

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT

OF THE STATE OF FLORIDA IN AND FOR

ESCAMBIA COUNTY, FLORIDA

AT THE FIRST TERM HEREOF,

IN THE YEAR OF OUR LORD,

TWO THOUSAND AND TWENTY-FOUR

REPORT

WE THE GRAND JURORS OF THE STATE OF FLORIDA, LAWFULLY SELECTED, IMPANELED AND SWORN, INQUIRING IN AND FOR THE BODY OF THE COUNTY OF ESCAMBIA UPON THEIR OATHS AS GRAND JURORS, DO PRESENT THE FOLLOWING REPORT.

At the request of the Office of the State Attorney we have reviewed a matter concerning work done on private property owned by Commissioner Luman May by Escambia County employees. Based upon our review, we have determined that there is insufficient evidence to establish that probable cause exists that a crime was committed and therefore return a NO TRUE BILL. We do, however, issue this report containing our findings and recommendations.

FACTS

Luman May is the elected county commissioner for District 3. He was first elected to this position in November 2012. Commissioner May testified that he or family members own a number of parcels of land in that District. Included in the property owned by Commissioner May and his family are two vacant lots on West Yonge Street. Commissioner May stated that he has maintained these lots for a number of years and that he allows them to be used as a gathering place for people living in the area.

Commissioner May testified that he would periodically hire people in the area to clean the lots. Whenever he did this, he would direct them to move the debris to the right of way for pick up. As these are vacant lots, there are no paid utility services—including garbage and trash pickup—for that address. Commissioner May indicated that Escambia County owns a number of grapple trucks for removing material and debris. He indicated that the use of these trucks to remove trash and rubbish in neighborhoods was appropriate.

In October 2023 these two adjacent lots on West Yonge Street had become overgrown. Commissioner May hired several individuals to trim and clear the overgrowth. As in the past, they were instructed to move the material to the right of way. At the same time, Commissioner May hired a professional tree company for the removal of several trees as well as a substantial amount of tree trimming. In negotiating the contract price Commissioner May indicated that he would handle the removal of the cuttings. Based on Commissioner May's testimony, it was his intention to remove the heavier debris by the use of dumpsters on the lot and moving the remaining material to the street. Based on other testimony as well as our review of photographs and a video, it would be impossible to move the debris to the street without the use of heavy equipment. Additionally, it does not appear that there was sufficient space on the right of way for the placement of the material.

On Saturday November 4, 2023, Commissioner May called County Administrator Wes Moreno. Moreno is the senior administrator for Escambia County and is responsible for the day-to-day operation of the county. He answers directly to the Board of County Commissioners. During that conversation, Commissioner May told Moreno that there was debris in front of 1624 West Yonge Street that may have been blocking the road. At no time during that conversation did Commissioner May indicate that he was the owner of that property.

Moreno then called James Higdon, the Director of Public Works, to look into the problem. This being a Saturday, Higdon called the on-call Field Supervisor who at the time was working in the northwest part of Escambia County near the Alabama state line to check out the situation. Not knowing what to expect, the Field Supervisor called a grapple truck operator to meet him at the Yonge Street Address. Once they arrived at that location, they discovered several large piles of green leafy material that appeared to have been freshly cut. It was made up of large branches and other tree cuttings. There were also signs that the trees had been recently trimmed. They determined that the roadway was not blocked, and the vast majority of the debris was located on private property, with just a small amount extending to the right of way. This testimony is confirmed by photographs and a video taken that day and on the following Monday. All the testimony before us is that county work crews do not work on private property.

After determining that the debris was on private property, the Field Supervisor called Director Higdon seeking direction. After being advised of the situation, Higdon indicated that he had to make a phone call. Higdon then called Administrator Moreno and discussed the matter with him. After speaking with Moreno, Higdon then called the Field Supervisor. There are inconsistencies as to the actual conversation, but all agree that the Field Supervisor was told to "use his best judgment." There is evidence that indicates the Field Supervisor was also told "to take care of it." Regardless of what was actually said, the Field Supervisor believed he was directed to remove the material. On that day, a decision was made to remove one large truck load of debris and to complete the job the following Monday.

The Field Supervisor on duty Monday was advised that there was a project from Saturday that needed to be completed. He was also advised that there was a substantial amount of debris that would require a large crew. In viewing the location, this supervisor assumed that it was county owned property because the debris was on the private area of the lots.

On that Monday, at least seven county employees were involved in the cleanup. Additionally, three inmate work crews—each consisting of one corrections officer and four inmates—assisted in the cleanup. Over the two-day period, more than eight large truck loads of material was removed from the property.

Shortly after this work was completed, several local websites began reporting that county work crews had worked on private property owned by Commissioner May. Additionally, an anonymous tip was made to the Office of the Clerk and Comptroller. This resulted in a review by the auditor for that office. The Office of the Clerk and Comptroller then referred the matter to the Office of the State Attorney for further review.

No review was initially conducted by Escambia County or the Department of Public Works. Eventually, a review was done by Administrator Wes Moreno. This review was not done until after Moreno had been interviewed by representatives of the Office of the State Attorney. This review appears to only have involved the accuracy of work orders as it relates to the time spent on this project as well as the behavior of the county employees involved in the actual cleanup. It did not address the decisions made by directors and administrators that led to this situation.

FINDINGS AND RECOMMENDATIONS

1. We find that Commissioner May failed to disclose his ownership interest in the properties when he contacted Wes Moreno. Had he done so, it is likely that this entire situation could have been avoided. Transparency is of the utmost importance. We therefore recommend that all public officials disclose ownership interest when discussing county business. This should also include the interest of close family members.
2. We recommend that Commissioner May reimburse Escambia County for the cost of the work done on his property.
3. We have been advised that Escambia County has a Code of Ethics Policy that was adopted on November 20, 2008. It has not been revised or updated since that date. We recommend that this policy be reviewed and updated as needed. We further recommend that annual training be held on the requirements of this policy. This training should be required of all employees as well as elected officials.
4. Similarly, we have been advised that Escambia County maintains a Fraud, Waste and Abuse hotline operated by an outside agency. We recommend that annual training be held for both employees and commissioners as to the availability of this hotline and their responsibility in reporting waste and abuse.

5. We recommend that a more thorough review be done before work crews are assigned. This should include verification of ownership of the property. Work orders should be designed and prepared to reflect ownership and the public nature of the project.
6. We are concerned by the action of County Administrator Wes Moreno in this matter. Telling an employee to "use their best judgment" is not an appropriate answer. When the issue of working on private property was raised, either Moreno or Director Higdon should have made a visual inspection of the property. Again, had any of these actions been taken, this situation could have been avoided.

Administrator Moreno testified that he did a review of this matter. As previously stated, this review addressed the accuracy of time records and the actions of the employees at the scene. While we agree that accurate time records are important and necessary, the review did not address the lack of supervision in this matter.

4/25/2024
DATE

[Signature]
FOREPERSON

CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL ON FILE IN THIS OFFICE
WITNESS MY HAND AND OFFICIAL SEAL
PAM CHILDERS
CLERK OF THE CIRCUIT COURT & COMPTROLLER
ESCAMBIA COUNTY, FLORIDA
DATE: April 25, 2024 D.C.

