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October 6, 2009

PRESS RELEASE

The Office of the State Attorney announced today the completion of a review regarding certain aspects of Santa Rosa County Government. The review was conducted by Chief Assistant Greg Marcille and Chief Investigator Barry Brooke. Attached to this press release is the Report setting forth the details of their review.

For further information, please contact Chief Assistant State Attorney Greg Marcille at (850) 595-4761.

Report

As a result of complaints received by this office as well as concerns within the community, the Office of the State Attorney has conducted a thorough review of certain aspects of Santa Rosa County government. The complaints received are numerous and cover a wide range of topics. For purposes of this report, they are divided into three main categories:

1. The operation of TEAM Santa Rosa and whether they have violated either Florida's Government in the Sunshine or Public Records law.
2. The Santa Rosa County Board of Commissioners and whether they have violated the Florida Sunshine Law.
3. Whether any criminal laws were violated in the negotiation or purchase of approximately 90 acres of land from Bill Pullum by Santa Rosa County for use as a commercial or industrial park.

The review in this matter has been extensive and has included interviews with approximately 30 individuals. Included in this number are all five current Commissioners as well as two former Commissioners. Others interviewed include current and former county employees, employees and board members of TEAM Santa Rosa, and private citizens. We have also reviewed hundreds of pages of emails and other documents. In addition, we have researched the applicable law and discussed our findings with others considered experts in the field of Sunshine and Public Records Law.

Based upon our investigation, we have determined that there is insufficient evidence to prove beyond a reasonable doubt that any crimes have occurred. We are concerned, however, by certain actions and have made specific recommendations to avoid these continuing to be concerns in the future.

TEAM Santa Rosa

TEAM Santa Rosa Economic Development Council, Inc., commonly referred to as TEAM Santa Rosa, is a not for profit corporation that was originally organized in December 1992. According to the corporate by-laws, the purpose of TEAM Santa Rosa is to increase the economic wealth of Santa Rosa County through the growth of a balanced and sustainable economy. According to their website, TEAM Santa Rosa is the central facilitator for attracting, retaining, and expanding industry as well as recruiting and retaining employees.

Any individual or business may become a member of TEAM Santa Rosa by the payment of

annual membership dues. The corporation is governed by a board of directors with day to day decisions made by an executive director. For the past seven years, Cindy Anderson has been the executive director. A substantial amount of TEAM Santa Rosa's funding comes from Santa Rosa County. In the most recent year that funding was approximately \$500,000.

On September 11, 2008, TEAM Santa Rosa and Santa Rosa County entered into a Funding and Program Agreement. Under the terms of that agreement, TEAM Santa Rosa is to provide services to Santa Rosa County for the promotion and development of industrial, military, agricultural and commercial economic development.

As part of its business, TEAM Santa Rosa would recruit and negotiate with businesses to relocate or expand to Santa Rosa County. They would also attempt to locate property for development as commercial or industrial parks. TEAM Santa Rosa would then bring these matters before the Santa Rosa Board of Commissioners and recommend possible board actions. These actions may include county incentives to businesses or the use of county funds for the purchase of land.

TEAM Santa Rosa and Sunshine Law

Prior to February 2009, it is clear that TEAM Santa Rosa operated outside the requirements of the Florida Sunshine Law. This does not appear to be based on any attempt to intentionally avoid the law but rather on TEAM Santa Rosa's belief that the Sunshine Law was not applicable to their organization. This belief seems to have been based on the board's conclusion that TEAM Santa Rosa was a private non-profit corporation that contracted with the county to provide certain services. They also believed that other Economic Development Councils throughout Florida were exempt from the Sunshine Law. There was also a reluctance to believe that the Sunshine Law applied because it would limit TEAM Santa Rosa's ability to compete with Alabama and Mississippi in the area of economic development. It is also apparent that this position was of a longstanding nature and was reached without the advice of an attorney.

The issue of TEAM Santa Rosa and the Sunshine Law was first raised in 2006. At that time, no definitive decision was made that TEAM Santa Rosa was required to operate in the Sunshine. In fact, Santa Rosa County Attorney, Tom Dannheisser, stated in an email that "TEAM may be subject to the Sunshine". (emphasis added)

In late 2008, the issue of TEAM Santa Rosa was again raised. At that time, Dannheisser advised that when dealing with a private entity a number of criteria should be used in determining if the Sunshine Law was applicable. At that time, he stated that TEAM Santa Rosa should operate in the Sunshine. Roy Andrews, a private attorney in Milton, provided Cindy Anderson a number of Attorney General Opinions that indicated that TEAM Santa Rosa was required to operate under the Sunshine. Finally, the Office of Open Government advised that TEAM Santa Rosa should operate in the Sunshine.

In February 2009, Ed Gray, Chairman of the Board of Directors, determined that TEAM Santa Rosa should operate under the Sunshine. While some reluctance to the Sunshine continues, TEAM Santa Rosa has operated under the law since February.

We have reviewed the applicable law and determined that the Florida Sunshine Law is applicable to TEAM Santa Rosa. A primary basis for this decision is that Santa Rosa County has delegated the performance of its public purpose to a private entity. TEAM Santa Rosa also plays an integral role in the public agencies decision making process. The Sunshine Law applies not only to the formal decision of the public board but also to the discussions and deliberations behind that decision. Clearly the actions of TEAM Santa Rosa in negotiating with businesses and individuals concerning economic development have a great impact on the ultimate decision made by the county in these matters.

While we find that TEAM Santa Rosa did not comply with the Sunshine Law, we find that there is insufficient evidence to warrant criminal prosecution. Any violation was unintentional and TEAM Santa Rosa is currently operating according to law. No public purpose would be achieved by prosecution at this time.

We do make the following recommendations to avoid future issues:

1. That TEAM Santa Rosa and its Board of Directors accept their responsibilities under the Sunshine Law and continue to operate in accordance with the law.
2. That TEAM Santa Rosa contract with an outside organization such as the First Amendment Foundation for training of both Board Members and staff concerning the Sunshine Law.

TEAM Santa Rosa and Public Records

While TEAM Santa Rosa did not believe that they were subject to the Sunshine, they have accepted that they did come under the public records law. We have, however, received numerous complaints regarding how they handled public records requests. These complaints primarily allege that TEAM Santa Rosa failed to timely or completely respond to requests as well as improper fees being charged when providing public records.

In reviewing these complaints, we have determined that TEAM Santa Rosa has failed to fully comply with the Florida Public Records law. We find, however, that these violations were inadvertent and unintentional and do not rise to the level of a criminal violation. In reaching this conclusion, it appears that the errors in complying with public records requests were due primarily to a lack of training as well as a failure to comprehend an agencies obligation under the

law. Certain records of an economic development council are exempt from public records. Confusion over this exemption contributed to the problems with public records. In determining fees to charge for providing public records, TEAM Santa Rosa looked to board policy rather than the law in the setting of such fees. Finally, lack of staff contributed to public records being provided on an untimely basis. Priority was given to ordinary duties rather than the timely response to public records requests.

Since these complaints were first made, TEAM Santa Rosa has taken steps to improve their response to public records requests. They have proposed a written policy regarding the handling of public records requests. The primary complainant regarding this issue has indicated that with the exception of one request, all his public records requests have been complied with. He has also indicated that TEAM Santa Rosa has recently improved how they handle public records requests.

In order to fully comply with public records requests, we make the following recommendations:

1. That staff of TEAM Santa Rosa receive training on public records from an outside organization.
2. That a specific individual be designated as the custodian of public records.
3. That all fees for public records be established according to all applicable statutes.
4. That priority be given to the timely response to public records requests regardless of other staff obligations.

TEAM Santa Rosa and Pete Gandy

During 2008, TEAM Santa Rosa was attempting to hire an individual for a Military Liason position. Pete Gandy, a Board Member and Chairman of the Military Affairs Committee, wrote the request for proposal for this position and was involved in the interview process. A decision was made by Cindy Anderson to advertise this position on the website but to "bury it" in the military section. As a result, only two applications were received.

When no acceptable applicant was located, Gandy applied for the job. After being interviewed, Gandy was hired for the position. We have reviewed this matter and have determined that there is insufficient evidence to prove beyond a reasonable doubt that a crime occurred. This matter only raises ethical or conflict of interest issues which are outside the purview of the Office of the State Attorney. This position is up for renewal this month and is prominently listed on TEAM Santa Rosa's website.

Santa Rosa Board of Commissioners

We have also received complaints that members of the Santa Rosa Board of Commissioners have violated the Florida Sunshine Law. The majority of these allegations have been made by a former Santa Rosa employee, Romi White. These complaints allege that the Commissioners violated the law by meeting outside the Sunshine during a joint Escambia/Santa Rosa meeting at the University of West Florida, by using emails or other electronic devices to hold improper communications, and by regularly meeting in individual offices to hold discussions with third parties in such a manner as to violate the law.

University of West Florida Meeting

On March 20 and 21, 2007, the Commissioners from both Escambia and Santa Rosa Counties met together for a joint meeting. This was a publicly advertised meeting that was attended by both private citizens as well as members of the media. Romi White has alleged that during a break in that meeting, all five of the Commissioners in office at that time met together and discussed a hiring freeze that was pending before the board. She further stated that then Commissioner John Broxson raised the issue of a possible Sunshine violation and did not actively participate in the discussion.

All five of the Commissioners alleged to have met at the University of West Florida have been interviewed and have denied that any such meeting occurred. Santa Rosa County Administrator, Hunter Walker, was present at the University of West Florida meeting and has testified that he did not witness any such meeting. No other individual has been located that would testify that they witnessed the Commissioners meeting illegally. All of the witnesses have testified that the issue of the hiring had been discussed extensively at a public meeting held just prior to the University of West Florida meeting.

On these facts, there is insufficient evidence to conclude that a crime was committed.

Other Meetings

Romi White has also alleged that she witnessed numerous meetings between various members of the Board of Commissioners that took place in different offices located at the Santa Rosa County Office Complex. She further alleged that Hunter Walker and Tom Dannheisser were present at these meetings and that Walker would be used as a conduit to relay information between Commissioners.

All seven current and former commissioners who were interviewed during this review have denied participating in or being aware of any such meetings. Both Walker and Dannheisser have also denied that these meetings ever occurred. County employees, Merry Beth Andrews and Michelle Parker, have both testified that no such meetings occurred. Former County employee,

Rusty Grimes, was also alleged to have been a witness to these meetings. He has also denied seeing such meetings.

On these facts, there is insufficient evidence to conclude that a crime was committed.

Electronic Communication

This office has also received complaints that various Commissioners have used emails or other electronic devices such as Blackberry's to communicate outside the Sunshine.

In support of these allegations, two emails or series of emails have been cited as examples of possible violations. The first involved an email sent by Don Salter on his private email account. The email was dated Sunday, December 11, 2005 at 3:43 a.m. This email was captured on the Santa Rosa County server and was sent to a number of individuals including fellow Commissioner, Gordon Goodin. The email was sent to Goodin's private email address.

The topic of the email was approval by the Florida Forever Council for the purchase of 1900 acres of land around Whiting Field. The matter was pending before the Governor and Cabinet for final approval. This email does not violate the Sunshine Law for two reasons. First, it did not involve a matter that was likely to come before the Santa Rosa Board of Commissioners. Second, this was a one way conversation that did not involve an exchange of information.

The second complaint involved a series of emails between Mike Zeigler of West Florida Regional Planning Council, County employee Michelle Parker, Commissioner Gordon Goodin and other members of the Board of Commissioners. These emails were dated May 30 and 31, 2006 and originally involved the scheduling of a meeting of the Escambia-Santa Rosa Regional Transportation Authority. At that time, this authority had not met in more than three years.

Commissioner Goodin questioned whether Escambia County had withdrawn from that authority and this eventually led to one question and a comment from Commissioner Bob Cole. All the emails are public records and were captured on the County server.

After learning that Escambia County had withdrawn from the authority. Cole emailed Goodin asking how this action would affect any votes taken by the Regional Transportation Authority. Goodin then replied that the Regional Transportation Authority had not met since Escambia County withdrew. Cole later responded "There are to dam (S.P.) many authorities with no authority."

While these emails are troubling, they do not rise to the level of a violation of the Sunshine Law. While there is an exchange of emails between Cole and Goodin, they do not truly contain an exchange of ideas as contemplated by the Florida Sunshine Law. Further, it does not involve a matter that was likely to come before the Santa Rosa Board of Commissioners for action. While Santa Rosa did vote to withdraw from the Regional Transportation Authority, this decision was

made after a full and complete discussion at a public meeting. For these reasons, we find that no crime can be proved beyond a reasonable doubt.

Electronic Devices

An allegation has also been made that Commissioners have used electronic devices, more specifically, County issued Blackberries, as a means to communicate outside the Sunshine.

A number of County employees, including the Commissioners, were issued County Blackberries for use in their jobs. Romi White testified that she brought the Commissioners' Blackberries to Rusty Grimes to be updated to allow Pensacola News Journal messaging. Grimes stated that he did update the Commissioners' devices. He also stated that he had done the same update on numerous other County owned Blackberries. Each Commissioner has denied using cell phones or other electronic devices to communicate outside the Sunshine. We can locate no other evidence to establish that any violation has occurred.

While we find that no violation has occurred, we do make the following recommendations to avoid these issues being raised in the future.

1. Santa Rosa County adopt a policy to prohibit the use of private emails to conduct County business.
2. While not strictly prohibited, Commissioners should be cautioned against using emails to communicate with each other.
3. If emails are used, they should contain a disclaimer indicating that no response should be sent.

Pullum Property Purchase

Questions have been raised both in complaints to this office as well as within the community about the negotiation and purchase of property by Santa Rosa County from Bill Pullum. In reviewing this issue, this office interviewed each of the County Commissioners as well as the three appraisers who evaluated the property. In addition, we also interviewed Bill Pullum, Cindy Anderson, and Tom Dannheisser. Numerous records and other materials were also examined. Based upon our review, we do not find evidence that any crime was committed. Any possible violation would only constitute an ethical violation over which this office does not have authority.

Bill Pullum has been involved in the real estate business in the Santa Rosa County area for many years. He has been a member of TEAM Santa Rosa since approximately 2000. In 2002, he served as Chair of TEAM Santa Rosa's Site and Building Task Force. Through his work on TEAM Santa Rosa, he became friends with Cindy Anderson. He has also been long-time friends with TEAM Santa Rosa Board Member, Dick Baker, and Commissioner Gordon Goodin.

Since the 1980's Pullum or his family has owned property on Highway 87 near the intersection with Interstate 10. As a result of restrictions on the use of this property, Pullum determined that the best use of the property was as a commercial or industrial park. Pullum eventually developed approximately 60 acres of this property as Pullum Industrial Park. This left approximately 90 acres for future development.

According to Pullum's testimony, he had discussed the possible sale of all or part of this property to Santa Rosa County for the past three years. These discussions involved both TEAM Santa Rosa and County Officials. TEAM Santa Rosa believed that this property was uniquely suited for use as an industrial park. This was based on its close proximity to an existing interchange with Interstate 10, the quality of the land with no wetlands, and the fact that complete utilities and roads were available.

Several versions of this purchase were discussed; purchase of only the developed area, purchase of only the undeveloped land, or purchase of the entire property. TEAM Santa Rosa eventually determined that the best proposal was to purchase only the undeveloped land. This would allow the property to be developed to the specific needs of possible tenants.

In planning for the possible purchase of this property, Santa Rosa County had the property appraised by Shawn Brantly. According to Brantly he determined that the best use of this land was as an industrial subdivision. His appraisal called for a subdivision containing 66 lots that were each 1.13 acre in size. In reaching a value, he used sales of similar sized industrial lots. He determined that the value of the undeveloped property was \$900,000.

This appraisal was questioned by both Tom Dannheisser and Bill Pullum. At that time, Pullum requested a second appraisal. This second appraisal was done by Paul Grimes. Grimes disagreed with the prior appraisal and determined that the best use was not as an industrial subdivision with small lots as Brantly felt, but instead as an industrial park with a limited number of larger parcels. His appraisal describes lots between five and fifteen acres in size. He also used a wider geographical area to determine comparable sales than was used by Brantly. Grimes determined that the value of the land was \$3,375,000.

Because of the large difference between the two appraisals, a third appraisal was requested. This report was done by Michael Rogers. Rogers stated that he also disagreed with Brantly's conclusion that the best use of the property was as an industrial subdivision containing small industrial lots. Instead, Rogers determined that the best use of the property was with a limited number of larger parcels. His appraisal describes using this property for regional sized

warehousing and/or distribution facilities. Like Grimes, Rogers used a larger geographical region to determine comparable sales. Rogers testified that his appraised value for the land was \$3,000,000.

In negotiating the possible purchase price, it was decided to discount the first appraisal and average the others. This led to a purchase price of approximately \$3,180,000. The funds for this purchase were designated to come from the Industrial Park Fund and the Electronic Franchise Fee Economic Development Fund. Approximately \$130,000 was to be borrowed from the Road and Drainage Fund. This amount was to be paid back over a three month period of time. No ad valorem funds were used for this purchase.

There was strong disagreement regarding this property. Some believed that the property was an excellent purchase while others thought it was not needed or that it was the wrong economic time to spend more than \$3,000,000. On March 6, 2009, the Santa Rosa Board of Commissioners by a 3 to 2 vote approved the purchase.

Since the time of the purchase, information has been brought forth concerning trips by Dick Baker, Cindy Anderson, and Gordon Goodin to an island Bill Pullum owns off the coast of Honduras.

In 2003, Pullum purchased a small island near the larger island of Guanaja. This area had been heavily damaged by a tropical storm and Pullum had been there on a mission trip. After purchasing the island, Pullum would bring friends to the island on what he described as working vacations to help the area. In 2005, Goodin and his wife went to the island at Pullum's expense.

Dick Baker and Cindy Anderson have also been to the island. According to Anderson's statement, she viewed this trip as a mission trip. She described herself as the "garbage lady" and is using her training as an engineer on landfill issues.

There is no evidence to conclude that these trips in any way influenced Goodin to vote in favor of the Pullum land purchase. His trips occurred approximately four years prior to the vote. Neither Baker or Anderson were part of the final decision to purchase the land. There is no evidence to indicate that their support of this project was influenced by their trip to Clark's Cay. Any violation would be an ethics violation which is outside the purview of the Office of the State Attorney.

The decision to purchase the Pullum land was a political decision made by the Santa Rosa Board of Commissioners. While this purchase may or may not have been a good decision, there is no evidence to conclude that this vote was influenced by any illegal behavior.