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Criminal investigator probes Lee

Attorneys say commissioner's actions are 'adverse to county'

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The Daily Astorian

The Oregon Department of Justice is investigating Commissioner Richard Lee.

Though he would not give any details, Clatsop County Sheriff Tom Bergin confirmed Monday the investigation has been going on for approximately two weeks.

Page McBeth, a criminal investigator in the Criminal Justice Division, is in charge of the investigation.

McBeth has interviewed a number of people inside and outside county government about Lee, Bergin said.

This latest development comes as Lee faces a recall. Signatures collected by a citizens group whose members are critical of Lee's behavior are expected to be certified Friday, with an election planned March 25.

And the county's four attorneys have released a memorandum saying Lee - in some respects - has "postured himself as adverse to the county."

In December, Planner Jennifer Bunch filed a complaint against Lee, saying that a problem exists when an employee thinks their job might be in jeopardy if they follow the letter of the law.

Early in January, Lee filed public records requests seeking disclosure to him of copies of all memos, written communication, or anything else that referred to him, his wife Lynda, his properties or their projects from county staff, officials, commissioners and clients.

Last week, Lee announced that he had filed a tort claim against the county - a document which prepares the way for a lawsuit - alleging interference in his business dealings by county staff.

And following an executive session of the Board of Commissioners meeting, county leaders released a report - culminating from an investigation by Portland attorney Jill Goldsmith - which said Lee and his wife had used his position as a commissioner to obtain favorable treatment by county staff. Lee was asked to stay away from the meeting.

A second document discussed in the executive session was not available for public scrutiny and was the subject of a public records request from The Daily Astorian.

Late Sunday evening, the county released portions of that memorandum, which was authored by its four attorneys - Blair Henningsgaard, Heather Reynolds, Akin Blitz and Andrew Jordan, advising the county on what actions to take regarding litigation.

But, citing attorney-client privilege, the attorneys redacted (blacked out) a large percentage of the memorandum, including its recommendations and observations. The Daily Astorian asked authorities for the full uncensored document Monday and is awaiting a reply. What remained, however, was a summary of the attorney's findings concerning Lee's land use issues.

"Commissioner Lee is a land developer who has not complied with conditional use permits and letters from the Planning Department staff requesting compliance, and who has issues of non-compliance with the Building Codes Department," the memorandum said.

The report said that Lynda Lee had made demands Bunch should be fired for seeking to enforce land use requirements.

It said Lee has taken complaints about staff decisions to the assistant county manager, " ... and used his access as commissioner to interrupt meetings in her office, in order to do so." And when things have not gone their way, the Lees have directly contacted County Manager Scott Derickson. But Derickson has not interfered in the planning process on their behalf.

During March 2003, Clatsop County allowed Lee to build a nine-hole golf course on property zoned exclusive farm use. The first condition of his conditional use permit - that he provide a final design layout showing 50-foot riparian setbacks before construction began, still hasn't been met. He also has not acquired permits that were required before he built an outbuilding. Lee built the building, but the permits were never acquired.

And since 1984, Lee has transferred five portions of his property to neighbors without county approval.

"As there was no county approval of transfers, Lee is prohibited from further subdividing the remaining parcel and also prohibited from obtaining permits for land use activities involving the property. ... Richard Lee and Lynda Lee reacted to this situation with abusive behaviors directed at county planning staff," the memorandum said.

"To resolve these problems, permits to transfer the property, development plans for the RV park and golf course, and permits for the outbuilding are needed," it said.

The Lees' actions have placed Derickson in a difficult position, where his obligation is to correct behavior committed by his superior or his superior's agent in the planning office. By their words and actions, it appears the Lees are seeking special treatment to which others would not be entitled.

It is Denckson's responsibility to ensure that the workplace is free of any "hostile, aggressive, intimidating and potentially violent behavior," according to the report.

When Bunch complained, she became a "whistle-blower," and may be "protected by Oregon's 'public policy'¹ and 'wrongful discharge' common law tort theories. The Lees have called for her dismissal as well as the dismissal of her superiors."

The report also said, "Richard Lee has postured himself as adverse to the county with respect to his public records request, his tort claim notice and threat of civil litigation against the county, and by his refusals to comply with land use laws and regulations."