

	OREGON DEPARTMENT OF JUSTICE CRIMINAL JUSTICE DIVISION 610 Hawthorne Av SE STE 210 • Salem OR 97301 Office: 503-378-6347 • Fax: 503-373-1936		INVESTIGATIVE REPORT		CYBERTIP / REFERENCE NUMBER	REPORT NO. 1	CASE NUMBER CJD0148-15	PAGE / OF 1 / 4
	CLASSIFICATION / CRIME(S) Official Misconduct							CJD UNIT DA/LE Assist
REFER / REQUEST / ASSIST AGENCY & CASE NO. Lincoln City Police			OCCURRED FROM DATE/TIME 01/01/2015		OCCURRED TO DATE/TIME 08/10/2015		REPORT DATE/TIME 12/11/2015	
ATTACHMENTS <input type="checkbox"/> Prop/Evidence <input checked="" type="checkbox"/> Records <input type="checkbox"/> Other							LOCATION OF OCCURRENCE Lincoln	
ONE SENTENCE SUMMARY OF REPORT Allegation of Official Misconduct against Don Williams, Mayor of Lincoln City								
THIS REPORT MAY CONTAIN INFORMATION NOT SUBJECT TO PUBLIC RELEASE. REDACT AS APPROPRIATE BEFORE RELEASING: <input type="checkbox"/> AG Subpoena <input type="checkbox"/> Juvenile								
PERSONS BU-Business LE-Law Enforcement OW-Owner PM-Person Mentioned RP-Reporting Party SB-Subject SU-Suspect V-Victim WI-Witness								
CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE			
LE	Killian, Keith	M	U					
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS					PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
Lincoln City Police Department, 1503 SE Devils Lake RD, Lincoln City 97367					541-994-1453			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE			
C	Appicello, Richard	M	W					
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
Lincoln City, City Attorney,					541-996-1209			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE			
SU	Williams, Don	M	W					
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
Lincoln City Mayor								
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE			
SU	Smith, Ross	M	W					
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input checked="" type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE			
LE	Kirby, David	M	W					
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
ORDOJ/Criminal Justice Division								
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE			
LE	Williams, Jim	M	W					
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
ORDOJ/Criminal Justice Division								
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
REPORTING SPECIAL AGENT Jodi Shimanek		DPSST 30088		APPROVED BY Mike Loughary			DATE APPROVED 12/11/15	

CRIMINAL JUSTICE DIVISION | INVESTIGATIVE REPORT

PERSONS							BU-Business	LE-Law Enforcement	OW-Owner	PM-Person Mentioned	RP-Reporting Party	SB-Subject	SU-Suspect	V-Victim	WI-Witness
CODE	NAME (Last, First Middle)				SEX	RACE	DOB		DRIVER LICENSE / STATE						
PM	Daniel, Kathy				F	U									
HOME ADDRESS									PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE						
BUSINESS / SCHOOL ADDRESS									PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE						
Oregon Government Ethics Commission															
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)									<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI						
PM	Poppe, Russell				M	U									
HOME ADDRESS									PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE						
BUSINESS / SCHOOL ADDRESS									PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE						
									541-654-0807						
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)									<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI						
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ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)									<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI						
HOME ADDRESS									PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE						
BUSINESS / SCHOOL ADDRESS									PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE						
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)									<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI						
HOME ADDRESS									PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE						
BUSINESS / SCHOOL ADDRESS									PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE						
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)									<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI						
HOME ADDRESS									PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE						
BUSINESS / SCHOOL ADDRESS									PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE						
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)									<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI						
HOME ADDRESS									PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE						
BUSINESS / SCHOOL ADDRESS									PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE						
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)									<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI						

REPORTING SPECIAL AGENT Jodi Shimanek	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 12/11/15
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On September 22, 2015, Special Agent in Charge David Kirby, of Oregon DOJ/Criminal Justice Division met with Chief Keith Killian of Lincoln City Police Department and Richard Appicello, the City Attorney for Lincoln City. Richard Appicello reported what he believed was criminal conduct by Don Williams, the Mayor of Lincoln City, and his associate Ross Smith, involving Williams' potential conflict of interest and releasing confidential information pertaining to Vacation Rental Dwellings (VRD's). Smith runs Lincoln City Vacation Home Owner's Association. Appicello provided information that spanned over the last ten months and involved numerous people and allegations.

I was assigned this case on December 3, 2015. I reviewed Kirby and Williams' notes, along with numerous e-mails to and from Cathy Steere, the city recorder for Lincoln City. I also reviewed documents that were in the case file, which included the ethics complaint and related documents filed on Williams to Oregon Government Ethics Commission (OGEC), newspaper articles on Williams and Appicello, Documents in response to Ross Smith's Public Records Request to Lincoln City on VRD's (Nov/Dec. 2014), Copy of Complaint filed by Ross Smith for Violation of Public Meeting laws, documents and correspondence from Appicello to OGEC and email correspondence of Ross Smith to Mayor Williams. The following is my summary of what I determined to be Appicello's allegations against Mayor Don Williams and Ross Smith after reviewing the materials and speaking with Kirby.

- 1) **Official Misconduct I**-Mayor Don Williams and his wife own a vacation rental in Lincoln City and have registered its use as a VRD. Appicello alleged that Williams, who is an advocate of repealing the Vacation Rental limitations/taxes/zoning, should have recused himself from discussions involving the ordinances and specifically the repealing of accessory use involving VRD's. Appicello was involved in enforcement of the ordinances and identified Williams' rental property as being in violation. This was disclosed in an executive session on March 9, 2015 and Appicello advised Williams he felt there was a conflict of interest with Williams and his involvement in the discussion of VRDs and advised he had contacted the Oregon Government Ethics Commission and they agreed that it was a conflict. Appicello advised Williams that he believed he should recuse himself after advising him that he and his wife were in violation of the ordinance for renting their home over 150 days. Appicello alleges that Williams would benefit financially if the violation was not enforced and further if the ordinance was repealed and he and his wife's VRD would not be subject to any rental restrictions.
- 2) **Official Misconduct II/Misuse Of Confidential Information**-Mayor Don Williams told his wife about confidential information discussed in the March 9, 2015 Executive Session, specifically that Williams was in violation of the 150 days rental restriction. Appicello said three days after this meeting Debbie Williams, the Mayor's wife, contacted the city planner, Richard Townsend, and spoke with him about the time limit and mentioned that they were accounting for the remaining dates left of the year after their application and requested of him that he not send a notice of violation. Townsend, who was in the March 9, 2015 executive session told Appicello it was clear Debbie Williams had information that was provided in the executive session.
- 3) **Criminal Impersonation**-Mayor Don Williams and Ross Smith are associates and Smith purported to be working for the Mayor and requested information from multiple municipalities on Transient Room Tax registrants and cities handled requests for information on them. Some municipalities requested Smith fill out a Public Records Request for the information. Appicello alleges because Smith purported to be working for the Mayor he impersonated a public servant.
- 4) **Solicitation (to commit Official Misconduct)**- Smith attempted to get Mayor Williams to access city software programs for City accounting and Municipal Court. Appicello alleges that this was a Solicitation of Official Misconduct at the Mayor does not have access to those city programs.

On December 4, 2015 I sent Appicello an e-mail and advised him I had been assigned the case. I requested and other correspondence or reports he had relevant to this matter and requested the name of the investigator the city hired. I also asked what the status of the OGEC's investigation was. Appicello responded and requested we talk and we scheduled a meeting in several weeks.

REPORTING SPECIAL AGENT Jodi Shimanek <i>JS</i>	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 12/11/15
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On December 4, 2015 I found articles while searching the internet that led me to believe OGEC's investigation was complete and they found Williams was not in violation. I contacted Kathy Daniel with OGEC and requested their file. On December 7, 2015 I received the file via e-mail. Several days later I received a CD that contained Lincoln City's new council/mayor orientation recording. The OGEC documents were added to the case file.

On December 8, 2015 I contacted Russell Poppe, whom I determined was the "investigator" the city hired. Mr. Poppe is actually an attorney and advised he was hired by the city to conduct an "independent investigation of facts on Mayor Don Williams' conduct." Poppe advised that he had interviewed several city employees, the councilors and a couple of citizens, but "found no smoking gun." Poppe said when he learned that DOJ was conducting a criminal investigation he stopped his investigation.

Poppe said that he was concerned by Mayor Williams and Ross Smith's email exchange on personal e-mail accounts and that Smith solicited Williams to get access to the city's court management program. Appicello had provided this email, which he said Smith inadvertently provided to the county in a public records request. I advised Poppe that I would be reviewing all the documents provided and consulting with a prosecutor in my office. Poppe said that it is clear there are strong supporters on both sides of this issue.

On December 8, 2015 I spoke with Appicello by phone. He raised concerns about the time that has passed and since initiating the complaint with DOJ. I apologized to him and advised him that SA Williams had been on an unexpected leave and the case had just been reassigned to me. Appicello informed me that he was most concerned about the possibility that Mayor Williams was using his personal g-mail account to send/receive confidential city business. I told Appicello that would require a search warrant and at this point I did not have probable cause. Appicello added that he would be able to provide me with it.

REPORTING SPECIAL AGENT Jodi Shimanek <i>JS</i>	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 12/11/15
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	OREGON DEPARTMENT OF JUSTICE CRIMINAL JUSTICE DIVISION 2250 McGilchrist St. SE, STE 100 • Salem OR 97302 Office: 503-378-6347 • Fax: 503-373-1936		INVESTIGATIVE REPORT		CYBERTIP / REFERENCE NUMBER	REPORT NO. 2	CASE NUMBER CJD0148-15	PAGE / OF 1 / 4	
	CLASSIFICATION / CRIME(S) Official Misconduct							CJD UNIT DA/LE Assist	
REFER / REQUEST / ASSIST AGENCY & CASE NO. Lincoln City		OCCURRED FROM DATE/TIME 01012015		OCCURRED TO DATE/TIME 08102015		REPORT DATE/TIME 02162016/1500 hrs			
ATTACHMENTS <input type="checkbox"/> Prop/Evidence <input type="checkbox"/> Records <input checked="" type="checkbox"/> Other							LOCATION OF OCCURRENCE 801 SW Highway 101, Lincoln City, OR		COUNTY Lincoln
ONE SENTENCE SUMMARY OF REPORT Follow up-12/17/15 mtg.									
THIS REPORT MAY CONTAIN INFORMATION NOT SUBJECT TO PUBLIC RELEASE. REDACT AS APPROPRIATE BEFORE RELEASING: <input type="checkbox"/> AG Subpoena <input type="checkbox"/> Juvenile									
PERSONS BU-Business LE-Law Enforcement OW-Owner PM-Person Mentioned RP-Reporting Party SB-Subject SU-Suspect V-Victim WI-Witness									
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE	
SU	Williams, Don				M	W			
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS							PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
Mayor, Lincoln City									
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE	
C	Appicello, Richard				M	W			
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS							PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
City Attorney, Lincoln City									
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE	
LE	Kirby, David				M	W			
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS							PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
Special Agent in Charge, Department of Justice/Criminal Justice Division							503-378-6347		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE	
SU	Smith, Ross				M	W			
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BUSINESS / SCHOOL ADDRESS							PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE	
PM	McCauley, Matt				M	W			
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS							PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
Sr. Asst. Attorney General, Department of Justice/Criminal Justice Division							503-378-6347		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE	
LE	Killian, Keith				M	W			
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS							PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
Police Chief, Lincoln City							541-994-3636		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
REPORTING SPECIAL AGENT Jodi Shimanek <i>Jodi Shimanek</i>				DPSST		APPROVED BY Mike Loughary		DATE APPROVED 02/17/16	

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CRIMINAL JUSTICE DIVISION | INVESTIGATIVE REPORT

PERSONS		BU-Business	LE-Law Enforcement	OW-Owner	PM-Person Mentioned	RP-Reporting Party	SB-Subject	SU-Suspect	V-Victim	WI-Witness
CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE					
PM	Gould, Diane	F	U							
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BUSINESS / SCHOOL ADDRESS					PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE					
Oregon Government Ethics Commission/3218 Pringle RD SE, Ste 220 Salem					503-378-5105					
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI					
CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE					
PM	Poppe, Russel	M	U							
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BUSINESS / SCHOOL ADDRESS					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE					
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CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE					
PM	Steere, Cathy	F	U							
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Lincoln City, City Recorder										
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI					
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BUSINESS / SCHOOL ADDRESS					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE					
Lincoln City, City Manager										
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI					
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BUSINESS / SCHOOL ADDRESS					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE					
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BUSINESS / SCHOOL ADDRESS					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE					
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ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI					

REPORTING SPECIAL AGENT

Jodi Shimanek 

DPSST

APPROVED BY

Mike Loughary

DATE APPROVED

02/17/16

On December 3, 2015, I was assigned an investigation involving allegations against Don Williams, the mayor of Lincoln City. The complaint was initiated by Richard Appicello, the city attorney for Lincoln City. A letter sent via e-mail to Dave Kirby on October 2, 2015, summarized Appicello's allegations against Mayor Don Williams and an associate of his, Ross Smith. Appicello provided numerous exhibits and attachments supporting his allegations. All of the materials are in the electronic file. A copy of the October 2, 2015 letter is attached to this report as it summarizes Appicello's allegations and outlines what he believes supports or provides evidence to the criminal charge. One of the allegations is that Williams disclosed confidential information from an executive session of the Lincoln City Council.

It should be noted that Lincoln City's City Council agreed to file an ethics complaint against Mayor Williams relating to several of these allegations. The Oregon Government Ethics Commission's investigator suggested dismissal of the complaint on September 17, 2015 after the preliminary review. On October 23, 2015 the Commission agreed and the complaint was dismissed. Investigator Diane Gould did state in her preliminary review it appeared as if Lincoln City, City Council, had possibly violated public meeting laws with regards to executive sessions.

On December 17, 2015, at approximately 3:30 p.m., Senior Assistant Attorney General Matt McCauley and I met with Appicello and Chief Keith Killian at the Criminal Justice Division. Appicello went over his allegations with us and provided a file that contained copies of documents he advised supported his allegations, most of which were already in our possession. Appicello was advised we would go over all the materials, conduct an investigation and determine if there was evidence to support charges. At this meeting Appicello was advised that some of his allegations were unlikely to be filed on as there was no evidence to support the allegation. He was reminded that the State has to prove beyond a reasonable doubt that the crime occurred.

Appicello was asked for evidence and proof to support several of his allegations and he was unable to provide it, but would rather speculate. For example, when it came to the allegation that Mayor Williams had disclosed executive session discussions to his wife, Appicello said she had checked on her application shortly after the executive session and the Mayor knew they were looking into enforcement. When confronted with the possibility that she could have learned that from any of the council people or press in the room he agreed, but said it was unlikely.

Appicello alleged that Mayor Williams has also released executive session materials to the press when he provided them with a copy of the ethics complaint, which contained some transcripts of executive session. McCauley pointed out to Appicello that the Ethics Commission is mandated to release the complaint to the party who the allegation is against and that the city originally released that to the Ethics Commission.

Appicello added that the Mayor had also forwarded an e-mail from Appicello to Rick Beasley, a local newspaper reporter, from his city email. The e-mail was sent to all of council, the mayor and other staff. Appicello advised that Mayor Williams knows that he can't send confidential e-mails to people outside of the city. When asked how Appicello knew that Williams sent this e-mail he advised that he had asked Tony Lasoya, Information Technology manager, to advise him if there were any threatening e-mails from Ross Smith and he found the forwarded one.

Appicello said he knew Smith and Mayor Williams were working together, as Smith had accidentally included in one of his public records request, an email he sent to the Mayor's personal e-mail requesting/suggesting how he could get information from the city. Appicello alleged that Smith had committed criminal impersonation when he sent public records requests to other municipalities and stated he was "working on a project for the Mayor." McCauley and I advised him that we would have to look into that allegation farther.

Appicello's October 2, 2015 letter also lists two other allegations against Smith, Stalking and Coercion. Appicello writes that Smith and his supporters have been following city employees, but he does not provide any names or details of this. Appicello does provide the name of a citizen, and news reporter, who wrote an unfavorable article about the Mayor, and says he was followed by Ross Smith.

REPORTING SPECIAL AGENT Jodi Shimanek 	DPSST	APPROVED BY Mike Loughary	DATE APPROVED 02/17/16
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Appicello's allegation of Coercion is based on his public records request to City, specifically to the City Recorder Cathy Steere, in which Smith "demands the release of supporting documents" and then suggests that if the city does not provided it they are in breach of public records law.

During our meeting Appicello expressed that the city manager, Ron Chandler, was "obstructing enforcement of accessory use" ordinances. Appicello said that Chandler had been interviewed by Poppe and it was his opinion that he was obstructing the enforcement. Appicello advised the ordinance was in place and that no one was enforcing it and that was their duty. When asked how they were obstructing the enforcement Appicello said that Chandler told him not to send out notice of violation letters. Appicello said the Mayor, Chandler and Planning Director waited too long to act and the statute of limitations on the 2014 violations had passed.

When asked what the push was to all the sudden start enforcing this Appicello said the previous council, in December 2014, had verbally told the City to start enforcing the ordinance. Appicello said it had not been enforced in the previous twenty years.

At the end of the meeting we advised Appicello and Killian that we would be evaluating all the materials provided and would likely conduct some interviews. Appicello stressed the importance of moving quickly on this.

On January 11, 2016, I received an e-mail from Appicello inquiring about the status of the investigation. He expressed that he was discouraged after our meeting. I advised him that I was scheduling meetings to interview people. Appicello had been inquiring as to whether or not I would be getting the Mayor's personal e-mail account or Smith's. I advised him that I could only obtain that with a warrant and that I had to have probable cause to believe that a crime occurred. Appicello wanted the e-mail account of Williams as he possibly violated the city charter. I advised him that we were still evaluating his allegations.

Attachments:

October 2, 2015 letter

REPORTING SPECIAL AGENT Jodi Shimanek 	DPSST	APPROVED BY Mike Loughary	DATE APPROVED 02/17/16
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00441



CONFIDENTIAL: ORS 192.501(3) [CRIMINAL INVESTIGATORY MATERIAL]

October 2, 2015

David Kirby
Special Agent in Charge
Oregon Department of Justice
Criminal Justice Division
2250 McGilchrist Street SE Suite 100
Salem Oregon 97302

RE: Alleged criminal conduct Ross R. Smith and Mayor Don Williams.

Thank you for meeting with Police Chief Keith Kilian and me last week to discuss our concerns about the conduct of Mayor Don Williams and his associate Mr. Ross Smith. I am providing this summary and supporting documents to assist you in your investigation.

I have been specifically authorized by the City Council to disclose, as necessary, confidential executive session materials, confidential memoranda and client confidences in order to address ongoing efforts to obstruct vacation rental dwelling accessory use enforcement. [Disclosures are made as confidential transferred records ORS 192.502(10)].

The Mayor and Mr. Smith appear to be involved in efforts to obstruct or hinder vacation rental dwelling (VRD) accessory use land use enforcement. (The accessory use limitation restricts short term rentals in the City's residential zones.)

On August 10, 2015, Council voted to file the complaint against Mayor Williams with the OGEAC after review by outside legal counsel. In addition, Council hired an investigator to look into the Mayor's alleged violations of the City Charter, City Ordinances and Council Rules – (based initially on disclosure of confidential information). A copy of the confidential ethics complaint filed with OGEAC on August 21, 2015, is attached as Exhibit A. Russell Poppe (an attorney associated with Speer Hoyt LLC) is the Investigator hired by the City Council and his phone number is (541) 654-0807. I have also contacted Floyd Prozenski, (a contract prosecutor) concerning making local prosecution decisions, and he is available if needed.

The Mayor and Ross Smith are each, owners of vacation rental dwellings (VRDs) in Lincoln City. Vacation rental dwellings in Lincoln City are very lucrative. In commercial zones, VRDs can operate without limitation. In residential zones, vacation rental operations are not

permitted, except as "accessory uses", defined as "incidental and subordinate" to the main use as the owner's second home. Owners and managers have violated the accessory use limitation in residential areas and Council's attempts to stop the violations have been met with resistance from and obstruction by the vacation rental industry.

In December of last year, following two years of debate the City Council adopted several land use and license ordinance amendments concerning vacation rentals. Vacation rental owners opposed the existing accessory use limitation and sought to have it repealed. Council declined to repeal the limitation. Council also passed a motion in December 2014 directing the City Attorney and City Manager to enforce the existing (un-amended) accessory use limitation on vacation rentals in residential zones. The ordinances adopted in December contained options and alternatives to ease the burden of enforcement of the existing regulation. All three ordinances were challenged at the Land Use Board of Appeals and the City prevailed. Two of the Ordinances (containing options and alternatives) were referred to the voters and were defeated in the May election. As such, some of the options and alternatives crafted by Council are not available to ease the burden of enforcement.

Mayor Williams was elected with the support of the vacation rental industry and opposed enforcement of the existing limitation on rentals in residential zones.

I believe the following criminal statutes are implicated.

MAYOR WILLIAMS

162.415 Official misconduct in the first degree. (1) A public servant commits the crime of official misconduct in the first degree **if with intent to obtain a benefit or to harm another:**

(a) The public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of office; or

(b) The public servant knowingly performs an act constituting an unauthorized exercise in official duties.

(2) Official misconduct in the first degree is a Class A misdemeanor. [1971 c.743 §215] **(emphasis added)**

There are at least 3, possibly 4, instances of first degree Official Misconduct by Mayor Don Williams to be investigated:

- (1) The unauthorized disclosure of confidential executive session discussions and enforcement materials mentioned in the OGEC complaint (see Exhibit A- OGEC Complaint at PDF page 16, - page 14 on letter) with supporting declaration of Richard Townsend). This disclosure is alleged to be to the Mayor's wife/manager of his family VRD and concerns the enforcement strategy for accessory use enforcement discussed in executive session.

- (2) The unauthorized disclosure of the OGEC complaint itself – which includes transcripts of confidential executive session discussions and excerpts of confidential executive session memos. This disclosure is alleged to be to VRD owner Ross Smith as well as to various media outlets including the Statesman Journal, Oregonian and local media. (each disclosure being a separate offense). See Exhibit B (City Attorney letter to OGEC discussing unauthorized disclosure), Exhibit C (9-2-16 news) Exhibit D (9-16-15 news), Exhibit E (9-30-15 news) and F (Smith lawsuit with portion of OGEC complaint attached).
- (3) The unauthorized disclosure of a confidential email from the City Attorney to the City Council. The email is marked Confidential and concerned a personnel matter. This disclosure is to Rick Beasley of the Newport News Times, and was a simple forwarding of the confidential record by the Mayor to the news reporter. See Exhibit G (forwarded email).
- (4) Ross Smith's Solicitation of Mayor Williams to obtain logins for Mr. Smith's use for the city's financial software system (Caselle), the City's insurance software (CIS), and to obtain a user manual for Mr. Smith for the Caselle financial software system. See Exhibits H, I, and J (Solicitation of logins and manual).

As to ORS 162.415(b), the key elements common to these incidents include **"intent to obtain a benefit or to harm another"** and **"knowingly performs an act constituting an unauthorized exercise in official duties"**

Intent to obtain a benefit or to harm another

The intent to benefit or harm another regarding the enforcement strategy above is an attempt to benefit the family VRD business (Genesis LLC) which could rent more nights in the future or avoid enforcement proceedings for past violations (171 nights when only 150 were authorized). The second disclosure of the OGEC complaint appears to have the intent to benefit other VRD operators and Smith's VRD association by providing them with VRD enforcement strategy contained in the executive session transcripts – but may have the intent to harm the City Attorney – see Exhibit E – to interfere with enforcement. The third disclosure of confidential information appears to benefit the reporter for the News Times but may also have the intent to harm the City Attorney. Finally, the use of the Mayor's position to obtain the Caselle manual for Ross Smith has the intention (on its face) to benefit Ross Smith in this public records requests and petitions to the District Attorney.

Knowingly performs an act constituting an unauthorized exercise in official duties

All the Official Misconduct incidents concern knowingly performing acts which constitute the unauthorized exercise in official duties. In terms of the mental state of "knowing", the ethics complaint (Exhibit A starting page 5) points to the Council training and advice of legal counsel to establish that the Mayor knew such acts were not authorized. The ethics complaint itself contained instructive language that was not heeded by the Mayor in the disclosure in incident 2 above:

Only the full Council can authorize release of confidential executive session materials; accordingly, unauthorized release by one Councilor would constitute an unauthorized exercise in official duties under ORS 162.415). [Complaint p.6 -PDF page 8]

As to the unauthorized exercise common element of the Official Misconduct offense, the City of Lincoln City is a Council-Manager form of government, not a strong mayor form of government. I explained the Mayor's lack of authority to make a unilateral disclosure of confidential records in a recent letter to OGEC. The letter excerpt below explains that the complaint materials were confidential, that the Mayor knew they were confidential, and that he had no authority to release them unilaterally. In pertinent part, the letter provides: (See Exhibit B for complete letter):

The City of Lincoln City received the attached threatening correspondence from vacation rental owner Ross R. Smith (an associate of Mayor Don Williams – also a vacation rental owner) concerning Mr. Smith's public records request of Lincoln City.

Because the demand for records mentions your staff, I am sharing it with you.

The attached document is a demand of the City for public records regarding the August 21, 2015, complaint and supporting documents filed with OGEC against Mayor Don Williams of Lincoln City. As you may know, the City Council of Lincoln City voted on August 10, 2015, to transmit the complaint to OGEC. The exact motion stated:

"I move to authorize the Council President to submit an OGEC Complaint with **the transfer of supporting confidential records** after review and consultation with outside counsel." (emphasis added)

Mayor Williams, the subject of the complaint, was in attendance at the Council meeting and declared a conflict and did not vote based on my advice.

The ethics complaint against the Mayor states on page 8:

"Transcribed excerpts and portions of executive session written materials are included in this complaint and are made available as confidential transferred records. The executive session recordings, or portions thereof, can be made available to OGEC for in camera review, however the City Council wishes to maintain confidentiality."

The Council in its motion and in the text of the complaint and supporting materials forwarded to OGEC

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stated it was transferring confidential records.

ORS 192.502(10) exempts from disclosure:

Public records or information described in this section, furnished by the public body originally compiling, preparing or receiving them to any other public officer or public body in connection with performance of the duties of the recipient, if the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable.

The Oregon Attorney General's Public Records and Meetings Manual explains, at page 97:

Before disclosing records that it has received from another public body, a public body should discuss with the "furnishing" public body whether any prohibitions against disclosure apply to the records.

Unlike the typical complainant, the OGEc received a complaint in this case by the governing body of Lincoln City, concerning one of its members. The Council authorized transfer of confidential records under ORS 192.502(10). While Lincoln City is aware that after the preliminary review phase, a formal public process may require release of the confidential records provided to OGEc, Council was under the impression that the confidentiality of transferred records would be respected at least for the first phase.

As you may know, the complaint has been released to the Oregonian, Statesman Journal and other media outlets, See e.g.:

<http://lincolncountydispatch.com/index.php/news/item/5515-ethics-complaint-lays-out-charges-against-lincoln-city-mayor>

Mayor Williams himself confessed to releasing the complaint to the media. An article in the September 16, 2015 Newport News Times includes the Mayor's statements that he released the document. It is apparent the Mayor released the document, as the online complaint (see website above) contains the OGEc "Received" stamp and the only party to receive the document is the person who is the subject of the complaint.

Mayor Williams is a member of the governing body. Individually he has no authority to release records. He did not have Council permission to release the confidential executive session excerpts or materials contained in the complaint. The decision to release such confidential materials belongs to Council alone. As noted in the complaint against Mayor Williams concerning other releases by Mr. Williams: (at page 6)

See Orientation @1:35-1:37 & 1:46-1:51. See ORS 244.040 (1)&(4). ORS 162.415, ORS 162.425. **(i.e. Resolution 2008-47, Section 3.1 "Under the Charter, the authority of the City Council as governing body lies in the Council as a whole, not individual Councilors." Only the full Council can authorize release of confidential executive session materials; accordingly, unauthorized release by one Councilor would constitute an unauthorized exercise in official duties under ORS 162.415). (emphasis added).**

Whether or not Mr. Williams will be criminally prosecuted (for official misconduct under ORS 162.415, as noted above, for the unauthorized release of the confidential information and other offenses) will be left to a special prosecutor. (I have jurisdiction to file misdemeanor charges but I will defer to the District Attorney or to a special prosecutor to independently review the charges.)

The first, second, and third incident of disclosure of confidential information was not authorized by the governing body. The final incident concerning solicitation of logins and the request for

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rebeccaf@lincolncity.org

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the user manual could be characterized as a disclosure of confidential information but it appears to be slightly different. This appears to be an unauthorized exercise in official duties as the Mayor would have no official reason to have these logins or materials (Councilors do not need access to these administration systems or user manuals and the City Charter expressly prohibits Councilor interference with Administration). No Council action authorized the Mayor to independently review the city's financial or insurance software or obtain contractor support documents. If a problem was brought to the Council's attention an auditor would be hired, Council would not appoint a member of the governing body to perform such work. The Mayor could not unilaterally assign Ross Smith to perform review of the City's financial and insurance accounts. While it is unclear if logins were requested and received by the Mayor, the Mayor did receive a user manual from Caselle at his City email address. Because emails were also generated out of the Mayor's personal email account and Ross Smith's gmail account, not the City account, additional information needs to be developed. See discussion below about ORS 161.435 (Solicitation) of ORS 162.415 (Official Misconduct) as regards Ross Smith.

In sum, in each of the incidents above, Mayor Williams intended to benefit or harm another and knowingly performed an act constituting an unauthorized exercise in official duties.

ROSS SMITH

There are at least 8 instances of criminal impersonation by Ross Smith to be investigated:

- 162.365 Criminal impersonation.** (1) A person commits the crime of criminal impersonation if with intent to obtain a benefit, to injure or defraud another or to facilitate an unlawful activity, the person does an act in the assumed character of:
- (a) A public servant; or
 - (b) An active member or veteran of the Armed Forces of the United States.
- (2) It is no defense to a prosecution for criminal impersonation that:
- (a) The office, position or title that the person pretended to hold did not in fact exist; or
 - (b) The unit of government that the person pretended to represent did not in fact exist.
- (3)(a) Criminal impersonation is a Class A misdemeanor.
- (b) Notwithstanding paragraph (a) of this subsection, criminal impersonation is a Class C felony if the public servant impersonated is a peace officer, judge or justice of the peace.
- [1971 c.743 §211; 1993 c.243 §1; 1997 c.395 §2; 2003 c.577 §12; 2007 c.510 §1]

Mr. Smith is a VRD owner and runs an unincorporated association, The Lincoln City Vacation Home Association. It does not have an official existence with the Secretary of State and we are not aware of any 501(c)(3) tax exempt status for the association. Nevertheless, Mr. Smith appears to collect \$150.00 membership dues per VRD and there are approximately 500 VRDs in Lincoln City. Exhibit K (Screen shot LCVHA fee).

Several years ago, the Lincoln County District Attorney determined that vacation rental locations, owner address, as well as email and phone numbers were protected from disclosure under the public records law personal privacy exemption. (Public Records Order 2011-09-28). Mr. Smith

wants the contact list of VRD owners – so he can solicit them for membership in his organization and so he can give them legal advice. See Exhibit L Order 2014-11-19 attachment 004, page 4 - concerning the unauthorized practice of law). In December 2014 Mr. Smith petitioned the DA following a denial of a records request for the VRD mailing list. The case was assigned to former District Attorney Rob Bovett who again determined the information (VRD owner mailing list) would not be disclosed. Exhibit L

In 2015, Mark Deason petitioned the District Attorney after denial of a records request for a TRT registrant mailing list (which would include the VRD owners list). The Petition appeared to be authored by Ross Smith. The City pointed out Smith's apparent participation in its response. (The unauthorized practice of law is an unclassified misdemeanor.) As part of this Petition to the DA, Mr. Smith made several arguments concerning the ease of obtaining this information from other jurisdictions. You are in possession of several emails from Mr. Smith when he solicited this information from other Cities. I do not know if you received the voicemail, so I have included it. Exhibit M (voicemail). Similarly, we received a statement from Tommy Steiber of Tillamook County, "I believed the email from Mr. Smith to be a legitimate request from the Lincoln City Mayor's office." Exhibit N (Steiber statement). Please note the City of Florence contacts with Mr. Smith were particularly harassing – he threatened petitions to the DA.

163.732 Stalking. (1) A person commits the crime of stalking if:

- (a) The person knowingly alarms or coerces another person or a member of that person's immediate family or household by engaging in repeated and unwanted contact with the other person;
- (b) It is objectively reasonable for a person in the victim's situation to have been alarmed or coerced by the contact; and
- (c) The repeated and unwanted contact causes the victim reasonable apprehension regarding the personal safety of the victim or a member of the victim's immediate family or household.

(2)(a) Stalking is a Class A misdemeanor.

(b) Notwithstanding paragraph (a) of this subsection, stalking is a Class C felony if the person has a prior conviction for:

(A) Stalking; or

(B) Violating a court's stalking protective order.

(c) When stalking is a Class C felony pursuant to paragraph (b) of this subsection, stalking shall be classified as a person felony and as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission. [1993 c.626 §2; 1995 c.353 §2]

A group of Mayor's supporters, including Ross Smith have been reported to be following city employees, councilors and also a newspaper reporter who wrote an unfavorable article about the Mayor. (Exhibit O – Mayor's Fictitious Restaurant Article). I was informed by Paul

Christensen of the News Guard that he was followed by Ross Smith. You can contact Christensen at (208) 220-6693.

COERCION

163.275 Coercion. (1) A person commits the crime of coercion when the person compels or induces another person to engage in conduct from which the other person has a legal right to abstain, or to abstain from engaging in conduct in which the other person has a legal right to engage, by means of instilling in the other person a fear that, if the other person refrains from the conduct compelled or induced or engages in conduct contrary to the compulsion or inducement, the actor or another will:

- (a) Unlawfully cause physical injury to some person;
- (b) Unlawfully cause damage to property;
- (c) Engage in conduct constituting a crime;
- (d) Falsely accuse some person of a crime or cause criminal charges to be instituted against the person;
- (e) Cause or continue a strike, boycott or other collective action injurious to some person's business, except that such a threat is not deemed coercive when the act or omission compelled is for the benefit of the group in whose interest the actor purports to act;
- (f) Testify falsely or provide false information or withhold testimony or information with respect to another's legal claim or defense; or
- (g) Unlawfully use or abuse the person's position as a public servant by performing some act within or related to official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.

(2) Coercion is a Class C felony. [1971 c.743 §102; 1983 c.546 §4; 1985 c.338 §1; 2007 c.71 §45]

Please see my letter explaining what I believe to be Ross Smith's attempt to coerce Cathy Steere City Recorder into disclosing confidential records by threatening criminal prosecution for Official Misconduct. See Exhibit B, my complete letter to OGEC with attached Ross Smith public records request. An excerpt of my letter is set forth below:

*** This brings me to Mr. Smith's public records request where he asked for the confidential complaint documents and supporting records the City sent to OGEC. In the request Mr. Smith demands release of the supporting documents and attempts to coerce the City Recorder by threatening criminal prosecution for official misconduct. Mr. Smith states:

Please note that OGEC is required by law to release all complaint materials it receives to the public, once its Preliminary Review Phase is complete. Additionally, a representative of OGEC has stated that neither the complainant, nor the respondent, can assert that complaint materials are confidential. Additionally, a representative of OGEC has stated in writing that only OGEC is required to treat the complaint materials as confidential, but not the respondent, or complainant.

As such, the City of Lincoln City is required by law to provide the complaint documentation to the

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public, as it cannot claim the documentation is exempt under ORS 192.501, ORS 192.502, or other similar statutes. If the City of Lincoln City fails to produce the complaint documentation, it will be in breach of ORS 192.420(1) and/or ORS 162.305.

Clearly with this records request Mr. Smith is attempting to excuse Mayor Williams' release of confidential information. However, Mr. Smith cannot undo the fact that the Mayor is one member of a governing body and was without legal authority to release confidential information without the concurrence of the full body. It appears Mr. Smith is pointing to statements by your staff to justify or authorize the Mayor's release of information. While OGEC case materials are "open to the public" per ORS 244.260 after preliminary review, I do not believe that necessarily negates the confidential transferred record exemption of ORS 192.502(10). (It does not say "notwithstanding any other exemption in public records law"). Both statutes can be obeyed. We should probably have a conversation about this matter, as certainly the full Council does not wish to create an impediment to proceeding with the complaint. Nevertheless, Mr. Smith's logic does not follow – he asserts that the City is compelled to release the information, and states the City Recorder will be subject to criminal prosecution for violation of ORS 162.305 (violating a statute applicable to your public office) if we do not release the information. Even if you assume that OGEC case materials become public under ORS 244.260, despite ORS 192.502(10), I do not see how that compels City employees to disclose confidential City records.

ORS 163.275 provides:

163.275 Coercion. (1) A person commits the crime of coercion when the person compels or induces another person to engage in conduct from which the other person has a legal right to abstain, or to abstain from engaging in conduct in which the other person has a legal right to engage, by means of instilling in the other person a fear that, if the other person refrains from the conduct compelled or induced or engages in conduct contrary to the compulsion or inducement, the actor or another will:

- (a) Unlawfully cause physical injury to some person;
 - (b) Unlawfully cause damage to property;
 - (c) Engage in conduct constituting a crime;
 - (d) Falsely accuse some person of a crime or cause criminal charges to be instituted against the person;**
 - (e) Cause or continue a strike, boycott or other collective action injurious to some person's business, except that such a threat is not deemed coercive when the act or omission compelled is for the benefit of the group in whose interest the actor purports to act;
 - (f) Testify falsely or provide false information or withhold testimony or information with respect to another's legal claim or defense; or
 - (g) Unlawfully use or abuse the person's position as a public servant by performing some act within or related to official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.
- (2) Coercion is a Class C felony. **(emphasis added)**.

Mr. Smith's conduct will similarly be independently reviewed.

Please note: Mr. Smith owns a vacation rental home and runs the Lincoln City Vacation Home Association, as well as other websites. Mr. Smith is an advocate for vacation rentals, is a supporter of the Mayor and is clearly a person with a legislative or administrative interest in decisions to be made by Mayor Williams. Mr. Smith actually attached pages from the confidential OGEC complaint (presumably obtained from Mayor Williams) to a lawsuit he recently filed in Lincoln County Circuit Court to invalidate all the executive session meetings which form the basis for the ethics complaint against the Mayor. He also seeks a declaration that the motions to send the complaint to OGEC are void. Although Mr. Smith is the Plaintiff in this lawsuit, the complaint (55 pages) is entirely geared toward undermining the ethics complaint against the Mayor. As you might recall Mr. Smith (who is not an attorney) recently requested an OGEC opinion "on behalf of

Mayor Williams" concerning the Mayor's participation in rezoning. (I had asked your staff to alert the Oregon State Bar UPL Division, I am not sure if that was done.) Mr. Smith has also been performing other projects "for Mayor Don Williams of Lincoln City". More to your jurisdiction, it seems Mr. Smith (a person with a legislative or administrative interest in Mayor Williams' decisions) is providing a lot of services to the mayor. (I'd venture to say more than \$50.00 per year).

161.435 Solicitation. (1) A person commits the crime of solicitation if with the intent of causing another to engage in specific conduct constituting a crime punishable as a felony or as a Class A misdemeanor or an attempt to commit such felony or Class A misdemeanor the person commands or solicits such other person to engage in that conduct.

(2) Solicitation is a:

(a) Class A felony if the offense solicited is murder or treason.

(b) Class B felony if the offense solicited is a Class A felony.

(c) Class C felony if the offense solicited is a Class B felony.

(d) Class A misdemeanor if the offense solicited is a Class C felony.

(e) Class B misdemeanor if the offense solicited is a Class A misdemeanor. [1971 c.743 §57]

See Exhibits H, I and J. The request for the logins, and user manual from the Mayor by Mr. Smith would appear on its face to represent a solicitation of official misconduct by Mayor Williams. See fourth Official Misconduct item above. It is not necessary for the mayor to have committed official misconduct for Smith to be convicted of solicitation of same.

Unauthorized Practice of Law – unclassified misdemeanor

ORS 9.160(1) provides:

Except as provided in this section, a person may not practice law or represent that person as qualified to practice law unless that person is an active member of the Oregon State Bar.

ORS 9.990 provides:

(1) Any person who violates ORS 9.160 shall be fined not more than \$500 or imprisoned in the county jail for a period not to exceed six months, or both.

Mr. Smith has filed a lawsuit against the city. Outside legal counsel has filed a motion to dismiss based on standing. In the Motion to Dismiss the City notes that to the extent the complaint asserts claims on behalf of Mayor Don Williams, the Plaintiff Ross Smith, cannot use another's injury to file a claim.

This is not the first time Mr. Smith has been alerted to the unauthorized practice of law. I refer to these statutes in my 2014 response to his records petition to the District Attorney mentioned above, where he states the reason for the request for the VRD contact list request is to advise VRD owners of their rights. Nevertheless, Mr. Smith, who is not a lawyer has provided advice to

members of his unincorporated association, appears to draft public records requests and petitions for others and provides services and gives advice to Mayor Williams (even submitting a request for an advisory opinion to OGEC on behalf of Mayor Williams). I have spoken to the Oregon State Bar UPL division and intend to request an investigation. However, their focus is in enjoining such action not in criminal prosecution, so I will copy you when I have assembled this information.

Please feel free to contact me if you have questions. [office 541-996-1209] [cell 541-778-7579].

Sincerely,

Richard Appicello
City Attorney

	OREGON DEPARTMENT OF JUSTICE CRIMINAL JUSTICE DIVISION 2250 McGilchrist St. SE, STE 100 • Salem OR 97302 Office: 503-378-6347 • Fax: 503-373-1936		INVESTIGATIVE REPORT		CYBERTIP / REFERENCE NUMBER	REPORT NO. 3	CASE NUMBER CJD0148-15	PAGE / OF 1 / 4	
	CLASSIFICATION / CRIME(S) Official Misconduct							CJD UNIT DA/LE Assist	
REFER / REQUEST / ASSIST AGENCY & CASE NO. Lincoln City		OCCURRED FROM DATE/TIME 01012015		OCCURRED TO DATE/TIME 08012015		REPORT DATE/TIME 02162016/1730 hrs			
ATTACHMENTS <input type="checkbox"/> Prop/Evidence <input type="checkbox"/> Records <input checked="" type="checkbox"/> Other		LOCATION OF OCCURRENCE 801 SW Highway 101, Lincoln City, OR						COUNTY Lincoln	
ONE SENTENCE SUMMARY OF REPORT January 26, 2016 Interview of Ron Chandler									
THIS REPORT MAY CONTAIN INFORMATION NOT SUBJECT TO PUBLIC RELEASE. REDACT AS APPROPRIATE BEFORE RELEASING: <input type="checkbox"/> AG Subpoena <input type="checkbox"/> Juvenile									
PERSONS BU-Business LE-Law Enforcement OW-Owner PM-Person Mentioned RP-Reporting Party SB-Subject SU-Suspect V-Victim WI-Witness									
CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE				
SB	Williams, Don	M	W						
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE				
BUSINESS / SCHOOL ADDRESS					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE				
Mayor, Lincoln City ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI				
CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE				
C	Appicello, Richard	M	W						
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE				
BUSINESS / SCHOOL ADDRESS					PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE				
City Attorney, Lincoln City/801 SW Hwy 101, Lincoln City, OR ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					541-996-1209 <input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI				
CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE				
SB	Smith, Ross	M	W						
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE				
BUSINESS / SCHOOL ADDRESS					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE				
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI				
CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE				
LE	Kirby, David	M	W						
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE				
BUSINESS / SCHOOL ADDRESS					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE				
Oreogn DOJ/Criminal Justice Division ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI				
CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE				
PM	Poppe, Russel	M	U						
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE				
BUSINESS / SCHOOL ADDRESS					PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE				
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					541-654-0807 <input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI				
CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE				
PM	Chandler, Ron	M	W						
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE				
BUSINESS / SCHOOL ADDRESS					PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE				
City Manager, Lincoln City/801 SW Hwy 101, Lincoln City, OR ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					541-996-1200 <input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI				
REPORTING SPECIAL AGENT Jodi Shimanek <i>Jodi Shimanek</i>		DPSST 30088		APPROVED BY Mike Loughary		DATE APPROVED 02/17/16			

00453

CRIMINAL JUSTICE DIVISION | INVESTIGATIVE REPORT

PERSONS							BU-Business	LE-Law Enforcement	OW-Owner	PM-Person Mentioned	RP-Reporting Party	SB-Subject	SU-Suspect	V-Victim	WI-Witness
CODE	NAME (Last, First Middle)				SEX	RACE	DOB		DRIVER LICENSE / STATE						
PM	Williams, Debra				W	F									
HOME ADDRESS													PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS													PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)													<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
Don Williams' wife															
CODE	NAME (Last, First Middle)				SEX	RACE	DOB		DRIVER LICENSE / STATE						
PM	Steere, Cathy				F	U									
HOME ADDRESS													PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS													PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)													<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
City Recorder, Lincoln City/801 SW Hwy 101, Lincoln City, OR															
CODE	NAME (Last, First Middle)				SEX	RACE	DOB		DRIVER LICENSE / STATE						
PM	Townsend, Richard				M	W									
HOME ADDRESS													PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS													PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)													<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
Planning Director, Lincoln City/801 SW Hwy 101, Lincoln City, OR															
CODE	NAME (Last, First Middle)				SEX	RACE	DOB		DRIVER LICENSE / STATE						
HOME ADDRESS													PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS													PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)													<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB		DRIVER LICENSE / STATE						
HOME ADDRESS													PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS													PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)													<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB		DRIVER LICENSE / STATE						
HOME ADDRESS													PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS													PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)													<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		

REPORTING SPECIAL AGENT	DPSST	APPROVED BY	DATE APPROVED
Jodi Shimanek 	30088	Mike Loughary	02/17/16

On December 3, 2015, I was assigned an investigation involving allegations against Don Williams, the mayor of Lincoln City. The complaint was initiated by Richard Appicello, the city attorney for Lincoln City. A letter sent via e-mail to Dave Kirby on October 2, 2015, summarized Appicello's allegations against Mayor Don Williams and an associate of his, Ross Smith.

During a meeting with Appicello on December 17, 2015, he brought up that an independent investigator hired by the City, Russel Poppe, felt that Ron Chandler, the city manager for Lincoln City, may be obstructing the enforcement of the city ordinance pertaining to accessory use. On January 26, 2016 at approximately 8:20 a.m., I met with Chandler at his office. The interview was recorded and a copy of it is in the file. The following is only a summary of the interview.

Chandler asked if he was under investigation. I advised him that he was not the target of the investigation, but that Appicello had brought up that he (Chandler) had asked enforcement be held off. Chandler said that in 2014 three ordinances were adopted regarding vacation rental dwellings (VRD's) and those were challenged. Two referendums were defeated in May. Since that time the city has been working on adopting ordinances to fix the VRD problems.

Chandler said the law is extremely vague and the question is really how many days I can rent out my place. Chandler said that in reviewing applications for accessory use he has seen numbers range from a couple days to ten months. Chandler said that they held public meetings in the spring of 2015 to try and determine what the citizens wanted. Chandler said that he and Appicello have a different approach on how to handle this. Appicello wanted to send out letters to the top 25 violators and request guest registers to see how many nights' people had rented their property out for over the amount applied for. Chandler said Appicello looked at it as a prosecutor and wanted to let the courts make a decision. Chandler said that he was fine with the courts making a decision, but only if you liked the law. He does not want the courts making public policy.

Chandler said while he was on vacation Appicello sent out the letter requesting the information. Chandler said that property owners called him and were upset because they felt like Chandler was going after them. Chandler said that he wants to fix the law before they go out and try to enforce it.

The building/planning department can enforce the VRD ordinance. There is one employee who deals with VRD ordinance enforcement and his supervisor is Richard Townsend.

VRD accessory use has been an ordinance since the 1980's and it has never been enforced. Chandler said to his knowledge no one has ever been cited for a violation. Chandler said that the issue is there was no enforcement and now the City seems to be coming down hard. Chandler said the issue is the city has approved applications with varying number of nights with no consistency.

Chandler said that his approach has been to slowly fix the law. He knows that not everyone will be happy. Chandler said previous ordinances were very complicated. VRD owners have brought several new laws to the City, but they have been rejected.

I asked Chandler if he knew what the push was to start enforcing this. Chandler said his understanding was the City Council directed the City Attorney to enforce the accessory use limitation ordinance. Chandler suggested that the City Council use a mediator/arbitrator to hash out the way to handle this, outside of any opinions of city staff. I advised Chandler that our office is going to be very cautious on how we handle this investigation because we are not going to get involved in political in-fighting. I advised Chandler we would be focusing on criminal allegations.

Chandler said that he has met with Ross Smith on several occasions. He knows Smith has worked on legislation.

Chandler said that the city has a process for the enforcement and Chandler would like to see citizens warned prior to any enforcement. Chandler said that he keeps getting asked for a number, how many nights will trigger a violation, and he can't give people a number. He said that he feels that they are telling people they don't know a number, but just go ahead and rent your place out and we'll let you know if you are violating. He said that is not how he wants to handle this.

REPORTING SPECIAL AGENT Jodi Shimanek 	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 02/17/16
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00455

I advised Chandler that Appicello alleged that he had ordered Townsend not to enforce the accessory use violation. Chandler said that he just suggested that they not take any action, which isn't any different than what the city has been doing, while the Council works on the issue. Chandler said that the City and Council have worked extremely hard on trying to find a solution. These suggestions have included zoning changes, public education, and clear definitions of what accessory use is. Chandler said people just want a simple solution. Chandler said that talk of enforcement has created great divisiveness.

I spoke to Chandler about the criminal investigation involving the Mayor and the executive sessions. Chandler was present during the executive sessions. Chandler was unaware of what the Mayor has released. Chandler was aware that the Mayor was told by the City Attorney he cannot participate in discussions because he had conflicts. The Mayor wanted to be the one to make that decision, but Chandler knows that Appicello's approach is very direct.

Chandler advised that he had got a call from Mrs. Williams and she was very upset about the potential enforcement of accessory use. Chandler said that owners were aware something was going on because a letter had been sent to them requesting their guest registers. Chandler said the letter was sent out while he was on vacation, which was March 29- May 1, 2015. Chandler was unaware of the date when Mrs. Williams contacted Richard Townsend, but believed he knew the date.

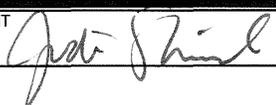
I asked Chandler if he had heard any concerns or complaints from council people that they felt pressured or intimidated by Appicello. Chandler said that he knew that this had been difficult on the council members. Chandler knows and understands that Appicello's job is to give legal advice. He knows that this issue with the Mayor is a political issue. Chandler has not heard any complaints from council people about Appicello.

Chandler suggested that I speak to the Council and the Planning Director, Richard Townsend.

I spoke to Chandler about an incident in which he and Appicello got into an argument and the Mayor released an e-mail regarding it to the press. Chandler said that he and Appicello got into a verbal argument in the office and it was about a personnel issue that was discussed in executive session. Chandler expressed concern about talking about the matter on the record as it was involving executive session discussions. I paused the recording so Chandler could talk about the matter. What was discussed in the executive session was not of my concern, but rather that the mayor disclosed information about it. Chandler said that he was unaware of any specific details of the e-mail being sent to the press by Williams.

Chandler did say that he and Appicello's argument was witnessed by several people and caused someone enough concern that they contacted the police, which responded to City Hall. Chandler said the incident was a verbal altercation and he regretted how he handled it. The recording was not turned back on after this discussion.

REPORTING SPECIAL AGENT Jodi Shimanek 	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 02/17/16
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	OREGON DEPARTMENT OF JUSTICE CRIMINAL JUSTICE DIVISION 2250 McGilchrist St. SE, STE 100 • Salem OR 97302 Office: 503-378-6347 • Fax: 503-373-1936		INVESTIGATIVE REPORT		CYBERTIP / REFERENCE NUMBER	REPORT NO. 4	CASE NUMBER CJD0148-15	PAGE / OF 1 / 4		
	CLASSIFICATION / CRIME(S) Official Misconduct							CJD UNIT DA/LE Assist		
	REFER / REQUEST / ASSIST AGENCY & CASE NO. Lincoln City		OCCURRED FROM DATE/TIME 01012015		OCCURRED TO DATE/TIME 08012015		REPORT DATE/TIME 02172016/1155 hrs.			
ATTACHMENTS <input type="checkbox"/> Prop/Evidence <input type="checkbox"/> Records <input checked="" type="checkbox"/> Other		LOCATION OF OCCURRENCE 801 SW Hwy 101, Lincoln City, OR							COUNTY Lincoln	
ONE SENTENCE SUMMARY OF REPORT January 26, 2016 Interview of Richard Townsend										
THIS REPORT MAY CONTAIN INFORMATION NOT SUBJECT TO PUBLIC RELEASE. REDACT AS APPROPRIATE BEFORE RELEASING: <input type="checkbox"/> AG Subpoena <input type="checkbox"/> Juvenile										
PERSONS BU-Business LE-Law Enforcement OW-Owner PM-Person Mentioned RP-Reporting Party SB-Subject SU-Suspect V-Victim WI-Witness										
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
SB	Williams, Don				M	W				
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS							PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
Mayor, Lincoln City										
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
C	Appicello, Richard				M	W				
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS							PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
City Attorney, Lincoln City/801 SW Hwy 101, Lincoln City, OR							541-996-1209			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
SB	Smith, Ross				M	W				
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS							PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
LE	Kirby, David				M	W				
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS							PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
Oregon DOJ/Criminal Justice Division							503-378-6347			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
PM	Townsend, Richard				M	W				
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS							PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
Planning Director, Lincoln City/801 SW Hwy 101, Lincoln City, OR										
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
PM	Williams, Debbie				F	W				
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS							PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
REPORTING SPECIAL AGENT Jodi Shimanek 			DPSST 30088		APPROVED BY Mike Loughary			DATE APPROVED 02/17/16		

CRIMINAL JUSTICE DIVISION | INVESTIGATIVE REPORT

PERSONS		BU-Business	LE-Law Enforcement	OW-Owner	PM-Person Mentioned	RP-Reporting Party	SB-Subject	SU-Suspect	V-Victim	WI-Witness
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
PM	Chandler, Ron				M	W				
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		

REPORTING SPECIAL AGENT

Jodi Shimanek *JDS*

DPSST

30088

APPROVED BY

Mike Loughary

DATE APPROVED

02/17/16

On December 3, 2015, I was assigned an investigation involving allegations against Don Williams, the mayor of Lincoln City. The complaint was initiated by Richard Appicello, the city attorney for Lincoln City. A letter sent via e-mail to Dave Kirby on October 2, 2015, summarized Appicello's allegations against Mayor Don Williams and an associate of his, Ross Smith.

On January 26, 2016, at approximately 9:55 a.m., I met with Richard Townsend in his office at Lincoln City, City Hall to interview him in regards to this investigation. The interview was recorded and the following is only a summary of our conversation.

Townsend is the Planning and Community Development Director for Lincoln City for sixteen years. I asked Townsend if he had been present at the Executive Sessions in question, in March of 2015 and if he recalled if Mayor Williams had been told that he was in violation of the Accessory Use limitations. Townsend did not recall that Williams was told by Appicello that he was in violation.

Townsend said that the Mayors wife came in and spoke to him and that she also called his office (Appicello indicates that she came in on March 13, 2015). He said that she came in prior to the letter being sent out by Appicello. Townsend said that she had come in concerned that if she had rented more than the stated nights if enforcement action would be taken. When asked if it was in March or May Townsend said that it was "In one of those 'M' months." Townsend said that he felt Mrs. Williams had knowledge of what was spoken about in the executive session.

Townsend said that Mrs. Williams called in May of 2015 after she received the letter requesting the guest registers. Townsend said she threatened to sue and that she was upset there was going to be enforcement. Townsend had suggested they send random letters out to owners, but Appicello did not want to send them out randomly. Townsend said that Appicello was planning on going forth with enforcement. Townsend said that he and the City Attorney have the authority to enforcement the Accessory Use ordinance. Townsend said that the ordinance has not been enforced in the time he has worked for the city. Townsend said the use of Vacation Rental Dwellings (VRD's) has become a business and that has changed the use of the homes.

I asked Townsend if he knew what prompted the sudden enforcement and he said that citizen complaints had been made and in the end of 2014 the City Council said that it needed to be enforced, but there was no direction on how to do that. Townsend said that no one knew how to enforce the ordinance because accessory use was defined as "incidental and subordinate."

I asked Townsend about how numbers came up and Townsend said that he believed that if it was used more than half a year for a rental he felt it was not incidental. Townsend said that he did some research and provided it to Council in 2014. Townsend said that he did an interpretation of what he believed incidental and subordinate may be, but that Council never approved it. Townsend denied that he ever used the 180 or 90 numbers for approvals or enforcement.

I advised Townsend that Appicello felt that Chandler had been "ordered" to enforce the VRD accessory use ordinance. Townsend said that he did not feel that way and that he knew he could enforce it, but that Chandler would not have been happy about it. Townsend said that it would be difficult to enforce because people could say that they allowed family to stay and they didn't charge them. He said now the City is able to pull the guest register and look at them. I asked Townsend about the application process and the lack of consistency. Townsend said that people were not putting dates down most of the time, because they did not ask for it. He said he had denied applications that said over half a year. Townsend recently he has been denying applications if they put over 90 days on the application. He expected that someone would appeal the decision, but it has not happened. VRD owners have to renew on an annual basis and Townsend is the one who approves them.

Townsend said Appicello is very enforcement oriented. He recalled Appicello citing someone in regards to the placement of where their hot tub was and Appicello fined them for every day they were in violation. Townsend said that it caused quite a stir as the proposed fine was over \$100,000. I asked how Appicello came to be the one who responded to that complaint and not the ordinance officer. Townsend was not sure how it came to be that Appicello got involved. Townsend said that this was involving the Rock Creek Village Homeowner's Association.

REPORTING SPECIAL AGENT Jodi Shimanek 	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 02/17/16
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00459

Townsend has an employee under him that can cite people for violations of city ordinance. He said they normally issue a warning or notice of violation. It goes to the court and gives the violator an opportunity to voluntarily comply and not be cited/fined. Townsend said they enforce ordinances, but that there are not a lot of citations issued because they get voluntary compliance. Townsend believes if they start to enforce the accessory use ordinance the city will end up being sued by property owners.

REPORTING SPECIAL AGENT Jodi Shimanek 	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 02/17/16
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00460



**OREGON DEPARTMENT OF JUSTICE
CRIMINAL JUSTICE DIVISION**
2250 McGilchrist St. SE, STE 100 • Salem OR 97302
Office: 503-378-6347 • Fax: 503-373-1936

**INVESTIGATIVE
REPORT**

CYBERTIP / REFERENCE NUMBER

REPORT NO.

CASE NUMBER

PAGE / OF

5

CJD0148-15

1 / 4

CLASSIFICATION / CRIME(S)

Official Misconduct

CJD UNIT

DA/LE Assist

REFER / REQUEST / ASSIST AGENCY & CASE NO.

Lincoln City

OCCURRED FROM DATE/TIME

01012015

OCCURRED TO DATE/TIME

08012015

REPORT DATE/TIME

02182016/1355 hrs.

ATTACHMENTS

- Prop/Evidence
- Records
- Other

LOCATION OF OCCURRENCE

801 SW Hwy 101, Lincoln City, OR

COUNTY

Lincoln

ONE SENTENCE SUMMARY OF REPORT

January 26, 2016 Interview of Susan Wahlke

THIS REPORT MAY CONTAIN INFORMATION NOT SUBJECT TO PUBLIC RELEASE. REDACT AS APPROPRIATE BEFORE RELEASING: AG Subpoena Juvenile

PERSONS BU-Business LE-Law Enforcement OW-Owner PM-Person Mentioned RP-Reporting Party SB-Subject SU-Suspect V-Victim WI-Witness

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
SB	Williams, Don	M	W		

HOME ADDRESS

PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS

Mayor, Lincoln City

PHONE: WORK MESSAGE

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)

SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
C	Appicello, Richard	M	W		

HOME ADDRESS

PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS

City Attorney, Lincoln City/801 SW Hwy 101, Lincoln City, OR

PHONE: WORK MESSAGE
541-996-1209

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)

SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
SB	Smith, Ross	M	W		

HOME ADDRESS

PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS

PHONE: WORK MESSAGE

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)

SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
LE	Kirby, David	M	W		

HOME ADDRESS

PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS

Oregon DOJ/Criminal Justice Division

PHONE: WORK MESSAGE
503-378-6347

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)

SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
PM	Wahlke, Susan	F	W		

HOME ADDRESS

PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS

City Council, Lincoln City

PHONE: WORK MESSAGE

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)

SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
PM	Townsend, Richard	M	W		

HOME ADDRESS

PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS

Planning Director, Lincoln City/801 SW Hwy 101, Lincoln City, OR

PHONE: WORK MESSAGE

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)

SSN SID FBI

REPORTING SPECIAL AGENT	DPSST	APPROVED BY	DATE APPROVED
Jodi Shimanek <i>Jodi Shimanek</i>	30088	Mike Loughary	02/18/16

CRIMINAL JUSTICE DIVISION | INVESTIGATIVE REPORT

PERSONS		BU-Business	LE-Law Enforcement	OW-Owner	PM-Person Mentioned	RP-Reporting Party	SB-Subject	SU-Suspect	V-Victim	WI-Witness
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
PM	Chandler, Ron				M	W				
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
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HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
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HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
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BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
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BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE		
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		

REPORTING SPECIAL AGENT

Jodi Shimanek 

DPSST

30088

APPROVED BY

Mike Loughary

DATE APPROVED

02/18/16

On December 3, 2015, I was assigned an investigation involving allegations against Don Williams, the mayor of Lincoln City. The complaint was initiated by Richard Appicello, the city attorney for Lincoln City. A letter sent via e-mail to Dave Kirby on October 2, 2015, summarized Appicello's allegations against Mayor Don Williams and an associate of his, Ross Smith.

On January 26, 2016, at approximately 1:09 p.m., I met with Susan Wahlke, at the Lincoln City Police Department in regards to the investigation of Mayor Don Williams. Our conversation was recorded and the following is a summary only.

I asked Wahlke if she recalled the reason for the February 9, 2015, executive session. Wahlke believed that it was to discuss on how to proceed with the enforcement of vacation rental dwelling (VRD) ordinances. I asked Wahlke if she recalled if there was mention of who was in violation. Wahlke believed that there was a list of VRD owners that were the top offenders. I asked Wahlke if she recalled the Mayor being told that his VRD was in violation. Wahlke recalled that the Mayor was asked to leave by Appicello because there was a potential conflict of interest, but she did not recall him being specifically told he was in violation. Wahlke recalled that the list of violators did not have names on it.

I asked if there were heated conversations between Appicello and Williams and she said there were, but she could not recall specific dates. The conversations were around Appicello's belief that Williams had a conflict of interest.

Wahlke said that council people, the city attorney, mayor and city manager are usually in the executive session along with Rick Beasley from the newspaper. Wahlke did not recall Richard Townsend being at the referenced executive sessions.

I asked Wahlke how the ethics complaint came about. She said that she believed in was in late February or early March. I asked her if she felt there was a violation of ethics and she said she was concerned that information was leaked. Wahlke felt Williams leaked information to his spouse. Wahlke said that Williams was vocal about his support of VRD's. Appicello approached the council about filing an ethics complaint. There had been an executive session to discuss the allegation against Williams and he was excluded. They voted on filing the complaint in a regular session. Wahlke said she felt uncertain about Williams' involvement with VRD discussions and felt it should be reviewed by an outside party.

When asked if she reviewed the materials that were sent with the ethics complaint Wahlke said that she reviewed the complaint only. I asked Wahlke if she had ever felt intimidated or coerced by Appicello to do anything or make a decision and she said "definitely not on my part."

Wahlke works as a legal secretary currently and had worked for Lincoln City in the City Attorney's office from 1992-94 and she recalled VRD permits being pulled. She did not recall what the violations were, but she believed some were pulled for use outside of the allowed accessory use.

Wahlke said the plan was to give notice of violations prior to enforcement, but that was not what the press was reporting. I asked Wahlke if there was someone pushing to not enforce the accessory use violations and she said that at council meeting the night before there was a motion made to not enforce VRD accessory use, but that the motion did not pass.

Wahlke said the council is working to resolve VRD issues, but her concern has been with the lack of confidentiality. I asked Wahlke if there was something besides the allegation of Williams telling his wife about the violation and Wahlke said there have been things in the newspaper and things that she has heard that were only discussed in executive session. I asked her to give me an example and she said a discussion in executive session in which a likely motion was to be made was being talked about at the News Guard office. Wahlke said someone told a friend of her's that they should stick around the council meeting because some "juicy stuff" was going to happen. Wahlke felt that it was the person who worked at the News Guard, who no longer works there, was talking about what they had heard in executive session.

REPORTING SPECIAL AGENT Jodi Shimanek	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 02/18/16
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I discussed with Wahlke the issues surrounding proving criminal conduct in this case and issues around public meetings and executive sessions.

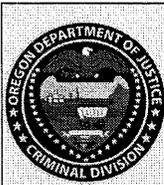
I asked Wahlke if she was aware of the release of a confidential e-mail after Appicello and the city manager, Ron Chandler, got into a verbal disagreement. Wahlke said that she had been called by a city employee who overheard it when it happened because she was upset by it. Wahlke understood that city council would discuss the matter because the two people were city council hires, but it ended up in the newspaper. I asked Wahlke if she knew that the police were called and she said that the employee may have called. I told her that Appicello raised concerns that Williams had released confidential information about the argument, but it sounded like numerous people overheard the argument. Wahlke said she was not sure what the argument was about. I asked her about the release of an email by the Mayor and she said she was provided a copy of an email that Williams had forwarded to the newspaper and she felt that it was confidential and she felt it should not have been released.

I discussed with her my concerns that this may not rise to the level of a crime. I was concerned about how the e-mail was obtained and if it was truly confidential. Wahlke said that she feels any communication from the city attorney could be attorney-client privilege.

I asked if at any time she felt pressured or saw anyone else being pressured or ordered to not take action. She said that she has not felt that way. Wahlke believes that the planning director can enforce the VRD ordinances. She said that the city attorney may be able to also.

REPORTING SPECIAL AGENT Jodi Shimanek 	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 02/18/16
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00464



**OREGON DEPARTMENT OF JUSTICE
CRIMINAL JUSTICE DIVISION**
2250 McGilchrist St. SE, STE 100 • Salem OR 97302
Office: 503-378-6347 • Fax: 503-373-1936

**INVESTIGATIVE
REPORT**

CYBERTIP / REFERENCE NUMBER

REPORT NO.

CASE NUMBER

PAGE / OF

6

CJD0148-15

1 / 4

CLASSIFICATION / CRIME(S)

Official Misconduct

CJD UNIT

DA/LE Assist

REFER / REQUEST / ASSIST AGENCY & CASE NO.

Lincoln City

OCCURRED FROM DATE/TIME

01/01/2015

OCCURRED TO DATE/TIME

08/01/2015

REPORT DATE/TIME

02/18/2016 1355

ATTACHMENTS

- Prop/Evidence
- Records
- Other

LOCATION OF OCCURRENCE

801 SW Hwy 101, Lincoln City, OR

COUNTY

Lincoln

ONE SENTENCE SUMMARY OF REPORT

January 27, 2016 Interview of Chester Noreikis

THIS REPORT MAY CONTAIN INFORMATION NOT SUBJECT TO PUBLIC RELEASE. REDACT AS APPROPRIATE BEFORE RELEASING: AG Subpoena Juvenile

PERSONS BU-Business LE-Law Enforcement OW-Owner PM-Person Mentioned RP-Reporting Party SB-Subject SU-Suspect V-Victim WI-Witness

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
SB	Williams, Don	M	W		

HOME ADDRESS

PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS

Mayor, Lincoln City

PHONE: WORK MESSAGE

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)

SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
C	Appicello, Richard	M	W		

HOME ADDRESS

PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS

City Attorney, Lincoln City/801 SW Hwy 101, Lincoln City, OR

PHONE: WORK MESSAGE
541-996-1209

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)

SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
SB	Smith, Ross	M	W		

HOME ADDRESS

PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS

PHONE: WORK MESSAGE

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)

SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
LE	Kirby, David	M	W		

HOME ADDRESS

PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS

Oregon DOJ/Criminal Justice Division

PHONE: WORK MESSAGE
503-378-6347

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)

SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
PM	Noreikis, Chester	M	W		

HOME ADDRESS

PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS

City Council, Lincoln City

PHONE: WORK MESSAGE

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)

SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
PM	Townsend, Richard	M	W		

HOME ADDRESS

PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS

Planning Director, Lincoln City, 801 SW Hwy 101, Lincoln City, OR

PHONE: WORK MESSAGE

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)

SSN SID FBI

REPORTING SPECIAL AGENT Jodi Shimanek <i>Jodi Shimanek</i>	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 02/25/16
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CRIMINAL JUSTICE DIVISION | INVESTIGATIVE REPORT

PERSONS							BU-Business	LE-Law Enforcement	OW-Owner	PM-Person Mentioned	RP-Reporting Party	SB-Subject	SU-Suspect	V-Victim	WI-Witness
CODE	NAME (Last, First Middle)					SEX	RACE	DOB		DRIVER LICENSE / STATE					
PM	Williams, Debbie					F	W								
HOME ADDRESS										PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE					
BUSINESS / SCHOOL ADDRESS										PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE					
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)										<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI					
CODE	NAME (Last, First Middle)					SEX	RACE	DOB		DRIVER LICENSE / STATE					
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BUSINESS / SCHOOL ADDRESS										PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE					
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BUSINESS / SCHOOL ADDRESS										PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE					
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)										<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI					
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HOME ADDRESS										PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE					
BUSINESS / SCHOOL ADDRESS										PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE					
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)										<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI					
CODE	NAME (Last, First Middle)					SEX	RACE	DOB		DRIVER LICENSE / STATE					
HOME ADDRESS										PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE					
BUSINESS / SCHOOL ADDRESS										PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE					
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)										<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI					
CODE	NAME (Last, First Middle)					SEX	RACE	DOB		DRIVER LICENSE / STATE					
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BUSINESS / SCHOOL ADDRESS										PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE					
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)										<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI					

REPORTING SPECIAL AGENT
Jodi Shimanek



DPSST
30088

APPROVED BY
Mike Loughary

DATE APPROVED
02/25/16

On December 3, 2015, I was assigned an investigation involving allegations against Don Williams, the mayor of Lincoln City. The complaint was initiated by Richard Appicello, the city attorney for Lincoln City. A letter sent via e-mail to Dave Kirby on October 2, 2015, summarized Appicello's allegations against Mayor Don Williams and an associate of his, Ross Smith.

On January 27, 2016 at approximately 8:30 a.m., I met with Chester Noreikis at the Lincoln City Police Department regarding this investigation. Our conversation was recorded and the following is only a summary.

Noreikis believed the executive session on February 9, 2015 was held to discuss the enforcement of accessory use clause of the VRD ordinance. Noreikis believed that Appicello brought up to Mayor Williams he may have a conflict of interest, but Williams remained in the meeting. The March 9, 2015 executive session was also to discuss VRD enforcement. I asked if he recalled if the list of VRD owner violators had names listed and he did not believe it did. I asked if Mayor Williams knew during this meeting that he was in violation and Noreikis said he did not know. He also was not sure if Williams stayed in the March executive session.

Noreikis had no knowledge of why Mrs. Williams', Mayor Williams' wife, contacted Richard Townsend, the Planning Director, about their VRD shortly after the March 9th council meeting. Noreikis said he could only surmise why Mrs. Williams was there inquiring about how many days they had listed as their VRD would be rented. He believed that she was told about enforcement of VRD's and that was why she went in. Noreikis advised that he had been a council person for over 10 years and no accessory use VRD enforcement was taken.

Noreikis was asked if he could recall who, besides council people, the Mayor, City Manager and City Attorney were in executive sessions. Noreikis said press was also allowed in those, but he could not recall who it was.

I asked Noreikis when the council was advised about the ethics complaint. Noreikis said that Appicello came to Council to seek their permission to release confidential information from executive sessions to the Ethics Commission in his complaint about Mayor Williams. The Council voted on it and approved the release. Noreikis saw the complaint that went to the Ethics Commission, but he did not recall seeing all of the attachments. Noreikis said all Council agreed that it needed to be looked into and Noreikis said he felt the Mayor was in violation of ethics rules.

I asked Noreikis if he ever felt intimidated or threatened in his position as councilperson. Noreikis relayed that since becoming a councilperson, he has received several complaints with the Ethics Commission, one was regarding a contractor's license and the other was for an occupational tax permit. Noreikis said both complaints were filed by supporters of Mayor Williams. Nothing came of either of the complaints.

Noreikis said the Council meeting on Monday the 25th, there was a motion to not enforce accessory use limitation for the duration of 2015, but it did not pass. Appicello advised Council that they cannot make a motion to change the law. Noreikis said at the end of 2014, the Council directed the City to enforce accessory use limitations. Noreikis feels that ultimately it is the City Manager's responsibility to enforce it, by directing the City Planner to enforce it. Noreikis agreed that the process of enforcement included a warning, notice of violation and violators would have the opportunity to enter into voluntary compliance. Noreikis has not seen enforcement in his time as a councilperson that seemed heavy handed.

I asked Noreikis about the 90-day limitation on VRD accessory use being used to deny applications by Townsend. Noreikis said that it was well researched by Townsend and he provided support to council as to why he felt that would be appropriate. Noreikis said that Council had passed an ordinance allowing VRD owners 180 days, but it was defeated in May of 2015. Noreikis said the ordinance that was defeated was rather complicated. Noreikis said there are approximately 500 VRD owners and it is a hot topic. He said the City has attempted to educate the public, but the opposition is also educating their side. Noreikis said VRD's were initially second homes and now they are profit makers.

Noreikis was asked if there was anything else that concerned him or conduct that was concerning to him. Noreikis said he has felt Williams has failed to recognize the form of government they are under. Noreikis said he resents the way Williams has treated Council. He said Williams has used people in the community to try to write

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legislation regarding VRD's. Noreikis said there is a time and financial burden being placed on the City due to all of the public records requests made by Ross Smith and supporters of VRD's.

Noreikis said he is most concerned about the lack of trust that council members can maintain confidentiality with discussions in executive session. Noreikis' concern with confidentiality is primarily with Mayor Williams.

REPORTING SPECIAL AGENT Jodi Shimanek 	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 02/25/16
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00458

	OREGON DEPARTMENT OF JUSTICE CRIMINAL JUSTICE DIVISION 2250 McGilchrist St. SE, STE 100 • Salem OR 97302 Office: 503-378-6347 • Fax: 503-373-1936		INVESTIGATIVE REPORT		CYBERTIP / REFERENCE NUMBER	REPORT NO. 7	CASE NUMBER CJD0148-15	PAGE / OF 1 / 4	
	CLASSIFICATION / CRIME(S) Official Misconduct							CJD UNIT DA/LE Assist	
	REFER / REQUEST / ASSIST AGENCY & CASE NO. Lincoln City		OCCURRED FROM DATE/TIME 01/01/2015		OCCURRED TO DATE/TIME 08/01/2015		REPORT DATE/TIME 02/22/2016 1330hrs		
ATTACHMENTS <input type="checkbox"/> Prop/Evidence <input type="checkbox"/> Records <input checked="" type="checkbox"/> Other	LOCATION OF OCCURRENCE 801 SW Hwy 101, Lincoln City, OR							COUNTY Lincoln	
ONE SENTENCE SUMMARY OF REPORT January 26, 2016 Interview of Wes Ryan									
THIS REPORT MAY CONTAIN INFORMATION NOT SUBJECT TO PUBLIC RELEASE. REDACT AS APPROPRIATE BEFORE RELEASING: <input type="checkbox"/> AG Subpoena <input type="checkbox"/> Juvenile									
PERSONS BU-Business LE-Law Enforcement OW-Owner PM-Person Mentioned RP-Reporting Party SB-Subject SU-Suspect V-Victim WI-Witness									
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE	
SB	Williams, Don				M	W			
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS							PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE	
C	Appicello, Richard				M	W			
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS							PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE	
SB	Smith, Ross				M	W			
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS							PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
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CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE	
LE	Kirby, David				M	W			
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS							PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
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CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE	
PM	Ryan, Wes				M	W			
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input checked="" type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS							PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
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CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE	
PM	Townsend, Richard				M	W			
HOME ADDRESS							PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS							PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)							<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
REPORTING SPECIAL AGENT Jodi Shimanek <i>Jodi Shimanek</i>			DPSST 30088		APPROVED BY Mike Loughary			DATE APPROVED 02/25/16	

00459

CRIMINAL JUSTICE DIVISION | INVESTIGATIVE REPORT

PERSONS		BU-Business	LE-Law Enforcement	OW-Owner	PM-Person Mentioned	RP-Reporting Party	SB-Subject	SU-Suspect	V-Victim	WI-Witness	
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE			
PM	Anderson, Dick				M	W					
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
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BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE			
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE			
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE			
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE			
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			

REPORTING SPECIAL AGENT
 Jodi Shimanek *[Signature]*

DPSST
 30088

APPROVED BY
 Mike Loughary

DATE APPROVED
 02/25/16

On December 3, 2015, I was assigned an investigation involving allegations against Don Williams, the Mayor of Lincoln City. The complaint was initiated by Richard Appicello, the City Attorney for Lincoln City. A letter sent via e-mail to Dave Kirby on October 2, 2015, summarized Appicello's allegations against Mayor Don Williams and an associate of his, Ross Smith.

On January 26, 2016 at approximately 3:00 p.m., I met with Wes Ryan at the Lincoln City Police Department. Our conversation was recorded and the following is only a summary.

Ryan has been a council person and is serving his third term. He also had spent time on the Planning Commission and is well informed on ordinances surrounding VRD's. Ryan helped draft legislation for transient room tax on VRD's. Ryan agreed the accessory use aspect of VRD's has not been enforced. Ryan said the intent, when written over 20 years ago, was to allow owners to rent out vacation homes for a short time to supplement their income/reduce costs. He said VRD's have turned into a business. He knows that some enforcement surrounding has been done over the past 15-20 years, but it has typically been done in the application process.

He said over the years there has been a lack of consistency. Enforcement was selective, if there was any, as there have been times there was no ordinance officer. He said there have been homes built strictly to be VRD's and have been accepted by the planning department.

In 2012, the Council and mayor at the time felt that VRD's had created many issues, but no one said what the problems were. There was a citizen's board brought about and they made recommendations. It was not clear cut and the recommendations were ignored. With changes in council and mayor, nothing has changed and it is more adversarial now. Ryan said Council has been working on fixes, but nothing has been agreed upon. New ordinances were rejected May of 2014. The Council, towards the end of 2014, wanted to see enforcement of VRD's stepped up, but Ryan said it still is not happening.

Ryan said the planning office has one enforcement officer and that VRD's are not his only assignment. Ryan said that since the city has not been enforcing the accessory use limitations on VRD's, he suggested at the Council meeting on Monday, January 25, 2016, that the city put a moratorium on enforcement. Ryan said that he was advised by Appicello that it is a crime for a city official not to enforce an ordinance. Ryan said that he did not feel that made any sense as they had not been enforcing it. I asked Ryan what crime Appicello said it was. Ryan said that he did not say what the crime was. Ryan said that he wanted to get some clarity before they start enforcing it. Ryan said the city has not enforced it for years, but now they want to enforce it and they, the City, have not been consistent.

Ryan agreed that the City has rules for how to enforce it, notice of violation, and a chance for compliance prior to fines. Ryan said that the City has changed the application process by asking owners to put a number down for nights rented and then not to put a number, so it has been very confusing. Ryan said that he would like to see the accessory use ordinance removed all together and has become very frustrated.

I asked Ryan if he recalled if Mayor Williams had been told that his VRD was in violation by Appicello in executive sessions in February and March of 2015. He did not remember. He knew that Appicello had suggested he removed himself in light that they he owned a VRD, but that Williams disagreed. Ryan said it has been his practice that they would step away from any discussions that they had any personal interest in. Ryan said that he felt Williams feels that since he is Mayor he does not have to remove himself from these discussions.

Ryan said that he has no first-hand knowledge that Williams passed on information to his wife or to a reporter, but he does not know how else they would have information. Ryan said that Beasley, a reporter with the local paper, has been very supportive of the Mayor and tried to engage people to discuss things that were spoken about in executive sessions where he was present.

Ryan said that the Council did approve for materials discussed in executive session to be released to the Oregon Government Ethics Commission. Ryan said they had a discussion in executive session about the ethics complaint and then they voted on it in a regular council meeting. Ryan said that most people felt there was a conflict of

REPORTING SPECIAL AGENT Jodi Shimanek 	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 02/25/16
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00461

interest by Williams to be involved with discussions on the VRD. Ryan said the information from the executive session was released to the press and the only ones who had that information were Appicello and Williams. I explained to Ryan that the Ethics Commission was required by law to release the complaint to Williams. I told him that it is also difficult for our office to prove a criminal case when the Ethics Commission has found there was no violation of ethics, when that is the basis of the allegation. Ryan said when the commission denied to further investigate Williams, he believed it was all over. He said then there was a lawsuit with regards to public records and then he heard Appicello had referred the case to DOJ. Ryan said he just did not feel that this was going to accomplish anything.

I asked Ryan if he had ever felt threatened, coerced or intimidated to do or not do something in his position as city councilman and he said no. I asked Ryan if he had seen anyone be ordered not to do something or do something that he felt was not legal. Ryan said that he was concerned with Townsend, the City Planner, who had been hired on a temporary basis and still is there. Ryan said that Townsend came to the Council with information supporting that 90 days or less in incidental and subordinate, but someone else says that it is a half a year. Ryan said that has been the problem with who gets to define it. Ryan said that he has never been able to figure out how the City even got to accessory use and he suggested they call it conditional use and set a specific number.

Ryan said that he wants to see equal enforcement of the laws.

I asked Ryan if he had ever seen Appicello intimidate or threaten a council person and he said he had not. Ryan said Appicello is direct and can be abrasive and is very "letter of the law." Ryan said that he believed Appicello has become gun shy because of the lawsuits that have been initiated. Ryan said that is why there have been so many executive sessions, because they need to have discussions outside of the public to be educated and then vote in public. Ryan said the demands for information have been overwhelming.

Ryan said that Appicello has a way of wording and working things to get what he wants accomplished. Ryan said Appicello and Williams both have strong personalities. Ryan brought up Dick Anderson being placed on council or "appointed" instead of having an election being held. Anderson was placed on council in the Spring of 2015 and was the former Mayor, who had run against Williams. Anderson replaced Jim Davis, who had moved to a different ward. Ryan said that he felt they should have had an election and while he was gone the Council voted to appoint Anderson.

REPORTING SPECIAL AGENT Jodi Shimanek 	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 02/25/16
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00462



**OREGON DEPARTMENT OF JUSTICE
CRIMINAL JUSTICE DIVISION**
2250 McGilchrist St. SE, STE 100 • Salem OR 97302
Office: 503-378-6347 • Fax: 503-373-1936

**INVESTIGATIVE
REPORT**

CYBERTIP / REFERENCE NUMBER REPORT NO. CASE NUMBER PAGE / OF
8 CJD0148-15 1 / 4

CLASSIFICATION / CRIME(S) CJD UNIT
Official Misconduct DA/LE Assist

REFER / REQUEST / ASSIST AGENCY & CASE NO. OCCURRED FROM DATE/TIME OCCURRED TO DATE/TIME REPORT DATE/TIME
Lincoln City 01/01/2015 08/01/2015 02/22/2016 1645 hrs

ATTACHMENTS
 Prop/Evidence
 Records
 Other

LOCATION OF OCCURRENCE COUNTY
801 SW Hwy 101, Lincoln City, OR Lincoln

ONE SENTENCE SUMMARY OF REPORT
January 26, 2016 Interview of Roger Sprague

THIS REPORT MAY CONTAIN INFORMATION NOT SUBJECT TO PUBLIC RELEASE. REDACT AS APPROPRIATE BEFORE RELEASING: AG Subpoena Juvenile

PERSONS BU-Business LE-Law Enforcement OW-Owner PM-Person Mentioned RP-Reporting Party SB-Subject SU-Suspect V-Victim WI-Witness

CODE SB	NAME (Last, First Middle) Williams, Don	SEX M	RACE W	DOB	DRIVER LICENSE / STATE
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE
BUSINESS / SCHOOL ADDRESS Mayor, Lincoln City					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI

CODE C	NAME (Last, First Middle) Appicello, Richard	SEX M	RACE W	DOB	DRIVER LICENSE / STATE
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE
BUSINESS / SCHOOL ADDRESS City Attorney, Lincoln City/801 SW Hwy 101, Lincoln City, OR					PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE 541-996-1209
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI

CODE SB	NAME (Last, First Middle) Smith, Ross	SEX M	RACE W	DOB	DRIVER LICENSE / STATE
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE
BUSINESS / SCHOOL ADDRESS					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI

CODE LE	NAME (Last, First Middle) Kirby, David	SEX M	RACE W	DOB	DRIVER LICENSE / STATE
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE
BUSINESS / SCHOOL ADDRESS Oregon DOJ/Criminal Justice Division					PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE 503-378-6347
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI

CODE PM	NAME (Last, First Middle) Sprague, Roger	SEX M	RACE W	DOB	DRIVER LICENSE / STATE
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input checked="" type="checkbox"/> MOBILE
BUSINESS / SCHOOL ADDRESS City Council, Lincoln City					PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI

CODE PM	NAME (Last, First Middle) Townsend, Richard	SEX M	RACE W	DOB	DRIVER LICENSE / STATE
HOME ADDRESS					PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE
BUSINESS / SCHOOL ADDRESS Planning Director, Lincoln City, 801 SW Hwy 101, Lincoln City, OR					PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)					<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI

REPORTING SPECIAL AGENT **Jodi Shimanek** *Jodi Shimanek* DPSST **30088** APPROVED BY **Mike Loughary** DATE APPROVED **02/25/16**

PERSONS		BU-Business	LE-Law Enforcement	OW-Owner	PM-Person Mentioned	RP-Reporting Party	SB-Subject	SU-Suspect	V-Victim	WI-Witness
CODE	NAME (Last, First Middle)			SEX	RACE	DOB		DRIVER LICENSE / STATE		
PM	Williams, Debbie			F	W					
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)			SEX	RACE	DOB		DRIVER LICENSE / STATE		
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)			SEX	RACE	DOB		DRIVER LICENSE / STATE		
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)			SEX	RACE	DOB		DRIVER LICENSE / STATE		
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)			SEX	RACE	DOB		DRIVER LICENSE / STATE		
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		
CODE	NAME (Last, First Middle)			SEX	RACE	DOB		DRIVER LICENSE / STATE		
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE		
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE		
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI		

REPORTING SPECIAL AGENT

Jodi Shimanek 

DPSST

30088

APPROVED BY

Mike Loughary

DATE APPROVED

02/25/16

On December 3, 2015, I was assigned an investigation involving allegations against Don Williams, the Mayor of Lincoln City. The complaint was initiated by Richard Appicello, the City Attorney for Lincoln City. A letter sent via e-mail to Dave Kirby on October 2, 2015, summarized Appicello's allegations against Mayor Don Williams and an associate of his, Ross Smith.

On January 26, 2016 at approximately 4:59 p.m., I met with Roger Sprague at the Lincoln City Police Department. Our conversation was recorded and the following is only a summary.

Sprague is a City Councilman and is currently the Council President. He has served six terms off and on since 1980. Sprague has seen over the years that very little enforcement of the VRD accessory use has been enforced. He knows that having an ordinance officer to enforce the ordinances has been limited. He knows that some complaints, such as noise and parking issues, have been handled by the police over the years. Sprague said VRD owners have increased over the years.

Sprague said the city benefits from VRD's by application fees and transient room taxes. Sprague said the Council, over the years, has been asked to define what accessory use was and a number was never put on it. Sprague said that he felt incidental and subordinate use was fairly easy to define and there was case law to back it. He feels that the rental of the VRD has to be less than the main use of the house, for example half of a year. Sprague said that recently Townsend has said that more than 90 days is his basis for issuing licenses and that he disagrees with that. I asked Sprague what gives Townsend the authority to decide it is 90 days and he did not know. I asked Sprague if he recalled what Townsend used to justify the 90 days and he said Townsend presented it to Council. I asked Sprague what the 90-day limitation was and he said that 90 days is for R-1 zones, where there are primarily full year-round residents.

I asked Sprague if there was a different approval amount for R-1 zones versus other zones. He said the accessory use does not apply in commercial zones. Sprague was not familiar with the applications, but said that his understanding is that Townsend has now taken it upon himself to deny applications if it lists over 90 days, but it would likely be in R-1 zones. Sprague said that this 90-day limit was put in place in the last couple of months. We agreed that this was a separate matter from the allegations against Williams.

Sprague and I spoke about the press and VRD supporters saying that fines for violations were going to be thousands of dollars. Sprague was unaware of fines being levied against owners that were the maximum.

I asked Sprague if he recalled the reason for the February 9, 2015 executive session. He said it had to do with VRD's and that before they began, Appicello suggested to Williams that he had a conflict because of his relationship to a VRD. Williams disagreed with Appicello and stayed in the meeting. Sprague felt that this was a clear violation of ethics.

Sprague was asked if in the session in March or in February, was Williams made aware of the fact that his VRD was in violation and he did not believe so. He said the list provided had owner numbers and identified some of the top violators based on how many nights they said they would be renting out the VRD. VRD owners self-report the nights and the ordinance allows for the City to request guest registers. Sprague said that he knew of a VRD owner that said they would rent the property for 35-40 nights, but the register showed they rented 290 nights in a year. Sprague said this is a clear violation. I asked if they pay the appropriate Transient Room Tax (TRT) and he said they were. It appears that the TRT and accessory use limitation are monitored totally separate of one another by different divisions within the city. Sprague said that people who violate TRT are audited and it is based on the dollar amount that comes in. Sprague said some VRD owners may rent at a lower rate to family or give nights out to non-profits.

I spoke to Sprague about the allegation that Williams had shared executive session discussions with his wife, but he had no proof. Sprague said they discussed if they were going to enforce it or not and how they would do it. Sprague said that Mrs. Williams came in 3 or 4 days after the executive session to speak with Townsend about how many days she had went over the amount listed on her location.

REPORTING SPECIAL AGENT Jodi Shimanek 	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 02/25/16
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I asked Sprague if he recalled Appicello requesting that executive session materials be released to the Ethics Commission and he said that he did. He said the discussions helped support the complaint. I asked Sprague if he recalled what the basis for the executive session was and he said it was to keep people that were in violation of VRD ordinances from knowing they were going to be taking enforcement action.

Sprague said that he saw the ethics complaint and all of the exhibits. I advised him that it was 300 pages and he said he recalled getting it and reviewing it. He said that he signed the complaint after being directed by Council to forward the complaint to the Ethics Commission. Sprague said that he did not feel that he was pressured to file the complaint. He felt that Williams violated ethics rules and he said that he does not trust Williams to keep things confidential that they discuss in executive sessions. I explained my concerns with being able to prove that Williams was the one releasing information and not the press. Sprague said that he doubted that. Sprague said that Mrs. Williams went to Townsend to complain, because she feared enforcement. He said otherwise she would have had no reason to go in because the ordinance has never been enforced.

I asked Sprague if he ever felt intimidated, threatened or coerced to make a decision or not do something and he said he has not.

Sprague expressed concern that the Ethics Complaint and attachments was made public and he felt that Williams provided it. I advised Sprague that the Commission is required to provide it to the party that is alleged to be in violation.

I asked Sprague if he recalled an email sent out after an altercation he and Chandler had. Sprague really did not recall much about the e-mail. Sprague said that he could not even recall what the issue was, but that he remembered that he agreed with Appicello's side of the argument. I advised Sprague that Appicello had alleged the email about this altercation made it to the press and Appicello said the e-mail was confidential. Sprague could not recall details.

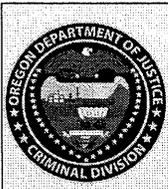
I asked Sprague if he felt there was anything else or any obstruction that he felt was criminal. Sprague said that he feels that Williams is providing Ross Smith with information and they are working together. Sprague said Smith has a vacation property. I told him I believed that he was the head of a rental property association, but Sprague said he was not aware of that. Sprague said that Smith intimates that he is an attorney. I asked if there was something that he had done to make him believe that and he said it is the way Smith writes letters and that he has sued the City several times. Sprague said that Smith is constantly demanding information and the City was forced to hire an extra employee to work on his public records requests. Sprague said that he is sure Smith and Williams are working together, but admitted he can't prove it.

Sprague said that Williams had told him that his VRD is only rented out to family and his church family, but that he found it offered on a website for rent. Sprague felt that Williams was lying about that. He said his distrust of him creates problems with the ability to discuss things openly in executive session.

Sprague said that in December of 2014 the Council directed the City to start enforcement. The statute of limitations ran out and they went a year without any enforcement and then in 2015 a new city manager was hired. Sprague said that he understands the predicaments everyone is in when it comes to this issue, but that not everyone will be happy. He said that he is not ready to give up on enforcement. He said that if someone is in violation, and it is a clear violation, the City may have to make examples of them.

REPORTING SPECIAL AGENT Jodi Shimanek 	DPSST 30088	APPROVED BY Mike Loughary	DATE APPROVED 02/25/16
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00466



**OREGON DEPARTMENT OF JUSTICE
CRIMINAL JUSTICE DIVISION**
2250 McGilchrist St. SE, STE 100 • Salem OR 97302
Office: 503-378-6347 • Fax: 503-373-1936

**INVESTIGATIVE
REPORT**

CYBERTIP / REFERENCE NUMBER REPORT NO. CASE NUMBER PAGE / OF
9 CJD0148-15 1 / 2

CLASSIFICATION / CRIME(S) CJD UNIT
Official Misconduct DA/LE Assist

REFER / REQUEST / ASSIST AGENCY & CASE NO. OCCURRED FROM DATE/TIME OCCURRED TO DATE/TIME REPORT DATE/TIME
Lincoln City 01/01/2015 08/01/2015 02/23/2015 0930 hrs

ATTACHMENTS LOCATION OF OCCURRENCE COUNTY
 Prop/Evidence
 Records
 Other
801 SW Hwy 101, Lincoln City, OR Lincoln

ONE SENTENCE SUMMARY OF REPORT
Jan. 27, 2016 Interview of David Twigg

THIS REPORT MAY CONTAIN INFORMATION NOT SUBJECT TO PUBLIC RELEASE. REDACT AS APPROPRIATE BEFORE RELEASING: AG Subpoena Juvenile

PERSONS BU-Business LE-Law Enforcement OW-Owner PM-Person Mentioned RP-Reporting Party SB-Subject SU-Suspect V-Victim WI-Witness

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
SB	Williams, Don	M	W		

HOME ADDRESS PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS PHONE: WORK MESSAGE
Mayor, Lincoln City

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.) SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
C	Appicello, Richard	M	W		

HOME ADDRESS PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS PHONE: WORK MESSAGE
City Attorney, Lincoln City, 801 SW Hwy 101, Lincoln City, OR 541-996-1209

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.) SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
SB	Smith, Ross	M	W		

HOME ADDRESS PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS PHONE: WORK MESSAGE

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.) SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
LE	Kirby, David	M	W		

HOME ADDRESS PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS PHONE: WORK MESSAGE
Oreogn DOJ/Criminal Justice Division 503-378-6347

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.) SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE
PM	Twigg, David	M	W		

HOME ADDRESS PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS PHONE: WORK MESSAGE
Municipal Court Clerk, Lincoln City, 801 SW Hwy 101, Lincoln City OR

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.) SSN SID FBI

CODE	NAME (Last, First Middle)	SEX	RACE	DOB	DRIVER LICENSE / STATE

HOME ADDRESS PHONE: HOME MOBILE

BUSINESS / SCHOOL ADDRESS PHONE: WORK MESSAGE

ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.) SSN SID FBI

REPORTING SPECIAL AGENT	DPSST	APPROVED BY	DATE APPROVED
Jodi Shimanek <i>Jodi Shimanek</i>	30088On	Mike Loughary	02/25/16

On December 3, 2015, I was assigned an investigation involving allegations against Don Williams, the mayor of Lincoln City. The complaint was initiated by Richard Appicello, the City Attorney for Lincoln City. A letter sent via e-mail to Dave Kirby on October 2, 2015, summarized Appicello's allegations against Mayor Don Williams and an associate of his, Ross Smith.

On January 27, 2016 at approximately 3:23 p.m., I met with David Twigg in the Municipal Court of Lincoln City. Our conversation was recorded and the following is only a summary.

Twigg works as the Municipal Court Clerk and had previously worked as the Executive Assistant to the City Manager. Twigg was aware of the allegations against Mayor Williams. I asked Twigg if he recalled attending the executive sessions in February and March of 2015. He stated that he was not present for them. Twigg said that he had read transcripts for those sessions that Appicello had prepared that were attachments to the ethics complaint. I asked Twigg if he knew if Council was provided all of the attachments. He could not recall.

Twigg has no personal knowledge of Williams talking to anyone or sharing information to anyone from discussions in executive session. Twigg said he is only aware of the allegations against Williams because he had proofread the ethics complaint that had been prepared by Appicello.

I asked Twigg if in his position had he ever felt threatened or intimidated by anyone to do something or not do something or had he witnessed that happen to anyone else. Twigg said that Williams had told the City Manager he wanted the invocation back on the agenda for council meetings. There had been some discussion years prior that they should not do it. Twigg said Williams wanted to make decisions without involving the Council.

I explained to Twigg that I had been told that someone felt the Planning Director was ordered to not do his job when it came to enforcement of VRD's. Twigg said that he has not heard anything directly.

Twigg had no other information or first-hand knowledge in regards to the allegations against Williams.

REPORTING SPECIAL AGENT Jodi Shimanek <i>J.S.</i>	DPSST	APPROVED BY Mike Loughary	DATE APPROVED 02/25/16
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00468

	OREGON DEPARTMENT OF JUSTICE CRIMINAL JUSTICE DIVISION 2250 McGilchrist St. SE, STE 100 • Salem OR 97302 Office: 503-378-6347 • Fax: 503-373-1936		INVESTIGATIVE REPORT		CYBERTIP / REFERENCE NUMBER	REPORT NO. 10	CASE NUMBER CJD0148-15	PAGE / OF 1 / 3			
	CLASSIFICATION / CRIME(S) Official Misconduct						CJD UNIT DA/LE Assist				
	REFER / REQUEST / ASSIST AGENCY & CASE NO. Lincoln City		OCCURRED FROM DATE/TIME 01/01/2015		OCCURRED TO DATE/TIME 08/01/2015		REPORT DATE/TIME 06/02/2016 1230 hrs				
ATTACHMENTS <input type="checkbox"/> Prop/Evidence <input type="checkbox"/> Records <input checked="" type="checkbox"/> Other								LOCATION OF OCCURRENCE 801 SW Hwy 101, Lincoln City, OR		COUNTY Lincoln	
ONE SENTENCE SUMMARY OF REPORT 06/01/16 interview of Don & Debra Williams											
THIS REPORT MAY CONTAIN INFORMATION NOT SUBJECT TO PUBLIC RELEASE. REDACT AS APPROPRIATE BEFORE RELEASING: <input type="checkbox"/> AG Subpoena <input type="checkbox"/> Juvenile											
PERSONS BU-Business LE-Law Enforcement OW-Owner PM-Person Mentioned RP-Reporting Party SB-Subject SU-Suspect V-Victim WI-Witness											
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE			
SB	Williams, Don				M	W					
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS								PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
Mayor, Lincoln City								541-992-9494			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE			
C	Appicello, Richard				M	W					
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS								PHONE: <input checked="" type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
City Attorney, Lincoln City								541-996-1209			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE			
PM	Williams, Debra				F	W					
HOME ADDRESS								PHONE: <input checked="" type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE			
PM	Townsend, Richard				M	W					
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
Planning Director, Lincoln City								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE			
PM	Smith, Ross				W	M					
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
CODE	NAME (Last, First Middle)				SEX	RACE	DOB	DRIVER LICENSE / STATE			
PM	Kabeiseman, William				M	U					
HOME ADDRESS								PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> MOBILE			
BUSINESS / SCHOOL ADDRESS								PHONE: <input type="checkbox"/> WORK <input type="checkbox"/> MESSAGE			
ADDITIONAL INFO (Physical description, email address, online user name, moniker, etc.)								<input type="checkbox"/> SSN <input type="checkbox"/> SID <input type="checkbox"/> FBI			
billkab@gslblaw.com											
REPORTING SPECIAL AGENT Jodi Shimanek				DPSST 30088		APPROVED BY Mike Loughary			DATE APPROVED 06/03/16		

On December 3, 2015, I was assigned an investigation involving allegations against Don Williams, the Mayor of Lincoln City. The complaint was initiated by Richard Appicello, the City Attorney for Lincoln City. A letter dated October 2, 2015, written by Appicello and sent to the Criminal Justice Division summarized the allegations against the Mayor and an associate, Ross Smith.

Attempts to speak with Don Williams early on in the investigation were made and I learned he was represented. I interviewed all other persons and I believed there was insufficient evidence to support charges.

On May 6, 2016, I sent an e-mail to Bill Kabeiseman, the attorney who was representing Williams, and asked to speak with his client. Kabeiseman contacted me on May 10, 2016, and advised he was not a criminal defense attorney and was going to suggest Williams contact one. Kabeiseman said that I could expect a call from that attorney in the next week.

On May 27, 2016, I sent an e-mail to Williams to inquire as to whether he was represented and to let him know I wanted to speak to him briefly. Williams responded to my e-mail and advised that he was unable to afford an attorney but would be willing to speak with me.

On June 1, 2016 at approximately 8:10 a.m., I spoke with Don & Debra Williams by phone. Prior to recording our conversation I confirmed with Don Williams that he was no longer represented and was willing to speak with me. Both Don and Debra Williams gave consent to have our conversation recorded. A CD of the interview is in the file.

Mayor Williams advised the complaint filed with the Oregon Government Ethics Commission by the Lincoln City Council was dismissed. I advised him the allegations that were presented to our office by Appicello included the ones filed in the ethics complaint.

I spoke with Mayor Williams about the executive session in which Appicello spoke about the potential to enforce vacation rental dwelling accessory use violations. The allegation was that Mayor Williams went home and disclosed information from executive session to his wife. Williams said that was not correct and he said he was told they were in violation and that he was going to go home and ask his wife. Debra Williams said he asked her how many days they had put on the application and she told him she thought it was 180 days, but she was unable to find the original application. Mayor Williams said he recalled her asking him why he asked that and he told her he could not discuss it.

I asked Debra Williams about her visit to the City shortly after this conversation. Debra Williams said she went to the Planning Director's office, Richard Townsend, to get a copy of the original application. She said the original application asked how many days, approximately, would the residence be rented. She had put 150 days on the application. She said it also asked how many days it would be used by the owner, again asking approximately, and she wrote 165 day. Williams pointed out that did not total 365 days, because she knew the first quarter of the year her home would be used by family.

I asked Mayor Williams to clarify that he had not shared information with Debra about the discussion had in executive session. Williams said he had not, but added that talks of enforcement of the accessory use ordinance had been a topic of discussion many times in front of council and in public. Debra Williams added that in December (2014) the council had voted to start fining violations of accessory use. Debra said she believed that anything under 180 days was acceptable. She said when she completed her first application she was told by the lady at the desk that the accessory use was not being enforced.

Williams said that she was concerned because she knew that council had voted to enforce the ordinance and she had been audited recently. She said she was upset when visiting with Townsend because she felt that since her application said 150 days and they had rented it out for 171 days, that without any warning they may face a fine of \$1000 per day over the listed use.

I spoke to Mayor Williams about allegations that involved Ross Smith. Mayor Williams said that he was aware of Smith and said he was unsure if he was a full time resident of Lincoln City. I explained to Williams there was concern that Smith had been sending out e-mails to various cities inquiring about their transient room tax and said that he was "working on a project for the Mayor." I asked him if Smith was ever working on project for him and

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Williams said, "To the best of my knowledge I have never asked him to work on a project. Ross has taken many things on by himself." Debra Williams added that Smith is a member of the Lincoln City Vacation Homeowners Association. She said she believed that association had been asking him to do it and he had volunteered to. Mayor Williams said he never told Smith to tell anyone he was working on a project for him.

I asked Mayor Williams about Smith's attempts to get an instruction manual for the City's accounting software program. He did not recall anything like that and he had not ever requested any information on that. I read the e-mail Smith sent to Williams' at his personal e-mail address on August 2, 2015 from Ross Smith. The e-mail was regarding the Casselle software, which municipal court and city accounting uses. Williams vaguely remembered the e-mail and denied ever contacting Casselle or providing log-in information to Smith. Williams did not believe he had access to those programs.

Mayor Williams said that it has been difficult having the City Attorney wanting to prosecute him when he is looking at him for help. Williams said he respects Appicello's hard work and knowledge, but he feels that it is "monomaniacal." Mayor Williams added a conflict of interest cannot be declared in an executive session and had Appicello just had a one-on-one conversation with him and explained his concerns it could have been handled.

Debra Williams added Appicello's position as a full-time city attorney and his budget was being looked at by the city council as it was much higher than comparable cities. There was some talk about using a contract attorney and she felt that it was a possibility that Appicello was fighting for his job.

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