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## Hiring the right attorney is an opportunity for Delray to clean up its act

Hiring a city attorney usually is a routine matter for elected officials in South Florida. Not so in Delray Beach, where little these days is routine.

Next Tuesday and Wednesday, the city commission is scheduled to interview the finalists for Delray's top legal adviser. The job has been vacant since January, when Brian Shutt resigned to take a job with a private firm. Until last week, there were four finalists. Then Interim City Attorney Terrill Pyburn resigned to become city attorney in Coconut Creek, near Coral Springs.

Of the remaining finalists, the most credible candidate is Noel Pfeffer, who has spent 35 years in the Broward County attorney's office. Broward being the political rat's nest that it is, Pfeffer presumably could withstand whatever Delray has to offer. Another possibility, though, is that the commission could disband Delray's legal department and contract with a private firm, as Boynton Beach, Palm Beach and many other cities do.

If the commission wants to discuss this idea, any discussion could lead quickly to the Fort Lauderdale firm of Weiss Serota Helfman Pastoriza Cole & Boniske. One of the firm's name partners, Jamie Cole, successfully represented Delray Beach in its lawsuit to overturn the 2012 extension of the trash-hauling contract to Waste Management without bidding.

That contract shows why the city attorney choice is anything but routine. Shutt had advised the 2012 commission that Delray Beach did not have to bid the \$65 million contract extension. Shutt argued that because residents pay Waste Management through fees, not property taxes, the city was just a middle man, and thus didn't need to follow its rule that states contracts of \$15,000 and more must go out to bid.

Shutt's argument was ludicrous. Palm Beach County's Office of Inspector General, responding to a complaint from within the city, reported that Delray Beach would be violating its own policy by not seeking bids. But Shutt had backing from then-City Manager David Harden, long a critic of the inspector general's office. In August 2012, then-Mayor Nelson "Woodie" McDuffie and then-Commissioner Angeleta Gray approved the contract. Adam Frankel, who is still on the commission, provided the majority. Another holdover, Al Jacquet, dissented.

After Cary Glickstein and Shelly Petrolia joined the commission in March 2103, they urged that the city hire an outside attorney to review the decision. That attorney turned out to be Cole. He agreed with the inspector general. The commission then approved a lawsuit—oddly, Delray Beach was basically suing Delray Beach, even though Waste

Management was the opposing party—and Cole won, without the case even going to trial. The city is seeking bids for the contract.

To anyone who supports good government, Delray Beach's year-plus review of questionable contracts—the beach concession deal is another—represents progress. Given the election results of the last two years, most residents agree. But this reform push is meeting resistance from the small but persistent group allied—to one degree or another—with Mary McCarty, the former Delray commissioner who moved up to the county commission and then brought herself down, pleading guilty to federal public corruption charges.

For all her comments about a new life, McCarty remains involved in South County politics. She works at her husband's firm, Cypress Consulting, and dispenses campaign and other supposed advice. Kevin McCarty also went to prison as a result of the investigation into his wife.

Frankel is one of those McCarty allies. He voted against taking the trash issue to court. He has criticized the review of the beach concession contract, which also is tied to McCarty allies. McDuffie is another one of those allies. Many also consider Gray to be one.

Still another of those McCarty allies is Jay Alperin, a dentist and former Delray mayor and commissioner. Alperin recently sent an unsolicited email to the city attorney candidates. Without naming Glickstein, Petrolia and like-minded Commissioner Jordana Jarjura, elected in March, Alperin said the reform push by the new commission majority threatened to return Delray Beach to "the chaos of the 1980s." Alperin added, "Our new Mayor and new City Commission have frightened away a majority of our senior staff and many others are functioning under the fear of losing their jobs."

Alperin suggested that the applicants contact Brian Shutt "to get some insight."

In fact, the Glickstein-Jarjura-Petrolia majority is more reminiscent of the commissions that helped lead Delray Beach's transformation two decades ago. Since Alperin in his email also complains about what he considers poor treatment of City Manager Louie Chapman, the anti-reformers in Delray Beach seem worried. Only two employees report to the commission: the manager and the attorney. Glickstein, Jarjura and Petrolia are ready to fire Chapman for more than good cause. Al Jacquet may join them. The commission also is poised to permanently upgrade the legal department, whether with a new attorney or a new firm. These changes would make it harder for the anti-reformers to influence city government. Such changes, though, would make good government and good management much more routine in Delray Beach.