

IN THE CIRCUIT COURT OF THE FOURTH
JUDICIAL CIRCUIT, IN AND FOR NASSAU
COUNTY, FLORIDA

CASE NO. 2019-CA-000054

RAYDIENT LLC (d/b/a RAYDIENT
PLACES + PROPERTIES LLC), and
RAYONIER INC.,

Plaintiffs,

vs.

NASSAU COUNTY, FLORIDA, a
political subdivision of the State of
Florida,

Defendant.

PLAINTIFFS' MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

Plaintiffs, Raydient LLC (d/b/a Raydient Places + Properties LLC) and Rayonier Inc., (collectively, "Plaintiffs"), pursuant to Florida Rule of Civil Procedure 1.190, hereby move the Court for leave to file their Amended Complaint, and state as follows:

1. This case was filed against Nassau County, Florida ("County") and arises out of the County's illegal actions in responding to Plaintiffs' public records request.

2. On February 6, 2019, Plaintiffs filed this action seeking mandamus and declaratory relief pursuant to Florida's Public Records Act, including the immediate production of all responsive records, the recovery of deleted records, and an award of Plaintiffs' attorneys' fees and costs in prosecuting the action.

3. Through the course of limited discovery, including depositions of current and former County employees and the use of third party subpoenas, Plaintiffs not only obtained

further evidence that the County violated Florida's Public Records Act (including obtaining additional responsive text messages from third parties), but such discovery also revealed that the County Commissioners met privately "outside of the sunshine" and discussed (both in person and through text messages) various ways they could try to pressure and harm Plaintiffs and their development efforts within the County by launching negative media campaigns that spread false statements about Plaintiffs, suspending Plaintiffs' development approvals, and specifically targeting Plaintiffs' property for increased taxes.

4. Accordingly, Plaintiffs seek to add a claim for declaratory and injunctive relief against the County for violations of Florida's Government in the Sunshine Law, and respectfully request leave of Court to file their Amended Complaint, which is attached hereto as **Exhibit "A."**

5. Florida has a strong policy of allowing a party to amend the pleadings, and all doubts should be resolved in favor of allowing amendment to pleadings so that cases can be tried on the merits. *Bill Williams Air Conditioning & Heating, Inc. v. Haymarket Co-op. Bank*, 592 So. 2d 302, 305 (Fla. 1st DCA 1991). Amendments to pleadings should be liberally granted, particularly when the motion is made prior to a hearing on a motion for summary judgment. *Dimick v. Ray*, 774 So. 2d 830, 833 (Fla. 4th DCA 2000). Refusing to allow a party to amend its pleadings constitutes an abuse of discretion unless it clearly appears that allowing the amendment would prejudice the opposing party, the privilege to amend has been abused, or the amendment would be futile. *Id.*; *Spradley v. Stick*, 622 So. 2d 610, 613 (Fla. 1st DCA 1993).

6. This case is not set for trial and no parties will be prejudiced in any way by the relief sought in this Motion. The proposed amendment would not be futile and Plaintiffs have not abused their privilege to amend as this is the first amendment being sought.

7. As discovery is still ongoing, Plaintiffs reserve the right to seek further amendments, as necessary, as new evidence surrounding these violations are uncovered.

WHEREFORE, Plaintiffs respectfully request that this Court grant them leave to file the attached Amended Complaint in this action, and grant such other and further relief as is just and proper under the circumstances.

Dated June 24, 2019.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished via electronic service through the E-Portal to all parties on the attached service list, this 24th day of June, 2019.

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Exhibit A

IN THE CIRCUIT COURT OF THE FOURTH
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COUNTY, FLORIDA

CASE NO. 2019-CA-000054

RAYDIENT LLC (d/b/a RAYDIENT
PLACES + PROPERTIES LLC), and
RAYONIER INC.,

Plaintiffs,

vs.

NASSAU COUNTY, FLORIDA, a political
subdivision of the State of Florida,

Defendant.

AMENDED COMPLAINT

Plaintiffs, Raydient LLC (d/b/a Raydient Places + Properties LLC) (“Raydient”) and Rayonier Inc. (“Rayonier”) (collectively, “Plaintiffs”), sue Defendant, Nassau County, Florida (“County”), for violations of Florida’s Public Records Act under Chapter 119, Florida Statutes, and violations of Florida’s Government in the Sunshine Law under Chapter 286, Florida Statutes, and in support thereof, state as follows:

Introduction

1. This action centers around the County’s flagrant and repeated violations of Florida’s Public Records Act and Florida’s Government in the Sunshine Law, and seeks, among other things, declaratory, mandamus, and injunctive relief, the immediate production of all responsive public records, the recovery of any deleted public records, and an award of Plaintiffs’ attorneys’ fees and costs in prosecuting this action.

2. As set forth below, various County Commissioners and County staff, along with Michael Mullin (“Mullin”) who serves in the dual role as County Attorney and County Manager, have routinely used text messages as a covert way of communicating with each other regarding County business, and as it pertains to this case, to coordinate the County’s efforts to try to pressure Plaintiffs to provide additional public funding. On October 12, 2018, Plaintiffs made a public record request regarding a variety of topics relating to Plaintiffs’ development efforts in connection with approximately 24,000 acres located within Nassau County.

3. Plaintiffs, who were previously aware that County officials routinely engaged in text communications regarding County business, sought communications (including, specifically, text messages) from Mullin, County Commissioners, and County staff relating to a variety of topics as set forth in detail in Plaintiffs’ request. The County failed to produce any text messages, and then, when Plaintiffs pressed the County further about the missing documents, Mullin directed his staff to falsely respond that the County was *“not aware of any text messages.”* When Plaintiffs challenged the veracity of that assertion and squarely asked the County if it had searched for the requested text messages, Mullin directed his staff to state that the County stood by its initial response – without answering the Plaintiffs’ question.

4. Early discovery efforts in this case (including depositions of current and former County employees and the use of third party subpoenas) have uncovered that hundreds of text messages responsive to Plaintiffs’ public records request in fact existed, but that the County made the decision not to produce any of them to Plaintiffs. Instead, the County deleted the text messages or lied about their existence in direct violation of Florida law.

5. The County’s former Office of Management and Budget Director, Justin Stankiewicz (“Stankiewicz”), provided sworn testimony that Mullin directed him to delete text

messages responsive to Plaintiffs' public records request, and shortly after Stankiewicz refused to obey that order, Mullin fired him. Stankiewicz further testified that Mullin told him that Mullin had already deleted text messages responsive to the public records request on his own phone and planned to tell other County Commissioners and employees who were included on the group texts to delete their text messages as well. As it turned out, neither Mullin nor any of the County Commissioners have produced any text messages from their own phones, despite these individuals having extensive group text discussions that were responsive to Plaintiffs' public records request.

6. After Mullin fired Stankiewicz, Stankiewicz filed an employee grievance and attached more than thirty (30) pages of individual and group text messages between himself, Mullin, County Commissioners, and other County employees that were responsive to Plaintiffs' public records request, but were never produced by the County.

7. In addition to the blatant violations of the Florida Public Records Act and the intentional deletion of text messages, the County also engaged in numerous violations of Florida's Government in the Sunshine Law. In February 2018, all five sitting County Commissioners made multiple trips together to Tallahassee (along with Mullin and other County employees) in an attempt to defeat an amendment to a state sector plan statute which the County believed would be helpful to landowners and developers like Plaintiffs. The County Commissioners stayed together at the same hotel in Tallahassee for multiple days, having meals together and meeting after hours for drinks. While in Tallahassee, the County Commissioners met privately outside of the Sunshine and discussed (both in person and through text messages) how they could exact revenge on Plaintiffs for having supported the legislative amendment, including plans to launch negative media campaigns that spread false statements about Plaintiffs, suspending Plaintiffs' development approvals, and specifically targeting Plaintiffs' property for increased taxes. Mullin and the

County Commissioners then intentionally concealed these communications from public view and attempted to delete any traces of their existence.

8. The County, at Mullin's direction, also hired a public relations firm using taxpayer dollars to assist in the smear campaign efforts through local and social media, and secretly coordinated those efforts through the use of text messages and private email accounts. Prior to the initiation of this lawsuit, the County failed to produce any text messages regarding its negative public relations efforts attacking Raydient.

Parties, Jurisdiction, and Venue

9. Plaintiff, Raydient LLC (d/b/a Raydient Places + Properties LLC), is a Delaware limited liability company with its principal place of business in Wildlight, Florida.

10. Plaintiff, Rayonier Inc., is a North Carolina corporation with its principal place of business in Wildlight, Florida.

11. This Court has jurisdiction over this action pursuant to Sections 26.012 and 86.011, Florida Statutes.

12. Venue is appropriate in this County pursuant to Section 47.011, Florida Statutes.

GENERAL ALLEGATIONS

The Public Records Request and the County's Failure to Produce Any of the Responsive Text Messages

13. On October 12, 2018, Plaintiffs, through their undersigned counsel, submitted a public records request to Nassau County, a copy of which request is attached as **Exhibit 1**.

14. The public records request called for a variety of "documents" and correspondence" relating to, among other topics, the East Nassau Community Planning Area ("ENCPA"), the Stewardship District Legislation, House Bill 1075, House Bill 697, and various correspondence

sent or received by County officials and other County employees relating to the matters outlined in the public records request.

15. These topics are directly related to Plaintiffs' development and approval efforts concerning approximately 24,000 acres of land that are largely owned by Rayonier-related entities in Nassau County.

16. The County officials and County employees specifically named in the public records request that were believed to have sent or received correspondence relating to the topics identified in the public records request include County Attorney/County Manager Michael Mullin, County Commissioner Pat Edwards, County Commissioner Justin Taylor, County Commissioner Daniel Leeper, County Commissioner Stephen Kelley, County Commissioner George Spicer, Shanea Jones, Justin Stankiewicz, Taco Pope, Doug McDowell, Peter King, Scott Herring, and Becky Bray.

17. The terms "documents" and "correspondence" were specifically defined on the first and second pages of the public records request under the heading "Definitions and Scope." Specifically, the term "**correspondence**" was defined as follows:

For purposes of this request, the term "**correspondence**" means any writing of any kind, including but not limited to, letters, electronic mail, text messages, facsimiles, memoranda, or records of any telephone conversation or other communications. To the extent any County employee or County Commissioner uses or has used any personal telecommunications device (cell phone, smart phone, laptop, personal computer, I-pad, etc.) to communicate regarding any County-related business, regardless of whether such device is owned by that individual, his or her family member, his or her business, the County, or by some other third party, all such communications are included within the aforementioned definition of "correspondence."

(emphasis in original).

18. Plaintiffs explicitly sought, in both the individual categories of documents requested and the “Definitions and Scope” section, all text messages and other documents that may have been communicated from any personal or County-issued telecommunications device regarding any County-related business.

19. On October 25, 2018, the County advised that the public records request had been completed “*with the exception of emails*,” which were being reviewed by Mullin for privilege. The County advised that the revised costs for the responsive documents, including the emails, would be \$391.03.

20. On October 26, 2018 the County produced its documents responsive to the public records request. Notably, the County produced no text messages in its document production.

**Mullin Ordered the Deletion of Text Messages
Responsive to Plaintiffs’ Public Records Request and Confirmed that He
Already Deleted Similar Messages from His Phone**

21. Former County Office of Management and Budget Director, Justin Stankiewicz (“Stankiewicz”), testified that on November 6, 2018, shortly after returning from vacation, he told Mullin that he had extensive text messages on his phone that were responsive to Plaintiffs’ public records request. Stankiewicz indicated that these messages included many group text messages between Mullin and several County Commissioners regarding Raydient and the ENCPA.

22. Susan Gilbert (“Gilbert”) is Mullin’s assistant and was present during the beginning of that November 6 meeting. Gilbert, who elected to retain her own separate counsel for her deposition, testified that Stankiewicz’s account of that meeting was accurate and that Stankiewicz had, in fact, told Mullin on November 6 that he had extensive text messages on his phone relevant

to Plaintiffs' public records request. During that meeting, Gilbert stated that Mullin then tried to draw a distinction between a "text message" and a "public record."¹

23. At that point, Gilbert asked to be excused from the meeting and testified that she was "frustrated" because she *"felt all text messages needed to be turned over so that the County Attorney's office could review them and determine which texts – which were public record and which were not. I did not feel that was the path that was being taken by anyone and so that frustrated me."*

24. After Gilbert excused herself from the meeting on November 6, Stankiewicz testified that Mullin directed him to delete the text messages on his phone. Mullin confirmed he had already deleted such text messages on his phone, and would encourage other County employees to do the same:

Q. And when you told him that you had these responsive text messages, what did he say?

A. He told me that I needed to delete them because they weren't something I needed to be keeping and he felt the email responses were sufficient to give Gunster what they were looking for in their request.

Q. What did you say to him in response to that?

A. I said, even if I deleted these, you know, that there's other people such as commissioners, and I named three commissioners that would have them, Shanea Jones, who was a previous county manager. I also mentioned Kristi Dosh, who was a public relations consultant that the county [hired] during an issue with a House bill and Senate bill that was being discussed in Tallahassee in February of 2018.

¹ Irrespective of any distinction Mullin was trying to draw, Florida law provides that it is not the *method* of the communication but the *content* of the communication that determines whether a document constitutes a public record. The same rules that apply to the preservation and retention of e-mail apply similarly to text messages. *See Inf. Op. to Browning*, March 17, 2010, discussed *infra*.

And so I told him that even if I deleted these, these records still exist elsewhere. And he said, that's okay. We'll just tell everybody to – who has them just not to – he said that, **We'll tell those people that have them just to delete them, because I already deleted mine, and so we don't need to keep them anymore.**

25. Stankiewicz testified he adamantly refused to delete any text messages and told Mullin that, as his boss, Mullin could do what he wanted to do, but that he was not going to do anything illegal.

26. According to Gilbert's testimony, Mullin admitted to her that he maintains a setting on his iPhone where all text messages he sends and receives, including any texts regarding County business, are deleted after 30 days.

27. Gilbert further testified that the County had five (5) to eight (8) meetings to discuss Plaintiffs' public records request. According to Gilbert, Mullin claimed that he had no responsive text messages that he would consider to be a "public record":

Q. Did Mr. Mullin indicate at that meeting that he had – may have had responsive text messages, but that his phone was set up in a certain way to delete text messages?

A. **No. His contention has always been that everything that was on his phone was not public record, none of it, even the deleted ones.**

Stankiewicz Immediately Told Other County Employees and Family Members That Mullin Directed Him to Delete Text Messages

28. Immediately after the meeting ended on November 6, Stankiewicz walked over and told his fellow County employees, Megan Sawyer ("Sawyer") and Sabrina Robertson ("Robertson"), what had just happened in Mullin's office and that Mullin had directed him to delete text messages. Sawyer testified in her deposition:

A. Well, Justin came back to the office one day and told me that he had told Mr. Mullin that he had some text messages that he thought would've been responsive to the request, and that he had read some of them off of his

phone, and that Mr. Mullin told him, *"Well, those wouldn't be considered a public record and I've already deleted mine, so you can – you need to delete those."*

Q. That's what Mr. Stankiewicz told you?

A. Yes.

Q. And did Mr. Stankiewicz tell you that the same day as his meeting with Mr. Mullin?

A. Yes. I mean, he came from over there and straight into my office and told me.

29. In addition to fellow employees, Sawyer and Robertson, Shanea Jones (former County Manager) also confirmed in her deposition that Stankiewicz told her the same day on November 6 that Mullin had directed him to delete text messages and that Mullin had told Stankiewicz he had already deleted similar text messages from his cell phone.

30. Stankiewicz also confirmed in deposition that while he was still employed at the County, he told other County employees, Tina Keiter and Chris LaCambra, that Mullin had directed him to delete text messages. Stankiewicz also relayed the same series of events involving Mullin to numerous family members.

Despite Mullin Having Personally Sent and Received Text Messages Regarding Raydient and the ENCPA, and Despite Stankiewicz Having Told Mullin Nine (9) Days Earlier About Extensive Text Messages He Had in His Possession Relative to Plaintiffs' Request, Mullin Directed His Staff to Falsely Respond to Plaintiffs that the County was "Not Aware of any Text Messages"

31. On November 8, 2018, the County produced supplemental documents, including emails that the County had reviewed for privilege and personal information. Again, the County produced *no text messages* in its supplemental production.

32. On November 15, 2018, after reviewing the limited documents the County produced, Plaintiffs' counsel sent a letter to the County and stated:

We have reviewed the documents the County produced to our office in response to our October 12, 2018 public records request. *However, it appears that none of the requested text messages were produced by the County. We know that such text messages exist and request they be produced to us as soon as possible.* A copy of our prior public records request is attached for your convenience. Please advise when we can expect these responsive documents to be made available for pickup.

(emphasis added). A copy of Plaintiffs' November 15 letter to the County is attached as **Exhibit 2**.

33. Later that same afternoon on November 15, 2018 – just nine (9) days after his meeting with Stankiewicz – Mullin directed his staff to respond with a short, one-sentence e-mail stating, *"We are not aware of any text messages."* A copy of the County's November 15 email response is attached as **Exhibit 3**.

34. Sawyer, who was the County's public records coordinator at the time, and the County employee who sent the response, confirmed that Mullin is the one who directed how the County would respond to the letter from Plaintiffs' counsel:

Q. So you sent [the November 15 letter] to Mr. Mullin, and what did you hear next about what to do in response to this letter?

A. I received a phone call from Susan Gilbert in his office, who told me she was directed to let me know – to respond to the following [letter] that you see right there on November 15th, that we're not aware of any text messages.

* * *

Q. Susan Gilbert told you that Mr. Mullin had directed her to tell you to respond and say, *"We are not aware of any text messages."*

A. That's correct.

35. Gilbert, who is Mullin's assistant, also confirmed in her deposition that Mullin directed the County's response, *"We are not aware of any text messages,"* and that he was

responsible for directing all other County responses to Plaintiffs' inquiries regarding its public records request.

36. The following day, November 16, 2018, Plaintiffs' counsel sent a follow-up email to Mullin and Sawyer inquiring further about the County's failure to produce *any* text messages, and questioned the County's assertion that it was "*not aware of any text messages.*" As Plaintiffs knew County officials routinely used their cell phones to send text messages regarding County business, Plaintiffs' counsel inquired whether the County had adequately searched for the requested text messages. A copy of Plaintiffs' November 16 email is included within the email exchange in Exhibit 3 and is reproduced below:

Dear Megan and Mike:

In response to our inquiry yesterday about the failure of the County to produce any text messages in response to our public records request, the County responded that it is "*not aware of any text messages.*" We find that difficult to believe given that County officials have routinely used their cell phones to send text messages regarding the very subject matter that is the scope of our public records request. **Has the County conducted any searches of any personal telecommunications device belonging to any County employee or County Commissioner?**

Regardless, if County employees and commissioners were using a personal, business, or government cell phone, any communications regarding County-related business are squarely within the scope of our public records request. We tried to make that clear in our request by underlining those types of communications in our definition of "correspondence" in Paragraph 2 of the "Definition and Scope" section, and we expect those communications to be produced. Please let us know when we can expect to receive those responsive documents. Thank you.

(emphasis in original).

37. Four days later on November 20, 2018, the County, once again at Mullin's direction, provided an evasive response in which it refused to acknowledge whether it had conducted a

search for the requested text messages, and simply stated, “*The County has responded to the public records dated October 12, 2018 as set forth in our responses previously sent.*” See Exhibit 3.

38. Rather than respond directly to the email himself, Mullin provided his staff with the specific language he wanted them to include in the response to Plaintiffs’ counsel. Mullin did so in a peculiar way to avoid appearing he was the one directing the response. Sawyer testified:

A. I can tell you that I remember at some point Susan [Gilbert, Mullin’s assistant] walking over to me, what looked like, an email that she was drafting to me, where she had this response “*The County has responded to the public records request,*” my response to Gunster on November 20th. Susan walked over to me this on an email format like she was drafting an email to me. But she didn’t send it, she just printed it out and brought it to me and said, “This is how Mr. Mullin said to respond.”

Q. Okay. And you did that? That’s how you responded on November 20th, 2018 at 2:27 p.m.

A. Yes, sir.

* * *

Q. And Susan told you Mr. Mullin wanted it sent that way?

A. Yes, sir.

39. Gilbert testified similar to Sawyer that this additional response by the County was also made at Mullin’s direction.

40. Plaintiffs gave the County multiple opportunities to search for and produce the requested text messages, but the County, at Mullin’s direction, not only chose to repeatedly dodge the Plaintiffs’ direct inquiries about the existence of the text messages, and the efforts (if any) the County had undertaken to search for the requested text messages, but Mullin flatly misrepresented that the County was “*not aware of any text messages.*”

41. Mullin’s response lacks any credibility given that he was included on, and personally participated in extensive group text messages with County Commissioners and others

regarding Raydient, the ENCPA, and other matters responsive to the records request. In addition – just nine days earlier – Mullin had been confronted by Stankiewicz who confirmed he had numerous text messages relating to Raydient, and that Mullin directed Stankiewicz to delete such text messages.

42. At the direction of its own County Attorney and County Manager, the County provided implausible and false explanations regarding the lack of text messages provided in response to the public records request, and engaged in a pattern of illegal actions to conceal and destroy public records that constitute blatant violations of Chapter 119, Florida Statutes.

After Stankiewicz Refused to Delete Text Messages Responsive to Plaintiffs' Public Records Request, Mullin Fired Him

43. The following month after Mullin had directed Stankiewicz to delete text messages off his phone (which Stankiewicz adamantly refused to do), Mullin fired him.

44. On January 7, 2019, Stankiewicz filed an employee grievance relating to the events surrounding Plaintiffs' public records request and Mullin's direction that he delete text messages off of his phone regarding Raydient and the ENCPA. Stankiewicz wrote to Mullin and stated:

[O]n November 6, 2018, Taco Pope, Susan Gilbert and I met at 2:00 pm with you for the intent to discuss the Enclave and Summer Beach trail walkover issue; *however, the discussion was solely about the public records request that was submitted by Gunster Law Firm, Raydient/Rayonier's legal firm, which in addition to other things, specifically asked for text messages relating to county business that had been sent on personal phones.* During this meeting is when I disclosed that I had messages related to this request on my personal phone and stated that you, Taco, at least 3 of the Commissioners and Shanea Jones would also have messages as many of them were group messages. *You directed me to delete these messages, which is a direct violation of Chapter 119, Florida Statutes. Furthermore, you stated that you have already deleted your text messages* which in addition to a violation of law, is a violation of Section 2.01, Code of Conduct of the Employee Policy and Procedures Manual. After understanding the magnitude and unethical conduct of what you were directing, Susan Gilbert, asked to excuse herself from the meeting stating that she "did not want to be part of this meeting."

With you and Taco still in the room, I asked multiple times for you to confirm that you were directing me to delete text messages that are public record to which you affirmed. Immediately following this meeting, I expressed verbally my concern of violating Chapter 119 of Florida law to Taco Pope, Megan Sawyer and Sabrina Robertson. Additionally, I later express[ed] this same concern to Tina Keiter and Chris Lacambra.

After this November 6, 2018 meeting, your behavior and attitude towards me changed. I was not included in any other meetings or conversations regarding the response to Gunster's public records request, you did not obtain the messages that I told you that I had in response to Gunster's request and I was not copied on the county's response to Gunster. ***I was told by staff that you reported to Gunster that no text messages exist and that Gunster asked you again for the messages.***

...

To conclude, I feel that I was singled out in retaliation of expressing and refusing to delete public records at your direction. ***I have identified over 150 individual and group text messages between a combination of you, Commissioner Edwards, Commissioner Taylor, Commissioner Leeper, Shanea Jones, Kristi Dosh, Taco Pope, and myself that should have been turned over in response to Raydient/Rayonier's public record request.***

(emphasis added). A copy of Stankiewicz's employee grievance to Mullin (without attachments) is attached as **Exhibit 4**.

45. In support of his claim, Stankiewicz attached to his grievance more than thirty (30) pages of individual and group text messages between himself, Mullin, County Commissioners, and other County employees that were responsive to Plaintiffs' public records request, but which the County never produced.

46. Although numerous County employees, Commissioners, and Mullin had regularly sent and received text messages responsive to Plaintiffs' request, not one text message was produced by the County. Instead, Mullin falsely asserted that the County was "*not aware of any text messages.*" Even after Stankiewicz filed his employee grievance on January 7, 2019 attaching

more than 30 pages of text messages (which the County should have already had in their possession), the County still did not produce any of these text messages to Plaintiffs.

47. On February 6, 2019, Plaintiffs filed their Complaint in this action and attached a copy of the text messages which had been made available through recent media reports regarding Stankiewicz's employee grievance. In a desperate attempt to try to give the appearance the County was belatedly complying with Plaintiffs' public records request, the County sent an email to Plaintiffs the day *after* Plaintiffs filed their Complaint and stated the County was now producing copies of text messages responsive to Plaintiffs' request that the County had received from "an outside source."

48. The supplemental documents produced by the County on February 7 were the exact same documents already attached to Plaintiffs' Complaint a day earlier, and were simply a copy of the same documents Stankiewicz filed with the County as part of his grievance. Not only should the County already have had these text messages since they contained communications involving Mullin and various County Commissioners, but Stankiewicz confronted Mullin about the text messages at their November 6 meeting, after which the County then falsely asserted to Plaintiffs nine days later on November 15 that it was "not aware of any text messages."

49. When news of Plaintiffs' lawsuit ran in a local newspaper on February 13, 2019, Mullin made misleading public statements to the *Fernandina Beach News Leader* as to the timing of when the County forwarded the text messages received from Stankiewicz. Mullin stated, "*When we got those documents he sent us, we sent those to (Gunster).*" Mullin conveniently left out the fact that the County sat on the text messages from Stankiewicz for a full month until a public scandal eventually broke out, and then only produced the text messages *after* Plaintiffs had already filed this lawsuit. Mullin also inaccurately told the *News Leader*, "*Text messages and public*

records are two different things,” and tried to suggest that text messages he or the Commissioners sent in Tallahassee were about lunch plans or personal greetings and had nothing to do with Raydient. Additional evidence uncovered by Plaintiffs proved that Mullin’s suggestion to the media was patently false. A copy of the February 13, 2019 *News Leader* article is attached as **Exhibit 5.**

Plaintiffs Uncover Additional Responsive and Previously Unproduced Text Messages Through a Subpoena of Former County Manager, Shanea Jones

50. After Plaintiffs filed their lawsuit, and concerned that many responsive text messages involving County Commissioners, Mullin, and other County officials had still not been produced, Plaintiffs served a subpoena to former County Manager, Shanea Jones (“Jones”). In response to the subpoena, Jones produced approximately **150 pages** of text messages responsive to Plaintiffs’ records request. Multiple County Commissioners and Mullin were included on a majority of these text messages, further demonstrating that there was no legal justification as to why the County did not produce the responsive text messages in the first place.

51. Jones confirmed that, despite the fact she was specifically identified as one of the individuals on Plaintiffs’ public records request whose communications (including text messages) were being sought, the County never initially contacted her while it was processing Plaintiffs’ public records request to see if she may have any responsive information.

52. In fact, according to Gilbert’s testimony (Mullin’s assistant), during one of the five (5) to eight (8) meetings the County held to discuss how to respond to Plaintiffs’ public records request, there was a suggestion that the County should send an email to Jones providing her with a copy of Plaintiffs’ public records request and asking if she had any responsive documents. However, Gilbert testified that Mr. Mullin specifically told her to “hold off” on contacting Jones.

It was not until after Stankiewicz filed his employee grievance with the County that the County eventually contacted Jones.

53. Similarly, Gilbert testified that she was originally instructed to schedule each commissioner to come in individually and meet with Mullin to discuss Plaintiffs' public record request; however, she did not end up doing so because *"Mr. Mullin indicated that he would get with them on his own"* and *"that it wasn't anything that I needed to handle."* Gilbert further testified that she has no idea whether Mullin ended up meeting with the Commissioners one-on-one. Given testimony from the former County Manager, there is some uncertainty as to how much accurate information Mullin passed along to the rest of the Commissioners.

**County Attorney Mullin Frequently Provided Misleading Information
to the Board of County Commissioners**

54. Jones testified in deposition that while serving as County Manager, Mullin often provided inaccurate and misleading information to the Board of County Commissioners, and stated, *"I honestly don't know from even my years there, how much accurate information they got about the staff meetings with the Raydient people."* She further testified:

Q. Are you stating that you're not sure that it was relayed to the commissioners the accurate discussions that were going on regarding Raydient?

A. Yes.

Q. And who would have been responsible for relaying that information to the commissioners?

A. Mike Mullin.

Q. So you don't believe that Mr. Mullin was accurately relaying those messages to the County Commissioners?

A. I know he wasn't.

Q. Why do you say that?

A. Because I was in all of those meetings that he was in.

* * *

Q. Was he misrepresenting the substance of discussions that staff was having about Raydient to the commissioners?

A. I think he was misrepresenting staff's agreement with him.

Q. Okay. So there would be instances where staff did not agree with the position Mullin was taking.

A. Correct.

Q. -- but Mullin would then represent to the commissioners that, staff is in agreement with my position on this item?

A. Yes, and he would do it in like a board meeting where you're not going to stop the meeting and say, hold on, that's not true.

Q. Can you give me some examples of when that may have occurred? What type of issues, as it pertains to the ENCPA and Raydient?

A. For instance, he said publicly many times that the Stewardship District is responsible for financing the public facilities. We told him numerous times, and I told commissioners separately numerous times that I didn't agree with that. The Stewardship District is a financing mechanism. It's not responsible. It just has the ability to generate funds. That's just one example. But it's just things like that.

Q. And so for an instance like that, would he then tell the commissioners, no, the Stewardship District has the responsibility to fund these --

A. Yes.

Q. --items?

A. (Nods head).

Q. And would that be regarding public infrastructure, parks and recreation within the ENCPA?

A. Yes.

Q. Okay. So you had a different viewpoint than Mr. Mullin did on that?

A. Yes.

Q. Did other staff members share the same view that you had?

A. Yes.

* * *

Q. Was it common for Mr. Mullin to misrepresent things and be less than truthful to the County Commissioners about the true state of affairs?

A. Yes.

55. Despite Mullin's lack of candor to the Board of County Commissioners, the Board nevertheless appointed Mullin to serve in the dual role as County Attorney *and* County Manager, where he is reportedly being paid more than \$300,000 per year with benefits.

The County Commissioners and Mullin Met Privately in Tallahassee "Outside of the Sunshine" and Discussed (Both In Person and Through Text Messages) How the County Could Try to Pressure and Negatively Impact Raydient

56. After reviewing the withheld text messages and deposing some current and former County employees, it is apparent why Mullin and the County went to such extremes in trying to conceal and destroy public records directly responsive to Plaintiffs' public records request. Many of the responsive text messages that Plaintiffs later obtained revealed coordinated and covert efforts by multiple County Commissioners, Mullin, and others – outside of the Sunshine – to try to negatively impact and pressure Raydient.

57. Starting in February 2018, all five then-sitting County Commissioners made multiple trips together to Tallahassee (along with Mullin, Jones, and other County employees) in an attempt to defeat a proposed amendment to a state sector plan statute which the County believed would benefit landowners and developers like Plaintiffs. The County Commissioners stayed together at the same hotel in Tallahassee for multiple days, having breakfast, lunch, and dinner together, and then reconvening for drinks later in the evening.

58. While in Tallahassee, the County Commissioners met together outside of the Sunshine and discussed how they could exact revenge on Plaintiffs for having supported the

legislative amendment, including plans to launch negative media campaigns, suspending development approvals, and enacting ordinances to target Plaintiffs' property for increased taxes.

59. In one group text message exchange on February 15, 2018, between County Attorney Mullin, Commissioner Edwards, Stankiewicz, Taco Pope, and Jones, Commissioner Edwards wrote: *"Whatever roadblocks, we can legally legislate which will bring about the original agreed-upon outcome, and anything to slow them down and increase their overhead is needed ... "We should use our Facebook and other social media to get our spin on this up and running."* Mullin responded to Commissioner Edwards' text with an emoji to express his approval. A copy of this February 15, 2018 text is attached as **Exhibit 6**.

60. During her deposition, Jones explained that Commissioner Edwards' texts were consistent with the types of private conversations the commissioners were having with each other in Tallahassee where they discussed various ways the County could try to pressure and harm Raydient. When asked to provide more context, Jones stated: *"this is part of the same conversations down in Tallahassee when they were directing us to get staff to make the fliers and to create the stories, and then -- that's when, at some point, around -- a little shortly after that is when Mr. Mullin sent the email that he was hiring Kristi Dosh as a PR person, stuff like that."*

61. On March 6, 2018, while the Commissioners were still privately plotting how they could pressure and punish Raydient, Commissioner Edwards texted Jones, and stated: *"Good afternoon, please, when possible, send me all the ways we can affect Raydient negatively such as remove the TIF, MSTU for recreation. Hold up any and all permits. Anything! Thanks."* A copy of this March 6, 2018 text is attached as **Exhibit 7**.

62. Jones provided further background and explained, *"that was just coming off the few weeks in Tallahassee, and they were angry with Raydient. And it just goes along with all the other*

texts and other conversations that had been going on at the time.” Ms. Jones testified that while in Tallahassee, the Commissioners had private discussions concerning the ongoing dispute with Raydient regarding recreation and funding of public facilities, including revoking a tax increment financing (TIF) agreement, opposing a bond issue, and establishing a targeted municipal services taxing unit (MSTU) over Raydient’s property.

63. Around the same time, other Commissioners sent texts discussing plans to negatively affect Raydient. On February 26, 2018, Commissioner Danny Leeper sent a group text to Mullin, Stankiewicz and Jones, stating “*We need a full-page ad with three photographs, a big X across the ball field, another X across the park, and another one saying, **what is the next broken promise from Raydient?***” A copy of this February 26, 2018 text is attached as **Exhibit 8**.

64. In a separate concealed group text message also dated February 26, 2018 between Commissioner Leeper, Commissioner Edwards, Commissioner Taylor, Mullin, and others, Commissioner Leeper commented on a recent article discussing conflict of interest issues raised by Raydient against Mullin (given that Mullin formerly represented Raydient on ENCPA matters). Commissioner Leeper wrote, “*What would happen if we denied a conflict? I say let them spend their money.*” Mullin then responded, “*We may do that. I guess I am off the Easter dinner list.*” Despite these communications, Commissioner Leeper did not produce a single text message in response to Raydient’s public records request.² A copy of this February 26, 2018 text is attached as **Exhibit 9**.

² Commissioner Leeper, who represents Nassau County District 1, has also been the subject of recent scrutiny regarding whether he is lawfully serving as a County Commissioner given allegations that he does not live in District 1, but rather lives and maintains a homestead exemption in District 2.

65. In a February 23, 2018 group text between multiple County Commissioners and Mullin, Commissioner Justin Taylor responded to an article published by Raydient and asked the group, *“Should we post a screenshot of the language from [House Bill] 1075 next to the proposed language from the bill we’re fighting with a statement that we just want developers to honor their promises to the tax payers?”* A copy of this February 23, 2018 text is attached as **Exhibit 10**.

66. Although Commissioner Taylor was clearly having group text message exchanges with Mullin and other Commissioners regarding Raydient, Commissioner Taylor did not produce a single text in response to Plaintiffs’ public records request. Around the same time local media reports began to surface regarding Stankiewicz’s allegations about Mullin’s directive to delete text messages, one local citizen contacted Commissioner Taylor and asked him why he did not produce any text messages responsive to Raydient’s public records request. Commissioner Taylor responded by admitting that he had already deleted those text messages from his cell phone.

67. Not only did Commissioner Edwards criticize Raydient, but he also took aim at others who he deemed were not helping the County disparage Raydient. In a March 16, 2018 text exchange between Commissioner Edwards, Mullin, and Jones, Commissioner Edwards harshly criticized Laura DiBella, the Executive Director of the Nassau County Economic Development Board. Ms. DiBella had sent a letter merely suggesting that Raydient and the County should come together to try to work out their differences. Commissioner Edwards was angry with Ms. DiBella because he perceived her letter would somehow benefit Raydient publicly, and texted:

Good morning, in reading Laura’s email I have to ask the question, is her job to support Rayonier/Raydient instead of Nassau County? Why would anyone expect a newspaper or paid blogger provide this letter except to strengthen our partners position against us. She has the management skills of a Pig!

Mullin responded to Commissioner Edwards' text with an emoji expressing his approval. A copy of this March 16, 2018 text is attached as **Exhibit 11**.

Mullin Hired a Public Relations Firm to Plant Negative and Misleading Stories about Raydient

68. Around the same time the Commissioners were holding private meetings together in Tallahassee, Mullin made the decision to hire Kristi Dosh ("Dosh"), a public relations consultant, to help mount a public relations smear campaign against Raydient. Mullin was responsible for hiring Dosh, negotiated her compensation, and used taxpayer dollars to pay her fees.

69. The goal of the public relations campaign was to try to portray Raydient in a negative public light in the hopes of pressuring (or extorting) Raydient to provide recreation and public facilities funding within the ENCPA well beyond the County's park and recreation standards and proportionate fair share requirements that are applicable to Raydient and all County residential developers and builders.

70. Jones testified that when the Commissioners met privately together in Tallahassee, Mullin would spend a significant amount of time on the phone with various media outlets planting negative stories about Raydient. As discussed above, many of the conversations and text exchanges among the County Commissioners around that time focused on exchanging ideas to further the County's media blitz against Raydient in the hopes of publicly pressuring Raydient to exact more funding.

71. Jones, who was Mullin's predecessor as County Manager and worked for the Board of County Commissioners for more than 12 years, testified that this was the only time she could ever recall where the County hired a public relations firm for a County matter.

72. As to communications with Dosh and others involved in the public relations efforts, Mullin was very careful in how he conveyed information, preferring to communicate either by text

messages or through *private* email. On February 25, 2018, the same time the Commissioners and Mullin were meeting privately in Tallahassee, Mullin sent the following text message to Jones: “*Afternoon. If u have a chance, can you ck ur private e mail from christy?*” Jones confirmed in deposition that Mullin had specifically directed Dosh to send emails to Jones’ *private* email account. Mullin would then send text notifications to Jones to alert her to check her private email account. A copy of this February 25, 2018 text is attached as **Exhibit 12**.

73. To further advance the public relations efforts, Mullin also used the services of Theresa Prince (“Prince”), a local attorney with whom Mullin is closely acquainted. Jones testified that Prince and Dosh worked together on the public relations issues, all at Mullin’s direction.

74. In one group text exchange between Commissioner Taylor, Commissioner Edwards, Commissioner Leeper and Mullin, after an article was published regarding the County’s dispute with Raydient, Mullin sent a text stating, “*I will crank up [our] p r person.*” All three commissioners replied to Mullin’s text expressing their support and approval. A copy of this March 2, 2018 text is attached as **Exhibit 13**.

75. Despite extensive text exchanges between Mullin, Dosh, Prince, and other County staff regarding the County’s public relations smear campaign against Raydient, the County did not produce any of these text messages before the initiation of this lawsuit.

76. The documents requested by Plaintiffs are public records which are required to be made available for inspection and copying and are not exempt or claimed to be exempt by any statute.

77. While the County still has not produced any text messages that originated from the cell phones of Mullin, any of the County Commissioners, or any current employee at the County, it

seems highly probable that other text messages exist (if not already deleted or destroyed) that are responsive to Plaintiffs' public records request.

78. Plaintiffs have retained the undersigned counsel and have incurred attorneys' fees and costs in bringing this suit.

79. All conditions precedent to this suit have been satisfied or have been waived.

COUNT I
WRIT OF MANDAMUS TO REQUIRE PRODUCTION OF PUBLIC RECORDS

80. Plaintiffs re-allege and incorporate the allegations contained in paragraphs 1 through 79 as if fully set forth herein.

81. Section 119.011(12) defines public records as "all documents, papers . . . books, tapes . . . or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency."

82. The Florida Attorney General's Government in the Sunshine Manual provides with respect to text messages:

In Inf. Op. to Browning, March 17, 2010, the Attorney General's Office advised the Department of State (which is statutorily charged with development of public records retention schedules) that the "same rules that apply to e-mail should be considered for **electronic communications** including Blackberry PINS, SMS communications (**text messaging**), MMS communications (multimedia content), and instant messaging conducted by government agencies."

In response, the Department revised the records retention schedule to recognize that retention periods for text messages and other electronic messages or communications "are determined by the content, nature, and purpose of the records, and are set based on their legal, fiscal, administrative, and historical values, regardless of the format in which they reside or the method by which they are transmitted." Stated another way, it is the content of the electronic communication that determines how long it is retained, not the technology that issued to send the message. See General Records Schedule GS1-SL for State and Local Government Agencies, Electronic Communications, available online at <http://dlis.dos.state.fl.us>.

(emphasis added).

83. Section 119.07(1)(a), Florida Statutes, provides: “Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.”

84. Article I, Section 24(a) of the Florida Constitution also provides: “Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer or employee of the state, or persons acting on their behalf ...”

85. The County, through its employees and elected officials, has made or received public records responsive to Plaintiffs’ public records request that, upon information and belief, remain in the custody or control of the County that have not been produced and have been unlawfully withheld.

86. The County, upon information and belief, has not conducted an adequate search to locate the records requested. Specifically, the County, upon information and belief, has not demanded that the County employees and elected officials who are specifically named in the public records request produce to the County’s information technology technicians or records specialist copies of all text messages on their cell phones that are responsive to Plaintiffs’ public records request.

87. The failure of the County to conduct an adequate search for all of the requested records and to produce the requested records for inspection and copying constitutes a nondiscretionary refusal to produce public records that violates section 119.07, Florida Statutes, and Article I, Section 24, Florida Constitution.

WHEREFORE, Plaintiff respectfully requests that this Court enter an order:

(a) Directing the County to immediately conduct a search for records responsive to Plaintiffs' public records request, including specifically a search for responsive text messages and searches of the cell phones of all individuals who have been specifically named in the October 12, 2018 public records request;

(b) Directing the County by writ of mandamus or otherwise, to immediately produce to Plaintiffs all of the records requested that have not already been produced;

(c) Directing the County, at the County's expense, to authorize any third parties (including any cell phone carriers) to recover any responsive records, including text messages, that may have been deleted;

(d) Directing the County, at the County's expense, to have the County officials and employees named in the October 12, 2018 public records request to produce all electronic devices within their possession, custody, or control for forensic examination on parameters to be approved and under the supervision of the Court for purposes of determining when and to what extent responsive records may have been deleted from such devices;

(e) Awarding Plaintiffs their costs and attorneys' fees incurred in prosecuting this action pursuant to Section 119.12, Florida Statutes; and

(f) Awarding such other and further relief as the Court deems just and appropriate.

COUNT II
DECLARATORY JUDGMENT – VIOLATION OF PUBLIC RECORDS LAW

88. Plaintiffs re-allege and incorporate the allegations contained in paragraphs 1 through 79 as if fully set forth herein.

89. Section 119.021, Florida Statutes, provides:

(2)(a) The Division of Library and Information Services of the Department of State shall adopt rules to establish retention schedules and a disposal process for public records.

(b) Each agency shall comply with the rules establishing retention schedules and disposal processes for public records which are adopted by the records and information management program of the division.

90. The Florida Division of Library and Information Services has promulgated a General Records Schedule specifying the manner in which public records must be kept. The General Records Schedule is intended for use by public records custodians of state and local governments.

91. With respect to electronic records, the General Records Schedule provides:

Records retention schedules apply to records regardless of the format in which they reside. Therefore, records created or maintained in electronic format must be retained in accordance with the minimum retention requirements presented in these schedules. Printouts of standard correspondence in text or word processing files are acceptable in place of the electronic files. Printouts of electronic communications (email, instant messaging, text messaging, multimedia messaging, chat messaging, social networking, or any other current or future electronic messaging technology or device) are acceptable in place of the electronic files, provided that the printed version contains all date/time stamps and routing information. However, in the event that an agency is involved in, or can reasonably anticipate litigation on, a particular issue, the agency must maintain in native format any and all related and legally discoverable electronic files.

(emphasis added).

92. The General Records Schedule also directs that administrative correspondence and memorandum must be retained for three (3) fiscal years and that program and policy development correspondence and memoranda shall be retained for five (5) fiscal years.

93. The County did not comply with the requirements of the Public Records Law when it failed to conduct a timely search for text messages as requested by Plaintiffs.

94. The County did not comply with the requirements of the Public Records Law when it concealed and destroyed text messages as requested by Plaintiffs.

95. The County does not have procedures in place that are adequate to ensure that all public records (including text messages) are retained for the required periods.

96. Any public officer who commits a knowing violation of the Public Records Law is subject to suspension and removal or impeachment and commits a misdemeanor of the first degree. Fla. Stat. § 119.10(1)(b).

97. A declaration that the County's current lack of control of text messages violates the Public Records Law is essential to preventing future violations of the Public Records Law.

98. Plaintiffs are in doubt about their rights, status, and other equitable legal relations as affected by these statutes and therefore seeks a declaration that the County acted in violation of section 119.021 and 119.10(1)(b), Florida Statutes.

WHEREFORE, Plaintiffs respectfully request that this Court:

(a) Enter a declaratory judgment that the County has willfully and knowingly failed to maintain text messages made or received by County officials and employees pursuant to law or ordinance or in connection with the transaction of official business in a manner that allows them to be located and made accessible within a reasonable time upon public request;

(b) Enter a declaratory judgment that the County has willfully and knowingly allowed text messages made or received by County officials and employees pursuant to law or ordinance or in connection with the transaction of official business to be destroyed prior to expiration of the applicable retention schedule;

(c) Award Plaintiffs their costs and attorneys' fees incurred in prosecuting this action pursuant to Sections 119.12, Florida Statutes; and

(d) Award Plaintiffs such other and further relief that the Court deems just and appropriate.

COUNT III
DECLARATORY JUDGMENT –
VIOLATION OF GOVERNMENT IN SUNSHINE LAW

99. Plaintiffs re-allege and incorporate the allegations contained in paragraphs 1 through 79 as if fully set forth herein.

100. Section 286.011(1) requires that:

All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution . . . at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

101. The intent of the Government in the Sunshine Law is to “cover any gathering of some or all of the members of a public board at which such members discuss any matters on which foreseeable action may be taken by the board; and it is the entire decision-making process that the legislature intended to affect by the enactment of the statute.” *Wolfson v. State*, 344 So.2d 611, 614 (Fla. 2d DCA 1977).

102. The Government in the Sunshine Law “aims to prevent the evil of closed door operation of government without permitting public scrutiny and participation, and if any two or more public officials meet in secret to transact public business, they violate the Sunshine Law.” *Transparency for Florida v. City of Port St. Lucie*, 240 So.3d 780, 784 (Fla. 4th DCA 2018).

103. The Nassau County Board of County Commissioners is the agency or authority of Nassau County, Florida. In February 2018, the members of the Nassau County Board of County Commissioners included Pat Edwards, Justin Taylor, Daniel Leeper, Stephen Kelley, and George Spicer.

104. In February 2018, Commissioners Edwards, Taylor, Leeper, Kelley, and Spicer,

along with Mullin and other County employees, traveled together to Tallahassee multiple times outside commission chambers where all publicly-noticed County Commission meetings are held.

105. While in Tallahassee, the County Commissioners stayed in the same hotel, worked in close proximity with each other, and had meals and drinks together, providing the opportunity to make decisions outside of the public's view.

106. During their time in Tallahassee together (as well as thereafter), the County Commissioners and Mullin had private discussions (both in person and through text messages) regarding various ways the County could try to pressure and harm Raydient, including launching negative media campaigns, suspending development approvals, and enacting ordinances to target Plaintiffs' property for increased taxes.

107. The County Commissioners' trips to Tallahassee during February 2018 at which the members met privately and discussed County business constitute meetings pursuant to Section 286.011 that are required to be open to the public at all times.

108. The County Commissioners' text messages between and among the members of the Board and Mullin in which they privately discussed County business constitute meetings pursuant to Section 286.011 that are required to be open to the public at all times.

109. The County Commissioners did not provide reasonable notice of such meetings.

110. The County Commissioners violated Section 286.011 by having closed-door discussions regarding County business that were not reasonably noticed and open to the public at all times.

111. Plaintiffs have incurred attorney's fees in bringing this action to enforce the requirements of Section 286.011 and are entitled to recover their reasonable attorney's fees.

WHEREFORE, Plaintiffs respectfully request that this Court enter an order:

(a) Declaring that the County violated Florida's Government in the Sunshine Law, pursuant to Section 286.011, Florida Statutes;

(b) Enjoining the Nassau County Board of County Commissioners from meeting and discussing County business outside of the sunshine and without public notice.

(c) Awarding Plaintiffs their attorney's fees incurred in prosecuting this action to enforce Section 286.011; and

(d) Awarding such other and further relief as the Court deems just and appropriate.

Dated this ____ day of _____, 2019.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished via electronic service through the E-Portal to all parties on the attached service list, this ____ day of _____, 2019.

/s/

CHRISTOPHER P. BENVENUTO, ESQ.
Florida Bar No. 649201

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October 12, 2018

VIA CERTIFIED MAIL AND EMAIL (msawyer@nassaucountyfl.com)

Nassau County – Records Management
96135 Nassau Place, Suite 1
Yulee, Florida 32097

Re: Public Records Request

Dear Sir or Madam:

Pursuant to Chapter 119 of the Florida Statutes, please allow this letter to serve as our public records request to Nassau County (the "County") for the documents described below. In accordance with public records laws, we are willing to pay the reasonable copying costs along with third party vendors necessary to assist with searches for the requested documents. In the event the copying and searching costs are anticipated to exceed \$300.00, please advise before proceeding further.

Definitions and Scope

1. For purposes of this request, the term "**documents**" shall mean any and all media in whatever form containing information of any kind, including copies by whatever means made which differ in any way from the original. Specifically, the term shall mean the original or, if unavailable, a copy of the original, in draft or final form, of all writings, tangible things, typing, letters, correspondence, electronic mail (e-mail) or other communications, text messages, memoranda, notes, minutes of meetings, records, journals, calendars, schedules, studies, summaries, reports, drawings, diagrams, exhibits, photographs, tapes, recordings, transcripts, contracts, amendments, proposals, estimates, data sheets, computer printouts, or computer diskettes or drives, whether sent or received, and all copies or reproductions thereof which are different in any way from the original, regardless of whether designated confidential, privileged, or otherwise.
2. For purposes of this request, the term "**correspondence**" means any writing of any kind, including but not limited to, letters, electronic mail, text messages, facsimiles, memoranda, or records of any telephone conversation or other communications. To the extent any County employee or County Commissioner uses or has used any personal telecommunications device (cell phone, smart phone, laptop, personal computer, I-pad, etc.) to communicate regarding any County-related business, regardless of whether such device is owned by that individual, his or her family member, his or her business, the County, or by some

Exhibit 1

other third party, all such communications are included within the aforementioned definition of “correspondence.”

3. This public records request seeks documents for the time period **June 1, 2016 through the present.**

REQUESTED DOCUMENTS

1. Any and all documents and correspondence relating to the East Nassau Community Planning Area (a/k/a the ENCPA).
2. Any and all documents and correspondence relating to the East Nassau Community Planning Area (a/k/a the ENCPA) Chester Road Detailed Specific Area Plan (a/k/a DSAP #2);
3. Any and all documents and correspondence relating to the funding of any ENCPA public facility (e.g. park, fire station, etc.);
4. Any and all documents and correspondence relating to any ENCPA related approval, including but not limited to, the ENCPA Mobility Fee Agreement, the ENCPA Mobility Fee Tax Increment Finance (TIF) Ordinance (a/k/a the ENCPA Mobility Fee Subsidy Ordinance), or the ENCPA Sector Plan.
5. Any and all documents and correspondence relating to a Municipal Services Tax Unit Ordinance for the ENCPA.
6. Any and all documents and correspondence relating to House Bill 1075 (a/k/a HB 1075, the Stewardship District Legislation), including but not limited to any proposed changes or amendments thereto.
7. Any and all documents and correspondence relating to proposed House Bill 697 (a/k/a HB 697, the Sector Plan Legislation or the Sector Plan Amendment), including but not limited to any opposition relating thereto.
8. Any and all correspondence (including but not limited to emails or text messages) sent or received by **Daniel Leeper** relating to any of the matters listed in requests numbers 1 through 7 above.
9. Any and all correspondence (including but not limited to emails or text messages) sent or received by **Pat Edwards** relating to any of the matters listed in requests numbers 1 through 7 above.
10. Any and all correspondence (including but not limited to emails or text messages) sent or received by **Stephen Kelley** relating to any of the matters listed in requests numbers 1 through 7 above.

11. Any and all correspondence (including but not limited to emails or text messages) sent or received by **George Spicer** relating to any of the matters listed in requests numbers 1 through 7 above.
12. Any and all correspondence (including but not limited to emails or text messages) sent or received by **Justin Taylor** relating to any of the matters listed in requests numbers 1 through 7 above.
13. Any and all correspondence (including but not limited to emails or text messages) sent or received by **Michael Mullin** relating to any of the matters listed in requests numbers 1 through 7 above.
14. Any and all correspondence (including but not limited to emails or text messages) sent or received by **Shanea Jones** relating to any of the matters listed in requests numbers 1 through 7 above.
15. Any and all correspondence (including but not limited to emails or text messages) sent or received by **Justin Stankiewicz** relating to any of the matters listed in requests numbers 1 through 7 above.
16. Any and all correspondence (including but not limited to emails or text messages) sent or received by **Taco Pope** relating to any of the matters listed in requests numbers 1 through 7 above.
17. Any and all correspondence (including but not limited to emails or text messages) sent or received by **Doug McDowell** relating to any of the matters listed in requests numbers 1 through 7 above.
18. Any and all correspondence (including but not limited to emails or text messages) sent or received by **Peter King** relating to any of the matters listed in requests numbers 1 through 7 above.
19. Any and all correspondence (including but not limited to emails or text messages) sent or received by **Scott Herring** relating to any of the matters listed in requests numbers 1 through 7 above.
20. Any and all correspondence (including but not limited to emails or text messages) sent or received by **Becky Bray** relating to any of the matters listed in requests numbers 1 through 7 above.
21. Any and all correspondence (including but not limited to emails or text messages) sent or received by any other (current or former) County staff member not specifically referenced herein relating to any of the matters listed in requests numbers 1 through 7 above.

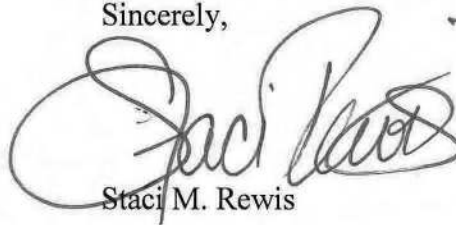
Consistent with the County's obligations under Chapter 119, Florida Statutes, please forward to us documents that are readily available and easy to obtain while the others are being

Nassau County – Records Management
October 12, 2018

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Sincerely,

A handwritten signature in black ink, appearing to read "Staci M. Rewis", is written over the printed name. The signature is fluid and cursive.

Staci M. Rewis

cc: Michael Mullin, Esq.
Heather J. Encinosa, Esq.
Gregory T. Stewart, Esq.



GUNSTER
FLORIDA'S LAW FIRM FOR BUSINESS

Our File Number: 00035418-00005
Writer's Direct Dial Number: (904) 354-1980
Writer's E-Mail Address: srewis@gunster.com

November 15, 2018

BY CERTIFIED MAIL AND EMAIL

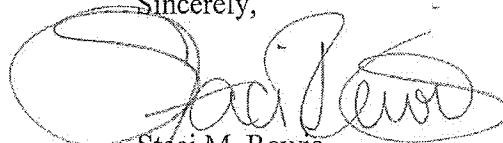
Megan Sawyer
Nassau County Board of County Commissioners
County Manager's Office
96135 Nassau Place, Suite 1
Yulee, FL 32097

Re: Public Records Request

Dear Ms. Sawyer,

We have reviewed the documents the County produced to our office in response to our October 12, 2018, public records request. However, it appears that none of the requested text messages were produced by the County. We know that such text messages exist and request they be produced to us as soon as possible. A copy of our prior public records request is attached for your convenience. Please advise when we can expect these responsive documents to be made available for pickup.

Sincerely,



Staci M. Rewis

SMR/pd

Enclosure

cc: Michael Mullin, Esq.
Heather J. Encinosa, Esq.
Gregory T. Stewart, Esq.

Exhibit 2



GUNSTER
FLORIDA'S LAW FIRM FOR BUSINESS

Writer's Phone Number: (904) 354-1980
Writer's E-Mail Address: SRewis@gunster.com

October 12, 2018

VIA CERTIFIED MAIL AND EMAIL (msawyer@nassaucountyfl.com)

Nassau County – Records Management
96135 Nassau Place, Suite 1
Yulee, Florida 32097

Re: Public Records Request

Dear Sir or Madam:

Pursuant to Chapter 119 of the Florida Statutes, please allow this letter to serve as our public records request to Nassau County (the "County") for the documents described below. In accordance with public records laws, we are willing to pay the reasonable copying costs along with third party vendors necessary to assist with searches for the requested documents. In the event the copying and searching costs are anticipated to exceed \$300.00, please advise before proceeding further.

Definitions and Scope

1. For purposes of this request, the term "**documents**" shall mean any and all media in whatever form containing information of any kind, including copies by whatever means made which differ in any way from the original. Specifically, the term shall mean the original or, if unavailable, a copy of the original, in draft or final form, of all writings, tangible things, typing, letters, correspondence, electronic mail (e-mail) or other communications, text messages, memoranda, notes, minutes of meetings, records, journals, calendars, schedules, studies, summaries, reports, drawings, diagrams, exhibits, photographs, tapes, recordings, transcripts, contracts, amendments, proposals, estimates, data sheets, computer printouts, or computer diskettes or drives, whether sent or received, and all copies or reproductions thereof which are different in any way from the original, regardless of whether designated confidential, privileged, or otherwise.
2. For purposes of this request, the term "**correspondence**" means any writing of any kind, including but not limited to, letters, electronic mail, text messages, facsimiles, memoranda, or records of any telephone conversation or other communications. To the extent any County employee or County Commissioner uses or has used any personal telecommunications device (cell phone, smart phone, laptop, personal computer, I-pad, etc.) to communicate regarding any County-related business, regardless of whether such device is owned by that individual, his or her family member, his or her business, the County, or by some

other third party, all such communications are included within the aforementioned definition of “correspondence.”

3. This public records request seeks documents for the time period **June 1, 2016 through the present.**

REQUESTED DOCUMENTS

1. Any and all documents and correspondence relating to the East Nassau Community Planning Area (a/k/a the ENCPA).
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3. Any and all documents and correspondence relating to the funding of any ENCPA public facility (e.g. park, fire station, etc.);
4. Any and all documents and correspondence relating to any ENCPA related approval, including but not limited to, the ENCPA Mobility Fee Agreement, the ENCPA Mobility Fee Tax Increment Finance (TIF) Ordinance (a/k/a the ENCPA Mobility Fee Subsidy Ordinance), or the ENCPA Sector Plan.
5. Any and all documents and correspondence relating to a Municipal Services Tax Unit Ordinance for the ENCPA.
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21. Any and all correspondence (including but not limited to emails or text messages) sent or received by any other (current or former) County staff member not specifically referenced herein relating to any of the matters listed in requests numbers 1 through 7 above.

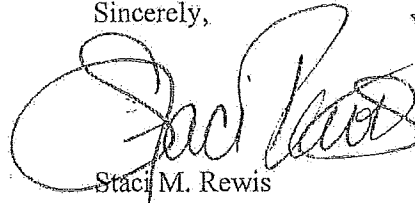
Consistent with the County's obligations under Chapter 119, Florida Statutes, please forward to us documents that are readily available and easy to obtain while the others are being

Nassau County – Records Management
October 12, 2018

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Sincerely,

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Staci M. Rewis

cc: Michael Mullin, Esq.
Heather J. Encinosa, Esq.
Gregory T. Stewart, Esq.

Benvenuto, Christopher

From: Megan Sawyer <msawyer@nassaucountyfl.com>
Sent: Tuesday, November 20, 2018 2:27 PM
To: Rewis, Staci
Cc: Benvenuto, Christopher; Delaney, Paula; Michael Mullin; Susan Gilbert; Sabrina Robertson
Subject: RE: Public Records Request follow-up

Ms. Rewis,

The County has responded to the public records dated October 12, 2018 as set forth in our responses previously sent.

Thank You,
Megan Sawyer
Nassau County Board of County Commissioners
96135 Nassau Place, Ste. 1
Yulee, FL 32097
(904)530-6010-Phone
(904)321-5784-Fax

From: Rewis, Staci <SRewis@gunster.com>
Sent: Friday, November 16, 2018 9:21 AM
To: Michael Mullin <mmullin@nassaucountyfl.com>; Megan Sawyer <msawyer@nassaucountyfl.com>
Cc: Benvenuto, Christopher <CBenvenuto@gunster.com>; Delaney, Paula <PDelaney@gunster.com>
Subject: FW: Public Records Request follow-up

Dear Megan and Mike:

In response to our inquiry yesterday about the failure of the County to produce any text messages in response to our public records request, the County responded that it is "*not aware of any text messages.*" We find that difficult to believe given that County officials have routinely used their cell phones to send text messages regarding the very subject matter that is the scope of our public records request. **Has the County conducted any searches of any personal telecommunications device belonging to any County employee or County Commissioner?**

Regardless if County employees and commissioners were using a personal, business, or government cell phone, any communications regarding County-related business are squarely within the scope of our public records request. We tried to make that clear in our request by underlining those types of communications in our definition of "correspondence" in Paragraph 2 of the "Definition and Scope" section, and we expect those communications to be produced. Please let us know when we can expect to receive those responsive documents. Thank you.



GUNSTER
FLORIDA'S LAW FIRM FOR BUSINESS

Staci M. Rewis | Shareholder
225 Water Street, Suite 1750
Jacksonville, FL 32202
P 904-354-1980 F 904-350-6039

Exhibit 3

Confidentiality Notice: The material in this transmission is intended only for the use of the individual to whom it is addressed and may contain information that is confidential. If you have received this transmission in error, please immediately notify us by return e-mail (srewis@gunster.com) or telephone (904-354-1980) to arrange for the return of this material to us. Thank you.

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

From: Delaney, Paula
Sent: Thursday, November 15, 2018 3:00 PM
To: Rewis, Staci; Benvenuto, Christopher
Subject: FW: Public Records Request follow-up

From: Megan Sawyer [<mailto:msawyer@nassaucountyfl.com>]
Sent: Thursday, November 15, 2018 2:59 PM
To: Delaney, Paula
Cc: Michael Mullin; Susan Gilbert; Sabrina Robertson
Subject: RE: Public Records Request follow-up

Ms. Delaney,

We are not aware of any text messages.

Megan Sawyer
Nassau County Board of County Commissioners
96135 Nassau Place, Ste. 1
Yulee, FL 32097
(904)530-6010-Phone
(904)321-5784-Fax

From: Delaney, Paula <PDelaney@gunster.com>
Sent: Thursday, November 15, 2018 10:11 AM
To: Megan Sawyer <msawyer@nassaucountyfl.com>
Subject: Public Records Request follow-up

Megan,

Please see attached.

Paula



GUNSTER

FLORIDA'S LAW FIRM FOR BUSINESS

Paula Delaney

Legal Administrative Assistant to Lynn Pappas, Esq., Staci Rewis, Esq. and Chelsea Anderson, Esq.

225 Water Street, Suite 1750

Jacksonville, FL 32202

P 904-350-7412 F 904-354-2170

gunster.com

Email me: PDelaney@gunster.com



Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, please do not send electronic mail to this entity. Instead, please contact this office by phone or in writing.

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GUNSTER
FLORIDA'S LAW FIRM FOR BUSINESS

Our File Number: 00035418-00005
Writer's Direct Dial Number: (904) 354-1980
Writer's E-Mail Address: srewis@gunster.com

November 15, 2018

BY CERTIFIED MAIL AND EMAIL

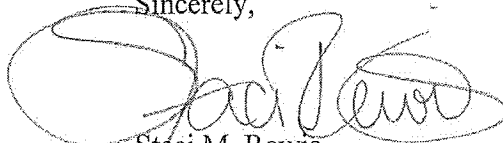
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Staci M. Rewis

SMR/pd

Enclosure

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Heather J. Encinosa, Esq.
Gregory T. Stewart, Esq.



GUNSTER
FLORIDA'S LAW FIRM FOR BUSINESS

Writer's Phone Number: (904) 354-1980
Writer's E-Mail Address: SRewis@gunster.com

October 12, 2018

VIA CERTIFIED MAIL AND EMAIL (msawyer@nassaucountyfl.com)

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96135 Nassau Place, Suite 1
Yulee, Florida 32097

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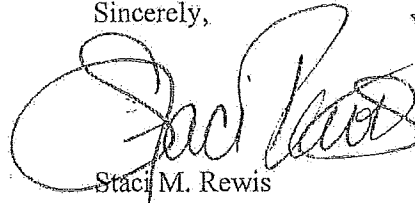
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Nassau County – Records Management
October 12, 2018

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Staci M. Rewis

cc: Michael Mullin, Esq.
Heather J. Encinosa, Esq.
Gregory T. Stewart, Esq.

Nassau County Employee Grievance

This form shall be completed by the Employee presenting the Grievance.

Step ☐ 1 Date: _____ Step ☐ 2 Date: _____ Step ☒ 3 Date: 1/7/19

Grievant (Employee): Justin Stankiewicz

Title: OMB Director Department: OMB

Supervisor (responding): Mike Mullin County Manager
Name Title

Date action occurred for which Grievance is based: 12/28/18
Date:

Statement of Grievance: See Attached Statement
and Exhibits A-F

☒ Please Check if Answer Continues on Separate Attached Sheet of Paper.

Policy, Procedure or Provision alleged to have been violated: See Attached

☒ Please Check if Answer Continues on Separate Attached Sheet of Paper.

Remedy, Relief or Action Requested: See Attached

☒ Please Check if Answer Continues on Separate Attached Sheet of Paper.

Grievant Signature: [Signature] Date: 1/7/19

Received By: [Signature] Date: 1/7/19

Time: 4:42pm

Copies To: Human Resources and the Department Head

Public/Forms/General Office HR Forms/Employee Grievance – July 2014

Exhibit 4

J. Stankiewicz 001

TO: Michael S. Mullin, County Manager and County Attorney

FROM: Justin Stankiewicz, Former OMB Director

DATE: January 7, 2019

SUBJECT: Employee Grievance

This grievance is being made in accordance with Section 13.02 of the Nassau County Board of County Commissioners Employee Policies and Procedures Manual. Pursuant to this section, "the primary purpose of this is to determine what is right rather than who is right". Additionally, all 3 steps for the process (step 1 the immediate supervisor, step 2 the department head and step 3 the County Manager) are all the same person, therefore I am requesting to initiate this grievance at step 3. Step 3 states that "upon receipt by the County Manager, the employee will be given the opportunity to explain his position to the County Manager or his appointed designee. After considering all the information, the County Manager shall make a decision which shall be final and binding within twenty working days of the meeting." Since my grievance reports wrong doing by you as the County Manager, I respectfully request that a Commissioner or a neutral party hear my grievance and make the final and binding decision. Should the county deny this request, I will follow the policy as written.

As you know, you placed me on paid administrative leave in a meeting which included Ashley Metz and Susan Gilbert on December 11, 2018, stating both verbally and in writing that this was related to the "the investigation regarding the \$1,000 (EXHIBIT A)." You stated in the meeting with me that "paid administrative leave is a standard procedure when an employee is being investigated and that it would apply to you as well if you were being investigated". However, there is no policy relating to the treatment of employees while under an investigation and this statement is untrue since you have not been placed on leave (and in fact have been promoted) since you have been under investigation for an alleged ethics violation that was reported in the spring of 2018 and is still being investigated by the Florida Bar. You also stated in the meeting on the 11th that this situation could take "one week, two weeks....four weeks, you don't know" and that "upon completion you and I would sit back down to discuss my status with the County." This is even confirmed by Susan Gilbert's, your legal executive's, notes (EXHIBIT B), where she wrote once "investigation over will sit back down and go over conclusion." Yet, on December 28, 2018, only 10 working days after being put on paid admin leave, I was called in to meet with you, Ashley and Susan regarding my employment status. You and the Sheriff's office both confirmed that the investigation is still ongoing.

At the December 28, 2018, meeting you gave me two options: resign or get terminated. After I showed no desire to resign and asked for time to consult with a labor attorney, you became angry and provided a termination letter to me (EXHIBIT C) without stating a reason, providing any documentation as to why or any option for a corrective action plan. I specifically inquired as to the reason for my termination, asking if this is related to the \$1,000 investigation and you stated that it is not and that is a separate matter. I again asked for a reason and requested all documentation related to your decision. You stated that "after reflection and interviews of staff that you don't restore trust for the position," but would not give any names or specifics and stated that there were no documents or any investigation which supports your claim. I also followed up with a public records request to which Human Resources confirmed, that there are not "any records responsive to the request for complaints, write-ups, internal investigation documents or supporting documentation related to his [me] administrative leave and termination or any other

disciplinary actions (EXHIBIT D).” Therefore, I can’t find this claim accurate. When I asked what would be reported in my file and to future potential employers, you stated that it would be “termination without cause.” The same public records request to Human Resources requested a list of all employees separated from the county in the last 5 years and the reason for separation. Their report confirmed that not a single of the 202 other employees were “terminated without cause (EXHIBIT E).” Several however, have executed separation agreements with the county outlining terms and conditions for the employee and the employer to mutually agree to separate (records in Human Resources).

Based on this information, I find my termination to be in violation of Section 13.01 of the Employee Policy, which identifies discharge as a step 4 disciplinary action. The policy states, “disciplinary actions are a means of calling employees to accountability for some act of commission or omission regarded as adverse to the employer/employee relationship.” It also states that “it is the intent of Nassau County that the administration of discipline will be constructive, corrective and progressive.” I was disciplined with termination though there was no “act of commission or omission regarded as adverse to the employer/employee relationship”. Additionally, effective October 1, 2018, you, as Interim County Manager, issued my annual evaluation which resulted in an “exceptional” rating and a 3.5% pay increase with no comments provided in the sections regarding “areas of improvement” or “recommendations for development (EXHIBIT F).” This abrupt discipline of termination was not only for no cause but it was not “constructive, corrective and progressive” as outlined by policy. No other Nassau County employee has been disciplined (including current and former Department Heads) without first investigating the alleged wrong doing and determining what violations (if any) have occurred and their severity before determining the appropriate disciplinary action (records in Human Resources).

I believe that my termination and unequal treatment is a retaliatory action by you which began on November 6, 2018 and I’ll explain. On October 15, 2018, you were notified by the Clerk’s office of the missing \$1,000. You gave me a copy of the notification on Wednesday, October 31, 2018 which was the day I returned from a 2.5 week vacation. I was in Tallahassee on county business on Thursday, November 1, 2018 so we met again on Friday morning November 2, 2018 to discuss the missing funds and the remedy. I explained where the money was kept, who had access to the safe, the last time I saw the money, the process that occurs at the EOC during an emergency activation, etc. We agreed that I would write this in a response to the Clerk’s Office and that since I was the custodian of the funds, the corrective action would be for me to personally pay the \$1,000 missing to the County so no taxpayer dollars would be lost. There was no other discussion of any other remedy or disciplinary action and the issue was resolved. On the same day, Friday, November 2, 2018, you signed off on increasing my signing authority by an additional \$50,000 (from \$50,000 to \$100,000) (EXHIBIT G). I was included in typical county meetings in your office on Monday, November 5th and your behavior, attitude and actions remained unchanged with no other mention of the \$1,000. However, on November 6, 2018, Taco Pope, Susan Gilbert and I met at 2:00 pm with you for the intent to discuss the Enclave and Summer Beach trail walkover issue; however, the discussion was solely about the public records request that was submitted by Gunster Law Firm, Raydient/Rayonier’s legal firm, which in addition to other things, specifically asked for text messages relating to county business that had been sent on personal phones (EXHIBIT H). During this meeting is when I disclosed that I had messages related to this request on my personal phone and stated that you, Taco, at least 3 of the Commissioners and Shanea Jones would also have messages as many of them were group messages. You directed me to delete these messages, which is a direct violation of Chapter 119, Florida Statutes. Furthermore, you stated that you have already deleted your text messages which in

addition to a violation of law, is a violation of Section 2.01, Code of Conduct of the Employee Policy and Procedures Manual. After understanding the magnitude and unethical conduct of what you were directing, Susan Gilbert, asked to excuse herself from the meeting stating that she “did not want to be part of this meeting.” With you and Taco still in the room, I asked multiple times for you to confirm that you were directing me to delete text messages that are public record to which you affirmed. Immediately following this meeting, I expressed verbally my concern of violating Chapter 119 of Florida law to Taco Pope, Megan Sawyer and Sabrina Robertson. Additionally, I later express this same concern to Tina Keiter and Chris Lacambra.

After this November 6, 2018 meeting, your behavior and attitude towards me changed. I was not included in any other meetings or conversations regarding the response to Gunster’s public records request, you did not obtain the messages that I told you that I had in response to Gunster’s request and I was not copied on the county’s response to Gunster. I was told by staff that you reported to Gunster that no text messages exist and that Gunster asked you again for the messages. Additionally, I had no other meeting with you after November 6, 2018 or any other conversation regarding the missing \$1,000 until the Sheriff’s Office contacted me for an interview and said that you had turned over the \$1,000 issue for Law Enforcement investigation on November 12, 2018.

I suspected and concluded that you were seeking retaliation against me, so I went to the Human Resource Director, Ashley Metz, in accordance in Section 1.05, Open Door Policy, of the Employee Policies and Procedures Manual for consultation and guidance. Once providing the facts stated in the above paragraphs, HR felt that there was merit to my claim, however stated that since you are my (as well as the HR Department’s) supervisor, Department Head, the County Manager and County Attorney, I had no recourse until an adverse action was taken. Section 2.12 Chain of Command, of the Employee Policies and Procedures Manual prohibits “contact of a County Commissioner directly regarding a County employment matter, grievance or complaint” so I had exhausted all avenues at that point.

However, it didn’t take much longer before the adverse action occurred, ultimately resulting in termination of my employment which is supposedly “without cause.” To conclude, I feel that I was singled out in retaliation of expressing and refusing to delete public records at your direction. I have identified over 150 individual and group text messages between a combination of you, Commissioner Edwards, Commissioner Taylor, Commissioner Leeper, Shanea Jones, Kristi Dosh, Taco Pope and myself that should have been turned over in response to Raydient/Rayonier’s public record request (EXHIBIT I).

As a remedy, I request that I be reinstated to my former position of OMB Director at the same salary and benefits/leave accruals at the time of termination, along with back pay and accruals that would have occurred from December 28, 2018 to the date of reinstatement. With the reinstatement, I also request a different Chain of Command which does not include you as my supervisor.

Should the above request be denied, I request a mutually agreed upon separation agreement which includes the maximum severance allowed by law, back pay and benefits/leave accruals from December 28, 2018 until the date of the separation agreement, payout of all leave as of the date of the separation, rescission of my termination and any other terms and conditions that are mutually beneficial to me and the county.

Justin Stankiewicz

NEWS LEADER

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WEDNESDAY, FEBRUARY 13, 2019 / 20 PAGES, 2 SECTIONS • fbnewsleader.com

Rayonier files more lawsuits related to Wildlight

PEG DAVIS AND
PAMELA BUSHNELL
News-Leader

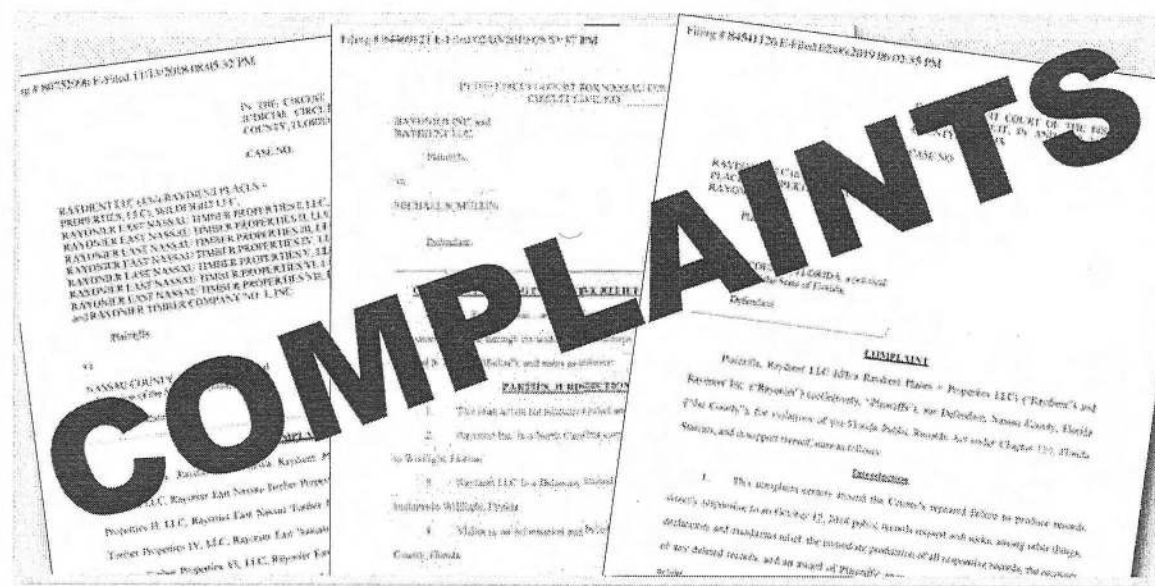
Rayonier Inc. and its subsidiaries took two more legal swings at Nassau County's government last week by filing additional lawsuits related to Rayonier's burgeoning 24,000-acre Wildlight development in Yulee. Those lawsuits bring the current total to three.

Lawsuit against Mullin

One of the new lawsuits is against County Manager and Attorney Michael Mullin, alleging "breach of fiduciary duty" and "requesting that the Court enter an injunction against him, and b) against Nassau County for violating Florida's Public Records Act," according to an email from Alejandro Barbero, the director of strategic development and communication for Rayonier. The suit was filed Feb. 5 by the Jacksonville firm Gunster, Yoakley & Stewart, P.A. Barbero said Friday he was unsure when the complaint will be heard.

Mullin represented Rayonier in private practice with Rogers Towers for eight years until becoming the county's attorney in 2015, according to the lawsuit. He has since handled multiple, complex legal issues and disputes for the county regarding the development.

The suit, brought by Rayonier and Raydient LLC, says at least one of the disputes "concerns the very land use



The first pages of the two different lawsuits filed against Nassau County and the one against County Manager and Attorney Mike Mullin. Generally, all three complaints are about how the county has handled the East Nassau Community Planning Area, which contains Raydient Places + Properties' Wildlight development and the East Nassau Stewardship District.

development on which Mullin represented Rayonier for eight years, and involves the very same documents and state and local regulations Mullin developed on Rayonier's behalf during his representation of Rayonier."

While still wearing his county attorney's hat, Mullin was appointed interim

county manager in July 2018 and was formally named as the county's dual attorney and manager last month.

The suit says Mullin's roles "present a direct conflict to his prior representation of Rayonier in the same or a substantially related matter" and are "adverse to Rayonier's interests."

The suit cites a Florida Bar rule of professional conduct and says the company repeatedly objected, orally and in writing, to Mullin's alleged conflict of interest.

Rayonier filed a complaint about Mullin with the Florida Bar earlier in 2018. Karen Kirksey, public informa-

tion officer with the Florida Bar, said Monday that the complaint is still in the Grievance Committee.

When asked in December about whether Rayonier was considering legal action against him over a potential conflict of interest, Mullin said the issue had only been a matter of discussion up until that time.

Asked Monday for his response to the suit against him, Mullin said "no issue was ever raised until the amendment to the impact fee bill was addressed by the legislature in 2018," adding that was several years after he became the county attorney. "I negotiated the language in HB 1075 on behalf of the county with the representatives of the Stewardship District at the time, and there was no allegation raised at that time. ... The issue arose after the vote in the Senate Appropriations Committee in 2018. I have no confidential information that was involved in HB 1075 or anything else."

HB 1075, which established the East Nassau Stewardship District, was signed into law in June 2017 by then-governor Rick Scott, making the ENSD a state-chartered political subdivision to govern the East Nassau Community Planning Area via a five-member board. Four of the five board members are employees of Rayonier.

The ENSD is supposed to coordinate

LAWSUITS Continued on 5A

LAWSUITS

Continued from 1A

public and private funding for the amenities within Wildlight with the county. That process was to include the establishment of interlocal agreements on funding for public roads, water, sewer, and parks and recreational facilities in the new development, according to previous reports.

Mullin urged readers of the newspaper to watch a video on the county's website regarding the HB 1075 negotiations. That video can be found at <http://bit.ly/2WSXK0h>.

An agreement between the county and Rayonier that was reached before the creation of the ENSD earmarked 12 percent of property taxes received there for construction of public roads. Mullin said Monday that he had recused himself from that process and any other issue that he had negotiated while representing Rayonier "a long time ago."

"(The law firm of Nabors, Giblin and Nickerson) would handle any issue that Rayonier had negotiated with the county regarding the mobility fee and/or the 12 percent tax increment funding. ... The issue is not with the documents that I drafted and that the county approved, county commission, county attorney, etcetera – the issue (about confidential information) arose after the meeting in Tallahassee in 2018, last part of February."

The county's "partnership" with Rayonier to "master plan" the huge Rayonier-owned property began in 2007. The East Nassau Community Planning Area, a state-approved Sector

Plan, was adopted in July 2011. A link to information on the ENCPA can be found at <http://bit.ly/2khsaae>.

All of the county commissioners went to Tallahassee in February 2018 to oppose amendments to Florida House and Senate bills that would have restricted what a Sector Plan developer would be required to contribute toward "land acquisition or construction or expansion of public facilities ... unless the local government has enacted a local ordinance that requires developers of other developments not within a sector planning area to contribute a proportionate share of the funds, land or public facilities necessary to accommodate any impacts having a rational nexus to the proposed development."

The amendments were also opposed by the Florida Association of Counties and the American Planning Association. The amended bills, supported by lobbyists from Associated Industries of Florida, were defeated in the appropriations process and the conflict between Rayonier and the county appeared to begin in earnest.

A second lawsuit against the county

In addition to the suit against Mullin, a new lawsuit against Nassau County, filed Feb. 6, alleges "the county's repeated failure to produce records directly responsive to an October 12, 2018 public records request and seeks, among other things, declaratory and mandamus relief, the immediate production of all

responsive records, the recovery of any deleted records, and an award of Plaintiffs' attorneys' fees and costs in prosecuting this."

That request asks for "any and all" documents and correspondence including emails and text messages from June 1, 2016 until Oct. 12, 2018 between county commissioners Pat Edwards, Danny Leeper, and Justin Taylor, former commissioners George Spicer and Steve Kelley, Mullin, former county manager Shanea Jones, former Office of Management and Budget Director Justin Stankiewicz, and other key staff relating to the East Nassau Community Planning Area and public facilities and parks there. It also asks for documents and correspondence related to mobility fees and agreements, the Municipal Services Tax Unit ordinance the county passed in 2018, and legislation related to the creation of the East Nassau Stewardship District, among other subjects.

Asked on Monday for his response to the suit, Mullin said he had sent the public records complaint to the county's insurance carrier, the Florida Association of Counties Trust, to be assigned to an attorney to file a response.

"I have to be careful about how I comment to lawsuits," Mullin said. "I don't quite understand the tenor of that. It seems to be based upon the filings of a former employee. When we got those documents he sent us, we sent those to (Gunster)."

Among the text messages the suit says the county has not provided to the attorneys representing Rayonier are ones printed and

attached to a grievance filed Jan. 7 by Stankiewicz about his firing on Dec. 28, 2018.

Stankiewicz has stated he believes he was fired from his job in December because he refused to delete text messages from his phone on Nov. 6, allegedly at the request of Mullin.

The printed copies of the texts discussing Rayonier are between Mullin and Stankiewicz as well as group texts that include Mullin, Stankiewicz, BOCC Chairman Pat Edwards, Board Vice Chairman Danny Leeper, Board Member Justin Taylor, Planning and Economic Opportunity Director Taco Pope, and others.

Asked if he had ever asked a county employee to delete a text message, Mullin said, "I can categorically and emphatically say never, ever, have I ever done such a thing, and I was never shown any text messages and said 'do you think – what should I do with these?' that was not the case."

Mullin later added, "I would never tell any employee to destroy a public record. He did not show me any records to say 'Are these public records?' Or 'What should I do with these?'"

After acknowledging he was aware there were text messages between himself and Stankiewicz, and with county commissioners, Mullin said, "Text messages and

public records are two different things. We had text messages when we were in Tallahassee walking the halls over there. There are text messages about going to lunch, messages about 'how are you feeling today' ... but none of those are public records. They are directional, usually, so ... now, am I aware of each text message that I get? No, sometimes I see them, sometimes I don't."

But Rayonier was not asking about "directional" text messages in its public records request; rather, they asked for any and all correspondence related to the ENCPA, as well as the MSTU, HB 1075, and the Sector Plan legislation.


"Each person was asked, that was named in that, and they said, 'We don't have any public record text messages,' so that was the response that was given to them," Mullin said. "And Justin, after he filed his grievance, had text messages that he provided in his grievance, and we sent those to Gunster. And then came the lawsuit."

County records show Stankiewicz was "terminated without cause" in late December after first being placed on administrative leave by Mullin on Dec. 11 while an investigation was conducted into \$1,000 in missing cash.

"Justin was terminated because he was OMB director and there was no basis to determine what happened to the thousand dollars," Mullin said.

According to a Thursday post on the Raydient website, "When questioned about the County's failure to produce (text messages sent and received by County officials), the County provided evasive and misleading responses to Rayonier/Raydient and falsely stated that it was 'not aware of any text messages.' The County's statement has been proven patently false." The website statement goes on: "It remains to be seen what other responsive text messages and other records may have been intentionally withheld from production by County Attorney Mike Mullin and others at the County, and which records may have been deleted in violation of Florida law. What has become abundantly clear is that extensive text message records that are responsive to the public records request exist, including group text messages between Mullin, several County commissioners, and other County employees, but these responsive text messages were never produced by the County. Rayonier/Raydient will investigate these matters thoroughly in the lawsuit

LAWSUIT 2 Continued on 6A



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LAWSUITS 2

Continued from 5A

as well as this disturbing pattern by the County to conceal government records from the public."

Barbero said he still has questions: "What else is there? Now we have a county commission conducting business outside of the public eye, denying the existence of text messages, now they all come to light, what else is there? Are there more text messages that (Stankiewicz) is not even part of? What else is there that is being concealed from the public eye?"

Asked about the status of Wildlight in light of the legal wrangling, Barbero said, "It is great, proceeding on course. ... Retail is underway, another corporate headquarters is underway." He noted that 10 families are now living there, apartments are being built, and a pool is being constructed. He said the pool will only be available to residents of the Wildlight community. "The county is supposed to build county recreational facilities, not us,"

Barbero said.

The MSTU lawsuit

The first lawsuit over Wildlight was filed in November 2018 by Raydient Places + Properties LLC, Wildlight LLC, Rayonier East Nassau Timber Properties I-VII and Rayonier Timber Company No. 1 Inc. That complaint asserts that the county's Municipal Service Taxing Unit designation for the East Nassau Community Planning Area is a "thinly veiled" retaliatory action in the guise of an unnecessary tax related to unresolved grievances between the county, Raydient and Rayonier.

That legal action followed an extended impasse between the BOCC and Raydient and Rayonier over funding for the creation of parks and recreational areas within Wildlight, according to previous *News-Leader* reports.

The MSTU was adopted on Oct. 8, 2018 with the stated purpose of creating "the East Nassau Community Planning Area Recreation Municipal Service

Taxing Unit (the ENCPA recreation MSTU) to fund recreation services, maintenance and facilities within the MSTU." The new MSTU tax would go into effect for the county's next budgeting process in October 2019.

Raydient/Rayonier maintains their only obligation to the county is donation of land for recreational facilities, while the county believes funding for construction of parks in the ENCPA was to be shared by the county and the developer through an interlocal agreement to be worked out through the East Nassau Stewardship District. Raydient/Rayonier uses "county regulations" as the basis for their argument while the county cites language in state legislation - HB 1075, the bill that created the Stewardship District - as the basis for their expectations.

In a letter of objection to the creation of the MSTU dated Oct. 8, Rayonier advised the BOCC, "There are no recreational facilities and no services being rendered with the proposed MSTU and none will be needed within its boundaries for the foreseeable future. ... As the owner of the vast majority of the ENCPA land, Raydient is already legally obligated - as a condition to residential development - to make substantial contributions to ENCPA recreational facilities through the donation of land and the payment of recreational impact fees. This is the only legally appropriate and equitable method of funding prospective recreational facilities within the currently largely undeveloped ENCPA lands."

The law firm of Nabors, Gilbin and Nickerson of Tallahassee, specialists in representing local governments, has been retained to represent the county in that lawsuit.

It was revealed at the regular meeting of the BOCC Monday night that the East Nassau Stewardship District board has now joined the MSTU lawsuit. County commissioners voted 5-0 at that meeting to support a resolution citing the Florida Government Conflict Resolution Act as the means to resolve conflicts between governmental entities "to the greatest extent possible without litigation."

pegdavis@fbnewsleader.com
pbushnell@fbnewsleader.com



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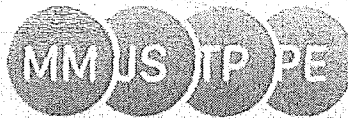
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4 People >



are going do it... yank it like a band-aid.

Mike Mullin



Maybe



Language can be problematic

Feb 15, 2018, 6:49 AM

Pat Edwards

Whatever roadblocks, we can legally legislate which will bring about the original agreed upon outcome and anything that will slow them down and increase their overhead is needed. Public outcry once the back door legislation is published locally will go viral. We should use our Facebook and other social media to get our spin on this up and running. I'm sure Mike Bell has his Tallahassee group working on this now!



Mike Mullin



Text Message



36

Exhibit 6

< 1



Pat >

Tue, Feb 27, 10:05 AM

Good morning, catching hell about Peters Point over the weekend. If possible see what options we have with regards to out of state people parking on beach. Also sheriffs options. Thanks

Tue, Mar 6, 2:34 PM

Good afternoon, please when possible send me all the ways we can affect Raydient negatively, such as remove the TIF, MSTU for Recreation. Hold up any and all permits. Anything! Thanks

Thu, Mar 8, 4:50 PM

R.P.M. WOOD PRODUCTS, INC. VENDOR 00290		Customer No:		CHECK NO. 0408	
DATE	INVOICE NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DEBIT BALANCE
02/16	164745	09/06/16	862.50	862.50	.00
			CHECK TOTAL	862.50	.00
					862.50

THE FACE OF THIS DOCUMENT CONTAINS A COLORED BACKGROUND AND THE REVERSE SIDE OF THIS DOCUMENT INCLUDES AN ARTIFICIAL WATERMARK. HOLD AT AN ANGLE TO VIEW.

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0020164745

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88269 PAGES DURY ROAD
YULEE, FL 32097

CHECK NO. 04084

THIS COAST COMMUNITY BANK
PENSACOLA, FLORIDA 32504

135



iMessage



Exhibit 7



3 People >



any parks to date based on their development in ENCPA?

No, none expected to be built now. We've only discussed planning parks that will be needed based on their development entitlements and timeline.

Mike Mullin



I agree

Danny Leeper



Thought so

Feb 26, 2018, 3:20 PM

Danny Leeper

We need a full page ad with three photographs...a big X across a ball field another X across a park and another one saying what is the next broken promise from Raydient?

If you are thinking about buying or building in the ENCPA Wildlight Community be very concerned about Broken Promises!



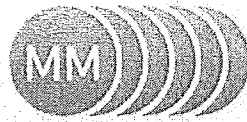
Messages



42

Exhibit 8

42



6 People >

Justin Stankiewicz



Think we need a new word stronger
than irretrievably broken

Mike Mullin



Yes

Danny Leeper



What would happen if we deny the
conflict. I say let them spend their
money

Mike Mullin



We may do that. I guess i am off the
easter dinner list

Danny Leeper



Lol. All of us

Mike Mullin



Yes

Feb 26, 2018, 7:57 PM

news4jax.com



Justin Stankiewicz



Yes. We saw that. What idiots.



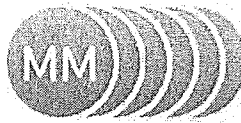
Text Message



49

Exhibit 9

49



6 People >

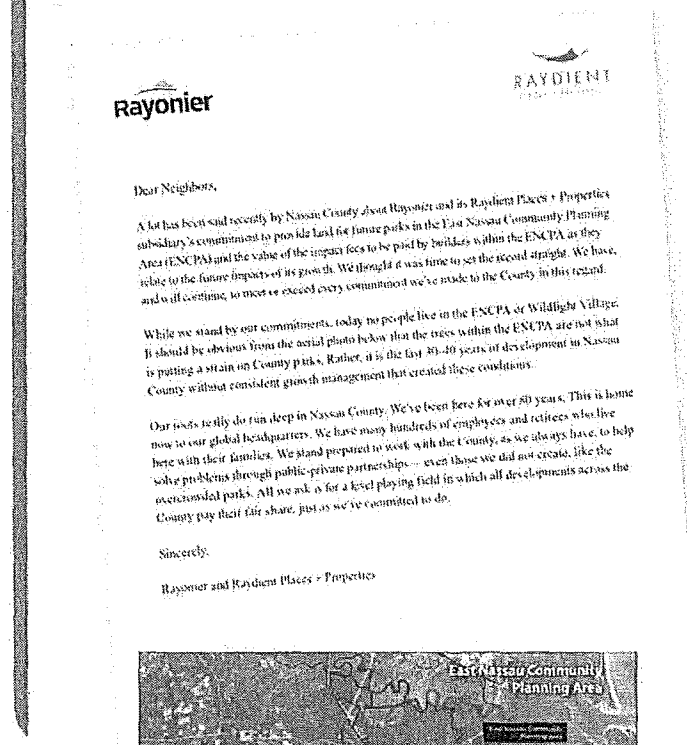
Feb 23, 2018, 7:01 AM

Rayonier

RAYDIENT
PLACES + PROPERTIES

**We all have to work together.
We all have to do our fair share.**

An open letter from Rayonier to the residents of Nassau County



Full page ad in the Newsleader

Justin Stankiewicz



Text Message



44

Exhibit 10



6 People >

Danny Leeper



We need to be three steps ahead of them

Justin Taylor



Should we post a screenshot of the language from 1075 next to the proposed language from the bill we're fighting with a statement that we just want developers to honor their promises to the tax payers?

Pat Edwards



Yes, the part about recreational infrastructure and public parks along with 324's kill language. I'd like a copy of that at 4 to read into the minutes

Justin Stankiewicz



Agree and I can get that for.

Danny Leeper



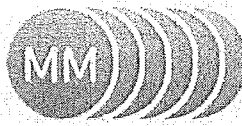
We need to say " Unlike the false narratives being distributed by our partner the FACTS" are what our taxpayers need to know.....



Foxi Message



45



6 People >

Pat Edwards



Agree!!

Mike Mullin



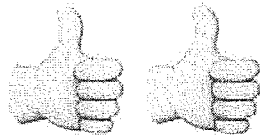
Yes we will have that

Danny Leeper



Good

Justin Taylor



Feb 23, 2018, 9:15 AM

SENATE BILL 324 — NASSAU

County voices heard
“loud and clear”

By Susan Hardee Steger

February 23, 2018 8:50 a.m.

The Florida
State Senate
Committee
“temporarily
postponed” a
vote on the
proposed SB
324 following



Text Message



46



2 People >

Mar 16, 2018, 8:44 AM

Pat Edwards

Good morning, in reading Laura's email I have to ask the question, is her job to support Rayonier/Raydient instead of Nassau County? Why would anyone except a newspaper or paid blogger provide this letter except to strengthen our partners position against us. She has the management skills of a Pig!

PE

Mike Mullin



MM

I think she sees the writing on the wall & is hoping that Rayonier will either fund the board (when y'all pull the county funding) or hire her.

Pat Edwards

PE

I hope she goes early

May 18, 2018, 11:51 AM

About Karen Austin...



Message



86



Exhibit 11



Mike >

Sun, Feb 25, 2:54 PM

Afternoon. If u have a chance can u
ck ur private e mail from christy

Got it & working on it now.

Thanks.

Tx

How many sector plans are approved
in the state?

Not sure about 10 ship districts

Stewardship

Taco may know

Ok

I just sent her back my suggested
changes.

Tx

132



5 People >

Mike Mullin

MM

I will crank up out p r person

Pat Edwards

PE

People need to know that Charles is a liar! Aaron asked us to back off the attack's, I don't think we have a choice but to rebut.

Mike Mullin

MM

Yes sir

Justin Taylor

JT

I agree - We have to defend ourselves.

Danny Leeper

DL

No backing off

Mike Mullin

MM

Agree

Tue, Mar 6, 8:32 PM

Justin Taylor



iMessage



Exhibit 13

