

PROPOSAL OF



FOR

**CHARTER REVIEW COMMISSION
LEGAL SERVICES**

TO THE

**2020 ALACHUA COUNTY
CHARTER REVIEW COMMISSION**

Contact Person: Wade C. Vose, Esq.[†]
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[†]Wade Vose - Board Certified
in City, County and Local
Government Law



Dated: September 20, 2019

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September 20, 2019

Alachua County Charter Review Commission
c/o Sylvia Torres, Alachua County Attorney
12 SE 1st Street
Gainesville, Florida 32601

**Re: Proposal for Charter Review Commission Legal Services to the
2020 Alachua County Charter Review Commission**

Dear Members of the Charter Review Commission:

Overview of Firm and Charter Review Commission Representation Experience

It is with pleasure that the Vose Law Firm LLP makes this proposal to provide legal services to the 2020 Alachua County Charter Review Commission. As reflected in our proposal, the local government attorneys of our firm, Wade Vose, Becky Vose, and Nancy Stuparich, have extensive local government experience and have provided legal counsel to approximately seventy (70) local governmental agencies, including holding the position and serving as City Attorney, Town Attorney, Village Attorney, and County Attorney for sixteen (16) different Florida local governments, and having collective local government experience of over eighty-five (85) years.

Most relevant to this proposal, Wade Vose and the Vose Law Firm have had the honor of serving as General Counsel to five (5) county Charter Review Commissions throughout the State of Florida:

- 2012 Orange County Charter Review Commission
- 2016 Orange County Charter Review Commission
- 2016 Pinellas County Charter Review Commission
- 2016 Brevard County Charter Review Commission
- 2018 Clay County Charter Review Commission

In 2011 and again in 2015, Wade Vose and the Vose Law Firm were chosen to serve as General Counsel to the 2012 and 2016 Orange County Charter Review Commissions. In fact, Mr. Vose is the only attorney, other than former Orange County Mayor and U.S. Senator Mel Martinez, to have been chosen to hold that position twice, and both times as a result of a highly competitive selection process.

In 2015, Wade Vose and the Vose Law Firm were chosen to serve as General Counsel to 2016 Pinellas County Charter Review Commission, marking the first time in

the history of that county that the Pinellas County CRC was represented by someone other than the Pinellas County Attorney's Office or the former Pinellas County Attorney.

Also in 2015, Wade Vose and the Vose Law Firm were chosen to serve as General Counsel to 2016 Brevard County Charter Review Commission, again as a result of a highly competitive selection process.

Most recently in 2018, Wade Vose and the Vose Law Firm were chosen to serve as General Counsel to the Clay County Charter Review Commission.

In each of those capacities, Mr. Vose represented Orange, Pinellas, Brevard, and Clay Counties' respective CRCs at all CRC meetings, hearings, and committee and subcommittee meetings, providing legal advice and guidance concerning the CRCs' investigative inquiries, and the constitutionality, legality, and implementation of various charter amendment proposals. Mr. Vose prepared the ballot title, ballot summary, and amended charter language for each of the CRCs' charter amendments (6 in Orange, 6 in Pinellas, 2 in Clay), with a specific focus on both ballot language clarity, and strict compliance with the exacting standards of Sec. 101.161, Fla. Stat. and specialized case law governing the wording of ballot referenda.

Wade Vose and the Vose Law Firm also have substantial additional experience relating to charter amendments, charter review processes, and ballot referenda. In 2013 and 2014, Mr. Vose served as counsel to the City of Bunnell Charter Review Committee, and provided substantial legal and procedural guidance to that committee throughout its deliberations, resulting in Mr. Vose preparing the ballot titles, ballot summaries, and charter amendment language for seven (7) charter referendum questions placed on the municipal ballot. Further, in 2014, Mr. Vose also served as counsel and facilitator to the City of Deltona Charter Review Committee, which resulted in three (3) charter referendum questions prepared by Mr. Vose placed on the municipal ballot. Mr. Vose recently completed service as counsel and facilitator to the Town of Pierson Charter Review Committee, which was engaged in that town's first comprehensive review of its charter since 1929. Mr. Vose also recently completed service as counsel to the Cocoa Beach Charter Review Committee, which grappled with particularly contentious land use issues in their charter that culminated in a successful charter referendum question.

In addition to Mr. Vose's service as general counsel to the Orange, Pinellas, Brevard, and Clay County CRCs, and of further importance for this position, over the last 28 years, our firm has represented Orange County in numerous capacities, as well as two of its constitutional officers, the Orange County Sheriff, and the Orange County Property Appraiser. In addition, firm partner Nancy Stuparich is the former County Attorney for DeSoto County, and a former assistant county attorney for Escambia County. Finally, Mr. Vose currently serves as General Counsel to the Seminole County Supervisor of Elections, and previously served as General Counsel to the Seminole County Tax Collector. All of these engagements have given the attorneys of our firm significant

insight into the workings of charter counties, and the complex interplay among county departments, constitutional officers, municipalities, the Florida constitution, county charters, and county and municipal ordinances.

Included with this proposal are various samples of Mr. Vose's work relating to representing county charter review commissions. For example, to provide legal protection for the 2012 Orange County CRC in light of Section 106.113, Fla. Stat. (restricting the use of government funds for political advertisements) for that CRC's longstanding practice of mailing voter education materials, Mr. Vose sought a formal opinion from the Florida Division of Elections authorizing the practice in light of a number of conflicting prior opinions from the Division. The formal opinion issued (DE 12-05), which agreed point for point with Mr. Vose's analysis as set forth in his request, formally authorized the practice, and has subsequently served as the seminal opinion setting forth how a local government may permissibly expend public funds relating to ballot referenda. (A copy of both Mr. Vose's request for opinion and DE 12-05 are attached as appendices.) Also included are two memoranda prepared by Mr. Vose for the 2016 Orange County CRC, addressing both the applicability of the single subject rule to county charter amendments, and a survey of county charter initiative petition provisions among Florida's 20 charter counties.

If chosen to provide legal services to the Alachua County Charter Review Commission, the attorneys of the Vose Law Firm, with Wade Vose acting as lead attorney, and Becky Vose and Nancy Stuparich providing back-up support, would provide exemplary legal services and advice to the CRC on all issues relating to the 2019-2020 Charter Review process. Our firm would work with the CRC facilitator and staff, as well as legislators, County staff, municipal staff, citizens, and other interested persons on issues and matters before the CRC. Mr. Vose would attend meetings of the CRC, and would perform research and prepare legal memoranda, resolutions, ballot provisions and other appropriate legal documents, and provide any other legal services related to the duties and responsibilities of the CRC.

Summary of Individual Attorneys' Local Government Experience

(Resumes later in Proposal.)

Wade Vose is Board Certified by the Florida Bar in the area of City, County and Local Government Law, and is the managing partner of the Vose Law Firm. He has been continuously practicing local government law for the last 16 years after graduating from law school with honors from the University of Florida. He is currently the Village Attorney for the Village of Indiantown (the State of Florida's most recently incorporated municipality, in Martin County), City Attorney for the City of Bunnell in Flagler County, Co-City Attorney for Cocoa Beach in Brevard County, Town Attorney for the Town of Pierson in Volusia County, General Counsel to Seminole County Supervisor of Elections, Special Magistrate for the City of Satellite Beach, and Counsel to the Pinellas County County Attorney Oversight Committee. Mr. Vose has served as General Counsel to the

Pinellas County Charter Review Commission, General Counsel to the Brevard County Charter Review Commission, General Counsel to the Clay County Charter Review Commission, and General Counsel to the Orange County Charter Review Commission.

Becky Vose is the Founding Partner of the Vose Law Firm. She is currently Co-City Attorney of Cocoa Beach in Brevard County, City Attorney of Anna Maria in Manatee County, and Town Attorney for Oakland in Orange County. Ms. Vose graduated number one in her law school class at the University of Florida in 1973, where she was Senior Class President, Chairperson of the Council of Ten, and on the editorial staff of the Law Review. She began her career as an Assistant City Attorney for Orlando and has continuously practiced local government law, land development law, and litigation for 46 years, and has served as City Attorney for eleven (11) Florida cities, as well as representing numerous other local government entities. Becky Vose was also the founding partner of the Orlando branch office of Shutts & Bowen, a statewide law firm which was the first law firm in the City of Miami, before founding the Vose Law Firm.

Nancy Stuparich has been licensed by The Florida Bar since 1987 and currently serves as City Attorney for the City of Brooksville in Hernando County, Assistant City Attorney for the City of Anna Maria, Assistant City Attorney for City of Cocoa Beach, Assistant City Attorney for the City of Bunnell and Special Magistrate for the City of Davenport. She formerly served as County Attorney of DeSoto County, Assistant County Attorney for Escambia County, Assistant General Counsel to the Florida League of Cities, Attorney for the Marco Island Planning Board, Staff Attorney to the Second District Court of Appeals, and Director of Growth Management for Escambia County. In addition to having a law degree from the University of Florida, Ms. Stuparich has masters degrees (MPA and MSP) in Public Administration and Urban Planning from Florida State University. In addition, Ms. Stuparich is certified as a Florida Redevelopment Professional by the Florida Redevelopment Association.

Successful Representation of Local Governments a Substantial Distance from Office

Our firm has a long and successful history of representing local governments that are located substantial distances from the firm's Winter Park office. Currently our firm represents the City of Cocoa Beach (1 hour 15 minutes away), the City of Bunnell (1 hour 30 minutes away), the Town of Pierson (1 hour 15 minutes away), the City of Brooksville (2 hours away), the Village of Indiantown (2 hours 15 minutes away), and the City of Anna Maria (2 hours 15 minutes away) as those cities' City Attorney. As mentioned, the firm also successfully represented the Pinellas County CRC (2 hours 15 minutes away), the Brevard County CRC (1 hour 15 minutes away), and the Clay County CRC (2 hours 15 minutes away) as their general counsel. The Vose Law Firm does not charge its local government clients for travel time or long distance calls, and we utilize the latest in commercially available technology to remain in constant contact and fully available to the local government entities we represent.

In fact, there are numerous advantages to a local government entity hiring a truly “out of town” law firm to be its legal counsel. The Vose Law Firm does not have any conflict of interest with Alachua County or the Alachua County Charter Review Commission. During the course of our representation, our firm will never represent any city, constitutional officer, or other local government entity in Alachua County. The attorneys of our firm are essentially immune from pressure that might come to bear upon attorneys and firms with practices located closer to or in Alachua County.

At the same time, through the extensive comparative analysis among county charters that is inherent in charter review commission representation, we have become familiar with the Alachua County Charter and its history. Rest assured that we will be well positioned to “hit the ground running” upon being retained as legal counsel to the Alachua County Charter Review Commission.

Further, as a result of our uniquely extensive experience representing county charter review commissions, the Vose Law Firm would be able to offer the Alachua County CRC the most “bang for the buck” when it comes to legal research on esoteric issues relating to the constitutional and statutory powers of charter counties and county charters, because we have researched literally dozens of such issues for other charter review commissions. The entire body of that research and knowledge would be available to you when you engage the Vose Law Firm.

Summary of Fee Proposal

Finally, our firm’s fees have historically proven extremely competitive, both generally and in light of the quality of legal services we provide. The Vose Law Firm would provide legal services to the Alachua County Charter Review Commission at the **hourly rate of \$150 per hour for attorney time**, and \$75 per hour for paralegal time. There would be no charge for travel time, and no charge for Westlaw or Lexis fees. No “overhead factor” would be charged. Out of pocket costs would be charged at cost, with no mark-up or multiplier. There would be no separately billed copying charges unless copies are made through a third party copying firm, with the prior authorization of the CRC or its designee.

The Vose Law Firm has always adhered to the principle that the provision of legal services should be driven by client need. At all times, we would remain cognizant of and adhere to the budgetary parameters the CRC has established.

Conclusion

Based on our extensive experience in the fields of local government and county charter law, we feel that we are extremely well qualified to fulfill the duties of legal counsel to the Alachua County Charter Review Commission. Our firm would be honored to have the opportunity to supply legal services to the Alachua County Charter Review

Commission. We pride ourselves in providing high quality, prompt legal services in a professional manner for an affordable price.

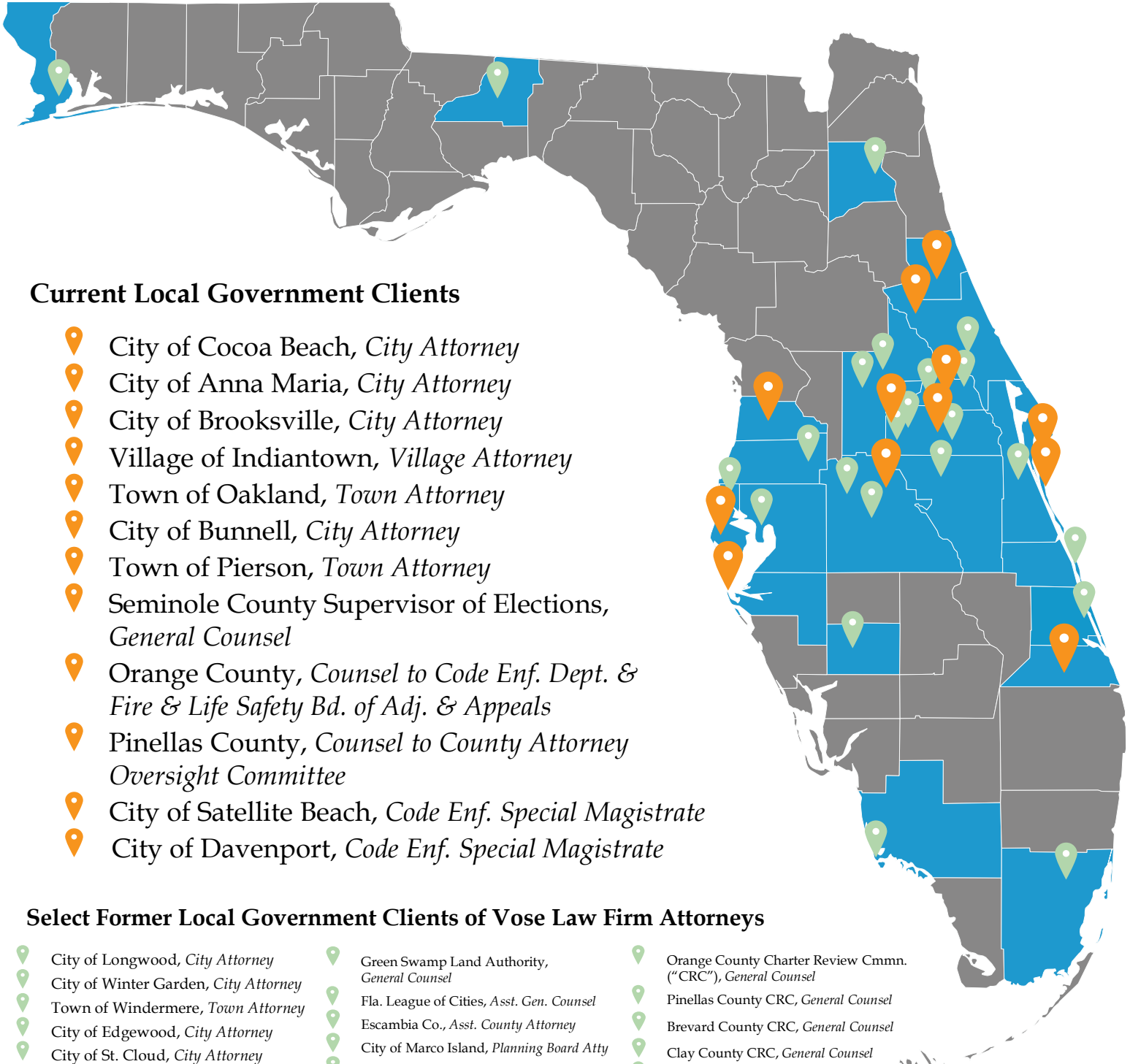
Thank you in advance for your review and consideration of our proposal.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Wade C. Vose', followed by a period.

Wade C. Vose, Esq.
Managing Partner

Current & Former Local Government Clients



Current Local Government Clients

- 📍 City of Cocoa Beach, *City Attorney*
- 📍 City of Anna Maria, *City Attorney*
- 📍 City of Brooksville, *City Attorney*
- 📍 Village of Indiantown, *Village Attorney*
- 📍 Town of Oakland, *Town Attorney*
- 📍 City of Bunnell, *City Attorney*
- 📍 Town of Pierson, *Town Attorney*
- 📍 Seminole County Supervisor of Elections, *General Counsel*
- 📍 Orange County, *Counsel to Code Enf. Dept. & Fire & Life Safety Bd. of Adj. & Appeals*
- 📍 Pinellas County, *Counsel to County Attorney Oversight Committee*
- 📍 City of Satellite Beach, *Code Enf. Special Magistrate*
- 📍 City of Davenport, *Code Enf. Special Magistrate*

Select Former Local Government Clients of Vose Law Firm Attorneys

- | | | |
|---|--|--|
| 📍 City of Longwood, <i>City Attorney</i> | 📍 Green Swamp Land Authority, <i>General Counsel</i> | 📍 Orange County Charter Review Cmmn. ("CRC"), <i>General Counsel</i> |
| 📍 City of Winter Garden, <i>City Attorney</i> | 📍 Fla. League of Cities, <i>Asst. Gen. Counsel</i> | 📍 Pinellas County CRC, <i>General Counsel</i> |
| 📍 Town of Windermere, <i>Town Attorney</i> | 📍 Escambia Co., <i>Asst. County Attorney</i> | 📍 Brevard County CRC, <i>General Counsel</i> |
| 📍 City of Edgewood, <i>City Attorney</i> | 📍 City of Marco Island, <i>Planning Board Atty</i> | 📍 Clay County CRC, <i>General Counsel</i> |
| 📍 City of St. Cloud, <i>City Attorney</i> | 📍 Town of Indian River Shores, <i>Special Land Use Counsel</i> | 📍 N. Lake County Hospital Board of Trustees, <i>General Counsel</i> |
| 📍 Town of Eagle Lake, <i>Town Attorney</i> | 📍 City of Miami Lakes, <i>Asst. City Attorney</i> | 📍 Lake County, <i>VAB Magistrate</i> |
| 📍 City of Deltona, <i>City Attorney</i> | 📍 Lake County, <i>Land Use Special Magistrate</i> | 📍 Hillsborough Co., <i>VAB Magistrate</i> |
| 📍 City of Dade City, <i>City Attorney</i> | 📍 City of Ft. Pierce, <i>Special Investigative Counsel</i> | 📍 Seminole County Tax Collector, <i>General Counsel</i> |
| 📍 DeSoto County, <i>County Attorney</i> | | |

RESUMES OF FIRM ATTORNEYS

WADE CHRISTOPHER VOSE

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EDUCATION AND BAR DATA

Legal	University of Florida College of Law Gainesville, FL J.D. with Honors, May 2003 Book Awards: Environmental Law Intellectual Property Law Family Law Recipient of the Levin College of Law Leonard Scholarship
Undergraduate	University of Florida Gainesville, FL B.A. in Political Science, with Honors, May 2000 National Merit Scholar / Florida Academic Scholar Omicron Delta Kappa Leadership Honorary
Preparatory	Bishop Moore Catholic High School Orlando, FL Graduated with Highest Honors, May 1996 Student Body President Valedictorian
Admitted	Florida Bar – Admitted and Member in Good Standing – Bar No. 685021 U.S. District Court, Middle District of Florida U.S. District Court, Northern District of Florida Orange County Bar Association City, County, and Local Government Law Section – Florida Bar Environmental & Land Use Law Section – Florida Bar
Certification	Board Certified in City, County and Local Government Law

PROFESSIONAL EXPERIENCE

Vose Law Firm LLP (Winter Park, FL)

Partner - As partner in an AV-rated law firm focusing in local government representation, real estate and development law, and complex business litigation, responsible for every segment of the representation and litigation process, including representation of government boards, client counseling, evaluation of claims and defenses, development of litigation strategies, preparation of pleadings, discovery, motions, and memoranda, and argument before trial and appellate courts. January 2004 to present.

2016 Pinellas County Charter Review Commission (Clearwater, FL)

General Counsel - As General Counsel to the commission empowered by the Pinellas County Charter to review, on behalf of the citizens of Pinellas County, the operation of county government in order to recommend amendments to the Pinellas County Charter, responsible for advising the 2016 Pinellas County Charter Review Commission ("CRC") as to all legal matters, including legality and constitutionality of CRC actions and proposed charter amendments, representation of CRC at public meetings, and preparation of charter amendment and ballot language. September 2015 to November 2016.

2016 Orange County Charter Review Commission (Orlando, FL)

General Counsel - As General Counsel to the commission empowered by the Orange County Charter to conduct a comprehensive study of all phases of county government and place proposed charter amendments on the ballot for voter approval, responsible for advising the 2016 Orange County Charter Review Commission ("CRC") as to all legal matters, including legality and constitutionality of CRC actions and proposed charter amendments, representation of CRC at public meetings, preparation of charter amendment and ballot language, and preparation of CRC final report. March 2015 to November 2016.

2016 Brevard County Charter Review Commission (Viera, FL)

General Counsel - As General Counsel to the commission empowered by the Brevard County Charter to review and propose amendments to the Brevard County Charter, responsible for advising the 2016 Brevard County Charter Review Commission ("CRC") as to all legal matters, including legality and constitutionality of CRC actions and proposed charter amendments, representation of CRC at public meetings, and preparation of charter amendment and ballot language. October 2015 to November 2016.

2018 Clay County Charter Review Commission (Green Cove Springs, FL)

General Counsel - As General Counsel to the commission empowered by the Clay County Charter to review and propose amendments to the Clay County Charter, responsible for advising the 2018 Clay County Charter Review Commission

("CRC") as to all legal matters, including legality and constitutionality of CRC actions and proposed charter amendments, representation of CRC at public meetings, and preparation of charter amendment and ballot language. December 2017 to July 2018.

2012 Orange County Charter Review Commission (Orlando, FL)

General Counsel - As General Counsel to the commission empowered by the Orange County Charter to conduct a comprehensive study of all phases of county government and place proposed charter amendments on the ballot for voter approval, responsible for advising the 2012 Orange County Charter Review Commission ("CRC") as to all legal matters, including legality and constitutionality of CRC actions and proposed charter amendments, representation of CRC at public meetings, preparation of charter amendment and ballot language, and preparation of CRC final report. August 2011 to Nov. 2012.

Village of Indiantown, Florida (Indiantown, FL)

Village Attorney - As Village Attorney to Florida's newest municipality, just formed at the end of 2017, responsible for providing legal advice to the Village Council, Village Manager, Village boards and staff as the Village charts its own course, drafting ordinances, resolutions, and agreements, handling real estate transactions, and conducting litigation on behalf of the Village. September 2018 to present.

City of Cocoa Beach, Florida (Cocoa Beach, FL)

City Attorney - Vose Law Firm, Becky Vose, and Wade Vose jointly serve as City Attorney to the City of Cocoa Beach, the famous beach community on Florida's Space Coast. Responsible for providing legal advice to City Commission and other City boards at public meetings as needed, advising all city departments, drafting city ordinances and resolutions, and conducting litigation on behalf of the City. July 2017 to present.

City of Bunnell, Florida (Bunnell, FL)

City Attorney - As City Attorney for this Flagler County city that serves as county seat and is the second largest city geographically in Florida (after Jacksonville), responsible for providing legal advice to City Commission and other City boards at public meetings as needed, advising all city departments including planning, finance, police, grants, and public works, drafting city ordinances and resolutions, handling real estate transactions, and conducting litigation on behalf of the City. October 2013 to present.

Seminole County Supervisor of Elections (Sanford, FL)

General Counsel - Responsible for providing legal advice and representation concerning compliance with all statutory and regulatory requirements relating to the rights and duties of Supervisor of Elections under Florida law, legal

representation with respect to interactions with the Florida Division of Elections, legal representation relating to the Seminole County budgeting and budget amendment processes, representation, advice, and preparation of proposed legislation relating to legislative affairs matters meetings with legislators, legislative and administrative staff, concerning legislative affairs matters, and all other related matters as requested by the Supervisor of Elections. February 2019 to present.

Pinellas County, Florida (Clearwater, FL)

Counsel, County Attorney Oversight Committee - The County Attorney Oversight Committee is a unique collegial body created pursuant to Section 4.02 of the Pinellas County Charter, consisting of the seven members of the Pinellas County Commission, plus the five Pinellas County constitutional officers (Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court), organized to select, terminate, and annually review, the Pinellas County Attorney. As Counsel to the Committee, responsible for providing outside and impartial legal advice throughout its process of selection, termination, and annual review of the Pinellas County Attorney. February 2017 to present.

Town of Pierson, Florida (Pierson, FL)

Town Attorney - As Town Attorney for the Town of Pierson, a small Volusia County town known as the “Fern Capital of the World,” responsible for providing legal advice to the Town Council and other Town boards at public meetings, advising all Town staff, drafting ordinances and resolutions, and conducting litigation on behalf of the Town. June 2015 to present.

City of Anna Maria, Florida (Anna Maria, FL)

City Attorney - Vose Law Firm, Becky Vose, and Wade Vose jointly serve as City Attorney to the City of Anna Maria, an idyllic coastal city on Anna Maria Island in the Gulf of Mexico. Responsible for providing legal advice to City Commission and other City boards at public meetings as needed, advising all city departments, drafting city ordinances and resolutions, and conducting litigation on behalf of the City. March 2015 to present.

City of Brooksville, Florida (Brooksville, FL)

City Attorney - Vose Law Firm, Becky Vose, Wade Vose, and Nancy Stuparich jointly serve as City Attorney to the City of Brooksville, the county seat of Hernando County. Responsible for providing legal advice to City Commission and other City boards at public meetings as needed, advising all city departments, drafting city ordinances and resolutions, and conducting litigation on behalf of the City. September 2017 to present.

City of Satellite Beach, Florida (Satellite Beach, FL)

Special Magistrate - As the first Code Enforcement Special Magistrate for the City

of Satellite Beach, a coastal city located near Patrick Air Force Base in Brevard County, responsible for serving as an impartial magistrate to adjudicate violations of the City of Satellite Beach code of ordinances. February 2017 to present.

Seminole County Tax Collector (Sanford, FL)

General Counsel / Outside Counsel – Responsible for providing legal advice and representation concerning compliance with all statutory and regulatory requirements relating to the rights and duties of Tax Collector under Florida law, initiating, maintaining, and defending lawsuits on behalf of the Tax Collector, land use and construction law matters relating to the siting, construction and maintenance of branch offices, labor law matters relating to Tax Collector employees, legal representation relating to statutorily-governed interactions with the Seminole County Property Appraiser and the Seminole County Clerk of the Circuit Court, legal representation relating to Department of Revenue budgeting and budget amendment processes, representation, advice, and preparation of proposed legislation relating to legislative affairs matters, and all other related matters as requested by the Tax Collector. January 2017 to April 2019.

City of Deltona, Florida (Deltona, FL)

Chief Assistant City Attorney – Vose Law Firm and its Founding Partner, Becky Vose, served for over half a decade as City Attorney to the City of Deltona, an 87,000 resident community in Volusia County. As Chief Assistant City Attorney, responsible for providing legal advice to City Commission and other City boards at public meetings, as necessary, drafting of city ordinances and ordinance amendments, and litigation on behalf of the City. June 2011 to February 2017.

Eighth Judicial Circuit State Attorney's Office (Gainesville, FL)

Certified Legal Intern – Responsible for prosecution of criminal cases as the sole Certified Legal Intern in the Bradford County, Florida office of the Eighth Circuit State Attorney's Office. January 2003 to May 2003.

Ninth Judicial Circuit of Florida (Orlando, FL)

Judicial Law Clerk - Clerked for Circuit Judge Walter Komanski. Responsible for conducting legal research, drafting legal memoranda, final judgments and other judicial orders, and assisting the judge throughout a variety of trials and hearings. May 2001 to August 2001.

PROFESSIONAL ACTIVITIES, AWARDS, AND COMMUNITY INVOLVEMENT

Orange County Government

Authority Member - Orange County Industrial Development Authority (November 2014 to May 2018) – Serve as one of five governing members of an industrial development authority responsible for issuing industrial development revenue bonds for the purpose of financing the costs of industrial or manufacturing plants, research and development parks, agricultural processing or

storage facilities, warehousing or distribution facilities, headquarters facilities, tourism facilities, educational facilities, commercial projects in enterprise zones, and health care facilities.

Chairman - Neighborhood Grants Advisory Board (Chairman – Oct. 2008 to Oct. 2009, Vice Chairman – Oct. 2007 to Oct. 2008, Member – Aug. 2006 to May 2011) – Responsible for approving criteria for neighborhood grant programs, overseeing the application review process, approval of recommended grant recipients, hearing appeals from grant applications, and monitoring progress of grant recipients.

Board Member - Orange Blossom Trail Development Board (August 2007 to Oct. 2010) – Responsible for promoting the economic, social, and aesthetic revitalization of the south Orange Blossom Trail area.

City of Maitland

Member - Board of Zoning Adjustment (November 2014 to December 2016) – Responsible for reviewing requests for variances from the regulations of each City of Maitland zoning district as they relate to area, size of structures, yards and open spaces, heights, etc., with the only appeal of their rulings to the Orange County Circuit Court.

Orlando Business Journal

Forty Under 40, Class of 2009 – Recipient of the Orlando Business Journal's prestigious Forty Under 40 Award, spotlighting forty of the Central Florida region's top young business and civic leaders who demonstrate consistent, outstanding professional achievement and a commitment to community service.

"Reader's Choice - Best Law Firm, 2009 & 2010" – Voted by the readers of the Orlando Business Journal.

The Federalist Society - Orlando Lawyer Division

Vice President (2003 to 2008) – The Federalist Society is an organization of 25,000 lawyers, law students, and scholars dedicated to the purpose of sponsoring fair, serious, and open debate about the proper role of the courts, the rule of law, and the need to enhance individual freedom.

Winter Park Chamber of Commerce

Member, Government Affairs Committee – Member of the Winter Park Chamber committee responsible for advocacy on behalf of the Winter Park business community at the local and state level and educating Chamber membership about current affairs effecting the Winter Park business community.

BusinessForce - Orlando Regional Chamber of Commerce

Alumnus, Class 1 - Central Florida Political Leadership Institute – Member of the exclusive 25-person inaugural class of Business Force's Political Leadership

Institute, a program designed to identify and equip Central Florida's next generation of elected leaders before they formally choose to run for a specific public office.

Rotary Club of Winter Park

Member of Board of Directors (July 2011 to June 2012)

Leadership Winter Park

Class Member, Class 20 (September 2009 to August 2010)

Leadership Orlando

Alumnus, Class 72 (March 2007 to October 2007)

Leadership Apopka

Alumnus, Class 1 (January 2008 to November 2008)

Orange County Bar Association

Committee Member - Young Lawyers Oath of Admissions Committee (June 2004 to September 2005)

Tiger Bay Club of Central Florida

Member (January 2005 to present)

Apopka Area Chamber of Commerce

Businessman of the Year 2008-2009

Chairman - Apopka Area Political Alliance (Apopka Chamber PAC) (August 2008 to February 2012)

Chairman - Issues & Government Affairs Committee (August 2007 to August 2009)

Member of Board of Directors (June 2007 to February 2012)

GRETCHEN R. H. ("BECKY") VOSE

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Winter Park, Florida 32789
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Cell: (407) 448-0111
Facsimile: (407) 628-5670
Email: bvose@voselaw.com



EDUCATION AND BAR DATA

Law Degree:	J.D. with High Honors. 1973 University of Florida College of Law Gainesville, Florida
Grade Average:	3.6 (four point system) Number 1 in Class
Undergraduate Degree:	B.A. in English with High Honors. 1970 Emory University, Atlanta, Georgia
Member/Admitted:	Florida Bar – Member in Good Standing since December 14, 1973 – Bar No. 169913 U.S. District Court, Middle District of Florida U.S. Fifth Circuit Court of Appeals U.S. Eleventh Circuit Court of Appeals U.S. Court of Appeals for Federal Circuit Orange County Bar Association
Rated:	AV by Martindale-Hubbell (highest rating awarded) Listed in Martindale-Hubbell Bar Register of Preeminent Lawyers

BAR RELATED ACTIVITIES AND HONORS

City, County & Local Government Law Section of Florida Bar
Chairperson, Women in Law Committee, Orange County Bar Association
Fee Arbitration Committee, Orange County Bar Association
Central Florida Association of Women Lawyers
Member, Eminent Domain Committees, Florida Bar and American Bar
Volunteer Guardian Ad Litem Orange Co. Legal Aid Soc. - Cited for Exceptional Service
Volunteer to Homeless Advocacy Program of Orange County Bar – Cited for Exceptional Service

LAW SCHOOL POSITIONS AND HONORS

Editorial Board, University of Florida Law Review
Order of the Coif
University of Florida Law School, Senior Class President
Law Center Scholarship
Chairperson of Council of Ten
Verdict staff
Judicial Intern
Foundation Press Award
Co-chairman from Florida Bar Law Student Division to Young Lawyers Section Bar
Review Study Course Committee

PUBLICATIONS

Politics Proof Estate Planning & Asset Protection (Book – Published Jan. 2009 by HamiltonBlaine) A guide to shielding your family, businesses, and assets from the legal and financial chaos brought on by 21st Century politics.

Environmental Survival Kit for Real Estate Professionals (Book and disk. Purchased in the 1990's by the Florida Board of Realtors to be used for continuing education purposes.)

PROFESSIONAL AND GOVERNMENTAL POSITIONS HELD

Assistant City Attorney, Orlando, Florida
Managing Partner/Chairperson, Real Estate Department, Shutts & Bowen Orlando office
Senior Partner, Vose Law Firm, LLP
Co-City Attorney, City of Cocoa Beach
City Attorney, City of Anna Maria
City Attorney, City of Winter Garden
City Attorney, City of Edgewood
City Attorney, City of St. Cloud
City Attorney, City of Eagle Lake
City Attorney, City of Brooksville
City Attorney, City of Longwood
City Attorney, City of Windermere
City Attorney, City of Deltona
Town Attorney, Town of Oakland
General Counsel for North Lake County Hospital Board of Trustees
Attorney for City of Orlando Code Enforcement Board
Special Counsel to City of Orlando as to Eminent Domain matters
Special Counsel to City of Ocoee
Special Counsel to City of Casselberry
Special Counsel to Orange County Sheriff's Office
City Prosecutor for City of Orlando

City Prosecutor for City of Edgewood
City Prosecutor for City of Winter Garden
Special Counsel to Orange County as to Code Enforcement Foreclosures
Special Counsel to Orange County as to Environmental Claims
Special Litigation Counsel to Orange County Property Appraiser
General Counsel for Green Swamp Land Authority
Counsel to Orange County Fire and Life Safety Code Board of Adjustments and Appeals
Special Counsel to Orange County as to §1983 Civil Rights Litigation
Eminent Domain Mediation Services for:
 Florida Department of Transportation
 Florida Turnpike Authority
 Seminole County
 Orange County
 Hillsborough County
 Lake County
 Polk County
Certified Circuit Court Mediator
Nominated for Appointment to Fifth District Court of Appeal

BIOGRAPHICAL SKETCH

GRETCHEN R. H. ("BECKY") VOSE

Ms. Vose graduated first in her law school class at the University of Florida College of Law, in 1973. While a law student, she was Senior Class President, Chairperson of the Council of Ten, on the editorial board of the University of Florida Law Review, recipient for three years of a Law Center Scholarship, recipient of the Foundation Press Award, member of the Verdict (law school newspaper) staff, Judicial Intern, and Co-Chairman from the Florida Bar Law Student Division to Young Lawyers Section Bar Review Study Course Committee. Upon graduation, Ms. Vose was tapped for membership in Order of the Coif.

In 1973, Ms. Vose was admitted to the Florida Bar and began her legal career as an Assistant City Attorney for Orlando. Thereafter she formed the law firm that is the predecessor to the Vose Law Firm. In 1981, Ms. Vose was recruited by Shutts & Bowen to open a branch office in Orlando. Ms. Vose opened the office and served as its first managing partner and partner in charge of the Real Estate Department. While at Shutts & Bowen, Ms. Vose was honored by being nominated by the Judicial Nominating Commission for a seat on the Fifth District Court of Appeal. After 10 years of partnership in Shutts & Bowen, Ms. Vose withdrew from that firm and moved her law practice to Winter Park.

Over the years, Ms. Vose represented numerous large corporate entities, such as Walgreens, BellSouth Telecommunications, Regions Bank, and M&I Bank, innumerable smaller and regional corporations, individuals, and governmental agencies. Ms. Vose has held the positions of City Attorney for the cities of Cocoa Beach, Anna Maria, Winter Garden, Edgewood, Longwood, Windermere, Oakland, Eagle Lake, St. Cloud, and Deltona, and has also done major work for Orange County government as to matters ranging from complex environmental litigation and the defense of §1983 Civil Rights claims. She also represented the Orange County Property Appraiser (OCA) in a multi-year complex intellectual property lawsuit about the software utilized by the Property Appraiser's office.

Ms. Vose has taught at numerous continuing legal education seminars and presentations to other attorneys relating to a variety of business and legal topics. In addition, Ms. Vose has regularly presented seminars and instructional sessions for employees and officials of both private and governmental clients.

Both Ms. Vose and the Vose Law Firm are rated A-V, which is the highest rating given by Martindale-Hubbell. Ms. Vose and the Vose Law Firm have also been listed in the Martindale-Hubbell Bar Register of Preeminent Lawyers. The Vose Law Firm was honored by being named "Reader's Choice – Best Law Firm, 2009" and "Reader's Choice – Best Law Firm, 2010", by the readers of the Orlando Business Journal.

NANCY ANN M. STUPARICH

Partner, Vose Law Firm, LLP
324 West Morse Blvd.
Winter Park, Florida 32789
Telephone: (407) 645-3735
Facsimile: (407) 628-5670
Email: nstuparich@voselaw.com



EDUCATION

Florida State University, B.A., cum laude, 1982. (Government/International Affairs)
University of Florida, J.D., 1985 (Law)
Florida State University, MPA & MSP, 1997 (Public Administration/Urban Planning)

PROFESSIONAL POSITIONS

Public Sector Representation:

City Attorney, Brooksville, Florida. Jointly responsible for representation of the City of Brooksville, Florida, including but not limited to attendance at all public meetings of the Brooksville City Council, Brooksville appointed boards and committees; drafting ordinances, resolutions, contracts; working with charter officers and city staff on issues that arise; monitoring pending insurance claims; working with outside counsel; and other duties as needed.

City Attorney, Dade City, Florida. Primary attorney of the Vose Law Firm responsible for representation of the City of Dade City, Florida, as required by contract, including but not limited to attendance at all public meetings of the Dade City Commission, Dade City appointed boards and committees; drafting ordinances, resolutions, contracts; working with Charter Officers and city staff on issues that arise; monitoring pending insurance claims; working with outside counsel; and other duties as needed.

County Attorney, DeSoto County, Florida. Responsibilities included independently providing legal services to the DeSoto County Board of County Commissioners; participation in public hearings; drafting ordinances and negotiation of contracts; defending the county in litigation matters; working with outside legal counsel; and other duties as needed.

Assistant City Attorney, City of Anna Maria, Florida. Responsibilities include handling of 112 Bert J. Harris claims filed relating to recently enacted restrictions on occupancy of Vacation Rentals. So far over 80 of the claims have been settled at no monetary cost to the City, and it is anticipated that the remainder of the claims will be similarly settled.

Assistant County Attorney, Escambia County, Florida. Responsibilities included representing the county on general local government matters; drafting ordinances, resolutions and contracts; coordination of real estate acquisition and disposal; serving as the attorney to the Board of Adjustment and the Escambia County Canvassing Board; responding to questions from staff and County Commissioners regarding local government issues; and other projects as assigned by the County Attorney.

Assistant General Counsel, Florida League of Cities. Responsibilities included legislative lobbying; serving as a liaison to the Governor's Property Rights Study Commission II; general legal research concerning municipal issues; preparing appellate briefs; preparing the Florida Municipal Attorneys Newsletter; assisting in purchase of headquarters building; serving as staff to the Juvenile Justice/Criminal Policy Committee; responding to correspondence and questions from member city officials; and other duties as assigned.

Director Growth Management, Escambia County, Florida. Responsibilities included directing and managing the Escambia County Department of Growth Management, which at the time consisted of the Divisions of Development Services (development order approval), Long-Range Planning (county-wide growth management planning) and Technical Services (management functions); presentations to the Board of County Commissioners and other public groups; and other duties as assigned by the County Administrator.

Of Counsel, Weiss, Serota, Helfman, Pastoriza, Cole, & Boniske, P.L. Responsibilities included providing legal services to various municipalities regarding land use and local government matters; representing quasi-judicial boards; drafting ordinances and resolutions; researching municipal codes, and other duties as assigned.

Staff Attorney, Second District Court of Appeal. Responsibilities included preparing legal memoranda; reviewing appellate briefs and pleadings; presenting oral argument waived cases to panels of three appellate judges; and assisting in drafting & proofing appellate opinions for the Honorable Judge John Scheb (deceased.).

Trial Court Law Clerk, 10th Judicial Circuit. Responsibilities included reviewing civil complaints and pleadings; preparing legal memoranda and providing assistance to several circuit civil judges on complex litigation; and other duties as assigned.

Private Sector Representation:

General Counsel, Maruti Fleet Management, Inc. Responsibilities included management of pending insurance claims with adjusters, mediation and settlement of pending litigation, contract review, personnel issues, business development; other duties as required.

Risk Manager, Florida Lawyers Mutual Insurance Company. Responsibilities included developing and delivering a risk management service to insured attorneys to avoid potential legal malpractice claims; presentation of continuing legal education seminars to attorneys; drafting a risk management newsletter and digital risk alerts; other duties as required.

Associate, Freeman, Haber, Rojas & Stanham, LLP. Responsibilities included closing real estate transactions involving primarily foreign clients; drafting corporate documents, agreements and real estate documents; review of title and land use issues; review of commercial leases; supervision of paralegals; legal research; and other duties as assigned.

Underwriting Counsel, Attorneys Title Insurance Fund, Inc. Responsibilities included identifying and resolving title defects; teaching attorneys and paralegals real estate closing procedures using ATIDS and DoubleTime software program; publication of legal articles for THE FUND CONCEPT; speaking and participating as a panelist at the Fund's Annual Assembly and Affiliate Assembly; and other duties as assigned.

Title Attorney, Lawyers Title Insurance Corporation. Responsibilities included coordinating and closing commercial real estate transactions; reviewing and preparing real estate documents in conjunction with the issuance of title insurance; responding to underwriting questions; and other duties as assigned.

PROFESSIONAL, COMMUNITY AFFILIATIONS, PUBLICATIONS & ACTIVITIES:

CURRENT: Appointed to serve as a Florida Land Use & Environmental Dispute Resolution Special Magistrate for Lake County, Florida, appointed member of the City of Clermont Community Redevelopment Association; appointed member of the 18th Judicial Circuit Unauthorized Practice of Law Committee "B"; member of the South Lake Chamber of Commerce Economic and Policy Committee, member of the Lake County Wellness Way Leadership Committee. **FORMER:** graduate of the City of Oviedo Citizens Police Academy, member of the Executive Council of the City, County and Local Government Section of The Florida Bar; member of the LOMAS Advisory Board; The Florida Bar Convention Committee; former member of The Florida Bar Senior Committee, The Florida Bar Diversity Committee and other bar committees; Certified Circuit Court Mediator (24865R); participant in the Hillsborough County Guardian Ad Litem Program; co-chair of the International Energy Conference, Rio de Janeiro, Brazil, member of Leadership Miami; member of the Northwest Florida Water Management District Board and chair of the Board's Lands Committee and Secretary to the Board; member of the American Planning Association; chair of the Organizing Committee for the Quietwater Thunder Formula One/Two Power Boat Grand Prix Race, Pensacola Sports Association (1999); graduate Leadership Pensacola; adjunct professor, University of West Florida, Legal Administration Program; member, Junior League of Pensacola; sustainer in Miami Junior League; graduate, City of Pensacola Citizens Police Academy;

graduate, Escambia County Sheriff's Citizens Law Enforcement Academy; member of Five Flags Rotary International; member of Panhandle Tiger Bay Club; commissioner, City of Pensacola Planning Board; member Escambia and Santa Rosa County Bar Association; member of Pensacola Runners Association, race director, 1997 Downtown Christmas 5K Run & inaugural 1998 PRA Downtown Christmas Parade Dash; co-author of "Private Property Rights: Regulating the Regulators" published in The Florida Bar Journal, January 1996; Tallahassee Women Lawyers Board Member (1993-1995); **PERSONAL:** single; raised in Tampa, Florida; runner/triathlete, member of 50 States Marathon Club, finisher of the Great Floridian Triathlon (Clermont, Florida).

RECENT CHARTER REVIEW COMMISSION EXPERIENCE, WITH REFERENCES

2016 Orange County Charter Review Commission

General Counsel

(March 2015 to November 2016)

References:

Matt Klein, CRC Commissioner
Email: Matthew.Klein@jacksonlewis.com
Phone: (561) 213-4448

Fred Brummer, CRC Commissioner
Email: fredbrummer@embarqmail.com
Phone: (407) 257-9865

Wade Vose and Vose Law Firm LLP served as General Counsel to the 2016 Orange County Charter Review Commission. This was Mr. Vose's second time serving in the role of General Counsel to the Orange County Charter Review Commission, having previously served in 2011-2012. In fact, Mr. Vose is the only attorney, other than former Orange County Mayor and U.S. Senator Mel Martinez, to have been chosen to hold that position twice, and both times as a result of a highly competitive selection process.

In that capacity, Mr. Vose represented the 2016 CRC at all CRC meetings, hearings, and subcommittee meetings, providing legal advice and guidance concerning the investigative inquiries of the CRC's various committees, and the constitutionality, legality, and implementation of various charter amendment proposals.

The topics addressed by the 2016 CRC, and on which Mr. Vose was required to provide legal advice, were wide-ranging. A committee of the CRC conducted an extensive rewrite of the charter's initiative petition provisions, implicating not only the law of county charters, but extensive inquiries into the application of Florida election law, Florida constitutional law concerning statutory preemption, First Amendment law, and comparative analysis among Florida's charter counties and sister states.

Another committee explored implementing a charter-mandated evaluation process for county expenditure of Tourist Development Tax revenues and revisions to the county's Tourist Development Plan, necessitating extensive research into the arcane statutes and unique case law governing the expenditure of tourist development tax revenues.

Another committee explored the interactions between the Orange County Charter and the County's six constitutional officers (the offices of Clerk and Comptroller were previously split by special act), in light of pending litigation relating to 2014 charter amendments imposing term limits and nonpartisan election on the constitutional officers. These efforts required extensive analysis of the rapidly developing area of Florida

constitutional law relating to the extent to which county constitutional officers are subject to the provisions of county charters.

Additional committee subjects included the expansion of the membership of the Orange County Commission, the enactment of a charter county infrastructure surtax by charter amendment, and the imposition of a supermajority voting requirement for the adoption of certain comprehensive plan amendments in certain areas of the county, each of which involved in depth legal guidance provided by Mr. Vose.

Mr. Vose prepared the ballot title, ballot summary, and amended charter language for each of the three 2016 CRC charter amendments, with a specific focus on both ballot language clarity, and strict compliance with the exacting standards of Section 101.161, Fla. Stat. and the extensive specialized case law governing the wording of ballot referenda.

Enclosed are two sample memoranda prepared by Wade Vose for the 2016 Orange County CRC, addressing both the applicability of the single subject rule to county charter amendments, and a survey of county charter initiative petition provisions among Florida's 20 charter counties.

2016 Pinellas County Charter Review Commission

General Counsel

(September 2015 to November 2016)

References:

Janet Long, County Commission Chair, former CRC member
Email: JanetCLong@co.pinellas.fl.us
Phone: (727) 464-3365

Ken Burke, Clerk of the Circuit Court, former CRC member
Email: kburke@co.pinellas.fl.us
Phone: (727) 464-3341

Wade Vose and Vose Law Firm LLP served as General Counsel to the 2016 Pinellas County Charter Review Commission. Mr. Vose's service as General Counsel marked the first time the Pinellas County CRC was represented by someone other than the Pinellas County Attorney's Office or the former Pinellas County Attorney. Mr. Vose's successful service in this role also demonstrates his ability to get up to speed and serve effectively as an attorney for a county charter review commission as a newcomer to the area and its political and legal nuances.

In his capacity as General Counsel to the 2016 Pinellas County CRC, Mr. Vose represented the 2016 CRC at all CRC meetings and hearings, providing legal advice and guidance concerning the investigative inquiries of the CRC, and the constitutionality, legality, and implementation of various charter amendment proposals.

Topics addressed by the 2016 Pinellas County CRC also ranged widely, encompassing over 40 issues. Term limits for county commissioners and constitutional officers were a hot button issue, in light of extensive past litigation originating in Pinellas County about a prior charter amendment on the issue, and a recent Florida Supreme Court opinion that radically changed the law of charter term limits in Florida. A number of topics were driven by provisions unique to the Pinellas County Charter, including a unique dual overlapping district structure for their County Commission, and the County Attorney's charter mandated representation of both the County and its five constitutional officers.

Mr. Vose prepared the ballot title, ballot summary, and amended charter language for each of the six 2016 Pinellas County CRC charter amendments, with a specific focus on both ballot language clarity, and strict compliance with the exacting standards of Section 101.161, Fla. Stat. and the extensive specialized case law governing the wording of ballot referenda.

Mr. Vose's representation of the Pinellas County Charter Review Commission was

so successful that he was later retained in February 2017 to represent the Pinellas County County Attorney Oversight Committee (a body created under the Pinellas County Charter, consisting of the 7 Pinellas County Commissioners and 5 constitutional officers) to represent them as they conducted a search and hired their new county attorney.

Enclosed is a sample memorandum prepared by Wade Vose for the 2016 Pinellas County CRC, providing a legal analysis of a proposed recall provision relating to county commissioners and constitutional officers.

2016 Brevard County Charter Review Commission

General Counsel

(October 2015 to November 2016)

References:

Jason Steele, CRC Member
Email: jasonsteele@me.com
Phone: (321) 258-8993

Kendall Moore, CRC Chairman
Email: kendall@meblawfirm.com
Phone: (321) 636-2221

Wade Vose and Vose Law Firm LLP served as General Counsel to the 2016 Brevard County Charter Review Commission, having been chosen from among a large pool of law firms in a highly competitive selection process. Mr. Vose's successful service on behalf of the Brevard County CRC once again demonstrates his ability to get up to speed and serve effectively as an attorney for a county charter review commission as a newcomer to the area and its political and legal nuances.

In his capacity as General Counsel to the 2016 Brevard County CRC, Mr. Vose represented the 2016 CRC at all CRC meetings and hearings, providing legal advice and guidance concerning the investigative inquiries of the CRC, and the constitutionality, legality, and implementation of various charter amendment proposals.

While numerous issues came before the Brevard CRC on which Mr. Vose provided legal advice, including proposals to split the Clerk of the Circuit Court into two elected officers, create a county inspector general, and place limitations of community redevelopment agencies, by far the predominating issue was the Brevard County Charter's "tax cap". This unique charter provision, imposed under the authority of an enabling special act, placed a cap on the growth of Brevard County's ad valorem tax revenues. This provision had long been thought by many to be potentially unconstitutional. At the request of the Brevard CRC, Mr. Vose provided an in-depth legal analysis of the legality and constitutionality of this provision, which was then used by the CRC in their consideration of whether to propose removal of this controversial provision. Such analysis required a deep and substantial understanding of the laws and constitutional provisions that govern the assessment and collection of taxes in Florida.

Enclosed is a memorandum prepared by Wade Vose for the 2016 Brevard County CRC, providing an analysis of legality and constitutionality of Section 2.9.3.1 of the Brevard County Charter, providing for limitations on growth in ad valorem tax revenues.

2012 Orange County Charter Review Commission

General Counsel

(August 2011 to November 2012)

References:

Matt Klein, CRC Commissioner
Email: Matthew.Klein@jacksonlewis.com
Phone: (561) 213-4448

Cheryl Moore, CRC Commissioner
Email: cheryl.moore47@gmail.com
Phone: (407) 694-6614

Wade Vose and Vose Law Firm LLP served as General Counsel to the 2012 Orange County Charter Review Commission, having been chosen from among a large pool of law firms in a highly competitive selection process.

In that capacity, Mr. Vose represented the 2012 CRC at all CRC meetings, hearings, and subcommittee meetings, providing legal advice and guidance concerning the investigative inquiries of the CRC's various committees, and the constitutionality, legality, and implementation of various charter amendment proposals.

The topics addressed by the 2012 CRC, and on which Mr. Vose was required to provide legal advice, were wide-ranging. A committee of the CRC took up the controversial issue of increasing the number of members of the Orange County Commission. Another considered whether to consolidate one of more of the constitutional officers into the County government. Yet another studied a proposal to make county ordinances concerning gambling and simulated gambling effective within municipalities and make them prevail over municipal ordinances in the event the county ordinances are stricter.

Mr. Vose prepared the ballot title, ballot summary, and amended charter language for each of the four 2012 CRC charter amendments, with a specific focus on both ballot language clarity, and strict compliance with the exacting standards of Section 101.161, Fla. Stat. and the extensive specialized case law governing the wording of ballot referenda.

Also, in order to provide legal protection for the 2012 Orange County CRC in light of Section 106.113, Fla. Stat. (restricting the use of government funds for political advertisements) for the CRC's longstanding practice of mailing voter education materials, Mr. Vose sought a formal opinion from the Florida Division of Elections authorizing the practice in light of a number of conflicting prior opinions from the Division. The formal opinion issued (DE 12-05), which agreed point for point with Mr.

Vose's analysis as set forth in his request, formally authorized the practice, and has subsequently served as the seminal opinion setting forth how a local government may permissibly expend public funds relating to ballot referenda. A copy of both Mr. Vose's request for opinion and DE 12-05 are enclosed.

2018 Clay County Charter Review Commission

General Counsel

(December 2017 to July 2018)

References:

Amy Pope Wells, CRC Chair
Phone: (904) 704-8955

Art Hooker, Jr., CRC Member
Phone: (904) 923-7547

Wade Vose and Vose Law Firm LLP served as General Counsel to the 2018 Clay County Charter Review Commission. Mr. Vose's successful service on behalf of the Clay County CRC once again demonstrates his ability to get up to speed and serve effectively as an attorney for a county charter review commission as a newcomer to the area and its political and legal nuances.

In his capacity as General Counsel to the 2018 Clay County CRC, Mr. Vose represented the 2018 CRC at all CRC meetings and hearings, providing legal advice and guidance concerning the investigative inquiries of the CRC, and the constitutionality, legality, and implementation of various charter amendment proposals.

The topics addressed by the 2018 CRC, and on which Mr. Vose was required to provide legal advice, were wide-ranging, including restructuring the charter's existing term limits on county commissioners, reforming the charter's unique salary cap for county commissioners, imposing term limits on constitutional officers, reforms to the charter's initiative petition process, and restructuring county government to be run by an elected county executive.

Mr. Vose prepared the ballot title, ballot summary, and amended charter language for each of the 2018 CRC charter amendments, with a specific focus on both ballot language clarity, and strict compliance with the exacting standards of Section 101.161, Fla. Stat. and the extensive specialized case law governing the wording of ballot referenda.

Specific Municipal and other Local Government Experience by Topic

The following is a summary of specific qualifications of the Vose Law Firm in local government representation:

A) Successful handling of City Attorney and other local government attorney matters.

The Vose Law Firm and its attorneys have successfully handled all aspects of City Attorney and local government attorney work for the last 44 years, including acting as and holding the following positions:

- 1) City Attorney, Anna Maria, Florida
- 2) City Attorney, Cocoa Beach, Florida
- 3) City Attorney, Bunnell, Florida
- 4) City Attorney, Edgewood, Florida
- 5) City Attorney, St. Cloud, Florida
- 6) City Attorney, Eagle Lake, Florida
- 7) City Attorney, Longwood, Florida
- 8) City Attorney, Brooksville, Florida
- 9) Village Attorney, Indiantown, Florida
- 10) City Attorney, Dade City, Florida
- 11) Town Attorney, Windermere, Florida
- 12) Town Attorney, Oakland, Florida
- 13) City Attorney, Winter Garden, Florida
- 14) City Attorney, Deltona, Florida
- 15) Town Attorney, Pierson, Florida
- 16) County Attorney, DeSoto County, Florida
- 17) General Counsel to the Seminole County Supervisor of Elections
- 18) General Counsel to the Seminole County Tax Collector
- 19) General Counsel to the Pinellas County County Attorney Oversight Committee
- 20) Assistant General Counsel, Florida League of Cities
- 21) Special Counsel to City of Indian River Shores to rewrite Land Development Code
- 22) Assistant County Attorney, Escambia County, Florida
- 23) Assistant City Attorney Marco Island, Florida
- 24) Assistant City Attorney Miami Lakes, Florida
- 25) Assistant City Attorney, City of Orlando, Florida
- 26) City Prosecutor for City of Orlando
- 27) City Prosecutor for City of Edgewood
- 28) City Prosecutor for City of Winter Garden
- 29) General Counsel to 2016 Orange County Charter Review Commission
- 30) General Counsel to 2012 Orange County Charter Review Commission

- 31) General Counsel to 2015-2016 Pinellas County Charter Review Commission
- 32) General Counsel to 2015-2016 Brevard County Charter Review Commission
- 33) Counsel to the City of Bunnell Charter Review Committee
- 34) Counsel to the City of Deltona Charter Review Committee
- 35) Counsel to the City of Longwood Charter Review Committee
- 36) Counsel to the City of Winter Garden Charter Review Committee
- 37) Counsel to the City of St. Cloud Charter Review Committee
- 38) Counsel to the Town of Pierson Charter Review Committee
- 39) Counsel to the Town of Oakland Charter Review Committee
- 40) Counsel to the Town of Edgewood Charter Review Committee
- 41) Counsel to City of Orlando Civil Service Board
- 42) Counsel to Eagle Lake Planning and Zoning Board
- 43) General Counsel for Green Swamp Land Authority
- 44) Special Counsel to City of Ocoee
- 45) Counsel to City of St. Cloud Planning and Zoning Board
- 46) Counsel to the Escambia County Planning Board
- 47) Special Counsel to City of Casselberry
- 48) Counsel to City of Orlando Historic Preservation Board
- 49) Counsel to the City of Deltona Collective Bargaining Committee
- 50) Special Counsel to Orange County as to Environmental Claims
- 51) Counsel to the City of Orlando Zoning Board
- 52) Counsel to the City of Deltona Planning and Zoning Board
- 53) Counsel to City of Orlando Board of Adjustments
- 54) Counsel to City of St. Cloud Civil Service Board
- 55) Counsel to the City of St. Cloud Code Enforcement Board
- 56) Special Litigation Counsel to Orange County Property Appraiser
- 57) Counsel to City of Longwood Code Enforcement Board
- 58) Attorney for Orange County Fire & Life Safety Code Board of Adjustments & Appeals
- 59) Counsel to City of Longwood Planning and Zoning Board
- 60) Counsel to City of St. Cloud Pension Board
- 61) Counsel to the City of Orlando Board of Adjustments and Appeals
- 62) Special Counsel to Orange County as to §1983 Civil Rights Litigation
- 63) Attorney to the Orange County Code Enforcement Department
- 64) Special Counsel to the Orange County Sheriff's Office
- 65) Special Counsel to the Town of Oakland as to land development and litigation matters
- 66) Attorney for North Lake County Hospital Board of Trustees
- 67) Special Counsel to City of Orlando as to Eminent Domain matters
- 68) Special Counsel to Orange County as to Code Enforcement Foreclosures
- 69) Special Magistrate to the Lake County Value Adjustment Board
- 70) Special Magistrate to the Hillsborough County Value Adjustment Board
- 71) Special Magistrate to the City of Satellite Beach
- 72) Eminent Domain Mediation Services for Florida Turnpike Authority, FDOT,

Seminole County, Orange County, Hillsborough County, Lake County, Polk County

- 73) Staff Attorney, Second District Court of Appeals, Florida
- 74) Trial Court Law Clerk, 10th Judicial Circuit, Florida
- 75) Trial Court Law Clerk, 9th Judicial Circuit, Florida
- 76) Director of Growth Management, Escambia County, Florida
- 77) Attorney to the Board of Adjustment, Escambia County, Florida
- 78) Attorney to the Escambia County Canvassing Board, Florida

B) Land use law including, but not limited to, Florida's Comprehensive Growth Management Act, zoning, redevelopment districts, code enforcement, development agreements, development orders, developments of regional impact, the Bert J. Harris, Jr., Private Property Rights Protection Act, and enterprise zones

The Vose Law Firm and its attorneys have practiced in the field of land use law as part of their representation of Orlando, Pierson, Longwood, St. Cloud, Deltona, DeSoto County, Escambia County, Edgewood, Eagle Lake, Windermere, Oakland, Anna Maria, Winter Garden, and Bunnell, and have represented numerous private clients before various local governmental agencies. Nancy Stuparich is the former Director of Growth Management for Escambia County, and, in addition to having a law degree from the University of Florida, Ms. Stuparich has masters degrees (MPA and MSP) in Public Administration and Urban Planning from Florida State University.

The attorneys of the Vose Law Firm have extensive experience writing and interpreting zoning and land use ordinances and dealing with Florida's Comprehensive Growth Management Act, zoning, redevelopment districts, code enforcement, development agreements, development orders, developments of regional impact, and enterprise zones. The Vose Law Firm recently completed a re-write of the Town of Indian River Shores land development code. They have been involved in significant land use litigation on behalf of public clients as well as private clients. The reported case of *City of Orlando vs. The School Board of Orange County* was handled by Ms. Vose and helped establish the appellate law in Florida relating to the effect of municipal zoning on other public uses.

C) General legal counsel to local officials including such duties as advice, opinions and direction on matters including, but not limited to:

1. *Attendance and legal representation at City Council, City Commission, County Commission and other board meetings*
2. *The "Sunshine Law" and "Public Records Law"*
3. *The ethical standards of elected officials*
4. *Home Rule*
5. *Exercise of police power*
6. *Practices and procedures of local governments*
7. *Legislative vs. Quasi-judicial matters*

- 8 *Voting conflicts*
9. *Full and public disclosure of financial interest*
10. *Other matters relating to public service as an elected official*
11. *All other areas of municipal law*

The Vose Law Firm and its attorneys have provided such counsel to all the local governmental agencies represented by them including: the cities of Orlando, Longwood, St. Cloud, Edgewood, Winter Garden, Deltona, Eagle Lake, Windermere, Oakland, Pierson, and Bunnell, as well as the non-elected boards represented including the Green Swamp Land Authority, and the North Lake County Hospital Board of Trustees, the Orange County Charter Review Commission and the Brevard County Charter Review Commission, the Pinellas County County Attorney Oversight Committee.

D) The drafting of and revisions to ordinances, resolutions, contracts, inter-local agreements, franchise agreements, settlement agreements, development agreements, litigation pleadings, legal opinions and real estate documents of all types.

The attorneys of Vose Law Firm have extensive experience drafting a plethora of legal documents (routine and specialized) on virtually all subjects dealt with by local government agencies.

E) Representation of local governments in diverse litigation in state, federal and appellate courts, and Alternative Dispute Resolution experience.

The Vose Law Firm has handled litigation for all local governments represented by the firm. The firm currently is handling certain civil litigation for Orange County, land use litigation for the Town of Oakland, land use litigation, Bert Harris defense, and ordinance defense for the City of Anna Maria, and various pieces of litigation for Bunnell. Becky Vose recently won a hotly contested inverse condemnation case which had been pending for seven years. Prior attorneys for that city had repeatedly delayed the trial of that case. When Ms. Vose was appointed City Attorney, she fast-tracked the case, and went to trial. The judgment in the case was completely in favor of the City of Deltona, and eliminated a possible liability of the City of approximately \$1 Million. The Vose Law Firm was successful in recovering \$100,000 for the reimbursement to the City of Deltona of costs, expert witness fees, and attorney's fees against the losing parties in that suit.

All of the attorneys of the Vose Law Firm have significant experience with alternative dispute resolution techniques. Becky Vose became certified as a certified circuit court mediator in the 1990s and has mediated hundreds of cases, most of which involved at least one governmental agency.

F) Condemnation (Eminent Domain) under Florida law

The Vose Law Firm's eminent domain experience includes the full range of eminent domain

practice including initial pre-litigation advice and drafting of resolutions, preparation of all pleadings, numerous contested as well as uncontested Order of Taking hearings, settlement negotiations and drafting of settlement documents, mediations, jury trials and appeals. In addition, they have extensive experience dealing with issues of public use, incidental private use, necessity, inverse condemnation, business damages, severance damages, damages to non-profit entities, historically significant properties, cost to cure, consolidation of parcels and down-zoning issues. The firm has recently successfully completed eminent domain proceedings for the City of Deltona.

As both an Assistant City Attorney for Orlando and as Special Counsel to the City of Orlando, Ms. Vose represented the City of Orlando for over 15 years in eminent domain litigation. During that time, she represented the City as to numerous acquisitions including rights-of-way, pedestrian walkways, park lands, land for parking areas, easements for sewage transmission lines, sites for public utility facilities, as well as many other public use projects. As Special Counsel to the City, she handled on a contract basis the acquisition of the property for the Gertrude Walk pedestrian walkway through downtown Orlando as well as the City of Orlando Arena property, (Phases II and III). Ms. Vose also has extensive experience as counsel to property owners of condemned land, and has acted as a certified circuit court mediator in over 100 eminent domain mediations.

G) Counsel and legal services to local government pension boards, and work with employee pension plans including Florida Statutes, Chapter 175 and Chapter 185 Special Risk Plans

The attorneys of the Vose Law Firm have provided legal services to the Cities of Winter Garden, Longwood, Deltona, Edgewood, Eagle Lake and St. Cloud relating to employee pension plans including Florida Statutes, Chapter 175 and Chapter 185 Special Risk Plans.

H) Utility taxes and utility franchise agreements as they relate to Florida municipalities

The Vose Law Firm has extensive experience rendering legal advice and drafting documents relating to utility taxes and utility franchise agreements. The representation of the cities of Deltona, St. Cloud, Longwood, Winter Garden, Eagle Lake, and Edgewood included the drafting and reviewing of numerous franchise agreements with various utility companies. The representation of the City of St. Cloud included handling the complex transaction between the Orlando Utilities Commission and St. Cloud as to the “take over” of the St. Cloud electrical system by the OUC.

I) All aspects of construction law and public works issues

The attorneys of the Vose Law Firm have extensive experience representing both public and private clients as to virtually all aspects of construction law including bid solicitations, bid protests, construction contracts, construction litigation, warranty issues,

delay damages, etc. The firm has provided legal services as to Public Works issues for each city represented by the firm.

J) Code enforcement liens and special assessment collection and liens

The Vose Law Firm provided general legal services in the areas of special assessments and special assessment collection and liens for each of the cities represented by the firm. In addition, the firm did extensive work for the City of Longwood in reviewing and collecting long over-due special assessments, and the firm has represented Orange County as to CEB lien foreclosures and settlements for the last 20 years.

K) The creation and administration of Tax Increment Financing Districts (CRAs)

The Vose Law Firm provided legal services to the cities of Cocoa Beach, Dade City, Winter Garden, Longwood, Edgewood, Deltona, Bunnell, and St. Cloud relating to Tax Increment Financing Districts (CRAs). In addition, as general counsel for the North Lake County Hospital Board of Trustees, the firm had significant experience challenging the authority of municipal tax increment financing districts from imposing charges on the special taxing district.

L) The creation and administration of Impact Fee Ordinances and collection of said fees

The Vose Law Firm represented the cities of Orlando, Winter Garden, St. Cloud, Edgewood and Longwood relating to the creation, amendment and administration of impact fee ordinances concerning transportation, public safety, recreation and open space, and drainage.

M) Environmental law including representation before and negotiations with, various State and Federal regulatory agencies

The attorneys of Vose Law Firm have represented public and private clients with regard to environmental matters in conjunction with governmental representation and private real estate practice. As counsel to the Green Swamp Land Authority, such representation included extensive dealings with the Florida Department of Environmental Protection, the Department of Community Affairs, and two water management districts. While an Assistant City Attorney for Orlando, Ms. Vose worked on the permitting for the Iron Bridge Road Sewage Treatment Plant and for various drainage and other public works projects. As the City Attorney for Longwood, the firm represented the City in matters relating to a RCRA site on City property and was responsible for negotiations with the Florida Department of Environmental Regulation, [now the Florida Department of Environmental Protection (DEP)], and for matters relating to negotiations with the environmental company hired to evaluate the clean-up of the property.

The attorneys of Vose Law Firm have been extensively involved in the permitting of various environmental features have also represented numerous property owners in negotiations with the FDEP and in litigation over environmental contamination issues. Ms. Vose co-authored the book, *Environmental Survival Kit for Realty Professionals*, a book designed to protect realty professionals from losses due to environmental problems. The Florida Board of Realtors purchased the rights to such publication for purposes of including the publication among its educational materials.

N) *Collective bargaining*

The Vose Law Firm has represented local governments it has represented as to numerous collective bargaining matters. The attorneys of the firm are now handling the collective bargaining negotiations for the City of Deltona relating to the negotiations with I.A.F.F. Local 2913, and recently successfully concluded collective bargaining negotiations with the Fraternal Order of Police on behalf the City of Bunnell.

O) *Municipal and County Charters*

The Vose Law Firm and its attorneys have extensive experience in representing cities and counties with regard to charter government, including but not limited to charter amendments, charter review, and the interaction of municipal and county ordinances under governing county charter provisions. Notably, Wade Vose and Vose Law Firm LLP have twice served as General Counsel to the Orange County Charter Review Commission, joining former Orange County Mayor and U.S. Senator Mel Martinez as the only other attorney to have served twice as General Counsel to the Orange County Charter Review Commission. Mr. Vose prepared the ballot title, ballot summary, and amended charter language for each of the 2012 and 2016 CRC-initiated charter amendments, with a specific focus on both clarity of the ballot language for the voter, and strict compliance with the exacting standards of Section 101.161, Fla. Stat. and the extensive specialized case law governing the wording of ballot referenda.

In 2013-2014, Mr. Vose served as counsel to the City of Bunnell Charter Review Committee, which was engaged in a comprehensive review of its city charter. Mr. Vose provided substantial legal and procedural guidance to that committee throughout its deliberations, resulting in Mr. Vose preparing the ballot titles, ballot summaries, and charter amendment language for seven (7) charter referendum questions placed on the municipal ballot. In 2014, Mr. Vose also served as counsel and facilitator to the City of Deltona Charter Review Committee, which resulted in three (3) charter referendum questions prepared by Mr. Vose placed on the municipal ballot. Mr. Vose recently completed assisting the Town of Pierson with a comprehensive review and rewrite of its town charter, which had not been revised or modernized since 1929.

Mr. Vose and the Vose Law Firm also served as General Counsel to the 2016 Pinellas County (home of St. Petersburg, Clearwater, and Largo) Charter Review Commission,

notably the formative first time that CRC has chosen an attorney unaffiliated with the Pinellas County Attorney's Office. Pinellas County is the most urbanized county in the State of Florida, and Mr. Vose and the Vose Law Firm represented that CRC as it reconsidered the balance of power between the County and its 24 municipalities, as well as between the County and its constitutional officers. In addition, Mr. Vose and the Vose Law Firm served as General Counsel to the 2016 Brevard County Charter Review Commission.

P) Representation of Trail Towns

The Vose Law Firm and its attorneys have extensive experience representing towns and cities on the subject trails and related interconnectivity and development. The Town of Oakland is directly on the West Orange Trail and hosts that trail until it hits the border with Lake County. The attorneys of the Vose Law Firm have been actively involved in the legal issues relating to that trail system, its spurs, and related development. The firm's attorneys were also instrumental in providing legal services and obtaining grant funds to implement trails in the City of Deltona.

Q) Representation of Cities relating to gambling issues and "Internet Cafes"

The Vose Law Firm and its attorneys have represented local governments in matters relating to gambling and Internet Cafes. Both the cities of Bunnell and Deltona have faced numerous issues as to illicit gambling activities in the city limits and the Vose Law Firm has provided expert legal services which successfully addressed those issues.

R) Medical Marijuana issues

The attorneys of the Vose Law Firm have made numerous presentations on the subject of medical marijuana and the appropriate manner for local governments to deal with matters related to that subject. Wade Vose has made numerous public presentations to groups of local government officials on this subject, and has been on several television presentations on this issue. Both Wade Vose and Becky Vose have drafted medical marijuana ordinances for the respective cities they represent. Each municipality has dealt with the issue in a different way dependent upon the respective concerns of each of the local governments represented.

S) Bert J. Harris Act matters

The attorneys of the Vose Law Firm are currently heavily involved in Bert J. Harris litigation. The City of Anna Maria has received in the last year over 100 Bert J. Harris claims and all three local government lawyers at the Vose Law Firm have been actively involved in handling those claims. So far, the majority of those claims have been settled with no financial payments by the City, and it is expected that the remainder of the claims will be similarly resolved.

T) Vacation Rental Issues

The City of Anna Maria hired the Vose Law Firm as its City Attorney in the middle of its life and death struggle with Vacation Rentals that were about to “take over” the City. The Vose Law Firm drafted one of the State of Florida’s first Vacation Rental Ordinances and successfully defended that ordinance (which evolved over time) in four different legal challenges. The City of Anna Maria has one of the few Vacation Rental Ordinances that has withstood multiple legal challenges, and the City is now flourishing with well-regulated Vacation Rentals. The Vose Law Firm is currently writing a Vacation Rental Ordinance for the City of Cocoa Beach, which has very different concerns regarding Vacation Rentals.

U) Cities that function as county seats and have colleges

The Vose Law Firm currently represents three cities that are the county seats of their counties (Bunnell – Flagler County, Dade City – Pasco County, and Brooksville – Hernando County) and as such, there are numerous issues that arise in the representation of those cities that are unique due to the interaction of the city and county. In addition, the Vose Law Firm represented the City of Deltona for six years and during that time, many issues arose relating to the interaction between the City and two colleges that were located within the city limits.

V) Other specific local government experience not listed above

The Vose Law Firm has also represented cities relating to the following matters:

- i) Civil rights defense – USCA, Title VII litigation
- ii) Litigation relating to qualifications for election
- iii) Redistricting to comply with Federal Court Orders
- iv) Disputes between governmental entities relating to zoning and land use
- v) Intergovernmental agreements
- vi) FEMA reimbursement issues
- vii) Labor law, employee disputes, and employee discharge hearings
- viii) Historic Preservation
- ix) Construction Industry Board of Appeals – establishment and representation
- x) Public Employee Relations Commission hearings and appeals
- xi) Adult entertainment and bookstore ordinances; bingo regulation
- xii) Trap, Neuter, Release feral cat control
- xiii) Plasmapheresis facility regulation
- xiv) Arbor ordinances and regulation
- xv) Sexual harassment litigation
- xvi) Age discrimination litigation
- xvii) Police legal advisor issues

- xviii) Alarm ordinance regulation
- xix) Cable TV regulation
- xx) Cell phone tower regulations
- xxi) Leasing of public property for private use
- xxii) Local counsel for bond issues
- xxiii) Land banking for future public use
- xxiv) Federal grant applications and administration
- xxv) Defense of inverse condemnation claims due to restrictive zoning
- xxvi) Marina leases
- xxvii) Sale/lease back agreements for city
- xxviii) Code Enforcement foreclosures
- xxix) Annexation disputes
- xxx) Noise ordinances
- xxxi) Inverse condemnation actions relating to environmental damages
- xxxii) Residential Prison Diversion Programs
- xxxiii) Mortgage Foreclosure Registration
- xxxiv) Rental Regulatory Ordinances
- xxxv) HUD Uniform Relocation Act requirements
- xxxvi) Construction Regulation Boards
- xxxvii) ADA compliance issues
- xxxviii) Declarations of Emergency

METHODS AND MANNER OF SUPPLYING LEGAL SERVICES

If chosen to provide legal services to the Alachua County Charter Review Commission, the attorneys of the Vose Law Firm, with Wade Vose acting as lead attorney, and Becky Vose and Nancy Stuparich providing back-up support, would provide exemplary legal services and advice to the CRC on all issues relating to the 2019-2020 Charter Review process. Our firm would work with the CRC facilitator and staff, as well as legislators, County staff, municipal staff, citizens, and other interested persons on issues and matters before the CRC. Mr. Vose would attend meetings of the CRC, and would perform research and prepare legal memoranda, resolutions, ballot provisions and other appropriate legal documents, and provide any other legal services related to the duties and responsibilities of the CRC.

The Vose Law Firm is particularly adept at providing such services because Wade Vose and the Vose Law Firm have had the honor of serving as General Counsel to five (5) county Charter Review Commissions throughout the State of Florida:

- 2012 Orange County Charter Review Commission
- 2016 Orange County Charter Review Commission
- 2016 Pinellas County Charter Review Commission
- 2016 Brevard County Charter Review Commission
- 2018 Clay County Charter Review Commission

In 2011 and again in 2015, Wade Vose and the Vose Law Firm were chosen to serve as General Counsel to the 2012 and 2016 Orange County Charter Review Commissions. In fact, Mr. Vose is the only attorney, other than former Orange County Mayor and U.S. Senator Mel Martinez, to have been chosen to hold that position twice, and both times as a result of a highly competitive selection process.

In 2015, Wade Vose and the Vose Law Firm were chosen to serve as General Counsel to 2016 Pinellas County Charter Review Commission, marking the first time in the history of that county that the Pinellas County CRC was represented by someone other than the Pinellas County Attorney's Office or the former Pinellas County Attorney.

Also in 2015, Wade Vose and the Vose Law Firm were chosen to serve as General Counsel to 2016 Brevard County Charter Review Commission, again as a result of a highly competitive selection process.

Most recently in 2018, Wade Vose and the Vose Law Firm were chosen to serve as General Counsel to the Clay County Charter Review Commission.

In each of those capacities, Mr. Vose represented Orange, Pinellas, Brevard, and Clay Counties' respective CRCs at all CRC meetings, hearings, and committee and subcommittee meetings, providing legal advice and guidance concerning the CRCs' investigative inquiries, and the constitutionality, legality, and implementation of various charter amendment proposals. Mr. Vose prepared the ballot title, ballot summary, and amended charter language for each of the CRCs' charter amendments (6 in Orange, 6 in Pinellas, 2 in Clay), with a specific focus on both ballot language clarity, and strict compliance with the exacting standards of Sec. 101.161, Fla. Stat. and specialized case law governing the wording of ballot referenda.

Wade Vose and the Vose Law Firm also have substantial additional experience relating to charter amendments, charter review processes, and ballot referenda. In 2013 and 2014, Mr. Vose served as counsel to the City of Bunnell Charter Review Committee, and provided substantial legal and procedural guidance to that committee throughout its deliberations, resulting in Mr. Vose preparing the ballot titles, ballot summaries, and charter amendment language for seven (7) charter referendum questions placed on the municipal ballot. Further, in 2014, Mr. Vose also served as counsel and facilitator to the City of Deltona Charter Review Committee, which resulted in three (3) charter referendum questions prepared by Mr. Vose placed on the municipal ballot. Mr. Vose recently completed service as counsel and facilitator to the Town of Pierson Charter Review Committee, which was engaged in that town's first comprehensive review of its charter since 1929. Mr. Vose also recently completed service as counsel to the Cocoa Beach Charter Review Committee, which grappled with particularly contentious land use issues in their charter that culminated in a successful charter referendum question.

In addition to Mr. Vose's service as general counsel to the Orange, Pinellas, Brevard, and Clay County CRCs, and of further importance for this position, over the last 28 years, our firm has represented Orange County in numerous capacities, as well as two of its constitutional officers, the Orange County Sheriff, and the Orange County Property Appraiser. In addition, firm partner Nancy Stuparich is the former County Attorney for DeSoto County, and a former assistant county attorney for Escambia County. Finally, Mr. Vose currently serves as General Counsel to the Seminole County Supervisor of Elections, and previously served as General Counsel to the Seminole County Tax Collector. All of these engagements have given the attorneys of our firm significant insight into the workings of charter counties, and the complex interplay among county departments, constitutional officers, municipalities, the Florida constitution, county charters, and county and municipal ordinances.

Included with this proposal are various samples of Mr. Vose's work relating to representing county charter review commissions. For example, to provide legal protection for the 2012 Orange County CRC in light of Section 106.113, Fla. Stat. (restricting the use of government funds for political advertisements) for that CRC's longstanding practice of mailing voter education materials, Mr. Vose sought a formal opinion from the Florida Division of Elections authorizing the practice in light of a

number of conflicting prior opinions from the Division. The formal opinion issued (DE 12-05), which agreed point for point with Mr. Vose's analysis as set forth in his request, formally authorized the practice, and has subsequently served as the seminal opinion setting forth how a local government may permissibly expend public funds relating to ballot referenda. (A copy of both Mr. Vose's request for opinion and DE 12-05 are attached as appendices.) Also included are two memoranda prepared by Mr. Vose for the 2016 Orange County CRC, addressing both the applicability of the single subject rule to county charter amendments, and a survey of county charter initiative petition provisions among Florida's 20 charter counties.

Our firm has a long and successful history of representing local governments that are located substantial distances from the firm's Winter Park office. Currently our firm represents the City of Cocoa Beach (1 hour 15 minutes away), the City of Bunnell (1 hour 30 minutes away), the Town of Pierson (1 hour 15 minutes away), the City of Brooksville (2 hours away), the Village of Indiantown (2 hours 15 minutes away), and the City of Anna Maria (2 hours 15 minutes away) as those cities' City Attorney. As mentioned, the firm also successfully represented the Pinellas County CRC (2 hours 15 minutes away), the Brevard County CRC (1 hour 15 minutes away), and the Clay County CRC (2 hours 15 minutes away) as their general counsel. The Vose Law Firm does not charge its local government clients for travel time or long distance calls, and we utilize the latest in commercially available technology to remain in constant contact and fully available to the local government entities we represent.

In fact, there are numerous advantages to a local government entity hiring a truly "out of town" law firm to be its legal counsel. The Vose Law Firm does not have any conflict of interest with Alachua County or the Alachua County Charter Review Commission. During the course of our representation, our firm will never represent any city, constitutional officer, or other local government entity in Alachua County. The attorneys of our firm are essentially immune from pressure that might come to bear upon attorneys and firms with practices located closer to or in Alachua County.

At the same time, through the extensive comparative analysis among county charters that is inherent in charter review commission representation, we have become familiar with the Alachua County Charter and its history. Rest assured that we will be well positioned to "hit the ground running" upon being retained as legal counsel to the Alachua County Charter Review Commission.

Further, as a result of our uniquely extensive experience representing county charter review commissions, the Vose Law Firm would be able to offer the Alachua County CRC the most "bang for the buck" when it comes to legal research on esoteric issues relating to the constitutional and statutory powers of charter counties and county charters, because we have researched literally dozens of such issues for other charter review commissions. The entire body of that research and knowledge would be available to you when you engage the Vose Law Firm.

As a boutique local government law firm, over the decades the Vose Law Firm has learned to leverage its resources to best serve the demanding needs of its local government clients. One of our highest priorities is ensuring that our local government clients are provided with prompt and superior legal services, regardless of the absence or incapacity of an individual attorney. Vose Law Firm ensures this continuity through a team approach practiced successfully for years by the firm's two lead partners, Becky Vose and Wade Vose.

Each attorney keeps the other fully apprised of all developments concerning a local government entity's representation, and work together collaboratively to provide the best possible representation to our local government clients. In the recent practice of this successful team approach for Charter Review Commissions, Wade Vose has served as lead attorney for local government interactions, while Becky Vose has served as a vast resource to be utilized when her decades of experience would be appropriately brought to bear. The firm also has available on staff at a moment's notice Partner Nancy Stuparich, former County Attorney for DeSoto County and former assistant county attorney for Escambia County. If chosen as General Counsel, the Vose Law Firm and its lead partners intend to utilize this time-tested and successful team approach to provide a seamless continuity of representation to the Alachua County Charter Review Commission.

FEE PROPOSAL

The Vose Law Firm would provide legal services to the Alachua County Charter Review Commission at the **hourly rate of \$150 per hour** for attorney time, and \$75 per hour for paralegal time.

There would be no charge for travel time, and no charge for Westlaw or Lexis fees. No “overhead factor” would be charged. Out of pocket costs would be charged at cost, with no mark-up or multiplier. There would be no separately billed copying charges unless copies are made through a third party copying firm, with the prior authorization of the CRC or its designee.

The Vose Law Firm has always adhered to the principle that the provision of legal services should be driven by client need. At all times, we would remain cognizant of and adhere to the budgetary parameters the CRC has established.

ADDITIONAL MATERIALS RELATING TO RECENT CRC EXPERIENCE

M E M O R A N D U M

TO: 2016 Brevard County Charter Review Commission
FROM: Wade C. Vose, Esq., General Counsel
DATE: February 27, 2016
SUBJECT: Analysis of Legality and Constitutionality of Section 2.9.3.1 of the Brevard County Charter, Providing for Limitations on Growth in Ad Valorem Tax Revenues

Pursuant to the Commission's request, this office has prepared an analysis of the legality and constitutionality of Section 2.9.3.1 of the Brevard County Charter, providing for limitations on growth in ad valorem tax revenues.

History of Charter Tax Caps in Brevard County

Prior to 2004, the Brevard County Charter included a provision at Section 5.4 that stated:

“Brevard County shall not increase its ad valorem tax revenue for operating funds (exclusive of revenues from new construction and improvements) in any one year by more than three percent (3%) or the percentage change in the Consumer Price Index for the previous year, whichever is less, over the ad valorem revenues in the previous year, without approval of a majority of the electors of the County voting thereon at a general election or special election called for purposes of such approval.”

An action was brought in Brevard County Circuit Court challenging the constitutionality of this provision. A final judgment was entered in that case holding that this charter provision was inconsistent with Chapters 129 and 200, Florida Statutes, and therefore violative of Article VIII, section 1(g) of the Florida Constitution.

The Fifth District Court of Appeal in *Ellis v. Burk*, 866 So.2d 1236 (Fla. 5th DCA 2004), *rev. denied*, 879 So.2d 621 (Fla. 2004), affirmed the circuit court decision, holding that the “trial court correctly concluded that section 5.4 of the Brevard County Charter is unconstitutional as being in conflict with Chapters 129 and 200, Florida Statutes, which set forth the statutory framework by which counties are to establish budgets and millage rates.” *Id.* at 1237.

In reaching this conclusion, the court in *Ellis* quoted and adopted the trial court's finding that “The Second District Court of Appeal [in *Charlotte County Board of County Commissioners v. Taylor*, 650 So.2d 146 (Fla. 2d DCA 1995)] found that Chapters 129 and 200 set forth the exclusive statutory scheme for establishing the budget and the resulting millage rate.” *Ellis*, 866 So.2d at 1238. [Emphasis supplied.] The *Ellis* court further quoted with approval the trial court's interpretation that “the [Florida] Supreme Court [in *Board of County Commissioners of Dade County v. Wilson*, 386 So.2d 556 (Fla. 1980)] found that Chapter 200 set forth the exclusive manner by which to set countywide millage rates.” *Ellis*, 866 So.2d at 1238. [Emphasis supplied.]

Thereafter, in 2007, the Florida Legislature enacted a special act, Chapter 2007-310, Laws of Florida, that provided in pertinent part:

“Section 1. Brevard County may cap, through a provision in its charter, the annual growth in ad valorem tax revenues. Any such cap may not restrict the annual growth at a rate below the lesser of 3 percent or the percentage change in the Consumer Price Index as provided in section 193.155(1)(b), Florida Statutes. Any such cap specified in a county charter must allow for the cap to be overcome by a finding of necessity due to emergency or critical need by a super majority vote of the county commission. In applying the increase or growth cap, the county shall compute a millage rate that, exclusive of new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which increased the assessed value of such improvements by at least 100 percent, and property added due to geographic boundary changes, will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year. It is the rate that shall be subject to any cap in growth or increase in ad valorem revenues established by county charter.

It is important to note that the special act did not itself impose a cap on ad valorem tax revenues or millage rates within Brevard County. Rather, the special act purported to authorize Brevard County, through a provision in its county charter, to impose such a cap, and then set parameters on how that authority could be exercised. As a result, the special act does not prohibit the repeal of any such charter tax cap, and it does not prohibit an amendment of the terms of such tax cap, so long as the provision continues to be consistent with the requirements of the special act.

The special act was subsequently approved by a vote of the electors at referendum on January 29, 2008, pursuant to a referendum requirement conditioning its effectiveness on passage as set forth in sections 2 and 3 of the special act.

Thereafter, an amendment to the Brevard County Charter was prepared, proposed, and approved by a vote of the electors on November 4, 2008, creating Section 2.9.3.1 of the Brevard County Charter, which provides the following:

“2.9.3.1. Limitations on growth in ad valorem tax revenues.

“(a) Unless otherwise allowed by this subsection 2.9.3.1, the Board of County Commissioners shall not impose any ad valorem tax for county purposes at a millage rate which causes the budgeted revenue therefrom to the County to increase over the budgeted ad valorem revenue for the previous fiscal year by more than the lesser of: (1) three percent, or (2) the percentage change in the Consumer Price index from the preceding calendar year, as measured in accordance with Section 193.155(1)(b), Florida Statutes (as that Section exists in 2008 or may thereafter be amended or transferred).

“(b) Unless otherwise allowed by this subsection 2.9.3.1, the Board of County Commissioners shall not impose any ad valorem tax for municipal purposes within any municipal services taxing unit, or for district purposes of any district for which the Board has the power to fix or approve the millage rate, at a rate which, for such unit or district, causes the budgeted revenue of the unit or district from ad valorem taxes to increase over the budgeted ad valorem revenue for the previous fiscal year by more than the lesser of (1) three percent, or (2) the percentage change in the Consumer Price Index from the preceding calendar year, as measured in accordance with Section 193.155(1)(b), Florida Statutes (as that Section exists in 2008 or may thereafter be amended or transferred).

“(c) Notwithstanding paragraphs (a) and (b) of this subsection, the Board of County Commissioners may impose an ad valorem tax for county, municipal or district purposes at a rate which exceeds the limitations in paragraphs (a) and (b), if a supermajority of the Board concurs in a finding that such an excess is necessary because of emergency or critical need. The finding shall set forth the ultimate facts upon which it is based, and shall be valid for a single budget year.

“(d) In calculating the allowable increase in ad valorem revenues over the ad valorem revenues budgeted for the previous year under paragraphs (a) and (b) of this subsection, the Board of County Commissioners shall exclude from the anticipated revenues all revenue changes from the following kinds of property not appearing on the previous year's roll: (1) new construction; (2) additions to or demolitions in whole or in part of existing construction; (3) changes in the value of improvements that have undergone renovation to an extent of not less than 100% increase in assessed value (as measured from the last year of assessment prior to commencement of renovation); and (4) in the case of municipal service taxing units or districts, any properties added since the previous year's roll by reason of boundary changes.

“(e) Nothing in this subsection shall authorize imposition of a millage rate which exceeds the rate prohibited by the constitution or general laws of Florida, or prohibit imposition of a millage rate which is required by the constitution or general laws of Florida or by any final order of a court of competent jurisdiction. Nothing in this subsection shall apply to any millage necessary to the payment of general obligation bonds in accordance with all bond covenants, or to any other millage approved by referendum of the electors, whether before or after the effective date of this subsection.”

The tax cap and procedures set forth in Section 2.9.3.1 are plainly inconsistent with general law as provided in Chapters 129 and 200, Florida Statutes. Most obviously, Chapter 200, Fla. Stat., does not contain limitations on millage rates such that revenue increases are limited to the lesser of 3% or CPI. More subtly, however, the tax cap specified in Section 2.9.3.1 applies independently to each individual millage levied by the county, each individual millage levied by a county municipal services taxing unit, and each individual millage levied by a county

dependent special district.¹ In stark contrast, Section 200.065(5)(b), Fla. Stat., allows counties the flexibility to raise any individual millage rate above the statutory maximum millage rate (basically, the roll back rate adjusted for change in per capita personal income) so long as a decrease in one or more other levies causes the total county aggregate levy to not exceed a maximum aggregate levy.

In light of Section 2.9.3.1's patent inconsistency with general law, any analysis of the legality of Section 2.9.3.1 must include an analysis of and be contingent upon the validity (in particular, the constitutionality and legality) of the special act itself.

Constitutionality of Chapter 2007-310, Laws of Florida

Generally, when a valid special law and a general law conflict, the special law prevails. *Rowe v. Pinellas Sports Auth.*, 461 So. 2d 72, 77 (Fla. 1984). However, that general proposition would not hold true if the special law were not itself valid, i.e., constitutionally permissible.

The Florida Constitution contains a section entitled "Prohibited Special Laws", at Article III, Section 11, which provides in part:

- (a) There shall be no special law or general law of local application pertaining to:
 - (2) assessment or collection of taxes for state or county purposes, including extension of time therefor, relief of tax officers from due performance of their duties, and relief of their sureties from liability"

Accordingly, an analysis of the special act is necessary to determine whether it is a "prohibited special law" under Article III, Section 11(a)(2) of the Florida Constitution.

¹ It may not be immediately apparent from a review of the special act that this cap on each individual millage is authorized or contemplated by the terms of the special act. Indeed, most of the language of section 1 of the special act refers to the nouns "cap" and "rate" in the singular. However, the individual millage caps appear consistent with the computation methodology provided in the fourth sentence of section 1, stating "In applying the increase or growth cap, the county shall compute a millage rate that... will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year." While "the county" and "a millage rate" are both referred to here in the singular, reference to "for each taxing authority" appears to indicate, if obliquely, a contemplation of a separate cap for the county general fund, each MSTU, and each dependent special district. While it may seem that there is only one "taxing authority" involved (the county), pursuant to Rule 12D-17.002, F.A.C., the term "taxing authority" "includes, but is not limited to, any county, municipality, authority, special district... or other public body of the state, [or] municipal service taxing or benefit unit (MSTU or MSBU)..." Notably, it appears that if any one taxing authority levied two or more millages subject to Section 2.9.3.1, an inconsistency would arise between the special act and the charter provision, as the special act appears to apply a limit on a per-taxing-authority basis, while the charter provision applies a limit on a per-millage basis. It appears this clash would have arisen had Section 2.9.3.1(e) not exempted "any millage necessary to the payment of general obligation bonds in accordance with all bond covenants, or to any other millage approved by referendum of the electors" (roughly, the categories of county millage other than general county millage under Section 200.001(1), Fla. Stat.).

There is support for a broad reading of the term “assessment” as used in the phrase “assessment... of taxes”.² As set forth in *Jackson Lumber Co. v. McCrimmon*, 164 F. 759, 763-764 (N.D. Fla. 1908):

The word “assessment,” as used in tax statutes, does not mean merely the valuation of the property for taxation. It includes the whole statutory mode of imposing the tax. It embraces all the proceedings for raising money by the exercise of the power of taxation from the inception to the conclusion of the proceedings.

Only a small set of appellate cases have endeavored to interpret Article III, Section 11(a)(2) and its identical antecedent, Article III, Section 20, of the Florida Constitution of 1885. Taken together, these cases hold that the prohibition on a special law pertaining to the assessment of taxes for county purposes is interpreted to prohibit any local enactment that effects the manner or method of assessing taxes, that interferes with the uniformity of the assessment and collection process, or that bears upon the mechanics of tax assessment and collection, but does not prohibit special acts that empower a local government to levy or impose a tax. *Wilson v. Hillsborough County Aviation Authority*, 138 So.2d 65 (Fla. 1962); *Metropolitan Dade County v. Golden Nugget Group*, 448 So.2d 515 (Fla. 3d DCA 1984); *McMullen v. Pinellas County*, 90 Fla. 398 (Fla. 1925); *Kroegel v. Whyte*, 56 So. 498 (Fla. 1911).

Ch. 2007-310, Laws of Florida, does not authorize or empower Brevard County to impose a tax. Rather, the special act purports to authorize the Brevard County Charter to modify central portions of the uniform assessment process, namely, the uniform processes provided by Chapters 129 and 200, Florida Statutes, for establishing the budget and the resulting millage rate. Accordingly, at first glance it would appear that Chapter 2007-130, Laws of Florida, may be a prohibited special law.

However, there is a forty year old appellate opinion that, without setting forth any legal reasoning whatsoever, held that a special act providing for a tax cap in Broward County, Ch. 74-434, Laws of Florida, did not violate Article III, Section 11(a)(2), of the Florida Constitution. See *Coe v. Broward County*, 327 So.2d 69, (Fla. 4th DCA), *affd.*, 341 So.2d 762 (Fla. 1976). On appeal, the Florida Supreme Court, in a two sentence affirmance, cited *Wilson v. Hillsborough County Aviation Authority*, 138 So.2d 65 (Fla. 1962) as authority without discussion. In the absence of any legal reasoning whatsoever for the Fourth DCA’s holding, *Wilson* must be examined in an attempt to determine whether Ch. 2007-310, Laws of Florida, would fall under the ambit of the holding in *Coe*.

The court in *Wilson* opined that “[t]he provision of Section 20, Article III, Florida Constitution, proscribing local laws for ‘the assessment and collection of taxes’ for county purposes was designed merely to provide uniformity in the assessment and collection process.”

² See *Metropolitan Dade County v. Golden Nugget Group*, 448 So.2d 515 (Fla. 3d DCA 1984) (noting that Article III, Section 11(a)(2), Fla. Const., concerns “the assessment of taxes”, clarifying that “of taxes” modifies the word “assessment” as well as “collection”).

It merits noting that the tax cap in *Coe* was specifically imposed by the Florida Legislature in the special act itself, rather than purporting to grant to Broward County the authority to enact its own version of a tax cap. Accordingly, the requirement for “uniformity”, apparently integral to the Florida Supreme Court’s interpretation of Article III, Section 11(a)(2) in *Wilson*, and presumably by extension in *Coe*, is maintained, in that only one body, the Florida Legislature, is vested with the authority to specify the assessment process.

While this may seem like a low bar, it nonetheless fails to be satisfied by the Chapter 2007-310, Laws of Florida. Where the Florida Legislature merely purports to assign the option to impose a tax cap to Brevard County (exercisable and repealable in Brevard County’s own discretion, and in amounts subject to its control), this mandated “uniformity” would appear to be lost, as the Florida Legislature has not specified the assessment process in such an instance. Accordingly, the option to elect to self-impose a tax cap set forth in Chapter 2007-310, Laws of Florida, appears distinguishable from the *Coe* case and the Broward County tax cap imposed directly by the Florida Legislature, and thus may yet be a prohibited special law in violation of Article III, Section 11(a)(2) of the Florida Constitution.

Legal Interaction of Chapter 2007-310, Laws of Florida and Chapter 200, Florida Statutes

As stated *supra*, it is generally the case that when a valid special law and a general law conflict, the special law prevails. *Rowe*, 461 So. 2d at 77. However, where a general act is intended as an overall restatement of the law on the same subject, this precedence does not necessarily maintain. *See Floyd v. Bentley*, 496 So.2d 862, (Fla. 2d DCA 1986), *rev. denied*, 504 So.2d 767 (Fla. 1987) (effectiveness of more specific act is retained unless general act is intended as overall restatement of the law on the same subject). *See also State v. Dunmann*, 427 So. 2d 166, 168 (Fla. 1983) (focusing such an analysis on the “manifest intent” of the general law).

As recognized by the Fifth DCA in *Ellis v. Burk*, “Chapters 129 and 200 set forth the exclusive statutory scheme for establishing the budget and the resulting millage rate.” 866 So.2d at 1238. Moreover, in at least two places, Chapter 200, Fla. Stat., clearly manifests the specific intent of such general law to regulate the chapter’s interaction with special acts.

First, Section 200.001(7), Fla. Stat. provides:

“Millages shall be fixed only by ordinance or resolution of the governing body of the taxing authority in the manner specifically provided by general law or by special act.”

This statutory provision explicitly requires that millages must be fixed only “in the manner specifically provided by general law or by special act”, and thus appears to require that the “manner” be “specifically provided” within the four corners of the general law or special act. However, the Brevard tax cap is not contained within the four corners of a special act, but rather is specified in Section 2.9.3.1 of the Brevard County Charter. This section was enacted under the stated authority of a special act, which purported to provide Brevard County with an option to self-impose a tax cap (exercisable and repealable in Brevard County’s own discretion, and in

amounts subject to its control), but the actual terms of the millage cap were not “specifically provided” by the special act, but by the charter provision itself. Notably, the magnitude of the tax cap was left in the discretion of Brevard County to set by charter amendment, subject only to a floor below which revenue increases could not be prohibited.

This distinction is analogous to that recognized by the court in *Pinellas County v. City of Key Largo*, 964 So.2d 847, 854-55 (Fla. 2nd DCA 2007), which held that where Section 171.044(4), Fla. Stat. specified that an exclusive method of voluntary annexation may be provided for in a county charter, it was nonetheless legally impermissible for a Pinellas County Charter provision to purport to empower the Pinellas County Commission to enact an exclusive method of voluntary annexation by ordinance. In that case, the exclusive method of annexation was not set forth within the four corners of the charter itself, but only purported to authorize an ordinance outside the charter enacting an exclusive method of voluntary annexation. Stated differently, where a statute specifically indicates that a “manner” or “method” must be set forth within a particular type of legislative instrument, it is not legally permissible that such instrument purport to authorize yet another legislative instrument to specify such “manner” or “method”. *See id.*

Therefore, although Section 200.001(7), Fla. Stat. allows millages to be fixed “in the manner specifically provided... by special act”, it does *not* provide that they can be fixed “in the manner specifically provided” by a provision of a county charter.

In addition, Section 200.065, Fla. Stat., (Method of fixing millage) provides at subsection 15:

(15) The provisions of this section shall apply to all taxing authorities in this state which levy ad valorem taxes, and shall control over any special law which is inconsistent or in conflict with this section, except to the extent the special law expressly exempts a taxing authority from the provisions of this section. This subsection is a clarification of existing law, and in the absence of such express exemption, no past or future budget or levy of taxes shall be set aside upon the ground that the taxing authority failed to comply with any special law prescribing a schedule or procedure for such adoption which is inconsistent or in conflict with the provisions of this section.

This provision manifests the clear legislative intention that this section “shall control over any special law which is inconsistent or in conflict with” it, notwithstanding the fact that it is a general law, and provides an exception only “to the extent the special law expressly exempts a taxing authority from the provisions of this section.”

An examination of Ch. 2007-310, Laws of Florida, reveals that such special act does not appear to “expressly exempt” Brevard County or any taxing authority from the provisions of Section 200.065, Fla. Stat. There is no language within the special act that references the words “exempt” or “exemption” or any synonyms thereof. Indeed, Brevard County continues to be required to comply with each requirement of Section 200.065, Fla. Stat. However, it must also comply with the additional requirements of Section 2.9.3.1. Conceivably, it could be asserted that the special act “impliedly” exempts Brevard County from Section 200.065, Fla. Stat., to the

extent that the requirements of the charter provision it purports to authorize are inconsistent as containing requirements in addition to those set forth in Section 200.065, Fla. Stat. However, the Legislature's use of the words "expressly exempts" appears to draw a clear distinction with any thought that such a hypothetical "implied exemption" would actually satisfy the requirement of "express exemption" set forth clearly and repeatedly in Section 200.065(15), Fla. Stat.

Notably, the specific special act requirements of both Section 200.001(7) and 200.065(15), Fla. Stat., harmonize perfectly with the Florida Supreme Court's holding as recognized by the Fifth DCA in *Ellis* that "Chapter 200 set[s] forth the exclusive manner by which to set countywide millage rates." 866 So.2d at 1238 (citing *Board of County Commissioners of Dade County*, 386 So.2d at 560). In particular, these two provisions specify that millages will be set in a manner set forth in the chapter directly, or in a manner complying with the chapter's particular requirements that any changes to the general process be "specifically provided" within such a special act, and requiring that any such special act "expressly exempt[]" a taxing authority from the provisions of Section 200.065, Fla. Stat. As discussed above, Section 2.9.3.1 and Chapter 2007-310, Laws of Florida, fail to satisfy either of these requirements.

In addition, these specific special act requirements also harmonize with the distinction drawn *supra* with respect to the *Coe* case and the uniformity protected by the prohibition on special laws pertaining to the "assessment or collection of taxes", by lodging only with the Florida Legislature the authority to specify the assessment process, via processes "specifically provided" in general law or within the four corners of a special act, and requiring that any such special act "expressly exempt[]" a taxing authority from the provisions of Section 200.065, Fla. Stat.

However, it must be noted that a court could yet decide that the most recent expression of legislative will should control, notwithstanding this manifest intent of legislative will set forth in the seemingly mandatory requirements for special acts modifying the assessment process set forth in Section 200.001(7) and Section 200.065(15), Fla. Stat. *See Palm Beach Cty. Canvassing Bd. v. Harris*, 772 So. 2d 1273, 1287 (Fla. 2000) ("The more recently enacted provision may be viewed as the clearest and most recent expression of legislative intent."). Ch. 2007-310, Laws of Florida, was enacted in 2007, while both Section 200.001(7) and Section 200.065(15), Fla. Stat. predate its enactment. Accordingly, it is not clear whether a court would find more convincing the recency of Ch. 2007-310, Laws of Florida, or the manifest intent of the Section 200.001(7) and Section 200.065(15), Fla. Stat. to regulate the effect of special acts on the manner of fixing millages, in ruling on which has precedence.

Based on the above analysis, it appears that there is a persuasive argument that Section 2.9.3.1 of the Brevard County Charter is illegal because it violates Section 200.001(7), Fla. Stat., in that it provides for millages to be fixed in a manner other than "specifically provided" in either general law or by a special act, and because the special act purporting to authorize it, Chapter 2007-310, Laws of Florida, conflicts with the clear expression and manifest intent of legislative will ("The provisions of this section... shall control over any special law which is inconsistent or in conflict with this section") set forth in Section 200.065(15), Fla. Stat., because it does not "expressly exempt" Brevard County or any taxing authority from the provisions of Section 200.065, Fla. Stat. However, a court may find that the more recent enactment of the special act nonetheless

overrides the manifest intent of Chapter 200, Fla. Stat. to regulate the effect of special acts on the manner of fixing millages.

M E M O R A N D U M

TO: 2016 Orange County Charter Review Commission
FROM: Wade C. Vose, Esq., General Counsel
DATE: May 13, 2015
SUBJECT: Survey of County Charter Initiative Petition Provisions in Florida

Pursuant to the Commission's request at its April 9, 2015 meeting, I have assembled some basic information surveying the initiative petitions provisions and procedures under Florida's 20 county charters. A substantial portion of this information was previously provided to the members of the Initiative Petitions Workgroup prior to their meeting on April 30, 2014, but is restated and expanded upon herein for the benefit of the entire Commission.

As a starting point, please find attached as Exhibit "A" an excerpt from the Charter County Provision Comparisons spreadsheet prepared by the Florida Association of Counties ("FAC Spreadsheet Excerpt"), focused on a comparison of the initiative petition provisions of the 20 charter counties. The information and analysis in this memorandum is intended to supplement and expound upon the wealth of information in the FAC summary.

Please also find attached as Exhibit "B" a compilation of the initiative petition provisions of all 20 county charters, with the relevant portions highlighted. While this is 53 pages of otherwise opaque legalese, there are some general contours worthy of mention that should help structure your review.

A number of these charter provisions are substantially identical or very similar, and can therefore be grouped in a cursory review when looking for potential improvements or revisions to Orange County's initiative petition process. For example:

- Alachua, Charlotte, Clay, Lee, Osceola, and Seminole Counties' respective charters are structurally very similar with regard to initiative petitions, as are
- Columbia, Leon, Polk, and Wakulla Counties' respective charters. (And both groups as a whole are similar to each other.)

By "structurally similar," I mean that the language of the various initiative petition provisions track each other very closely, even if they vary substantially in the percentage of registered voters necessary to qualify an initiative petition, the number of days petition gatherers have to collect petitions, and at which election a referendum is required to be scheduled, among other variables. The particular values for such variables can be found in the FAC Spreadsheet Excerpt, as supplemented by additional materials referenced below.

Notably, Orange County's current initiative petition provisions are highly similar to the Alachua group referenced above, but vary from them structurally in that the initiative petition provisions for both ordinances by initiative and charter amendments by initiative are combined in a single section, while the Alachua group breaks up these two types of initiative petition.

Notable or Unique Provisions on Initiative Petitions

An initial review of the attached initiative petition provisions reveals a number of notable or unique provisions that stand out from the rest.

For example, Brevard's charter provides for a two-step petition process for charter amendments by initiative, with legal review of the petition and its language by a three-attorney panel after collection of a portion of the required signatures. In Brevard's case, the three-attorney panel is hired and paid by the board of county commissioners, and is tasked with "determin[ing] whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law, and [the Brevard County] Charter." If two of the three attorneys find that the proposal satisfies these criteria, the petition is returned to the sponsor to gather the rest of the required petitions. It should be noted that this charter provision does not specify a time period in which the commission-appointed three-attorney panel must complete its review.

Broward County's charter provides for County Attorney review of petitions prior to petition-gathering, but appears to be limited in its review to compliance with form requirements.

Miami-Dade's charter specifically addresses petition-gatherers, and requires a sworn affidavit from each petition-gatherer with respect to each petition, verifying that the petition was signed in the petition-gatherer's presence. In conjunction with this, Section 12-23 of the Miami-Dade code of ordinances sets forth a detailed set of requirements and restrictions relating to petition-gathering practices and disqualification of non-compliant petitions. A copy of that code section is attached hereto as Exhibit "C." Please note, however, that some of the provisions of this ordinance, notably the requirement that petition-gatherers be registered electors in Miami-Dade County, or the criminalization of making a "false statement concerning the contents or effect of any petition," may be constitutionally questionable in light of *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182 (1999), a U.S. Supreme Court case addressing initiative petitions, as well as previous court challenges to the ordinance. See *Dermer v. Miami-Dade County*, Case No. 07-21308-CIV, 2008 WL 2955152 (S.D. Fla. August 1, 2008), *reversed for lack of standing and ripeness*, 599 F.3d 1217 (11th Cir. 2010).

Orange County's own charter, as recently amended, now contains a provision, unique among the 20 charter counties, that prohibits the Board of County Commissioners:

from calling a referendum on the question of the adoption of any proposed charter amendment or ordinance by initiative which, in the determination of the board, is wholly or partially violative of the limitations of this section (*referring to the subject matter limitations set forth earlier in the section*) or Florida law."

Among the 20 charter provisions, you may also note that Polk County's charter requires that charter amendments by initiative petition must be approved by a 60% vote, in contrast to the majority (50% + 1) set forth in the other 19 charters. Please note that I am of the opinion that

this provision is legally impermissible under applicable Florida case law (in particular, *Citizens for Term Limits & Accountability, Inc. v. Lyons*, 995 So.2d 1051 (Fla. 1st DCA 2008)).

Comparisons of Percentages of Registered Voters Required, and from How Many Districts, for Ordinances by Initiative and Charter Amendments by Initiative

An area of considerable variability among the 20 county charters relates to the percentages of registered voters required to sign petitions in order to qualify each of the two types of initiative petition for the ballot. More subtly, the charters vary considerably in the standards by which this number is assessed, a subtlety that is entirely missed in the FAC Spreadsheet Excerpt.

Accordingly, please find attached as Exhibit “D” a chart breaking down not only the percentage of voters required to sign a petition for each type of initiative petition, but also specifying additional requirements relating to whether the petitions can simply be gathered from the county as a whole, or whether certain thresholds must be met in some or all of the county’s commission districts.

Such additional conditions substantially modify the thresholds necessary to a successful initiative petition effort, sometimes making them more strict (e.g., a requirement that a given percentage be obtained from each district) or more loose (Orange County’s specification that 10% is required only from 4 of the county’s 6 districts, a formulation unique among the 20 county charters). Also included in the chart, consistent with the request of Commissioner Hawkins, is the population of each of the 20 charter counties, in order to place the percentage requirement in an appropriate comparative context.

Public Hearing on Initiative Petitions

During one or more of your previous meetings, Chairman Shaughnessy has suggested that the Commission consider a requirement for a mandatory public hearing for charter amendments proposed by initiative. It is useful to note that a similar requirement is prevalent among the 20 county charters with regard to ordinances proposed by initiative petition, but is generally absent with regard to charter amendments. In the context of ordinances by initiative, the public hearing is generally held for the county commission to consider the adoption of the ordinance, and in the event it is not, it is placed on the appropriate ballot pursuant to charter. This is presumably to provide the county commission with an opportunity to adopt the ordinance and avoid the expense and trouble of an election.

While such a rationale would not obtain with regard to charter amendments (a vote of the electors of the county would still be required to amend a county charter), the structure of such a meeting could serve as a useful template for a public hearing on a proposed charter amendment by initiative petition. In addition, such requirement could conceivably be combined with the structure utilized by the Brevard County Charter for legal review (i.e., a public hearing required within X days after petition-gathering exceeds Y%) in order to allow the public hearing to occur during the petition-gathering process, without the requirement of holding a public hearing for every proposal at the outset.

Initiative Petition Procedures and Requirements Outside of Florida

The vast diversity of initiative petition procedures and requirements utilized by state and local governments outside of Florida is beyond the scope of this memorandum, and even the most cursory of surveys would be most appropriate to a lengthy journal article. It is anticipated that over the course of the Commission's review of Orange County's initiative petition procedures, members of the Commission and public will supply examples of innovative procedures from outside of Florida for the Commission to consider. Consideration of such proposals will necessarily include legal analysis for compatibility with Florida law, and constitutionality under the First and Fourteenth Amendments. An example of such an analysis in action is found in *Buckley v. American Constitutional Law Foundation, Inc.*, *supra*, a U.S. Supreme Court case evaluating the constitutionality of a long list of features in Colorado's initiative petition requirements as they existed in the 1990s, namely:

- (1) The requirement that petition circulators be at least 18 years old,
- (2) The further requirement that they be registered voters,
- (3) The limitation of the petition circulation period to six months,
- (4) The requirement that petition circulators wear identification badges stating their names, their status as "VOLUNTEER" or "PAID," and if the latter, the name and telephone number of their employer,
- (5) The requirement that circulators attach to each petition section an affidavit containing, *inter alia*, the circulator's name and address,
- (6) The requirements that initiative proponents disclose
 - (a) at the time they file their petition, the name, address, and county of voter registration of all paid circulators, the amount of money proponents paid per petition signature, and the total amount paid to each circulator, and
 - (b) on a monthly basis, the names of the proponents, the name and address of each paid circulator, the name of the proposed ballot measure, and the amount of money paid and owed to each circulator during the month.

Id. at 186-90.

The Court stated that it was guided in its review by its prior precedent in *Meyer v. Grant*, 486 U.S. 414 (1988), in which the Court struck down Colorado's prohibition of payment for the circulation of ballot-initiative petitions, concluding that petition circulation is "core political speech" for which First Amendment protection is "at its zenith." Without my belaboring its analysis, the Court struck down:

- (1) The requirement that petition circulators be registered voters,
- (2) The requirement that their identification badges state their names,
- (3) The requirements to disclose the name and amount paid to each petition circulator.

The Court found constitutional Colorado's requirements that:

- (1) Petition circulators be at least 18 years old,

- (2) Petition circulators be residents of the state (not challenged in the case),
- (3) The limitation of the petition circulation period to six months,
- (4) The requirement that circulators attach to each petition section an affidavit containing, *inter alia*, the circulator's name and address.

Finally, the Court explicitly expressed no opinion on the constitutionality of Colorado's requirements that the required badge disclose whether the circulator is paid or volunteer, and if paid, by whom.

In summary, further inquiry into initiative petition procedures and regulations for which there is clear federal court precedent for their legality would be advised, in order to most securely address the complex constitutional analysis only hinted at above.

INITIATIVE TO ENACT, AMEND OR REPEAL COUNTY ORDINANCES						
County	% of Registered Electors Required on Petition	Time Limitation to Gather Signatures	Time Limit for County Commission to Take Action	If Referendum is Required it will be scheduled at:	Limitation on Subject Matter for Initiative Petitions	Approval as to Form
Alachua	7 (§2.2(H))	180 days (§2.2(H)(2))	60 days (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
Brevard	5 (§5.1)	9 mos. (§5.1.1)	60 days (§5.1.2)	General Election (§5.1.2)	Specified in charter (§5.1.3)	Silent
Broward	7	180 days	90 days	General/Special election	Specified in charter	Y
Charlotte	10 (§2.2(G)(1))	6 mos (§2.2(G)(2))	60 days (§2.2(G)(3))	General Election (§2.2(G)(3))	Specified in charter (§2.2(g)(4))	Y (§2.2(G)(2))
Clay	10 (§2.2(I)(1))	180 days (§2.2(I)(2))	45 days (§2.2(I)(3))	General Election (§2.2(I)(3))	Specified in charter (§2.2(I)(5))	Y (§2.2(I)(2))
Columbia	7 (§6.1)	6 mos (§6.1.1)	60 days (§6.1.2)	General Election (§6.1.2)	Specified in charter (§6.1.3)	Silent
Duval	Silent	Silent	Silent	Silent	Silent	Silent
Hillsborough	8	180	Silent	General Election	Silent	Silent

INITIATIVE TO ENACT, AMEND OR REPEAL COUNTY ORDINANCES						
County	% of Registered Electors Required on Petition	Time Limitation to Gather Signatures	Time Limit for County Commission to Take Action	If Referendum is Required it will be scheduled at:	Limitation on Subject Matter for Initiative Petitions	Approval as to Form
Lee	5 (§2.2(H)(1))	180 days (§2.2(H)(2))	45 days (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
Leon	10 (§4.1(1))	1 year (§4.2(2))	60 days (§4.2(3))	General Election (§4.2(3))	Specified in charter (§4.2(4))	N
Miami-Dade	4 (§8.01)	60 days	30 days	Next Countywide Election or if 8% signatures, special election	Specified in charter	Y
Orange	7 (§601(B))	180 days (§602)	30 days (§602(B))	Next election, 45 days after resol by BoCC (§602(B))	Specified in charter (§603)	Y (§602)
Osceola	7 (§2.2(H)(1))	180 days (§2.2(H)(2))	60 days (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
Palm Beach	7 (§5.1)	Silent	45 days (§5.1)	General Election (§5.1)	Specified in charter (§5.1)	Silent
Pinellas	Silent	Silent	Silent			

INITIATIVE TO ENACT, AMEND OR REPEAL COUNTY ORDINANCES						
County	% of Registered Electors Required on Petition	Time Limitation to Gather Signatures	Time Limit for County Commission to Take Action	If Referendum is Required it will be scheduled at:	Limitation on Subject Matter for Initiative Petitions	Approval as to Form
Polk	6 (§6.1)	1 year (§6.1.1)	60 days (§6.1.2)	General Election (§6.1.2)	Specified in charter (§6.1.2)	Silent
Sarasota	Silent					Silent
Seminole	7 (§2.2(H)(1))	6 mos (§2.2(H)(2))	60 (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
Volusia	Silent				Silent	Silent
Wakulla	30 (§6.1)	6 mos (§6.1.1)	60 days (§6.1.2)	General Election (§6.1.2)	Specified in charter (§6.1.3)	Silent

METHODS TO AMEND CHARTER AMENDMENT BY PETITION					
County	Subject Matter Exclusions	% of Registered Electors Required on Petition	Time Limit to Gather Signatures	Referendum Will Be Scheduled	Voting Requirements
Alachua		10 (§4.2(A)(1))	180 days (§4.2(A)(2))	General Election (§4.2(A)(1))	Majority (§4.2(A)(3))
Brevard	Y (§7.3.2.1)	4 (§7.3.2)	9 mos (§7.3.2.4;§5.1.1)	Special Election (§7.3.3)	Majority (§7.3.3)
Broward		10	180 days	Next General Election or Special Election	
Charlotte		10 (4.2(B)(1))	90 days (4.2(B)(1))	General Election (§4.2(B)(1))	Majority (§4.2(B)(3))
Clay		10 (§4.2(A)(1))	180 days (§4.2(A)(3))	General Election (§4.2(A)(2))	Majority (§4.2(A)(4))
Columbia		10 (§8.3.2(2))	6 mos (§8.3.2)	General Election (§8.3.3)	Majority (§8.3.3)
Duval		5 (§18.05(a))	Silent	Next Countywide General Election (§18.05(h))	Majority (§15.05(k))
Hillsborough		8 (§8.03(1))	6 mos (§8.03(1))	General Election (§8.04)	Majority (§8.04)

METHODS TO AMEND CHARTER AMENDMENT BY PETITION					
County	Subject Matter Exclusions	% of Registered Electors Required on Petition	Time Limit to Gather Signatures	Referendum Will Be Scheduled	Voting Requirements
Lee		7 (§4.1(A)(1))	90 days (§4.1(A)(2))	General Election (§4.1(A)(4))	Majority (§4.1(A)(4))
Leon		10 (§5.2(1)(A))	1 year (§5.2(1)(A))	General Election (§5.2(1)(B))	Majority (§5.2(1)(B))
Miami-Dade	N	10 (§9.07(A))	Silent	60-120 days or special election (§9.07(C))	Majority (§9.07(D))
Orange	N	10 (§601(A))	180 days (§601(A))	Next General Election (§602(A))	Majority (§602(A))
Osceola	N	10 (§4.2(A)(1))	180 days (§4.2(A)(2))	Special Election (§4.2(A)(1))	Majority (§4.2(A)(3))
Palm Beach	N	7 (§6.3)	Silent	General Election or presidential primary (§6.3)	Majority (§6.3)
Pinellas	N	10 (§6.02(1))	180 days (§6.02(2))	General Election or special call referendum (§6.02(1))	Majority (§6.02(1))

METHODS TO AMEND CHARTER AMENDMENT BY PETITION					
County	Subject Matter Exclusions	% of Registered Electors Required on Petition	Time Limit to Gather Signatures	Referendum Will Be Scheduled	Voting Requirements
Polk	Y (§8.3.2))	7 (§8.3.2)	1 year (§8.3.2, §6.1.1)	General Election - cannot be held sooner than 60 days after amendment proposed or validated (§8.3.3)	60% (§8.3.3)
Sarasota	N	5 (§7.1)	Silent	Special Election (§7.1)	Majority (§7.1)
Seminole	N	7.5 residing in 3/5 (§4.2(A)(1))	6 mos (§4.2(A)(2))	General Election (§4.2(A)(1))	Majority (§4.2(A)(3))
Volusia		5 (§1302.2)	Silent	General Election (§1302.3)	Majority (§1302.3)
Wakulla	Y (§7.3.2)	30 (§7.3.2)	6 mos (§7.3.2, §6.1.1)	General Election (§7.3.3)	Majority (§7.3.3)



Exhibit “B”

(All 20 Florida Charter Counties - Initiative Petition Provisions)

To Survey of County Charter Initiative Petition Provisions in Florida

(Because of this Exhibit’s length – 53 pages – it has been made available
as a separate PDF file.)

Sec. 12-23. Initiative, referendum and recall petitions—Verification of signatures; disqualification of non-complying petitions; prohibition on improper signature gathering practices.

- (1) No person may circulate a petition or solicit signatures unless he or she is a registered elector in Miami-Dade County.
- (2) Form of Petition. All petitions for initiative, referendum, and recall submitted pursuant to Article 8 of the Miami-Dade County Home Rule Charter shall be in 12-point font with no more than one signature per page and in a format determined by the Supervisor of Elections; providing, however, each petition shall contain the following information:
 - A. A statement in each petition circulator's own handwriting, setting forth his or her own name, both in printed and signature form.
 - B. The residence address of the circulator.
 - C. Dates between which all the signatures on each individual petition were obtained.
 - D. A sworn statement that the circulator personally circulated the petition, witnessed each signature as it was being written and that to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be.
 - E. A sworn statement signed by the circulator certifying to the truthfulness and the correctness of the certificate set forth in Section (1)(D) hereof; stating that it is being given under penalty of perjury under the laws of the State of Florida; and setting forth the date and the place of execution of the certification.
 - F. Any individual who knowingly signs more than one petition or who attempts to sign another person's name, or a fictitious name, shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail for a period not to exceed sixty (60) days, or by both.
 - G. The title and text in English, Spanish, and Creole of the ordinance or the Charter provision sought to be enacted or repealed.
- (3) Disqualification of Forms. Within thirty (30) days, excluding weekends and legal holidays, of the date of filing a petition of initiative or referendum, the Supervisor of Elections, or in the case of recall, the Clerk of the Circuit Court, shall disqualify the following petition forms:
 - A. Those that do not include in English, Spanish and Creole the title and text of the ordinance or the Charter provision sought to be enacted or repealed.
 - B. Those that do not comply with any one or more of the provisions relating to the circulator set forth in Section (1) hereof.
 - C. Those where the notary failed to comply with the provisions of F.S. § 117.05, requiring the notary to certify that to the best of his or her knowledge he or she knows the circulator or has seen documentary evidence to substantiate the authenticity of the circulator.
 - D. Those where the notary is the same person as the circulator.
 - E. Those where the signatures of the circulator or notary are dated earlier than the dates on which the electors signed the petition.
- (4) Disqualification of Signatures. The Supervisor of Elections in the case of the initiative or referendum, or the Clerk of the Circuit Court in the case of recall, shall disqualify the following signatures:

PART III - CODE OF ORDINANCES

Chapter 12 ELECTIONS

- A. Those signatures that are not accompanied by a residence address or precinct number of the voter.
- B. Those signatures that are illegible.
- C. Those signatures not dated.
- D. Those signatures representing persons who were not registered voters in Miami-Dade County on the date they signed the petition.
- E. The second and any additional signatures of an otherwise eligible voter.
- F. Those signatures that appear different to the extent that it cannot be determined that the person signing the petition and the person who is registered to vote are one and the same.
- G. Any signature that, within fifteen (15) days, excluding weekends and legal holidays, of the date of filing the petition, the signer, on a form prescribed by the Supervisor of Elections, has withdrawn his or her signature because the signature was fraudulently obtained.

(5) Prohibited Signature Gathering Practices

- A. It shall be unlawful for any person, entity, or elector intentionally to make or cause to be made any false statement concerning the contents or effect of any petition for initiative, referendum, or recall submitted pursuant to Article 7 of the Miami-Dade County Home Rule Charter to any person who is requested to sign any such petition or who makes an inquiry with reference to any such petition and who relies on such statement.
- B. Any person, entity, or elector convicted of a violation of section 12-23(5)A. of this Code shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the County Jail not more than sixty (60) days, or by both such fine and imprisonment.

(Ord. No. 01-181, §§ 1—3, 11-6-01; Ord. No. 06-167, § 1, 11-28-06; Ord. No. 06-168, § 1, 11-28-06; Ord. No. 07-39, § 1, 3-6-07)

**Breakdown of Required Percentage of Registered Voters, and from How Many Districts
for Ordinances by Initiative and Charter Amendments by Initiative under Florida's 20 County Charters**

Charter County	Population	Ordinance by Initiative % of Reg. Voters Req. on Petition, and from How Many Commission Districts	Charter Amend. by Initiative % of Reg. Voters Req. on Petition, and from How Many Commission Districts
Alachua	247,337	7%, county as a whole	10%, county as a whole
Brevard	545,184	5%, county as a whole, with 5% from 3 of 5 districts	4% from each of 5 districts
Broward	1,753,162	7%, county as a whole, with no more than 25% from any one of 9 districts	7%, county as a whole, with no more than 25% from any one of 9 districts
Charlotte	160,463	10%, county as a whole	10%, county as a whole
Clay	191,143	10%, county as a whole	10%, county as a whole
Columbia	67,528	7%, county as a whole, with 7% from 3 of 5 districts	10%, county as a whole, with 10% from 3 of 5 districts
Duval	864,601	(No Ordinance by Initiative Process)	5%, county as a whole, or 10%, county as a whole, if proposed a second time within a 12 month period
Hillsborough	1,238,951	(No Ordinance by Initiative Process)	8%, county as a whole, with 8% from 2 of 4 districts
Lee	625,310	5%, county as a whole, with no more than 30% from any one of 5 districts	7%, county as a whole
Leon	276,278	10% from each of 5 commission districts	10% from each of 5 commission districts
Miami-Dade	2,516,515	4%, county as a whole, with no more than 25% from any one of 13 districts	10%, county as a whole
Orange	1,157,342	7% from each of 6 commission districts	10% from each of 4 of 6 commission districts [10% x (4/6) = 6.67%]
Osceola	273,867	7%, county as a whole	10%, county as a whole
Palm Beach	1,325,758	7%, county as a whole	7%, county as a whole
Pinellas	918,496	(No Ordinance by Initiative Process)	10%, county as a whole, with no more than 40% from any one of 3 at-large districts, and no more than 30% from any one of 4 single member districts
Polk	604,792	6% from each of 5 commission districts	7% from each of 5 commission districts
Sarasota	381,319	(No Ordinance by Initiative Process)	5%, county as a whole
Seminole	424,587	5%, county as a whole, with 5% from 3 of 5 districts	7.5%, county as a whole, with 7.5% from 3 of 5 districts
Volusia	495,400	(No Ordinance by Initiative Process)	5% from each of 5 commission districts
Wakulla	30,877	30% from each of 5 commission districts	30% from each of 5 commission districts

M E M O R A N D U M

TO: 2016 Orange County Charter Review Commission
FROM: Wade C. Vose, Esq., General Counsel
DATE: May 13, 2015
SUBJECT: Single Subject Rule and County Charters in Florida

Pursuant to the Commission's request at its April 9, 2015 meeting, I have assembled some basic information concerning the meaning and application of a single subject limitation with respect to initiatives under a county charter, with a particular focus on the anticipated legal effect of imposing a single subject requirement on one or more types of charter amendments or initiative petitions under the Orange County Charter.

First, it is important to understand that under the present state of the law, a single subject requirement does not presently exist with respect to Orange County Charter amendments. The seminal case on this matter is, notably, *Charter Review Commission of Orange County v. Scott*, 647 So.2d 835 (Fla. 1994).¹

In that case, the Florida Supreme Court considered whether a single subject requirement applied to an Orange County Charter amendment proposed by the CRC that both created a Citizen Review Board reviewing use of force or abuse of power allegations relating to Sheriff's deputies, and converted the Sheriff, Property Appraiser, and Tax Collector into charter officers, abolishing their constitutional officer status. After analysis, including a review of four instances in which a single subject requirement is expressly imposed in the text of the Florida Constitution or Florida Statutes, the court held that a single subject requirement does not apply to county charter amendments proposed by a charter review commission. *Id.* at 837.

Subsequently, in *Seminole County v. City of Winter Springs*, 935 So.2d 521, 528 (Fla. 5th DCA 2006), the Fifth District Court of Appeals (the state appellate court applicable to Orange County), in upholding a charter amendment proposed by the Seminole County Commission, held that "Neither the Florida Constitution nor the Florida Statutes applies a single subject rule to proposed amendments to county or city charters; therefore, any such limitation must be found within the charter itself." *Accord, Shulmister v. Larkins*, 856 So.2d 1149, 1151 (Fla. 4th DCA 2003).

With that understanding, we can turn now to the legal effect of and analysis implied in adding a single subject requirement to the Orange County charter. Research reveals no reported Florida cases addressing a challenge to a county charter amendment on the basis of a single subject requirement found within the charter itself, so initial reliance on the law construing the rigors of a single subject requirement in other contexts would be appropriate.

¹ The case is notable not only because a prior iteration of this Commission was a party, but also because your very own Chairman argued the case before the Florida Supreme Court on behalf of the CRC.

As mentioned above, the Florida Supreme Court in *Scott* referenced four instances in which a single subject requirement is expressly imposed in the text of the Florida Constitution or Florida Statutes:

For instance, article III of the constitution contains a single-subject requirement for laws passed by the legislature,² and article XI imposes a single-subject requirement for constitutional amendments proposed by initiative petition.³ Section 125.67, Florida Statutes (1991), applies the single-subject rule to county ordinances,⁴ and section 166.041(2) places a single-subject requirement on municipal ordinances.⁵

Scott, 647 So.2d at 836.

Research further reveals a surprising lack of Florida cases addressing the application of the single subject requirement to either county or municipal ordinances, and so reference to cases construing single subject requirements in the contexts of laws passed by the Florida Legislature and constitutional amendments proposed by initiative petition is called for.

As to laws passed by the Florida Legislature, the Florida Supreme Court has enunciated a highly deferential standard of review in its application of the single subject rule:

When courts are called upon to assess legislation for compliance with article III, section 6, the standard of review is highly deferential. “[T]he general disposition of the courts [is] to construe the constitutional provision liberally, rather than to embarrass legislation by a construction whose strictness is unnecessary to the accomplishment of the beneficial purposes for which it has been adopted.” *Canova*, 94 So.2d at 184. We stated:

Should any doubt exist that an act is in violation of art. III, sec. 16 of the Constitution, or of any constitutional provision, the presumption is in favor of constitutionality. To overcome the presumption, the invalidity must appear beyond reasonable doubt, for it must be assumed the legislature intended to enact a valid law. Therefore, the act must be construed, if fairly possible, as to avoid unconstitutionality and to remove grave doubts on that score.

² Article III, section 6, Florida Constitution, provides in part: “SECTION 6. Laws. – Every law shall embrace but one subject and matter properly connected therewith....”

³ Article XI, section 3, Florida Constitution, provides in part: “SECTION 3. Initiative. – The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment shall embrace but one subject and matter directly connected therewith.”

⁴ Section 125.67, Florida Statutes (1991), provides in relevant part: “125.67 Limitation on subject and matter embraced in ordinances; amendments; enacting clause. – Every ordinance shall embrace but one subject and matter properly connected therewith....”

⁵ Section 166.041(2), Florida Statutes (1991), provides in relevant part: “Each ordinance or resolution shall be introduced in writing and shall embrace but one subject and matters properly connected therewith.”

Franklin v. State, 887 So.2d 1063, 1073 (Fla. 2004)

The court has particularly focused on the phrase “matter properly connected therewith” in enunciating this lenient standard:

A connection between a provision and the subject is proper (1) if the connection is natural or logical, or (2) if there is a reasonable explanation for how the provision is (a) necessary to the subject or (b) tends to make effective or promote the objects and purposes of legislation included in the subject.

Id. at 1079.

The Florida Supreme Court has distinguished this highly deferential standard from the more rigorous one applicable to state constitutional initiative petitions:

The use of the phrase “properly⁶ connected” in article III, section 6 is broader than the phrase “directly connected” required by article XI, section 3 of the Florida Constitution, which authorizes changes in our constitution by citizen initiative petition. In *Fine v. Firestone*, 448 So.2d 984 (Fla. 1984), we explained the distinction:

We find it is proper to distinguish between the two. First, we find that the language “shall embrace but one subject and matter properly connected therewith” in article III, section 6, regarding statutory change by the legislature is broader than the language “shall embrace but one subject and matter directly connected therewith,” in article XI, section 3, regarding constitutional change by initiative. Second, we find that we should take a broader view of the legislative provision because any proposed law must proceed through legislative debate and public hearing. Such a process allows change in the content of any law before its adoption. This process is, in itself, a restriction on the drafting of a proposal which is not applicable to the scheme for constitutional revision or amendment by initiative. Third, and most important, we find that we should require strict compliance with the single-subject rule in the initiative process for constitutional change because our constitution is the basic document that controls our governmental functions, including the adoption of any laws by the legislature. *Id.* at 988–89. (Emphasis supplied)

Franklin, 887 So.2d at 1077.

In contrast, the Florida Supreme Court sees the single subject requirement employing the phrase “directly connected” as a “rule of restraint... placed in the constitution by the people to allow citizens to propose and vote on singular changes in the functions of our government

⁶ Notably, the single subject provisions applicable to both county and municipal ordinances use the phrase “properly connected,” implying the applicability of the highly deferential standard due to legislative enactments.

structure.” *Advisory Op. to Att’y Gen. re Fairness Init. Req. Leg. Determin. that Sales Tax Exemptions and Exclusions Serve a Public Purpose*, 880 So.2d 630, 633 (Fla. 2004). Such constitutional initiative petitions are subjected to a stricter “oneness of purpose” standard. *Advisory Op.*, 880 So.2d at 634, *citing Fine*, 448 So.2d at 990 (“[T]he one-subject limitation deal[s] with a logical and natural oneness of purpose....”). “A proposed amendment meets this test when it ‘may be logically viewed as having a natural relation and connection as component parts or aspects of a single dominant plan or scheme. Unity of object and plan is the universal test....’” *Advisory Op.*, 880 So.2d at 634, *citing Fine*, 448 So.2d at 990.

Single Subject Requirements in County Charters

Attached as Exhibit “A” is a chart enumerating the extant single-subject requirements for both ordinances by initiative and charter amendments by initiative, and noting, where such a requirement exists, the relevant operative language (“directly connected” or “properly connected”). The vast majority of the counties imposing a single subject requirement employ the “directly connected” language, and therefore appear to have adopted the more rigorous standard discussed above, with only Hillsborough using the phrase “properly connected.” The Supreme Court’s analysis in *Franklin* relating to the non-deliberative character of initiative petitions would seem to further bear out the conclusion that the stricter single subject standard would apply to county charter initiative petitions. *See* 887 So.2d at 1077.

Note that Orange County is one of only seven counties that does not impose a single subject requirement of any kind on its charter amendments by initiative. In contrast, Orange is among the ten of the 15 counties that do not impose a single subject requirement on ordinances by initiative. (The other five of the 20 charter counties do not provide for ordinances by initiative in any event.)

If it is the will of the Commission to propose a charter amendment instituting a single subject requirement with respect to charter initiative petitions, use of the “directly connected” phrasing would most clearly express an intention to adopt the more rigorous single subject standard applicable to state constitution initiative petitions, as opposed to the highly deferential standard applicable to legislative actions.

Exhibit “A”

Breakdown of Single Subject Requirements for Ordinances by Initiative and Charter Amendments by Initiative under Florida’s 20 County Charters

Charter County	Ordinance by Initiative	Charter Amendment by Initiative
Alachua	No SSR	“Directly connected”
Brevard	No SSR	“Directly connected”
Broward	No SSR	No SSR
Charlotte	No SSR	“Directly connected”
Clay	No SSR	“Directly connected”
Columbia	“Directly connected”	“Directly connected”
Duval	(No Ord. by Init. Process)	No SSR
Hillsborough	(No Ord. by Init. Process)	“Properly connected”
Lee	“Directly connected”	“Directly connected”
Leon	“Directly connected”	“Directly connected”
Miami-Dade	No SSR	No SSR
Orange	No SSR	No SSR
Osceola	No SSR	“Directly connected”
Palm Beach	No SSR	No SSR
Pinellas	(No Ord. by Init. Process)	“Directly connected”
Polk	“Directly connected”	“Directly connected”
Sarasota	(No Ord. by Init. Process)	No SSR
Seminole	No SSR	“Directly connected”
Volusia	(No Ord. by Init. Process)	No SSR
Wakulla	“Directly connected”	“Directly connected”

M E M O R A N D U M

TO: 2016 Pinellas County Charter Review Commission
FROM: Wade C. Vose, Esq., General Counsel
DATE: January 4, 2016
SUBJECT: Preliminary Legal Analysis of Proposed Recall Provision Relating to County Commissioners and Constitutional Officers

Pursuant to the Commission's request, I have prepared a preliminary analysis of legal issues relating to amending the Pinellas County Charter to provide for the recall of county commissioners and constitutional officers.

Recall of County Commissioners

As noted in the chart titled "Comparison of Counties on Recall Vote" prepared by Meiller & Associates, 18 of Florida's 20 charter counties specifically provide for the recall of county commissioners in their county charters. Notwithstanding its prevalence among county charters and its absence from Pinellas' charter, it is important to note that the members of the Pinellas County Commission are presently subject to recall pursuant to Florida law.

Section 100.361(1), Fla. Stat. provides in its first sentence that "[a]ny member of the governing body of a municipality or charter county, hereinafter referred to in this section as "municipality," may be removed from office by the electors of the municipality." The statute goes on to specify procedures for conducting a recall petition and election, together with related provisions. Subsections 11 and 12 of the statute go on to clarify the applicability of the statute to the governing bodies of all charter counties:

(11) INTENT. – It is the intent of the Legislature that the recall procedures provided in this act shall be uniform statewide. Therefore, all municipal charter and special law provisions which are contrary to the provisions of this act are hereby repealed to the extent of this conflict.

(12) PROVISIONS APPLICABLE. – The provisions of this act shall apply to cities and charter counties whether or not they have adopted recall provisions.

Subsection 12 of the statute was amended by the Legislature in 1990 (Ch. 90-315, Laws of Florida), after the Florida Supreme Court found that the prior wording of the subsection rendered only those cities and charter counties that had specifically adopted a recall provision subject to the statute. *See In re Recall of Koretsky*, 557 So.2d 24 (Fla. 1990).

Accordingly, the addition of a recall provision to the Pinellas County Charter would not have an immediate effect on whether the members of the Pinellas County Commission are subject to recall. However, in the event that the Legislature subsequently reverses course and once again makes the recall statute applicable only to those cities and charter counties that opt in, the

addition of a recall provision to the Pinellas County Charter would have the effect of subjecting the members of the Pinellas County Commission to recall in the wake of such a change.

Recall of Constitutional Officers

In contrast to the 18 charter counties that provide for the recall of their county commissioners, only seven county charters address the recall of county constitutional officers. These counties fall into two general categories. Four counties (Brevard, Duval, Miami-Dade, and Orange) subject their elected charter officers to recall. That is, these county charters provide for the availability of recall as to those offices that have been abolished as constitutional offices and the duties transferred to offices created under the county charter, pursuant to Article VIII, Section 1(d) of the Florida Constitution. The other three counties (Columbia, Polk, and Sarasota) directly subject their five county constitutional officers to recall without converting them to charter officers.

Section 100.361, Fla. Stat. does not address the recall of county constitutional officers, but rather subjects only “member[s] of the governing body of a municipality or charter county” to removal by the electors. Section 100.361(1), Fla. Stat. However, the Attorney General has found that the fact that an officer is omitted from this statute does not preclude the officer from being subject to recall via charter provision. See Op. Att’y Gen. Fla. 82-82 (1982). No other provision of the Florida Statutes or the Florida Constitution subjects county constitutional officers to recall.

Accordingly, the first question presented is whether a county charter can subject county constitutional officers to recall, and under what conditions or prerequisites (e.g., conversion to charter officers).¹ The second question is whether the Pinellas County constitutional officers can be subjected to recall via an amendment to the Pinellas County Charter proposed by the Pinellas County Charter Review Commission, in light of the unique protections provided to the constitutional officers in Sections 2.06, 4.03, and 6.04 of the Pinellas County Charter.

***Telli v. Broward County* - County Charter’s “broad authority... regarding county officers”**

As to the first question, while there is no direct case law on point, recent appellate authority would suggest that a county charter can subject its county’s constitutional officers to recall, and that it is unnecessary to convert them to charter officers to do so.

In *Telli v. Broward County*, 94 So.3d 504 (Fla. 2012), the Florida Supreme Court receded from its opinion rendered ten years earlier in *Cook v. City of Jacksonville*, 823 So.2d 86 (Fla. 2002), which had held that county charters could not impose term limits on county officers. In so ruling, the Court in *Telli* discussed with approval substantial portions of Justice Anstead’s dissent

¹ The fact that seven other charter counties have provisions in their charters purporting to subject their constitutional or charter officers to recall is not necessarily strong evidence that such provisions are legal. At best, it may indicate that others have believed that such provisions are legal. Just as likely, it may simply be that sufficient cause to expend the funds and effort to challenge such a provision has not arisen.

in *Cook*, and even went so far as to state, “we now agree with Justice Anstead’s dissenting opinion, and recede from *Cook*...” *Telli*, 94 So.3d at 512. As stated in Justice Anstead’s dissent, a substantial portion of which was quoted in *Telli*:

The autonomy of local governments is at the heart of these two sections of the Florida Constitution (referring to Art. VIII, Secs. 1(d) and 1(g), Fla. Const.), and the two sections vest broad authority in charter counties regarding charter governments and county officers. This broad language was obviously intended to allow charter counties wide latitude in enacting regulations governing the selection and duties of county officers. For example, article VIII, section 1(d), specifies that county officers may be elected or chosen in some other manner, and that any county office may even be abolished. By these provisions, it is apparent that the framers intended for charter counties to be self-governing in both providing for county officers and in providing for the manner in which county officials will be selected. Additionally, article VIII, section (1)(g), specifies that charter counties exercise their powers in a way that is “not inconsistent with general law.” The term limit provisions in the charters in these cases are not inconsistent with any provision of general law relating to elected county officers. Given this grant of broad authority and consistency with general law, I can find no legal justification for concluding that charter counties should not be allowed to ask their citizens to vote on eligibility requirements of local elected officials, including term limits, since they could abolish the offices completely or decide to select the officers in any manner of their choosing.

Cook, 823 So.2d at 96 (*Anstead, J. dissenting*).

Justice Anstead went on to refer to “charter counties... exercising their authority over county officers by imposing term limits.” *Id.*

While neither *Telli* nor Justice Anstead’s dissent in *Cook* explicitly refer to subjecting constitutional officers to recall, these authorities appear to suggest that subjecting county officers to recall via county charter would survive constitutional scrutiny, either as an exercise of the county charter’s power over the manner of selecting county officers, or a more general exercise of a county charter’s “broad authority... regarding county officers”.

As to the relevance of the distinction between constitutional and charter officers in this context, the *Telli* Court, in receding from *Cook*, affirmatively stated that it should have affirmed *Pinellas County v. Eight is Enough in Pinellas*, 775 So.2d 317 (Fla. 2d DCA 2000). 94 So.3d at 512. Further, Justice Anstead’s dissent said that he would have affirmed the case. *Cook*, 823 So.2d at 96 (*Anstead, J. dissenting*). *Eight is Enough in Pinellas* is discussed in further detail *infra*, but for present purposes it is noteworthy that the case found constitutional the imposition of term limits on county constitutional officers that had not been converted to charter officers. This suggests that the “broad authority... regarding county officers” of county charters described by Justice Anstead and adopted by the Florida Supreme Court in *Telli* encompasses both constitutional county officers and charter officers.

Applicability of Charter Protections for Pinellas County Constitutional Officers

As to the second question (whether the protections for the constitutional officers in the Pinellas Charter change the above result), the matter is substantially less clear. Three separate sections of the Pinellas County Charter provide unique protections for the Pinellas County constitutional officers. Section 2.06 of the Pinellas County Charter states in pertinent part:

The county shall not have the power, under any circumstances, to abolish any municipality or in any manner to change the status, duties, or responsibilities of the county officers specified in section 1(d), art. VIII of the state constitution.

Section 4.03 of the Pinellas County Charter states:

This document [Charter] shall in no manner change the status, duties, or responsibilities of the [following] county officers of Pinellas County: The clerk of the circuit court, property appraiser, tax collector, sheriff, and supervisor of elections.

Finally, Section 6.04 of the Pinellas County Charter states in pertinent part:

Any other section of the Pinellas County Charter, chapter 80-590, Laws of Florida, notwithstanding, *except for any proposed amendments affecting the status, duties, or responsibilities of the county officers referenced in §§ 2.06 and 4.03 of this Charter*, charter amendments proposed under § 6.01 (proposed by Pinellas County Commission), § 6.02 (proposed by citizens' initiative), or § 6.03 (proposed by a Charter Review Commission) shall be placed directly on the ballot for approval or rejection by the voters and it shall not be a requirement that any such proposed amendments need to be referred to or approved by the Legislature prior to any such placement on the ballot.

Taken together, these three provisions prohibit both Pinellas County and the Pinellas County Charter from “chang[ing] the status, duties, or responsibilities” of the Pinellas County constitutional officers, and imply that any amendment to the Pinellas Charter “affect[ing] the status, duties, or responsibilities” of the constitutional officers may only be placed on the ballot after referral to and approval by the Florida Legislature.

Accordingly, the relevant question is whether subjecting the constitutional officers to recall via amendment to the Pinellas County Charter “change[s] the status, duties, or responsibilities” of those officers.

Eight is Enough in Pinellas, supra, appears to be the only appellate case that has directly analyzed the application of the phrase “change the status, duties, or responsibilities” with respect to the Pinellas County constitutional officers.

As noted above, *Eight is Enough in Pinellas* was subsequently quashed by the Florida Supreme Court in *Cook*. Ten years later, in *Telli*, the Florida Supreme Court receded from *Cook*, stating that “[t]he opinions of the First and Second (*Eight is Enough in Pinellas*) districts should have been affirmed.” At least one trial court has found this statement to mean that the referenced cases are once again good law. See *City of Jacksonville v. Fuller*, Circuit Court Case No. 10-2012-CA-8211 (Final judgment entered August 10, 2012). In any event, it is likely that trial and appellate courts having jurisdiction over Pinellas County will look to *Eight is Enough in Pinellas* in analyzing the phrase in question.

In *Eight is Enough in Pinellas*, the Second DCA provided the following analysis regarding an amendment to the Pinellas County Charter imposing term limits on the constitutional officers:

The County contends that the charter itself precludes the amendments at issue. Sections 2.06 and 4.03 of the charter state that neither the county nor the charter may change the “status, duties or responsibilities of the county officers specified in section 1(d), art. VIII of the state constitution.” Thus, the charter does prohibit certain amendments. *Term limits, however, do not affect the status, duties or responsibilities of a county officer, only the total length of time in which the officer could maintain status or perform duties and responsibilities.*

775 So.2d at 319-20.

The use of the phrase “the total length of time in which the officer could maintain status” appears to indicate that the court in *Eight is Enough in Pinellas* conceived of the term “status” as referring to an individual officer’s status as an office holder. Use of the phrase also seems to indicate that in the court’s analysis, affecting the length of time a county officer can maintain his status as an office holder does not impermissibly “affect the status... of a county officer”. Extrapolating from this reasoning, this case could be read to support the proposition that subjecting the Pinellas County constitutional officers to recall only affects the length of time a county officer can maintain his status as an office holder (contingent upon a successful recall effort), and thus by distinction does not impermissibly “affect the status... of a county officer”.

However, caution must be exercised in attempting to stretch the small bit of reasoning provided by the Second DCA in *Eight is Enough in Pinellas*. In its briefs before the Florida Supreme Court, the Pinellas County Attorney’s Office argued that “status” did not refer to any individual person’s status as an office holder, but rather referred to “the status of Charter versus non-Charter Officers” or “his or her status as a sovereign and autonomous Constitutional Officer.” The County further cited to an Attorney General’s Opinion that used the term “status” in this way, commenting on a contemplated Hillsborough County charter proposal wherein “the constitutional officers denominated in s. 1(d), Art. VIII, are not included as charter officers but retain their present status as constitutional officers...” Op. Att’y Gen. Fla. 81-7 (1981).

Under this reading, any invasion into the independence and autonomy of the constitutional officers could be seen as “chang[ing]” or “affecting” the status of Pinellas County’s constitutional officers. While apparently not adopted by the Second DCA in *Eight is Enough in*

Pinellas, the County’s prior arguments in this regard are by no means insubstantial. As proposals relating to the Pinellas County constitutional officers range further afield from the four corners of *Eight is Enough in Pinellas*, there is a potential that a trial or appellate court will limit *Eight is Enough in Pinellas* to its facts and adopt a broader definition of “status”.



May 17, 2012

VIA EMAIL (Gisela.Salas@DOS.MyFlorida.com)

Dr. Gisela Salas

Director, Division of Elections

Florida Department of State

500 S. Bronough Street, Room 316

Tallahassee, Florida 32399

Re: Request for Advisory Opinion on Behalf of the
2012 Orange County Charter Review Commission

Dear Dr. Salas:

Pursuant to my previous communications with your office, I am writing to request an advisory opinion on behalf of the 2012 Orange County Charter Review Commission, for which I serve as General Counsel. I am writing concerning questions relating to the propriety of political activities it may take under Florida's Election Code, and as such, it is my understanding that the Division of Elections has authority to issue an opinion pursuant to Section 106.23(2), Fla. Stat.

The Orange County Charter Review Commission ("Orange County CRC") is an independent commission under Orange County government, created by Section 702 of the Orange County Charter. The Orange County CRC's mailing address is c/o Orange County Comptroller's Office, P.O. Box 38, Orlando, FL 32802. The Orange County CRC is empowered to conduct a comprehensive study of any or all phases of county government, and to place proposed amendments to the Orange County Charter on the general election ballot. Such proposed amendments do not require the approval of, and cannot be vetoed by, the Orange County Board of County Commissioners.

Historically, after placing one or more proposed amendments to the Orange County Charter on the general election ballot, the Orange County CRC has prepared a "voter guide" to be mailed to Orange County voters, explaining the Orange County CRC's rationale in proposing the charter amendments, and educating voters as to the anticipated effects of adopting or not adopting the proposed amendments. I am writing in an effort to reconcile the preparation of such a voter guide with potentially applicable provisions of the Florida Election Code, including Section 106.113, Fla. Stat.

I have reviewed the Division's recent opinions discussing Section 106.113, Fla. Stat. (DE 10-06 and DE 10-07), and they have been instructive. However, the Division's responses to some of the questions posed in those opinions have prompted the questions I pose herein.

The central thesis of both DE 10-06 and DE 10-07 can be accurately summarized with this quote from DE 10-06 at page 3-4:

Because the definition of “electioneering communication” now only applies to candidates and not issues, that portion of the section 106.113 containing a prohibition on any activity that relates to an “electioneering communication concerning an issue, referendum, or amendment, including any state question, that is subject to the vote of the electors” is superfluous and meaningless.

By its terms, Section 106.113, Fla. Stat. prohibits expenditures by local governments for either political advertisements or electioneering communications concerning an issue, referendum, or amendment. Accordingly, rendering the term “electioneering communication” meaningless necessarily implies that the prohibition imposed upon local government expenditures is limited to political advertisements concerning an issue, referendum, or amendment. Stated another way, local government expenditures for communications that do not rise to the level of a political advertisement are not prohibited under Section 106.113, Fla. Stat.

Section 106.011, Fla. Stat. defines “political advertisement” as follows:

(17) “Political advertisement” means a paid expression in any communications media prescribed in subsection (13), whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue.

As the Division recognized in DE 05-06, the use of the term “expressly advocates” indicated the Legislature’s intent to apply the “magic words” standard to political advertisements as set forth by the United States Supreme Court in *Buckley v. Valeo*, 96 S.Ct. 612 (1976). As the Division stated in DE 05-06 at page 1:

That standard requires that the communication contain express words of advocacy of election or defeat of a candidate or issue such as “vote for,” “elect,” “support,” “cast your ballot for,” “Smith for Congress,” “vote against,” “defeat,” “oppose,” and “reject.”

With all of this in mind, I seek some clarification concerning potential implications of the Division’s responses to numbered questions 3 and 4 at pages 4-5 of DE 10-06. In question 3 of that opinion, the Pinellas Suncoast Transit Authority (“PSTA”) posed the question, “Can you provide factual information from PSTA to entities expressing an opinion on any issue or referendum?” In response, the Division stated:

The definition of “political advertisement” requires a paid expression consisting of express advocacy, so providing factual information without expressing a position in support or opposition to the issue would not be a “political advertisement.” Again, the definition of “electioneering communication” does not include communications about an issue, so section 106.113, Florida Statutes

(2009), is not violated by expending public funds on communications consisting of factual information.

This statement is true enough, as far as it goes. It is axiomatic that a communication containing only factual information does not rise to the level of express advocacy, and so would not be prohibited under Section 106.113, Fla. Stat. Put another way, limiting a communication to only factual information is a sufficient means for a communication to not rise to the level of express advocacy. The fundamental question I pose is, is it necessary that a communication be limited to only factual information in order for it to not rise to the level of express advocacy.¹

In light of the Division's recognition of the *Buckley* "magic words" standard for express advocacy, the answer is clearly no. As the Division and the courts have recognized repeatedly, there exists a wide range of communication and expression involving both fact and opinion that falls short of express advocacy.²

However, the phrasing of the Division's response to question 4 in DE 10-06 may give rise to some confusion on this issue. I believe some of the confusion may have arisen as a result of the fact that the question, as posed by the PSTA, became somewhat inapposite in light of the Division's analysis earlier in the opinion.

At question 4, the PSTA inquired, "What kind of factual information can you provide – does it include declaratory statements that could be construed as an opinion, such as: 'The new tax will improve public transportation in Pinellas County?'"

Prompted by this question, the Division engaged in an analysis of the meaning of the term "factual information" as used in the last sentence of Section 106.113(2), Fla. Stat. That last sentence of that subsection states: "This subsection does not apply to an electioneering communication for a local government or person acting on behalf of a local government which is limited to factual information."

Before considering the Division's discussion in response to question 4, it is important to recognize that this last sentence of the subsection is drafted as an exemption from the general prohibition imposed earlier in the subsection. That is, the first sentence of Section 106.113(2), Fla. Stat., imposes a general prohibition on the expenditure of public funds for a political advertisement or electioneering communication concerning an issue, referendum, or amendment. The second sentence then provides an exemption for a communication that would have otherwise

¹ This harkens back to the old first-year law school example: In order to avoid getting a speeding ticket, it is sufficient to leave your car parked in the garage. It is, however, not necessary to leave your car parked in the garage to avoid a speeding ticket.

² This wide range of communication incorporating both fact and opinion is further acknowledged in the definition of electioneering communication, which recognizes the existence of communications that do not expressly advocate, but which are "susceptible of no reasonable interpretation other than an appeal to vote for or against..."

satisfied the definition of electioneering communication, but which is limited to factual information.

In light of the Division's analysis under the revised definition of electioneering communication, as the statute no longer prohibits the expenditure of public funds on electioneering communications concerning ballot issues, the sentence exempting a subset of such electioneering communications from the prohibition is rendered superfluous.

Nonetheless, prompted by the phrasing of question 4 by the PSTA, the opinion in DE 10-06 proceeds to make the following statement at pages 4-5:

Based upon these definitions (defining "fact" and "information), we interpret the statute to limit your expressions of "factual information" to verifiable actualities, such as: "The new tax will permit the county to purchase 25 buses at a cost of \$100,000 each" and not include any kind of subjective, qualitative statement or comment that "The tax will improve public transportation." Even if 25 buses were purchased, additional criteria would determine whether the additional buses will actually improve public transportation.

It is to the underlined text that I draw your attention. It is my belief that, prompted by the PSTA's inapposite question seeking a definition of "factual information", the Division dutifully constructed a definition stating that expressions of factual information consisted only of verifiable actualities. While this discussion is an interesting intellectual exercise, it does not alter the fact that the vast weight of the Division's analysis in DE 10-06 and DE 10-07 supports the conclusion stated above: Local government expenditures for communications that do not rise to the level of a political advertisement (that is, express advocacy) are not prohibited under Section 106.113, Fla. Stat.

However, the quote above could conceivably be read to re-impose a much more restrictive limit on expression than is consistent with the balance of the Division's analysis. In particular, the statement "we interpret the statute to limit your expressions of 'factual information' to verifiable actualities... and not include any kind of subjective, qualitative statement or comment..." could be read to set a much lower threshold to trigger the prohibition imposed by Section 106.113, Fla. Stat.

In light of this potential confusion, I pose the following four questions:

- (1) Does the prohibition imposed by Section 106.113, Fla. Stat., extend only to local government expenditures for communications that constitute political advertisements?
- (2) Does the definition of political advertisement extend only to communications that constitute express advocacy?

- (3) Does the Division maintain its opinion expressed in DE 05-06 that the use of the term “expressly advocates” in the definition of “political advertisement” indicated the Legislature’s intent to apply the *Buckley* “magic words” standard to political advertisements, requiring that to constitute express advocacy, the communication must contain express words of advocacy of election or defeat of a candidate or issue such as “vote for,” “elect,” “support,” “cast your ballot for,” “Smith for Congress,” “vote against,” “defeat,” “oppose,” and “reject”?
- (4) Is it then the case that communications that do not satisfy the “magic words” express advocacy standard of *Buckley* are not prohibited under Section 106.113, Fla. Stat.?

The Orange County CRC intends to prepare its voter guide within the next 45 days, so any efforts to expedite the Division’s response pursuant to F.A.C. 1S-2.010(4)(i) would be greatly appreciated.

Thank you for your attention to this matter. If you have any questions or require any further clarification, please do not hesitate to contact me at my office, or by email at wvose@voselaw.com.

Sincerely,

/s/

Wade C. Vose

cc: Dorothy “Dotti” Wynn, Chair – 2012 Orange County Charter Review Commission
Dana Crosby-Collier, Esq., Orange County Attorney’s Office
Gary J. Holland, Esq., Division of Elections



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

May 24, 2012

Ms. Dorothy "Dotti" Wynn
Chair, 2012 Orange County Charter Review Commission
c/o Orange County Comptroller's Office
P.O. Box 38
Orlando, Florida 32802

RE: DE 12-05 -- Advertising; Expenditures
-- Use of Local Government Funds. §
106.113, Florida Statutes.

Dear Ms. Wynn:

This letter responds to a request for an advisory opinion submitted on behalf of the 2012 Orange County Charter Review Commission by Wade Vose, the Commission's General Counsel. Because the Commission plans to engage in political activity and has questions about compliance with Florida's election laws with respect to campaign finance law with respect to its intended actions, the Division has the authority to issue you an opinion pursuant to section 106.23(2), Florida Statutes (2011).

By way of background, your general counsel states that the Charter Review Commission is an independent commission under Orange County government whose purpose is to review the county charter and to place proposed charter amendments on the general election ballot. Historically, the Commission has prepared a voter guide to be mailed to Orange County voters, explaining the Commission's rationale in proposing the charter amendments and educating voters as to the anticipated effects of adopting or not adopting the proposed amendments. Your attorney wants to ensure that the preparation of such a voter guide would not conflict with either section 106.113, Florida Statutes (2011), or its interpretation rendered by the Division in *Division of Elections Opinions* 10-06 and 10-07 (June 14, 2010).

Section 106.113, Florida Statutes (2011), provides:

106.113 Expenditures by local governments.--

(1) As used in this section, the term:

(a) "Local government" means:

1. A county, municipality, school district, or other political subdivision in this state; and
2. Any department, agency, board, bureau, district, *commission*, authority, or similar body of a county, municipality, school district, or other political subdivision of this state.

(b) "Public funds" means all moneys under the jurisdiction or control of the local government.

(2) A local government or a person acting on behalf of local government may not expend or authorize the expenditure of, and a person or group may not accept, public funds *for a political advertisement or electioneering communication concerning an issue, referendum, or amendment*, including any state question, that is subject to a vote of the electors. This subsection does not apply to an electioneering communication from a local government or a person acting on behalf of a local government which is limited to factual information.

(3) With the exception of the prohibitions specified in subsection (2), this section does not preclude an elected official of the local government from expressing an opinion on any issue at any time. [*Emphasis added.*]

Based upon subsequent legislative changes to the definition of "electioneering communications," which applied the term only to communications about candidates, the Division opined that the portion of section 106.113 containing a prohibition on any activity that relates to an "electioneering communication concerning an issue, referendum, or amendment, including any state question, that is subject to the vote of the electors" was superfluous. The Division adheres to this opinion. However, your attorney specifically requests further clarification of the two 2010 opinions by asking the following four questions as they relate to the Commission's intended action of issuing the voter's guide:

- (1) Does the prohibition imposed by Section 106.113, Florida Statutes, extend only to local government expenditures for communications that constitute political advertisements?
- (2) Does the definition of political advertisement extend only to communications that constitute express advocacy?
- (3) Does the Division maintain its opinion expressed in *Division of Elections Opinion* 05-06 that the use of the term "expressly advocates" in the definition of "political advertisement" indicated the Legislature's intent to apply the *Buckley* "magic words" standard to political advertisements, requiring that to constitute express advocacy, the communication must contain express words of advocacy of election or defeat of a candidate or issue such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," "oppose," and "reject"?

- (4) Is it then the case that communications that do not satisfy the "magic words" express advocacy standard of *Buckley* are not prohibited under Section 106.113, Florida Statutes?

The short answer to all of these questions is "yes."

First, if one applies the Division's prior opinions regarding the superfluous "electioneering communications" language within section 106.113, the only prohibition remaining is that a local government or a person acting on behalf of local government may not expend or authorize the expenditure of, and a person or group may not accept, public funds for a political advertisement concerning an issue, referendum, or amendment, including any state question, that is subject to a vote of the electors. Thus, the Division opines that section 106.113, Florida Statutes (2011), addresses only "political advertisements."

Second, the definition of "political advertisement" requires that that advertisement expressly advocate the election and defeat of a candidate or approval or rejection of an issue.¹ Therefore, section 106.113's prohibition is that a local government or a person acting on behalf of local government may not expend or authorize the expenditure of, and a person or group may not accept, public funds for an advertisement that expressly advocates the approval or rejection of an issue, referendum, or amendment, including any state question, that is subject to a vote of the electors.

Third, as stated in *Division of Elections Opinion* 05-06 (September 21, 2005), the use of the term "expressly advocates" is intended to apply the "magic words" standard to political advertisements as set forth by the United States Supreme Court in *Buckley v. Valeo*, 424 U.S. 1 (1976). The "magic words" standard requires that the communication contain express words of advocacy for the election or defeat of a candidate or issue such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," "oppose," and "reject." The Division adheres to this view; therefore, for purposes of section 106.113, for an advertisement to be a "political advertisement," it must contain language which satisfies the "magic words" standard of *Buckley v. Valeo* relating to the approval or rejection of "an issue, referendum, or amendment, including any state question, that is subject to a vote of the electors."

Finally, as previously stated, the Division interprets section 106.113 to now only prohibit "political advertisements." Because a "political advertisement" requires the element of express advocacy, which in turn, requires the use of the "magic words" standard of *Buckley v. Valeo*, the avoidance of such words in any expression would preclude the expression or message from being in violation of section 106.113, Florida Statutes (2011). Therefore, local government

¹ See § 106.011(17), Fla. Stat. (2011) (To be a "political advertisement," the expression, by means other than the spoken word, must be a (1) a paid expression; (2) in a "communications media" (as defined in § 106.011(13), Fla. Stat.); and be one which (3) expressly advocates the election and defeat of a candidate or the approval or rejection of an issue.)

Ms. Dorothy "Dotti" Wynn
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expenditures for communications that do not satisfy the definition of a "political advertisement" are not prohibited by section 106.113.

SUMMARY

Applying the Division's prior opinions regarding the superfluous "electioneering communications" language in section 106.113, Florida Statutes (2011), the prohibition within the section now addresses only "political advertisements." A political advertisement as defined in chapter 106, Florida Statutes (2011), must contain words which expressly advocate the approval or rejection of an issue based upon the "magic words" standard found in *Buckley v. Valeo*, 424 U.S. 1 (1976). Local government expenditures for communications that do not satisfy the definition of a "political advertisement" are not prohibited by section 106.113.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gisela Salas", with a horizontal line underneath.

Dr. Gisela Salas
Director, Division of Elections

cc: Wade Vose, Esq.