



Richmond Office of the City Auditor

Office of the Inspector General

Fighting government waste, fraud and abuse

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Richmond City Auditor/Inspector General

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The Honorable Mayor Levar Stoney
City of Richmond

The Office of the Inspector General has completed its investigation concerning the City Council's budget appropriations by the Office of the Chief Administrative Officer and the Department of Public Works (DPW).

Complaint:

The OIG received a complaint alleging \$140,000 appropriated to the Clean City Commission in the FY2016 General Fund budget were never given to the Commission and the funds were used without its permission.

Legal Requirements:

In accordance with the Code of Virginia, §15.2-2511.2, the City Auditor is required to investigate all allegations of fraud, waste and abuse. Also, City Code section 2-214 requires the Office of the Inspector General to conduct investigations of alleged wrongdoing.

Background:

In FY16, the City Council made an appropriation of \$140,000 (First Appropriation) to the Clean City Commission to work with an organization known as Keep Virginia Beautiful Inc. and the City Administration to accomplish tasks listed in their resolution number 2014-R157- 156. The Clean City Commission was established to be an Advisory Commission created by resolution 92-R377-93-21 and recreated by Ordinance 2015-45-63. Section 2-1165 of the City Code states the "Clean City Commission shall provide advice and recommendations to the Council concerning programs to reduce litter and improve the local environment in the City Of Richmond." The City Code section 2-1165 further reads in part:

"The Clean City Commission shall perform the following duties:

...

- (2) Improve the level of public awareness regarding litter and recycling problems as well as improving the level of responsibility by all parties who generate or handle solid waste.

- (4) Work with all City and State agencies to reduce the amount of illegal dumping by contractors, citizens and all others who in the course of their day-to-day operations create large amounts of hard to dispose solid waste.”

In accordance with the City Attorney’s opinion, “despite its characterization of the Commission as an advisory body, the City Council also assigned duties to the Commission. Section 2-1165(2) of the City Code (2015) provides that the Commission has a duty to “improve the level of public awareness regarding litter and recycling problems as well as improving the level of responsibility by all parties who generate or handle solid waste.” Section 2-1165(4) requires it to “work with all City and State agencies to reduce the amount of illegal dumping by contractors, citizens, and all others who in the course of their day-to-day operations create large amounts of hard to dispose solid waste.” “By assigning duties that might be viewed as going beyond merely providing advice and comment, even if it did not consciously intend to do so, the City Council may have intended for the Commission to function at some point in a hybrid role both as advisor and as provider of services to the public and other governmental agencies.”

In FY2017, the City Council appropriated \$105,000 (the Second Appropriation) to the Clean City Commission. The City Administration, once again, used these funds without seeking approval from the Commission.

Findings:

According to the Clean City Commission meeting minutes, the Commission became aware of the First Appropriation in August 2015. In November 2015, Councilman Agelasto wrote an e-mail to representatives of the City’s Chief Administrative Officer (CAO) to inform them as follows:

“The \$140,000 was set aside by City Council and directed to the Clean City Commission. You can find this in the FY2016-2017 budget book *[sic]* on pages 1-1, 1-5, 6-115, and 6-117. KVB was mentioned as a resource and Res. No. 2014-R157-156 referenced as some of the goals for the program. I’ve copied Darlene, as well as Keith Rogers, Alicia Zatcoff, and Zane Robinson on this message. They should be able to brief CCC on the project and deliverables.”

According to the December 2015 Commission’s meeting minutes, the Senior Assistant to the CAO was invited but did not attend the Commission’s monthly meeting. In March, 2016, the Senior Assistant reported to the Commission that some of the funds had already been spent and some had already been allocated.

The investigators found that approximately \$105,000 from the First Appropriation was used by DPW to pay for bulk & brush and neighborhood cleanup. The Commission’s Chairperson indicated that in March or April 2016, the Commission was advised that \$25,000 had been used

for neighborhood cleanup. The Board approved the use of these funds after the fact. It is not clear if \$25,000 was included in the \$105,000 stated above. The Commission's approval was not obtained prior to spending these funds.

From the available records, in May and June of 2016 the funds appropriated to the Clean City Commission were paid either to the City employees or for temporary labor towards the Anti-Litter Campaign. On May 18, 2016, the DPW Support Service Manager (Clean City Commission Coordinator) received an e-mail from the DPW Deputy Director instructing DPW staff to charge overtime and temporary labor expenditures to the Clean City Commission line item. Subsequently, the Coordinator called the Senior Assistant to the CAO to confirm if the CAO could use the money.

During an interview, the DPW Deputy Director who instructed the Coordinator, indicated that they received instruction from the CAO's Office to use the amount appropriated to the Clean City Commission for neighborhood cleanup projects. The DPW Deputy Director also stated that the Clean City Commission funds were used to do neighborhood cleanups, Bulk & Brush, and grass cutting. The Deputy Director declined to identify the individual providing the instructions. Recently, the Deputy Director indicated receiving their instructions from the former DPW Director.

Subsequently, the Inspector General requested the CAO to provide the name of the individual instructing the DPW Deputy Director to use the funds appropriated to the Clean City Commission. The CAO did not provide the name of the individual making the request.

During an interview, the Senior Assistant to the CAO stated the Clean City Commission is an advisory commission and there were no means to receive funds and the City could not monitor how the funds were being used. The Senior Assistant was under the impression that since the coordinator for the Clean City Commission is employed by DPW, the Commission was aware of the funds and how they were going to be used.

According to the opinion issued by the City Attorney, "the entity to which the City Council gave the authority to expend the funds was the Clean City Commission. Under Virginia law, no officer or organizational unit of City government other than the Commission itself was empowered to expend these funds, because any expenditure of these funds by an officer or entity other than the Commission without the Commission's express approval or consent would be inconsistent with City Council's legislative direction, even if, as I have assumed, the funds were expended for an otherwise proper governmental purpose. . . . Only the Commission was authorized to expend these funds, and an expenditure of the funds without the Commission's approval or consent would not be 'in accordance with' the appropriation and thus would violate section 6.20 [of the City Charter]." Therefore, the City Administration should not have spent the funds appropriated to the Clean City Commission without its approval.

According to the Commission's Chairperson, the City Administration used all of the Second Appropriation of \$105,000 made to the Commission for FY 2017, except about \$4,850 authorized by the Commission. The City's FY 2017 general ledger summary indicated that expenditures charged to the Clean City Commission account exceeded the appropriation by \$2,400. The City Administration did not seek approval of the Commission for these expenditures as well. In addition, the City's internal controls failed to prevent expenditure exceeding the appropriations.

Conclusion:

Based on the facts and the City Attorney's opinion, the amounts appropriated to the Clean City Commission were not spent legally in FY 2016 and FY 2017. The CAO and the DPW Deputy Director's lack of identifying the person who authorized the payment make it impossible to determine if that person is subject to the consequences of violating the City Charter provision 6.20. For FY 2017, this issue was well discussed and various individuals and the DPW Deputy Director had notice of this issue. Yet, the payment in violation of Charter Section 6.20 occurred.

All City employees including the CAO must cooperate with the Office of Inspector General and provide information requested during investigations. Failing to do so can hinder the investigations.

Recommendation

The Mayor needs to hold the appropriate individuals accountable for not complying with the City Code provisions.

If you have any questions, please contact me at extension 5640.

Sincerely,



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City Auditor/Inspector General

cc: City Council Members
City Audit Committee