

**OFFICIAL MEETING MINUTES
OF THE
PALM BEACH COUNTY INSPECTOR GENERAL COMMITTEE
PALM BEACH COUNTY, FLORIDA**

MAY 16, 2019

**THURSDAY
9:33 a.m.**

COMMISSION CHAMBERS

I. CALL TO ORDER

II. ROLL CALL

MEMBERS:

Sarah L. Shullman, Chair
Bryan Kummerlen, Vice Chair – Absent
David Aronberg proxy Al Johnson, Chief Assistant State Attorney
Peter L. Cruise
Carey Haughwout – Arrived later
Michael S. Kridel
Rodney G. Romano – Arrived later

STAFF:

John A. Carey, County Inspector General

ADMINISTRATIVE STAFF:

Marisa Valentin, Deputy Clerk, Clerk & Comptroller's Office (clerking)
Julie Burns, Deputy Clerk, Clerk & Comptroller's Office (condensing)

III. INTRODUCTORY COMMENTS – None

IV. APPROVAL OF INSPECTOR GENERAL (IG) COMMITTEE MEETING MINUTES

IV.a. Meeting: November 15, 2018

MOTION to approve the November 15, 2018 minutes. Motion by Peter Cruise, seconded by Michael Kridel, and carried 4-0. Carey Haughwout, Bryan Kummerlen, and Rodney Romano absent.

V. SIX-MONTH STATUS REPORT

V.a. Presentation by Inspector General Carey

General John Carey stated that:

- The Board of County Commissioners proclaimed May 7, 2019 as Ethics Awareness Month.

(CLERK'S NOTE: Committee Member Haughwout joined the meeting.)

- Today's presentation covered the Office of Inspector General's (OIG) activities from October 1, 2018 to March 31, 2019.
- New OIG personnel included Investigator Eric Hathaway and auditors Linda Connor, Shaun Robinson, and D.J. Lormistois.
- Kalinthia Dillard, Deputy Inspector General, received the South Florida's Most Powerful and Influential Black Business Leaders of 2019 award by Legacy Magazine.
- Megan Gaillard, Director of Audit, became a certified Information Systems Auditor and continued to maintain the Toastmaster's Competent Leader award.

Stuart Robinson, Director of Investigations, said that:

- 58 complaints of wrongdoing led to referrals to other OIG divisions, law enforcement, and various commissions on ethics.
- The complaints were less than those received in the previous 6 months, tended to be cyclical, and primarily came from citizens.
- Most of the complaints involved allegations of employee misconduct.
- 10% of nonjurisdictional complaints were generated from the OIG hotline and outreach and were referred to the appropriate agency, law enforcement, or ethics partners.
- There were 12 ongoing investigations versus 13 during the previous 6 months.
- 6 investigations were referred to law enforcement or ethics partners.

- Since March 31, 2019, the length of time for open, active investigations was 9½ months.

Committee Member Kridel asked why the complaint regarding investigative matter 2016-0003 was received in 2016, but the advisory letter was not issued until 2018.

Mr. Robinson said that the investigation was placed on hold to handle more complex profile investigations, and the City of Lake Worth – now Lake Worth Beach – was informed of the OIG’s decision.

Committee Member Kridel asked if the municipality took corrective action.

Mr. Robinson responded that the investigation involved employee misconduct, and the municipality adopted the OIG’s recommendations.

Karen Mayer, Contract Oversight Manager, said that:

- Contract oversight operated under the guidelines contained in the Association of Inspectors General’s (AIG) *Principles and Standards for Offices of Inspector General*.
- Mr. Carey chaired an AIG committee that created a course to certify contract oversight personnel as inspectors and evaluators.
- 82 contract activities with values totaling \$773.7 million were monitored.
- The contract dollar values under review were higher than in the previous 6 months because the Solid Waste Authority now utilized a bidding process to procure its waste hauling contracts.
- 2 reports were issued, 1 recommendation was made and 1 was accepted.

(CLERK’S NOTE: Committee Member Romano joined the meeting.)

- No potential cost savings were realized.
- No tips and trends were issued; however, the OIG was creating tips and trends on contract administration.
- 43% of the 82 monitored contract activities involved the County, 44% involved municipalities, and 13% involved special districts.
- Contract management review involved the procurement process, the award and implementation of a contract, and most recently, how contracts were administered.

Committee Member Kridel asked why contract oversight report CA-2019-0021 was created.

Ms. Mayer responded that:

- CA-2019-0021 pertained to a surtax-funded project that contained some procurement process issues.
 - Most of the procurement for surtax-funded projects was reviewed.
 - The procurement for CA-2019-0021 was not as stringent as it should have been.
 - Most contract management reviews were self-initiated by the OIG.
- Contract oversight activities included attending Infrastructure Surtax Independent Citizen Oversight Committee meetings, reviewing project lists, tracking monthly surtax revenue, monitoring contract performance, and reporting contract oversight activity results on the OIG's Web site.

Committee Member Haughwout asked whether any of the contract oversight activities were included in the reports to better reflect the work performed and the savings value to taxpayers.

Ms. Mayer said that:

- The metrics for contract oversight was a different function.
 - Auditing and investigating were not functions of contract oversight.
 - Becoming certified inspectors and evaluators provided an opportunity to think beyond contract oversight.
 - Expanding into other activities provided a savings value to other entities and the public.

Committee Member Haughwout inquired about the function of contract activities.

Ms. Mayer responded that contract activity indicated the collected and documented work that was performed by staff.

Committee Member Haughwout asked whether the 82 monitored contract activities related to 1 contract or 82 separate contracts.

Ms. Mayer said that:

- Generally, the 82 contract activities reflected 82 separate contracts or a direct link to a contract.
- If additional contract issues were discovered, a new activity report would most likely be created.

Megan Gaillard, Director of Audit, said that:

- Fewer reports were produced during this 6-month period, but recommendations almost doubled.
- There was 100% acceptance of staff's recommendations.
- There was approximately \$1.2 million in questioned, identified, and avoidable costs.
- 10 referrals were made from the different audit reports.
- 1 tip and trend on investing surplus funds was issued.
- 1 additional project involved additional resources to perform a quality assurance review.

Committee Member Romano asked whether the City of Riviera Beach (Riviera Beach) took any steps to recover the money from the employees who made improper expenditures.

Ms. Gaillard said that Riviera Beach chose to fix some of the improper expenditures and waive recovering the money.

Committee Member Romano asked whether the OIG suspected that any of the nonlocated items could have had been converted to personal use.

Ms. Gaillard responded that the items that were purchased and not produced by Riviera Beach staff could have been used for personal use.

- In some instances, there were staff changes, and the new employees could not locate the items.
- Employees who were no longer employed could have walked out with the items.
- The items could have been rededicated to another department.

- There were no records to identify each item's location.

Al Johnson, Assistant State Attorney, asked whether the OIG had a protocol or referred some of Riviera Beach's findings to other agencies.

Ms. Gaillard said that the OIG's investigative division reviewed the audit report and found no criminality because most of the misconduct involved policy rather than Code of Ethics (code) violations.

Mr. Carey stated that Mark Bannon, Commission on Ethics (COE) Executive Director, received a copy of every OIG report.

Mr. Johnson, said that:

- There were far more civil than criminal violations of the code.
- The statute of limitation on enforcing the code was 2 years.
- Findings that were submitted to the COE could become nonactionable because they exceeded the statute of limitations.

Mr. Carey said that the OIG would try to communicate with the COE to avoid missing the 2-year time window.

Committee Member Kridel asked about the OIG's intention to follow up to see whether Riviera Beach adopted the recommendations.

Mr. Carey said that:

- The OIG worked closely with the State Attorney's Office on the Riviera Beach findings.
- Riviera Beach replaced almost all of its council members, and a former Riviera Beach manager replaced the acting manager.
- The OIG would follow up to ensure that its corrective actions were being implemented.

Chair Shullman said that the committee's consensus was to have the OIG bring back an update in 6 months on the Riviera Beach audit report, including the \$16,000 spent on gifts and the \$1,900 in donations.

Ms. Gaillard stated that most of Riviera Beach's donations were gift cards that were used for specific authorized programs but were disallowed under its policy.

Chair Shullman suggested that the OIG immediately report any civil-related ethics findings to the COE so that a file could be opened and placed in abeyance.

Committee Member Haughwout said that she understood the concern about Riviera Beach's \$515,000 in questioned costs, but the Town of Tequesta was a much smaller municipality and had almost the same questioned costs. She asked whether the OIG recommended having a purchase card (p-card) policy to the municipalities or agencies that were audited.

Mr. Carey stated that:

- P-card use was considered a high risk at all government levels, and the OIG recommended having internal control standards.
- Questioned, identified, and avoidable costs were national terms that were clearly defined by statute and used by all federal inspectors general.
 - Questioned costs was spent money that was not in line with the law.
 - Identified costs were dollars that could be potentially recouped.
 - Avoidable costs were costs that could be avoided in the future.

Committee Member Kridel said that p-card issues also occurred in the private sector, and internal controls and training were important considerations when using them.

Committee Member Cruise asked what the statute of limitations was on criminal activity.

Mr. Johnson said that:

- The State statute of limitations on a criminal misdemeanor was 2 years and could be extended if a criminal violation was committed by a government official.
- A best practice to follow would be to consider both the State statute and the COE's code of a 2-year limitation to act on ethics violations.
- The State Attorney's Office would further research the statute of limitations if criminal prosecution was being considered.

Committee Member Cruise asked whether the COE could be informed about an OIG investigation before it was completed.

Mr. Carey said that during an ongoing investigation, the OIG often referred cases to, and discussed issues with, the COE.

Committee Member Cruise asked when the statute of limitations started on an investigation.

Mr. Johnson replied that the 2-year statute of limitations began when an incident occurred.

Committee Member Romano asked how most municipalities handled expenses from elected officials, department heads, and staff.

Mr. Carey said that those municipalities that were polled controlled the p-cards and did not distribute them to all elected officials.

Ms. Gaillard said that:

- The Riviera Beach transactions were reviewed October 1, 2016 through November 28, 2017 so the 2-year statute of limitations was still in effect for some of the transactions.
- The Riviera Beach audit report contained an exhibit with the 3,000 problematic transactions.
- Riviera Beach recently hired an internal auditor who performed weekly reviews of the different transactions.
- The OIG was preparing tips and trends on best practices and resources to enhance Riviera Beach's p-card use.

Committee Member Cruise asked why the Town of Jupiter Inlet Colony (Jupiter Inlet) audit was conducted.

Ms. Gaillard responded that Jupiter Inlet was selected for a routine audit because an audit, an investigation, or a contract oversight report-level review was never performed on the municipality. She added that:

- Multiple municipalities received tips and trends on investing surplus funds.
 - Interest rates increased, but municipalities did not change investments or banks that yielded no interest.
 - The OIG suggested investing surplus funds in options that were permitted by law to increase revenue and to adopt an investment policy that would increase the available investment options.

(CLERK'S NOTE: Mr. Johnson left the meeting.)

Mr. Carey stated that:

- The tips and trends on investing surplus funds were included in audit reports under the avoidable cost category.
- Most of the OIG training and outreach efforts during the 6-month period was focused on government personnel.
- A brief OIG introduction/presentation was given to all new County employees and supervisors.
- The next outreach initiative involved attending municipal committee meetings and speaking with commission members and the public.
- He spoke to Palm Beach Atlantic University graduate and undergraduate students on ethics and leadership in government.
- The OIG was about 63% staffed, and a request to the County was made for additional resources in the upcoming fiscal year.
 - 2 auditors and 2 investigators were requested.
 - The funded positions would increase to 29 out of 40 authorized positions.

Ms. Dillard said that:

- The OIG was a party in a litigation involving Florida Statute section 119.0713(2)(b) and an exemption from the public records laws that applied to local OIGs and internal auditors.
- The County Attorney's Office drafted the statute's language in 2011 to address the confidentiality of the OIG's records and to protect the integrity of investigations and the reputation of subjects being investigated.
- The litigation involved the OIG contacting a citizen to gather information regarding an investigation.
 - The citizen requested a copy of the complaint, and the investigator said it would be provided after the investigation was completed.
 - On March 13, 2018, the citizen filed a petition asking the Court to require that the OIG provide him a copy of the complaint and pay his attorney's fees and costs.

- The trial court ruled in the OIG's favor, and the ruling was being appealed.
- The citizen filed his initial brief on January 29, 2019, and the OIG's answer brief was due May 31, 2019.

Committee Member Cruise asked whether the OIGs from Broward and Miami-Dade counties would be joining the lawsuit.

Ms. Dillard said that the Pinellas County OIG was the only entity to currently file legal paperwork, but the OIG would be providing the appellate documents to other OIGs.

Mr. Carey said that:

- The OIG was focusing on using staff's resources and strengths to integrate projects.
- The contract oversight division would be expanded to focus on performance.
- The annual Association of Inspectors General conference would be held September 2019 in the City of West Palm Beach, and 1 committee member would be invited to serve as a panel member.
- To date, the OIG identified \$46.3 million in questioned costs and \$23.8 million in potential cost savings, which included identified and avoidable costs.
- To date, 152 referrals had been made to law enforcement and commissions on ethics.
- 19 arrests were made as a result of the OIG's audits and investigations.
- Almost 1,000 recommendations with a 94% acceptance rate were made.

V.b. Discussion

Committee Member Cruise said that he would volunteer to serve as a panel member at the Association of Inspectors General conference.

Committee Member Haughwout asked whether the OIG tracked convictions and restitutions.

Mr. Carey said that the OIG only tracked arrests and prosecutions.

V.c. Public Comment– None

VI. NEW BUSINESS

VI.a. 2019 Association of Inspectors General Annual Training Conference –
See earlier in the minutes.

VII. ADJOURNMENT

At 11:45 a.m., the chair declared the meeting adjourned.

APPROVED: 11/14/2019

Chair/Vice Chair