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December 14, 2011

PRESS RELEASE

The Office of the State Attorney has completed its review of the Escambia County Tourist Development Council. This review has determined that no violation of the Sunshine Law occurred. Attached to this press release is a report setting forth more details.



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REPORT

This office has completed its review regarding allegations that members of the Escambia County Tourist Development Council may have violated the Florida Sunshine Law. Based upon this review, we have determined that there is insufficient evidence to establish that any crime has occurred. We do find, however, that the actions of certain members of the Tourist Development Council have violated the spirit of the law and should be avoided in the future.

The Escambia County Tourist Development Council (TDC) is a nine-member board created pursuant to Florida Statutes and county ordinances. Its purpose is to advise the Board of County Commissioners regarding the expenditures of Bed Tax Funds. The TDC is a board that must comply with the requirement of the Government in the Sunshine Law. It is made up of one representative from the Board of County Commissioners, two from the Pensacola City Council, no less than two members who have an interest in tourism and no more than four members who are owners or operators of hotels, motels, and other tourist accommodations.

Several allegations have been made that TDC members may have violated the Sunshine Law. These allegations primarily involve Commission Grover Robinson, TDC Chairman Denis McKinnon, and Member Nash Patel.

The first allegation involves the business relationship between Robinson and McKinnon. Both Robinson and McKinnon have been involved in the real estate business for a number of years. In March 2011, Robinson began working with McKinnon's Coldwell Banker Real Estate office as an independent contractor. Both Robinson and McKinnon testified that they were seldom in the office at the same time and that they never discussed TDC business outside a public meeting. No evidence exists that Robinson and McKinnon ever discussed TDC business while in the Coldwell Banker offices. Robinson's term on the TDC ended on November 17, 2011 and therefore, this is no longer an issue.

The second issue involves a statement that was allegedly made by Commissioner Robinson to Allison Davenport that indicated a decision had been made regarding changes to the way the TDC operates. At the time this statement was made no public discussions had taken place at a TDC meeting about any such changes.

Commissioner Robinson characterizes this statement in a different manner. He indicates that the statement was made to Ed Schroeder in the presence of Ms. Davenport. Robinson recalls the statement as “change would be coming” referring to the future equal treatment of Pensacola Beach and Perdido Key.

This statement alone is insufficient to establish a violation of the Sunshine Law. During this time, numerous groups had been discussing changes to the TDC and the way the bed taxes were handled. There is no other evidence that Commissioner Robinson engaged in any discussions outside the Sunshine Law regarding changes to the TDC.

The final allegations regard a series of meetings attended by Denis McKinnon and Nash Patel as well as emails concerning those meetings. Beginning in early 2011 Ed Schroeder and Ellis Bullock helped organize a series of meetings with the owners of hotels located in Escambia County. One of the purposes of these meetings was to discuss the way bed tax dollars were being spent. Both McKinnon and Patel attended at least some of these meetings. Prior to these meetings, both McKinnon and Patel were aware that the Sunshine Law might apply. It was determined that one or the other would leave the meeting if TDC matters were discussed. It was also decided that Patel would not speak or otherwise participate in any discussions at these meetings. The evidence is clear that Patel never spoke at these meetings.

In order for a violation of the Sunshine Law to occur, there must be a discussion or an exchange of information between two or more members of the same board. In this situation, Nash Patel never spoke at these meetings and therefore, no discussions or exchange of information took place. For this reason, no violation of the Sunshine Law occurred. Likewise, any emails that may have been sent by McKinnon were never responded to by Patel and thus did not constitute an exchange of information.

While we find that no violation of the Sunshine Law occurred, we are concerned with members of the same board attending meetings where matters are discussed that may foreseeably come before that board. This type of action clearly raises concerns with the general public and violates the spirit of the law. Such behavior should be strongly discouraged. In addition, several members of the TDC indicated a concern that there was a lack of understanding of the Sunshine Law particularly by the citizen members. A stronger emphasis should be made to educate members of these boards regarding their obligations under the Sunshine Law.

For the reasons stated, no further actions will be taken by this office regarding this matter.



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