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OFFICE OF
STATE ATTORNEY
FIRST JUDICIAL CIRCUIT OF FLORIDA

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PRESS RELEASE

State Attorney Bill Eddins announced today that the review regarding the Maplewood Subdivision Drainage Project has been completed. This review has determined that no crime was committed regarding the bid process. As part of this review, certain allegations involving Commissioner Gene Valentino and possible improper solicitation of campaign funds were examined. Based upon this review, we have determined that these allegations are sufficient to warrant further investigation. For this reason, the allegations regarding Commissioner Valentino will be presented to the Escambia County Grand Jury for their consideration. Attached is the Report prepared by Gregory Marcille of his review of the bid process.

For further information, please contact State Attorney Bill Eddins at 595-4761.

REPORT ON
MAPLEWOOD SUBDIVISION DRAINAGE PROJECT

The Office of the State Attorney has completed its review of the facts and circumstances surrounding the sealed bid process for the Maplewood Subdivision Drainage Project. This review was extensive and involved interviews of more than twenty witnesses as well as the review of numerous records and documents. Included in the witnesses were all five members of the Board of County Commissioners. Based upon this review we have determined that there is no evidence that any crime was committed.

As part of the review, we have also examined certain allegations that Commissioner Gene Valentino solicited campaign support while in a county building. We have determined that these allegations are sufficient to warrant further investigation. For this reason, we intend to present this matter to the Grand Jury for their consideration.

The Maplewood Phase I Drainage Improvement Project was a county project that was to be located within County Commissioner Marie Young's district. This project had been delayed in order to obtain a federal grant to pay a portion of the cost. Eventually a grant was obtained that would pay 75% of the cost of construction. Under the terms of the grant, the project was required to be substantially completed by November 2010.

Under county rules and regulations, this project was required to be handled under a sealed bid process. The county engineering department together with outside consultants prepared a bid package which was then submitted to the purchasing department. A purchasing specialist was then assigned and a solicitation package was prepared. This package describes the requirements of the project and is broken down to numerous line items. Each line item describes an activity or material that is required to complete the project. When submitting a bid, each contractor sets a "unit price" for each line. This unit price is then multiplied by the number of units needed for that line and a subtotal line cost is determined. The price on each line is added together to determine the total bid. Under county rules, mathematic errors are allowed to be corrected but unit prices may not be changed.

Once this package is prepared, the project is advertised as required by Florida Statutes. The bids are then opened at a public meeting and the presumptive low bidder is determined. The low bidder is then checked out to verify that they meet all the requirements of the project and a Certification of Award is issued. A recommendation for bid approval is then made by county staff to the Board of County Commissioners. The project is then set on the agenda for final approval by the Board of County Commissioners.

In the Maplewood project a bid package was prepared that contained 91 line items. Nine companies submitted bids and Gulf Equipment Corporation was determined to be the presumptive low bidder with a bid of \$1,768,621.70. Roads Inc. of Northwest Florida was the second lowest bidder at \$1,791,603.95.

After the bids were opened, Roads Inc. realized that they had made a mistake on a unit price. This price was line 28 and was for inlets type D. It was their contention that they had misplaced a decimal point causing the unit price for that item to be considerably higher than they intended. It was their belief that if they had correctly stated the price they would be the low bidder.

After realizing their error, Roads Inc. approached county staff about the situation. They were advised that a company could not protest their own bid and that a unit price could not be changed. A county staffer did advise Roads Inc. that their only recourse would be the county commissioners and that they should “walk the halls” regarding their concerns. After this, Russell Weaver or Cody Rawson contacted each commissioner, either by telephone or in person, to ask that the bid be set aside and new bids be solicited.

Each commissioner, with the possible exception of Marie Young, indicated they would consider Roads Inc.’s request. Commissioners Robinson, Robertson and White were primarily concerned with the possibility of saving the county money. Commissioner Robertson also favored using a local contractor over an out of town business. Commissioner Valentino was most adamant in support of setting aside the bid. He indicated his belief that county staff had made a mistake and that “due process” had not been followed either in the bid process itself or in the protest that followed.

This matter first came before the Board of County Commissioners on January 7, 2010. At this meeting, there was considerable discussion regarding the Maplewood Project. It was staff’s recommendation that the bid be approved as submitted. Further, it was staff’s position that the bid process had been handled appropriately and that no errors had occurred. Eventually, the Board voted four to one to set aside the bid and to reopen the process. Commissioner Young dissented.

Almost immediately after the vote, Commissioner White began to question his decision. As a result, he contacted the County Administrator and asked that the matter be placed on the agenda for the next meeting. In addition, there was considerable public concern as a result of media reports. Much of this concern revolved around Commissioner Valentino and his meeting with Cody Rawson and Russell Weaver and alleged discussions of political support.

The Maplewood Drainage Project was again discussed at the Committee of the Whole Workshop on January 14, 2010. At that meeting, the Commission voted unanimously to reverse its earlier vote and to award the bid to Gulf Equipment Corp. This vote was officially ratified at the board meeting on January 21, 2010.

Based on our review, we have determined that no crime was committed regarding the bid process on the Maplewood Subdivision Drainage Project. We are concerned, however, about how this process developed. Our review indicates that no errors were committed by staff and that the bid was handled according to county rules and regulations. County rules do not allow a contractor to protest its own bid or to change a unit price. Prices for the same item varies from contractor to contractor and are sometimes substantially different. There are many reasons to use the sealed bid process. It limits political influence in the decision making process and places all contractors on a level playing field. To allow a company to protest its own bid or to change a unit price would have the effect of nullifying the benefits of the current sealed bid process.

Several of the commissioners indicated that their support for setting aside the bids on the Maplewood project was because of the potential financial savings to the county. While it is important that the Board of County Commissioners be good stewards of the public's money, the importance of a valid sealed bid process is of the utmost importance in circumstances such as this case.

Several of the commissioners also stated that they were not sufficiently familiar with the sealed bid procedure. Each commissioner should familiarize themselves with this process to ensure that similar issues do not arise in the future. Based upon our review, it appears that the commissioners have taken steps in that direction.

Finally, we are concerned with contractors or their representatives lobbying the County Commissioners while the bid process is ongoing. The Board of County Commissioners have addressed this issue by passing Resolution Number R 2010-22. This should prevent this from being a problem in the future.

For these reasons, this office will take no further action regarding the Maplewood Drainage Project. We will present the issues involving Commissioner Gene Valentino and his alleged solicitation of political support to the Grand Jury for their consideration.