

# Healey Responds

Contrary to the opinion of Mr. Dick Tate, one of the attorneys for Fulshear Mayor Jamie Roberts, I still have my moral compass. It is my conscience that guides my professional life. The Texas Code of Criminal Procedure admonishes every prosecutor "to see that justice is done." This grave responsibility guides me as I work with the 44 prosecutors of my office in examining approximately 11,000 cases annually for consideration of criminal prosecution. Additionally, almost all major decisions are discussed and analyzed by myself, key personnel and/or chief prosecutors prior to their implementation.

In the matter of Mayor Roberts, he, his defense team, and political pundits have suggested that the goal of my office was to force his resignation. This assertion is false and not supported by my relationship with Mayor Roberts. In fact, before Mayor Roberts' actions pertaining to this case, I was pleased that he was Fulshear's mayor as well as a friend and supporter of mine. He allowed his name to be used in support of my reelection efforts. He called me during the investigation by the Sheriff's Office into his alleged theft of two carports. We spoke cordially several times after he was indicted and shook hands even during his trial.

I was aware that bringing charges against a popular public figure was politically unwise. But no citizen is above the law, and so the Judicial Process was followed. A police investigation took place. The Grand Jury heard from over thirty witnesses including Jamie himself. Mayor Roberts was indicted and a trial was conducted.

Many criminal matters result in negotiated settlements, just like in civil cases. But when the sides to a criminal lawsuit can not resolve the issue, a full trial is frequently had. When negotiations failed in the Roberts case, the choice was to either try the case involving alleged misuse of tax dollars or to drop the matter. The latter choice would send a clear message that the District Attorney's Office allows similar actions to go unchallenged.

Important facts on which the state based its decision to seek indictments of Mayor Roberts were as follows:

In October, of 2006, the late Jim Gibson reported that two of his carports had been taken from an easement. This easement was not on property owned by the city of Fulshear, nor Jamie Roberts, nor Metro. It was on private land.

In September of 2006, a man named David Rabius approached Roberts about two carports located on property set back from the intersection of FM 359 and FM 1093. Roberts told Rabius that if Rabius moved one of the carports to Roberts' property, then Rabius could have the second carport. Roberts told Rabius which carport he wanted and where

to take it. The second carport was subsequently attached to Rabius' garage.

In a sworn statement, given on October 11, 2006, Roberts stated:

1.) David had inquired as to two carports on the property located at the south east corner of FM 1093 and FM 359.

2.) The carports were abandoned.

3.) David took carports and delivered one to my place.

4.) I had no knowledge that the carports belonged to any individual.

Yet, in another sworn statement dated 2/5/07, Mayor Roberts stated:

1.) They (the carports) belong to a gentleman, and I called him on his cell phone, Jesse.

2.) And I asked Jesse what do you want to do with these (the carports).

3.) And he said: have him (the carport mover, Rabius) put one of them at the barn, but the other one he can just have.

**Roberts had completely contradicted his earlier sworn statement that the carports were abandoned and unowned!**

Roberts' sworn statement mentioned several times that Roberts had called Jesse on the day he and Rabius went to the location of the carports. Roberts said that he called from his cell phone, and he gave its number, yet a subsequent check of Roberts' cell phone records showed that no call had been made to Jesse's cell phone for the month of September 2006.

Roberts claimed in this statement, that in his October 11, 2006 statement, that he had told the Sheriff's Department detective that Jesse had been the owner of the carports; but that the detective chose to omit it from Roberts' October 11, 2006 statement.

Under oath at trial, the detective denied this assertion.

Ultimately, the cases regarding the alleged theft of the carports could not be pursued because the law requires that for a theft conviction, it must be proven that the owner did not give his consent to the taking of his property. The death of the owner made a conviction unlikely, so they were dismissed. The most serious case for which Roberts was tried consisted of Roberts' alleged use of taxpayers' money to pay for a survey, allegedly used in defending himself in his carport case and not for the city's business.

Trial evidence showed:

1.) Mayor Roberts claimed the survey showed the location of the carports at the time they were moved by Rabius.

2.) Mayor Roberts under oath on September 17, 2007 told multiple stories as to the reason he ordered the survey.

3.) The survey was ordered approximately three weeks prior to its presentation to authorities.

4.) Roberts under oath on

September 17, 2007 said that the purpose of the survey was for mowing and beautification, yet this statement indicated that mowing had been going on for approximately a year prior to the survey being ordered.

5.) Mayor Roberts knew that the city was to be charged for the survey he ordered.

6.) The city paid this bill of over \$1,100.00.

Long before the trial, efforts were made by my office to resolve the matter. Mr. Tate has claimed that "the D.A. told the mayor's first lawyer the charges would be dropped if Roberts would resign. There was no effort to get the property back." This statement by Mr. Tate is factually inaccurate. After becoming aware of the evidence regarding the carports, had the following offer conveyed to Mr. Roberts' first attorney: That the mayor should, to avoid prosecution, pay full restitution to the owner of the carports, make a public statement in which he accepted responsibility for their taking, and resign from office. Public officials who have run afoul of the legal system have frequently been expected by the public and prosecutors to resign their office to avoid prosecution.

The Mayor's attorney responded that he thought that the Mayor may be agreeable to the offer, except that he would not resign his office. I believe that my offer was conveyed to the mayor, because attorneys have an ethical responsibility to convey offers to their clients.

Mr. Tate and I met a few weeks before trial. By this time the owner of the carports had died and we had conveyed that fact to Mayor Roberts' legal team. We were focusing on the charge involving the misuse of taxpayer money. Mr. Tate asked if there was any way that they could avoid the Mayor's resignation. "What if we paid restitution?" Mr. Tate inquired. I felt the public had a right to expect restitution, (now to the estate of the carport owner and to the city of Fulshear) and an explanation and resignation. I declined Mr. Tate's suggestion. He promptly said "Then we'll go to trial." And we did.

Multiple trials occur almost every week in the Fort Bent County Courthouse and our office wins the majority. Both the accused and state place the facts before a jury. To prevail, the state must prove its case "beyond a reasonable doubt." Mr. Roberts' acquittal meant that the jury was not convinced of his guilt beyond a reasonable doubt.

My office accepts and respects the jury's verdict. We have convicted murderers, child molesters, robbers, drivers driving while intoxicated, thieves, burglars, and drug dealers to name a few. I can assure you that before, during, and after the Roberts case, I listened to, and will continue to listen to, that voice inside of me that seeks to do **JUSTICE**.