have been surprisingly supportive of these types of restrictions." he said. The new ordinance is expected to be presented at next month's Council meeting, where it will have the final touches added before it can be passed.

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Paul R. Gougelman

(Articles are in reverse chronological order)

Florida Times-Union, The (Jacksonville, FL)

May 21, 2005

City may offer height cap claims settlements

Author: Caren Burmeister

The City Council will start discussing settlement options this week for three private property rights claims filed by people who said their plans to develop their oceanfront land was blocked by a voter-approved 35-foot building height cap. The council will hold a private meeting Monday to discuss the Bert Harris claims, which charge that the Nov. 2 building height cap or other building regulations have harmed the value of their properties.

Under the Bert J. Harris Jr. Private Property Rights Protection Act, a property owner is entitled to relief when a government regulation "inordinately burdens" the land's existing use. One Florida county last year paid a \$2.75 million Bert Harris claim to a developer after the county revoked a permit for the developer's hotel project. Nassau County faces a \$31 million Bert Harris claim from someone whose plans to develop a 227-home subdivision on Crane Island were hindered by a land-use change. One city is still dealing with a \$500,000 Bert Harris claim after the developer rejected the city's settlement offer last year to apply for a rezoning with the filing fees waived. Unlike most government meetings, which are open to the public, meetings to discuss settlement offers in Bert Harris claims are exempt from Florida's Government in the Sunshine Law. They are called shade meetings because they aren't conducted in an open forum.

City Manager George Forbes would not comment on the pending litigation or any possible settlement offers. The settlement offers won't become public until they have been accepted or rejected by the property owner who filed the Bert Harris claim. One claim was filed by Malcolm Marvin, the owner of First Street Grille at 807 First St. N., who charges that the city's height cap diminished his property's value by \$3.9 million. Marvin has a contract to sell the property to Lee Underwood, who planned to build the eight-story Acquilus III condo there. Another claim was brought by Scott Gay, who planned to build Ten North, a 10-story condo, at 1034 First St. N. Gay said the height cap devalued his land by \$1.7 million.

While Marvin and Gay both got preliminary approval for their condo development plans, they didn't get their building permits before the Nov. 2 deadline, the official date that was required to be exempt from the height restriction. A third property owner, David L. Smith, filed a Bert Harris claim against the city in February. Smith told the city that he was entitled to \$646,690 for building height changes that diminished the value of his property at 528 First St. N. and around the corner at 124 Fifth Ave. N. Smith's claim doesn't challenge the 35-foot building height referendum, but rather a building height rule that was in effect up to Nov. 2.

Under the Bert Harris law, a government agency has 180 days from the date of the claim to make a settlement offer. Since the law encourages government agencies to settle the claims, the offers can run the gamut. Among other things, the city could offer to compensate the property owner with money. Or, the city could issue a development order, variance or special exception, adjust

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permit standards, make a land exchange, put conditions on the amount or type of development or purchase the property. Or the city could offer to do nothing at all. If the property owner accepts the settlement, the claim is closed. If the owner rejects the settlement offer, they can file a lawsuit in Circuit Court and let a judge determine the claim's validity.

The Bert Harris Act, which the Florida Legislature passed in 1995, can be intimidating for elected officials because multi-million dollar claims could force them to raise taxes or issue a bond, said Melbourne City Attorney **Paul Gougelman**, who defended his city against a Bert Harris claim last year. "You couldn't put together a worse scenario" for a local elected official, **Gougelman** said.

However, the developer has an incentive to settle the claim because he's paying the mortgage and taxes on the property and paying an attorney to handle the claim and he's not making any money on the project, **Gougelman** said. Even so, the city needs to be realistic about its settlement offers, he said. The developer who has a good Bert Harris claim isn't likely to give away too much. "It's got to be worth the developer's time," **Gougelman** said.

He also noted that any settlement offer for a development plan that revises the 35-foot building height cap may have to be approved by a judge because the height rule is in the City Charter. "The city can't do something that's against the law," **Gougelman** said.

Last year, a developer filed a Bert Harris claim against Melbourne when height restrictions prevented him from building the Pineapple House condominiums, a project involving three eight-story buildings in the city's downtown historic district. In June, the Melbourne City Council repealed the height regulation ordinance because of a defect in how the law had been drafted, **Gougelman** said. The developer subsequently withdrew his Bert Harris claim and the condo is now under construction.

Here is how four other counties across the state have handled Bert Harris claims:

Collier County: The county lost a \$2.75 million Bert Harris claim in 2004 involving a hotel project on Vanderbilt Drive. Nearly \$2.6 million of that was paid by an insurance company. Collier County government kicked in the other \$175,000. The developer, Aquaport, filed the claim after commissioners, facing neighborhood opposition, revoked a permit to build the 68-unit hotel in May 2001. A judge ruled the developers had a county-approved site development plan and a building permit when the county revoked the building permit. The county agreed to pay the \$2.75 million settlement, thwarting a jury trial to determine how much the county owed the developers in damages.

Nassau County: The owners of Crane Island, who wanted to develop a 227-home subdivision on a 250-acre island on Amelia Island, filed a \$31 million Bert Harris claim against the county last year after they were denied a land-use change. They charged that the county incorrectly classified the property as wetlands when they adopted their 1993 comprehensive plan. The

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developers have since revised and downsized their development plan. County commissioners have had several closed meetings on the Bert Harris claim but no agreement has been reached.

Brevard County: Developer Steven Eber, who owns about 12 acres where he wanted to build an Albertsons grocery store, filed a Bert Harris claim against the county in 2000, saying the county's land development regulations damaged his investment by about \$665,000. The county made a settlement offer involving four or five options to Eber involving compromises on road access and parking changes and options that would preserve or mitigate the development's impact on the wetlands. But the claim is still pending.

Crystal River: A developer charged in a Bert Harris claim that he lost about \$500,000 on four lots along Kings Bay Drive because of the city's 35-foot height limit on residential property. The developer planned to build four 55-foot high homes based on laws in effect at the time when he bought the land. But in October 2002, the city passed a height ordinance limiting all residential construction to 35 feet.

Last year, city officials said the only feasible settlement option would be to suggest Suggs apply for a planned unit development rezoning with the filing fees waived. No promises for a height variance were made. Suggs turned down the offer and the claim is still pending.

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Paul R. Gougelman

(Articles are in reverse chronological order)

Palm Beach Post, The (FL)
March 18, 2005

**PSL OFFICIAL ATTORNEY ROAD CONSTRUCTION STATE FP ISSUE
ROAD PANEL NEEDS NO CITY OK, LAWYER SAYS**

Author: JIM REEDER

Port St. Lucie's approval isn't needed for the Metropolitan Planning Organization's new apportionment plan to take effect, according to a lawyer for a state advisory committee that disagrees with city officials' claims in a long-running dispute with St. Lucie County officials. City officials are confusing the state's reapportionment process with federal rules for creating or making a substantial change in the road planning board's organization, according to **Paul Gougelman III**, general counsel for a state panel composed of planning group chairmen from across the state.

The largest city's agreement is required for a federal designation of a planning organization, but not for determining who gets how many seats, **Gougelman** said in a letter to local officials. "I have to differ," Port St. Lucie Mayor Bob Minsky said. "Our city attorney said the letter was really bizarre, that **Gougelman** seemed to have reached a conclusion and then worked around to justify it." Minsky said state Department of Transportation official Robert Romig told him Port St. Lucie's approval is needed in both the state and federal procedures.

The transportation planning board composed of county, Port St. Lucie, Fort Pierce and Community Transit officials voted in December 2003 to increase its size from 10 to 12 members. Port St. Lucie would gain a fourth seat and a school district representative would be added to the panel. St. Lucie County would keep the four seats it has now.

Port St. Lucie officials voted against it, saying they should have half the seats because half the county's population is in the city. Gov. Jeb Bush later approved the reapportionment plan. **Gougelman** said there are three possible outcomes if the plan is challenged in court:

- Port St. Lucie could be barred from participating unless it agrees to the approved plan.
- Port St. Lucie could be allowed to participate but with three members, not the four offered through reapportionment.
- Port St. Lucie could have four seats even if it continues to refuse to sign an agreement.

Port St. Lucie officials said recently they would approve the plan if the planning organization's four employees are moved to Port St. Lucie. The panel has agreed to look at various alternatives such as contracting with a private firm to do the staff work. **Gougelman** said in his letter that city officials could ask for an administrative hearing on the dispute and, if unhappy with the outcome, go to court. Minsky said the city will raise the issue when federal officials come here to examine the planning organization's operation and decide whether it should be recertified to handle millions of dollars in federal transportation money.

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Paul R. Gougelman
(Articles are in reverse chronological order)

The Florida Times-Union
June 14, 1997

Flag flyer sues over ordinance Rule limits banners flown

Author: Mike Schneider

ORLANDO -- A used car dealer who is violating a Melbourne ordinance limiting the number of flags that can be flown on a property filed a lawsuit yesterday, the day before Flag Day, challenging the code. George Abchal, owner of A&B Auto Sales, also asked U.S. District Judge G. Kendall Sharp for a temporary restraining order that would lift the ordinance for 10 days. A spokesman for the judge said a decision won't be issued until Monday.

Melbourne's ordinance restricts to four the number of flags that can be flown on a property. The city regulates flags for safety and aesthetics, city officials say. Violators can be fined up to \$250 a day. Until last year, the law exempted American flags. The law was changed last August following a federal Court of Appeals decision which struck down a similar ordinance in Clearwater that limited to two the number of flags that could be flown on commercial property. American flags were exempted from that restriction.

The appellate court said the Clearwater ordinance violated free speech rights by regulating content and that city officials couldn't restrict one flag but not another. Melbourne rewrote its law to follow the court ruling. But Abchal's lawsuit said Melbourne's code created a chilling effect for people who want to display many flags. "We want people to be able to display their patriotism with as many flags as they want," said David Wasserman, Abchal's attorney.

Abchal had been flying up to two dozen 11 1/2-inch-by-16-inch American flags on his cars at A&B Auto Sales when he was cited by Melbourne officials in February. The used car dealer refused to take the flags down. "I started this thing off because I thought they looked good on the lot, dressed it up and let people know that I'm an American," said Abchal, who said he planned to pass out American flags at his lot today to celebrate Flag Day.

Melbourne city attorney **Paul Gougelman** said Abchal won't be fined until the City Council in July gives final approval to a revised definition of a flag. Under the new definition, a flag will be something "that is secured, usually by a flag pole, at two points, leaving the remainder of the cloth hanging limply or drooping." The current code defines a flag as "a piece of fabric of distinctive design and color that is used as a symbol of a government, political subdivision, corporation, business or other entity."

Wasserman said any piece of fabric, such as a swimsuit or ball cap, could be considered a flag under the current definition. The current code also regulates content, in violation of the appellate court decision, by making a distinction between government flags and flags with just colors, Wasserman said. **Gougelman** said a court decision may give some guidance in the murky area of how flags can be regulated. "Perhaps the court will find a way that we can fly flags but not have 100 flags," he said.

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Paul R. Gougelman
(Articles are in reverse chronological order)

Stuart News, The (FL)
April 26, 1997

OFFICIALS REVIEW LAWSUIT POLICY

Author: Greg Saitz

STUART - Martin County officials, who apparently have been settling lawsuits contrary to procedure specified in Florida law, said Friday they will review their policy. "Certainly since there's some concern expressed to us ... I'm automatically going to re-examine it," said Dan Hudson, the county's administrative services director. "It just seems to me people are reading a lot more into it than is there. If there is a public concern over the manner we're settling, then we may err on the side of caution in the future."

Until several months ago, the county allowed its insurer to pay out settlements in negligence lawsuits without bringing the cases before county commissioners. A 1987 state law requires governments to conduct public hearings on proposed settlements and allow for public comment. The law was amended in 1996 to cover settlements of more than \$5,000 only.

County officials did not think that pertained to cases in which the Treasure Coast Risk Management Program paid the settlements. But Florida Attorney General Bob Butterworth issued an opinion in September saying settlements by a county's insurer require public notice and a hearing.

"The attorney general told them there is no exception for an insurer payment and that's right," said Jon Kaney, a Daytona Beach attorney who frequently deals with media issues and open meetings laws. "The purpose of the statute is to make sure the public is aware when public money is being spent directly or indirectly through an insurer, because ultimately you pay for insurance coverage through premiums."

The county changed its practice in November, putting proposed settlements made by its insurer on the County Commission's consent agenda instead of having a public hearing. A consent agenda contains dozens of items considered routine and usually is approved with one vote.

Although anyone can request a consent agenda item be discussed before the vote, that rarely happens. If the public can't comment on a proposed settlement, that could be a problem, said **Paul Gougelman**, who is town attorney for the cities that asked Butterworth for an opinion on the issue. "I would not recommend to any of my cities to do it that way," said **Gougelman**, who is city attorney for the Brevard County towns of Melbourne Beach, Melbourne and Indialantic.

County officials designed the process to be low-key because "the county would not wish to disclose material facts of the case in order to avoid frivolous "copy cat" type lawsuits," Hudson wrote in a November memo to commissioners.

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That reasoning worries Kaney. "This picture of the lurking copycat litigator out there - what's really being covered up is some sort of mistake the people's government made and they're obscuring it from the people," he said. "What that shows me is, in fact, that there is a bad intent. There is an intent to conceal, there is a plain, literal intent to conceal."

So far, only one case has gone before the board under the new procedure. The county's insurer, TRICO, agreed in November to pay J. Allan Finn \$38,500 for injuries received in a car accident. County commissioners approved the settlement as part of the consent agenda during their Dec. 3 meeting.

Before that, TRICO paid out more than \$150,000 in 10 cases in the past few years, records show. Officials with McCreary Corp., the company that manages TRICO, would not discuss their procedures in settling cases. "I might have a lot of understanding, but I don't have to tell it to you," said Mark Spano, vice president of property casualty.

Hudson, one of four board members of TRICO who determine settlements, and former County Attorney Bob Guthrie defend the new process and the way it was done previously. "I think if you look around the state, that's the way everybody was doing it," Guthrie said Friday. Other governments in TRICO - St. Lucie County, Port St. Lucie and Stuart - also have changed their procedures. St. Lucie County never used to bring settlements reached by TRICO to commissioners, County Attorney Dan McIntyre said.

After Butterworth's ruling, they agreed to conduct public hearings on the settlements. Hudson said he might ask the county attorney for a formal opinion on whether the process complies with Florida law. Acting County Attorney Gary Oldehoff said Friday he is looking into the matter.

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Paul R. Gougelman

(Articles are in reverse chronological order)

Ledger, The (Lakeland, FL)
July 10, 1995

POLK SEARCHES FOR RIGHT FORM OF GOVERNMENT

Author: Eric Woodman

Second of four parts

Polk County is looking for its own versions of Thomas Jefferson, John Adams and Benjamin Franklin. After years of batting the idea around, the County Commission decided at this year's retreat to discuss writing a charter, a document that establishes the framework of government similar to what the U.S. Constitution does for the nation. But so far nothing has happened. "I have felt for some time that we would benefit even just by going through the process and the self-examination of studying charter government," said Commission Chairman Marlene Young. "I am personally an advocate for charter government, but I believe there has to be grass-roots support, and up until this point there has not been any."

Commissioners say they are fed up with taking the political heat for property taxes while having little control over where most of the money is spent. Drafting a charter, they say, could help them understand what the people of Polk want from their government as the county moves from a rural to an urban area.

At its February planning session, commissioners agreed to push to get a charter on the ballot, possibly as soon as the fall of 1996. Voters will have to make an important decision, the impact of which will be felt for decades. A charter can mean almost anything: It can call for a radical shift in the roles of county leaders -- including making some elected jobs appointed -- or it can be a subtle move toward more local control of county business. In any case, a charter can be tailor-made to fit the needs of the county.

Without a charter, the county remains under its current system of government -- called a constitutional government -- which is established by the state Legislature. Polk, the eighth-most-populous county in Florida, is the largest in the state without a charter. Tanis Salant, director of the University of Arizona's Office of Government Programs, said 75 percent of referendums attempting to establish charters in Florida fail.

The best way to get a charter passed is to draft a "starter charter" calling for minor changes, Salant said. "Then, in a few years, you go back and make more substantive changes," said Salant, who has written articles and studies about home-rule governments in several states, including Florida. "Unless there is a dramatic catastrophe, it's very difficult to make major changes out of the blue."

Charter in Brevard

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Paul R. Gougelman

(Articles are in reverse chronological order)

Paul Gougelman adopted the "starter charter" philosophy when he headed the charter committee in Brevard County, which last year became the 15th of the 67 Florida counties to adopt a charter. "Generally, people are very skeptical of major changes, and they are especially skeptical of changes in the political system," **Gougelman** said. "The reason that we pushed for a charter with only minor changes was so that people could come to understand that the charter form of government is superior to what they've got."

Significant changes in the Brevard charter include:

Giving voters the right to place a referendum on the ballot to overturn most ordinances.
Requiring voter approval before the county can spend more than \$15 million on any project.
Clearly defining the role of the County Commission and the county administrator. Removing party affiliations when electing constitutional officers -- the sheriff, clerk of courts, property appraiser, tax collector, state attorney, public defender and supervisor of elections. All now will run non-partisan races.

Gougelman said changes are coming about slowly, mostly because the charter hasn't been fully implemented yet. "The reason is that people are still coming to understand what they can do with the charter," he said. "We thought it would take a couple of years. We didn't set the first review of the charter until three years elapsed. After we get past the first revision, people will get a feel for what this animal is and what it can do for them."

Until then, more education is needed, he said. "The political process in Brevard is nothing short of bizarre," he said. "That adds to the problem of getting people comfortable."

More control to the people

Polk faces a situation similar to Brevard's, where residents were upset with county commissioners who did not follow constituents' wishes or made what voters considered bad decisions. Here, the biggest issue is the Polk County Courthouse.

National experts say disasters like that can be avoided through charters. "A charter can give the voters the right to vote on major projects," said John Thomas, executive director of the Washington, D.C.-based American Society for Public Administrators. "Or they can put a stop to them if things go wrong. It all depends on how it's written. The idea is to give more local control to the people." That includes control over constitutional officers, a touchy subject in Polk County.

Under the current system, the County Commission sets the property tax rate and allocates that income to its own departments and the constitutional officers. But the commission has little control over where the constitutional officers spend the money. "The public wants to know where their money is being spent," Young said. "We raise \$80 million a year in property taxes and have control over less than half of it. Everybody wants greater accountability. It's too easy to point fingers now."

Internet – Newspaper Archives Searches**Paul R. Gougelman***(Articles are in reverse chronological order)*

Sheriff Lawrence Crow Jr. said the public will not pass any referendums that broaden the power of the County Commission. The reason: The commission has been plagued by a series of public embarrassments, including building a courthouse that cost millions to repair because of "sick building" syndrome and having its county administrator resign after allegations of sexual harassment. "I think any attempt would be defeated by the voters," Crow said. "I don't think the public has the kind of trust in the County Commission at this point to give them any more power."

Crow stopped short of saying he will oppose a charter. Thomas said Crow's support will be critical to passage. "The largest opponent you have in most charter efforts is apathy," said Thomas, former executive director of the Florida Association of Counties. "If one or two of the constitutional officers decides to fight it, it is nearly impossible to pass."

Moving toward a charter

If it decides to pursue the idea further, the commission likely will have some powerful allies in getting a charter passed. The local League of Women Voters chapter has begun researching the idea of a charter. And a countywide committee of business leaders that has been looking for waste in county government appears ready to join the push. "I can't speak for the whole committee, but to me it's a no-brainer decision: We need a charter," said Mike Stedem, owner of Stedem Ford in Fort Meade and a member of the efficiency committee. "If Americans really want more accountability in government, then this is a very easy way to get it."

Winter Haven businessman Carl Strang, who co-chairs the efficiency committee, said a charter could be the best way "to avoid duplication of services that are inevitable in the current form of government." "As it is," he said, "the commission has all the political exposure but not very much control of the spending."

The efficiency committee already has recommended that the county consolidate the maintenance and repairs of all its vehicles under one department. It's a money-saving suggestion the county is expected to follow -- to the extent that it can. But with no say over the Sheriff's Office's 650 cars, the commission can't bring the sheriff under the same roof. "Short of a charter, there's no way to get it done," Stedem said. "The sheriff has his autonomy to protect, and he wants to control that sort of thing. We have to find ways to get rid of these fiefdoms."

Clerk of Courts E.D. "Bud" Dixon, a constitutional officer, says he doesn't see what all the fuss is about. "If the commission wants more control over my budget, why don't they just go to the state Legislature and ask them to give them a line-item veto?" he said. "Why do all this time-consuming and expensive charter stuff?"

He concedes there is a lot of wasteful duplication within the county. "The county has a great human resources department and I send all my applications to them," Dixon said. "I don't have to do that, but it would be a real waste of time, money and people to set up my own department. But I'm the only elected officer who uses the county. Some people want to protect their turf."

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Dixon said his biggest fear is that a charter would make elected jobs like his appointed. "I'm not keen on the idea of taking away the voters' right to throw the rascals out," he said.

Commissioner Young said it wouldn't be practical or passable to propose changing elected jobs. "The value is not so much in the product anyway," she said. "The value is in the process. It would open an honest, in-depth discussion of what we really want and need from county government." Dixon said he'll reserve final judgment on a charter until he knows the exact content of it. "When I see it written in black and white, I'll read it and I'll decide if I think it's what Polk County needs," he said. So will the rest of Polk County.

Research Compiled by: Cara Slade
 Colin Baenziger & Associates