



Brevard County Board of County Commissioners

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Legislation Text

File #: 1424, **Version:** 1

Subject:

Staff Report on Legal Notices Advertising Using the Least Expensive Publisher

Fiscal Impact:

Unknown

Dept/Office:

County Attorney's Office/Central Services

Requested Action:

It is requested that the Board of County Commissioners provide direction to staff upon review of the attached reports from the County Attorney's Office and Central Services Office.

Summary Explanation and Background:

On March 5, 2020, the Board directed staff to research the options and associated costs to advertise the County's legal notices in accordance with Florida Statutes and/or Federal Regulations, as required. The general requirements under Sections 50.011 and 50.031, Florida Statutes are as follows:

Section 50.011 Florida Statutes is summarized below:

1. A publication in a newspaper printed and published periodically once a week or oftener,
2. Containing at least 25 percent of its words in the English language,
3. Entered or qualified to be admitted and entered as periodicals matter at a post office in the county where published,
4. For sale to the public generally, available to the public generally for the publication of official or other notices, and
5. Customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public.

Section 50.031, Florida Statutes provides:

"No notice...required to be published in a newspaper shall be deemed published in accordance with the statutes...unless published in a newspaper which at the time of such publication shall have been in existence for 1 year and shall have been entered as periodicals matter in the county where published." (Emphasis added.)

The County is required to follow other subject-specific statutes regarding notice in addition to the provisions from Chapter 50 above. (See Excel spreadsheet for numerous statutory references.) Case law and Attorney General opinions indicate the criteria of Chapter 50 should be met when advertising is required pursuant to the other county advertising requirements, such as Section 125.66, Florida Statutes. That section also adds a requirement that the newspaper be published 5 days a week for certain types of actions.

Several publications were mentioned at the March meeting. USA Today and the Orlando Sentinel advised they do not publish legal notices in Brevard County, so those publications are not listed in the attached spreadsheet from the County Attorney's Office.

Research by the County Attorney's Office and Central Services reveals that some of the publications considered may not meet all of the required elements under the statutes.

Neither Trader Jake's, Veterans Voice, or Orlando Business Journal have provided proof of a periodicals permit in Brevard County at this time. Without such a permit, the publications do not meet the requirement of 3 of Sections 50.011 and 50.031, Florida Statutes (Veterans Voice has a permit in Martin County and Orlando Business Journal has one in Orange County). It is also arguable that some of these publications fail to meet the requirements of 4 and 5 of Section 50.011, Florida Statutes, because of limited circulation and article topics. These issues are more fully set out in the attached Memorandum of Law. Florida Today meets all statutory requirements for all types of advertisements required.

(See Memorandum of Law and Excel spreadsheet detailing the publications and current ads).

The Board should be aware the consequences for failing to advertise in accordance with the statutes could result in the invalidation of ordinances, rezoning actions and other important Board actions if challenged. For some actions, a new advertisement could effectively cure the problem, for other actions budgets and financial issues could be impacted.

Also attached is an Excel spreadsheet from Central Services outlining the research on prices. These prices are not guaranteed, but are the prices that were quoted at the time the research was conducted.

Given the issues presented, the Board may wish to consider an Invitation to Bid to allow competitive procurement of these services and proof of qualifications.

County Staff is seeking direction from the Board on the next steps in this process. Some options the Board may consider are:

1. Authorize the Purchasing Services Department to develop and release for advertisement an Invitation to Bid from authorized companies to advertise legal notices in accordance with Florida Statute. The solicitation would include a requirement that respondents provide proof of qualifications and their ability to meet statutory notice requirements. The results of the solicitation could then be presented to the Board for an award action at that time.
2. Provide direction addressing any of the publications listed in either of the two Excel spreadsheets.
3. No action.
4. Any other action the Board provides.

Clerk to the Board Instructions:

None.