

W13 Government Writing

Dec. 20, 2019

Embezzlement scandal leaves dark cloud over 2019

Josh Gully

FRONT ROYAL – A lot can happen in 365 days.

A year ago today, Jennifer McDonald resigned as the Front Royal-Warren County Economic Development Authority's executive director after a decade on the job.

Before the EDA's Dec. 20, 2018, meeting, McDonald submitted a three-sentence resignation letter via email stating that she enjoyed the job and looked forward to the county's continued growth and prosperity.

Another email, which the EDA's board did not publicly release, had a tone more indicative of events to unfold in the following year. In it, McDonald stated that: "I agree to make myself liable" for \$2.7 million of EDA expenditures but asked for six months "to get reimbursements" from people and companies. If not, McDonald stated she "will be personally responsible to reimburse the EDA."

Ron Llewellyn, who served on the EDA board for nearly a decade, said that letter "was the thing that rang everyone's bell, at least it rang mine." Until then, Llewellyn said he considered McDonald a friend and trusted her, which he now regrets.

"I have to admit... You saw how much I defended her, for how long I defended her. And in hindsight, which is generally 20/20, I wish I had never done that," he said.

The EDA did not grant McDonald's request for six months of leeway and instead filed a civil lawsuit in March.

That lawsuit accuses McDonald and 13 others of stealing or misusing \$21.3 million. Of that, nearly half is represented by a \$10 million loan the authority gave to Curt Tran, whose ITFederal business was supposed to be the first commercial development at the Avtex Superfund site since it was deemed safe by the EPA.

Former Congressman Bob Goodlatte announced the project via a news release from his office that described a \$40 million investment, 600 jobs and three office buildings. Over four years after a groundbreaking, a lone 10,000-square-foot building has not opened. It joins other EDA projects such as the Afton Inn's renovations, a criminal justice training academy and a workforce housing project that never came to fruition.

While the \$10 million loan was approved by the EDA's board, the lawsuit claims that Tran obtained it by false pretenses by claiming to have a \$140 million contract with a federal agency. The EDA's lawsuit also notes a lengthy ITFederal business plan in which two out of 12 references of that contract state that it "did not include any guaranteed business to ITFederal." One of those references, the lawsuit states, came on page 58 of the business plan.

Tran's lawyer recently asked for the case to be dismissed because that \$10 million loan was legitimate and not obtained under false pretenses.

Two months after the lawsuit was filed, McDonald was arrested on felony counts of embezzlement and obtaining money by false pretenses. She now stands indicted on 32 felony counts related to alleged financial improprieties.

Four days after her arrest, former Sheriff Daniel McEathron – with whom the lawsuit alleges McDonald bought \$3.4 million worth of land with stolen funds – committed suicide. Before his death, McEathron unequivocally denied any wrongdoing and he was never criminally charged. Others indicted include McDonald's husband Samuel North, Earth Right Energy owner Donald Poe, former EDA Administrative Assistant Michelle "Missy" Henry and former B&G Goods store owner William Lambert.

McDonald's schemes, according to the lawsuit, occurred from 2014 through her resignation. During that same timeframe, unsealed Virginia State Police documents revealed that McDonald — whose most recent salary as executive director was \$115,000 — had a gambling addiction resulting in losses totaling \$753,207 at the Hollywood Casino in Charles Town, West Virginia.

This revelation came about a year-and-a-half after McDonald told a local media outlet she won \$1.9 million on slot machines at the casino in a four-year time frame. Llewellyn said McDonald told the EDA's board the same lie during a closed session before publicly touting a system she formulated to beat slot machines. He said the board immediately asked its longtime auditing firm, Yount Hyde & Barbour, to conduct a "deep dive" into the authority's financial records. About three weeks later, he said the auditors told the authority that "everything's fine."

"If they're not seeing it, I don't know how in the world anyone on a board, a non-paying volunteer board, is going to go behind the CPAs and the accountants and try to see if they can find something," Llewellyn said.

Lee Berlik – McDonald's former civil lawyer who the EDA alleges she paid with stolen money – stated in court documents that the lawsuit is a smear campaign in which the authority's board is morphing regrettable business deals into conspiracy theories.

The amount of damages alleged in the lawsuit were determined in large part due to a forensic audit, for which the firm Cherry Bekaert was paid \$486,000 to conduct. That audit, according to a report by the firm, did not review \$14 million worth of questionable transactions. Ryan Huttar, an attorney representing Earth Right Energy, called Cherry Bekaert's report a "dastardly trick" being treated as a "third party's independent conclusion" while "the EDA hand-selected the information it provided."

Two days after the lawsuit was filed, a special grand jury – which has handed up 86 indictments to date – was formed to investigate potential financial misappropriations within

every local governmental agency. Of those indictments, 42 misdemeanor counts of misfeasance and nonfeasance against EDA board members, the Board of Supervisors and two county officials were dismissed because the charges did not represent actual crimes.

Llewellyn, one of those EDA board members charged and cleared, said the indictments against the officials were a “mistake” and “everyone should have waited until the actions were reviewed.”

Within a month of the special grand jury’s inception, FBI and Virginia State Police agents carried boxes of evidence out of the EDA’s Kendrick Lane office. In October, unsealed FBI documents stated that McDonald’s and McEathron’s land purchases constituted probable cause for wire fraud, bank fraud and money laundering.

About a month after the FBI confiscated evidence, Douglas Parsons was hired as the EDA’s new executive director. Three out of the authority’s seven board members were present during the alleged embezzlement. As that new board attempts to rehabilitate the organization’s image, the Town of Front Royal has sued the EDA for \$15 million for alleged monetary losses.

To top off McDonald’s legal issues, Judge Ian Williams ruled in September that McDonald was guilty on two counts of defamation against Supervisor Tom Sayre due to her attempts to frame him as the mastermind behind hate crimes and vandalism. Williams said it was reasonable to conclude this was McDonald’s response to Sayre’s inquiries into questionable EDA deals.

While Sayre was declared a winner in the defamation case, he said that McDonald got exactly what she wanted with his defeat in the November election — him off the Board of Supervisors.

Llewellyn, who resigned the same day the civil lawsuit was filed, said he does not regret his 10 years on the board and “I feel that we accomplished a great deal during that time” and he is “sorry that primarily one individual had the ability to take away all the good that was done during that previous 10 years.”

While he understands the community’s anger, Llewellyn said he wishes that people would “wait until the end when all of this is resolved and all of the facts are out and that they have a better understanding of what really took place.”

When exactly that “end” will arrive is not clear. The criminal and civil cases continue meandering through court as the EDA teeters on the edge of insolvency. Nothing has been released by the FBI since its documents were unsealed and the special grand jury is scheduled to continue meeting through March.

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W13 Government Writing

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Did the EDA approve a \$10 land sale?

Josh Gully

FRONT ROYAL – Confusion has arisen over whether or not the Front Royal-Warren County Economic Development Authority board ever formally approved the sale of a piece of land that it bought for \$577,000 but was sold for \$10, according to a deed.

The 3.5-acre parcel at the end of Royal Lane was sold by the EDA to Cornerstone L.P. on Nov. 28, 2018, for \$10. It was supposed to be the site of a workforce housing complex on which construction has yet to begin.

The board in 2017 approved the purchase of the land for \$445,000 from former director Jennifer McDonald's aunt and uncle after previously being told it would be gifted to the EDA. An EDA civil lawsuit alleges that McDonald continuously said the Winchester-based construction company, the Aikens Group, would reimburse the EDA for the purchase. Cornerstone L.P. is an entity of the Aikens Group. No company representatives have responded to three phone inquiries.

The lawsuit alleges that McDonald was involved in the misappropriation of more than \$17 million including the \$577,000 expenditure - which she directed be spent despite the authorized \$445,000 purchase price - for the land using credit lines reserved for town and county projects.

Interim EDA director John Anzivino said over the phone that he looked for a resolution showing that the sale was approved, but "if there is one, I haven't been able to find it."

The deed for the \$10 sale was signed by EDA Chairman Gray Blanton on Nov. 28, 2018, more than two months after the EDA hired a financial consultant to perform a forensic audit of the authority's finances. While that forensic audit was underway, Blanton said he did not have a reason to mistrust anyone, noting that the authority's regular annual audit did not show any irregularities.

Blanton said he remembers McDonald asking him to sign the deed but that he only saw the document's last page and it "was not a bound copy."

"I was told this is the way it's going to be done...at that time, we pretty much trusted Jennifer," he said.

Although Blanton signed the last page of the deed, he said he does not "specifically remember" McDonald telling him the sale price for the land.

"When we look back on it, there's a lot of strange things happening. The only reason they were allowed to happen is because we trusted Jennifer, and she always had an explanation for everything; a good explanation for everything," Blanton said.

Joseph Silek Jr. was the lawyer who handled the sale. He began representing the authority on the workforce housing project after EDA and County Attorney Dan Whitten recused himself from the matter.

Silek is also the registered agent of MoveOn8 LLC, one of the nine defendants in the EDA's lawsuit. The lawsuit alleges that MoveOn8 LLC owns land that McDonald purchased using stolen EDA funds.

Silek recently said that he had no comment on any matters relating to the workforce housing project as it is a part of ongoing litigation.

Blanton said he remembers being told that Silek was handling the deal, and "I know Joe Silek; I know he's honest, so I thought it must be on the up and up."

Former EDA board member Ron Llewellyn said over the phone that the attorney handling the deal should have checked previous EDA board minutes to ensure that the sale was approved.

Asked if the EDA approved the \$10 sale, EDA Board member Bruce Drummond said over the phone: "No way, absolutely not." He asked: "Why in the world would the EDA sell land it bought for \$445,000 for \$10?"

Blanton said that he does not remember a resolution regarding the purchase or the purchase being approved by the EDA board.

"I can't say that I specifically remember approving it. I don't think it ever came up in a meeting," he said.

Llewellyn said that while he does not "recall the actual vote" that would have approved the sale, he said that it surely took place if the land was sold. He added that he is sure the board discussed selling it \$445,000.

"I think at this stage, anything's possible," he added.

Asked whether or not the sale was approved, EDA board member Mark Baker said over the phone: "I can't comment on that."

EDA board member Edwin Daley noted over the phone that the sale took place before his first meeting. Former EDA board member and Warren County Public Schools Superintendent Greg Drescher has declined to comment on any matters related to the EDA's lawsuit.

Drummond noted that while the board was not verifying projects very well, "the EDA has nothing to hide."

"It's just been a rough ride, and we'll see how we get through it. We've turned the corner and are heading in the right direction," he said.

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W13 Government writing

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\$500,000-plus spent on dead police academy

Josh Gully

FRONT ROYAL – Invoices for the canceled Skyline Criminal Justice Academy state that the Front Royal-Warren County Economic Development Authority spent \$540,269 on the project.

Plans for the academy, which was to be funded through a private investor, were announced in March 2016 with an expected July 2017 completion.

That investor, whom officials declined to identify, agreed to pay up to \$8 million through the EDA for construction costs on an as-needed basis. EDA Attorney Dan Whitten said the project died because rising construction costs went above that offer.

He noted that before construction could begin, engineering and architectural plans and permits had to be obtained. While waiting for those processes to be completed, he said construction costs increased.

Freedom of Information Act requests seeking a contract between the investor and the EDA were unsuccessful. John Anzivino, interim EDA executive director, stated in a letter that he could not provide a contract because “the requested records could not be found or do not exist.”

He said having no contract is interesting, and that “there’s a lot of interesting things here.”

Anzivino noted: “there are a number of actions” for which there is “not a lot of documentation,” and “we’re piecing everything together right now.”

### **EDA reshuffling**

Anzivino was appointed in January as interim EDA director in the midst of intensifying questions about the organization’s finances. He replaced Jennifer McDonald, who resigned after 10 years on the job.

In August, Greg Drescher stepped down as the EDA’s chairman, but remained on the board.

In October, William Biggs, EDA treasurer of 30 years, retired citing health issues. Josie Rickard, the EDA’s bookkeeper of 20 years, also retired that month. It was revealed that month that the EDA owes the town at least \$291,000 stemming from overpayments related to debt service.

The county has since paid a financial consultant \$160,000 — for work completed over five months — to examine EDA finances. More payments are imminent as the firm continues working.

The county also approved a \$100,000 cap for the Sands Anderson law firm for potential work with the EDA. The county additionally contracted attorney Robert T. Mitchell, who will be paid \$275 per hour, to prevent conflicts of interest for Whitten, who is also the county's attorney.

### **Academy files stolen**

On May 18, 2017, a break-in at the EDA's Kendrick Lane office was reported to the Front Royal Police Department.

Police reports regarding the incident state there was no forced entry and the only office keys were held by McDonald, former director of marketing Marla Jones and administrative assistant Missy Henry. A spare key was also kept in a lockbox to which only the three EDA employees knew the code.

The reports state McDonald initially said nothing was stolen. Vandalism that occurred included a photo of McDonald's face pinned to a chair with a knife and other defiled photographs. No charges were filed.

On May 24, McDonald said she noticed missing confidential files regarding the academy and its investor, the ITFederal project at the Avtex Superfund site and a workforce housing project, according to the reports.

The police reports state that local reporter Norma Jean Shaw inquired whether Curt Tran, ITFederal developer, was the private investor.

The reports state that McDonald told police on June 14 that "no one else knows who the investor is" unless they have the stolen file.

The next day, McDonald was interviewed at the police department regarding the break-in. That night, a rock was thrown through the front door of her home. A typed note was found at the scene with statements including "she is already on the edge because of the photos" and that "Norma Jean" "will be waiting" for "the files."

Local reporter Roger Bianchini told police that McDonald told him details of the incident before it occurred. She was charged on a misdemeanor count of filing a false police report and found not guilty.

Regarding the missing records, Whitten said: "Some things aren't really explainable."

"I don't know how you explain that. I mean, I don't know where the files are in her office...so I guess someone either took the time to look through and find them or they knew where they were. I'm not sure," Whitten said.

Tran said over the phone Tuesday that the idea of him investing in the academy was discussed but the deal was never finalized, and he never made any payments.

Whitten declined to identify the investor, noting the EDA board never publicly revealed them. He said anyone who identified the investor may have breached closed session rules.

Whitten said he became county attorney in May 2016, after the deal with the outside investor, and he does not know why there is no contract. He said the financial consultant “is looking at any connections...it will all come out in the final report if there is any correlation between these different projects...they’re looking at all of those avenues.”

### **Money spent**

The \$540,269 spent on the academy between 2015 and 2018 was for items including schematic designs, construction administration, furnishing design, storm water permits, access road design and more, according to invoices.

Whitten said the EDA’s audit for the fiscal year 2017-2018, which has not been publicly revealed, states that \$542,754 was spent on the academy.

He said the financial consultant is working to “see who paid what and making sure all of the invoices match up to the amounts that were paid.”

The invoices show that the EDA received \$200,000 in reimbursements for money spent on the academy, which Whitten said came from the private investor.

Upon hearing of the \$200,000 reimbursement, Tran said “that’s the first I’ve heard of it” and that he did not invest in the project.

### **Plans for Avtex site**

Ground broke on ITFederal, a data center, in October 2015. It was announced as a \$40 million project that would bring 600 jobs. McDonald previously said the groundbreaking was the idea of former U.S. Rep. Bob Goodlatte, R-Roanoke.

The Town Council in September 2015 provided the EDA a short-term \$10 million loan for the project. That was repaid two months later when the EDA obtained a loan through First Bank and Trust Co.

Town Finance Director B.J. Wilson said over the phone that the loan was paid back from the Michael L. Bryan Real Estate Trust Account and the firm Bryan & Coleman. He said that was before his appointment as director.

Whitten explained that the EDA gave that \$10 million loan to Tran and ITFederal and it must be repaid over 30 years.

Wilson added that he does not know why the EDA asked for a short-term loan to spearhead the project when it has not been completed over three years later.

While the original deed of trust for the site required a \$5 million investment and a 28,500-square-foot building, that has been reduced to a \$2 million investment and



\$10,000-square foot building. ITFederal bought the land from the EDA for \$1 with the stipulation that those requirements be met.

Tran confirmed that construction is an EB5-Visa project, which provides green cards to private foreign investors who invest between \$500,000 and \$1 million on certain projects that provide at least 10 jobs.

Tran said that ITFederal will not open due to difficulties in attracting investors. He said there are plans to bring another business into the building, which remains under construction, but difficulties remain in finding an investor due to negative feedback.

Tran said plans are outlined on [royal-phoenix.com](http://royal-phoenix.com), which details a potential e-commerce import-export business tied to the United States and Asia. He added that he hopes other businesses would be attracted, and “I’m just trying to develop that Avtex site.”

If the building is not complete by September 2020, the deed states the developer must pay the EDA \$2 million minus what has been invested in construction.

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