

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

ROBERT J. BARNAS,

Petitioner,

FEC No. 13-125

vs.

DOAH No. 13-4759

SHARON L. YEAGO,

Respondent.

_____ /

**BARNAS RESPONSE TO YEAGO’S EXCEPTIONS TO PROPOSED
FINAL ORDER**

I. Part I, Yeago’s Response Is Not Within The Commission’s Jurisdiction to Review and Should Be Stricken or Wholly Ignored.

Part I of Yeago’s response purports to request this Commission to overturn an evidentiary ruling of the ALJ and admit evidence that the ALJ determined to be irrelevant in this proceeding. This Commission knows, of course, that this request must be denied because the jurisdiction of the Commission does not extend to correcting ordinary evidentiary decisions made by ALJs. The legal basis is reviewed below.

Preliminarily, however, the members of the Commission may note that submissions made on behalf of the fee petitioner have once again sought to

denigrate Barnas by referring to him in scandalous terms and proffering irrelevant, unsubstantiated, un rebutted and uncross-examined documents in an effort to give them credibility. This denigration started in Yeago's response to Barnas's FEC complaint, continued in the fee petition submitted on her behalf and in her counsel's argument in the ALJ hearing, and now continues in her exceptions to the Recommended Order. In contrast, a review of the record by members of the Commission or the FEC staff will corroborate that Barnas made no scandalous or personal remarks Yeago in his complaint, none in his hearing testimony, and none in his arguments. Such a review will also show that the substance of Barnas's complaint was that the organization of which Yeago had identified herself as spokesperson had failed to comply with the registering and reporting requirements imposed by law. As demonstrated in Barnas's Exceptions to the Recommended Order, nothing in the record establishes that he made any scurrilous, scandalous or denigrating remarks about Yeago personally, such as he has been repeatedly subjected to in these proceedings. Moreover, the irrelevant and scandalous argument submitted on Yeago's behalf does not address the central issue in this proceeding, which is: *Did Barnas submit his FEC complaint* "with a malicious intent to injure the reputation of [Yeago] by filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard

for whether the complaint contains false allegations of fact material to a violation of this chapter or chapter 104.” §106.265(6) Fla. Stat.

In the DOAH hearing Yeago’s counsel proffered evidence of closed independent legal and administrative proceedings that had nothing to do with issues in Barnas’s FEC complaint or Yeago’s subsequent fee petition. The ALJ excluded that evidence as irrelevant to any issue in this proceeding. Yeago now seeks to have this Commission review that evidentiary ruling in connection with its consideration of the Recommended Order. The Commission must deny this request because, pursuant to §120.57(1)(l) Fla. Stat.,¹ administrative agencies are

¹§120.57 Fla. Stat. (l) The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusion of law or interpretation of administrative rule, the agency must state with particularity its reasons for rejecting or modifying such conclusion of law or interpretation of administrative rule and must make a finding that its substituted conclusion of law or interpretation of administrative rule is as or more reasonable than that which was rejected or modified. Rejection or modification of conclusions of law may not form the basis for rejection or modification of findings of fact. The agency may not reject or modify the findings of fact unless the agency first determines from a review of the entire record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record and without stating with particularity its reasons therefor in the order, by citing to the record in justifying the action.

provided no general jurisdiction to review an ALJ's evidentiary rulings. As this Commission knows, §120.57(1)(l) Fla. Stat. authorizes agencies to modify only those "conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction."

Id. The history of this statutory prescription of agency review of ALJ recommended orders is fully examined in *Barfield v. Dep't of Health*, 805 So. 2d 1008 (Fla. 1st DCA 2001). Applying §120.57(1)(l) Fla. Stat., *Barfield* held that an administrative agency has no jurisdiction to modify an ALJ's evidentiary exclusion of proffered evidence as inadmissible hearsay and also held that such a ruling must be reviewed by a district court, if at all. *Id.*, 805 So. 2d at 1011.

G.E.L. Corp. v. Dep't of Env'tl. Prot., 875 So. 2d 1257, 1265 (Fla. 5th DCA 2004) concurred with *Barfield's* reasoning and extended it to hold that an ALJ's interpretation of the attorney's fee statute in §120.595(1) Fla. Stat. was not within the substantive jurisdiction of an administrative agency. *Barfield* controls this proceeding and requires the Commission to strike or ignore Part I of Yeago's exceptions.

G.E.L. Corp. v. Dep't of Env'tl. Prot. also addressed the question of whether the court agreed with the legislature's decision to amend §127.57(1) Fla. Stat. to limit the review jurisdiction of administrative agencies and concluded:

We acknowledge, as did the court in *Barfield*, that uncertainty exists regarding the avenues of review available to parties and agencies aggrieved by an ALJ's erroneous legal ruling that is not within the agency's substantive jurisdiction to correct. However, it is not for us to say whether we agree with the wisdom of the limited scope of review prescribed by section 120.57(1)(l) or whether we wish that it were more expansive. “[I]t is not the prerogative of this court to melt this statute and recast it in a mold of our choosing. The general principle which we must adhere to, simply put, requires this court to interpret legislation, not rewrite it.” *Jordan v. State*, 801 So.2d 1032, 1034 (Fla. 5th DCA 2001) (citation omitted).

Id., 875 So. 2d at 1264. Yeago’s approach in this case raises exactly the same issue in regard to the application of the §106.265(6) Fla. Stat. The operative provisions of that statute state:

In any case in which the commission determines that a person has filed a complaint against another person with a malicious *intent to injure the reputation of the person complained against* by filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this chapter or chapter 104, the complainant shall be liable for costs and reasonable attorney's fees

§106.265(6) Fla Stat. (underlining supplied.) Yeago’s submissions have consistently argued that Barnas acted maliciously, as do her exceptions to the Recommended Order, and have also consistently ignored the central requirement that she prove that Barnas intended to “*injure her reputation.*” (In his exceptions to the Recommended Order Barnas denies that the record establishes that he had any malice whatsoever and he adheres to that herein.) The Recommended Order also ignored the central requirement that Yeago prove that Barnas had *intent to*

injure her reputation.

Just as the district court in *G.E.L.* could not modify §120.57(1) Fla. Stat. even if it wanted to neither can this Commission, a district court, nor even the Supreme Court modify §106.265(6) Fla. Stat. to eliminate the requirement that Yeago prove that Barnas intended to *injure her reputation* by filing a false FEC complaint. The Supreme Court addressed this very issue in *Florida Dep't of Revenue v. Florida Mun. Power Agency*, 789 So. 2d 320, 324 (Fla. 2001), a case involving whether a statute permitted a particular tax exemption. There, the Department of Revenue had declined to apply the “plain meaning” of the taxing statute on the grounds that it reached an unreasonable result. The district court quashed that ruling and on further appeal the Supreme Court affirmed, stating:

The Department is in essence requesting this Court to strike the clause “for transmission and distribution expansion,” despite the fact that the Legislature has had the opportunity to correct the alleged “clear error” for the past four years and has not done so. The Department does not point to any ambiguity in the language used in the statute itself that would make it subject to two reasonable interpretations, but relies primarily upon legislative history. Legislative history cannot be used to change the plain and clear language of a statute. Moreover, as applied to this case, the drafting error alleged is not merely a clerical and inconsequential error—it changes the entire meaning of the statute. This Court does not have the authority to strike a modifying clause where such a revision would substantively change the entire meaning of the statute in a manner contrary to its plain meaning. Under fundamental principles of separation of powers, courts cannot judicially alter the wording of statutes where the Legislature clearly has not done so. *A court's function is to interpret statutes as they*

are written and give effect to each word in the statute.

Id., 798 So.2d at 324. (Italics added.) Likewise, this Commission and any reviewing court must “give effect” to the statutory requirement that Yeago prove that Barnas had malicious intent to *injure her reputation*. The record establishes that Yeago did not prove what the statute requires her to prove to entitle her to a fee award.

II. Part II, Yeago’s Response Is Not Within The Commission’s Jurisdiction to Review and Should Be Stricken or Wholly Ignored.

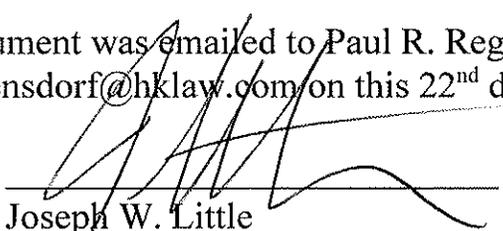
Part II of Yeago’s exceptions suffers the same defect as does Part I. Yeago complains that the ALJ erred to deny fees for hours that were not proved in evidence. This too is an evidentiary ruling and may not be reviewed by the FEC for reasons stated above.

CONCLUSION

For reasons stated above, Barnas respectfully submits that FEC should strike or give no weight to Yeago’s exceptions to the ALJ’s Recommended Order.

CERTIFICATE OF SERVICE

I certify that a copy of this document was emailed to Paul R. Regensdorf, lawyer for Sharon Yeago, at paul.regensdorf@hklaw.com on this 22nd day of September 2014.



Joseph W. Little

Lawyer for Barnas
Florida Bar No. 196749
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Gainesville, Florida 32605
littlegnv@gmail.com

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

ROBERT J. BARNAS,
Petitioner,

Case No. 13-125

vs.

SHARON L. YEAGO,
Respondent.

MOTION TO DISMISS

Pursuant to Fla. Admin. Code R. 28-106.204(3), Robert J. Barnas, complainant in proceedings before the Florida Elections Commission (FEC) that gave rise to this proceeding, moves to dismiss Respondent Yeago's petition for fees and costs as not having been timely served and filed.

FACTS

The operative facts are set forth in the attached affidavit of Robert J. Barnas (Exhibit 1) and the other exhibits attached hereto. The essential facts are these:

1. On April 3, 2013 Barnas submitted a complaint to FEC naming Yeago as respondent.
2. FEC dismissed Barnas's complaint against Yeago as insufficient and closed the case on or about June 28, 2013.
3. Under FEC rule 2B-1.0045(2) a petition for an award of attorney's fees and

costs authorized by §106.265(6) Fla. Stat. must be filed with FEC's clerk "within 30 days following dismissal of the complaint."

4. Yeago served her petition upon FEC bearing service date of 10th day of July 2013.
5. Yeago did not serve her petition upon Barnas.
6. FEC did not provide Barnas with a copy of Yeago's petition.
7. Barnas did not know Yeago's petition for fees and costs existed until October 28, 2013 on which date he received a copy of a "Notice of Hearing (Motion for Attorney's Fees)" from FEC bearing date of October 24, 2013. DOAH Recommended Order, case number 13-4759F, paragraph 38, p. 19.

ARGUMENT

Pursuant to §120.54(c)(1) Fla. Stat. Florida Election Commission's procedures are prescribed by the Uniform Rules of Procedure in Fla. Admin. Code R. 28-106. The Uniform Rules that apply to this motion are:

28-106.110. Service of Papers.

Unless the presiding officer otherwise orders, every pleading and every other paper filed in a proceeding, except applications for witness subpoenas, shall be served on each party or on each party's counsel or representative at the last address of record.

(Italics added.)

28-106.104. Filing.

(1) In construing these rules or any order of a presiding officer, filing shall mean received by the office of the agency clerk during normal business hours or by the presiding officer during the course of a hearing.

(2) All pleadings filed with the agency *shall contain* the following:

- (a) The style of the proceeding involved;
- (b) The docket, case or file number, if any;
- (c) The name of the party on whose behalf the pleading is filed;
- (d) The name, address, any e-mail address, and telephone number of the person filing the pleading;
- (e) The signature of the person filing the pleading; and
- (f) *A certificate of service that copies have been furnished to all other parties as required by subsection (4) of this rule.*

(3) [Omitted.]

(4) Whenever a party files a pleading or *other document* with the agency, *that party shall serve copies of the pleading or other document upon all other parties to the proceeding.* A certificate of service shall accompany each pleading or other document filed with the agency.

(5)-(8) [Omitted.]

(Italics added.)

In the FEC proceedings FEC provided Yeago notice that Barnas' case was closed in a letter bearing date June 28, 2013. (Exhibit 2.) To comply with FEC R. 2B-1.0045(2), Yeago had 30 days from June 28, 2013 to submit a valid petition for fees and costs.

Yeago submitted a petition for fees and costs to FEC bearing date of 10th day of July 2013. (Exhibit 3, Petition, pp. 1, 23,24.) Yeago's certificate of service does not indicate she had served it upon Barnas as required by R. 28-

106.104(2)(f), R. 28-106.104(4), and R. 28-106.110. Yeago did not then serve the petition upon Barnas and has never done so. FEC did not provide Barnas with the petition until after October 28, 2013. DOAH Recommended Order, case number 13-4759F, paragraph 38, p. 19.

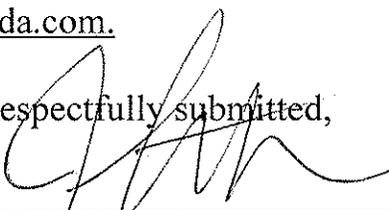
The foregoing establishes conclusively that Yeago never served FEC with a petition that complied with the requirements of a pleading or document that qualified to be filed until the period prescribed by FEC R. 2B-1.0045(2) had expired and *has never done so*.

In sum, Yeago did not and has not filed a timely petition for fees and costs and the petition should be dismissed.

CERTIFICATE OF SERVICE

I certify that on September 8, 2014, I served this document by email on Paul R. Regensdorf, attorney for Yeago at paul.regensdorf@hkllaw.com and on the Florida Elections Commission at fec@myflorida.com.

Respectfully submitted,



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Gainesville, Fl. 32605
352-372-5955
Littlegnv@gmail.com

EXHIBIT 1

ROBERT J. BARNAS AFFIDAVIT

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

ROBERT J. BARNAS,
Petitioner,

Case No. 13-4759
13-125

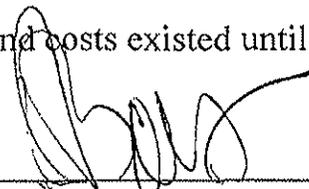
vs.

SHARON L. YEAGO,
Respondent.

AFFIDAVIT OF ROBERT J. BARNAS

1. I am Robert J. Barnas.
2. I am the complainant in the proceedings in the Florida Elections Commission that gave rise to this proceeding and I am the respondent to Yeago's petition for fees and costs.
3. I filed a complaint in the Florida Elections Commission naming Sharon L. Yeago as the person against whom complaint is brought.
4. Records of the Florida Elections Commission indicate the Commission received the complaint on April 3, 2013.
5. In June 2013, I received a communication from the Florida Elections Commission bearing date June, 10, 2013 and informing me that my complaint was legally insufficient and I could provide additional information.
6. I provided no additional information.
7. Unknown to me until October 28, 2013, Yeago filed a response to my complaint.
8. Yeago did not serve her response on me and the Florida Elections Commission did not send me a copy or notify me of its existence until after October 28, 2013.

9. Yeago's response was undated and bore no certificate of service.
10. I did not know that Yeago's response existed before Florida Elections Commission closed my case and I had no opportunity to rebut it.
11. I did not know Yeago's response existed until after October 28, 2013.
12. By letter bearing date June 28, 2013 the Florida Elections Commission indicated the case involving my complaint was closed.
13. Thereafter on a date unknown to me, Yeago filed a petition for an award of fees and costs against me in the Florida Elections Commission.
14. Yeago did not serve a copy of the petition for fees and costs upon me.
15. The Florida Elections Commission did not provide me a copy of Yeago's petition for fees and costs or otherwise notify me of its existence.
16. On October 28, 2013, I received a copy of a "Notice of Hearing (Motion for Attorney's Fees) from the Florida Elections Commission bearing date of October 24, 2013.
17. I did not know Yeago's petition for fees and costs existed until October 28, 2013.



Robert J. Barnas

STATE OF FLORIDA
COUNTY OF ALACHUA

Before me on this 6th day of February 2014 appeared Robert J. Barnas, who identified himself with a valid Florida drivers license, took an oath affirming the foregoing affidavit, and affixed his signature above.



Notary public, State of Florida

My commission expires:

January 1, 2018

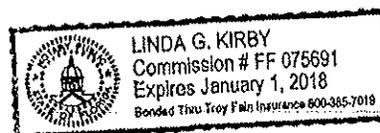


EXHIBIT 2

FLORIDA ELECTIONS COMMISSION LETTER CLOSING BARNAS'S CASE



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street,
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
(850) 922-4539

June 28, 2013

Paul Regensdorf, Esquire
Holland & Knight
50 North Laura Street
Jacksonville, FL 32202

RE: Case No.: FEC 13-125; Respondent: Sharon L. Yeago

Dear Mr. Regensdorf:

On June 10, 2013, the Florida Elections Commission notified Robert J. Barnas that the complaint he filed on April 3, 2013 was legally insufficient. Since the Commission did not receive any additional information that corrected the stated grounds of insufficiency, the case has been closed.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy McKeever Toman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Amy McKeever Toman
Executive Director

AMT/dam

cc: Robert J. Barnas, Complainant

EXHIBIT 3

YEAGO'S PETITION, PP. 1, 23, 24.

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

CASE NO : FEC 13-125

In Re: SHARON L YEAGO
Respondent

**PETITION FOR ATTORNEYS FEES AND COSTS
PURSUANT TO FLORIDA STATUTE §106.265 AND
RULE 2B-1.0045 OF THE FLORIDA ELECTIONS COMMISSION**

The Respondent, Sharon L. Yeago, by and through her undersigned counsel, files this Petition for Attorneys' Fees and Costs Pursuant to Florida Statute §106.265 and Rule 2B-1.0045 of the Florida Elections Commission, and would show this Commission as follows:

I. Summary of basis for the imposition of attorneys' fees in this cause.

1. The Florida Elections Commission is charged with the weighty responsibility of enforcing Florida's Election Code to ensure that those who participate in Florida's electoral system play by the rules and comply with Florida law. When a candidate or an official is shown to have violated Florida's Election Code, this Commission is required to impose the sanctions that the law allows to ensure the purity of the electoral process.

2. The flip side of that responsibility, however, is just as important, and some would say that in the very few cases to which it applies, perhaps even more important. That is that when a person in the State of Florida, with malicious intent, or reckless disregard for the truth of the allegations contained in a complaint hails a good citizen before the Florida Elections Commission and charges them with corrupting the electoral process in some way by violating the Florida Elections Code, then that wrongful complainant should himself be brought before the

Petition does contain sufficient facts and grounds to support the claim for costs and attorneys' fees and that the Commission further order a hearing involving any disputed issues of material fact to be held before the Commission, or Commissioner or Commissioners designated by the Commission, or by referring the Petition to the Division of Administrative Hearings for a formal hearing.

Respectfully submitted,

Paul R. Regensdorf, Esq.
Florida Bar No: 0152395
HOLLAND & KNIGHT LLP
50 N. Laura St., Ste 3900
Jacksonville, FL 32202
Phone: 904-353-2000
Fax: 904-358-1872
E-Mail: paul.regensdorf@hklaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via email

this 10th day of July, 2013, to:

Donna Ann Malphurs
Agency Clerk
Florida Elections Commission

107 W. Gaines Street
Suite 224 Collins Building
Tallahassee, FL 32399-1050
fec@myfloridalegal.com

/s/ Paul R. Regensdorf

#24114488_v1

STATE OF FLORIDA

FLORIDA ELECTIONS COMMISSION

ROBERT J. BARNAS,

Petitioner,

vs.

Case No: FEC No. 13-125

SHARON L. YEAGO,

DOAH No. 13-4759F

Respondent.

_____ /

BARNAS'S EXCEPTIONS TO PROPOSED FINAL ORDER

Pursuant to Rule 28-106.217, F.A.C. Barnas respectfully files exceptions to the Recommended Order of the Administrative Law Judge (ALJ) entered in DOAH Case No. 13-4759F on August 28, 2014 and requests the Florida Elections Commission (FEC) to enter a Final Order finding that Yeago did not prove an entitlement to attorneys fees against him pursuant to the standards of §106.265(6) Fla. Stat. and Rule 2B-1.0045, F.A.C. and dismissing her petition for fees.

BRIEF STATEMENT OF PROCEDURAL HISTORY

Barnas filed a complaint with FEC dated April 1, 2013 requesting FEC to investigate activities of an organization styled Concerned Citizens for a Better High Springs (CC) that had formed prior to the 2012 general election and made

public statements about current policy issues pertaining to the government in the City of High Springs, including statements about a proposal to amend the charter of the City of High Springs. Some of CC's publicly identified supporters publicly opposed adoption of the charter amendment and publicly supported a candidate who also opposed it. In his complaint Barnas attached various of CC's public statements that he thought FEC could find to be express advocacy of the defeat of the charter amendment. (App., p. A19-A20.) Barnas's complaint also described express advocacy activities of various CC supporters that he thought could be attributed to CC. Barnas concluded that CC was a political committee formed to influence the impending 2012 election and that it should comply with Chapter 106 Fla. Stat. (T1, 238, l. 12 to 241, l. 21; T2, 27, l. 11-14.)

The November 2012 election approved the charter amendment proposition by a strong majority of the electorate. (T2, p. 34, l. 5 to 16.) Barnas concluded that CC had violated Chapter 106 by not filing as a political committee and decided FEC should determine whether he was correct. (242, l. 13 to l. 1.) Barnas had no intention to influence the election by filing a FEC complaint (T1, 243, l. 17-19) and could not have done so because the election was over. (T2, 34, l. 11-13.) Hence intention was to seek compliance in the future. Before the end of November 2012 Barnas called FEC to ask how to file a complaint against CC and

understood from what he was told that he must name two people. (T1, 243, l. 1 - 16.) On December 5, 2012 Yeago sent Barnas an email in which she identified herself as CC's spokesperson. (App., p. A9-A10.) In March 2013 Linda Jones publicly identified herself to Barnas as a CC steering committee member in a City of High Springs city commission meeting. (T1, 164, l. 12-13.) (Barnas was a sitting city commissioner.) Having had Yeago and Jones personally identify themselves to him as CC spokesperson and CC steering committee member respectively, Barnas concluded that he had two names and filed the complaint naming Yeago as the person complained against.

On April 3, 2013, FEC sent Yeago a certified letter with a copy of Barnas's complaint and informed her she had 14 days to file an initial response. Yeago filed a response to Barnas's complaint but she did not serve Barnas with a copy and did not otherwise inform him of it. Yeago's lawyer testified under oath that he did not provide Barnas a copy of the response because FEC sent him instructions in writing that he was not required to do so. (T2, 94, l. 3 to 97, l. 7.) He did not produce the writing.

By letter dated June 10, 2013 FEC informed Barnas that his complaint was legally insufficient and informed him of his right to submit additional information. Unaware of Yeago's response and its contents, Barnas decided not to submit

additional information to FEC. Barnas testified that he would have responded if he had known the content of Yeago's response. (T2, 31, l. 17 to 34, l. 4.) In a letter dated June 28, 2013 FEC dismissed Barnas's complaint as legally insufficient.

On July 10, 2013 Yeago through her lawyer served a petition for fees and on FEC but did not serve a copy on Barnas and did not otherwise inform him of it. FEC did not provide Barnas with a copy of Yeago's petition and did not otherwise inform him of it until October 28, 2013. On the latter date Barnas finally learned of Yeago's response and fee petition when he received a FEC notice dated October 24, 2013 stating that FEC would conduct a hearing on Yeago's fee petition on November 14, 2013. At Barnas's request FEC then sent him copies of Yeago's response to his complaint and of her fee petition. Barnas acting *pro se* filed a response to Yeago's fee petition and appeared before the FEC in its November 14, 2013 hearing. In that proceeding FEC found probable cause and referred Yeago's fee petition to DOAH for an evidentiary hearing.

The undersigned lawyer filed a notice of appearance for Barnas with DOAH and filed a motion to dismiss the fee petition on the grounds that it had not been timely filed because Yeago had not served it upon him as required by Rule 28-106.104(4)(4), F.A.C. (This is the rule that Yeago's lawyer testified FEC had

informed him in writing that he was not required to follow.) The ALJ denied Barnas's motion to dismiss without comment. Barnas also served that motion to dismiss on FEC.

The ALJ conducted evidentiary hearings on February 25, 2014 and April 24, 2014, the parties filed proposed recommended orders, and the ALJ issued the recommended order on August 28, 2014. Pursuant to Rule 28-106.217, F.A.C., Barnas's exceptions must be filed on or before September 12, 2014.

BARNAS RESUBMITS MOTION TO DISMISS TO FEC

Initially, Barnas moves FEC to dismiss Yeago's petition for fees on the grounds that it was not timely filed. (Barnas served FEC with a copy of the motion.) Pursuant to §120.57(f)(1) the DOAH motion is part of the record of this case. ("The record in a case governed by this subsection shall consist only of: 1. All notices, pleadings, motions, and intermediate rulings.") Nevertheless, Barnas contemporaneously resubmits his motion to dismiss to FEC in a separate document.

STANDARD OF REVIEW

FEC's standard of review of an ALJ's recommended order is governed by

§120.57(2)(1) Fla. Stat.¹ *Hoffman v. State Dep't of Mgmt. Servs., Div. of Retirement*, 964 So.2d 163, 166 (Fla. 1st DCA 2007), applied the standards as follows:

An agency may not reject an ALJ's factual findings if they are supported by competent, substantial evidence. See § 120.57(1)(1), Fla. Stat. (2005). However, an agency reviews the ALJ's conclusions of law and interpretation of administrative rules within its substantive jurisdiction *de novo*. The agency may reject such conclusions after stating its reasons with particularity and making a finding that its substituted conclusion is as reasonable or more reasonable than the ALJ's conclusion. *Id.*

Id., 964 So.2d at 165. In this case, FEC must review the Recommended Order to determine whether it violates the rule that “Administrative agencies cannot,

¹(1) The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusion of law or interpretation of administrative rule, the agency must state with particularity its reasons for rejecting or modifying such conclusion of law or interpretation of administrative rule and must make a finding that its substituted conclusion of law or interpretation of administrative rule is as or more reasonable than that which was rejected or modified. Rejection or modification of conclusions of law may not form the basis for rejection or modification of findings of fact. The agency may not reject or modify the findings of fact unless the agency first determines from a review of the entire record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record and without stating with particularity its reasons therefor in the order, by citing to the record in justifying the action

moreover, apply statutes *ex post facto* to authorize sanctions for acts or omission antedating enactment that were not sanctionable at the time they took place.”

McGann v. Florida Elections Commission, 803 So.2d 763, 764 (Fla. 1st DCA 2002).

BARNAS IS ENTITLED TO DISMISSAL ON THE MERITS AS A MATTER
OF LAW

Application of the standard of review to the facts and law is determinative in this case because, as shown below, the ALJ misapplied the elements of §106.265(5) Fla. Stat. to reach her legal conclusion that Yeago had proved entitlement to fees. In short, the ALJ made no finding that Barnas filed his complaint with malicious intent to injure Yeago’s reputation, which is an essential element of proof in a fee petition under §106.265(5) Fla. Stat. Moreover, as shown below, no such a finding could be made. Accordingly, Yeago’s petition should be dismissed as unproved.

In addition, because Yeago is a public figure for the purposes of this proceeding and her claim is in the nature of defamation, the First Amendment standards of *New York Times v. Sullivan* apply. Yeago did not and could not prove that Barnas entertained serious doubt as to the truth of any statement in his FEC complaint. Accordingly, Yeago’s petition must be dismissed as unproved.

REFERENCES TO RECORD

References to the record are in this form:

1. To the Recommended Order: to numbered paragraphs.
2. To transcript:
 - a. Hearing Feb., 25, 2014: (T1, 35, l. 2-5.), meaning Vol. I, page 35, lines 2 through 5.
 - b. Hearing Apr., 24, 2014: (T2, 85, l. 2 to 86, l. 5.), meaning Vol. 2, page 85, line 2 through page 86, line 5.
3. To Appendix: App., p. A1: Appendix, page A1. (This appendix contains Barnas's FEC Complaint.)

EXCEPTIONS

Barnas takes no exceptions to the preliminary matter in the Recommended Order prior to the heading "Findings of Fact" found on page 3. Barnas states his exceptions to the remainder of the Recommended Order in numbered paragraphs that correspond to the same numbers of the paragraphs in the Recommended Order.

1. No exceptions to description of Bob Barnas. There is no sworn testimony as to the second sentence; therefore Barnas formally takes exception although he agrees that the unsupported statement is not material of itself.

2. No exceptions.
3. There is no sworn testimony as to much of this paragraph: therefore Barnas formally takes exception although he agrees that the unsupported statements are not material of themselves.
4. No exceptions.
5. No exceptions to members of steering committee. Barnas takes exception to any inference or conclusion that these “four people were responsible” for the organization to the exclusion of Yeago. Yeago identified herself to Barnas and others as CC’s “official spokesperson” (T1, 178, l. 12 to 19) and she requested Barnas to direct his questions, concerns or issues about CC to her. (T1, 178, l. 25 to 179, l. 6.; App., p. A10.) Yeago also testified that she was the person developed and published CC’s public statements. (T1 204, l. 4 - 12; App., p. A9-A10.)
6. No exceptions.
7. No exceptions.
8. No exceptions.
9. No exceptions, except to the finding that “She was....not responsible for guiding the group.” This is contrary to her own testimony that she was CC’s spokesperson (T1, 201, l. 15- 20) and was the person who authored

CC's public statements. (T1, 204, l. 4 - 12.) It is also contrary to the first sentence of paragraph 26 of the Recommended Order describing Yeago's function in preparing CC's published statements.

10. No exceptions.

11. No exceptions.

12. Barnas takes exception to the italicized portion of the final sentence: "The group did not control who posted to its Facebook page *or the contents of such posts.*" This is contradicted by Barnas's unrefuted testimony that CC had the power to remove unwanted posts from its Facebook page (T1, 172, l. 12-19) and had not done so at the time the hearing was conducted on February 25, 2014. (T1, 166, l. 18 to 167, l. 2.) Yeago herself testified that nothing "was taken down." (T1, 206, l. 8-9.)

13. No exceptions.

14. No exceptions.

15. No exceptions.

16. No exceptions.

17. Barnas takes exception as follows:

- a. First sentence. Barnas takes exception to any implication that CC could not have advocated for the election of Jamison because he was

always uncontested. In fact, the ballot itself shows that the election was initially contested and the record does not establish when Jamison's opponent withdrew. (App., p. 7.) Hence, the record does not disprove that CC could have supported Jamison before his opponent withdrew.

- b. Second sentence: no exceptions.
- c. Third sentence: Barnas takes exception to the statement that he misrepresented anything in providing Levine's advocacy statement he posted on CC's Facebook page. Barnas accurately provided FEC exactly what Levine posted on CC' Facebook page. (App., p. A25.)
- d. Fourth sentence: Barnas agrees he knew Jamison's election was uncontested on the November election day when he filed his complaint on April 1, 2014, but takes exception to the statement, "but falsely represented that Concerned Citizens expressly advocated for his election when no such advocacy occurred *because the race was uncontested.*" (Italics added.) What Barnas's complaint stated is that "a group of many individual (sic) formed an organization/PC, to defeat the ballot issue and also support the election of Byran Williams and Scott Jamison." Because the record contains no testimony to

establish when Jamison’s opponent withdrew; the Recommended Order’s implication that Barnas must have known that CC *never* advocated for Jamison’s election is not supported by the record.

Jamison withdrew sometime before the election but his name was on the ballot. (App., p. 7.)

18. No exceptions.

19. No exceptions.

20. No exceptions.

21. No exceptions.

22. Barnas takes exceptions as follows:

a. First sentence; no exceptions.

b. Second sentence: Barnas takes exception to the conclusion CC’s published concern 5 “only endeavored to explain the charter amendment.” (App., p. A20.) Barnas believed that CC’s statement 5 constituted express advocacy of defeat of the charter amendment. The Recommended Order itself made a finding that Barnas “deemed” CC’s statement to constitute express advocacy.

c. Third and fourth sentences: Barnas takes exception to the conclusion that reasonable persons could not interpret paragraph 5 as expressly

advocating defeat of the charter amendment.

- d. Fifth sentence: Barnas takes exception to the conclusion that all reasonable persons would construe the italicized language as “only” explanatory and not advocacy of a vote against the charter amendment.
- e. Sixth sentence: Barnas takes exception to the conclusion that paragraph 5 does not “indicate how a person should vote” on the ballot measure. Barnas testified that he thought that paragraph and CC’s preface, “therefore we believe” and its invitation to persons who “support our” goals to become CC members constituted “express advocacy” of its defeat. (T2, 30, l. 13 - 22.) He also researched the statutes and the FEC website looking for a definition of the “express advocacy” and found none. (T2, l. 2 -12.) Yeago’s lawyer testified that he “can’t quote” any definition of express advocacy and would have to “research it.” (T2, 98, l. 14- 17.) The point of this is that Barnas made a determined effort to find a legal definition of the term to support his inference of “express advocacy” and found nothing to help him. This undermines any finding that Barnas’s inference that CC was advocating defeat of the charter amendment was

unreasonable. Indeed, Barnas respectfully submits that many reasonable persons would construe the language in paragraph 5 as “express advocacy” to defeat the charter amendment.

23. Barnas takes exceptions as follow:

- a. First sentence: Barnas agrees with the finding of fact that “Mr. Barnas read item 5 above and deemed it to be express advocacy opposing the pending referendum on the proposal to amend the City of High Springs charter.”
- b. Second sentence: Barnas takes exception to the statement, “Mr. Barnas’ complaint affirmatively accuses Ms. Yeago, on behalf of the Concerned Citizens group, with expressly advocating the defeat of the charter amendment.” This statement is not supported by Barnas’s complaint or by anything else in the record. Barnas named Yeago as the person complained against because she identified herself as CC’s spokesperson (T1, 178, l. 12 to 19), but all his statements pertaining to activities the complaint refers to the “organization” or the “group” or “they.”
- c. Third sentence: Barnas takes exception to the conclusion that CC’s many publications “did not expressly advocate” passage or defeat of

the charter amendment. See previous statements.

24. No exceptions to the wording of the statement but Barnas does take exception to the failure of the Recommended Order to account for its importance in Barnas's decision to file a complaint. Barnas believed CC dubbed itself to be a grassroots organization to avoid filing as a political committee. (App., p. A4.) He testified that he thought CC operated on the "fringe" of the law and used the disclaimer quoted in paragraph 24 for that purpose. (T1, 102, l. 5 to 19.) Yeago's testimony is even more telling. When asked, "Wouldn't you agree, Ms. Yeago, that by putting that on there that you might cause people who wonder why haven't they filed? Why haven't you become a political committee?" Yeago responded, "that's a very good question" by which she meant "yes." (T1, 220, l. 15 to 17.) She qualified her affirmative answer with the statement, "I would hope that they would ask it to us directly instead of going to the Florida Elections Commission." (T1, 220, l. 19-20.) Needless to say, Yeago's hope that a citizen would not seek relief from FEC from conduct that a reasonable person could construe to be a violation of the law is no better founded in law than a hope CC' proclamation that "we are not a political committee" would be conclusive on the point.

25. No exceptions.
26. Barnas takes exceptions as follow:
 - a. First sentence: Barnas takes no exceptions to the finding that Yeago drafted CC's public statements.
 - b. Second sentence: Barnas takes no exception to the actual words in the second sentence, but does take exception to any implied conclusion that CC may unilaterally exclude itself from the requirements of §106.011 Fla. Stat. by merely adding a statement to its publications that it is not governed by section 106.011. The thrust of Barnas's complaint was that only FEC has the authority and duty to make that determination. (App., 1-6.)
 - c. Barnas takes exception to the third sentence to the extent it concludes that no reasonable person would conclude that paragraph 5 in its entirety including the disclaimer constitutes express advocacy to defeat the charter amendment. See number 24.
27. Barnas takes exceptions as follows:
 - a. First sentence: Barnas takes exception to the statement that Barnas's complaint accused Yeago or CC of an intention to "thwart the law." What Barnas's complaint actually states is: "Again it is my contention

this organization fits Florida Statute 106 as a PC. They never registered properly or filed reports of financial disclosure. They ignored the law.” Later the complaint states:

“The FEC needs to look at the timeline and evidence. The FEC needs to see how this organization tried to call itself a ‘grassroots’ organization to simply avoid being a PC. The FEC need (sic) to bear its power and authority given to it by the State of Florida law and investigate, and take all appropriate measure under its power to determine the status of this organization and then administer the penalties, fines and rulings under its power, should they find this organization is a PC and failed on all levels to register and file reports. To not do so would open the door for all other organizations to avoid Florida State requirements across Florida, whether big or small.”

- b. Second sentence: Barnas takes exception to the statement beginning, “He also believed Concerned Citizens tried to hide its “advocacy.” This statement and idea are not to be found in Barnas’s complaint. Barnas testified that he believed that CC should have registered as a political committee. (T1, 244, l. 3-9.)
- c. Third sentence: no exceptions.
- d. Fourth sentence: Barnas takes exceptions to the statement, “Barnas did not inquire or make any investigation regarding these documents but assumed bad intent on the part of Concerned Citizens and, more specifically, Ms. Yeago” as not supported by the record. Barnas

found CC's public statements on CC's Facebook page and saw CC's leaflets being distributed at public functions including a candidate's forum. This refutes a conclusion that he did not "inquire" or "make investigations." As to "bad intent," Barnas's complaint made no allegations about CC's possible "intent" beyond his belief that it had "ignored" the law and that he believed FEC should investigate to see if this inference was correct. He made no specific statement or inference about Yeago's intent. In addition, Barnas did extensive research in the legal sources including FEC's website, statutes, and previous opinions to help him prepare his complaint appropriately. (T101, l. 16 to 105, l. 7.)`

- e. Fifth sentence: Barnas takes exceptions to the conclusion, "Such a failure to investigate these statements and documents constitutes reckless disregard of the truth of the allegations made by Mr. Barnas in his FEC Complaint." This conclusion fails to identify the statements in Barnas's complaint that it impugns. What Barnas's complaint actually says about CC's statement and documents is this:

"During early September 2012 an organization called CCFBHS and their Facebook page surfaced. A PC was born. It says on the Facebook page that it was founded September 28, 2012. I

have attached (Exhibit 3) a copy of the Facebook founded page. On October 1 and 8, newspaper stories came out that reported the organization, steering committee people and more.

Sharon Yeago again is quoted.(Exhibit 4).

“They have a Facebook page “Concerned Citizens for a better High Springs” that has an ‘About’ page with a Mission Statement. The mission statement is a statement of political views and opinions that address issues facing High Springs. This site was established September 17, 2012, founded September 28, 2012 and ran almost weekly political statements right up till, the election on November 7, 2012.

[Two paragraphs omitted.]

“At the Candidate Forum at the High Springs Women’s Club they distributed more flyers (Exhibit5) that **set in stone their political stance on the debt issue on the ballot.** They supported DEFEATING the charter amendment issue. I have also attached a copy from the Facebook site where Gene Levine (one of the members) makes a post in support of Byran Williams and refers to “we” (the group) and the Facebook allows it to go out to all friends and the public for the record.”

(Bold in original.) Barnas’s complaint makes no false statement about what CC physically did. Barnas’s conclusion that “They supported DEFEATING the charter amendment issue” may possibly have been incorrect (which he still denies) but the recommended order did not and could not find that it was not his true opinion drawn from the content and context of CC’s activities and publications. Barnas also proved that some of CC’s publicly identified members public advocated defeat of the charter amendment and

advocated election of a candidate who opposed it. (App., p. 25.) These included statements made by Yeago's lawyer who was an outspoken CC member. (T1, 226, l. 2 to 229, l. 10: Barnas Exh. 4.) Barnas testified that he believed his opinion to be true when he filed the complaint and still believes it to be true. (T2, 22, l. 11 - 22.) Perhaps Barnas could have prefaced his statement with the words, "It is my opinion that they supported..." but the fact that these statements are preceded on the same page by Barnas's plea that FEC make its own investigation of the allegations made those words unnecessary and superfluous. (App., p. A5.) At the very least they defeat any basis for finding that Barnas had acted in reckless disregard of the truth regarding his opinion.

28. No exceptions.

29. Barnas takes exceptions as follows:

- a. First sentence: Barnas takes exception to these statements: "However, the evidence demonstrated that the Hewlett signs were the only large 'Vote No' signs at the precinct. Moreover, the signs, contrary to Mr. Barnas' claim at hearing, bore no marking or legend that linked it to Concerned Citizens and his testimony to the contrary on this point was not credible." In fact, Hewlett testified that she had one sign at

one precinct and her husband took a second one to a different precinct. (T2, 110, l. 2-23.) The sign Hewlett identified had no markings and holes, but Barnas's complaint did not say that Hewlett's sign had markings and holes. His complaint says posters (with CCFBHS disclaimers) were hung on a fence "at one of the two polling places." (App., p. A6.) In sum, the evidence does not create an actual conflict between Barnas's testimony and Hewlett's. Both could be correct. The fact that Hewlett testified that one of her posters was at one precinct and one at another precinct weakens the usefulness of the evidence to refute Barnas's description of what he saw. The facts that one of her posters had been destroyed and that she did not identify at which precinct the poster submitted into evidence had been placed further weakens it. Her evidence certainly does not establish that Barnas might not have seen entirely different posters. In any event, this point is not material to the ultimate issue in this proceeding.

30. Barnas takes exceptions as follows:

- a. First sentence. Barnas takes exception to this sentence as unsupported by the record. What Barnas's complaint actually alleged

is:

During the pre election period many named members held signs for Bryan Williams and on Election Day had a tent with his signs and again held his signs next to the two 4ft X 4ft "Vote NO" posters opposing (with CCFBHS) the ballot referendum that were hung on a fence at the entrance to one of the two polling places. I do not have a picture of these posters, but witnesses will verify that they were there and that these members held candidate Byran Williams signs. The cost estimate of two larger referendum posters is estimated at \$100.

- b. Second sentence: no exceptions.
31. Barnas takes exceptions as follows:
- a. First sentence: Barnas takes exception to the "without evidence" conclusion. Barnas's complaint described CC's activities and publications in detail and attached copies of several of CC's publications. This is evidence. Possibly he drew incorrect inferences from what he saw, but the statement that his inferences were "without evidence" is refuted by the record.
 - b. Second sentence: Barnas takes exception to this sentence because it does not make sense.
 - c. Third sentence: No exceptions.
 - d. Fourth sentence: Barnas takes exception to the "without evidence" conclusion on the same grounds stated in a. He also takes exception

to the statement that he made “false allegations in his complaint against Ms. Yeago.” Apart from the possibility that Barnas was mistaken about whether a sign he saw had a disclaimer, the recommended order does not identify any incorrect allegation of fact in his complaint. In the hearing, Barnas reviewed each allegation in his complaint, paragraph by paragraph, and testified that he believed each factual statement to be true when he filed the complaint and now believes each factual statement to be true, with single exception that the complaint stated CC published a newspaper advertisement on October 31, 2012 when the correct date was November 1, 2012. (T2, 22, l. 22 to 23, l. 17.) Apart from the matter of the sign referred to in paragraphs 30 and 31, no evidence in the record contradicts any allegation of actual fact in Barnas’s complaint. His inferences attributing the public express advocacy activities of CC’s members to CC may or may not have been wrong, but no evidence contradicts his testimony that he believed them to be true.

- e. Fifth sentence: Barnas takes no exceptions to the Recommended Order to the extent it concludes he inferred that CC was a political committee governed by Chapter 106 Florida Statutes from what he

observed as stated in the complaint. Barnas testified that he believed CC was a political committee and ought to register with FEC. (T1, 244, l. 3-9.) He does take exception to any conclusion that the complaint makes any false allegation of fact and to the conclusion that he acted with “reckless disregard of the truth” as not supported in the record. Although §106.37 Fla. Stat. once provided a definition of “reckless disregard,” that provision was repealed as of January 1, 2008 by Fla. Laws 2007-30, § 51. Thereafter, FEC adopted Rule 2B-1.002, F.A.C., prescribing a definition of “reckless disregard,” but the legislature nullified it when it amended §106.25(3) Fla. Stat. as of May 29, 2011 to add this sentence: “The commission may not by rule determine what constitutes willfulness or further define the term “willful” for purposes of this chapter or chapter 104.” § 70, Chapter 2011-40, Laws of Florida. Under these circumstances the FEC may employ case law definition of “reckless disregard” as developed in case law. *Fugate v. Florida Elections Commission*, 924 So.2d 74, 75 (Fla. 1st DCA 2006).

Yeago’s claim under §106.265(5) Fla. Stat. is in the nature of a remedy for defamation. Such a claim would be defeated by absolute

privilege affording filings in legal proceedings but for §106.265 Fla. Stat. Nevertheless, no statute can nullify First Amendment protections. Yeago (and CC) voluntarily injected herself into public controversy about governance in High Springs and the proposed charter amendment and thus became a public figure in regard to the controversy. (App., p. A16-A20, A22-A23, A26, A28, A31-A32.) Consequently, Barnas is entitled to First Amendment protections, first, in petitioning FEC for redress of grievances and in speaking out on political issues and, second, in defending himself in Yeago's defamation-like claim against him.. The standard adopted by *Cape Publications, Inc. v. Teri's Health Studio, Inc.*, 385 So. 2d 188 (Fla. 5th DCA 1980) is appropriate in this proceeding:

To hold the appellants liable, it must have been proved the false statement was printed with knowledge the statement was false or in reckless disregard of whether it was false or not. *New York Times Co. v. Sullivan*, 376 U.S. 254, 280, 84 S.Ct. 710, 726, 11 L.Ed.2d 686 (1964). In *St. Amant v. Thompson*, 390 U.S. 727, 88 S.Ct. 1323, 20 L.Ed.2d 262 (1968), the Supreme Court said:

These cases are clear that reckless conduct is not measured by whether a reasonably prudent man would have published, or would have investigated before publishing. There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication. Publishing with such doubts shows reckless disregard for truth or

falsity and demonstrates actual malice.

Id., at 189.

Barnas is well acquainted with the reasoning and holding in *Brown v. Commission on Ethics*, 969 So.2d 553 (Fla. 1st DCA 2007) and makes these distinctions. This is an elections commission case in which Yeago voluntarily inserted herself into the vortex of ongoing political controversy. *Brown* was not. In *Brown* the Florida Commission of Ethics was defending its *interpretation of the wording of a statute*, §120.68(7)(d), Fla. Stat. Here, the essence of Yeago's §106.265(5) Fla. Stat. fee claim against Barnas is defamation and Barnas invokes the First Amendment itself in defense. No evidence supports the proposition that Barnas ever entertained any doubt much less *serious doubts* as to the truth of any statement in his claim. To the contrary, Barnas testified that he knew the law prohibited him from making false statements (T1, 252, l. 18) and testified that he did not "entertain any belief at all that" he was filing false allegations. (T1, 252, l. 19-21.) No testimony refutes this. This alone would defeat Yeago's claim if she had otherwise proved it, which she has not.

Even if FEC should reject Barnas's invocation of the First Amendment, it still must endorse some standard of "reckless disregard" to

avoid denying Barnas and all others equal protection of the laws. Short of the *serious doubts* standard, the standard for punitive damages approved by the Florida Supreme would be most appropriate for “reckless disregard:”

In *Carraway* this Court made it clear that the character of negligence necessary to sustain an award of punitive damages is the same as that required to sustain a conviction for manslaughter. 116 So.2d at 20. A showing of even gross negligence, the degree of negligence that lies between ordinary negligence and willful and wanton conduct, is not enough. *Id.*; *Como Oil Co.*, 466 So.2d at 1062; *White Construction Co.*, 455 So.2d at 1028; *U.S. Concrete Pipe Co. v. Bould*, 437 So.2d 1061 (Fla.1983). *Carraway* stated:

The character of negligence necessary to sustain an award of punitive damages must be of "a gross and flagrant character, evincing reckless disregard of human life, or of the safety of persons exposed to its dangerous effects, or there is that entire want of care which would raise the presumption of a conscious indifference to consequences, or which shows wantonness or recklessness, or a grossly careless disregard of the safety and welfare of the public, or that reckless indifference to the rights of others which is equivalent to an intentional violation of them."

116 So.2d at 20, n. 12. Recently, we reaffirmed this language in *White Construction Co.*, 455 So.2d at 1029.

Chrysler Corp. v. Wolmer, 499 So. 2d 823, 824-25 (Fla. 1986). The evidence does not support a finding that Barnas acted with disregard under that standard, much less by clear and convincing evidence.

32. Barnas takes exceptions as follows:

a. First sentence: No exceptions. Barnas agrees with the finding that he

determined to file against CC because he believed it should comply with chapter 106 in the future elections.

- b. Second sentence: Barnas takes exception to the conclusion that what “unfairness” he saw is “unclear.” Barnas testified, “when things get violated like that elections laws, it skews, in a small town like ours it skews the results, and if we all play fair, did our reports on time, submitted them on time, do what it said, put a disclaimer on a sign, do what you’re supposed to do, the playing field would be what we should do all the time.” (T1, 244, l. 10-21.) Barnas’s complaint clearly urged FEC to investigate and impose sanctions if it found violations and expressed his view that, “To not do so would open the door for all other organizations to avoid Florida State requirements across Florida, whether big or small.” (App., p. A5.)
- c. Third sentence: Barnas agrees with the finding that “His intent was to file against Concerned Citizens as a group.” He takes exception to the statement that his intent was to “silence its activities.” This statement is unsupported by any evidence in the record and is in fact refuted by the record. Barnas did not file his complaint until April 2013 succeeding the November 2012 election, making it impossible

for his filing to influence the outcome of the election. (T2, 34, l. 5-33.) Moreover, the vote on the charter amendment that Barnas sponsored and supported was strongly positive. (T2, 34, l. 14-16.) Barnas telephoned FEC in late November to find out about how to file a complaint against CC so that FEC would investigate whether it was a political committee. (T1, 242, l. 13 to 243, l. 19.) When he contacted FEC, Barnas wanted to file against CC and did not have any particular person in mind to file a complaint against. (T1, 243, l. 20- 24.) He was not thinking at all about Yeago. (T1, 243, l. 25 to 244, l.1.) Barnas's complaint plainly stated that he wanted FEC to investigate and decide whether CC was a political committee required to comply with the registration and reporting provisions of Chapter 106. (*Id.*) He wanted a "fair playing field." (T1, 244, l. 12-20.) Nothing supports a conclusion that he wished to silence anyone.

33. Barnas takes exceptions as follows:
 - a. First sentence. No exceptions.
 - b. Second sentence. No exceptions except to the statement "as her co-conspirator." Nowhere in Barnas's complaint or in his testimony did Barnas refer to Yeago and Jones as "conspirators" or "co-

conspirators.” Barnas testified that he believed he needed to name two people in the complaint and selected Yeago only because she identified herself to him as CC’s spokesperson. (T1, 178, l. 12 to 19.) Similarly, he selected Jones only because she identified herself as speaking as a member of CC’s steering committee when she addressed the High Springs City Commission in March 2013. (T1, 164, l. 12-13.) Barnas was a sitting member of the City Commission. The unsupported conclusion that Barnas referred to Yeago and Jones as “co-conspirators” is unfounded in the record and damaging to him. He referred to no person as a conspirator or co-conspirator.

34. No exceptions.

35. Barnas takes exception as follows:

- a. First sentence. No exceptions to the finding as to what Barnas claims. He does take exception to the extent the wording implies his claim is untrue because such an implication is not supported by the record.
- b. Second sentence: No exceptions to the statement itself. In his complaint Barnas explained why he choose Yeago and Jones; “While there are more than 100 members, it would be difficult to single out individual officers. But there are two people who have made written

statement (sic) (see Sharon Yeago attached email Exhibit 2, and Exhibit 2 a Facebook statement of Linda Jones) where they admit to being either spokesperson and hubs for information in and out of the organization.” (App., p. A4, 5.) Yeago testified that she was spokesperson of CC and primary draftsman of its public statements. (T1, 201, l. 15 to 20; T1, 204, l. 5 - 12.)

- c. Barnas takes exception to the statement that “the evidence showed the likely motive for filing the underlying FEC complaint was that Mr. Barnas was called a “fool” by someone he thought was a member of Concerned Citizens and thereby decided to file an FEC complaint against the offending group, selecting April Fool’s Day as the date to mail his complaint to FEC.” The portion of the statement “the evidence showed the likely motive ...” is not supported by the record and is in fact refuted by the record. Barnas testified that he first began to consider filing a complaint against CC on (about) October 3, 2012 (T1, 50, l. 5-22) and conferred with FEC officials in November 2012 about filing a complaint against CC. (T1, 51, l. 10-13.) Barnas testified that he had been working on his complaint for months and posted his intention to file a complaint against CC on a website as

early as Valentine's day, which is February 14. (T1, 163, l. 24 to 164, l. 3.) Barnas also testified that he thought he needed two names and that Linda Jones identified herself as a second person on March 25th or 28th. (T1 164, l. 12-13.) The record refutes none of this which undermines the Recommended Order's supposition about Barnas's "likely motive."

36. Barnas takes exceptions as follows:

- a. First sentence. Barnas agrees with the finding that "Ms. Yeago was simply a means to an end, enabling Mr. Barnas to file an FEC complaint against an organization." This finding refutes any implication that Barnas filed his complaint to injure Yeago's reputation. Further discussion amplifies this point. Nevertheless, Barnas takes exception to the clause - "who he felt opposed something he favored" - to the extent it implies he filed the complaint because CC opposed his views. The complaint and testimony plainly states that he filed because he believed CC was a political committee required to comply with Chapter 106 and had not done so. (T1, 244, l. 3-9.) Nothing supports an inference that he would made a complaint against CC because it opposed his views if CC had complied with

Chapter 106 .

- b. Second sentence. Barnas takes exception to the statement that Yeago was “compelled” to hire anyone. FEC dismissed Barnas’s complaint on its face. Barnas agrees that Yeago chose to hire a lawyer.

Yeago’s lawyer testified that “one of the primary purposes of the response” was to lay the ground work for attorney’s fees against Mr. Barnas.” (T2, 92, l. 12-16.)

- c. Third sentence. No exceptions as to the statement of itself. Barnas amplifies the statement by observing that on June 10, 2013 FEC issued a notice that the complaint was legally insufficient and Barnas filed nothing more. Hence, Yeago had no need for further defense. See paragraph 39 of the Recommended Order.

37. No exceptions.

38. Barnas takes exceptions as follows:

- a. First sentence. No exceptions.

- b. Second sentence. Barnas agrees that he “did not know that Ms.

Yeago had filed a response to his complaint until October 28, 2013," but takes exception to the statement, “For reasons that are not clear in the record” as being refuted in the record. The record establishes that

Yeago's lawyer testified that he did not serve Barnas with Yeago's response because FEC's staff had provided him written directions that he was not required to do so. (T2, 94, l. 3 to 97, l. 7.) Yeago's lawyer did not produce a FEC writing for the record.

39. No exceptions, but Barnas observes that FEC's finding that the complaint was facially insufficient is important in this fee proceeding because it shows Yeago had no need for protracted defense.
40. No exceptions.
41. Barnas takes the following exceptions:
 - a. First sentence: No exceptions.
 - b. Second sentence. Barnas agrees that he did not know that Yeago filed a petition for fees on July 10, 2013 until October 28, 2013, but takes exception to the statement, "Again, for reasons that are not clear in the record." As stated above, the record plainly establishes that Yeago did not serve him with a copy of her fee petition and FEC did not send him one until October 28, 2013.
42. No exceptions.
43. No exceptions.
44. Without deviating from his submission that Yeago has failed to prove

entitlement to an award of fees and costs by clear and convincing evidence under the exacting requirements imposed by §106.265(6) Fla. Stat., Barnas respectfully submits the record does not support the number of hours awarded. Barnas takes exception to any award of fees and costs and takes specific exception to an award of 105.9 hours. FEC dismissed Barnas's complaint as legally insufficient on its face. Yeago filed a response to the complaint but did not serve it on Barnas as required by Rule 28-106.104(4), F.A.C. (T2, 95, l. 9-16.) The record does not disclose whether FEC referred to Yeago's response in deciding that the complaint was legally insufficient, but very little of Yeago's response addresses legal insufficiency. Yeago's direct testimony as to her version of CC's formation and mission and her role in its activities occupied slightly more than two pages of transcript. (T1,193, l. 13 to p. 195, l. 20.) It subsumes the substantive content of her FEC response. Instead, much of Yeago's response and her fee petition have nothing to do with Barnas's FEC complaint but mount an attack on Barnas's character based upon matters that are extraneous to the FEC complaint. The ALJ excluded most of these exhibits and testimony about them from this proceeding. (T1, 34-35.) Yeago's lawyer testified that a "primary purpose" of Yeago's response was "absolutely" to lay the "ground work for attorney's

fees against Mr. Barnas.” (T2, l. 12 -16.) In addition, the content of Yeago’s fee petition essentially duplicates her response to Barnas’ complaint and both strayed far beyond the requirement of responding succinctly and directly to the clear allegations in Barnas’ complaint into a wide reaching personal attack upon him, including delving into irrelevant unrelated matters. Barnas should not be required to pay for such a misguided and bloated personal attack upon himself in the guise of a fee award.

Yeago herself testified that a primary purpose of the fee petition was in effect to teach Barnas a lesson. (T1, p. 221, l. 15 to 24.) She also testified that she had no economic stake in the outcome. (T1, p. 221, l. 3 to 14.) Her lawyer testified that he undertook the representation *pro bono* without fee and intended from the beginning to make a claim for fees against Barnas. In short, Yeago will gain nothing from a fee award and Barnas should not be saddled with paying an inflated fee to satisfy spite.

CONCLUSIONS OF LAW

45. No exceptions.
46. No exceptions.
47. No exceptions.

48. No exceptions.

49. Barnas takes exceptions as follows:

- a. First sentence. Barnas agrees the *Brown v. Fla. Commission on Ethics*, 969 So.2d 553 (Fla. 1st DCA 2007) held that §112.317 Fla. Stat. did not incorporate the *New York Times v. Sullivan* standard of “actual malice” as an element of proof for a fee award under that statute. Barnas submits that *Brown* did not consider whether the First Amendment requires a person who is a limited public figure by virtue of voluntarily inserting herself into the vortex of a public political dispute, as Yeago has done, and who seeks a defamation based fee remedy must meet the *New York Times* test in addition to and independently of the statutory tests. Barnas respectfully submits that the First Amendment applies and that it requires Yeago to prove constitutional actual malice in addition to the statutory standards. In addition, as shown below, Yeago has not established an entitlement to fees and costs under either the constitutional or statutory criteria.
- b. Second sentence. No exception, except Barnas notes that *Brown* did not consider direct invocation of the First Amendment as a defense.
- c. Third sentence. No exception, except Barnas notes that *Brown* did

not consider direct invocation of the First Amendment as a defense and Barnas does invoke it.

- d. Fourth sentence. No exception.
- e. Fifth sentence. Barnas takes exception to the sentence, “However, that bar is met where, as here, the person filing the complaint acts with conscious indifference to the truth of the complaint. *Id.*” To the extent that sentence purports to quote or paraphrase *Brown* Barnas does not take exception, but he does take exception to the extent the statement purports to be a finding that he acted with “conscious indifference to the truth” of any factual statement in the complaint. The Recommended Order identifies no factual statement that it impugns and certainly cannot be said to be based upon clear and convincing evidence.

50. No exceptions.

51. Barnas takes exceptions as follows:

- a. First sentence. The statement, “However, in this case, the evidence demonstrated that Mr. Barnas maliciously filed the complaint in order to silence those whom perceived as opposing him and the issue that were important to him.” As stated in paragraph 30, the conclusion

that Barnas acted “maliciously” is unsupported by evidence in the record much less by the standard of “clear and convincing evidence.” Moreover, the record is entirely devoid of evidence to support a conclusion that Barnas had an intent to “silence” anyone. He stated his reasons in his complaint (to avoid having the election laws ignored everywhere; see paragraph 27 a.) and testified that CC was still in existence, and that he wished to have a “Fair playing field” in the future. (T1, p. 244, l. 10-21.) He wanted CC to register as a political committee and file the reports required by law. (T1, 244, l. 3- 9.) The record is devoid of evidence that Barnas intended to “silence” anyone.

- b. Second sentence. Barnas takes exceptions as follows: The conclusion that Barnas “maintained a conscious indifference to the truth of his allegations” when he “failed to reasonably inquire about” the relationship between CC and Ms. Yeago is unsupported by and positively refuted by the record. That conclusion of “conscious indifference” fails to identify any “untrue” allegations. Among other things, the evidence shows that at 3:46pm on December 5, 2012 Barnas emailed the City of High Springs lawyer (Scott Walker,

foldsandwalker.com) concerning the fact that CC seemed to be a grass roots group with no physical address and no “single spokesperson.” (App., p. A11.) On the same day at 8:02pm, Yeago herself responded to this email (to Barnas, Walker and a third person) stating in part: “I am the official spokesperson for the Concerned Citizens group. I have handled all publicity and development of public policy statements.” (App., p. A9-A10.) Yeago further said: “Please direct any questions, concerns or issues to me should they arise. I will be most happy to respond as quickly and completely as possible so that there are no further issues with miscommunication or distribution of incorrect information.” (App., p. A10.) Barnas responded to Yeago by email on December 6 and asked, “how does someone like me” become a member and noted that he “understood” other High Springs city commissioners were members. (App., p. A9.) On December 7, 2012 Yeago responded by email and informed Barnas that he could join if he were “interested in publicly supporting our values” but cautioned him that it would be problematic for him to attend meetings because “we already have three members [i.e., High Springs city commissioners] who support our values.” (*Id.*) This

disproves that Barnas was indifferent to the relationship between CC and Yeago.

- c. Third sentence: Barnas takes exception to the statement: “More importantly, such indifference was demonstrated when he cut and pasted portions of a Facebook page/blog from a person advocating for a candidate while leaving out Concerned Citizens’ response to the post which clearly demonstrated the groups’ intention not to be a political committee.” No evidence disproves that the CC Facebook page posting Barnas included in his complaint was a true copy and no evidence disproves that the CC Facebook page posting expressly advocated election of a named candidate. The fact that Barnas did not file other CC’s Facebook page postings does not turn the accurate posting he provided into a falsehood. Barnas explained that CC had the power to remove the postings from its Facebook page and had not done so, neither at the time he filed his complaint in April following the date of the election nor at the time he testified. He testified, “It could also have told them they left it up there and didn’t take it down.” (T1, 172, l. 12 - 19.) He also testified that the posting was still on CC’s Facebook page on February 25, 2014, the date he

testified. (T1, 166, l. 18 to 167, l. 2.) Yeago herself testified that nothing had been taken down from CC's Facebook link. (T1, 206, l. 8-9.) In short, the Recommended Order does not identify any untruthful statement and does not establish that Barnas filed one with "conscious indifference" to the truth, much less by "clear and convincing evidence." Indeed, no finding could be made that the truthful CC Facebook posting that Barnas's filed with FEC became false simply because he did not file other postings from CC's Facebook page when CC itself did not exercise its right to take it down.

- d. Fourth sentence. Barnas takes exception to the conclusion that Yeago is entitled to an award of attorney's fees and costs. Barnas provides legal argument below but at this stage observes proof of "conscious indifference to the truth" is not a basis for a fee award under §106.235(f) Fla. Stat. Apart from that, Florida law seems to supply no specific definition of "conscious indifference." In the absence of a statutory standard, the punitive damages standard that requires an act that is essentially intended to cause harm seems most appropriate. *Southeast Title & Ins. Co. v. Caldwell*, 326 So. 2d 12, 14 (Fla. 1975),

explained: “Moreover, punitive damages need not flow from an intentional course of conduct or intent to inflict damages, but may also be allowed in such cases where there is the entire want or care which would raise the presumption of a conscious indifference to the consequences of one's actions or inaction.” The evidence in the record falls far short of proving that “the entire want of care” that damages are to be inflicted, much less with clear and convincing evidence.

52. Barnas takes exceptions to any award of fees and costs and takes specific exception to an award of 105.9 hours. He adopts the exceptions stated in paragraph 44.

ARGUMENT

The statutory standard for obtaining an attorney’s fee and cost award is prescribed by §106.265(6) Fla. Stat., which provides:

(6) In any case in which the commission determines that a person has filed a complaint against another person *with a malicious intent to injure the reputation of the person complained against* by filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains *false allegations of*

fact material to a violation of this chapter or chapter 104, the complainant shall be liable for costs and reasonable attorney's fees incurred in the defense of the person complained against, including the costs and reasonable attorney's fees incurred in proving entitlement to and the amount of costs and fees.

(Italics and bold added.) Rule 2B-1.0045, F.A.C., imposes the same standard.

The statute provides two sets of criteria one of which must be proved to establish entitlement to a fee and cost award:

- A. The complaint was filed with a malicious intent to *injure the reputation* of the person complained against AND the complaint was filed [with knowledge] that it contains one or more false allegations, OR
- B. The complaint was filed with a malicious intent to *injure the reputation* of the person complained against AND the complaint was filed with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this chapter or chapter 104.

(Italics added.)

A sine quo non under either limb of these tests is that the complaint was filed “with a malicious intent to injure the reputation of the person complained against.” The legislature could have enacted the test “malicious intent to silence”

the person complained about, or it could have imposed fees for merely filing untrue statements, but it enacted neither of those tests in the law. Instead, it enacted the requirement that the fee petitioner prove that the complainant filed the complaint with “malicious intent to injure the reputation of the person complained against.” With rare exceptions not present here, Florida law is well settled that attorneys fees are awardable only if and as authorized by statute or by contract. *Codomo v. Emanuel*, 91 So. 2d 653, 655 (Fla. 1956)(“This court is committed to the doctrine that attorneys' fees cannot be taxed as costs in any cause unless authorized by contract or legislative authority. *Shavers v. Duval County, Fla.*, 73 So.2d 684, and cases cited therein.”) Florida law is also settled that “An agency cannot ignore the legislative requirements set forth in a statute.” *Avalon's Assisted Living, LLC v. Agency for Health Care Admin.*, 80 So. 3d 347, 351 (Fla. 1st DCA 2011) citing *Abramson v. Fla. Psychological Ass'n*, 634 So.2d 610, 611–12 (Fla.1994). Equally well settled is the rule that “Florida courts interpret statutes according to their plain meaning.” *Brown v. Florida Ethics Commission*, 969 So.12d 553, 559 (Fla 1st DCA 2007).

The Recommended Order makes no finding that Barnas filed the complaint with intent *to injure Yeago's reputation* or the reputation of anyone at all. Accordingly, the Recommended Order must be rejected on that basis alone, but

that is not the end of it. The record is not only devoid of any evidence to support a finding that Barnas intended to injure Yeago's reputation but is also replete with evidence that positively refutes any such a finding. Indeed, the Recommended Order's finding (paragraph 36) that "Ms. Yeago was simply a means to an end, enabling Mr. Barnas to file an FEC complaint against an organization who he felt opposed something he favored" of itself defeats the proposed award of attorney's fees and costs.

Barnas testified to his reasons for naming Yeago in his complain:

1. He wanted to name CC but believed from information that he obtained in his contacts with FEC that he must name two people. (T1, 242, l. 13 to 243, l. 12.)
2. When Barnas telephoned FEC in late November to find out about how to file a complaint against, he wanted to file against CC as an organization, had no particular person in mind to file a complaint against, and was not thinking at all about Yeago. (T1, 242, l. 25 to 244, l. 24.)
3. From his contact with FEC he believed he must name two people in his complaint. (T1, 242, l. 13 to 243, l. 12.)
4. He chose Yeago as a person to name only after she sent him an email in which she identified herself as CC's spokesperson and told him to direct his

questions about CC to her. (T1, 244, l. 24 to 245, l.; App., p. A10.)

5. If some other person had been identified to him as CC's spokesperson, he would have named that person as the person complained against. (T1, 245, l. 20 to 246, l. 1.)
6. There was nothing personal about the person (Yeago) Barnas named. (T1, 246, l. 2-5.)
7. He did not accuse Yeago of knowingly and willingly violating the law and did not make a complaint to the State Attorney or intend for FEC to do so. (T1, 251, l. 19 to 252, l. 1.)
8. He had absolutely no intent to damage Yeago's reputation or the reputation of any other person in filing the complaint. (T1, 246, l. 6 -11.)
9. He does not now and never has had any intent or desire to harm Yeago's reputation. (T1, 224, l. 9 - 13.)
10. He did not post on his website or his Facebook page that he had named Yeago in his complaint and did not send emails to anyone saying he named Yeago in his complaint. (T1, 246, l. 19 to 247, l. 2.)
11. Except for election officials he disclosed to no person that he named Yeago in the complaint. (T1, 246, l. 6 -11.)
12. He has known Yeago since the mid-to-late 2000s but does not consider her

to be a personal friend. (T1, 223, l. 4-9.)

13. He does not and has never harbored personal animosity against Yeago. (T1, 223, l. 13-17.)
14. He and Yeago have never exchanged harsh words and never had an angry argument. (T1, 223, l. 18-22.)
15. He has never had a exchange with Yeago that was not cordial and respectful. (T1, 224, l. 6 -8.)
16. He never opposed any effort of Yeago to obtain public office or to get a contract with the city or to obtain some position or recognition. (T1, 224, l. 14-20.)
17. He never took any action or made any statement to injure Yeago in her job or business, or family matters, or in any other matters. (T1, 224, l. 24 to 225, l. 5.)
18. He did not intend to injure Yeago's reputation by filing the complaint. (T1, 225, l. 6 -8.)

None of this is refuted by testimony or other evidence. In fact, Yeago's testimony is supportive of a conclusion that Barnas had no intent to injure her reputation. She testified.

1. She had been acquainted with Barnas for at least five or six years but they

were not personal friends. (T1, 198, l. 5- 14.)

2. She and Barnas have never exchanged harsh words or had an angry argument. (T1, 198, l. 15- 20.)
3. Since Barnas filed his complaint the two have spoken briefly and the contact was cordial. (T1, 198, l. 21 to 200, l. 9.)
4. Apart from the FEC complaint itself, Yeago has no evidence that Barnas had any desire to injure her reputation. (T1, 200, l. 16 - 21.)
5. Barnas never hindered Yeago's efforts to get a contract with anybody, or with her performance of her job or business, or in family matters, or in any other way. (T1, 200, l. 22 to 201, l. 8.) (Yeago actually stated her denials in the form, "He's never had an opportunity to.")
6. Barnas did not say anything on his website about filing an FEC complaint against her. (T1, 215, l. 1- 10.)

Both Barnas's testimony and Yeago's deny any inference that Barnas filed the complaint with an intent to injure her reputation. In addition, the record is devoid of any evidence to establish that Yeago suffered any actual injury to her reputation or in any other manner. In fact, she is at no risk of paying attorney's fees and costs because her lawyer is representing her without requiring her to pay either. Yeago's Exhibit 9, p 1. Yeago herself testified that she had no economic

interests at stake in this proceeding and filed the petition to, in effect, teach Barnas a lesson. (T1, 221, l. 6 to 222, l. 8.)

The facts in this case are demonstrably different from cases in which fees have been awarded. In *Brown, supra.*, Mr. Brown was elected as property appraiser to succeed Burgess, who had retired. In a subsequent bid for reelection Brown was opposed by Cooper. Cooper's supporters, complainants Burgess and Hilton Kelly, filed complaints against Brown in the Commission on Ethics intending to impugn his service in office as a ploy to defeat his election. Burgess alleged that Brown had unlawfully reinstated a church's tax exemption and Kelly (apparently acting on his real-estate agent sister's behalf) alleged that Brown had undervalued a taxpayer's property in exchange for a campaign contribution. Both allegations were demonstrably untrue. The truth was that Brown had reinstated the tax exemption because the exemption had been improperly revoked without *notice by Burgess himself*, and that Brown had reduced the valuation on the property in question because the structure formerly on it had been destroyed by fire. Burgess had not examined the public records to establish why the tax exemption had been reinstated and did not provide a factual predicate for his complaint. Similarly, Kelly had "made no independent effort to verify any of the facts" in his complaint. *Brown*, 969 So.2d at 556. The purpose was to defeat

Brown's reelection. The ALJ found that both complaints were "motivated by a desire to impugn Brown's character" and "injure his reputation." On those specific findings fees were awarded.

In contrast, Barnas' complaint was not intended to impugn Yeago's reputation or to damage her in any manner whatsoever. His complaint accused her Yeago of no wrongful acts such as those in *Brown* and was not intended to influence the outcome of 2012 election which concluded long before Barnas filed his complaint. In fact, the charter measure obtained strong voter approval. (T2, p. 34, l. 5 to 16.) Instead, his goal was to have CC register as a political committee and file the reports required by law to assure a fair playing field in future elections. (T1, p. 244, l. 3-21.) In short, Barnas' action evidenced none of the indicia of ill will readily apparent in *Brown*.

In *Osborne v. Commission on Ethics*, 951 So. 25 (Fla. 2007), rev. dismissed, 962 So.2d 337 (Fla. 2007), Milanick, a land owner, wished to have a parcel of land annexed to the Town of Beverly Beach. Osborne, mayor of the town, opposed the annexation. Milanick filed a complaint with the Commission on Ethics charging that Osborne opposed the annexation because the commercial nature of the annexed property would "jeopardize [Osborne's] personal investment in the Town." (Square brackets added.) Milanick falsely alleged that Osborne's home

was adjacent to the property Milanick wished annexed. Milanick also charged Osborne with putting his “personal concerns” ahead of his “duties as a mayor” and his fiduciary duties to the “citizens of Beverly Beach.” All of Milanick’s factual allegations were false and readily verifiable as false. They were intended to damage Osborne’s fitness for office and advance Milanick’s personal interests. Under these circumstances, the district court in *Osborne*² held that the Ethics Commission should have awarded Mayor Osborne fees and costs in defending the ethics complaint against him.

Barnas’ case is entirely different. Unlike Milanick he had no specific personal interest at stake - only his public interest that electioneering be conducted fairly in accordance with law - and he did not charge Yeago with advancing some interest personal to herself in derogation of a duty she owed to the public. Moreover, Barnas made no false personal allegations of factual wrongdoing about Yeago. (App., A1-A32.) His concern was about CC, the organization of which Yeago had identified herself as spokesperson.

In *In Re: Diane V. Bendekovic*, 2011 WL 4937293 (Fla. Div. Admin. Hrgs.), Bendekovic was a candidate for mayor and respondent Medoff an announced

²*Osborne* also held that the Ethics Commission erred in refusing to attribute Milanick’s lawyer’s statements to the commission to Milanick himself. This point is not relevant in Barnas’ case.

opponent. Prior to the election Medoff sent Bendekovic (then a council-woman) emails accusing her of being an “embarrassment” to the city and a victim of “battered wife syndrome,” childhood incest, deviant sex behavior, and megalomania. He also accused her of nepotism, solicitation of bribes and consorting with criminals. Medoff published similar allegations on publicly accessible blogs. On September 23, 2010 Bendekovic filed her notice of candidacy for mayor. On September 26, 2010, Medoff filed an ethics complaint against Bendekovic charging her as a public official of soliciting campaign support from city employees while they were at work in city jobs. Medoff made his allegations entirely on rumor without any independent inquiry. On October 1, 2010 Medoff publicly declared his intention to oppose Bendekovic in the mayoral election.

Medoff’s allegations of official wrongdoing and factual allegations were demonstrably false. An ALJ found that Medoff made the false statements with intent to injure Bendekovic’s reputation. In sum, Medoff was beset with personal animosity toward Bendekovic and a desire to damage her reputation in order to advance his own political ambitions. In contrast, Barnas had no personal animosity against Yeago or intent to injure her reputation and made no allegations as to her personal conduct or character. He also had no personal interest to

advance by injuring Yeago's reputation.

In sum, all of these cases that awarded fees included some or all of these factors: demonstrably false physical facts damaging to the person complained about, ill will, desire for personal advantage, and desire to impugn the candidacy or status in office of the person complained about. The record in this case is devoid of evidence to establish any one of these factors.

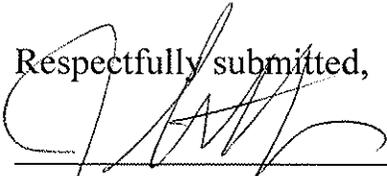
CONCLUSION

Barnas respectfully submits that the Recommended Order must be rejected because it does not make the statutorily required finding that Barnas filed his FEC complaint with malicious intent to injure Yeago's reputation. He further respectfully submits that FEC should dismiss Yeago's fee petition because the record is devoid of evidence to prove to any standard that Barnas had a malicious intent to injure Yeago's reputation, much less to the standard of clear and convincing evidence. Finally, Barnas submits that the petition must be dismissed because Yeago is a public figure in this context and did not prove that Barnas made any false defamatory statement about her with serious doubts as to its truthfulness.

CERTIFICATE OF SERVICE

I certify that on September 8, 2014, I served this document by email on Paul R.

Regensdorf, attorney for Yeago at paul.regensdorf@hklaw.com and on the Florida Elections Commission at fec@myflorida.com.

Respectfully submitted,


Joseph W. Little
Florida Bar No. 196749
3731 NW 13th Place
Gainesville, Fl. 32605
352-372-5955
Littlegnv@gmail.com

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

ROBERT J. BARNAS,
Petitioner,

vs.

Case No: FEC No. 13-125

SHARON L. YEAGO,
Respondent.

APPENDIX

TO

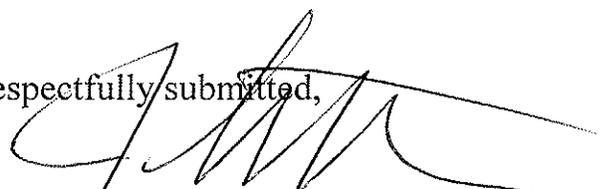
BARNAS'S EXCEPTIONS TO PROPOSED FINAL ORDER

[This Appendix Contains Barnas's FEC Complaint. It was introduced as Yeago's Exhibit 1.]

CERTIFICATE OF SERVICE

I certify that on September 8, 2014, I served this document by email on Paul R. Regensdorf, attorney for Yeago at paul.regensdorf@hklaw.com and on the Florida Elections Commission at fec@myflorida.com.

Respectfully submitted,



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Littlegnv@gmail.com

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050
Telephone Number (850) 922-4539
www.fec.state.fl.us

RECEIVED

CONFIDENTIAL COMPLAINT FORM

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom the complaint is brought.

2013 APR -3 A 10:51
ELECTIONS DIVISION

1. PERSON BRINGING COMPLAINT:

Name: Robert J Barnas Work Phone: (352) 538-7355
Address: 20147 NW 257th Terrace Home Phone: (386) 454-2702
City: High Springs County: Alachua State: FL Zip Code: 32643

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

A person can be an individual, political committee, committee of continuous existence, political party, electioneering communication organization, club, corporation, partnership, company, association, or any other type of organization. If both an individual and a committee or organization are involved, name both.

Name of individual: Sharon L. Yeago
Address: 21120 NW 132nd Lane Phone: (352) 256-8115
City: High Springs County: Alachua State: FL Zip Code: 32643

If individual is a candidate, list the office or position sought: _____

Name of committee or organization: _____

Address: _____ Phone: (____) _____

City: _____ County: _____ State: _____ Zip Code: _____

Have you filed this complaint with the State Attorney's Office? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigate the following provisions: Chapter 104, Chapter 106, Section 98.122, and Section 105.071, Florida Statutes. Also, please include:

- ✓ The facts and actions that you believe support the violations you allege,
- ✓ The names and telephone numbers of persons you believe may be witnesses to the facts,
- ✓ A copy or picture of the political advertisements you mention in your statement,
- ✓ A copy of the documents you mention in your statement, and
- ✓ Other evidence that supports your allegations.

Sharon L Yeago formed a organization with Linda Jones and several others to make political positions know and most specifically to oppose a ballot referendum issue to limit debt.

This was on the ballot November 2012 in the city of High Springs, Florida.

Details of the complaint and Florida Statutes is attached.

Two or more people, making expenditures and opposing a ballot issue. In addition, registered agent was not named. Registered treasurer was not named and reports were not filed. Again, detail information is attached.

Additional materials attached (check one)? Yes No

4. OATH

STATE OF FLORIDA
COUNTY OF Alachua

I swear or affirm, that the above information is true and correct to the best of my knowledge.

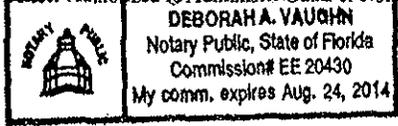
[Handwritten Signature]

Original Signature of Person Bringing Complaint

RECEIVED
2013 APR -3 A 10:54
S. CLIP OF 710670A...

Sworn to and subscribed before me this 1st day of April, 2013

[Handwritten Signature]
Signature of _____



(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known Or Produced Identification

Type of Identification Produced _____

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

April 1, 2013

Florida Election Commission
107 West Gaines Street
Suite 224
Tallahassee, Florida 32399-1050

Dear FEC,

High Springs is a small town compared to Tallahassee. The numbers of voters and dollars spent are at different ends of a chart. But money is money and politics is politics. So whether it is millions of dollars and hundreds of votes for a large town and a Political Committee (PC) or a small town where thousands of dollars and a few dozen vote is involved, the law is clear and has been written to deal with both **equally**. As an example I suggest you look at FEC case 06-129.

And if a PC's action affects Tallahassee or High Springs, the result of the vote of a yes or no is the same. The loss or win in an election, or an issue. Size of a voting population is not of importance. And with that, **MUST** be dealt with in a manner that is **equal**, whether a town is big or small.

Florida law has been written to deal with either case, big or small. It is clear that a PC is only 2 or more people, spending \$500 or more, and in support or against a candidate or issue. Not issues, not candidates combined, but only one issue would be sufficient. And in this case a **ballot referendum**.

This complaint is a complaint against a group/committee that was organized to oppose a specific issue, and in fact is still in existence and making statements in support of or against issues.

I will detail my allegations in following information. I am submitting this now because I just was able to document (in writing and not hearsay) a second person to satisfy the two person rule.

For the November 2012 election in High Springs Florida candidates registered to run, and an issue was place on the ballot to limit the debt of the city and placing a restriction on the ballot. The ballot was set by Alachua County Election office of Pam Carpenter and the municipal High Springs City Clerk (in charge of city ballot) Jenny Parham (see ballot and results Exhibit 1). And two candidates for one seat were Byran Williams and Pat Rush. The other seat was Scott Jamison and Ed Reiss.

This complaint is that a group of many individual formed an organization/PC, to defeat the ballot issue and also support and support the election of Byran Williams and Scott Jamison. They set up a "steering committee" (please note they do use the word committee) to write their goals and positions and called them "principles". I feel this organization used the term "steering committee", but was actually a PC that would conform to Florida Statute as defined in 106.011 (1)(a)(1)(c).

Makes expenditures that expressly advocate the election or defeat of a candidate or the passage or **defeat of an issue**".

000000

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A3

Again, this group had more than 2 people, and may have taken contributions, but certainly made expenditures on advertising, signs, written material and events advocating reform at the city. And again, for the defeat of a ballot issue of the City of High Springs. The ballot issue was a referendum to limit city debt.

This organization used a disclosure that it was a "grassroots" organization and did not fall under Florida Statute 106. Florida Statute 106 makes no mention of exclusion of any "grassroots" group. The fact that they referred to FS 106.11 is proof they knew of this statute. Yet they knowingly and willfully avoided complying with it on all levels.

What FS 106 covers and FS 106.011 defines, is a "political committee". And most certainly it is my opinion in this complaint that this group/organization began a string of violations when it knowingly and willfully avoided becoming a PC that never properly registered as required under FS 106.03 (3) (c).

"A political committee which is organized to support or oppose only candidates for municipal office or issues to be voted on in a municipal election shall file a statement of organization with the officer before whom municipal candidates qualify".

They never appointed a treasurer as required by FS 106.021(1) (a).

"Each candidate for nomination or election to office and each political committee shall appoint a campaign treasurer".

Never appointed a registered agent required by FS 106.022(1).

"Each political committee, committee of continuous existence, or electioneering communications organization shall have and continuously maintain in this state a registered office and a registered agent and must file with the filing officer a statement of appointment for the registered office and registered agent".

Never filed timely reports of the organization and its financial expenditures as required by FS 106.07.

"Each campaign treasurer designated by a candidate or political committee pursuant to s. 106.021 shall file regular reports of all contributions received, and all expenditures made, by or on behalf of such candidate or political committee".

The following information will be a timeline of the birth or founding of Concerned Citizens for a Better High Springs (hereafter referred to as CCFBHS). A group of more than 2 people who spent more than \$500 on the High Springs City Election and the defeat of a ballot issue to limit debt of the city.

Again, it is my contention this organization fits Florida Statute 106 as a PC. They never registered properly or filed reports of financial disclosure. They ignored the law.

While there are more than 100 members, it would be difficult to single out individual officers. But there are two people who have made written statement (see Sharon Yeago attached email Exhibit 2, and Exhibit 2 a Facebook statement of Linda Jones) where they admit to being either the spokesperson or

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steering committee person and hubs for information in and out of the organization. These two people hold fully responsible for organizing and NOT filing as a PC, registering as an agent or treasurer of this PC. Then, not filing appropriate financial reports and disclosures as required by a Florida Statute of a PC. I have named Sharon Yeago in this complaint as the responsible party.

The FEC needs to look at the timeline and evidence. The FEC needs to see how this organization has tried to call itself a "grassroots" organization to simply avoid being a PC. The FEC need to bring to bear its power and authority given to it by the State of Florida law and investigate, and take all appropriate measure under its power to determine the status of this organization and then administer the penalties, fines and rulings under its power, should they find this organization is a PC and failed on all levels to register and file reports. To not do so would open the door for all other organizations to avoid Florida State requirements across Florida, whether big or small.

Here is a timeline and evidence I have gathered.

During early September 2012 an organization called CCFBHS and their Facebook page surfaced. A PC was born. It says on the Facebook page that it was founded September 28, 2012. I have attached (Exhibit 3) a copy of the Facebook founded page.

On October 1 and 8, newspaper stories came out that reported the organization, steering committee people and more. Sharon Yeago again is quoted (Exhibit 4).

They have a Facebook page "Concerned Citizens for a Better High Springs" that has an "About" page with a Mission Statement. The mission statement is a statement of political views and opinions that address issues facing High Springs. This site was established September 17, 2012, founded September 28, 2012 and ran almost weekly political statements right up till, the election on November 7, 2012.

This organization from early September began holding regular meetings at the building (Video City) owned by one of its members, Ed MacKinnon (George Edgar MacKinnon). This in effect was an in kind donation (one donation for every meeting) by Mr. MacKinnon that he has not disclosed and/or was not reported by CCFBHS.

These meetings discussed the future of High Springs, the ballot issue and support for Byran Williams.

At the Candidate Forum at the High Springs Women's Club they distributed more flyers (Exhibit 5) **that set in stone their political stance on the debt issue on the ballot.** They supported DEFEATING the charter amendment issue. I have also attached a copy from the Facebook site where Gene Levine (one of the members) makes a post in support of Byran Williams and refers to "we" (the group) and the Facebook page allows it to go out to all friends and the public for the record.

This organization gathered names of over 100 supporters and friends. This organization on October 31, 2012 places a full page ad in the Alachua Today newspaper (Exhibit 6). The cost of which is estimated over \$500. Either someone wrote a check to the paper, or the paper made an in kind donation. While I have said estimated at over \$500, it has been said to me that the cost is much closer to \$1000. **This one ad alone will be the key to expenditures.** Two names in this ad (at that time and now) are sitting High

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Springs Commissioners Sue Weller and Scott Jamison and 1 candidate Byran Williams (at that time), and is now a sitting commissioner (who was elected and sworn in on November 17, 2012).

During the pre election period many named members held signs for Byran Williams and on Election Day had a tent with his signs and again held his signs next to the two 4ft X 4ft "Vote NO" posters opposing (with CCFBHS disclaimers) the ballot referendum that were hung on a fence at the entrance to one of the two polling places. I do not have a picture of these posters, but witnesses will verify that they were there and that these members held candidate Byran Williams signs. The cost estimated of two large referendum posters is estimated at \$100.

I have included additional pages and pictures from the Facebook site. You will see political statements and pictures of organization/political banners. At an event at city hall this committee/organization displayed a large banner (see photos dated....) naming their organization and, asking for people to "join us", they handed out flyers (at a cost) and made political statements on issues facing the City and the Commission of High Springs. The cost estimated of this banner is \$100.

Other expenditures by the CCFBHS included lunches for city employees on city property. Cost unknown.

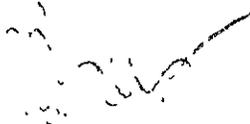
This organization certainly has spent well over \$500, with my estimate being more like \$1000-2000.

This organization after the election has virtually stopped activity, but is still in existence. It was their sole purpose to truly influence the election and ballot issue. But they still seem to be in around based on their Facebook.

This complaint is that Sharon Yeago with Linda Jones organized and created a steering committee for the CCFBHS as a Political Committee. And through their "steering" had knowledge of **spent funds opposing an issue on the ballot and supporting candidates**, in violation of Florida Statute as mentioned above. More specifically this complaint is that Sharon Yeago has violated:

- 1) FS 106.03 (1) by failing to register a PC with the Supervisor of Elections (Jenny Parham) for the City of High Springs (a Florida municipality).
- 2) FS 106.022 by never appointing a registered agent as required.
- 3) FS 106.021(1) (a) by never appointing a treasurer as required.
- 4) FS 106.19 (1)(d) making many financial expenditures.
- 5) FS 106.06 several times for not keeping records.

Respectfully submitted,



Bob Barnas
20147 NW 257th Terrace
High Springs, Florida 32643
352-538-7355 (cellphone)

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**NO. 10
CONSTITUTIONAL AMENDMENT
ARTICLE VII, SECTION 3 - ARTICLE XII, SECTION 32**

Tangible Personal Property Tax Exemption

Proposing an amendment to the State Constitution to:
 (1) Provide an exemption from ad valorem taxes levied by counties, municipalities, school districts, and other local governments on tangible personal property if the assessed value of an owner's tangible personal property is greater than \$25,000 but less than \$50,000. This new exemption, if approved by the voters, will take effect on January 1, 2013, and apply to the 2013 tax roll and subsequent tax rolls.
 (2) Authorize a county or municipality for the purpose of its respective law, and as provided by general law, to provide tangible personal property tax exemptions by ordinance. This is in addition to other statewide tangible personal property tax exemptions provided by the Constitution and this amendment.

- YES
 NO

**NO. 11
CONSTITUTIONAL AMENDMENT
ARTICLE VII, SECTION 6**

Additional Homestead Exemption; Low-income Seniors Who Maintain Long-Term Residency on Property; Equal to Assessed Value

Proposing an amendment to the State Constitution to authorize the Legislature, by general law and subject to conditions set forth in the general law, to allow counties and municipalities to grant an additional homestead tax exemption equal to the assessed value of homestead property if the property has a just value less than \$250,000 to an owner who has maintained permanent residency on the property for not less than 25 years, who has attained age 65, and who has a low household income as defined by general law.

- YES
 NO

**NO. 12
CONSTITUTIONAL AMENDMENT
ARTICLE IX, SECTION 7**

Appointment of Student Body President to Board of Governors of the State University System

Proposing an amendment to the State Constitution to replace the president of the Florida Student Association with the chair of the council of state university student body presidents as the student member of the Board of Governors of the State University System and to require that the Board of Governors organize such council of state university student body presidents.

- YES
 NO

↓ If you live in the City of Archer, these races will appear on your ballot. ↓

**ARCHER CITY COMMISSION
SEAT 1
(Vote for One)**

- Laurie Costello
 Doug Jones

**ARCHER CITY COMMISSION
SEAT 2
(Vote for One)**

- James Mayberry
 Marjorie Zander

0350-7

**ALACHUA COUNTY QUESTION 1
FIX OUR ROADS ALACHUA COUNTY:
FUNDING ROAD IMPROVEMENTS BY LEVYING A .7% SALES SURTAX**

Shall Alachua County implement a Road Improvement Plan to extend the life and improve the safety of county Roads by maintaining, paving and reconstructing Roads; and in the Cities of Gainesville, Alachua, Newberry, High Springs, Hawthorne, Welton and Archer, and the Towns of Micatony and LaCrosse, funding municipal Road maintenance, construction, reconstruction and paving projects; by levying a .344% sales surtax for 15 years subject to independent audit and citizen review.

- FOR the three-quarters percent (3/4%) transportation sales surtax.
 AGAINST the three-quarters percent (3/4%) transportation sales surtax.

**ALACHUA COUNTY QUESTION 2
RENEWAL OF THE EXISTING ONE MIL AD VALOREM TAX FOR SCHOOL DISTRICT OPERATING EXPENSES**

Shall the Alachua County School District's existing one mill ad valorem tax be renewed, beginning July 1, 2013, and ending four years later on June 30, 2017, for necessary operating expenses to fund school nurses, elementary music and art programs, K-12 school library programs, K-12 guidance programs, middle and high school bands and chorus programs, academic/career technical magnet programs and to update classroom technology; with oversight by an independent citizens' committee?

- YES
 NO

↓ If you live in the City of High Springs, these races will appear on your ballot. ↓

**HIGH SPRINGS CITY COMMISSION
SEAT 4
(Vote for One)**

- Pat Rush
 Bryan Williams

**HIGH SPRINGS CITY COMMISSION
SEAT 5
(Vote for One)**

A candidate has withdrawn from this race. Therefore, a vote cast in this race will not change the outcome as the remaining candidate is deemed by law to be elected for the race.

- Scott Jamison
 Edward "Ed" Fiees

PROPOSED AMENDMENT TO THE CITY OF HIGH SPRINGS CHARTER NUMBER 1

It has been proposed to amend the City of High Springs Charter to restrict municipal borrowing to One Million Dollars on any single loan transaction, unless the City Commission votes by two-thirds majority and also receives referendum approval of the voters of High Springs. Shall the above Charter amendment be adopted?

- YES
 NO

↓ If you live in the part of Precinct 40 that is not within the City of Gainesville, this race will appear on your ballot. ↓

**ANNEXATION
(Vote for One)**

- FOR annexation of property described in Ordinance Number 120172 of the City of Gainesville
 AGAINST annexation of property described in Ordinance Number 120172 of the City of Gainesville

A7



Bob Barnas <bbarnas@highsprings.us>

Re: Concerned Citizens for a Better High Springs

1 message

Sharon Yeago <sharon@yeago.net>

Fri, Dec 7, 2012 at 12:25 PM

To: Bob Barnas <bbarnas@highsprings.us>

Cc: John Manley <jmanley3@yahoo.com>, Bob Jones <ticonderoga47@hotmail.com>, Linda Jones <sunsetwishes@hotmail.com>

Bob, if you are interested in publicly supporting our values, you should follow the instructions outlined in every publication, press release or article that has been written or distributed to date. These are readily available on Facebook, Alachua Today and the Observer.

Please let me know if you need another copy of these materials. We can share with your our Guiding Principles, Recommendations etc.

As you also know by reviewing our supporters list previously submitted we already have three commissioners who support our values. Therefore, attendance at our meetings could become problematic and I would recommend legal advice on that issue.

I am traveling and have not had access to my computer (I'm using a guest services computer right now during my lunch break at a conference in Jax) which is why the delay in my response to you.

I look forward to your response. I return to High Springs this evening and can forward you any materials you require at that time.

Take care. Sharon

On Thu, Dec 6, 2012 at 1:04 PM, Bob Barnas <bbarnas@highsprings.us> wrote:

- > Sharon,
- >
- > So how does someone, say someone like me become a member? Is there an
- > application?
- >
- > Can I get a list of current members after I become a member?
- >
- > I understand other commissioners are mmbbers and for the good of the
- > community we should have unity.
- >
- > Bob Barnas
- > High Springs City Commissioner
- >
- >
- >

> On Wed, Dec 5, 2012 at 8:02 PM, Sharon Yeago <sharon@yeago.net> wrote:

- >>
- >> Dear Bob, Lee and Scott,
- >>
- >> I am the official spokesperson for the Concerned Citizens group. I

036

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>> have handled all publicity and development of public policy
>> statements.
>>
>> As you may also know, we are a group of concerned citizens. We are
>> not incorporated, have no fictitious name registration and therefore
>> do not have a bank account. We do have a Steering Committee (copied
>> here.) A list of our public supporters is attached for your record
>> and to clarify 'who are these people?' This was published in Alachua
>> Today. Please feel free to distribute to anyone requiring clarity.
>> While there are many names of prominent citizens, most of those listed
>> are regular folks who just live and/or work in High Springs.
>>
>> For clarification, we have absolutely no affiliation with any other
>> organization, including the HS CDC and I would appreciate it if you
>> would keep that in mind during future public statements about our
>> group. Most of the supporters of CCFBHS are actively engaged in their
>> community, whether at church, their childrens' school, the community
>> theater, or other groups and so it would stand to reason that they
>> would be affiliated with one organization or another. We include
>> Republicans, Democrats, liberals, moderates and one supporter who
>> describes herself as 'right of the Tea Party.' Our supporters
>> comprise all aspects of community life in High Springs.
>>
>> If you require a mailing address, please feel free to use either my
>> personal residence at 21120 NW 132 Lane, High Springs, FL 32643, or PO
>> Box 2114, High Springs, FL 32655-2114, which I have maintained for
>> more than a dozen years.
>>
>> Regarding donations, we are accepting gifts and gift certificates as
>> well as food and volunteer time for the Holiday Gathering event which
>> is a dinner for City employees and their families. In addition to
>> food, gifts will be distributed. Many citizens are coming forward to
>> help with this dinner.
>>
>> As a point of reference since we don't each other very well, I served
>> the City of High Springs for 8 years as an independent contractor that
>> developed and managed the High Springs Farmers Market from 2000 to
>> 2008.
>>
>> I was also a consultant to the City many years ago when the City tried
>> to save the Youth Center which was previously located in the Old
>> School. In both cases, I was specifically requested to serve by the
>> City Commission (we were under a mayor form of government back then.)
>> I have worked very closely with city staff for a long time and have a
>> fondness and respect for our government and the people who work for
>> us, the taxpayers.
>>
>> Please direct any questions, concerns or issues to me should they
>> arise. I will be most happy to respond as quickly and completely as
>> possible so that there are no further issues with miscommunication or
>> distribution of incorrect information.
>>
>> Thank you for your service to our City.
>>
>> Take care, Sharon
>>
>>
>>
>> Begin forwarded message:

>>
 >> From: Bob Barnas <bbarnas@highspringsfl.com>
 >> Subject: Concerned Citizens for a Better High Springs
 >> Date: December 5, 2012 3:46:53 PM EST
 >> To: Lee Vincent <lv@highspringsfl.com>, Scott Walker
 >> <scottwalker@highspringsfl.com>, Suzanne Coggins <scoggins@highspringsfl.com>

>> Lee and Scott,

>>
 >> I asked Jenny today for an address for the group. She has no physical
 >> address linked to this group. I would like to know iff this is OK? Is
 >> it OK to give the use of the "Old School" to a group that has no
 >> single spokesperson as their head and no address to correspond with
 >> should there ever be an issue going down the road? They are asking the
 >> community on Facebook for donations. It does not say to the city, or
 >> to them.

>>
 >> The only thing Jenny has is that the email from them that they use was
 >> linked to a request from Ross Amborse. So if he is their spokesperson
 >> or person that organized the group fine, just let us know so we can
 >> send a thank you card or documents we may have to deal with Ed
 >> McKinnon, Sharron Yeago, Linda Jones....who is actually the
 >> responsible person for the grassroots group? Are they at the address of
 >> CDC? I think we need to know.

>>
 >> While there are many prominent names in the group, I have been asked
 >> who are these people?

>>
 >> cc: hscorize.us@gmail.com
 >> Bob Barnas
 >> High Springs City Commissioner
 >> 352-508-7055

>> *Please note:*

>>
 >> Florida has a very broad public records law. Most written communication,
 >> including e-mail addresses, to or from the City regarding City business
 >> are
 >> public records available to the public and Media upon request. Your e-mail
 >> communication may be subject to public disclosure.

>>
 >>
 >>
 >>
 >> Sharon L. Yeago
 >> 352-415-6311 phone
 >> 352-256-0115 cell

>> _____
 >> "The first wealth is health."
 >> - Ralph Waldo Emerson
 >>
 >> "Let thy food be thy medicine and thy medicine be thy food "
 >> - Hippocrates

>
>
>

11:17
2

- >
- > -
- > Bob Barnas
- > High Springs City Commissioner
- > 352-538-7355

> *Please note:*

> Florida has a very broad public records law. Most written communication,
 > including e-mail addresses, to or from the City regarding City business are
 > public records available to the public and Media upon request. Your e-mail
 > communication may be subject to public disclosure.

--
 Sharon L. Yeago
 352-418-3017 phone
 352-256-8115 cel.

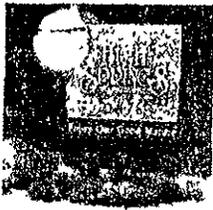
 "The first wealth is health."
 - Ralph Waldo Emerson

"Let thy food be thy medicine and thy medicine be thy food."
 - Hippocrates

Search for people, pages and things

High Springs Home

Create Page
Refresh



Concerned Citizens For A Better High Springs

Liked

126 likes · 2 talking about this

Community

MISSION STATEMENT Concerned Citizens for a Better High Springs supports a local government with a commission and professional management that provide leadership, accountability and a vision for our future.

126

About · Suggest an Edit

Photos

Likes

Highlights



Concerned Citizens For A Better High Springs
3 hours ago

Code Of Conduct. The City of High Springs has been discussing a "Code of Conduct" for Commissioners & Charter Officers. The issue will again be on the agenda Thursday March 28th. The Steering Committee made the following statement at the last Commission Meeting.

"Good evening Mayor & Commissioners,

My name is Linda Jones and I am a resident of Edgemore in High Springs. I am speaking tonight on behalf of the Concerned Citizens group, where I serve on the Steering Committee.

Last fall, when our Mission Statement was drafted, we publicly defined four Principles that would guide our group. This included, "Principle Three: There must be a commitment to restore civility and fairness to the manner in which City government is conducted and to the manner in which its elected officials interact with City staff and with residents." Adopting a Code of Conduct for our city leaders is consistent with this principle and we encourage the Commission to do so.

The City of High Springs is not breaking new ground by considering such a code. The cities of Bradenton and St. Pete here in Florida have recently adopted such codes, ones I can only assume our City Attorney has reviewed in preparing the Resolution you are considering tonight. The Internet, Social Media, availability of video cameras in everyone's cell phone are just some of the driving forces behind the need for our city to provide clear guidance and expectations for our officials. The job of representing the city is a 24/7 responsibility where it is not easy, if not at times impossible, to make the distinction between personal comment and action vs. that of a representative.

Concerned Citizens believes that it is the duty of our representatives to be held to a higher standard as should be detailed in an adopted Code of Conduct. Please vote to support such a code or explain to the community why the proposed code is not being supported.

Thank you."



Concerned Citizens For A Better High Springs
March 15

Everyone Wants To Make A Difference.

Cancer effects so many at so many levels. The Soup-R-Sweet Social is your opportunity to say that you understand or have been effected.

THIS SATURDAY - March 16th from 5:30 to 8 PM (FOR ONLY \$5 + a non-perishable food item) you can show your support for the fight against cancer.

Your donated food item will go to the community pantry run by Catholic Chan...see here

Share

Diana Potter, Janis Cataldo Barnett, Jim Dodson and 5 others like this.



Misty Mead Hinson: Where is this being held? Would have been good to know about this a little sooner?
March 15 at 6:41am via mobile



Concerned Citizens For A Better High Springs: The Soup-R-Sweet Event is being held at the Women's Club in High Springs. The information and request to pass this information along was provided to us on Thursday. Hope your plans are flexible enough to make it and support these community groups.
March 15 at 10:13am



Concerned Citizens For A Better High Springs
February 6

Heather McCall Caballero posted this and we also wanted to share this information with the community. He was a very good public servant and will be missed.

Sgt Chuck Harper lost his fight with cancer this evening. For those of you who may not know him, Sgt Harper was the HSPD officer who responded to the shooting at our school. He has fought a long hard battle and I ask that you pray for the family he has left behind.

Share

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Concerned Citizens For A Better High Springs
December 14, 2012

Christmas Party for Employees (29 photos)
Old School House first event, Dec. 14, 2012

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About

MISSION STATEMENT Concerned Citizens for a Better High Springs supports a local government with a commission and professional management that provides leadership, accountability and a vision for our future.

Description

"Good Policy equals good government"

GUIDING PRINCIPLES

Principle One: There must be a commitment by the Commissioners and the citizens to restore professional, experienced and accountable management to the City

Principle Two: There must be a commitment to restore a comprehensive budgetary process that addresses both short and long term care needs and brings the City back to fiscal responsibility

Principle Three: There must be a commitment to restore civility and fairness to the manner in which City government is conducted and to the manner in which its elected officials interact with City staff and with residents

Principle Four: There must be a commitment to restore the reputation of High Springs City government as a responsible, caring and fair government. This commitment must encompass relations with government entities at all levels, with the City's staff, with business owners, with the public-at-large, with the media, and most of all with its own citizens.

We the People... Concerned Citizens for a Better High Springs are looking for local residents, business owners and others invested in and supportive of these Principles to join this effort. For more information, or to sign on as a supporter of Concerned Citizens for a Better High Springs, email hscitizens@gmail.com.

Basic Info

Founded September 28, 2012

History by Year

2012 Founded on September 28, 2012

Founded on September 28, 2012

In High Springs, Florida.

4 people like this.



Sharon Kantor How do we go about making High Springs better?? I am willing to work at it!
September 17, 2012 at 7:48pm · 1



Concerned Citizens For A Better High Springs Keep up to date with this page. Opportunities to meet, discuss and create | to review and implement will be forthcoming.
September 17, 2012 at 8:39pm · 1



Robert McClellan Whatever happened to the vision of a vibrant little Main street town, with cafes and upscale shops? Instead ministries, empty storefronts and second-hand junk shops. And I thought the city was going to turn Poe Springs into the eco-t... I am very disappointed.
September 21, 2012 at 9:49am



Sharon Yeago watch this sapce for more information!
September 28, 2012 at 10:18am



Genie O'Brien @ Robert, I heard on NPR WUFT radio the other day that Poe Springs Park has been turned back over to the C Springs, and the ongoing problems rebuilding the concrete steps was mentioned. At the end of the segment they said "mayb...
September 28, 2012 at 2:24pm · 1



Genie O'Brien Thank you for the invitation to like this page and get involved. Technically I live in an unincorporated area betw High Springs but if my input and or participation in helping to restore civility and sanity in the City of High Springs is welcome, assist however I can.
September 28, 2012 at 2:26pm



Sharon Yeago we'll add your name to our effort, thanks Genie!
September 28, 2012 at 2:34pm · 1



Susan Jefferbaum Sac! Tell your friends about this effort. It is important that word gets out. If we all work together we can
September 28, 2012 at 2:46pm



Concerned Citizens For A Better High Springs Sharon Kantor, Robert McClellan, please let us know if we can add your na supporters. See more information above that has been added. We can email you our founding Mission Statement and Principle
September 28, 2012 at 2:47pm · 1



Sharron Britton Please add me to your list. I am thankful to have a successful business in High Springs, but more civility and would definitely encourage me to keep it here. Let me know what I can do.
September 28, 2012 at 3:47pm · 4



Back In Balance Natural Health Care I am so happy to see I am not the only one concerned about the way things are hap this time. I often feel like "Alice in Wonderland" that has dropped down the rabbit hole and things just keep getting curiouser a see the charm and character of our town restored.
September 30, 2012 at 5:45pm · 2



Jayne Orr Sign me up.I have watched as many others have, our community fall apart. A few years ago we helped shape the f seems like now we are just watching people in power fight with no sense of how they are affecting the lives of so many.An op beginning. Thanks.
October 1, 2012 at 7:53am · 1

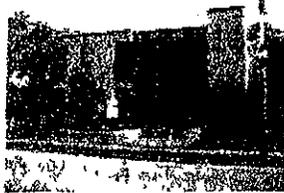
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A15

Citizen Group Forms In High Springs

Staff Reporter

• Mon, Oct 01, 2012



A group of local citizens has formed Concerned Citizens for a Better High Springs in an effort to effect good policy decisions by local government. This newly formed nonpartisan, nonpolitical group hopes to effect positive change through education and advocacy for better policy decisions by elected officials, utilizing existing governance structures and creating new policies to improve the wellbeing of the City of High Springs.

According to local resident, John P. Manley, III, one of the initial organizers of the group, "We hope to put before the Citizens of High Springs a series of goals for the management and administration of the City to return it to a balanced, financially viable operation. Additionally, we wish to promote the City Administration as a pro-active catalyst for serving the people and move the City to reach its highest and best potential. We wish to create an environment of appreciation and initiative that works to rebuild the once strong morale amongst the City Staff so they can continue to serve the Citizens with the distinction for friendliness and service they have always had. Finally, we wish to incorporate those near term goals for stabilizing the City into a component of a broader landscape that paints a future picture of the City that all the townspeople can embrace; and work together to accomplish. We want our town to be the kind of town that our children hope to remain in to start their families and raise their children."

The group's mission statement reads, "Concerned Citizens for a Better High Springs supports a local government with professional management that provides leadership, accountability and vision for our future."

The group developed four Guiding Principles that it is using to educate the community and will offer policy recommendations on these issues:

Principle One: There must be a commitment by the Commissioners and the citizens to restore professional, experienced and accountable management to the City;

Principle Two: There must be a commitment to restore a comprehensive budgetary process that addresses both short and long term core needs and brings the City back to fiscal responsibility;

Principle Three: There must be a commitment to restore civility and fairness to the manner in which City government is conducted and to the manner in which its elected officials interact with City staff and with residents;

Principle Four: There must be a commitment to restore the reputation of High Springs City government as a responsible, caring and fair government. This commitment must encompass relations with government entities at all levels, with the City's staff, with business owners, with the public-at-large, with the media, and most of all with its own citizens.

Concerned Citizens for a Better High Springs is looking for local residents, business owners and others invested in and supportive of its goals. For more information, or to sign on as a supporter of Concerned Citizens for a Better High Springs, email hscitizens@gmail.com or visit them on Facebook at www.dnyurl.com/bosjam3.

Local

High Springs residents rally to form grassroots group

Details Published on Monday 08 October 2012 15:32 Written by CITY WALKER File 315

4

[0 Comments](#)



Concerned Citizens for a Better High Springs hosted a lunch for City employees on the heels of a 6.07 percent pay cut.

HIGH SPRINGS – Members of the newly-formed group, “Concerned Citizens for a Better High Springs” (CCBHS), delivered lunch on Wednesday, Oct. 3, for City of High Springs employees affected by the recent 6.07 percent salary cut to all non-union City employees.

“We want to encourage our City employees to hang in there by providing support in a meaningful way,” said CCBHS Publicity Chair Sharon Yeago. “Our employees are taking a financial hit for the benefit of the city. We want them to know how much we appreciate their efforts and supplying lunch is one small way we can help relieve one burden, the financial responsibility of lunch, and show our appreciation,” said Yeago.

The group, which has grown to more than 150 members in fewer than five days, was “formed to support good policy decisions in our government,” said CCBHS Steering Committee Chair and High Springs resident John Manley. Other members of the Steering Committee include local residents Becky Johnson, Bob Jones and Linda Jones.

Both Yeago and Manley are proud that they were able to attract so many citizens interested in supporting good policy decisions by city government in such a short time using Facebook, email and personal outreach.

“We are a nonpolitical, nonpartisan organization,” explained Yeago. The group has already created a mission statement and guiding principles, which are all listed on the organization’s Facebook page. The group’s mission and key principles are to provide for professional, experienced management of the City of High Springs and restoration of long-held standards of governing that include a comprehensive budget process and restoring High Springs’ reputation as a fair and open government that is inclusive, open and fair.

Steering and Events committees have been established by the group,” said Yeago. One of the first actions of the Events Committee is the provision of Wednesday’s lunch for non-union city employees. Events Committee members include Ed MacKinnon, Linda Hewlett, Tom Hewlett, Lisa Phelps and Sandra Webb.

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"This citizens group came together out of a deep concern and love for the city of High Springs. This city is at a crossroads," Manley said. "We feel it is important to put any history aside, and build a broader, more rational and encompassing plan for the future of High Springs that the majority of the citizens can get behind and work to make happen," explained Manley.

"We are encouraging citizen participation in deciding the direction of our city," said Yeago. "This is a group to help our government consider policy decisions that make our city viable," she said. "Our group has no political agenda. We just want to help the city make the best decisions they can for our citizens and the future of High Springs," she said.

Yeago explained further, "Our agenda is based on good policy and we will be making what we consider to be good policy recommendations on an ongoing basis. Good policy transcends politics. It's not about who happens to be in the office at the moment. It's about how our government serves its citizens now and in the future."

"What we're trying to do is develop solutions for what we feel are the problems we now have," Manley said. "We are a strategic group, not a political group," he insisted. "Politics is not a part of what we're doing. We want to contribute solutions and encourage other citizens to get involved to help do the same," he said.

"We have problems that may take 5 or 10 years...or possibly more, to solve. Previous commissions made decisions under different economic conditions than we have today. Perhaps we have to look at earlier decisions in a different light given our current economic condition. We want a city that is professional and well run," he said. "We just want to participate in the process."

Anyone interested in more information about Concerned Citizens for a Better High Springs may locate their website on Facebook or contact a member of the organization.

#

email Cwaker@alachuatoday.com

CONCERNED CITIZENS FOR A BETTER HIGH SPRINGS

MISSION STATEMENT

Concerned Citizens for a Better High Springs supports a local government with a commission and professional management that provide leadership, accountability and a vision for our future.

FIVE KEY AREAS OF PRINCIPAL CONCERN:

- 1. The Dispatch Project is a major financial drain whose re-installation was premature at best and ill-advised at worst.**
 - a. Recently, the City Manager's Office projected the cost to acquire and maintain the system internally at approximately \$325,000;
 - b. The County provided identical dispatch services to the City, with superior modern equipment, at an original budget amount of \$105,000;
 - c. Ad valorem tax revenue continues to drop in excess of 8.2% for the past two years; and an expected further drop of at least 9%, making the local dispatch option the most expensive option for this service.

Therefore, we believe that: *Shifting the emergency dispatch from the County to the City is an ill-timed expense that the City is unable to afford.*

- 2. The morale of the City's employees has been badly eroded by the City's Commission leadership and attitudes. The non-union employees have had to bear a disproportionate share in reductions to their compensation and benefits, all in an increasingly hostile atmosphere.**
 - a. The reduction in benefits and elimination of overtime has ranged from a 15% reduction in income and benefits for some employees, to as much as a 30% reduction for others. A fire fighter in High Springs now earns less than \$11 per hour.
 - b. The generally hostile stance of the Commission has resulted in charges of violations of accepted labor law and good management practices, and has thus exposed the City to litigation in the form of state and federal labor law violations, "Whistle Blower" claims, and charges of discriminatory practices.
 - c. There is now a strong likelihood the employees will unionize in order to assure a reasonable work environment. If unionization occurs, it is a direct result of a hostile work environment and poor management. Labor costs for the City may well rise dramatically.

Therefore, we believe that: *The morale of the City's valued employees is frightening low. The turnover rate is unacceptable. The attitude of certain Commissioners towards the City's staff must return to one based on trust and appreciation. This unhealthy situation has to be corrected immediately.*

- 3. The prolonged absence of professional management is destroying the City's credibility and greatly reducing its performance**
 - a. The unprecedented number of Commission meetings is unheard of and demonstrates the City's inability to handle its business using accepted governmental management practices.
 - b. The City has been operating without an experienced City Manager, City Attorney, City Planner, or City Engineer leaving the City significant loss of institutional knowledge and very vulnerable in all phases of operation and management oversight.

- d. The City's insurance underwriter for liability coverage for the Commission, has increased the annual insurance liability costs from; \$13,754 in 2011, to \$121,000 in 2012, with a projected premium of \$237,949 in 2013.

Therefore, we believe: *The City must immediately commit to properly funding and openly selecting a professional City Manager committed to returning High Springs to good government.*

4. Critical infrastructure items are not being properly monitored and the lack of necessary maintenance, or funding reserves, exposes the City to an unreasonable risk of system collapse.

- a) **Water & Sewer-** Experts have warned the City that it is close to losing its ability to provide drinking water due to the ancient delivery system which is bordering on collapse. If water wells fail, the City does not have any system flexibility, nor has it retained sufficient reserve funds to deal with such a catastrophic event. Without available sewers and a functioning water system, each with proper capacity, new businesses will not, and many residents cannot, locate to High Springs. Further, the City is contractually committed to expansion as part of its land use program from the past. Insufficient capacity will cost many jobs that are needed to allow High Springs to thrive once again.
- b) **Brick & Mortar -** City owned facilities go empty or cannot be adequately maintained at the current budget levels. The economy has created a 15% vacancy factor equaling about 350 homes among single family residents; and there is a glut of vacant commercial buildings. Vacant buildings and homes create blight, invite crime, cause falling real estate values; and result in a continuing drop in revenue.

Therefore, we believe: *Shuffling monies to non-urgent, unplanned projects is leaving urgent infrastructure projects inadequately funded. A review of the economic viability of projects under each department needs to be done, eliminating any activity whose funds could better used to preserve the City's infrastructure.*

5. Proposed changes to the City Charter will drastically change and significantly limit how future Commissions are able to run City government:

- a. The amendment would prohibit the City Commission from incurring any debt beyond one million dollars unless first approved by a 2/3 vote (4 out of 5) of the Commission PLUS passage of a referendum by the voters approving the debt, before the loan could be made, ensuring that an immediate response to a major crisis virtually impossible from a financial perspective.
- b. If the amendment is approved, it has the potential to make debt consolidation and other financial planning tools less available for the City since governmental entities and financial institutions would have no organization with which they could deal to finish a transaction. Some say the cost of funds for the City could rise dramatically. Long-range planning concerns were not considered by the Commission in any detail, and they should be carefully explored by the citizens before election day when considering this amendment.

Therefore, we believe: *The proposed amendment to limit the debt to \$1,000,000, unless first approved by a 2/3 majority of Commissioners [4 of 5 voting] AND a referendum vote by the citizens, is a serious and significant limitation on future Commissions' ability to manage the financial resources of the City.*

Concerned Citizens for a Better High Springs continues to seek local residents, business owners and others invested in and supportive of its goals to sign on to show public support for this effort by email at hscitizens@gmail.com or 'Liking' the group on Facebook at <http://tinyurl.com/bosjqm3>. A current list of supporters, the Mission Statement, Guiding Principles and Policy Recommendations developed by the group can be requested by email at hscitizens@gmail.com.

CONCERNED CITIZENS FOR A BETTER HIGH SPRINGS

reminds you to

to ensure your voice is heard in High Springs!

**SAMPLE GENERAL ELECTION BALLOT
ALACHUA COUNTY, FLORIDA
NOVEMBER 6, 2012**

VOTE BOTH SIDES OF BALLOT

Page 4 of 4

Go ALL the Way!

HIGH SPRINGS CITY COMMISSION

SEAT 4

(Vote for One)

Pat Rush

Byran Williams

HIGH SPRINGS CITY COMMISSION

SEAT 5

(Vote for One)

Scott Jamison

Edward "Ed" Riess

**PROPOSED AMENDMENT TO THE CITY OF HIGH SPRINGS CHARTER
NUMBER 1**

It has been proposed to amend the City of High Springs Charter to restrict municipal borrowing to One Million Dollars on any single loan transaction, unless the City Commission votes by two-thirds majority and also receives referendum approval of the voters of High Springs.

Shall the above Charter amendment be adopted?

YES

NO

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CONCERNED CITIZENS FOR A BETTER HIGH SPRINGS

FIVE KEY AREAS OF PRINCIPAL CONCERN

- 1. The Dispatch Project is a major financial drain whose re-installation was premature at best and ill-advised at worst.
 - a. Recently, the City Manager's Office projected the cost to acquire and maintain the system internally at approximately \$325,000,
 - b. The County provided identical dispatch services to the City, with superior modern equipment, at an original budget amount of \$105,000 but always projected at less than the City's cost;
 - c. Ad valorem tax revenue continues to drop in excess of 8.2% for the past two years, and an expected further drop of at least 9%, making the local dispatch center's increased cost inappropriate at this time.

THEREFORE, WE BELIEVE: Shifting the emergency dispatch from the County to the City is an ill-timed expense that the City is unable to afford

- 2. The morale of the City's employees has been badly eroded by the City's Commission leadership and attitudes. The non-union employees have had to bear a disproportionate share in reductions to their compensation and benefits, all in an increasingly hostile atmosphere.

- a. The reduction in benefits and elimination of overtime has ranged from a 15% reduction in income and benefits for some employees, to as much as a 30% reduction for others. A fire fighter in High Springs now earns less than \$11 per hour;
 - b. The generally hostile stance of the Commission has resulted in charges of violations of accepted labor law and good management practices, and has thus exposed the City to litigation in the form of state and federal labor law violations, "Whistle Blower" claims, and charges of discriminatory practices;
 - c. There is now a strong likelihood the employees will unionize in order to assure a reasonable work environment. If unionization occurs, it is a direct result of a hostile work environment and poor management. Labor costs for the City may well rise dramatically
- THEREFORE, WE BELIEVE: The morale of the City's valued employees is frightening low. The turnover rate is unacceptable. The attitude of certain Commissioners towards the City's staff must return to one based on trust and appreciation. This unhealthy situation has to be corrected immediately.

- 3. The prolonged absence of professional management is destroying the City's credibility and greatly reducing its performance

- a. The unprecedented number of Commission meetings is unheard of and demonstrates the City's inability to handle its business using accepted governmental management practices,
- b. The City has been operating without an experienced City Manager, City Attorney, City Planner, City Engineer, Public Works Director, full time Codes Enforcement Officer, full time Utilities Operator, and full time Parks and Recreation staff leaving the City with a significant loss of institutional knowledge making it very vulnerable in all phases of operation and management oversight,

- d. The City's insurance underwriter for liability coverage for the Commission, has increased the annual insurance liability costs from, \$13,754 in 2011, to \$121,000 in 2012, with a projected premium of \$237,949 in 2013

THEREFORE, WE BELIEVE: The City must immediately commit to properly funding and openly selecting a professional City Manager committed to returning High Springs to good government

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THEREFORE, WE BELIEVE Shuffling monies to non-urgent, unplanned projects is leaving urgent infrastructure projects inadequately funded. A review of the economic viability of projects under each department needs to be done, eliminating any activity whose funds could better used to preserve the City's infrastructure.

5. Proposed changes to the City Charter will drastically change and significantly limit how future Commissions are able to run City government:

a. The Amendment would prohibit the City Commission from incurring any debt beyond one million dollars unless first approved by a 2/3 vote (4 out of 5) of the Commission PLUS passage of a referendum by the voters approving the debt, before the loan could be made, ensuring that an immediate response to a major crisis is virtually impossible from a financial perspective;

b. If the Amendment is approved, it has the potential to make debt consolidation and other financial planning tools less available for the City since governmental entities and financial institutions would have no organization with which they could deal to finish a transaction. Some say the cost of funds for the City could rise dramatically. Long-range financial concerns were not considered by the Commission and they should be carefully explored by the citizens when considering this Amendment.

THEREFORE, WE BELIEVE: The proposed Amendment to limit the debt to \$1,000,000, unless first approved by a 2/3 majority of Commissioners (4 out of 5) AND an expensive referendum vote by the citizens is a serious and significant limitation on future Commissions' ability to manage the financial resources of the City.

Concerned Citizens for a Better High Springs is a nonpartisan, nonpolitical grassroots citizens' group and, pursuant to Fla.Stat. Section 106.011, does not qualify as either a political committee or an electioneering communications organization. We encourage local residents, business owners and others invested in and supportive of our goals to sign on to show public support for this effort by email at hscitizens@gmail.com or 'Liking' the group on Facebook at <http://tinyurl.com/bosjqm3>.

Below this list will provide you with your very own copy of our Five Key Areas of Concern:
<https://docs.google.com/open?id=0B8weOLLP-es6bLISWht1Gh2et.0>

Please share!

5 Points.pdf - Google Drive

www.google.com

5



As of Friday night 9/28/2012, if the information is correct, it appears that Edward Riess has thrown in the towel leaving Scott Jamison to retain Seat 5 unopposed. That leaves Patrick Rush to run against Byran Williams for Seat 4 the seat now held by Dean Davis who is all too friendly with Rush.

Dean's close friend Robyn Rush instructed Davis to support Pat Rush and Davis is going around town putting up "Vote For Rush" signs.

We must remember Pat Rush as the sole owner of "Pat's Place" a coffee shop on Main street that went out of business. He couldn't blame anyone else for his businesses' demise because he made all the decisions. How can any citizen of High Springs even think of voting for someone who couldn't successfully run his own small business to run our City's big business?

Everyone should send the present triumvirate a clear message that we the people, who this trio works for, can't take their lack of professionalism anymore. We will vote for Byran Williams because he has nothing to hide about his past and wants the chance to do damage control and better position High Springs to thrive once again by bringing in much needed jobs.

1. Concerned Citizens For A Better High Springs

1 photo of 2011

Volunteers spent time during the Community Garage Sale today talking with folks about what has been happening in our community and the policy's we would like the City and Commission to focus on. Please let us know if you would like to be on the email list by emailing HSCitizens@Gmail.com. Thank you to everyone that helped today, stopped by or provided food!



Top of Form

- 111.Share
- 11 people like this.
- View 1 comment

Bottom of Form

1. [Concerned Citizens For A Better High Springs](#) . . . link

September 30, 2012

Please join our group to help change this!



Political turmoil continues to bubble in High Springs

www.gainesville.com

It was quiet in High Springs on Thursday night, from the empty sidewalks and darkened storefronts to the surprisingly cordial City Commission meeting.

Top of Form

- 22Share
- 2 people like this.
- View all 2 comments

Bottom of Form

1. Concerned Citizens For A Better High Springs [click here](#)

October 23, 2012

October 23, 2012

**CITIZEN GROUP ENCOURAGES HIGH SPRINGS VOTERS TO 'GO ALL THE WAY' TO THE END OF THE BALLOT;
CHECK YOUR POLLING LOCATIONS AND
ANNOUNCES THAT RIDES ARE AVAILABLE TO THE POLLS**

Concerned Citizens for a Better High Springs encO...See More

Alachua County SOE Mobile Web Site

elections.alachua.fl.us

2. Type in your street nameYou do not need to enter the direction or street type. Example: If you live on East Main Street., type in Main

Concerned Citizens For A Better High Springs
October 31, 2012

Check out this week's Alachua Today for an important message
from us! Thanks SO MUCH for your support!

1 Concerned Citizens For Better High Springs

March, 2017

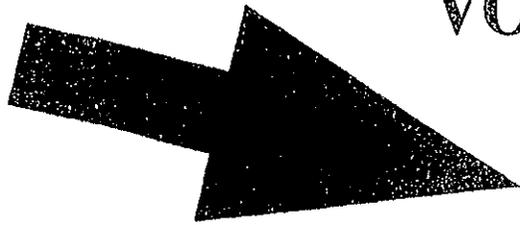
You may have voted but there is still work to do! Concerned Citizens will again be meeting this Sunday @ 3PM in the old Video City building

We are still focused on our Guiding Principles. If you would like a copy or to be added to the list, see here

CONCERNED CITIZENS FOR BETTER HIGH SPRINGS

JOIN US!





VOTE ON NOVEMBER 6TH
GO ALL THE WAY
TO THE END OF THE BALLOT
To ensure your voice is heard!

High Springs Residents... Need a Ride to Vote? We Can Help! Call Sandi at 352-339-4345

**CONCERNED CITIZENS FOR A
BETTER HIGH SPRINGS**

MISSION STATEMENT

Concerned Citizens for a Better High Springs supports a local government with a commission and professional management that provide leadership, accountability and a vision for our future.

GUIDING PRINCIPLES

Principle One: There must be a commitment by the Commissioners and the citizens to restore professional, experienced and accountable management to the City;

Principle Two: There must be a commitment to restore a comprehensive budgetary process that addresses both short and long term core needs and brings the City back to fiscal responsibility;

Principle Three: There must be a commitment to restore civility and fairness to the manner in which City government is conducted and to the manner in which its elected officials interact with City staff and with residents;

Principle Four: There must be a commitment to restore the reputation of High Springs City government as a responsible, caring and fair government. This commitment must encompass relations with government entities at all levels, with the City's staff, with business owners, with the public-at-large, with the media, and most of all with its own citizens.

We, the people...

- | | | | |
|-----------------------------------|-----------------------------------|--|--|
| Susanne Ackermann | Karen Wood Davis | Bradley Kyes | Julie Gamber Samosuk |
| Stefi Hulín Affron | Tom DePeter, former City | Alvalyn Lancaster | Lynda Shutter Schladant |
| Christopher Agle | Commissioner/City Attorney | Karma Norjin Lhamo | Saroj Shana |
| Ross Ambrose | Joan Dickson | Karen Koch LeMonnier | Leslie Smith |
| Lars Anderson | Ron Dickson | Arlene Dorin Levine | Mike Smith |
| Patsy Anderson | Deborah Douglas | Gene Levine | Ashley Spence |
| Dickie Arvin | Jen Drow | Nancy Linkous | Janet Stein |
| Shari Asbury | Dawn Lange Drumm | Tim Linkous | Jim Stein |
| Carolyn Baker | Ronald DuPont, Jr. | Michael Loveday | Darryl Steinhauer |
| Jeannette Banks | Saroj Earl | Christopher Locke | Heidi Tapanas |
| Penny Banks, former City employee | Terry Eninga | Angie Lovelock | Rick Testa |
| JoAnne Barrows | Shannon Erickson | Buck Machete | Betsy Thomason |
| Celeste Beck | Darin Erskin | Cindy MacKinnon | Scott Thomason |
| Roger G. Beck, DPM | Holly Erskine | Ed MacKinnon | Nancy Torres |
| Susan J. Beck | William Eyerly | Francis MacKinnon | Dorsey Travis |
| Larry Behnke | Jennifer Forrester | Michael Mahoney | Larry Travis, former City Commissioner |
| Anne Alfano Bello | Earl Gabriel | Terry Maltbie | Joanne Tremblay |
| Marilyn Bennett | Lucille Gabriel | John P. Manley III, Steering Committee | Sharon Tugman |
| Karen Bentz | Debbie Gamber | Sharon Manley | Jan Walker |
| Marvin Blankenship | Maggie Gamber | Kathy Clarich Matheny | Jim Walker |
| Susie Blankenship | Jim Gamberton | Sanford Matheny | Toni Warner, former City employee |
| David Blutworth | Erin Gardner | Barbara Martin | Marlon Watkins |
| Alvan Bluhm | Sandi Gardner | Dr. Tony Matheny | Damon Watson |
| Barbara Bluhm | Peter George | Herb Matilsky | Sandra Webb |
| Norma Boone | Allan Graetz | Robert McClellan | Sue Weller, City Commissioner |
| Donna Bradbrook | Laura Graetz | Thomas McDonald | Tom Weller |
| Anna Bradford | Randy Graetz | Marilyn Mesh | Susie Westfall |
| Stacey Breheny | Alice Green | Dena Meyerhoff | Jennifer Whitney |
| Sharon Britton | Patricia Grunder | Steve Meyerhoff | Byran Williams, Candidate for City |
| Jay Bromenschenkel | Donald Gudbrandsen | Barbara G Miller | Commission |
| Susan Brotherton | Elaine Gudbrandsen | Donna Mogler | Mike Williamson |
| Linda Buccheri | Constance Heuss | Henry Mogler | Charlett Wilson |
| Healthier McCall Caballero | Michael Heuss | Scott Mogler | Sonja Moore Wilson |
| Valorie Cason | Linda Hewlett | Aaron Morphet | Carol Wiltbank |
| Pat Caudle | Tom Hewlett | Patti Moser | Lee Wiltbank |
| Dennis Chouinard | Linda Heyl | Betty Muller | Jim Wood |
| Paula Gavin Cifuentes | Kim Simmons Hill | Patty Napier | Sally Wood |
| Heather Clarich | Brian Hinote | Diane Norton | Tom Work |
| Jeannette Clarich | Misty Mead Hinson | Genie O'Brien | Sharon Yeago |
| Thomas Clarich, Sr. | Albert Isaac | Sylvia Odom | Larry Zorovitch |
| Thomas G Clarich | Lynn Jamison | Vanessa Oppel | |
| Suzie Clark | Scott Jamison, City Commissioner | Jayne Orr | <u>Local Businesses</u> |
| Hal Cohen | Loyce A. Jones | Cynthia Pailhorpe | Adventure Outpost |
| Linda Cohen | Becky Johnson, Steering Committee | Betsy Patterson | Back in Balance Natural Health Care |
| Tina Collins | David Johnson | Monalisa Phelps | Dive Pub & Grub |
| John Comly | Bob Jones, Steering Committee | Andy Phillips | Enchanted Memories |
| Jim Conner | Linda Jones, Steering Committee | Peter Pinstler | Flying Fish |
| Barbara Cox | Willa Jones | Richard Pis | GoHighSprings.com |
| Paige Coyle | Sharon Kantor | Christian Popoli, former City Planner | Grady House Bed & Breakfast |
| Rick Coyle | Judi Kearney | Christy Popoli | GLA Consulting Group |
| Crystal Lane Curran | Mike Kearney | Nellie Reed | High Springs Copy Center |
| Andrew Daugherty | Wanda Kemp | Lucie Regensdorf | Pampered Paws |
| Carol Daugherty | Barbara Kowats | Paul Regensdorf | The Wellness Spa |
| | | Maggie Riggall | The Workshop |
| | | Cathy Rivers | |
| | | Russell A. Roberts | |
| | | Sanna Saare | |
| | | Teri J Salomon | |

PLEASE JOIN US by emailing us at hscitizens@gmail.com or "Like" us on Facebook.

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