

WILLIAM "BILL" EDDINS
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OFFICE OF
STATE ATTORNEY
FIRST JUDICIAL CIRCUIT OF FLORIDA

December 31, 2014

Jeffrey Randolph Cudd
14887 Innerarity Point Road
Pensacola, FL 32507

Dear Mr. Cudd:

This office has completed its review of your complaint alleging that Escambia County Commissioner Doug Underhill violated the Florida Sunshine Law by having illegal conversations with other commission members. Based on our review, we have determined that there is insufficient evidence to establish that a crime was committed.

In your complaint, you alleged that Underhill had conversations with various county commissioners to discuss the discretionary spending that each commissioner has using tourist development tax dollars. Under county procedures, each commissioner has \$50,000.00 that they can recommend to the Board for spending approval. Underhill did not agree with this process and hoped to have it changed.

During the time relevant to our investigation, Underhill was a candidate for Escambia County Commissioner, District 2. He faced opposition in both the primary and general election. Under Florida law, a candidate for election is not subject to the Florida Sunshine Law. This changes once a candidate becomes a candidate elect. Under the facts of this case, Underhill became candidate elect on or after the date of the general election.

The evidence indicates that Underhill did have discussions with various commissioners where the issue of discretionary spending was discussed. Each of these discussions took place after the primary election, but before the date of the general election. As such, Underhill was not subject to the Sunshine Law and therefore no violation was committed. There is no evidence that any discussions occurred after the general election.

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For these reasons, this office will take no further action regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Marcille", with a long horizontal flourish extending to the right.

Gregory A. Marcille
Chief Assistant State Attorney

c: Alison Rogers, Escambia County Attorney
Doug Underhill, Escambia County Commissioner, District 2

GAM/jp