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St. Petersburg's inquiry into hotel developer's fee break lacked vigor, records show

By Michael Van Sickler, Times Staff Writer

New records show the city dropped the ball in the inquiry into a Hilton developer's fee.

ST. PETERSBURG - With the stroke of a pen at the dizzying height of the building boom, a city employee made \$219,951 vanish.

When Don Tyre, a plans examiner, altered a permit for a nine-story Hilton hotel about seven years ago, it violated a county ordinance, siphoned city revenue away from roads and rewarded a developer with a giant fee break.

The incident, and how St. Petersburg handled it after it came to light, offer a glimpse at former Mayor Rick Baker's pro-business administration and how it treated developers in a bygone era of relentless growth. Newly released records show city efforts to find out what happened and hold someone accountable were lackluster at best.

Tyre said he was directed to charge a lower impact fee to the developer of the Hilton in the Carillon business park, but didn't remember who ordered it. The city still doesn't know today.

The case wasn't referred to law enforcement. City officials said they lacked evidence that a crime was committed, but didn't pursue promising leads that might have uncovered clues.

At least two of the five people Tyre said could have given the order weren't interviewed during the initial investigation. Interviews that were conducted were brief and by phone. The auditor who did the review didn't take notes. When city attorneys first explained the case to the City Council in 2008, they conveyed incorrect information that characterized the investigation as more thorough than it was.

Tyre, meanwhile, has the same job, earning \$73,320. His supervisors rate his work as exceptional. He was never disciplined, and his personnel file contains no mention of the mistake. He wouldn't comment.

"I'm sure he was told to change it," said Milton Massanet, formerly the city's building official and Tyre's supervisor, who adds he didn't order the fee break. But he said the culture of the building department was to help business whenever possible.

"The atmosphere was, 'Get it done,' " he said. "We tried to give the builders everything they need. The sooner they get a permit, the sooner they build. ... the sooner they move in and generate tax revenue. Did the quality suffer? Maybe some, but nothing to affect the safety of the building."

Baker, who left office in 2010, said he didn't order a break for the Hilton and doesn't know who did. He is satisfied that the city looked into it and put policies in place to prevent a repeat.

But some officials are critical of how it was handled.

"I'd have pursued it a lot more aggressively," Council member Karl Nurse said. "I still find it hard to believe that someone could reduce a bill like that by more than \$200,000. And there's no documentation? It doesn't look like the city looked at this too hard."

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During the boom years, Baker encouraged inspectors to review plans quickly. Time was money. And staff was swamped, with builders pulling an average 25,000 permits a year between 2004 and 2006.

"Baker was involved in the sense that he wanted to facilitate for the contractor, and make things flow," said Massanet, who served as the city's top building official from 1999-2007. "My job was get the permits out as quickly as possible."

One of Massanet's employees, Tyre was assigned a \$14 million project for a nine-story Hilton hotel in Carillon in 2003. Baker held a news conference announcing the project.

Tyre issued the building permit in June 2004. It included a \$313,702 fee for transportation improvements required by a county ordinance. He would later scratch out that amount and substitute a much smaller one.

The owner of the property, Hobbs & Curry Family Partnership, a hotel development outfit from Arkansas, didn't pay until Dec. 22, 2005. Its cost? \$93,751 - an early Christmas gift.

Six months later, the Hilton was open for business.

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A year later, someone noticed what the Hilton paid. County auditors were reviewing impact fees collected by various cities.

Permits it randomly selected from St. Petersburg were all good, except for No. 03-12000156. The Hilton qualified for the hotel rate of \$1,439 per room. And yet the city charged \$413 - a rate for efficiency apartments or extended-stay hotels.

Then-deputy mayor Rick Mussett, the city's top administrator on development, told the city's internal auditor, Brad Scott in early July 2007.

"Of course I was concerned," Mussett said. "A mistake is a mistake, but this was \$200,000. The question was, 'How did it happen?'"

Scott launched a review. He would find out nothing more to answer that question.

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Although city officials refer to Scott's investigation as an audit, it wasn't. A typical audit can take up to 400 hours. The Hilton investigation took about 20 hours over three weeks, Scott said.

His research consisted mostly of interviews no longer than 10 minutes, some by phone.

"They were short and sweet," Scott said.

Few notes remain in the city's thin file.

"I didn't take any notes," Scott said. "If I did, they're in the report."

In that two-page report, Tyre gave Scott the names of five officials who could have ordered the fee change. The report said they didn't remember the incident.

Two of those officials - David Goodwin and Massanet - said they didn't talk with Scott.

Scott's file includes an email with the names of six officials at the bottom. Those are people he interviewed, Scott said.

Goodwin and Massanet aren't on this list. Neither is Kevin Dunn, another administrator Tyre named. Scott said he thinks his investigation was complete.

"We did what we were asked to do."

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St. Petersburg was obligated by law to recoup the money it didn't collect from Hobbs & Curry. It sued them in June 2008. City Attorney John Wolfe assigned the case to lawyer Lynn Gordon.

She recommended to Wolfe that the city accept a settlement offer of \$60,000 - 25 percent of what was owed. Wolfe called that "unacceptable" and instead proposed settling for \$174,000.

Wolfe and Gordon met behind closed doors in a legal strategy session with the City Council in August 2008. Members refused to settle, expressing skepticism about Tyre's memory lapse.

"Something that big and you wouldn't remember?" said Bill Dudley, according to a recently released transcript. "I find that hard to believe."

Gordon and Wolfe repeatedly called Scott's review an audit, which it wasn't.

While raising the scenario of embezzlement, Wolfe said there wasn't enough evidence to bring criminal charges.

The auditor had interviewed all five officials that Tyre named, Wolfe said, which was incorrect.

"The facts are disturbing," he said. "Our internal audit has investigated as much as they can, and they have not been able to have anyone change their story."

Wolfe said this month he didn't realize at the time that Scott's review was incomplete.

"The impression I had at the time was incorrect," Wolfe said. "And therefore, the information I gave council was incorrect."

Any false information he passed on was unintentional and came from the internal auditor, who is controlled by the mayor.

"I don't have oversight over the administration," Wolfe said.

The impact fee suit continued, but little else was revealed. Wolfe decided to settle when \$60,000 was offered again this year.

He brought it to the City Council at the end of a seven-hour meeting Nov. 21. At nearly 11 p.m., Gordon and Wolfe explained the rationale for settling.

Bleary-eyed council members approved the amount they rejected in 2008: \$60,000.

Wolfe could have ordered a closed meeting on the settlement, but he said he wanted to air it in public.

"Because," he said, "(the case) still bothers me."

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Bill Foster, who became mayor in 2010, said he believes the staff exhausted all investigative avenues.

"I'm not going to second-guess the previous administration," Foster said. "I need to have the confidence in my staff."

A new 2008 policy tightened oversight of permitting, including requiring that supervisors approve any changes.

"The weakness in the process was exposed in this one case," said Goodwin, now city director of planning and economic development. "We've since made it as good as we can make it."

Massanet, now a contractor, said Tyre was a good employee who wouldn't have changed the fee without authorization.

"It was real hectic back then," Massanet said. "In the spirit of getting things done, people did what they were directed. That's what Baker was all about. Straighten out the permitting process, make it faster, better."

Baker said the need for speed came when he started as mayor in 2001 and developers complained that the review of permits was too slow. Speeding it up was an imperative for him, but he said the Hilton incident showed a need for more oversight and documentation. The 2008 policy should take care of any deficiencies, he said.

Baker said he had nothing to do with the change or the review into who told Tyre to make it.

"But obviously, I'd like to know who did."

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