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July 2006

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Another legislative session has gone the way of all things. The 2006 session opened with the same threats to Associations that were leveled in 2004 and 2005. The same group of Miami legislators carried the water for the same small anti-Association organization that repeatedly demonstrated a burning desire to dismantle the condominium system across the State. They resorted to the same tactics used during the previous two years, claiming that the vast majority of condominium owners abhor being governed by those neighbors they elected to that task. Not surprisingly, they

Article by Eric Berkowitz



JEB PULLS THE PLUG



were supported by the same union that is desperately trying to "organize" people's homes. Another attempt to legislate by anecdote again produced a set of harsh regulations designed to either undermine the will of the majority or punish those elected to realize that will. Seemingly, they have a real problem with democracy. How can one trust a system that persistently permits condo owners to naively elect those neighbors they think capable of representing their interests?

In 2004 and 2005, they sought to relieve condo owners of the right to make decisions about their homes. They supported legislation that transferred condominium governance from the owners to a government bureaucracy. The legislation was imbued with provisions that undermined the ability of homeowners to operate their Associations, infringed on their right to participate in governing themselves and mandated a series of contradictory and expensive regulations with little ostensible purpose and significant consequences. They also aspired to create an expensive independent police agency complete with search and seizure powers, primarily to administer punishment against those perceived to have breached their regulations. Their offering was enigmatically marketed as "empowering to condo owners".

Upon reading the bills, condo owners across the State flooded Tallahassee with indignant objections to this attack on their rights.

Continued on page 5

Atwater...Continued

Turning to the GMCA officials, Senator Atwater happily remarked that the session's anti-association legislation was unsuccessful. On March 15th, a contingent of Broward homeowners visited Tallahassee during a Community Association Day event organized to apprise legislators of our opposition to some bills designed to undermine the right of homeowners to govern themselves. For the second time in as many years, Galt Mile homeowners met with Senator Atwater to solicit his support. He concurred that the bills in question were damaging to his constituents and he would do what was necessary to protect our rights.

When Commissioner Aurelius asked the Senator about his take on Affordable Housing, Atwater spoke to some of the obstacles confronting the issue. The Local Government Comprehensive Planning and Land Development Regulation Act lists the elements that municipalities and counties must address when implementing their comprehensive planning and land development responsibilities, mandating every local government to adopt a Housing Element in its comprehensive plan along with a Capital Improvements Element, a Conservation Element, a Recreation and Open Space Element, a Transportation Element, etc. The Housing Element sets forth goals, objectives, and policies for how the local government should meet the housing needs of its entire current and anticipated population, including low income, very low income, special needs populations, etc. In addition to the Housing Element, the local government must also adopt a Future Land Use Map, which identifies adequate sites for affordable housing. To cure what amounted to an "unfunded mandate" on local governments, the Florida Legislature passed the William E. Sadowski Affordable Housing Act in 1992, creating a dedicated revenue source for affordable housing in Florida. Approximately six dollars of private investment leverage each dollar of Sadowski funds, increasing the hundreds of \$millions collected from documentary stamp fees into \$billions.

The mandate that local governments provide housing for their entire current and anticipated populations doesn't require that government actually build the housing, but rather assist the private sector in so doing. In addition to financial incentives and regulatory reform to the private sector, counties and municipalities are adopting inclusionary housing ordinances to implement the housing elements of their comprehensive plans. The official repository for the Sadowski funds, the Florida Housing Finance Corporation, was tasked with helping Floridians obtain safe, decent housing that might otherwise be beyond their resources.

For prospective low-income homeowners, the down payment, debt service, maintenance costs and tax obligations are all barriers to affordable housing. The Senator described some of the programs developed by the Florida Housing Finance Corporation to provide assistance with one or more of these obstacles. With an eye toward Workforce Housing, they recently provided \$100 million statewide for first time homebuyers at low 30-year fixed interest rates. Eligible applicants could receive assistance with the down payment and closing costs of up to \$25,000 in certain high cost counties. Other programs finance a low rate 30-year mortgage through the sale of both taxable and tax-exempt single family mortgage revenue bonds.

Commissioner Aurelius, who also serves on the Broward County Housing Authority Board of Directors, outlined the problem, "While these clear the way to home ownership, the low-income homeowner still needs to make monthly mortgage payments, pay taxes, repair broken plumbing, fix the roof and otherwise maintain the property." This is where the program is laced with land mines. Aurelius continued, "If the new homeowner's income is insufficient to address the carrying costs, within a year or two, the property is entangled in litigation."

Housing costs are dictated by the real estate market. Since the government is powerless to restrain real estate values, to successfully maintain homeowners in residences beyond their means, the State would have to

provide subsidies at every level. Programs that assist with entry costs will only succeed if the homeowner's income is adequate to address the debt service, taxes and the maintenance costs. However, the vast majority of cases are not represented by the few prospective homeowners whose only obstacle was their inability to scrape together the down payment. Lowering the mortgage debt to "affordable" levels by incentivizing low-cost housing subsidizes the developer instead of the homeowner, thereby robbing Peter to pay Paul. Every successful strategy seems to require the State paying for the difference between the property value and what the prospective homeowner is able to afford.

Senator Atwater agreed with Aurelius, acknowledging that there was "no simple solution to affordable housing, especially in a hot real estate market." That didn't stop Atwater from chipping away at the problem. In one of the bills he co-introduced this year, Senate Bill 132, Atwater required local governments to identify surplus lands and, where appropriate, make such lands available for purposes of affordable housing. It sought to create the Community Workforce Housing Innovation Program to engender public-private partnerships and the use of joint resources to provide affordable rental and single-family housing opportunities to persons with medium incomes in high-cost counties. It aspired to provide housing assistance for essential services personnel (teachers, law enforcement officers, firefighters, nurses, etc.). Atwater addressed the central obstacle by using land donated by local governments to help close the gap between housing costs and affordability. A similar house bill, HB 1363, was perfected and sent to the Governor.

Presidents Council Chair Pio Ieraci asked Senator Atwater if he saw any solution to the insurance crisis affecting property owners. The Senator explained that the answer to the crisis hinged on the State's success in attracting insurance carriers back to Florida. He said, "While Citizens is capable of addressing our short-term emergency need for windstorm coverage, as more property owners come to rely on the 'insurer of last resort', it is in danger becoming a veil for self-insurance." Every homeowner in the State would have to pay for any windstorm damage sustained by properties covered by Citizens. Atwater exclaimed, "Windstorm damage, like flood damage, should be a national issue addressed by an entity comparable to National Flood Insurance." However, he expressed concern about the lack of support a National Windstorm Insurance agency would engender in most States. Atwater confirmed, "Outside Florida and the other Gulf states, California and perhaps some of the Midwestern states in Tornado Alley, the support for a national program is extremely soft." When asked by GMCA Secretary Eric Berkowitz "who our allies might be in a campaign to establish a National Windstorm Fund," the Senator responded, "The Insurance industry, the Real Estate industry and Mortgage bankers would all benefit from its creation." When it was explained to Senator Atwater that we were considering the creation of a commercial self-insurance corporation, he agreed to help investigate its viability.

Senator Atwater has proven to be an eye-popping surprise. He combines the charm and affability of a neophyte legislator with the substance of a nuclear-powered submarine. His success at making constituents feel important doesn't mitigate the sense that his Senate office is little more than a stopover en route to the Governor's mansion... or Washington. His people skills, fiscal background, networking agility and organizational talents all complement Atwater's political pedigree. His unassuming demeanor and small town humility belie his significant achievements. If we have mistakenly aggrandized Atwater, we should feel neither naive nor gullible, as we are in good company. The Governor and the Senate leadership also think Atwater is the best thing since sliced bread. In fact, Senator Atwater is currently their top prospect for the 2008 Senate Presidency!•



The Galt Mile News

The Galt Mile News is the official newsletter of the Galt Mile Community. Published 12 times a year, this publication is designed to educate the Galt residents of neighborhood-oriented current events and issues, and to offer residents Galt-specific discounts from various local merchants.



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REMINDER FROM COMMISSIONER CHRISTINE TEEL

Fort Lauderdale resident Bill Crawford, past president of the Fort Lauderdale Historical Society, will appear as an expert on the history of the Intracoastal Waterway on the History Channel's Modern Marvels program, "The Intracoastal Waterway," scheduled to air Thursday, July 20, 2006, between 8 p.m. and 10 p.m., depending on local listings. Author of the soon-to-be published book, "Florida's Big Dig," the story of the Intracoastal Waterway from Jacksonville to Miami from 1881 to 1935, Bill will discuss how the several early toll canals along the Atlantic coast from the Cape Cod Canal to Florida's East Coast Canal came together to form the modern-day, toll-free Atlantic Intracoastal Waterway.

THIS MONTH AT-A-GLANCE

JULY/AUG 2006

| SUN | MON | TUE | WED | THU | FRI | SAT |
|---|--|---|--|---|--|---|
| 9 Int'l Mango Fest Fairchild Tropical Garden 9:30 a.m. to 4:30 p.m. Urban Outdoor Gourmet Market 1201 E. Las Olas Blvd. 9 a.m. to 3 p.m. | 10 | 11 | 12 | 13 Marlins V HOU Dolphins Stadium 7:05 p.m. Tix.: ticketmaster.com | 14 Marlins V HOU Dolphins Stadium 7:35 p.m. Tix.: ticketmaster.com BOA Starlight Musicals THE FABULONS - 60s - 70s Holiday Park 7 to 10 p.m. | 15 Viva La Playa A1A & Las Olas 10 a.m. to 7 p.m. Info.: 954-527-0627 Mickey's Magic Show Broward Center (Through 7/16) Info.: 954-462-0222 |
| 16 Marlins V HOU Dolphins Stadium 1:05 p.m. Tix.: ticketmaster.com | 17 Marlins V WSH Dolphins Stadium 7:05 p.m. Vice Mayor Teel Pre-Agenda Meeting Beach Community Center 6 p.m. Info.: 954-828-5033 | 18 Ft. Lauderdale City Commission Meeting City Hall 6 p.m. Marlins V WSH Dolphins Stadium 7:05 p.m. Tix.: ticketmaster.com | 19 Marlins V WSH Dolphins Stadium 1:05 p.m. Tix.: ticketmaster.com | 20 Marlins V PITT Dolphins Stadium 7:05 p.m. Tix.: ticketmaster.com | 21 Marlins V PITT Dolphins Stadium 7:35 p.m. Tix.: ticketmaster.com BOA Starlight Musicals VALERIE TYSON BANKS Holiday Park 7 to 10 p.m. | 22 Marlins V WSH Dolphins Stadium 6:05 p.m. Tix.: ticketmaster.com |
| 23 Marlins V WSH Dolphins Stadium 1:05 p.m. FIESTA! Fort Lauderdale Riverwalk 11 a.m. to 6 p.m. Info.: 954-527-0627 | 24 | 25 | 26 | 27 | 28 Jazz on the Square The Village Grille Commercial Blvd. & A1A 7 p.m. Info.: 954-776-5092 | 29 |
| 30 Butterfly Day Fairchild Tropical Garden 9:30 to 4:30 p.m. Info.: 301-667-1651 | 31 | 1 Marlins V NYM Dolphins Stadium 7:05 p.m. Tix.: ticketmaster.com | 2 Marlins V NYM Dolphins Stadium 7:05 p.m. Tix.: ticketmaster.com | 3 Marlins V NYM Dolphins Stadium 7:05 p.m. Tix.: ticketmaster.com | 4 Jazz on the Square The Village Grille Commercial Blvd. & A1A 7 p.m. Info.: 954-776-5092 Marlins V LAD Dolphins Stadium 7:35 p.m. Tix.: ticketmaster.com | 5 Marlins V LAD Dolphins Stadium 6:05 p.m. Tix.: ticketmaster.com |
| 6 Marlins V LAD Dolphins Stadium 1:05 p.m. Tix.: ticketmaster.com Sunday Jazz Brunch Riverwalk, Downtown FL 11 a.m. to 2 p.m. Info.: 954-828-5985 | 7 | 8 | 9 | 10 | 11 Jazz on the Square The Village Grille Commercial Blvd. & A1A 7 p.m. Info.: 954-776-5092 | 12 |

A look ahead

August 14 First Day of public School
September 2 - 3 Art Festival Las Olas Blvd.

Jeb...Continued

Circling the wagons, bill sponsor Julio Robaina exclaimed that "naive condo owners were misled by their condo board attorneys, who had a serious stake in the outcome" This inspired thousands of additional ordinarily politically passive homeowners to peruse the bill text. Their disappointment at having been "spun" and characterized as "naive" by bill sponsors and supporters heightened their anger about this unprecedented attempted intrusion of government into their homes. They contacted Statehouse Representatives, State Senators and the Governor to convey their concern. The bills invariably died in committee. A provision in the original legislation that called for the reincarnation of a Condo Ombudsman was surreptitiously inserted at the eleventh hour into legislation facilitating the installation of defibrillators in Condominiums, ultimately achieving enactment. However, instead of a State sponsored prosecutor with a proclivity for punishment as envisioned by the original bill's sponsor, the Ombudsman was created to bring quarreling neighbors together and achieve consensus through education.

Even though the Ombudsman's office duplicated the responsibilities – and the cost – of the Division of Land Sales, Condominiums and Mobile Homes, it was widely hoped that a neutral entity whose focus was to bring people together and treat all parties as equals could be useful as a forum to promote better communication between quarreling homeowners. Unfortunately, the individual appointed by the Governor to that end carried some unproductive baggage. Unbeknownst to Governor Bush, Dr. Virgil Rizzo was reputed to harbor a chronic inability to coexist with neighbors and, in fact, was actively suing and being sued by his Condominium Association, River Reach. Subsequent to the appointment, almost 2 dozen of Rizzo's neighbors held a press conference characterizing the Governor's selection "as a disruptive individual unfit to lead the state's condo mediation efforts." Neal Ketcher, a retired airline pilot who has lived in River Reach for 33 years, remarked, "It strikes me that someone who has created such disruption, confusion and distrust in his own condominium . . . should not be allowed to do the same at other condominiums." Given that people occasionally rise to previously unattained heights when confronted by newly assumed responsibilities, condo owners opted to afford Dr. Rizzo the opportunity to demonstrate the moderation and impartiality required by his new position.

In short order, hopeful onlookers were surprised and disappointed by a series of inflammatory comments and contradictory actions revealing Rizzo's dissatisfaction with his role as neutral mediator. They were also confused by his repeated legislative entreaties for unprecedented police powers. After Hurricane Wilma, Association members across the State debated the benefits of creating reserves to address catastrophic emergencies. Instead of weighing in based on which proposal would best address the needs of the homeowner, the Ombudsman took the opportunity to prejudicially stereotype volunteers elected to condo boards as thieves, stating "I'm against reserves, it puts money into coffers that directors can [illegally] get into." Strangely enough, he simultaneously supported the "Condo Killer" bills, which contained provisions that eliminated the right of Association members to waive funding their reserves by the vote of the majority.



Former Ombudsman Virgil Rizzo

From the outset, Rizzo resented the administrative oversight exercised by the Department of Business and Professional Regulation over his office. Reports he submitted to the Division were critically incomplete. Last August, Rizzo reported that 50% of the 4000 cases he reviewed during April and June alleged mismanagement by condo boards, supporting his conclusion that, "the major problem continues to be the incapability and inability of board members to properly manage the operation of the association, as required by

Continued on page 6

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Scott...Continued

Broward's municipalities were apoplectic. They formed a coalition to block Broward County from this unprecedented attempt to wrest control of the cities' growth from municipal leaders. While the issues of controlled growth, long term planning, home rule and self-determination are central to this struggle, it would be naive to ignore the political perks that accrue to the winners. It's no secret that development dollars finance political campaigns and influence legislative support. After consulting with land use attorney David Orshesky, the cities recruited Hollywood Senator Steven Geller to meet the County initiative with a legislative counter-attack. Geller enlisted Senator Michael Bennett (R-Bradenton) to sponsor Senate Bill 2956, designed to cleanly eviscerate Broward's control over municipal land use and delegate it to the cities.

Resentful of being forced into refereeing this messy conflict and alienating one of two sizable constituencies, Governor Bush stated that he preferred a balance between the County and its municipalities as opposed to unchecked control by either one. After initially decrying Broward's Land Use offensive, once the cities' legislative countermeasure started gaining momentum, he expressed his intention to veto their bill.

This issue has evolved into an ongoing battle. Broward County has had to fend off recurrent legislative onslaughts by municipalities seeking to free themselves of County Land Use authority. While the County retains lobbyists to mollify these threats, without Republican Scott to put a face on the County Commission in the Governor's office, the cities' chances of success would skyrocket. The resulting diminished Broward authority could undermine County efforts across the board. Individual municipalities could veto County projects at will. As long as Commissioner Scott has the Governor's ear, the Broward universe should continue in a state of equilibrium.

Commissioner Scott reported on his efforts to cut Broward spending. While admitting a marked lack of success, he was able to elicit a compromise agreement to create a series of budget committees and subcommittees charged with reviewing county spending. Taking a page from his Tallahassee

Continued on page 15

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Jeb...Continued

members could imply that incumbent Board members were untrustworthy, thereby influencing the election. Whether or not there was a legitimate cause to anticipate election intrigue, every monitored association expected, and was entitled to, qualified, unbiased representatives from the Ombudsman's office. A healthy percentage of the monitored associations claimed that this wasn't the case. Incidents occasioned by obstreperous and/or belligerent behavior while supposedly providing oversight led many association officials to suspect that the monitors were less than qualified. Since these concerns were expressed by associations whose boards were previously authenticated by the Ombudsman's monitors, they couldn't be characterized as complicit in some vengeful agenda by board members trying to protect questionable credentials.

The associations demanded that the Ombudsman demonstrate that the monitors were qualified and worthy of the unusually high fees charged for their services. Several association officials have asserted that the monitors' qualifications were limited to having participated with the Ombudsman in an anti-Association organization that supported all of the new powers he sought in the Condo Killer bills. Association officials also suspected that Rizzo's admittedly skewed reports blaming every condo problem on "the inability or incapability of board members," were engineered to support the anti-Association group's political agenda. As the Ombudsman was less than forthcoming, they commenced a legal action to enforce a response. Not surprisingly, the anti-Association organization heavily criticized the complainants for expecting the Ombudsman to confirm his monitors' qualifications, intimating that Rizzo's staff was inadequate to copy his records. This also explains the rationale for the ill-fated Condo Killer provision that, "No one may question or interfere with the Ombudsman's appointment of an election monitor." Had this been enacted, Rizzo would have been able to continue thwarting attempts to enforce disclosure.

In the past few months, Rizzo's rhetoric had toned down appreciably. During visits to associations wherein the Ombudsman had encountered controversy, he reversed course - calmly enumerating his responsibility to reach out equally to all parties and defuse conflicts with education - a venue he previously characterized as inadequate. This was exemplified in a recent visit to Playa del Mar, a marquis Galt Mile Condominium wherein a minority of residents requested that the Ombudsman monitor their election. When the monitors arrived, concerned association officials requested their credentials, naturally interested in their qualifications to perform this important activity. Instead of allaying their concerns with open disclosure, the lead monitor leveled a series of threats intimating that associations weren't entitled to know if the people that were monitoring their elections were qualified. He also threatened legal retribution for their having dared to make such an inquiry. Two other accompanying monitors displayed a more professional attitude, responding courteously to the legitimate concerns of association officials. They were then permitted to proceed with fulfilling their obligation.


Continued on page 10



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Jeb...Continued



Playa del Mar Condominium

Playa del Mar is managed by the Continental Group, a well known Florida Property Management company. Since Associations utilizing management companies are somewhat protected from attempts to organize their employees, SEIU Local 11 in Miami has waged a campaign to undermine Continental's credibility in con-

tracted Associations. The anti-Association organization, Condo Killer sponsors Julio Robaina, Juan Zapata and Rizzo are also closely affiliated with Local 11, publicly supporting their efforts to penetrate the Condominium market. When Representative Robaina and Rizzo convened a "Town Hall" meeting sponsored by SEIU to elicit testimony from condo owners about their problems, any speaker not belonging to the anti-Association group or in the union was roundly shouted down. Playa officials suspect that Rizzo's interest in their home derives from this relationship.

When the 2006 Condo Killer bill died in committee owing to overwhelming opposition and Rizzo could no longer rely on the bill's "no answerability" provisions to effectively protect his records from scrutiny, the Ombudsman opted to reach out to associations previously alienated by the behavior of his representatives. Having adopted a non-responsive posture to several requests made by the Galt Mile Community Association to explain how associations might best utilize his services, he surprised Playa del Mar officials by accepting a mysterious last-minute invitation to speak at a meeting organized by a newly elected Playa Board member – ostensibly for other purposes. Given the unusual circumstances surrounding the meeting's convention, veteran Playa Board member Lucille Fannin opted to monitor the event. After expressing appreciation for having been invited to speak at "the notorious Playa del Mar", Rizzo offered a congenial summary of his responsibilities, confirming the Attorney General's description of his office "as a neutral resource for the rights and responsibilities of unit owners, associations, and board members." Far from the bat-wielding official intent on hand-cuffing those perceived as uncooperative, Rizzo conveyed a conciliatory description of his duties and methods more in line with the legislature's original intent. No longer complaining that his lack of police powers rendered him functionally impotent, the new, subdued Rizzo was a friend to all and suddenly satisfied with moderating conflicts using education.

Unfortunately, it was too little, too late. Two years of harsh pronouncements against perceived opponents, exhibitions of rank prejudice, a thinly veiled ongoing relationship with an openly anti-board member organization with ties to a union actively engaging in organizing condominiums and continuous applications for unrestrained punitive power had created a formidable credibility gap. With the Condo Killer bill's failure to make it out of legislative committee, disclosure became imminent. Governor Bush, fully expecting his appointed Ombudsman to cooperate with the parameters of his office as described by the legislature, was placed in an untenable position. Rizzo's refusal to produce records when requested by the Department, his unsupported conclusions based on skewed reports and an unrelenting spate of unprovoked insults were unacceptable. The Ombudsman's dilatory

pace in providing proof that his monitors were qualified elicited concern over the reasons for their having been selected and fanned the appearance of a cover-up. To avert a painfully public process in which the State would have to explain an implied complicity with the Ombudsman's cloudy protocol, the Governor notified Rizzo, "This is to advise you that your appointment as ombudsman is rescinded effective June 1, 2006."

The simultaneous appointment of Danille Carroll, a 39 year-old Department of Health assistant general counsel, as Rizzo's replacement marks the end of his controversial tenure as Condominium Ombudsman. Graduating in 1988 with a B.S. in criminal justice from Florida International University in Miami and from the University of Texas School of Law in 1992, Ms. Carroll practiced in the private sector in Houston and Miami (The Curtis and Kimball Co.) until 2002 when she went to work for the state Department of Environmental Protection in West Palm Beach. One year later she became an assistant general counsel for the Health Department. Her appointment to the \$80,800 a year position was welcomed by the Department of Business and Professional Regulation. DBPR spokesperson Meg Shannon stated, "She is accomplished, experienced and coming from a leadership position in the Department of Health. She is ready to hit the ground running and ready to work cooperatively with the department for the betterment of the millions of Floridians living in condos."

Criticism of the Governor's decision has come primarily from Representative Julio Robaina and those Miami legislators responsible for the annual Condo Killer bills. As expected, the leadership of the anti-Association group in which Dr. Rizzo held membership also protested his dismissal. Presumably, Ms. Carroll is not a member. "We'll keep the South Florida office because there are so many condos down in that area and I'll travel back and forth," affirmed Carroll when asked about her plans for the existing resources. Committed to neutrality, Carroll conveyed her expectation to communicate with representatives reflecting all sides of condo issues, stating, "That's what the Legislature intended, to bring everyone together. I believe they can and I'm the one to do it. The Legislature intended for me to be a neutral person, someone in the middle, someone without a horse in the race."

The appointment of Ms. Carroll will mitigate much of the adversarial atmosphere surrounding the Ombudsman's office. Her mandate is to create a forum that reaches out equally to associations and all unit owners irrespective of whether or not they volunteer service. As anyone that has served as an association volunteer will confirm, settling problems among neighbors is a thankless job. Balancing the legal rights, individual agendas and the potential hardships of friends and neighbors against the law and the Association rules rarely results in a celebration. There are few clear-cut winners and the vast majority of successful outcomes are earmarked by everyone being somewhat disappointed. By definition, it is impossible to perform as a fair and balanced mediator after publicly prejudging an issue or divisively stereotyping a conflict's participants as thieves. Ms. Carroll seems to realize that when trying to achieve consensus among neighbors, communication and education are infinitely more effective than bats and handcuffs! •

Scott...Continued

Although initially appointed by Governor Bush to fill a vacancy on the Broward Board of County Commissioners in December of 2000, Scott handily won the District 4 seat in a November, 2002 election. As Broward's District 4 County Commissioner, Scott has supported a living wage and affirmative action policies, ostensibly Democratic issues. From 2002 to 2004, Scott served on the South Florida Regional Planning Council. He currently serves as the Broward County representative on the Metropolitan Planning Organization (MPO) and the South Florida Regional Transportation Authority (SFRTA). Having been elected Vice Chair of the SFRTA in September 2005, Scott apprised the Advisory Board of recent legislation designed to address the agency's annual search for a dedicated funding source.

"The legislation gives Miami-Dade, Broward and Palm Beach Counties the option to place a tax proposal that adds \$2 to each rental car fee on their respective ballots," as Scott described the provisions in House Bill 1115. Scott anticipates its passage in Broward because the format will not burden the local taxpayers. Commissioner Scott stated, "In addition to increasing regional mobility and connectivity, the reliable funding source will also serve as the basis for attracting State and Federal matching funds." Scott enthusiastically explained how the stable funding source will open the door to "underwriting efficient connectivity projects necessary for Broward's sustained economic growth." Scott also suggested "incorporating the existing FEC (Florida East Coast Railway) tracks into the area's mass transit strategy."

Scott's Republican credentials and legislative experience afford him unique access to the halls of State Government. Given the ensconced Republican monopoly in Tallahassee, his history with the legislature and relationship with the Governor's office is unmatched by his eight Democratic Commission peers. He explained to the Advisory Board how this relationship "served to preserve Broward's jurisdictional authority over county land use."

Scott was referring to a conflict that had developed into an ongoing war between Broward County and its 31 municipalities for control of development within their shared jurisdictions. As the remaining pieces of Broward County were annexed into various municipalities, County officials needed to find other ways to exert authority over their once significant domain. After County Commissioners quietly developed unlikely political alignments with controlled growth advocates and environmentalists, on February 19, 2004, the Broward County Planning Council authorized the development of new land use regulations that squarely relocated control of municipal and other development to the County Commission. Although the Broward County Charter underwrites the Commission's authority to control development, the Commissioners previously empowered the cities with self-determination by writing into the County Commission's Redevelopment Initiative that, "Broward County acknowledges that municipalities will continue to lead in initiating, planning and managing redevelopment including approving development plans, site plans, zoning petitions, providing local infrastructure, etc."

Continued on page 12

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COMMISSIONER JIM SCOTT

Broward County Update

Article by Eric Berkowitz



On May 18th, Broward County Commissioner Jim Scott addressed the Galt Mile Community Association Advisory Board. Accompanied by Administrative Aide Lisa Castillo, District 4 Commissioner Scott represents the Galt Mile community on the Broward Board of County Commissioners. Scott's distinguished career is laced with links to Galt Mile History. Opening with a short trip down memory lane, Scott reminded veteran Advisory Board members about his having represented the newly constructed Ocean Club Condominium as a young attorney. Commissioner Scott is a practicing attorney and a founding partner of Tripp, Scott Law Firm in Fort Lauderdale. Scott also recalled a warm relationship with Galt Mile legacies Nate Fragan and Earl Lifshy. Having attended a plethora of Advisory Board meetings wearing a wide variety of political hats, Scott has been instrumental in assisting the Galt Mile Community Association to achieve numerous neighborhood objectives.

A former Florida Senate President, Scott is the sole Republican on the Broward County Commission. Depending upon the nature of the issue confronting the Commission, his G.O.P. affiliation has proven to be both an asset and a liability. Historically recognized as a Democratic stronghold, Broward

County has earned the Republican political designation of "the Killing Fields". This ominous characterization derives from Broward's reputation as an oft-lethal obstacle to the career objectives of ill-prepared statewide Republican candidates.



Commissioner Scott secured Bond funds for 2,000 sq. ft. expansion of Galt Ocean Mile Reading Center

Notwithstanding qualms about his political predilections by Commission peers, Scott earned a solid reputation for bipartisanship while presiding over the Florida Senate from 1994 to 1996. To circumvent divisive obstacles threatening to undermine his effectiveness as Senate President, Scott wisely assigned Democrats to important Senate posts. During his legislative career, he served as Minority Floor Leader (1978-80), Minority Leader (1980-82), Judiciary Committee Chairman (1982-84), Appropriations Committee Chairman (1986-88 and 1992-93), Chairman of Rules and Calendar (1989-90), Vice Chairman of Rules and Calendar (1993-94), President of the Florida Senate (1994-96), Chairman of Regulated Industries (1997-1998) and Banking and Insurance Chair (1998-2000). In contrast with an otherwise sterling career in Tallahassee, in 1982 Minority Leader Scott cast the deciding vote against the "Equal Rights Amendment", contributing to the belief that Florida was "out of step" with modern attitudes while clinging to questionable prejudices.

Prior to his exemplary 24-year Senate career (1976 - 2000), Scott served as attorney for the Broward County Legislative Delegation from 1972 to 1974 and as a member of the founding board of directors and treasurer of the Legal Aid Service of Broward County. An aggressive and adept multitasker, Scott simultaneously served as an Associate Municipal Judge (1972) and then as a prosecutor (1973 - 1976) in Deerfield Beach. A member of the Florida, Kentucky, Broward County, Palm Beach County and American Bar Associations, he also served as a legal officer with the Coast Guard in South Florida from

Atwater... Continued

Village of North Palm Beach residents, Atwater and spouse Carole Funkhouser have four children - Amy, John, Amanda and Courtney. Atwater nourished community roots by participating in a wide variety of local civic organizations. He joined the United Way of Palm Beach County and the Advisory Boards of Palm Beach Gardens High School and Roger Dean Stadium in Jupiter. He serves as a Director of Northern Palm Beaches Chamber of Commerce and Children's Home Society of Broward County as well as a Mentor for Take Stock in Children. His North Palm Beach neighbors also elected Atwater to serve as their Vice-Mayor.

On July 18, 2000, Republican Atwater qualified as a candidate for his home District 83 House seat, subsequently defeating Democrat Pam Dunstan and Independent Michael I. Danchuk. While in the Statehouse, Atwater was appointed to the Council for Competitive Commerce and the Select Committee of the Whole. Following two years of House seasoning, he undertook to run for the District 25 Florida Senate seat vacated by Debby Sanderson. His Democratic opponent, popular former Florida Attorney General Bob Butterworth, had recently been term limited out of his long held State office. In overcoming a significant discrepancy in experience and name recognition, Atwater's grass roots campaign succeeded in securing the Senate seat by a surprise 14,390 vote margin of victory.

Once in the Senate, Atwater was able to put his fiscal faculties to work. His banking background and conversance with insurance matters rendered Atwater an important resource for the budget-conscious Senate leadership and the Bush Administration. His reelection in 2004 was challenged solely by write-in candidate Alex Schraff who handed Atwater a 99% landslide victory. When Governor Bush created a Homeowners Association Task Force upon learning that some patriotic homeowners were being precluded from displaying "old glory" by their Association boards, Atwater sponsored Senate Bill 2984, providing statutory support for such patriotic demonstrations. When Governor Bush called for a Special Session of the Legislature to address the catastrophic 2004 Hurricane season, Atwater filed Senate Bill 8-A, legislation requiring that owners of homestead property be reimbursed for a portion of the property taxes levied on their property if it was rendered uninhabitable by a hurricane for at least 60 days. Bush and Atwater developed a political synchronicity that helped endear the sophomore Senator to the Senate leadership.

The Administration made clear its intention to measure all legislation against two universal standards; the extent to which it burdened taxpayers and whether or not its enactment contributed to the proliferation of big government. Not surprisingly, Atwater's legislative offerings routinely met the Administration's criteria for endorsement. Recognizing his rising star, the Senate leadership decided to put Atwater through legislative "Seal Training". Upon appointing Senator Atwater as Vice Chairman of the Senate Select Committee on Medicaid Reform, Senate President Tom Lee exclaimed, "Senator Atwater is one of the Senate's most thoughtful and deliberative members. His ability to understand complex issues and identify practical solutions has benefited the Senate. His expertise will be of great value to the Select Committee on Medicaid Reform." Controlling health care costs is a hot potato issue that has left countless political corpses in its wake.

Continued on page 17

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Jeb...Continued

statute, articles of incorporation, declaration, bylaws, and rules and regulations." Upon releasing his conclusions to the media, the Ombudsman admitted that the 4000 cases were actually telephone messages left on his answering machine. He neglected to ascertain whether an offense was committed or if a Board was simply enforcing Association rules, if the calls were repeat complaints or even if the caller was actually a condo owner. Independent review uncovered numerous repeat complaints from a handful of callers. Relevant to the insufficiency of his method, a state-commissioned audit of complaints revealed that 54 unit owners filed 833 'repeat complaints' amounting to 46 percent of the total.

In addition to undermining the department's objective to create a scientific basis for productive recommendations, Rizzo's superficial, unverified database clouded his motives. Officials expressed concern over whether data was being tailored to support his conclusions instead of basing his statements on actual findings. When asked for reports with verifiable data, he responded by denying the Department's authority and his accountability. Instead, he marginalized the Department's inquiries, calling their procedures "not only confusing, obsolete and impractical, but also ineffective, inefficient, antiquated and in serious need of complete revision." DBPR Office of Communications Director Meg Shannon explained the Department's frustration with the Ombudsman's refusal to cooperate, "Dr. Rizzo consistently demonstrated an unwillingness to work within the system and at times refused to be held accountable to the department and to taxpayers." In an attempt to legally divest himself of department accountability, his legislative recommendations repeatedly aspired to lay the groundwork for a complete role reversal by including, "The division shall process the ombudsman's recommendations and petitions in an expedited manner and defer to his findings." Shannon confirmed, "He's refused to acknowledge our oversight."

Despite the Ombudsman's statutory responsibility to be fair, balanced and even-handed in the performance of his duties, media reports during the past two years have painted Dr. Rizzo's behavior as laced with evidence of gross prejudice against volunteer board members. Having expressed regret at not being able to "take a baseball bat" to or "to put the handcuffs on" association members he is sworn to help educate, Dr. Rizzo lobbied hard for a huge expansion of both powers and budget. When the Ombudsman asked the Attorney General last August if he could punish and fine those who refused to follow his orders, AG Charlie Crist responded, "The statute specifically states that it is the intent of the Legislature that the ombudsman act as a neutral resource for the rights and responsibilities of unit owners, associations, and board members. While the statutes provide for the ombudsman to make recommendations and assist condominium owners and boards, they do not authorize the ombudsman to issue orders or impose penalties or to initiate legal actions..."

Enactment of House Bill 1227, co-sponsored by a Statehouse Representative to whom Rizzo made a campaign contribution – Juan Zapata – would have released Rizzo from any accountability. The 2006 "Condo Killer" bill sought to imbue the Condominium Ombudsman with the authority to operate independently of the Department of Business and Professional Regulation, eliminating the only statutory oversight constraining the Ombudsman's behavior. In addition to relieving the Ombudsman from virtually any answerability, the bill "flipped the script". In diametric opposition to the existing statutory protocol, it required the Department to do

his bidding. At the Ombudsman's discretion, bill section 718.5012 mandated that the Department "pursue enforcement action in circuit court on behalf of a class of unit owners, LESSEES or PURCHASERS for declaratory relief, injunctive relief, or restitution against any developer, association officer or member of the Board or its assignees or agents".

This was a novel idea. The peacetime creation of an independent public office empowered to indict, judge and punish. Its target, however, wouldn't be organized crime... or terrorism... or members of a world-wide conspiracy to betray Earth to the Jovian Moons. Instead, the collective might of the State of Florida would be focused on an insidious yet covert scourge, CONDO OWNERS! Not ONLY condo owners... the bill also empowered the Ombudsman to utilize Department resources for prosecuting unit owners on behalf of their tenants or on behalf of prospective unit buyers - house hunters! Even bill co-sponsor Juan Zapata acknowledged that some of its provisions were "unreasonable", painting the bill as "a work in progress."



Representative Juan Zapata and GMCA President's Council Chair Pio Ieraci discuss Bill consequences.

More relevant to Rizzo's ultimate fate was a provision obscured by some of the bill's more egregious regulations. While stipulating that the Department had to pay all of the Ombudsman's expenses and bill section 718.5012 mandated that, "No one may question or interfere with the Ombudsman's appointment of an election monitor," bill section 718.5011(1) provided that "all revenues collected for the office by the department shall be deposited in a separate fund or account from which the department may not use or divert the revenues." While condo owner fees would continue to underwrite the Ombudsman's activities, this provision would create a statutory basis for enabling a self-directed slush fund.

This particular provision held special value to the Ombudsman for another reason. Along with placing all the department's resources at his disposal, this jurisdictional reversal would inoculate his office from having to account for overstepping or abusing its authority. Absent the executive checks and balances, he could appoint questionable election monitors free of concern about the appearance of impropriety.

Following an admittedly rocky start, once the Ombudsman's office was fiscally stabilized, Rizzo prepared to perform some of his mandated responsibilities. Among them was the provision of qualified monitors to oversee voting procedures when called upon by association members suspecting potential election irregularities. At \$3000 and higher for a few hours of oversight, this proved to be an extraordinarily lucrative activity. Contrary to administrative rules, Rizzo opened a private bank account to handle funds attendant to the election monitors. As per Department spokesperson Meg Shannon, Rizzo actually warned Department Secretary Simone Marstillier to not "interfere" with his operation.

Apparently, many of the 40 plus associations that received Rizzo's services evidenced no basis for suspicion of illicit activity. By evoking the use of election monitors, a small minority of association

Continued on page 9

Scott...Continued

experience, the new County budget committee system is similar to the budget vetting process used in the State Capitol. Scott expanded, "At a January budget meeting, the Office of Management and Budget (OMB) predicted unavoidable additional expenditures, many related to Hurricane Wilma. OMB also indicated that new parks and libraries built with County Bond dollars would require operational resources when opened." While spending cuts aren't in the cards for 2006, Scott is confident that these budget committees will insure that County residents get the biggest bang for their buck. One of the libraries benefiting from Bond funds is the Galt Ocean Mile Reading Center. The Broward facility at 3403 Galt Ocean Drive will be the recipient of a \$431,000 – 2000 square foot expansion in the near future.

As Chair of the Airport/Seaport Select Committee, Scott is pleased with the new state-of-the-art security infrastructure at Port Everglades. Scott explained, "To balance the costs of post-9/11 security without negatively impacting the terrific growth in our cruise traffic, we invested in new security infrastructure and security training to insure that our Port is safe to the traveling public and guarded against the threats of terrorism, theft and transportation of illegal contraband." Working with Federal and State partners, Broward was able to take advantage of unique funding opportunities. To secure the Port's perimeter, they installed more than 200 fixed and closed circuit cameras to monitor all entry and exit points while providing surveillance of both landside and waterside activities. Access Control Points have been erected at each of the Port's four entrances. Seventeen miles of underground conduit carries the fiber optic cabling required to feed closed circuit television and automated access controls monitored at the Port's new Security Operations Center. The benefit of Scott's Tallahassee ties again became apparent as he explained, "I worked closely with Legislative leaders during the 2006 State Legislative Session to help craft changes to state law that provides additional latitude to Ports, including the ability to utilize a new category of security officer, where appropriate, to assist in keeping costs under control, as well as streamlining the process to modify a Port's Security Plan."

Scott spoke to new County plans addressing hurricane issues. In addition to the hurricane preparedness guides sent to county residents, he described functional improvements to the Broward County Emergency Operations Center (EOC). Scott explained, "Every city has a representative in the EOC as well as officials monitoring the needs of police and firefighters, schools and hospitals, hurricane shelters, transportation services, road closures and human services such as providing food and water to the elderly, disabled, or shut-ins." Broward County is expediting their permitting process in order to get more generators into the hands of those businesses that provide staples like food, water or gasoline.

He continued, "If we fast track the permitting process we believe more people will install a generator so that when the power goes out, they will still be up and running." After crediting Emergency Management Director Tony Carper with many of the County's innovative preparations, Scott explained that "Broward County is designing signage that could be displayed prominently by local retailers identifying them as having emergency generator capacity." Scott said, "This way you'll know what businesses are planning to open to provide goods and services after a storm occurs."

As to existing Galt Mile Senate representation, Scott characterized Senator Jeffrey Atwater as, "an excellent legislator", remarking that we are "fortunate to have him." Atwater is currently a strong candidate for Scott's former position as Senate President and serves on the same Insurance Committee over which Scott presided as Chair before leaving the Senate.

While listening to Commissioner Jim Scott describe County affairs in a lilting Kentucky accent, its easy to overlook the likelihood that he is Broward's most effective Commissioner. Unlike many of his fellow Commissioners, he quietly gets the job done. The Beach renourishment effort and the Beach Community Center are County projects. Its not by accident that they directly benefit the residents of District 4. The Galt Mile community would be hard pressed to find more effective representation on the Broward Board of County Commissioners. •



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SENATOR JEFFREY ATWATER'S RISING STAR

Senator Jeffrey Atwater



Senator Atwater's Greatfather, Florida Governor Napoleon B. Broward (1905-1909) and family

Jeffrey Atwater represents the Galt Mile neighborhood in the Florida Senate. On Wednesday, May 24th, civic leader Rose Gultman invited the Senator to join FLPD Police Chief Bruce Roberts, former City Commissioner and Broward Housing Authority Commissioner John Aurelius and better half Doris, GMCA officials Robert Rozema, Pio Ieraci, Leah Glickfield and Eric Berkowitz for a luncheon meeting at Fort Lauderdale's Tower Club. The Senator was accompanied by Legislative Assistant Kimberly Jaeger. One of the most prolific legislators in the State Capitol, the District 25 seat holder sponsored 44 bills and co-sponsored 33 bills during the 2006 legislative session. His legislative career has been nothing short of meteoric. After serving two years in the House, Atwater surprised well-known former Florida Attorney General Bob Butterworth in an upset victory for the District 25 Senate seat in 2002. Re-elected in 2004, Senator Atwater promises to be the most productive Senator to ever represent the Galt Mile neighborhood. Given the illustrious complement of Senators formerly representing District 25, this is a remarkable achievement.

Born on April 8, 1958 in St. Louis, Missouri, Atwater moved to Florida at the age of 4. After graduating with a major in Finance from the University of Florida in 1981, he entered the field of Banking. Employed by Barnett Bank of the Treasure Coast, Atwater attained the positions of Chairman, President & CEO from 1994 through 1996. In 1996, he took the reins of Barnett Bank of Broward County, where he again served as Chairman, President & CEO until its acquisition by NationsBank in 1998 - when he became NationsBank President in Broward County. He then assumed the position of President of Riverside National Bank for Palm Beach and Broward counties. Despite his success in the private sector, Atwater's family legacy fueled a proclivity for public service. In addition to being our county's namesake, Great-grandfather Napoleon B. Broward also served as Governor of Florida from 1905 through 1909.

Continued on page 13

Atwater... Continued

Senator Atwater also chairs the influential Senate Committee on Government Efficiency Appropriations, a star studded panel of Senate powerhouses from both sides of the aisle. From this platform, Atwater has been able to press a personal agenda of infusing legislative offerings with budgetary balance.



Galt Mile Constituents visit Senator Atwater in Tallahassee to Discuss Legislative Concerns

Other Committee appointments read like a "who's who" of legislative fiscal responsibility, including the Committee on Banking and Insurance, the Committee on Ways and Means, the Legislative Budget Commission, the Committee on Communications and Public Utilities and the Committee on Health Care. Atwater's skill set, the compatibility of his vision with that of the Governor and the Senate leadership, his propensity for inviting bi-partisan input and the particular challenges that currently dog Florida residents have converged into a unique opportunity for the District 25 Senator. His close relationship with Senate President Tom Lee, Governor Bush and the Rules Chairman and designated Senate President Ken Pruitt has presented Atwater with a political environment conducive to unprecedented productivity.

The Senator takes special satisfaction from having sponsored, nursed and passed a repeal of the State's Tax on Intangible Personal Property, Senate Bill 714. By contending that the tax on holding acquired assets such as stocks and bonds amounts to double taxation, Atwater overcame opposition claims that the repeal primarily advantaged a small percentage of wealthy asset holders. Atwater aligned broad support for repealing the tax by focusing on the precept that taxing resources twice is inherently unfair. Repealing the intangibles tax was also among the Governor's top priorities.

Despite his incredibly productive legislative season, Atwater stated that he regrets "the legislature's failure to pass Homestead portability legislation." Several bills were filed that would have allowed homeowners to carry forward their tax exemptions to another home purchased after selling their homesteaded properties. It is estimated that millions of homeowners cannot afford to downsize or otherwise move to more appropriate residences due to the huge tax discrepancy created by skyrocketing property values. These increased property values have been the source of a property tax windfall for local governments.

Senator Atwater explained, "Municipal and County governments blocked passage of every portability bill for fear of losing anticipated 'just (market) value' tax assessments on newly purchased properties." Unfortunately, they appear to be laboring under a self-reinforcing delusion. The resources they are concerned about losing are only generated when an undervalued property is reassessed to "just value" upon being sold. Since the "moving penalty" is preventing this trapped population from selling their homes anyway, the local government's revenue loss is largely theoretical. Ironically, by blocking portability legislation, they are preventing literally millions of potential real estate transactions from which they would ordinarily realize documentary stamp fees and transaction taxes.

Continued on page 18



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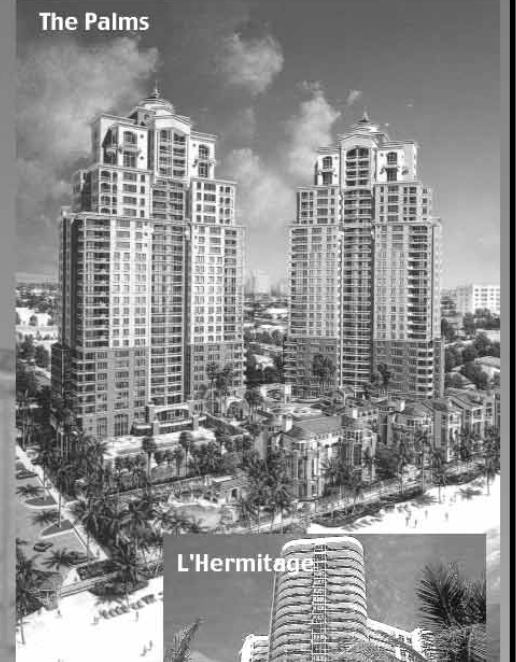
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