



TOWN OF MELBOURNE BEACH

TOWN COMMISSION WORKSHOP

JANUARY 16, 2024

AGENDA PACKET

Town of Melbourne Beach
PUBLIC NOTICE
AGENDA
TOWN COMMISSION WORKSHOP
TUESDAY, JANUARY 16, 2024 at 10:30 a.m.
COMMUNITY CENTER – 509 OCEAN AVENUE

Commission Members:

Mayor Alison Dennington
Vice Mayor Sherri Quarrie
Commissioner Corey Runte
Commissioner Marivi Walker
Commissioner Adam Meyer

Staff Members:

Town Manager Elizabeth Mascaro
Town Clerk Amber Brown

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, THE TOWN HEREBY ADVISES THE PUBLIC THAT: In order to appeal any decision made at this meeting, you will need a verbatim transcript of the proceedings. It will be your responsibility to ensure such a record is made. Such person must provide a method for recording the proceedings verbatim as the Town does not do so. In accordance with the Americans with Disability Act and Section 286.26, Florida Statutes, persons needing special accommodations for this meeting shall, at least 5 days prior to the meeting, contact the Office of the Town Clerk at (321) 724-5860 or Florida Relay System at 711.

I. Call to Order

II. Roll Call

III. Pledge of Allegiance and Moment of Silence

IV. New Business

A. Interview legal services candidates

1. Andrew Mai with Fishback Dominik, LLP at 10:30 am
2. Ryan Knight with Shepard, Smith, Kohlmyer & Hand, P.A. at noon

V. Public Comment

After being acknowledged by the Mayor, members of the public should state their name and address for the record. The Commission encourages citizens to prepare their comments in advance. Each individual will have three (3) minutes to address the Commission on any topic(s) related to Town business, not on the Agenda. Please remember to sign the sign-in sheet provided if you will be speaking at the meeting.

VI. Adjournment

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ATTORNEYS AND COUNSELORS AT LAW



Response to Request for Proposals/Invitation to Bid Legal Services

Prepared for:
Town of Melbourne Beach
507 Ocean Avenue
Melbourne Beach, Florida 32951

Fishback Dominick, LLP
Attn: Andrew W. Mai, Esquire
andrewmai@fishbacklaw.com
1947 Lee Road
Winter Park, FL 32789
Phone: (407) 262-8400
Fax: (407) 262-8402

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ATTORNEYS AND COUNSELORS AT LAW

Letter of Transmittal and Executive Summary - Tab 1

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ATTORNEYS AND COUNSELORS AT LAW

1947 LEE ROAD
WINTER PARK, FLORIDA 32789-1834

G. BEN FISHBACK (1893 - 1983)
 JULIAN K. DOMINICK (1924-2003)

MARK F. AHLERS
 *A. KURT ARDAMAN
 JOHN F. BENNETT
 *J. GIFFIN CHUMLEY
 *RICHARD S. GELLER
 ERIC B. JONTZ
 JEFFRY R. JONTZ
 *DANIEL W. LANGLEY
 CHARLES R. S. TEPTER, JR.
 MICHAEL D. TEMPKINS

TEL (407) 262-8400
 FAX (407) 262-8402
 WWW.FISHBACKLAW.COM

*FLORIDA BAR BOARD CERTIFIED IN CITY, COUNTY
 AND LOCAL GOVERNMENT LAW

Writer's Email: andrewmai@fishbacklaw.com

December 7, 2023

VIA E-MAIL

Town of Melbourne Beach
 Attn: Elizabeth Mascaro, Town Manager
 507 Ocean Avenue
 Melbourne Beach, Florida 32951

**RE: Response to Request for Proposals/Invitation to Bid
 Legal Services – Town of Melbourne Beach**

Dear Town Commission:

Fishback Dominick, LLP is pleased to submit this letter of interest, statement of qualifications and information package in response to the Town of Melbourne Beach's invitation to negotiate qualified candidates for the position of Town Attorney. Fishback Dominick would be honored to serve as the general counsel for the Town.

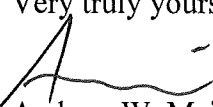
Since 1935, Fishback Dominick has vigorously and competently represented clients throughout the State of Florida in the areas of local government law, eminent domain, real estate, civil litigation, and other legal matters. The firm holds a peer review rating of "AV-Preeminent" from *Martindale-Hubbell*, which is the highest rating in competency and ethical standards. Fishback Dominick currently serves as City Attorney for six Central Florida municipalities – Winter Garden, Winter Park, DeBary, Longwood, Ocoee and Belle Isle. In addition, Fishback Dominick has served as special counsel to several other Special Districts and municipalities on various matters at the request of other municipal attorneys. With a significant portion of our firm's practice focused on local government law, we have an extensive team of capable and experienced attorneys to assist with the legal services for the Town.

Andrew W. Mai, former County Attorney for Osceola County for nearly a decade, would serve as the Town Attorney. J. Giffin Chumley would serve as assistant general counsel, and other Fishback Dominick attorneys will assist as needed to meet the legal needs of the Town. Mr. Mai's contact information is included above. Mr. Mai will be responsible for contract negotiations and is authorized to sign any agreements between the firm and the Town. Mr. Mai is currently District Counsel for three special districts: Waterset North Community Development District, Bahai Community Development District, and Country Place Maintenance District.

Mr. Mai and Mr. Chumley represent both municipalities and private clients in local government legal issues. They have extensive experience representing municipalities in civil litigation, appellate matters, administrative proceedings, code enforcement, eminent domain, inverse condemnation, comprehensive planning, subdivisions/platting, land use and development, impact fees, special assessments, administrative law, forfeiture, public procurement law, contracts, interlocal agreements, Government in the Sunshine law, public records law, ethics law, election law, real estate acquisition, oversight of special counsel, and contract negotiation matters. They attend various municipal board meetings as legal counsel, including City Councils/Commissions, Code Enforcement Boards, Planning & Zoning Boards, Development Review Committees, Charter Review Committees, Districting Commissions, and Canvassing Board, and advise board members and staff on all pertinent legal issues. Kurt Ardaman and Daniel Langley have extensive experience representing municipalities and would assist as necessary including in matters related to eminent domain, inverse condemnation, and other matters.

Fishback Dominick proposes to charge legal services at the rate of \$275.00/hour for attorneys, \$140.00/hour for paralegals and law clerks, and \$85.00/hour for legal assistants. Additionally, the Town would reimburse the firm for expenses reasonably incurred in the course of rendering such legal services. Legal services will be provided at the pleasure of the Town Commission. There will be no penalty or severance compensation for termination of legal services by the Town Commission or by Fishback Dominick. We have conducted a conflict search and found no conflicts.

If chosen to represent the Town of Melbourne Beach, the Town Attorney would schedule regular individual meetings with the Town Commission and the Town Manager to establish an open line of communication. Bond counsel, intellectual property counsel, and tax counsel would be hired as special counsel when necessary.

Very truly yours,

Andrew W. Mai

Enclosure: Response to Request for Proposal

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ATTORNEYS AND COUNSELORS AT LAW

Proposal - Tab 2

Fishback Dominick (“Firm”) proposes the following Attorneys to perform legal services for the Town of Melbourne Beach (“Town”), although other Firm attorneys may assist from time to time:

Andrew Mai – Designated Town Attorney
J. Giffin Chumley - Deputy Counsel

Andrew Mai served as County Attorney for Osceola County for nearly a decade. Giffin Chumley is board certified by the Florida Bar in City, County, and Local Government Law.

Board Meeting Attendance:

Andrew Mai will serve as the Town Attorney and will attend the Town meetings, and special meetings. J. Giffin Chumley and other experienced firm attorneys will attend other Board meetings and meetings of special committees as requested by Town.

Fee Proposal:

The fee proposal on the following pages includes an hourly rate structure for services.

Office Location/Accessibility:

The Firm has one office location at 1947 Lee Road, Winter Park, Florida. Our attorneys are accessible to the Town. We return telephone calls and respond to email correspondence promptly. We are open to scheduling meetings with Town staff and Board of Directors at Town as needed.

Malpractice Insurance:

The Firm carries malpractice insurance coverage in the amount of \$7,000,000.

Conflicts of Interest:

We have conducted a conflict search and found no conflicts.

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ATTORNEYS AND COUNSELORS AT LAW

Fee Schedule - Tab 3

Fee Structure: Fishback Dominick proposes the following fee structure:

A. Hourly Rates

For all matters and services including travel to and from meetings requiring in person attendance shall be billed on an hourly basis (in increments of quarter of an hour) at the following rates:

Andrew Mai	\$275.00 per hour
Board Certified Attorneys and Partners	\$275.00 per hour
Associates	\$275.00 per hour
Paralegals & Law Clerks	\$140.00 per hour
Legal Assistants	\$85.00 per hour

Fee Schedule - Tab 3

C. Expenses

The Town shall reimburse the Town Attorney for expenses reasonably incurred in the course of rendering legal services, including but not limited to court filing fees, court reporter's fees, process server fees, long distance telephone calls, facsimile charges, electronic research (e.g. Lexis-Nexis and Westlaw), real estate closing costs, express delivery charges, postage, printing, costs of reproducing documents (in firm copies billed at \$0.20 per copy), and necessary travel expenses at IRS standard mileage rates (not to include mileage back and forth to Town buildings).

D. Other Arrangements

The Town Attorney will perform the real estate closing services for all of the Town's real estate transactions and charge on a hourly basis for work performed. Title insurance premiums shall be paid at promulgated rates.

For legal services provided by the Firm in which third parties reimburse the Town (such as development pass through matters reimbursed by applicants/developers), the Firm's hourly attorney rates will be one-third higher than the hourly rates provided to the Town.

E. Other Arrangements for the bond fee.

For legal services involving the Town Attorney's opinion letter concerning the legality of the Town's issuance of general obligation bonds, revenue bonds, or other types of bonds or notes, the Town Attorney shall receive a lump sum fee for such services to compensate the Town Attorney not only for the time incurred in reviewing and revising the bond documents and the drafting of an legal opinion letter, but also to compensate the Town Attorney for the risks associated with issuing the opinion letter based on the following:

.005 of bond amount for bonds up to \$5,000,000 (minimum \$7,500);
Over \$5,000,000 – Charge the above up \$5,000,000 plus .0015 of amounts over \$5,000,000.

F. Invoices.

Invoices are sent on a monthly basis, usually within a few weeks after the month being billed.

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ATTORNEYS AND COUNSELORS AT LAW

Experience of Firm - Tab 4

Firm Experience

We have served as City Attorneys for Winter Garden for 24 years (1992-2000 and 2006-present), DeBary for 22 years (2000-present), Longwood for 12 years (2010-present) and Winter Park for 7 years (2015-present). We also serve as City Attorneys for Belle Isle (1972-2013 and 2017-present). John F. Bennett, of counsel to our firm, served as Belle Isle's City Attorney for approximately 40 years, and before that our firm founder, Ben Fishback, held the same position for many years.

Fishback Dominick and eight of our attorneys hold a peer review rating of AV-Preeminent from *Martindale-Hubbell*, the highest in competency and ethical standards. The Bar Register of Preeminent Lawyers lists several of the Firm's attorneys in the practice areas of Municipal and Zoning, Civil Trial Practice, Commercial Litigation, Eminent Domain, General Practice and Real Estate. Four of the Firm's partners are Florida Bar Board Certified as specialists in City, County, and Local Government Law, including Giffin Chumley.

Several years ago, the Florida Supreme Court awarded Fishback Dominick the Chief Justice's Law Firm Commendation for *Pro Bono* Service for the Firm's outstanding services to the underprivileged.

Experience Representing Local Governments

As Attorneys for municipalities that have experienced rapid growth as well as redevelopment, we have dealt with a tremendous spectrum of legal issues.

We counsel Special Districts, City Councils, City Commissions, Planning and Zoning Boards, Code Enforcement Boards, Development Review Committees, Community Redevelopment Agencies, Redistricting Commissions, Charter Review Committees, City Managers, Department Heads, Mayors, Council members, and Commissioners.

We counsel commission members on Sunshine Law issues, quasi-judicial proceedings, legislative matters, home rule authority, public records law requirements, voting conflicts, ethical requirements, new legislation, and many other local government law topics. We have advised Commissions during executive sessions and in open meetings to best protect and advance the interests of the public and our municipal clients.

We have handled extremely complex multi-party agreements, administrative and judicial proceedings involving large and sensitive matters, trials, appeals, negotiations, and other proceedings involving municipalities.

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ATTORNEYS AND COUNSELORS AT LAW

Experience of Firm - Tab 4

We have dealt with a multitude of real estate and land use issues for municipalities and Special Districts, including comprehensive plan amendments, land development regulations, rezonings, variances, special exceptions, proceedings under the Florida Land Use and Environmental Dispute Resolution Act, property takings, inverse condemnation, and Bert J. Harris Private Property Rights Act claims. We have created MSTUs and MSBU taxing districts for lake maintenance.

We have assisted in contracting and procurement issues as well as bid protests.

We have crafted and advised on matters affecting overlay districts and funding transportation and other projects.

We have crafted numerous ordinances and resolutions to protect, advance and serve the best interest of our municipalities and Special Districts and their citizens on a broad variety of topics.

We have helped cities acquire needed land and easements for public projects without having to file formal eminent domain proceedings. When necessary, we have brought eminent domain proceedings for our municipal clients.

We have defeated lawsuits seeking to invalidate election districts at both the State and Federal level.

We have assisted our clients with budgetary, ad valorem tax, special assessment, impact fee, and utility rate matters.

We have successfully defended our clients in administrative proceedings challenging comprehensive plan amendments and land development regulations.

We have successfully defended our clients in constitutional challenges to ordinances.

We have successfully defended our clients in challenges to quasi-judicial decisions, including code enforcement orders, variances, special exceptions, and rezonings.

We have successfully defended our clients in disputes with contractors and in construction litigation.

We have substantial experience working with counties and other municipalities and Special Districts to achieve mutually beneficial projects.

Unless litigation is truly necessary, we endeavor to find ways to protect our municipal clients and advance the public interest without suit or administrative proceedings.

ANDREW W. MAI
(Designated Town Attorney)



Areas Of Practice

Local Government Law
Land Use and Development
Real Property

Education

Georgetown Law Center
Heidelberg University
Mitchell Hamline School of Law, Juris Doctor 2001
University of Minnesota, Bachelor of Arts, 1995

Professional Activities

City of Sebastian, March 2023—present
Interim City Attorney and Special Counsel

Osceola County, June 2011—February 2021
County Attorney

Bahia Community Development District, June 15, 2022—present
Attorney

Waterset North Community Development District, June 2021—present
Attorney

Longboat Key, February 2021—March 2022
Assistant Town Attorney

Sioux City, Iowa, February 2008—July 2011
City Attorney

International Municipal Attorneys Association
Past Florida Co-Chair
Former County Attorney Chair

Florida Association of County Attorneys
Board of Directors

Florida Bar Association

ANDREW W. MAI *(continued)*

County Attorney, Osceola County, Florida, 2001-2021; City Attorney, City of Sioux City, Iowa, 2008-2011; Special Counsel to Monroe County and has represented other local governments and special districts and special counsel.

Mr. Mai has thirteen years experience as a City or County Attorney. Mr. Mai has over 20 years of experience representing local governments, businesses, homeowners, developers and landowners in administrative proceedings, special master hearings, appeals, land development, government financing, bid/procurement, process and challenges, government in the sunshine and public Records Law, real estate acquisition and sale, contract negotiations, simple and complex multi-party and multi-governmental contracts and projects, personnel and other matters.

Mr. Mai has served as counsel to municipal boards, including Councils/Commissions, Planning & Zoning Boards, Development Review Committees, Code Enforcement Boards, Community Redevelopment Agencies, Charter Review Commissions, Districting Commissions, city and county managers, department heads, and others.

He counsels on all pertinent legal issues, including requirements of state law, municipal codes, quasi-judicial procedures, compliance with Florida's Sunshine Act, Public Records Law, and Code of Ethics for Public Officers. While City Attorney for Sioux City, Iowa, Mr. Mai worked on a seventy million dollar wastewater improvement project while also advising on various other water issues. In addition Mr. Mai has as County and City Attorney worked to issue bonds, resolve labor disputes, and negotiate labor contracts.

Mr. Mai is a requested speaker on bonding law, land development, and other local government related topics. He has presented to the International Government Association of Officials, the International Association of Municipal Attorneys, Florida Association of County Attorneys, and a number of conferences on Bonding, and state and national organizations.

J. GIFFIN CHUMLEY
(Partner)



Areas of Practice

City, County and Local Government
Public Procurement
Americans with Disabilities Act
State Taxation (Ad Valorem and Tangible Property Taxes and Special Assessments)

Education

Stetson University College of Law, Juris Doctor, *Cum Laude*, 2006
University of Central Florida, Legal Studies, B.A., 2003
University of Florida, English, B.A., 2000

Courts of Practice

All State of Florida Courts (Admitted in 2006)
United States, Florida Middle and Northern Districts (Bankruptcy Included)

Certifications

Board Certified by the Florida Bar in City, County and Local Government Law (since 2012)

J. Giffin Chumley *(continued)***Professional Activities**

General Counsel to Volusia County Tax Collector Will Roberts, 2021 – present

Attorney to the City of Palm Coast Code Enforcement Board, 2021 - present

Assistant City Attorney, City of DeBary, 2006 – 2011; 2020 – present

Assistant County Attorney, County of Volusia, Florida, 2011 – 2020

Assistant City Attorney, City of Winter Garden, 2006 – 2011; 2020 – present

Assistant City Attorney, City of Longwood, 2010 – 2011; 2020 - present

Assistant City Attorney, City of Belle Isle, 2020 - present

Assistant City Attorney, City of Winter Park, 2020 – present

Judicial Intern to United States Chief Bankruptcy Judge Paul M. Glenn, 2006

Judicial Intern to United States District Court Judge Mary S. Scriven, 2005

Professional Associations

Florida Bar Association

Orange County Bar Association

Community Associations

Sergeant at Arms, Seminole County South Rotary Club

J. Giffin Chumley *(continued)*

After serving as an Assistant County Attorney for eight years in Volusia County, in 2020 Giffin Chumley returned as a partner to Fishback Dominick, where he first started his legal career in 2006.

Board certified by the Florida Bar in City, County, and Local Government Law, Mr. Chumley has extensive experience in Florida's Sunshine and public records laws, municipal code enforcement, the Americans with Disabilities Act, state and local taxation, public procurement, public transportation, fire and emergency services, ethics, and contracts, risk management, and land use and zoning. Mr. Chumley regularly attends meetings of and advises county and municipal boards and commissions.

Mr. Chumley served as Volusia County's principal attorney handling the Americans with Disabilities Act (ADA). He developed a program to train county employees about their duties and obligations under the ADA, and provided counsel on the county's ADA cases in litigation. Mr. Chumley gained extensive knowledge facing these challenges and navigating the ADA.

Mr. Chumley also has extensive experience in matters involving state and local taxation, and currently serves as general counsel for Volusia County Tax Collector, Will Roberts.

Mr. Chumley has worked regularly with Volusia County's and municipal procurement departments to draft, review, and negotiate contract terms and conditions. He has extensive knowledge of the requirements and inner workings of local government solicitation processes involving invitations to bid, requests for proposal, or requests for qualifications.

Mr. Chumley also represents creditors before the United States Bankruptcy Courts. While in law school, he interned with the late United States Chief Bankruptcy Judge, Paul M. Glenn, and also served as a judicial intern to United States District Judge Mary S. Scriven of the Middle District of Florida.

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ATTORNEYS AND COUNSELORS AT LAW

References - Tab 5

The following are references for Fishback Dominick concerning City Attorney and Special District legal services provided within the last five years:

- 1) Bob Shillinger, County Attorney
Monroe County Attorney's Office
1111 12th Street, Suite 408
Key West, Florida 33040
Telephone: 305-292-3470
- 2) Paul Anderson, Chair
Wataset North Community Development District
9428 Camden Field Parkway
Riverview, Florida 33578
Telephone: 813-533-2950
- 3) Paul Carlisle, Former City Manager
City of Sebastian
Telephone: 561-718-8333



TOWN OF MELBOURNE BEACH
REQUEST FOR PROPOSALS/INVITATION TO BID
Legal Services

SHEPARD, SMITH, KOHLMYER & HAND, P.A.

Submitted by: Ryan G. Knight

2300 Maitland Center Pkwy, Suite 100

Maitland, Florida 32751

(407) 622-1772 ext. 105

rknight@shepardfirm.com

Submitted on: December 11, 2023, *via* email

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December 11, 2023

***RE: Town of Melbourne Beach
Request for Proposals/Invitation to Bid
Legal Services***

Dear Mayor and Commission Members:

I am pleased to respond to the Request for Proposals/Invitation to Bid for Legal Services for the Town of Melbourne Beach on behalf of our firm.

Shepard, Smith, Kohlmyer & Hand, P.A. devotes the bulk of its legal practice to local government law. All of the firm's shareholders in the local government practice group have earned Board Certification in City, County and Local Government Law from The Florida Bar and our attorneys have collective public sector legal experience of approximately eight-seven (87) years of practice. Over the years, we have worked diligently to associate ourselves with lawyers possessing the right knowledge, skills, intellectual curiosity, and demeanor to best assist our governmental clients in the ever-evolving landscape of local government law.

All of our attorneys operate out of our office located in Maitland, Florida. Currently, we serve as general counsel to eleven central Florida municipalities, one housing authority, a hospital board, and as special counsel to a number of other cities, towns, counties, municipal boards, and community redevelopment agencies. In addition, our firm serves as general counsel to the Florida Redevelopment Association and has served as special counsel to the League of Cities. As you are no doubt aware, a practice in local government law is broad and varied. Representative matters we assist our clients with include: ordinance drafting, agreement and legal instrument drafting, representing municipalities in bond issues, community redevelopment matters, police matters, collective bargaining negotiation, sunshine law and public records education and compliance, personnel matters, utilities matters, public works, construction, charter review, code enforcement, land use, litigation (prosecution and defense) and appeal, intergovernmental disputes and negotiations, annexations, and election related matters.

We understand how critical it is for a law firm to provide prompt and effective legal advice to a municipal policy makers. We pride ourselves on our ability to communicate in a way that gives our clients confidence. Our first step is to listen. One has to understand the values, goals, and objectives of the communities one serves. Every city we represent is unique. Every elected and appointed official is unique. Every city staffer, every business owner, and every resident is unique. We do our best work when we listen to those unique voices and help our clients recognize, explore, and strengthen the points of commonality. That said, our role is never to insinuate ourselves into policy. We advise policy makers on the law, the legal implications of potential decisions, and the possible paths toward achieving the jurisdiction's goals; we do not attempt to thrust our policy judgments upon those who have been elected by their communities to make those determinations. By doing these two things, listening and remembering our role, while always striving to provide the best legal counsel we can, we have established long relationships with many of the local governments we have served. As a case in point, the very first local government client represented by shareholders Mr. Shepard and Mr. Smith was the City of Maitland. That representation began over twenty years ago, and Maitland is still our client today.

We focus on the field of local government because we truly have a passion for the communities we represent and all the people that dedicate their time, attention, and energy to making their communities better. There are many long days and late nights in this practice. At the end of each day, though, it is the people who are there with us and the things we accomplish together as a team that make this field of practice so rewarding. We all consider ourselves lucky to do something we love.

We appreciate this opportunity to introduce ourselves to you and your team. It is important for a city to select a firm that will fit with that city's needs and culture. We are selective in the requests we respond to and only do so when we believe we will be a great fit. Accordingly, we have submitted this material because we think we can have a long and mutually fulfilling relationship with the Town of Melbourne Beach. The ultimate decision, of course, is yours and, for that reason, our primary goal here is to present a clear and honest picture of our firm, our lawyers, and our background. We want to let you get to know us so that you can decide whether we will be the right fit for your community. Thank you for your time and consideration and all that you do.

Very truly yours,



Ryan G. Knight
Shepard, Smith, Kohlmyer & Hand, P.A.

Expertise of the Law Firm

Shepard, Smith, Kohlmyer & Hand, P.A. is a full-service commercial law firm with a specialty in local government law. The firm currently represents the Cities of Maitland, Apopka, Mount Dora, Dunnellon, Edgewood, Flagler Beach, Mascotte, Dade City, the Towns of Ponce Inlet and Eatonville, and the Village of Highland Park as general counsel in all matters in which legal services are required. The firm also serves as counsel to the CRAs of Jacksonville Beach, Bunnell, Fort Myers, Lakeland, Panama City, and Satellite Beach, and represents special districts and other agencies on specific matters, such as land use and public records litigation. The firm currently serves as counsel to the Winter Park Housing Authority, and Messrs. Hand, Brackins, Smith, and Shepard serve as local hearing officers. Counties, municipalities, and agencies routinely hire our firm as special counsel for limited-duration assignments, including litigation, and the firm also has a long history of representing community associations and private clients in commercial litigation, real property, and transactional services.

Having served many years with many local governments, special districts, and agencies, we have handled a great diversity of matters. As set forth in the resumes, biographies, and organization sections herein, our firm has demonstrated an ability to effectively represent publicly elected boards, including recalls or filling vacancies and to provide training regarding Sunshine and Public Records compliance; timely respond to legal inquiries from government officials and legislative committees such as the land planning agency; prepare documents and provide legal advice concerning right of way acquisition or sale, easements, eminent domain, annexation, and de-annexation; properly advise boards and officials, and prepare appropriate responses to Bert J. Harris Act and takings claims; provide efficient advice and document preparation as to all aspects of land use and planning, including comprehensive plan amendments and representing local

governments before the Department of Economic Opportunity, environmental regulation, including coordination with water management districts and applicable federal agencies handle multi-million contracts for public facilities, including litigation surrounding such facilities; address complex utility matters; provide specialized expertise regarding redevelopment matters; and handle all aspects of law pertaining to local governments competently, efficiently, and in a timely manner. Serving such a breadth of communities allows us to offer all of our clients the information and lessons we learn in our broad scope of representation.

While we have practiced in this field for many years and seen many things, it would be foolish to say we have seen it all. The field is always evolving. That statement is perhaps more true today than any time in the last twenty years as the State legislature continues to redefine the meaning of “Home Rule.” Accordingly, in order to excel in this practice area, one must be committed to continuing growth and education. One must want to never stop learning. For that reason, one of the core principles in our firm is that all our local government attorneys are expected to become Board Certified in City, County, and Local Government Law by the Florida Bar when they become eligible. To put that in context, approximately 7% of all eligible lawyers in the Florida Bar are Board Certified in their field. Board Certification is only achieved and maintained through heightened requirements of continuing education, exhaustive vetting of one’s background and qualifications, peer review by other Board-Certified lawyers in the field, and examination. Messrs., Hand, Brackins, Smith, and Shepard are Board Certified in City, County, and Local Government Law.

Description of the Firm's Approach to Providing Legal Services to the Town of Melbourne Beach

Our firm's lawyers are dedicated to being the very best in their professions.

The lawyers of Shepard, Smith, Kohlmyer & Hand, P.A. are committed to being the absolute best in their professions. That is why our firm emphasizes the advanced professional development of all its lawyers, including pursuit of Board Certification from The Florida Bar, authorship of scholarly articles, and the assumption of leadership positions in the community. The firm holds the coveted AV rating, the highest attainable rating for legal services, as established in the Martindale-Hubbell Law Directory, and has been recognized as one of Best Lawyers: Best Law Firms by U.S. News.

Shepard, Smith, Kohlmyer & Hand, P.A. is particularly proud of the longstanding relationships we have built with our local government clients. Central to these relationships is our commitment to work collaboratively with our clients to understand their objectives and needs and propose strategies to best achieve their goals in the most effective and efficient way possible.

When clients choose our firm, they know they are receiving the benefit of knowledgeable and experienced attorneys to service their legal needs. Our attorneys are committed to providing prompt, efficient and exemplary legal service driven by meeting each client's specific needs today, tomorrow and in the years to come. We build relationships that last.

Our primary objective is to empower each of our clients to make good decisions.

Each lawyer with our firm strongly believes that the role of the Town Attorney is to provide the highest level possible of advice and legal service to the Town, its elected officials, management team, staff, and volunteer boards without injecting our own voices into the policy decisions of the Town. Put simply, the public does not vote for the Town Attorney and each lawyer at our firm

works diligently to advise our clients on the law while staying neutral within the policy debates that arise. We believe that by focusing our energies on proactively ensuring that the decision makers have the highest quality information and legal advice we can provide, including straightforward and frank explanations of potential costs, benefits, and risks of any proposed course of action, we can minimize claims and litigation expenses. While the risk of litigation in highly controversial matters can never be eliminated, we strive to ensure that all options are explored with our clients so that there are as few surprises as possible.

We believe that communication is key to provision of proactive legal services.

This approach to effective client communication extends to the more day-to-day tasks in which the Town Attorney is involved. We work closely with the management teams of our local government clients to keep them informed about the status of ongoing projects and projected budgetary needs. By speaking frankly about the complexity of legal matters on the horizon we are best able to assist our clients in prioritizing tasks. Further, by encouraging such communication we can address potential legal budget shortfalls early so that all practical and efficient alternatives can be considered. When matters become more complex than may have been considered during the budgeting process, the appropriate time for discussing such budgetary constraints with the client is as soon as the budget challenge is recognized, not after the budget is exhausted.

The Town Attorney position is one of many essential pieces in the machinery of a smoothly running local government. We believe in treating all elected officials, volunteer board members, staff members and members of the public with courtesy, respect, and professionalism. Effective communication cannot occur if people dread working with the Town Attorney or distrust the motives behind the advice given.

The attorneys of Shepard, Smith, Kohlmyer and Hand, P.A., are committed to delivering cutting-edge, first-rate legal services to our governmental clients at home in Central Florida and statewide.

We recognize that the world can change in the blink of an eye – now, more so than ever before. Therefore, we believe in a “high-tech” approach to the practice of law every step of the way, from the professionals we employ to our methods and the tools we utilize to deliver our services. From day one, our firm invests in providing new team members with a state-of-the-art environment to build and hone their expertise. Through cultivation of an innovative mindset, emphasis on obtaining top-rate industry experience, collaboration with veteran team members and peers, and access to the latest technological tools and methodology, the sky is the limit for what our legal professionals can achieve for our clientele.

When taking on a new governmental client, we will plan for and execute a smooth transition.

During the transition period, the attorneys for the firm will meet in person or by phone with any members of Town staff and the Town’s current law firm, as requested by the Town Manager or Town Commission, to discuss those matters being handled by the current law firm. The firm will conduct these meetings without charge to the Town. During these meetings, we will identify all information required from the Town to perform all necessary tasks, and determine the most cost-efficient manner of obtaining any information not readily accessible by the Town. Our attorneys will coordinate their legal strategy with the Town Manager and ensure that each project is prioritized appropriately to strive for maximum efficiency.

We have the highest commitment to ethical practice and are highly experienced in providing advice regarding the Florida Code of Ethics for Public Officers and Employees.

Our firm has extensive experience providing ethical advice to the public officers and employees of its client with the understanding that ultimately our representation is for the entity itself as opposed to individuals. In order to educate our clients' members and help prevent inadvertent ethical violations, our firm provides training to our local government clients annually and on an as-needed basis. Additionally, we provide ethics education available to all local governments and their constituents via the Florida League of Cities. Upon receiving authorization, our attorneys frequently consult with the Florida Commission on Ethics when advisable and often request informal and formal ethics opinions to ensure that our clients are best protected.

Shepard, Smith, Kohlmyer & Hand, P.A. holds its members to the very highest ethical standards. Further, our commitment to our clients is mirrored through our commitment to our community. The attorneys of our firm believe that client-oriented legal services and civic responsibility create a partnership that benefits everyone in the community. The firm's lawyers and staff actively participate in numerous charitable and civic organizations and events in the communities we serve. Through sponsorships of community service projects, charitable organizations, individual board participation, and pro bono assistance, we share our experience and our time for community betterment.

The Town of Melbourne Beach would receive the highest level of service and priority consistent with our commitment to our clients.

The firm has been engaged as city attorneys for many of its clients for a decade or more while simultaneously responding to time-sensitive litigation engagements as special counsel. In

the scope of our representation, we recognize that many matters arise that are extremely time-sensitive. Because all of our lawyers are actively engaged in representing our local government clients, we are able to effectively manage workloads and assignments to ensure that long-term projects continue to move forward while simultaneously focusing on time-sensitive matters as they arise. Through its dedication to the practice area and its policy of requiring each of its attorneys to become Board Certified in City, County, and Local Government Law when eligible, the firm is able to devote the resources necessary to deliver projects efficiently and on time.

How Would the Firm Structure the Working Relationship Between the Town Attorney, the Town Commission, and Town Manager's Office?

Per the Charter of the Town of Melbourne Beach, the Town Manager serves as the chief administrative officer of the Town and is “responsible to the Commission for all Town affairs placed in his or her charge by this Charter or by ordinance or resolution.” Accordingly, the Town Attorney should coordinate all efforts regarding legal representation with the Town Manager as directed by Town Commission. Specifically, the Town Attorney will perform legal services and tasks as assigned directly by Town Commission as well as from the Town Manager via Commission direction and/or his/her authority per the Town Charter. While the Town Attorney takes direction from Town Commission as a collective board, the Town Attorney will be available for one-on-one counsel with all Commission members. The Town Attorney will keep the Town Manager updated regarding legal projects on a day-to-day basis and will provide updates and pertinent information to Town Commission at public meetings, when directed to do so by the Town Manager and when otherwise appropriate and/or necessary. Under no circumstances should the Town Attorney become involved in the daily operations of the Town government.

Use of Special Outside Counsel.

As a full-service law firm, it is rare that a need arises that requires the use of outside special counsel. As demonstrated by our submission materials, our attorneys frequently serve as special counsel to a number of governmental entities, particularly regarding matters related to land use, community redevelopment, Sunshine Law, and public records. Accordingly, we understand the importance of teamwork and cooperation when it comes to interacting with special counsel, should the need arise to hire same.

That said, in the area of local government practice, it is standard practice for local government to retain special employment counsel, bond counsel (distinguishable from issuer's bond counsel, a service we provide), and on rare occasions - counsel for investigational matters. Should Melbourne Beach need to engage special counsel, our firm will cooperate and coordinate with the Town's special counsel to help ensure seamless legal representation.

Primary Attorneys for the Town of Melbourne Beach

Ryan Knight would be named Town Attorney and will have the primary responsibility for managing the relationship with the Town. Drew Smith would also serve as a primary assistant city attorney. While we encourage all of our municipal clients to let us know if a board or committee develops a preference for a certain lawyer with the firm, we strive to have the primary attorneys be the main faces that the Commission, boards, and community see at meetings. Since Mr. Knight and Mr. Smith will serve as primary attorneys for the Town and in the interest of allowing you to “meet” the people whose faces you would most frequently see, a full biographical sketch for Mr. Knight and Mr. Smith is included. Cliff Shepard, Andrew Hand, Patrick Brackins, and Holli New will also provide legal services to the Town.

RYAN G. KNIGHT

Ryan Knight was born and raised in New Smyrna Beach, Florida. He received his Bachelor's Degree from the University of North Florida in 2007 and graduated from Florida Coastal School of Law in 2011. After graduating law school, he served as an Assistant Public Defender for the 7th Judicial Circuit where he served as lead trial attorney for numerous cases and gained valuable courtroom experience.

He subsequently began practicing primarily in insurance defense where his practice focused on complex construction defect litigation since 2013. His representation included clients with exposure in excess of four million dollars and cases in excess of twenty million dollars as lead attorney.

Ryan joined Shepard, Smith, Kohlmyer & Hand, P.A. in June 2023 and currently assists in the representation of all the firm's municipal clients and representation of the firm's clients in commercial and complex litigation. He currently serves as attorney for the Fort Myers Community Redevelopment Agency Advisory Council and represents the city of New Smyrna Beach in special litigation matters. Due to his background in complex litigation, Ryan is heavily involved in all the firm's litigation and appellate matters for private and public clients.

Ryan is member of the Florida Bar Association and the Florida Municipal Attorneys Association. He and his wife, Ashley, live in Winter Garden along with their four children – Finn, Sailor, Navy, and Crew.

D. ANDREW (DREW) SMITH, III

Drew Smith received his Bachelor's Degree from Mercer University in 1999 and graduated from Washington and Lee University School of Law in 2002. After graduating law school, He was hired by Cliff Shepard of Shepard Law Offices, P.A. and began practicing in the areas of local government law, commercial litigation, insurance defense, and community association law.

Drew currently serves as the City Attorney to the Cities of Edgewood and Flagler Beach. He has been the primary attorney for both of those jurisdictions since 2008. He also currently serves as an Assistant City Attorney to all of the firm's municipal clients and, due to the length of time he has worked with all of them, often serves as a depository of institutional knowledge for the younger attorneys. He also currently serves as the Code Enforcement Special Magistrate for the City of St. Cloud and as Code Enforcement prosecuting attorney for Maitland and Ponce Inlet. He has served as special litigation counsel to the City of Eustis, special counsel to the City of DeBary in two forfeiture of office proceedings and an internal investigation regarding use of governmental funds, special counsel to the City of Winter Springs for complex code enforcement prosecutions, and special counsel to the City of Winter Garden for complex code enforcement prosecutions and charter review.

Drew is Board Certified in City, County and Local Government Law and has been a speaker at several continuing legal education seminars on topics such as special districts, Sunshine Law, land use, municipal law, and liability defense. He is a member of the Florida Bar Association and the Florida Municipal Attorneys Association. He achieved the highest Martindale-Hubbell peer review rating of AV in 2013 and maintains that rating today. He and his wife, Kathryn, live in Winter Springs.



SHEPARD, SMITH, KOHLMYER & HAND, P.A.
ATTORNEYS & COUNSELORS AT LAW

RYAN G. KNIGHT

ATTORNEY AT LAW Fla. Bar No. 91503

EXPERIENCE

SENIOR ASSOCIATE

Shepard, Smith, Kohlmyer & Hand, P.A.

(June 2023 - Present)

Assist in the representation of all the firm's municipal clients and representation of clients in commercial and complex litigation.

PARTNER

Boyd & Jenerette, P.A.

(August 2021-January 2022)

SENIOR ASSOCIATE

(August 2018 – August 2021)

Perform all aspects of complex construction defect litigation as lead attorney representing contractors in both public and private construction arenas for projects including condominiums, multi-family and single-family housing, and commercial construction projects. Advised clients on risk management and legal compliance issues. Representation includes clients with exposure in excess of four million dollars and cases in excess of twenty million dollars as lead attorney.

ASSOCIATE

Law Offices of Jack D. Evans

(September 2013 – August 2018)

Litigated insurance defense cases as lead counsel including premises liability, automobile liability, and construction defect litigation.

ASSISTANT PUBLIC DEFENDER – FELONY DIVISION

Office of Public Defender, 7th Judicial Circuit

(2012 - 2013)

Trial experience includes ten jury selections, six jury trials and three bench trials as first-chair attorney and additional four jury trials as second-chair attorney. Responsible for all aspects of misdemeanor and felony trial including: direct/cross

CONTACT

✉ rknight@shepardfirm.com

📞 (407) 622-1772 ext. 105

🌐 Shepardfirm.com

EDUCATION

🎓 **FLORIDA COASTAL SCHOOL
OF LAW**

Juris Doctor

2011

🎓 **UNIVERSITY OF NORTH
FLORIDA**

B.A. Business

Administration in Finance

EXPERIENCE (CONT.)

examination, opening/closing arguments, introduction of evidence, admissibility of evidence, impeachment and trial objections. Managed caseload of over 150 cases before the Honorable David H. Foxman and Honorable Michael Hutchinson.

BAR MEMBERSHIPS

Florida

PERSONAL

Ryan resides in Winter Garden, Orange County, with his wife, Ashley, and their 4 children – Finn, Sailor, Navy, and Crew.



SHEPARD, SMITH, KOHLMYER & HAND, P.A.
ATTORNEYS & COUNSELORS AT LAW

CONTACT

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📞 (407) 622-1772 ext. 102

🌐 Shepardfirm.com

EDUCATION

🎓 **WASHINGTON AND LEE
UNIVERSITY SCHOOL OF
LAW**

Juris Doctor
2002

🎓 **MERCER UNIVERSITY**
B.A. English Literature

D. ANDREW SMITH III

ATTORNEY AT LAW Fla. Bar No. 0583650

BOARD CERTIFIED IN CITY, COUNTY & LOCAL GOVERNMENT LAW

EXPERIENCE

SHAREHOLDER

Shepard, Smith, Kohlmyer & Hand, P.A.

(2008 - Present)

Currently serves as City Attorney for the Cities of Flagler Beach and Edgewood, as Assistant City Attorney and Code Enforcement Prosecuting Attorney for the City of Maitland, as Assistant Town Attorney and Code Enforcement Prosecuting Attorney for the Town of Ponce Inlet, as Code Enforcement Hearing Officer for the City of St. Cloud, as Code; has served as Assistant City Attorney to the City of Mount Dora; Special Counsel to the City of DeBary; Special Counsel to the City of Winter Springs; Special Litigation Counsel to the City of Eustis; and as Special Counsel and Charter Review Facilitator to the City of Winter Garden.

SHAREHOLDER

Langston, Hess, Bolton, Shepard & Augustine, P.A.

(2007 - 2008)

Served as Assistant City Attorney to the Cities of Maitland and Mount Dora, Edgewood and as Assistant Town Attorney to the Town of Ponce Inlet and as Special Counsel to the City of Winter Garden.

ASSOCIATE

Langston, Hess, Bolton, Shepard & Augustine, P.A.

(2004 - 2007)

Served as Assistant City Attorney to the Cities of Maitland and Mount Dora and the Town of Ponce Inlet.

ASSOCIATE

Shepard Law Offices, P.A.

(2002 - 2004)

Served as Assistant City Attorney to the Cities of Maitland and the Town of Windermere.

ACTIVITIES + HONORS

- Florida Bar Board Certified in City County & Local Government Law
- Florida Super Lawyers Rising Star – Law & Politics Magazine: 2012 - 2016
- AV Rated – Martindale-Hubbell Legal Directory: 2012 - Present
- Member – Orange County Bar Association; City, County and Local Government Law Section of the Florida Bar; Environmental and Land Use Law Section of the Florida Bar; Florida Municipal Attorneys' Association
- Case Review Author – Washington and Lee University School of Law Environmental Law Journal: 2001 - 2002

SEMINARS GIVEN

- City of Flagler Beach Citizens Academy – "The Role of City Attorney," 2015, 2016, 2017, 2018, 2019, 2020
- Central Florida Code Enforcement Officers Association – "Constitutional Search and Seizure Protections and Best Practices," October 2019
- FLC University – "Building a Culture of Ethics," November 2011
- Lorman Education Services – "Special Districts in Florida," September 2006
- National Business Institute – "Comprehensive Planning," November 2005

BAR MEMBERSHIPS

- Florida
- United States District Court, Middle District of Florida

PERSONAL

- Married to Kathryn Frahm and has two rescue dogs, Oscar and Gilly
- Actively involved with the That Others May Live Foundation, a private charity organized to provide scholarships, support, and aid to families of fallen and gravely injured United States Air Force Rescue Personnel



SHEPARD, SMITH, KOHLMYER & HAND, P.A.
ATTORNEYS & COUNSELORS AT LAW

CONTACT

@ ahand@shepardfirm.com

📞 (407) 622-1772 ext. 104

🌐 Shepardfirm.com

EDUCATION

🎓 **UNIVERSITY OF FLORIDA,
LEVIN COLLEGE OF LAW**
LL.M., Environmental and
Land Use
2009

🎓 Juris Doctor (cum laude)
2006

ANDREW J. HAND

ATTORNEY AT LAW Fla. Bar No. 35859

BOARD CERTIFIED IN CITY, COUNTY & LOCAL GOVERNMENT LAW

EXPERIENCE

SHAREHOLDER

Shepard, Smith, Kohlmyer & Hand, P.A.
(2008 - Present)

Representation regarding local government matters, land use, real property, CRAs, business, and litigation. Advised clients in all areas of law related to municipal government, drafted development documents, drafted municipal ordinances, provided extensive advice to local governments regarding Florida growth management law, provided advice to local governments regarding utilities, environmental issues, and provided advice regarding general municipal issues. Assisted clients in all aspects of business representation and complex commercial litigation. Assisted clients in commercial real estate closings, advised clients regarding "green" development issues.

- City Attorney – City of Dunnellon, Florida
- City Attorney – City of Mascotte, Florida
- Village Attorney – Village of Highland Park
- Florida Redevelopment Association – Asst. General Counsel
- Hearing Officer – Orange County, Florida

ADJUNCT PROFESSOR OF FLORIDA LAND USE LAW

University of Florida, Frederic G. Levin College of Law

(2009)

Designed and taught upper-level law course. Florida Land Use Law (LAW6930, Section 5457) is a "practitioner oriented" course addressing land use law specific to the State of Florida. The course curriculum focuses on the necessity, history, and implementation of growth management controls in Florida and addresses county and municipal authority to regulate, requirements mandated by Florida's Growth Management Act, comprehensive planning in Florida, zoning ordinances, creative land use controls, CRAs, CDDs, Florida takings law, and litigation relating to land use disputes.

EXPERIENCE (CONT.)

ASSOCIATE

Langston, Hess, Bolton, Shepard & Augustine, P.A.

(2007 - 2008)

Representation regarding local government matters, land use, real property, CRAs, business, and litigation.

EDUCATION

UNIVERSITY OF FLORIDA, FREDERIC G. LEVIN COLLEGE OF LAW

L.L.M. Environmental and land use law, *May 2009*

Juris Doctor (cum laude), *December 2006*

UNIVERSITY OF FLORIDA, WARRINGTON COLLEGE OF BUSINESS

Master of Science in Real State, *May 2006*

B.S. Business Administration (cum laude), *May 2002*

ACTIVITIES + HONORS

- Orlando's Attorneys of the Year – Orlando Style Magazine: 2023
- Florida Super Lawyers Rising Star – Law & Politics Magazine: 2020
- Florida Bar Board Certified in City, County and Local Government Law
- LEED® AP (Leadership in Energy and Environmental Design Accredited Professional)
- Planning Award for Town of Marineland Unified Land Development Code – Awarded by American Planning Association, Florida Chapter

SEMINARS GIVEN

- Florida Redevelopment Association - "CRA: What you Need to Know" (October 2016)
- University of Florida, Levin College of Law, Marine and Coastal Law - "Dark Sky Legislation by Local Governments" (March 2010)
- Florida Brownfields Association - "Brownfields & Green Development" (November 2009) Moderator
- University of Florida, Levin College of Law Conservation Clinic - "A Normative Analysis of Transferable Development Rights in Florida and their Role in Takings Analysis" (April 2009)



SHEPARD, SMITH, KOHLMYER & HAND, P.A.
ATTORNEYS & COUNSELORS AT LAW

CONTACT

@ pbrackins@shepardfirm.com

📞 (407) 622-1772 ext. 106

🌐 Shepardfirm.com

EDUCATION

🎓 **ST. THOMAS UNIVERSITY,
MIAMI GARDENS**
Juris Doctor
2006

🎓 **UNIVERSITY OF FLORIDA**
B.A., Political Science

PATRICK BRACKINS

ATTORNEY AT LAW Fla. Bar No. 027520

BOARD CERTIFIED IN CITY, COUNTY & LOCAL GOVERNMENT LAW

EXPERIENCE

PARTNER

Shepard, Smith, Kohlmyer & Hand, P.A.

SENIOR ASSOCIATE (2016-2022)/PARTNER (2023-PRESENT)

Counsels and represents private and public clients as general counsel and as special counsel in all aspects of local government law and litigation through appeal. Regularly prepares and reviews ordinances, resolutions, policies, contracts, leases, briefs, and other legal documents.

Experience includes serving as:

- City Attorney for the City of Dade City
- Special Counsel to the Orange County Code Enforcement Board (2021 – present)
- Special Counsel to the City of Clermont Code Enforcement Board (January 2023 – present)
- Counsel for the Winter Park Housing Authority (2018 – present)
- Local Hearing Officer for the City of Orlando (2017 – present)
- Assistant City Attorney for the cities of Dunnellon, Edgewood, Flagler Beach, Maitland, and Mascotte; Assistant Town Attorney for the Town of Ponce Inlet and Eatonville; and Assistant Village Attorney for the Village of Highland Park
- Assistant General Counsel to the 2020 Orange County Charter Review Commission
- Litigation, appellate and/or special counsel for multiple public and private entities, including the Cities of Jacksonville Beach, New Smyrna Beach, and Satellite Beach

CAREER LAW CLERK, U.S. MAGISTRATE JUDGE

(2008 - 2016)

Drafted all orders and report and recommendations in even numbered civil cases; drafted substantive criminal orders; managed civil docket; and managed term law clerks.

EXPERIENCE (CONT.)

STAFF ATTORNEY, FLA. NINTH JUDICIAL CIRCUIT

(2006 - 2008)

Drafted proposed orders and opinions on appeals and first-tier writs; drafted proposed legislation.

ACTIVITIES + PERSONAL

- Florida Bar Board Certified in City, County and Local Government Law (2021)
- Federal Bar Association Orlando Chapter: President (2021 - 2022); President-Elect (2020 - 2021); Secretary (2019 - 2020); Director at large (2018 - 2019); National Delegate (2022 - 2023)
- Middle District of Florida's Bench Bar Fund Committee (2018 - 2021)
- Former board member of Christian Service Center of Central Florida (2014 - 2018)
- Eagle Scout



SHEPARD, SMITH, KOHLMYER & HAND, P.A.
ATTORNEYS & COUNSELORS AT LAW

CLIFFORD B. SHEPARD

ATTORNEY AT LAW Fla. Bar No. 508799

BOARD CERTIFIED IN CITY, COUNTY & LOCAL GOVERNMENT LAW

EXPERIENCE

SHAREHOLDER & FOUNDER

Shepard, Smith, Kohlmyer & Hand, P.A.

(2008 - Present)

Counsels and represents private and public clients as general counsel and on specialized matters relating to local government law, real property, and civil litigation. Regularly prepares and reviews contracts, briefs, and other legal documents. Experience includes currently serving as:

- City Attorney for the Cities of Maitland and Apopka, and Town Attorney for the Towns of Ponce Inlet and Eatonville to regularly provides formal and informal answers to legal questions, drafts ordinances, resolutions and interlocal agreements, prepares policies and formal communications, and provides briefings on legal developments and matters of concern
- Land use counsel for multiple public entities including defense against land use-related litigation such as takings claims, *Bert J. Harris* claims, declaratory judgment actions and writs of certiorari
- Litigation counsel for multiple public and private entities on matters ranging from complex commercial litigation, to real property related suits, to bad faith claims, from inception through appeal
- General Counsel for Florida Redevelopment Association including addressing nonprofit governance issues and drafting rubric policies and legal memoranda to be distributed to Community Redevelopment Agencies across the state
- General Counsel for multiple Community Redevelopment Agencies including drafting Redevelopment Plans and Amendments, and consulting on responses to state audits
- Special Magistrate for the City of Kissimmee

CONTACT

✉ cshepard@shepardfirm.com

☎ (407) 622-1772 ext. 101

🌐 Shepardfirm.com

EDUCATION

🎓 **UNIVERSITY OF FLORIDA
COLLEGE OF LAW**
Juris Doctor, 1985

🎓 **UNIVERSITY OF FLORIDA
COLLEGE OF JOURNALISM**
B.S., Newswriting &
Editing, 1981

ACTIVITIES + HONORS

- Florida Bar Board Certified in City County & Local Government Law
- Best Lawyers in America[®] – since 2018
- Florida Super Lawyer – *Law & Politics Magazine*, since 06
- Florida Legal Elite – *Florida Trend Magazine*, 2005 – 09; 2011 – 13; 2016; 2019-present
- Martindale-Hubbell *Bar Register of Preeminent Lawyers*[®]
- Executive of the Year (2019) – Volusia League of Cities
- Certified Circuit Court and Appellate Mediator
- AV Rated – Martindale-Hubbell
- *Florida Bar Journal/News* Editorial Board - Chairman ('93-'94)
- Florida Academy of Professional Mediators
- Chairman – *Kids Beating Cancer*, (1998 – 2005)
- Member - Land Planning Agency, City of Oviedo (1988-1990)

SEMINARS GIVEN

- "Charter Amendment Processes" – Sponsored by Florida Municipal Attorneys' Association
- "Florida Sunshine Law: The Law in Plain English" – Available on DVD
- "Sunshine and Social Media: Pitfalls for the Unwary" – Sponsored by The Florida Bar
- "It's a Mad, Mad, Ad World: Advertising Challenges for City Clerks" – Sponsored by the Florida Association for City Clerks
- "Ethics for Municipal Officials" – Sponsored by Florida League of Cities
- "CRA Basics" - Sponsored by Florida Municipal Attorneys' Association
- "*Strand v. Escambia County*: What now?" – Sponsored by the Florida Redevelopment Association
- "Special Districts in Florida" – Sponsored by Lorman
- "Spoliation of Evidence: An Ounce of Prevention" - Sponsored by LHBZH
- "Writing that Makes a Difference" - Sponsored by the Florida Bar

BAR MEMBERSHIPS

- Florida
- Tennessee
- District of Columbia Court of Appeals
- United States Supreme Court
- United States Court of Appeals – Eleventh Circuit
- United States District Court – Southern, Middle, and Northern Districts of Florida
- United States Tax Court



SHEPARD, SMITH, KOHLMYER & HAND, P.A.
ATTORNEYS & COUNSELORS AT LAW

CONTACT

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🌐 Shepardfirm.com

EDUCATION

🎓 **FLORIDA INTERNATIONAL
UNIVERSITY COLLEGE OF
LAW, MIAMI GARDENS**
Juris Doctor
2022

🎓 **UNIVERSITY OF CENTRAL
FLORIDA**
B.A., LEGAL STUDIES
2017

HOLLI NEW

ATTORNEY AT LAW Fla. Bar No. 1047287

EXPERIENCE ASSOCIATE

Shepard, Smith, Kohlmyer & Hand, P.A.

(August 2023 - Present)

Assists in the presentation of municipal clients. Regularly prepares and reviews ordinances, resolutions, policies, contracts, leases, and other legal documents.

LAW CLERK, GOVERNMENT RELATIONS AND LOBBYING FIRM

Gazitua Letelier, PA

(February 2022 – December 2022)

Performed legal research on municipal resolutions and ordinances. Analyzed public policy, including proposed legislation and administrative rules, to determine the potential impact on clients. Supported clients in navigating the local procurement process.

LAW CLERK,

Folds & Walker, LLC

(May 2021 – August 2021)

Drafted ordinances, resolutions, and city and departmental policies. Performed legal and factual research for impending litigation. Supported attorneys in preparing for quasi-judicial and judicial proceedings.

BAR MEMBERSHIP

Florida

PERSONAL

Holli was born and raised in North Central Florida, and now, she and her Samoyed, Alba, happily call Orange County home.

Specific Experience

Ethics and Public Records

All attorneys are knowledgeable regarding Florida Ethics, Sunshine Law, and Public Records Law, and provide annual training to all of our government clients. The firm has successfully defended the City of New Smyrna Beach and Satellite Beach officials in separate lawsuits through appeal alleging Sunshine Law violations since 2020. Cliff Shepard gave the original “Ethics for Municipal Officials” for the Florida League of Cities, and it is still utilized for training today. The link for same is on the Florida League of Cities YouTube Channel: <https://www.youtube.com/watch?v=4urPoMkEW3U>

General Municipal Law

Drew Smith, Andrew Hand, and Patrick Brackins are Board Certified by the Florida Bar in City, County, and Local Government Law, and they serve as City or Village Attorneys, respectively, for the Cities of Dade City, Dunnellon, Edgewood, Flagler Beach, and Mascotte, and the Village of Highland Park. Our firm also serves as city or town attorney for the Cities of Apopka and Maitland, and the Towns of Eatonville and Ponce Inlet.

Workers’ Compensation

Our firm does not practice workers’ compensation litigation as workers’ compensation counsel is provided by local government insurers. However, we routinely advise our clients about the requirements of workers’ compensation law as well as the Family Medical Leave Act and others applicable laws on a case-by-case basis.

Land Use, Including Zoning, Environmental Questions, Annexation, Growth Issues, and Permitting

Land use is the firm's bread and butter. Our attorneys work closely with all the firm's municipal clients on site-specific comprehensive plan amendments, land development regulations, planned development agreements (statutory and non-statutory), as well as comprehensive plan text amendments and updates to land development regulations. In addition, we are a full-service law firm and defend our clients through appeal, including administrative appeals, concerning land use matters such as takings and Bert J. Harris litigation. We recently successfully defended a Bert J. Harris claim at the trial court level at the motion to dismiss stage against the City of Maitland, and the *Pacetta v. Town of Ponce Inlet* case, which spanned a decade and sixteen different proceedings at the state, federal and administrative levels, is illustrative of our firm's experience and results. In addition, our firm members are frequently sought-after speakers and commentators regarding the practice area. Andrew Hand created and taught the Florida Land Use course at the University of Florida, Levin College of Law as an Adjunct Professor of Law.

Code Enforcement

All shareholders and partners are magistrates for local jurisdictions and have experience prosecuting code enforcement cases. We also serve as special counsel to the code enforcement boards for Orange County and the City of Clermont.

Utilities

The firm has provided extensive advice to municipal clients regarding franchising, operations, and provided counsel to a client divesting its utility and liquidating assets in the amount of \$12.5 million.

Labor, Including Police Officers' Bill of Rights

The firm has defended an officer involved in a shooting in a federal civil rights case and won summary judgment on every count, which was affirmed by the 11th Circuit. Recently, although the matter is currently on appeal in the Fifth District Court of Appeal, Patrick Brackins and co-counsel successfully defended an unfair labor practices claim brought by union members against the Town of Ponce Inlet before a hearing officer for the Public Employees Relations Commission and on review before the Commission itself.

Forfeiture

The firm has assisted municipal clients in taking a truck and house used in drug cases, as well as negotiating the release of confiscated items and vehicles.

Municipal Bonds

The firm serves as issuer's bond counsel regularly. Total bonds issued are in excess of \$250 million, with no claims made against issuance.

List of Current Governmental Clients

General Counsel

City of Apopka - Susan Bone, City Clerk, (407) 703-1704

City of Dade City - Angie Guy, City Clerk, (352) 523-5052

City of Dunnellon - Mandy Odom, City Clerk, (352) 465-8500

City of Edgewood - Sandy Riffle, City Clerk, (407) 851-2920

City of Flagler Beach - Penny Overstreet, City Clerk, (386) 517-2000

City of Maitland - Lori Hollingsworth, City Clerk, (407) 539-6219

City of Mascotte - Stephanie Abrams, City Clerk, (352) 429-3341

City of Mount Dora – Jeanann Hand, City Clerk (352) 735-7126

Florida Redevelopment Association– Jeffrey Blomeley, Executive Director Florida League of Cities, Inc., (850)701-3614

Town of Eatonville - Veronica King, Town Clerk, (407) 623-8910

Town of Ponce Inlet - Kim Cherbano, Town Clerk, (386) 236-2150

Village of Highland Park - Maggie Taylor, Village Clerk, (863) 455-6518

Special Counsel

Citrus County Hospital Board - Sunshine and Public Records Attorney, Other Special Projects

City of Atlantic Beach - Charter Review

City of Bunnell – Special CRA counsel

City of Clermont - Code Enforcement Board Attorney

City of Fort Myers – Special CRA counsel

City of Jacksonville Beach - Charter Review, Referendum matters, litigation

City of Lakeland – Special CRA counsel

City of New Port Richey - Special CRA counsel

City of New Smyrna Beach - Special Land Use Counsel and Special Litigation Counsel

City of Ocala - Land Use Matters

City of Panama City – Special CRA counsel

City of Satellite Beach - CRA and Special Litigation Counsel

City of Winter Garden - Charter Review Facilitator

City of Winter Park Housing Authority - Litigation Counsel

Orange County Code Enforcement Board - Counsel to the Board

Special Magistrate/Hearing Officer

Orange County

City of Kissimmee

City of Orlando

City of St. Cloud

Fee Proposal

The firm proposes an hourly rate of \$225.00 per hour for all shareholders and partners, \$200.00 per hour for all associates, and \$100.00 per hour for paralegals on matters that are not passed through or charged back to developers/applicants. On matters that are passed through or charged back to developers/applicants, the firm proposes a discounted hourly rate of \$300.00 per hour for all shareholders and partners, \$250.00 per hour for all associates, and \$125.00 per hour for paralegals. The exception to the hourly rate structure would be if serving as issuer's counsel in bond transactions, in which case the fee would be a fixed 0.005% of the issue.

The firm does not charge for routine costs such as copying and postage. The firm reserves the right to impose reasonable fees for extraordinary costs. The firm will not charge or bill for travel time or mileage within Brevard County.