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OFFICE OF THE ATTORNEY GENERAL
LAWRENCE WASDEN

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Attorney General declines to charge LCDC chairman

(Boise) – The Attorney General’s Office has concluded an investigation of allegations of conflicts of interest regarding Lake City Development Corporation (LCDC) chairman Charles Nipp. Attorney General Lawrence Wasden’s office notified Kootenai County Prosecuting Attorney Barry McHugh that the Attorney General will not be filing criminal charges.

In March of 2008, Kootenai County Prosecuting Attorney William Douglas requested that the Attorney General investigate and review for potential criminal prosecution allegations of a conflict of interest regarding Mr. Nipp.

The Attorney General’s investigation was limited exclusively to the potential of a criminal law violation as a result of Mr. Nipp’s involvement on both the LCDC board and his employment with Mountain West Bank and did not address other issues surrounding the operations of the LCDC that were circulating in the community at that time.

Although the statute of limitations for prosecution of a conflict of interest had expired more than a year before the matter was referred to the Attorney General’s Office, the Attorney General investigated to ensure that the allegations were fully reviewed and that Mr. Nipp’s conduct as a public official was made a matter of public knowledge.

“Our investigation revealed that Mr. Nipp’s conduct, while constituting a technical violation of the statutes, does not rise to the level of a prosecutable crime,” Deputy Attorney General Stephen Bywater wrote in a letter to Mr. McHugh.

The investigation reviewed loans for 13 properties acquired by LCDC from 2003 – 2006. During that time, Mr. Nipp served as chairman of the LCDC board and on the Mountain West Bank board of directors.

All 13 properties were financed by local banks through a competitive bidding process. In all 13 instances, at least 3 banks submitted bids. Mountain West Bank acquired 6 of the 13 loans, the largest of which was for \$242,000.

With regard to Mr. Nipp, the investigation also revealed that:

- He voted on each of the loans.
- He did not disclose his interest in Mountain West Bank.
- His compensation from Mountain West Bank is fixed and does not vary depending on loans the bank makes.
- As a board member of the bank, Mr. Nipp has no involvement with the approval/disapproval process for any loan less than 1.5 million dollars.
- He did not obtain any personal financial benefit from the awarding of loans to Mountain West Bank by LCDC.
- On one occasion, when he believed he had a conflict of interest on an unrelated matter, Mr. Nipp disclosed the conflict – despite advice from an attorney that no conflict existed – and did not vote on that matter.

“It appeared clear to us that his failure to disclose his potential conflict of interest was not done with the intent to defraud or deceive LCDC, but rather was the result of his belief that he did not have a conflict. Although this belief was in error, we do not believe that Mr. Nipp acted with criminal intent,” Bywater wrote. “As such, we believe that criminal charges would not have been appropriate given the facts of this case and that filing such charges would not have served the interests of justice irrespective of the statute of limitations issues.”

Interested citizens may read the full text of Bywater’s letter and the investigator’s report on the Attorney General’s website, www.ag.idaho.gov.