



John A. Carey
Inspector General

OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

REFERRAL



Inspector General
Accredited

October 17, 2014

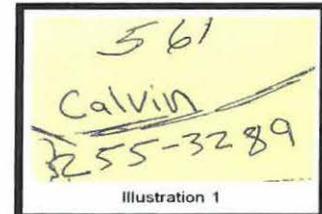
Steven Cullen
Executive Director
Commission on Ethics
Palm Beach County
300 North Dixie Highway, Suite 450
West Palm Beach, FL 33401

RE: OIG #2014-0013

Dear Mr. Cullen,

On September 15, 2014 (Monday), Magda Rapola, a 66 year old citizen of the City of West Palm Beach (City) made a complaint to the Office of Inspector General (OIG) alleging that a B/M who identified himself as a City employee, attempted to solicit his yard debris services by using his position as a City employee. Based on the information provided during our preliminary inquiry, this matter is being referred to your office.

Ms. Rapola stated that on Saturday, September 13, 2014, she and a friend, as well as an unidentified teenager were cutting tree branches and shrubbery in her yard in preparation for the City's regularly scheduled debris removal on Mondays, September 15, 2014. While doing so, a B/M approached her, identified himself as a City employee, and stated that his name was "Calvin." Ms. Rapola further stated that "Calvin" advised her that the City would not remove the amount of debris that she had without the City charging her approximately \$300.00 to \$400.00 via her City water bill. Ms. Rapola indicated that "Calvin" offered to remove her debris for \$200.00 with the assistance of a friend (unidentified) with a City truck. According to Ms. Rapola, she advised "Calvin" that she could not afford \$200.00, at which time he offered his services for \$100.00. Ms. Rapola stated that "Calvin" subsequently wrote his name and phone number on a piece of paper and told her to call him when the City did not remove her debris on Monday and that he would come by with his friend to remove the debris for \$100.00. Ms. Rapola stated that on Monday, September 15, 2014, she watched outside as the City removed debris from the neighboring homes, but not hers. Ms. Rapola opined that "Calvin" misused his position and believed that "Calvin" may be doing the



"Enhancing Public Trust in Government"

same to other senior citizens. Ms. Rapola stated that a neighbor, Ricardo Rosa, was present during most of her interaction with "Calvin," as well as another teenager (unidentified) that Mr. Rosa had working with him. Ms. Rapola also indicated that no money has been provided to "Calvin" nor has any contact been made with "Calvin" since this incident.

According to background information obtained by the OIG, the following pertinent information was obtained:

- Accurant records indicated that telephone number (561) 255-3289 is registered to an individual named **Kelvin Lamont Black** with DOB: 06/20/79 and FL DL# B420-512-79-220-0. Mr. Black's home address is listed as 3215 Windsor Ave, West Palm Beach, FL. 33407. DAVID records confirm the same information.
- According to the City's Human Resource Department records, Mr. Black is employed by the City as a Sanitation Driver in Engineering & Public Works Department, Sanitation Division.
- City Human Resource Department records for Mr. Black confirm his telephone number is (561) 255-3289 and confirms the same birth date and driver's license number.
- City Human Resource Department records do not have any documentation regarding secondary employment for Mr. Black.

The OIG conducted the following sworn and recorded interviews:

- Magda Rapola (Complainant)
- Ricardo Rosa (Witness)
- Alfred Chappell, City of West Palm Engineering & Public Works Department, Sanitation Division, Supervisor (Mr. Black's direct supervisor)
- Ferdinand Rivera-Negron, City of West Palm Engineering & Public Works Department, Sanitation Division, Superintendent
- Mr. Black was not interviewed by the OIG.

CD Enclosures:

1. Complaint received by the OIG, which includes a copy of the piece of paper "Calvin" provide to Ms. Rapola, which included his handwritten name and telephone number.
2. Additional information received by the OIG, which includes pictures of City Sanitation Trucks.
3. City of West Pam Beach Employee Handbook
4. City of West Palm Beach Motor Vehicle Policy
5. Recorded interviews of complainant and witnesses

Contact Information:

Complainant: **Magda Rapola**
4500 N. Terrace Dr,
West Palm Beach, Fl. 33407
561-662-0187

Witnesses: **Ricardo Rosa**
3721 Paseo Andalusia,
West Palm Beach, FL. 33405
561-541-8632

Alfred Chappell
City of West Palm Engineering & Public Works Department,
Sanitation Division, Supervisor
1045 Charlotte Ave (Complex)
West Palm Beach, FL. 33401
561-822-2075 Ext-2074

Ferdinand Rivera-Negron
City of West Palm Engineering & Public Works Department,
Sanitation Division, Superintendent
1045 Charlotte Ave (Complex)
West Palm Beach, FL. 33401
561-822-2075 Ext-2076

Subject: **Kelvin Lamont Black**
City of West Palm Engineering & Public Works Department,
Sanitation Division, Sanitation Driver
1045 Charlotte Ave (Complex)
West Palm Beach, FL. 33401
561-822-2075

Thank you,



Flora Butler
Director of Investigations (Acting)
Office of Inspector General

Cc: Mark Bannon, Senior Investigator
 Gina Levesque, Intake Manager

PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF INQUIRY

To: Steven P. Cullen, Executive Director
From: Mark E. Bannon, Senior Investigator
Re: AN 14-031 – Kelvin Lamont Black – City of West Palm Beach Sanitation Department employee

- **Background**

This matter came to the attention of the PBC Commission on Ethics (COE) as a referral from the PBC Office of Inspector General (OIG). The OIG completed an initial investigation into allegations submitted by Magda Rapalo, a resident of the City of West Palm Beach (the City) under OIG case number 2014-0013. Rapalo appeared in person at the Inspector General's office on September 15, 2014 to discuss events that occurred on Saturday, September 13, 2014 at her home located at 4500 North Terrace Drive, concerning a black male driving a red pick-up truck, who indicated he was an employee of the City.

Rapalo complained that the man attempted to obtain cash payment from her to assist in the removal of yard debris from her home. According to Rapalo, this event occurred while she, and others she hired to help her, were removing vegetation from her yard and placing it near the street for sanitation pick-up the following Monday. Rapalo said that the man told her he worked for the City, and that City workers would not pick up her debris because the amount exceeded allowable limits. She said he also advised her that the City would charge her between \$300 and \$400 to remove the excess debris.

When Rapalo told the man she did not have that kind of money, the man offered to remove the vegetation himself for \$200, stating that he had a friend with access to a City truck. When she told him she did not have \$200, Rapalo said the man then offered to remove the vegetation for \$100. Rapalo stated she was initially going to write the man a check for \$100, but decided not to and declined the man's offer. At that point, the man wrote down his name and telephone number on a small piece of paper and told her that she could call him Monday when the City failed to pick up the debris if she changed her mind. The paper listed the name "Calvin" and a telephone number of "561-255-3289." The piece of paper was given to OIG Intake personnel. Rapalo stated that she never gave any money to the man, and there has been no further contact with him. However, Rapalo did advise that the debris left at her curb was not picked up by City workers on Monday as predicted by the man.

Pursuant to a request by OIG staff, after leaving the OIG office Rapalo photographed the debris and emailed them to the OIG Intake Manager. Both the paper with the name and telephone number and the photographs of the debris were placed into the OIG file and provided to COE staff with the referral.

After an initial review, OIG Investigators Flechaus and Heredia were assigned. Sworn audio statements were taken from Rapalo and witness Ricardo Rosa, who was one of the people helping Rapalo clear her yard, and who had also spoken with the man who offered to remove the debris for payment. A "teenager" who was hired from the neighborhood by Rosa to help with the clean up and present for the conversation was not identified by the OIG Investigators.

In Rosa's sworn statement, he said the teenager he hired told him that the man was the trash guy for the neighborhood. Rosa said that the man first approached him and advised that the City would not remove the large amount of debris left at the curb without charging \$400. Rosa stated that he directed the man to Rapalo, and that while he was working he overheard only a portion of the conversation between the man and Rapalo. He said that although he only heard a portion of the conversation, he did hear the man offer to remove the debris for \$200 as well as the counter offer of \$100. Rosa also said that he saw the man write down his name and telephone number and give it to Rapalo and identified that piece of paper for OIG investigators.

The OIG investigators were able to determine that the telephone number given to Rapalo belonged to Kelvin Black. Rapalo and Rosa were each shown a photograph of Kelvin Black from his Florida Driver License during their interviews, but neither was able to make a positive identification from this photograph as being the man who had met with them on Saturday, October 13, 2014 at Rapalo's home. However, both stated the photo was similar to

the man. OIG investigators then checked with the City Human Resources Department and found that Kelvin Black was a City employee, employed in the Sanitation Department. Sworn, taped statements were given by Ferdinand Riviera-Negron, who is Black's immediate supervisor, and Alfred Chappell, who is the supervisor of the City Sanitation Department. Both advised that the City will charge extra fees for the removal of vegetation or other debris from a resident's home if the amount of the debris exceeds a maximum amount, and Chappell advised that the cost of these fees for a "special pick-up" would likely be around \$100. Chappell also stated in his interview that obtaining payment directly for a City function was against City Rules, and that Black has no authority to use a City truck for such purposes. Chappell also advised that he had met with Rapalo on Monday, September 15th when she flagged him down to ask why the debris had not been removed, and that he gave her a written form stating that the amount exceeded the maximum limit (a copy of that form was also presented to OIG investigators by Rapalo and was sent to COE in the referral). Chappell also advised that after meeting with Rapalo, arrangements were made to pick up her debris at no extra cost.

After their initial investigation, OIG investigative staff determined that the allegations against Respondent Kelvin Black made by Rapalo involved a potential violation of the PBC Code of Ethics, and referred the matter to our office. All evidence supplied to COE staff by the OIG or witnesses, including all written documentation, reports compiled, audio recordings, and other evidence is incorporated by reference to this Inquiry, and to any subsequent Investigation by COE staff.

- **Inquiry**

After reviewing all of the evidence provided from the OIG, I determined that the alleged actions taken by the black male believed to be City employee Kelvin Black, if true, may have violated one or more provisions of the PBC Code of Ethics, specifically those relating to prohibited conduct found in Section 2-443 of the code. The referral as it refers to these alleged actions was Legally Sufficient to request that the COE executive Director file a formal complaint and open a formal investigation.

However, because there was no substantial direct evidence that Kelvin Black was the person involved in these alleged events at this point (both Rapalo and Rosa were unable to make a positive identification, and the only direct evidence was the telephone number), I decided to continue the Inquiry and attempt to better establish the identity of the person alleged to have improperly attempted to obtain money from Rapalo for removal of the debris from her home on September 13, 2014.

I used the telephone number supplied by the OIG to make contact with Black. Black agreed to meet with me for an interview.

- **Interview with Kelvin Lamont Black, WBP Sanitation Department employee**

On November 19, 2014, I met with Kelvin Black in the COE conference room. Black was advised of the general nature of the complaint and agreed to voluntarily speak with me. The audio recorded interview began at 1:34 PM, and was conducted under oath.

In the initial portion of the interview he identified himself as Kelvin Lamont Black. He said that his statement was being made voluntarily and that he was aware that the statement was being recorded. He was then placed under oath. Black acknowledged that he had an opportunity to review the complaint information prior to the interview.

Black advised that he has been employed with the City for about four years and that he remembered the day he had contact with Rapalo at her home. He stated that he was visiting his grandmother, who lives a few houses east of Rapalo. He stated he does not know Rapalo personally and has never spoken to her that he recalls, but she has seen him plenty of times in that neighborhood.

Black advised that he remembers that the day he spoke to Rapalo about the garbage because he had just finished work and still had his "work clothes" on. He believed that it must have been a weekday since he does not work on Saturdays. Black stated that Rapalo had two (2) piles of vegetation on her property, one in front of her home and

one on the side of her home. He stated, "That's what I do, I pick up the yard waste." Black went on to say that Rapalo had a couple of guys helping her, one of which was his cousin "Quinn Fraiser" who lives with Black's grandmother near Rapalo. Black was unable to provide a contact telephone number for Quinn Fraiser.

Black later stated that he did not speak to Rapalo the day she cut down her vegetation, but about two weeks later he was visiting his grandmother and he noticed her debris pile had been out there about two weeks. Black stated that Rapalo asked him why her yard debris had not been picked up. He said that he told Rapalo that her debris piles were in violation of city rules and she would have to call the City. He said he told her that they were going to charge her for picking up her debris piles and that they would tack the cost onto her water bill. Black stated he was actually talking to another man there with her because Rapalo didn't speak English very well, and the other man would translate for her. Rapalo asked Black how much the City would charge her, he told her "maybe \$200 or \$300, but I don't know....I just pick the stuff up." He remembered that the pile had been sprayed orange, a signal that the pile was improper and should not be picked up during the regular sanitation route. Black stated that he never quoted any money to Rapalo other than what he believed the City would charge her to pick up the debris, and that he never told her that if she paid him he would pick up the pile for her.

Black did say that when he was talking to Rapalo, his cousin and another man were in the yard cutting and moving vegetation, so his cousin was not present when he spoke to Rapalo. Black insisted that he never asked Rapalo for money for picking up the debris at her home, and he was aware that she knew he worked at the City and she was mad at the City for not picking up her debris. Black said, "You know it sat there for awhile" and Rapalo kept telling him, "I pay taxes, I pay taxes. You guys should pick this up." He believes that is the reason Rapalo filed this complaint.

I asked Black why he gave Rapalo his telephone number on a piece of paper, and he denied giving his number to Rapalo. He said he gave it to one of the other men at the house helping her, because that man told him he trimmed trees and said "if you could help me out and what not." Black said he told the man to call, but that no money was exchanged through her. When I asked why he would want the tree trimmer to call him, Black said the man approached him and said he did tree trimming and other stuff, and asked if I could help him out. He told the man that if it's within the City limits and on his route, he would try and help him out. Black said he did not know this man and has never met him before. I asked Black if he intended to help this man out for free if he called, and he replied, "Yes, of course."

I told Black that I didn't understand what the advantage would be for giving his telephone number to someone he doesn't know to be called to pick up extra yard waste at some other time, if he was not going to charge for that service. Black said that the man asked him for help on jobs where the homeowner doesn't want the debris sitting too long, so he told the man if it was on his normal route he would help.

When asked, Black said he drives a white Monte Carlo. When asked if that was the only one he ever used, he said he has a pick-up truck. He described the truck as being a red, 1997 Ford F-150. He reiterated that he never discussed picking up anything for money. When asked where his "route" was located, Black stated his route ran from 45th Street north to 59th Street. He verified that the location of Rapalo's home was not actually on his route, lying just to the south. He also said again that his cousin "Quinn" lives with his grandmother near Rapalo's home.

The interview was ended at 2:06 PM.

At that point, I attempted to locate Black's cousin, "Quinn", several times by going to the grandmother's home at 835 44th street, two houses east of Rapalo's home. I was able to verify that Quinn lived at the home, and was advised his name was "Quinn Stevenson" and that his middle name was Frasier. Each time I stopped, I left a business card with an adult, but did not receive a return telephone call. I was finally able to make contact with Quinn at the home. Quinn remembered working for the neighbor (Rapalo) in her yard, but did not remember whether it was on a weekday or a weekend. He also stated he was busy in the back and didn't remember seeing his cousin Kelvin Black at the home or talking to Rapalo. Although this information differs from that given by Rosa in his sworn statement (where Rosa stated Quinn told him that Black was the trash guy for the area), it is not really

relevant to this Inquiry since the purpose of my interview was merely to assist in determining the day of the incident.

End of Inquiry.

- **Applicable law**

The following sections of the PBC Commission on Ethics ordinance are relevant to this matter:

Section 2-254. Creation and jurisdiction.

The Palm Beach County Commission on Ethics (hereinafter "commission on ethics") is hereby established. The jurisdiction of the commission on ethics shall extend to *any person required to comply with the countywide code of ethics...* (Emphasis added)

Sec. 2-256. Applicability of code of ethics ordinance.

The countywide code of ethics ordinance shall be applicable to all persons and/or entities within the jurisdiction of said ordinance and shall apply to the members and staff of the commission on ethics.

As an employee of the City of West palm Beach, Respondent Kelvin Lamont Black has been under the jurisdiction of the PBC Code of Ethics since June 1, 2011.

Sec. 2-258. Powers and duties.

- (a) The commission on ethics shall be authorized to exercise such powers and shall be required to perform such duties as are hereinafter provided. The commission on ethics shall be empowered to review, interpret, render advisory opinions and enforce the:
- (1) Countywide Code of Ethics;

Sec. 2-260. Procedure on Complaints filed.

(b) *Legal sufficiency of complaints*

- (2) In order to be found legally sufficient, complaints filed by the Inspector General, Executive Director of the Commission on Ethics or the State Attorney must:
 - a. Be in writing, and executed on a form prescribed by the commission on ethics;
 - b. Allege the elements of a violation within the commission on ethics jurisdiction in the complaint and/or supporting documents provided;
 - c. Be sworn to by the person filing the complaint before a notary public and contain the following language: "Personally known to me and appeared before me, _____, whose signature appears below, being duly sworn, says that the allegations set forth in this complaint are based upon facts which have been sworn to as true by a material witness or witnesses and which if true would constitute the offenses alleged and that this complaint is instituted in good faith."

The following sections of the PBC Code of Ethics are relevant to this matter:

Sec. 2-442. Definitions

Official or employee means any official or employee of the county or the municipalities located within the county, whether paid or unpaid. The term "*employee*" includes but is not limited to all managers, department heads and personnel of the county or the municipalities located within the county.

Sec. 2-443. Prohibited conduct.

(a) **Misuse of public office or employment.** An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:

(1) Himself or herself;

- **Documents submitted to the Inquiry file:**

The following documents are submitted to the Inquiry file:

1. Referral letter from the OIG to the COE, dated October 17, 2014, and signed by Flora Butler, OIG Director of Investigations (Acting). (3 pages)
2. Copy of partial transcript from a criminal trial held in federal court in which Respondent testified under oath on May 7, 2014. (11 pages)
3. Copy of OIG Complaint Information and synopsis of complaint, dated September 15, 2014. (3 pages)
4. Copy of small piece of paper listing the name Calvin, and the telephone number 561-255-3289, given to OIG by witness Magda Rapalo. (1 page)
5. Copy of OIG Employee Reporting Form completed with information provided by Magda Rapalo. (1 page)
6. Copy of email from Magda Rapalo to OIG Intake Manager Evangeline Rentz discussing photographs of the vegetation debris pile outside her home and City trucks, with attached photographs (6 pages)
7. Copy of OIG Memorandum of Interview concerning the OIG sworn interview with witness Magda Rapalo, dated September 30, 2014, and audio file of that interview. (2 pages)
8. Copy of OIG Memorandum of Interview concerning the OIG sworn interview with witness Ricardo Rosa, dated October 1, 2014, and audio file of that interview. (2 pages)
9. Copy of OIG Memorandum of Interview concerning the OIG sworn interview with witness Ferdinand Rivera-Negron, dated September 30, 2014, and audio file of that interview. (1 page)
10. Copy of OIG Memorandum of Interview concerning the OIG sworn interview with witness Alfred Chappell, dated September 30, 2014, and audio file of that interview. (2 pages)
11. Copy of West Palm Beach Public Works Department form to advise why waste items were not picked up, given to Rapalo and signed by Alfred Chappell on back. (2 pages)
12. Audio file of interview with Respondent Kelvin Lamont Black.
13. Copy of relevant portions of the City of West Palm Beach Employee Handbook. (8 pages)
14. Copy of Mapquest map showing Rapalo's home. (1 page)

- **Persons interviewed**

The following persons were interviewed for this Inquiry either during the initial OIG investigation, or during the follow-up COE Inquiry:

1. Magda Rapalo
2. Ricardo Rosa
3. Alfred Chappell
4. Ferdinand Riviera-Negron
5. Kelvin Lamont Black
6. Quinn Frasier Stevenson

- **Analysis**

Information provided to COE staff by the OIG, if true, was legally sufficient to show that someone, possibly Kelvin Black, attempted to obtain money from Magda Rapalo in exchange for removing a large amount of vegetation and yard debris that would normally be removed by City workers for a fee paid to the City. According to the sworn statements of both Rapalo and witness Ricardo Rosa, the person who attempted to obtain money from Rapalo was a black Male who identified himself as a City employee, who stated that the City would charge between \$300 and \$400 to remove this waste material and offered to do it for \$200. When that amount was not acceptable the same offer was made for \$100.

Based on the evidence, that person was identified as Kelvin Lamont Black, a City employee who works for the Sanitation Department. There are sufficient facts to establish that if the information is true, Kelvin Lamont Black

(Respondent) may have violated Section 2-443, *Prohibited conduct*, sub-section (a), *Misuse of public office or employment*, of the Palm Beach County Code of Ethics by making this offer to Rapalo. The fact that no money was exchanged and no work was completed is immaterial to the charge, as the violation is the offer itself as listed in the plain language of code section 2-443(a), to wit:

An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:

- (1) Himself or herself;

While Rapalo did not accept this offer from Black to remove the waste debris for money, Black did use his official position as a City employee to *influence* another person (Rapalo) to take action that he knew would result in an unlawful special financial benefit to himself in violation of this code section. The fact that his influence was not sufficient to actually obtain the special financial benefit is not required by the plain language of the code for a violation.

No sworn complaint was filed in this matter, but the COE Executive Director has the authority to file a "self initiated" complaint where legal sufficiency exists. As listed below:

Legal sufficiency to file a self initiated complaint exists where there is an allegation of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based upon facts which have been sworn to as true by a material witness or witnesses, and if true would constitute the offenses alleged, relating to a violation occurring after the effective date of the code, and filed with the Ethics Commission within two years of the alleged violation.

The information submitted by the OIG, when considered with the additional information obtained in the COE Inquiry, is sufficient to establish legal sufficiency in this matter, and to recommend that the COE Executive Director file a formal sworn complaint.

- **Recommendation**

Based on the evidence obtained during the initial Inquiry, I recommend that a self-initiated complaint be filed by the COE Executive Director, and that a formal investigation be commenced into this matter. At the point such self-initiated complaint is filed, this matter will be deemed as **LEGALLY SUFFICIENT** under Section 2-260(a)(2), ***Procedure on Complaints Filed, Legal sufficiency of complaints***, of the PBC Commission on Ethics Ordinance.

Submitted by:



Mark E. Bannon
PB County Commission on Ethics



Date

Reviewed by:



(Initials)



Date



OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY



COMPLAINT INTAKE FORM

Sheryl G. Steckler
Inspector General

Inspector General
Accredited

Date: 09/15/2014

Time of Call (Walk-in) 3:57 pm

Complainant Information

Complainant Name: Magda Rapalo
Email Address: amormio925@yahoo.com
Physical Address: 4500 N. Terrace Drive
City, State, Zip: West Palm Beach, FL 33407
Daytime Phone: 561-662-0187
Evening Phone: 561-662-0187
Work Address: N/A
City, State, Zip: N/A
Work Phone: N/A

Are you a County Employee: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Are you a Municipal Employee: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Are you a Contract Employee: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Has this issue been reported to any other party: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
If so, who: City of West Palm Beach- Public Works Department and Area Inspector Alfred (last name unknown)

Subject of Complaint

Subject's Name: Calvin (last name unknown)
Address: 1045 Charlotte Street
City, State, Zip: West Palm Beach, FL 33405
Phone: 561-822-2075
Department: Public Works
Location: N/A

Synopsis of Complaint

* Please remember to include the **Who** (Subject of Complaint), **What** (issue), **When** (date of incident), and **Where** (location of incident).

Received a walk-in complaint from Magda Rapala regarding a City of West Palm Beach- Public Works employee. Ms. Rapala was accompanied by her daughter to interpret. Ms. Rapala indicates on 09/13/2014 she was trimming/cutting vegetation in her yard for pickup by the City on 09/15/2014. As she was trimming her vegetation she was approached by "Calvin" who informed her he was a City and employee stated the City would not pick her vegetation up unless she paid them \$300 to \$400 which would be charged on her water bill. After saying this to Ms. Rapala, he informed her for \$200 he would call his friend with a City truck and they would be able to pick the vegetation up for her. Ms. Rapala informed him she could not afford the \$200 and "Calvin" stated "Okay I can do it for \$100". He left Ms. Rapala his contact number at 561-255-3289 once again reaffirming the City would not pick up her vegetation. Ms. Rapala states the vegetation pickup truck passed by the neighborhood today, picking up all her neighbors vegetation but skipping her house. Ms. Rapala took pictures of the truck passing her property, the men in the truck saw her taking pictures and reversed back immediately trying to intimidate her asking her why she was taking pictures of the truck. Ms. Rapala feels this is extortion/abuse of power on behalf of this employee and suspects this may be happening to other senior citizens. Ms. Rapala indicated there were witnesses during the incident on 09/13/2014 with City employee "Calvin". She states it was a young neighbor and a grass cutter. Ms. Rapala indicated she would be emailing our office the pictures she took of the truck and the names and contact information of the witnesses. Ms. Rapala states has reported this issue with the City of West Palm Beach- Public Works Department who sent an Area Inspector to her house 09/15/2014, Monday morning. Ms. Rapala explained the situation to the inspector who

handed her a blank City of West Palm Beach- Public Works Department Yellow Slip with a list of reasons of why yard waste and/or bulk items were not picked up. After receiving this slip, Ms. Rapala immediately asked what his name was which is when the inspector checked two boxes on the slip which indicated why her vegetation was not picked up. He wrote his first name in the back of the slip "Alfred" and wrote "Ferdinand" in the front of the slip. A copy of the hand written name and contact number the City employee handed her was also provided to us.

Suspected violations (Please be as specific as possible):

Call taken by: Cynthia Montero

Effective Date: 06/01/11

561

Calvin

255-3289

Business

16-2-91



EMPLOYEE REPORTING FORM

John A. Carey
Inspector General

Please provide some information about the person(s), department, agency, entity, contractor or vendor about which you are alleging a violation(s) of waste, fraud, misconduct, mismanagement or other abuse.

Who is the subject of your complaint? City workers of vegetation pickup

Which government/entity is involved? City of WPB- public works dept vegetation pickup persons

Which department, division or agency? Public Works Dept-vegetation pickup

Is there a vendor or contractor involved, if so who? n/a

What is the violation(s) that you wish to report?

Hello,
I am a senior citizen living on a fixed income. On Saturday Sept 13, 2014, I had some trimming/cutting of vegetation done to my yard. During this time, a man named "Calvin" approached me about the vegetation that we were putting outside for upcoming pickup (scheduled for today 9/15/14). It was the only time I was able to do cutting/trimming of vegetation because I did not have money to pay a contractor during the pre-hurricane season maintenance. "Calvin" said that he works for the city and that the city will not pick up the vegetation I was putting outside, and that the city will charge me \$300-400 to pick up this vegetation and that the charges will be put on my water bill. After saying this to me, he tells me that he can call his friend with a city truck if I pay him "Calvin" \$200 and I told him I don't have this kind of money. Then his reaction to me was "okay I can do it for \$100". Then my response, was I pay my taxes and only do this one time per year. Calvin response to me was "anyway here is my phone number 561-255-3289, call me if the truck does not pick it up but I'm sure that the city will not pick up your stuff". Ofcourse, I was not going to call him because this is extortion/abuse of authority telling me that he works for the city and that the city will not pick up my vegetation pile. This is really illegal and I'm sure this happens to many other senior citizen. Today the vegetation pickup passed and picked all my neighbors vegetation from 44th street but skipped my vegetation pile entirely. I took pictures of the truck passing my property without taking the vegetation, the men saw me taking picture and reversed back immediately to try to intimidate me asking why I took pictures of the truck. This entire situation is unacceptable, wrong & illegal. I am a taxpaying senior citizen, and to have a WPB city worker (Calvin) to ask for CASH money so that my vegetation waste gets picked up is very upsetting. Again, I am sure if this happened to me, it has happened to other people. I also have witnesses of this conversation when Calvin approach me.

Have you reported this alleged violation to any other authority? YES NO

If yes, who? The City of WPB- Public Works Dept (& area inspector Alfred)

Cynthia Montero

From: Magda R [amormio925@yahoo.com]
Sent: Monday, September 15, 2014 10:10 PM
To: Inspector
Subject: Requested information regarding Public Works Dept. report
Attachments: Vegetation pile 1 N Terrace Dr 9-15-14.jpeg; Vegetation pile 2 9-15-14.jpeg; Truck - zoom1.jpg; Truck - zoom2.jpg; Truck departing without pickup.jpeg; Vegetation Truck 09-15-14.jpeg

Dear Mrs. Evangeline Rentz,

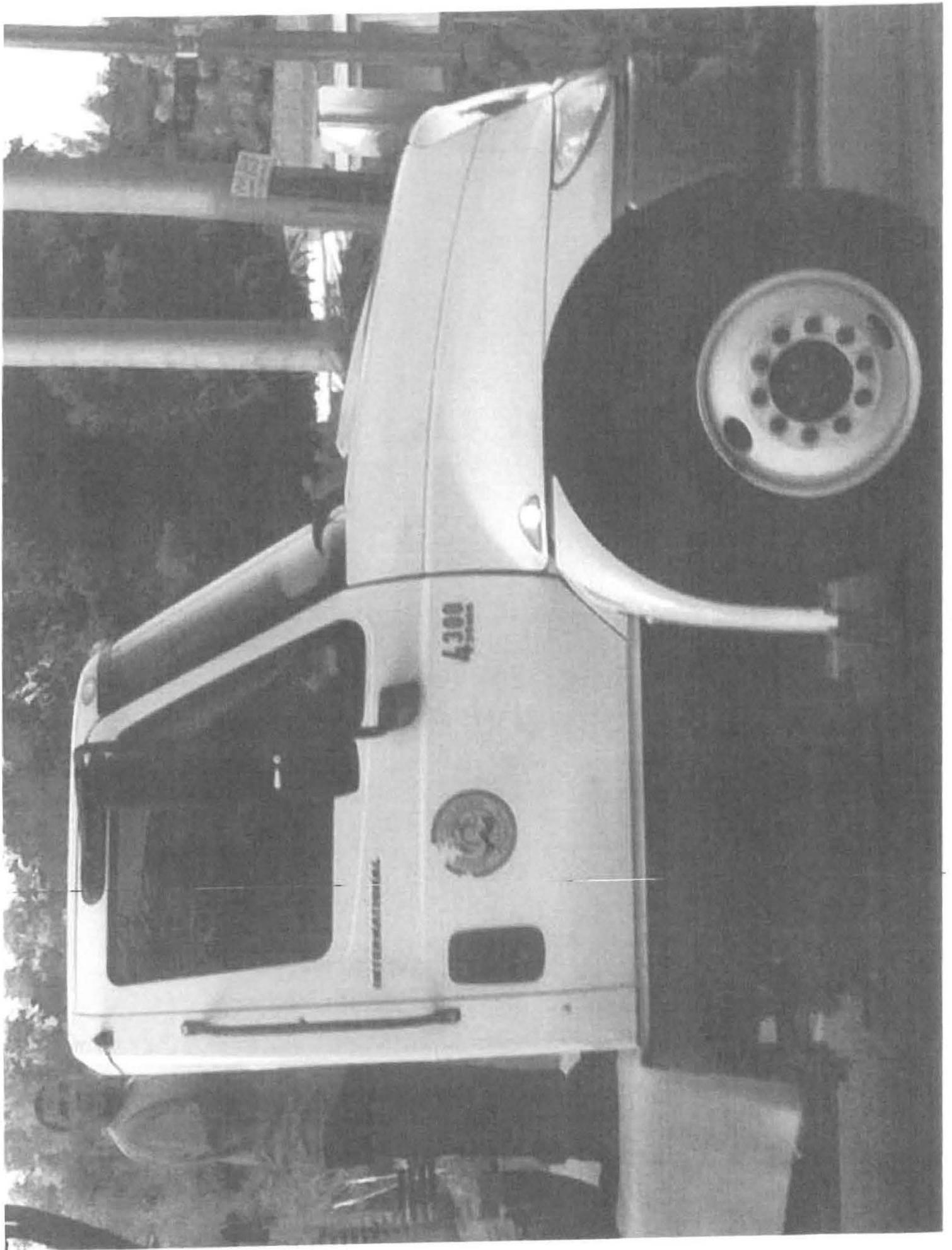
Please find attached the pictures you requested of the yard debris piles, the city vegetation truck showing ID numbers zoomed (please note: one of the ID # is a little blurry but from what I can see the number is 200265). Also, here is the name of my witness: Ricardo Rosa and his contact number: 561-541-8632. If you have any further questions, please feel free to contact me. Thank you and have a good day.

Sincerely,
Magda Rapalo
561-662-0187

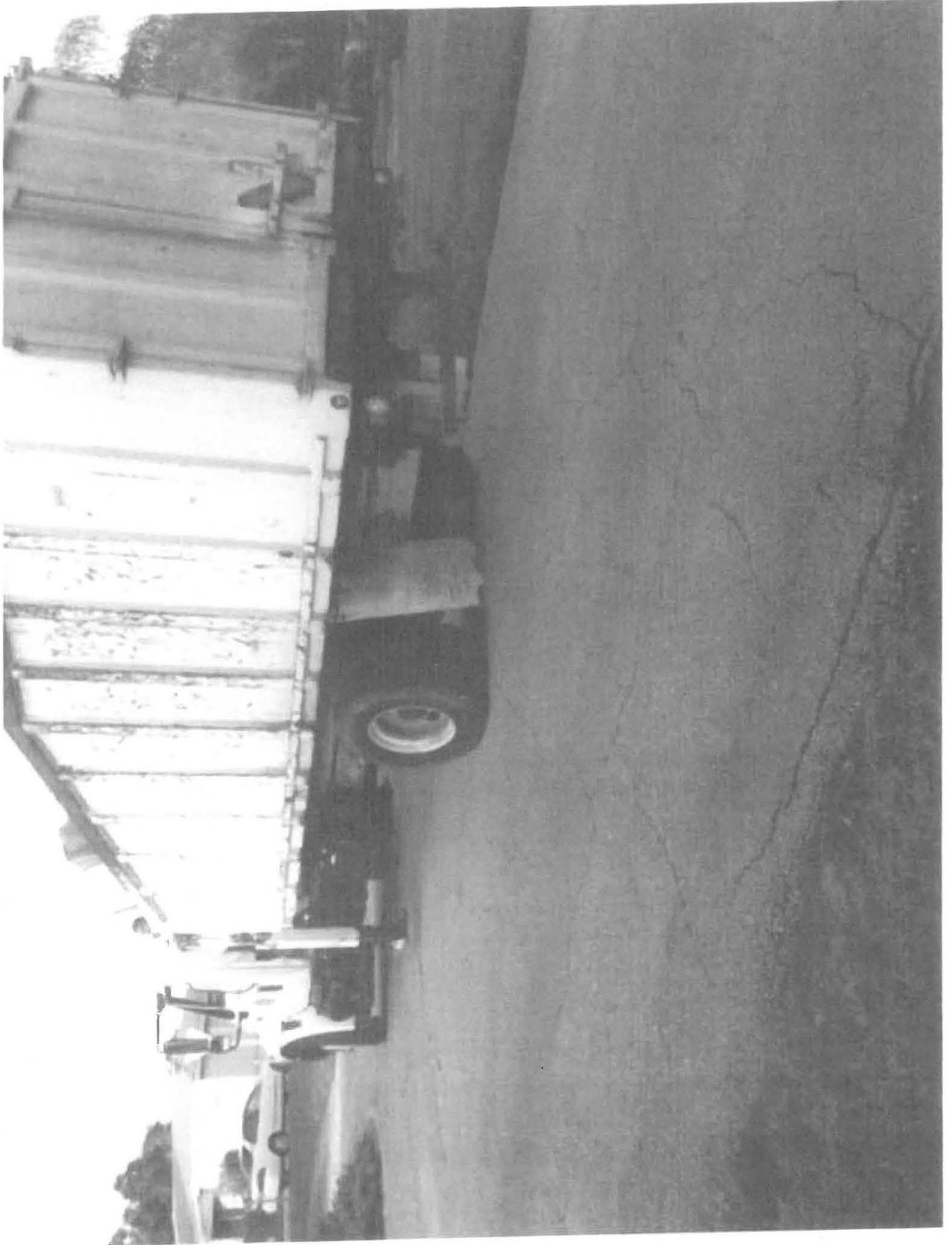














OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY

MEMORANDUM OF INTERVIEW

	Case No: 2014-0013
Date(s) of Interview: September 30, 2014	OIG Investigator(s): Flechaus / Heredia (contracts)
Person interviewed: Alfred Chappell <i>MAGDA RAPOLA</i>	Title: Sanitation Supervisor PWD
Others present: N/A	Title: N/A

Ms. Magda Rapola was advised the interview was being voice recorded. She consented to be interviewed and was placed under oath. Ms. Rapola provided the following pertinent information:

Due to Ms. Rapola (66 yrs old) primarily speaking Spanish with limited English, OIG Contract employee Max Heredia was present in the interview to translate if Ms. Rapola needed it.

Ms. Rapola advised that on Saturday, September 13, 2014, a B/M stopped in front of her residence as she was cutting her trees/shrubs and placing the vegetation in front of her home. The B/M was driving a Red Pick Up Truck (unknown make/model) with a metal tool box in back of the trucks bed.

Ms. Rapola advised that the B/M approached her and stated that he works for the City of West Palm Beach (said it several times during the course of their conversation) and that he knows that the City would not pick up her pile(s) of vegetation she had left out in front of her yard.

Ms. Rapola said the B/M stated to her that it would cost her anywhere between \$300 and \$500 for the City to come pick up the debris. Ms. Rapola said she told the B/M that she did not have that kind of money.

Ms. Rapola said that the B/M was "Pushy" in telling her that it would cost that much and she said she felt scared that the City would charge that much.

Ms. Rapola said that the B/M stated that he could personally do it for \$300 and have a friend who works for the City come by in a City truck to pick up the debris on Monday, September 15, 2014. Ms. Rapola said that she did not have that kind of money and the B/M said he would do it for \$200. When she told him that she did not have the \$200 the B/M said he would do it for \$100.

Ms. Rapola said that the B/M was very pushy and that she was going to write him a check for the \$100 but she decided not to.

Ms. Rapola stated that the B/M wanted her to call him on Monday (Sept 15th) if she wanted him to remove the debris for the \$100.

MEMORANDUM OF INTERVIEW OF ALFRED CHAPPELL (CONTINUED)

Ms. Rapola said that she gave the B/M a piece of paper where he wrote down his name as "Calvin" and phone number of "561-255-3289". The B/M gave her the paper back and left.

Ms. Rapola stated that the B/M has not come back since the 15th.

Ms. Rapola stated that she did not give the B/M any money.

Ms. Rapola stated that she was not aware of the City's special pick up policy where it would usually cost the resident \$100 to get the City to remove the debris.

Ms. Rapola stated that after talking to a couple of City employees the debris was subsequently removed, at no extra cost to her.

Ms. Rapola said that she felt scared of the B/M due to him being "Pushy" in regards to paying him \$100 to remove the debris compared to what he had told her that the City would charge her \$300-\$500 to remove the debris.

Ms. Rapola was shown a Florida D.L. photo of City employee (Sanitation Dept) Mr. Kelvin Black. Ms. Rapola said that the photo was similar to the B/M she had met however she could not be 100% sure.

OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY

MEMORANDUM OF INTERVIEW

	Case No: 2014-0013
Date(s) of Interview: October 1, 2014	OIG Investigator(s): Flechaus
Person interviewed: Ricardo Rosa	Title: Landscaper
Others present: N/A	Title: N/A

Mr. Ricardo Rosa was advised the interview was being voice recorded. He consented to be interviewed and was placed under oath. Mr. Rosa provided the following pertinent information:

Mr. Rosa said that Ms. Rapola was a church friend of his mother's and that Ms. Rapola hired him to cut down the tree branches and shrubbery around her house because it was overgrown.

Mr. Rosa advised that on Saturday, September 13, 2014, a B/M stopped in front of Ms. Rapola's residence as he was cutting the trees and exited his vehicle to talk to him. Mr. Rosa said that he had hired some kid for \$20 in the neighborhood to assist him and the kid told him that the B/M was the "Dump" (trash) guy for the neighborhood. Mr. Rosa did not know the kids name or where he lived only that he saw him on the street and offered him money to help move the tree branches to the curb.

Mr. Rosa said that B/M approached him and said that the City would not pick the debris up on Monday (Sept 15th) on its normal routine because it was too much. However, the B/M said that the City would charge \$400 for it to be removed. Mr. Rosa said he does not remember if the B/M told him that he (B/M) works for the City but Mr. Rosa explained that the B/M was knowledgeable about how the City Sanitation Department operates.

Mr. Rosa said he directed the B/M to Ms. Rapola since it was her house. Mr. Rosa said that the B/M and Ms. Rapola talked for a short time where he was not able to listen to their conversation.

Mr. Rosa advised that he eventually went over to talk to both Ms. Rapola and the B/M where the B/M did say again that the City would charge Ms. Rapola \$400 to remove the debris and that he (B/M) could do it for \$200. Mr. Rosa said that Ms. Rapola does not have that kind of money so he bargained with the B/M to where the B/M said he would remove the debris for \$100.

Mr. Rosa said that he observed the B/M write his name and phone number down on a piece of paper (later identified copy of that paper) and give it to Ms. Rapola so she can call him later if she chose to pay him the money to remove the debris.

MEMORANDUM OF INTERVIEW OF RICARDO ROSA (CONTINUED)

Mr. Rosa explained that the B/M's demeanor was not aggressive however the B/M kept telling Ms. Rapola that the City would charge her \$400 to remove the debris compared to the \$100 that it would cost her for him (B/M) to remove the debris.

Mr. Rosa said that he was not familiar with the City's policy on debris removal.

Mr. Rosa said that believed that the B/M did work for the City because of the way he explained how he would be able to pick up the debris as well as when the City would pick up the large amounts of debris for free. For example, the B/M told them that the City has an Amnesty period (April-May) where the City will pick up the debris for free.

Mr. Rosa said that he did not notice what type of vehicle the B/M was driving. Mr. Rosa said the B/M was dressed in regular clothes with no noticeable insignia's.

Mr. Rosa was shown a Florida D.L. photo of City employee (Sanitation Dept) Mr. Kelvin Black. Mr. Rosa pointed to the photo and said that the subject in the photo was similar to the B/M he had met however the B/M's face appeared skinnier in person than what is on the DL Photo. Mr. Rosa said that the photo could be of the B/M subject however he was not 100% sure.

**OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY**

MEMORANDUM OF INTERVIEW

	Case No: 2014-0013
Date(s) of Interview: September 30, 2014	OIG Investigator(s): Flechaus
Person interviewed: Ferdinand Rivera-Negron	Title: Sanitation Superintendent Engineering Services & PWD
Others present: N/A	Title: N/A

Mr. Ferdinand Rivera-Negron was advised the interview was being voice recorded. He consented to be interviewed and was placed under oath. Mr. Rivera-Negron provided the following pertinent information:

Mr. Rivera-Negron was Mr. Chappell's immediate Supervisor.

Mr. Rivera-Negron advised that he was not familiar with the incident involving Mr. Black and is shocked at Mr. Black's behavior to hear about the allegations told to him today.

Mr. Rivera-Negron said Mr. Black (nor any other employee) was not authorized to go to Ms. Rapola's residence (or residences in general) and solicit her to pay \$100 (initially \$300-\$400 for vegetation removal. Mr. Black does not have the authorization to use City property (Vehicle/Truck) on his days off.

Mr. Rivera-Negron advised that if the allegations against Mr. Black are true then Mr. Black had violated the Code of Conduct standard listed in the City's Employee Handbook and would have to subsequently go back and review the Handbook to see if Mr. Black had violated any other standard if the allegations turn out to be true.

OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY

MEMORANDUM OF INTERVIEW

	Case No: 2014-0013
Date(s) of Interview: September 30, 2014	OIG Investigator(s): Flechaus
Person interviewed: Alfred Chappell	Title: Sanitation Supervisor PWD
Others present: N/A	Title: N/A

Mr. Alfred Chappell was advised the interview was being voice recorded. He consented to be interviewed and was placed under oath. Mr. Chappell provided the following pertinent information:

Mr. Chappell was Mr. Blacks immediate Supervisor.

Mr. Chappell said that Mr. Black never submitted a City request form for outside employment.

Mr. Chappell said that Mr. Black was not on Duty on Saturday, September 13, 2014.

Mr. Chappell advised that he was the employee who met (driving his route and was stopped by Ms. Rapola) with Ms. Rapola on Monday, September 15, 2014 and issued a slip to Ms. Rapola advising her of the reasons why the City would not be able to pick up her vegetation.

Mr. Chappell said that Mr. Black was not authorized to go to Ms. Rapola's residence and solicit her to pay \$100 for vegetation removal. Mr. Black does not have the authorization to use City property (Vehicle/Truck) on his days off.

Mr. Chappell stated that it would have only cost Ms. Rapola \$100 for a special pick up by the City and that Mr. Black had wrongly stated to Ms. Rapola that it would be \$300 to \$400 for the City to remove the vegetation.

Mr. Chappell stated that Mr. Black is a Sanitation Driver and knows that it would have only cost Ms. Rapola \$100 for the City special pick up, not \$300-\$400 as he had initially told her.

Mr. Chappell said he was not aware that Mr. Black had solicited Ms. Rapola.

Mr. Chappell advised that Mr. Black (as an employee of the City) should not have solicited Ms. Rapola in getting her to pay him directly for trash/vegetation removal.

Mr. Chappell advised that if the allegations against Mr. Black are true then Mr. Black had violated several standards in the City's Employee Handbook which are cause for review and possible termination. For example, Mr. Chappell said that Mr. Black violated

MEMORANDUM OF INTERVIEW OF ALFRED CHAPPELL (CONTINUED)

the Outside Employment Standard and the Employee Relations Code of Conduct (Integrity and Honesty) Standard.

Mr. Chappell explained that since he met with Ms. Rapola on September 15, 2014, he has guided her to appropriately display the vegetation where the City will pick up the vegetation as normal (and at no extra cost to her).

Mr. Chappell explained that the City had already removed one pile of vegetation and will remove the other pile next week.

CITY OF WEST PALM BEACH
PUBLIC WORKS DEPT.

PHONE: 561 822-2075

FERRER
YARD WASTE and/or BULK ITEMS WERE
NOT PICKED UP BECAUSE:

*El desperdicio de jardineria / voluminoso no
pudo ser recogido por:*

- YOU HAVE MORE THAN ONE PILE
Desperdicio esto colocado en mas de un lugar
- VEGETATION PILE IS LARGER THAN 4' X 4' X 17'
or MORE THAN 4 or 5 BULK ITEMS SET OUT
Volumen de desperdicio excede lo establecido
- THE PILE IS TOO FAR FOR THE CRANE TO REACH
*Desperdicio esta fuera del alcance de nuestro
equipo*
- TOO CLOSE TO A - VEHICLE - MAILBOX - ETC..
Desperdicio esta muy cercano a objeto fijo
- PILE IS UNDER A TREE OR LOW WIRE
Desperdicio esta bajo un arbol o cable
- ILLEGAL PLACEMENT: (vacant lot - property line
or on neighbors property)
Desperdicio esta colocado en lugar no permitido
- CONTAMINATED PILE: (Contains hazardous
material or Construction Debris)
Desperdicio esta mezclado con material prohibido
- WORK WAS DONE BY A LANDSCAPE SERVICE,
LAWN SERVICE, OR OTHER PAID VENDOR
*Desperdicio fue generado por un servicio
profesional*
- PILE IS SPRAYED ORANGE BY CODE OFFICER
*Desperdicio esta pintado de anaranjado por un
oficial de codigos*
- SANITATION SERVICE HAS NOT BEEN ACTIVATED
AT THIS ADDRESS
Servicio de recogida de desperdicios no esta activado

↓ Alfred

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Employee Handbook

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proper performance of any employee's duty to the City. Poor performance, absenteeism, lateness, or refusal to work overtime associated with outside employment will result in a withdrawal of the approval and may result in disciplinary action up to and including termination of employment.

An outside position may not conflict with the function, performance, work hours, or obligations (such as emergency response requirements) of City employment, nor prevent the employee from coming to his/her City job fully fit to safely and competently perform his/her duties.

Personnel Records

The official work record of every City employee is maintained in the Human Resources Department. In accordance with the Florida Public Records law, personnel files are open to public inspection and copying. Employees have a right to review their files in Human Resources and any unofficial personnel files maintained in their department or division.

It is an important responsibility of the employee to keep information in his/her file updated. Immediately complete a Notice of Change Form for any of the following changes:

- a) Name (must show social security card with the correct name).
- b) Address.
- c) Phone number.
- d) Emergency contact information.

The Notice of Change Form may be located by any of the following:

- a) Opening Lotus Notes:
 - 1) Navigating to the Employee Resource Center.
 - 2) Clicking the Human Resources icon.
 - 3) Clicking the HR Forms link.
 - 4) Clicking the Notice of Change Form link.
- b) Requesting a copy from their supervisor or time keeper.
- c) Calling Human Resources at (561) 494-1000.

Employment and Income Verification

It is the policy of the City to protect the privacy of each employee. Organizations who wish to verify the employment of a current or past employee will use an automated external employment verification service designated by the City.

Employment and income verifications may be required when applying for a mortgage or car loan, checking references, leasing an apartment, establishing credit, or any other instance where proof of employment or income is needed. The individual employee is responsible for authorizing the release of this information to the verifying organization.

The City uses The Work Number[®] to provide automated employment and income verifications on our employees. Give the person seeking your proof of employment the following information:

Assignment occurs when an employee works out of classification for the following reasons:

- a) An employee is assigned to a budgeted vacancy pending the completion of a recruitment or promotional process, to fill in during a temporary absence, to complete a special project, or to provide individual developmental opportunities.
- b) An employee assigned to a higher classification must meet the minimum requirements of such position.

Demotion occurs when an employee is placed in a position with a lower pay grade. Demotions may be voluntary or the result of disciplinary action, layoff, restructuring, or the unsuccessful completion of a probationary period in a higher job classification.

Promotion occurs when an employee accepts a different classification with a higher pay grade.

Transfer occurs when an employee is moved from one (1) classification to another classification with the same pay grade. Employees must be qualified to perform the duties of the new job classification. In certain circumstances employees may be transferred to a position with a lower pay grade.

Employment Outside the City

Employees may obtain and/or maintain employment outside of the City with proper approvals. Before accepting or continuing outside employment, employees are responsible for completing the Commission on Ethics Employee Conflict of Interest Waiver form and forwarding the form to their department director for approval. If the additional work does not interfere with the employee's City job and does not constitute a conflict of interest, approval will not unreasonably be withheld by the department director or designee. On obtaining department director or designee approval, the employee must forward the form to the Department of Human Resources for review. The form requires the signature of the employee, department director, and City administration. The Commission on Ethics Employee Conflict of Interest Waiver form is available by any of the following:

- a) Opening Lotus Notes:
 - 1) Navigating to the Employee Resource Center.
 - 2) Clicking the Human Resources icon.
 - 3) Clicking the HR Forms link.
 - 4) Clicking the Employee Conflict of Interest Waiver (Outside Employment) link.
- b) Requesting a copy from their supervisor or time keeper.
- c) Calling the Human Resources Department at (561) 494-1000.

Employees are responsible for the completion of a Commission on Ethics Employee Conflict of Interest Waiver form for each job held outside City employment.

Employees may not accept or continue any outside employment except upon written authorization by the appropriate department head and City Administrator. In no event shall any such outside or non-City employment interfere with or be in conflict with the

- c) Calling Human Resources at (561) 494-1000, Risk Management at (561) 494-1030, or Procurement at (561) 822-2100.

You may easily view your training history and upcoming enrollments by clicking the links under the Training History area and searching by employee name.

EMPLOYEE RELATIONS

Code of Conduct

It shall be the duty and responsibility of City employees to maintain a high standard of cooperation, efficiency, and integrity in his/her conduct and work performance.

The City requires that employees be familiar with all rules and regulations in carrying out their assigned duties. The City's right to discipline or terminate employment may be specific to these or to any other violation that constitutes unsatisfactory work performance, misconduct, adverse impact for the City, or any other just cause. Code of Conduct violations include but are not limited to:

General

- a) Any violation of the Substance Abuse Policy 4-16.
- b) Any violation of the provisions of the City Charter, these rules of any other published City or Departmental rule or regulation.
- c) Any violation of the provisions in Article V or the City Charter relating to political activity.
- d) Any violation of Fla. Stat. 112, Part III (Code of Ethics for Public Officers and Employees).

Performance

- a) Insubordination.
- b) Refusal to perform assigned duties and responsibilities.
- c) Inability to perform the essential functions of the job with or without reasonable accommodation.
- d) Incompetence, negligence, and/or inefficiency to such an extent that performance levels, including performance review ratings fall below the minimum standard.
- e) Malingering, which is pretending to be ill or injured to avoid responsibility at work.
- f) Carelessness or negligence with property of the City, loss of equipment, materials, or anything of value belonging to the City.
- g) Failure to comply with all safety regulations and procedures or failure to observe security procedures.
- h) Making derogatory or false accusations so as to discredit any employee of the City or the general public.
- i) Loss of licenses, certifications, or other credentials required for employment.
- j) Unauthorized release or misuse of any privileged or confidential information or release of work products without the express approval of the supervisor.
- k) Inappropriate conduct or language including the use of profanity or abusive language toward the public or any employee of the City.
- l) The use of violence or the threat of violence against any employee of the City or member of the general public. ([Click Here to Open and Read the Complete Violence Free Workplace Policy 4-18](#))

- m) Refusal to respond to any lawful inquiry by the City or its representatives or to furnish lawfully requested statement concerning property holdings, financial affairs, income or expenditures, or refusal of any lawful request to waive immunity from prosecution before any grand jury, or any other body, official or officials having the rights and possessing the powers of a grand jury.
- n) Antagonism toward any employee of the City or general public, which include but is not limited to criticizing orders, rules or policies adopted by the City, or conduct which interferes with the proper coordination of the employees of the City or efficient delivery of public service.
- o) Failure to comply with any residential and/or emergency response requirements.

Attendance and Punctuality

- a) Being absent from work without approved leave or failure to report to work after approved leave has expired, or within a reasonable time after such leave of absence has been revoked or canceled.
- b) Absence without approved leave in excess of three (3) workdays shall constitute abandonment of employment and will result in immediate termination.
- c) Being habitually absent or tardy for any reason or in excess of the standards set forth in the respective Collective Bargaining Agreement.
- d) Abuse of Sick Leave privileges such as reporting sick when not sick or obtaining Sick Leave under false pretenses.

Integrity and Honesty

- a) Unauthorized use or possession of firearms or other weapons while at work, in a City vehicle or in a City uniform (excluding Police Officers).
- b) Domestic violence.
- c) Criminal misconduct.
- d) Conviction of a felony.
- e) Theft of City property.
- f) On or off-the-job conduct not becoming of a City employee, or conduct that renders an employee incapable of effective performance of his/her duties and responsibilities.
- g) Removal of City money, merchandise, or property without permission, including property in custody of the City.
- h) Dishonesty, including but not limited to intentionally giving false information, making false statements, or intentionally falsifying records.
- i) Falsification of any testimony, documents, or records in connection with work-related issues or investigations related to City business.
- j) Falsification of any documents prepared to secure employment, making false statements when applying for employment or during the course of employment with the City.
- k) Taking of any fee, gift, or items of value in the course of City employment in connection therewith, including soliciting, use of client or business contacts or attempt to obtain preferential treatment for personal gain.
- l) Solicitation for personal gain by an employee during his/her work time or during another employee's work time, exclusive of breaks, without the approval of the Human Resources Director.

- m) Use or the threat to use, or attempt to use political influence including but not limited to securing promotion, leave of absence, transfer or change of classification, pay or character of work.
- n) Gambling of any type during duty hours or on City property or with City computers or telecommunication devices.
- o) Conducting any type of personal commercial enterprise using City time, facilities, and equipment to include City computers or telecommunication devices.
- p) Sleeping on the job.
- q) Failure of an employee to notify the Department Director or designee verbally or in writing within two (2) working days of an arrest for a felony or DUI while in an on duty or off duty status, or any traffic infraction while driving a City vehicle.
- r) Failure of an employee to notify the Department Director of the suspension of his/her driver's license. Notification must be before the beginning of the next shift or assignment.
- s) Evading a drug test, assisting an employee in evading a drug test, or failure to submit to a drug test.

Discipline

[Click Here to Open and Read the Complete Progressive Discipline Policy 4-1](#)

The City of West Palm Beach administers discipline or corrective actions, if necessary, as a means to ensure that employees adhere to established standards of conduct and performance. Corrective actions may include verbal counseling (reduced to writing).

In those instances where misconduct in the first instance is not extreme or serious, the City may use progressive discipline. Extreme or serious misconduct based on a single incident may result in immediate termination of employment.

The progressive disciplinary process may result in a documented verbal reprimand, written reprimand, suspension without pay, demotion or reduction in pay, or termination of employment. In deciding which corrective action may be appropriate, a supervisor will consider the seriousness of the infraction, the circumstances surrounding the matter, and the employee's previous record.

Disciplinary actions are defined as:

- a) Verbal Reprimand: A verbal reprimand is issued to an employee about his/her conduct or work performance, or violation of City policy or procedure; reduced to writing to document the issue.
- b) Written Reprimand: A written reprimand is issued to an employee when a verbal reprimand has not resulted in a satisfactory change in the employee's conduct or work performance, or for violation of City policy or procedure.
- c) Suspension: A suspension is an involuntary removal from the work site, which includes loss of pay for the time specified.
- d) Involuntary Demotion: A change to a lower paid job classification.
- e) Termination of Employment: A termination of employment is a permanent separation from employment with the City. An employee may be terminated for a serious or severe first offense, with or without prior disciplinary measures.



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PALM BEACH COUNTY COMMISSION ON ETHICS
LEGAL SUFFICIENCY DETERMINATION

To: Palm Beach County Commission on Ethics
From: Steven P. Cullen, Executive Director
Re: AN14-031 – Kelvin Lamont Black – City of West Palm Beach Sanitation Department

- **Recommendation**

Staff recommended a finding of **LEGAL SUFFICIENCY** be entered regarding the Respondent in Inquiry C15-001.

Legal sufficiency to file a self initiated complaint exists where there is an allegation of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based upon facts which have been sworn to as true by a material witness or witnesses, and if true would constitute the offenses alleged, relating to a violation occurring after the effective date of the code, and filed with the Ethics Commission within two years of the alleged violation.

- **Background**

This matter came to the attention of the PBC Commission on Ethics (COE) as a referral from the PBC Office of Inspector General (OIG). The OIG completed an initial investigation into allegations submitted by Magda Rapalo, a resident of the City of West Palm Beach (the City) under OIG case number 2014-0013. Rapalo appeared in person at the Inspector General's office on September 15, 2014 to discuss events that occurred on Saturday, September 13, 2014 at her home located at 4500 North Terrace Drive, concerning a black male driving a red pick-up truck, who indicated he was an employee of the City.

Rapalo complained that the man attempted to obtain cash payment from her to assist in the removal of yard debris from her home. According to Rapalo, this event occurred while she, and others she hired to help her, were removing vegetation from her yard and placing it near the street for sanitation pick-up the following Monday. Rapalo said that the man told her he worked for the City, and that City workers would not pick up her debris because the amount exceeded allowable limits. She said he also advised her that the City would charge her between \$300 and \$400 to remove the excess debris.

When Rapalo told the man she did not have that kind of money, the man offered to remove the vegetation himself for \$200, stating that he had a friend with access to a City truck. When she told him she did not have \$200, Rapalo said the man then offered to remove the vegetation for \$100. Rapalo stated she was initially going to write the man a check for \$100, but decided not too and declined the man's offer. The man then wrote down his name and telephone number on a small piece of paper and told her that she could call him Monday when the City failed to pick up the debris, if she changed her mind. The paper listed the name "Calvin" and a telephone number of "561-255-3289." The piece of paper was given to OIG Intake personnel. Rapalo stated that she never gave any money to the man, and there has been no further contact with him. However, Rapalo did advise that the debris left at her curb was not picked up by City workers on Monday as predicted by the man.

Through sworn statements, it was established that Respondent is the person alleged to have tried to obtain money from Rapalo. In so doing, he used his official position as a City employee within the Sanitation Department in an effort to obtain an improper special financial benefit for himself in violation of Section 2-443(a)(1), *Prohibited conduct, Misuse of public office or employment*, of the Palm Beach County Code of Ethics.

- **Analysis**

Information provided to COE staff by the OIG, if true, was legally sufficient to show that Kelvin Lamont Black, an employee of the City of West Palm Beach Sanitation Department, attempted to obtain money from Magda Rapalo in exchange for removing a large amount of vegetation and yard debris that would normally be removed by City workers for a fee paid to the City. Based on the evidence obtained from the OIG initial investigation, and additional evidence obtained during the Inquiry, there are sufficient facts to establish that if the information is true, Respondent Kelvin Lamont Black may have violated Section 2-443, *Prohibited conduct*, sub-section (a), *Misuse of public office or employment*, of the Palm Beach County Code of Ethics by making this offer to Rapalo. The fact that no money was exchanged and no work was completed is immaterial to the charge, as the violation is the offer itself as listed in the plain language of code section 2-443(a):

An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:

- (1) Himself or herself;

The following sections of the PBC Code of Ethics are relevant to this matter:

Sec. 2-258. Powers and duties.

- (a) The commission on ethics shall be authorized to exercise such powers and shall be required to perform such duties as are hereinafter provided. The commission on ethics shall be empowered to review, interpret, render advisory opinions and enforce the:

- (1) Countywide Code of Ethics;

Sec. 2-260. Procedure on Complaints filed.

- (b) *Legal sufficiency of complaints*

- (2) In order to be found legally sufficient, complaints filed by the Inspector General, Executive Director of the Commission on Ethics or the State Attorney must:

- a. Be in writing, and executed on a form prescribed by the commission on ethics;
- b. Allege the elements of a violation within the commission on ethics jurisdiction in the complaint and/or supporting documents provided;
- c. Be sworn to by the person filing the complaint before a notary public and contain the following language: "Personally known to me and appeared before me, _____, whose signature appears below, being duly sworn, says that the allegations set forth in this complaint are based upon facts which have been sworn to as true by a material witness or witnesses and which if true would constitute the offenses alleged and that this complaint is instituted in good faith."

The following sections of the PBC Code of Ethics are relevant to this matter:

Sec. 2-442. Definitions

Official or employee means any official or employee of the county or the municipalities located within the county, whether paid or unpaid. The term "*employee*" includes but is not limited to all managers, department heads and personnel of the county or the municipalities located within the county.

Sec. 2-443. Prohibited conduct.

- (a) ***Misuse of public office or employment.*** An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:

- (1) Himself or herself;

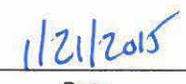
- Conclusion

Based on witness statements and Respondent's own sworn testimony, there is sufficient information to establish legal sufficiency that Respondent, Kelvin Lamont Black, may have violated Section 2-443(a)(1), *Prohibited conduct, Misuse of public office or employment*, of the Palm Beach County Code of Ethics. Since the allegation is within the jurisdiction of the COE and is sufficiently based upon the personal knowledge of witness giving sworn testimony, the allegation against Respondent, Kelvin Lamont Black is **LEGALLY SUFFICIENT** for the COE Executive Director to file a formal complaint and open an investigation into this matter.

BY:



Steven P. Cullen, Executive Director
Florida Bar #362204
Commission on Ethics



Date



PALM BEACH COUNTY COMMISSION ON ETHICS
300 North Dixie Highway, Suite 450, West Palm Beach, Florida 33401
Hotline: 877-766-5920 or 561-355-1915

COMPLAINT FORM

1. Complainant

Name: Steven P. Cullen E-Mail: ethics@palmbeachcountyethics.com
Address: 300 N. Dixie Highway, Suite 450
City: West Palm Beach Zip Code: 33401
Phone No #: 561-355-1915

2. Respondent

Name: Kelvin L. Black E-Mail: _____
Address: 3215 Windsor Avenue
City: West Palm Beach Zip Code: 33407-5027
Home #: _____ Work #: 561-822-2075 X2076 Cell #: 561-255-3289
Title/Office Held or Sought: City of West Palm Beach Sanitation Department Employee

3. IF KNOWN, CHECK THE BOX OR BOXES THAT APPLY

- Allegation is against person in County/Municipal Government
 Allegation is about County/Municipal Whistleblower Retaliation
 Allegation is against a Vendor, Lobbyist, or a Principal of a Lobbyist

4. STATEMENT OF FACTS ATTACHED

Exhibit 1 – Memorandum of Inquiry
Exhibit 2 – Memorandum of Legal Sufficiency
Exhibit 3 – Supporting Documentation

5. OATH

STATE OF FLORIDA
COUNTY OF PALM BEACH

Personally known to me and appeared before me, Steven P. Cullen, Executive Director of the Palm Beach County Commission on Ethics, whose signature appears below, being duly sworn, says that the allegations set forth in this complaint are based upon facts which have been sworn to as true by a material witness or witnesses and which if true would constitute the offenses alleged and that this complaint is instituted in good faith. Signed and sworn to on this 21st day of January, 2015.



GINA LEVESQUE
MY COMMISSION # EE 207356
EXPIRES: July 17, 2016
Bonded Thru Budget Notary Services

Steven P. Cullen, Executive Director

Gina Levesque
(Signature of Notary Public, State of Florida)

(Print, Type, or Stamp Commissioned
Name of Notary Public)

PALM BEACH COUNTY COMMISSION ON ETHICS

PROBABLE CAUSE RECOMMENDATION

To: Commission on Ethics
From: Marissa Hoffman, Esquire, Volunteer Advocate
Re: C15-004, Kelvin Lamont Black – City of West Palm Beach Sanitation Department Employee

- **Recommendation**

A finding of PROBABLE CAUSE should be entered in the above captioned matter as to the allegations made in the Complaint.

Probable Cause exists where there are reasonably trustworthy facts and circumstances for the Commission on Ethics (COE) to conclude that the Respondent, Kelvin Lamont Black, violated the Palm Beach County Code of Ethics.

- **Jurisdiction**

The COE has jurisdiction pursuant to Chapter 2, Article V, Division 8, section 2-258(a) of the Palm Beach County Commission on Ethics Ordinance which states in pertinent part:

Article V, Division 8, Section 2-258. *Powers and duties.* (a) The commission on ethics shall be authorized to exercise such powers and shall be required to perform such duties as are hereinafter provided. The commission on ethics shall be empowered to review, interpret, render advisory opinions and enforce the:

- (1) Countywide Code of Ethics;
- (2) County Post-Employment Ordinance, and
- (3) County Lobbyist Registration Ordinance.

Article XIII, Section 2-443(a), *Misuse of public office or employment*, of the Palm Beach County Code of Ethics (Code) states: "An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities: (1) Himself or herself...."

- **Background**

This matter came to the attention of the COE as a referral from the Palm Beach County Office of Inspector General (OIG). The OIG completed an initial investigation into allegations submitted by Magda Rapalo, a resident of the City of West Palm Beach (the City) under OIG case number 2014-0013. Rapalo appeared in person at the OIG on September 15, 2014 to discuss events concerning a black male, who indicated he was an employee of the City, which occurred at her home on Saturday, September 13, 2014. After their initial investigation, OIG investigative staff determined that the allegations against Respondent made by Rapalo involved a potential violation of the Code and referred the matter to the COE office.

The general issue indicated in the complaint is as follows:

Whether Respondent, Kelvin Lamont Black, used his official position as a City Sanitation Department employee, or took or failed to take any action, or influenced others to take or fail to take any action, in a manner which he knew or should have known with the exercise of reasonable care would result in a special financial benefit, not shared with similarly situated members of the general public, for himself, in violation of Section 2-443(a) of the Code.

- Facts establishing probable cause for a violation of Section 2-443(a), Misuse of public office or employment

All information from the Memorandum of Inquiry, Legal Sufficiency Determination, and supporting documents, including all written documentation, reports compiled, audio recordings, and other evidence supplied to the COE by the OIG, is adopted by reference into this Probable Cause Recommendation.

The investigation revealed that Respondent used his position as a City Sanitation Department employee in a manner which he knew would give himself an improper special financial benefit. During the investigation, Magda Rapalo, a resident of the City, stated that a man, who identified himself as an employee of the City, attempted to obtain a cash payment from her to remove the yard debris from her yard. According to Rapalo's sworn statement, the man drove a red pick-up truck and approached her while she was having vegetation removed from her yard and placed near the street for sanitation pick-up the following Monday.

According to Rapalo, that the man told her he worked for the City, and that City workers would not pick up her yard debris because the amount exceeded allowable limits. She said he also stated that the City would charge her between \$300 and \$400 to remove the excess debris. Rapalo said the man offered to remove the debris himself for \$200, stating that he had a friend with access to a City truck. When she told him she did not have \$200, Rapalo said the man offered to remove the vegetation for \$100. Rapalo stated she was initially going to write the man a check for \$100 but decided to decline the man's offer. The man then wrote down his name and telephone number on a small piece of paper and told her that she could call him Monday when the City failed to pick up the debris if she changed her mind. The paper listed the name "Calvin" and a telephone number of "561-255-3289."

In addition, a sworn statement from Ricardo Rosa, who was helping Rapalo with the vegetation removal, corroborated the facts in Rapalo's sworn statement. Rosa indicated that he also spoke with the man who offered to remove the debris for payment. Rosa said that the man first approached him and stated that the City would not remove the large amount of debris left at the curb without charging \$400. Rosa stated that he directed the man to Rapalo. He said he could hear a portion of the conversation between the man and Rapalo and heard the man offer to remove the debris for \$200 as well as the counter offer of \$100. Rosa also said that he saw the man write down his name and telephone number and give it to Rapalo.

Furthermore, during the investigation, OIG investigative staff determined that the telephone number given to Rapalo belonged to Respondent. OIG investigators also confirmed with the City Human Resources Department that Respondent was a City employee and worked in the Sanitation Department.

Finally, during Respondent's sworn statement, he stated that he was a City employee and that he drives a red, 1997 Ford F-150 pick-up truck. Respondent said that he did speak with Rapalo at her home because her debris piles were in violation of City rules.

The sworn statements and investigation revealed that Respondent is the man who tried to obtain money from Rapalo. Although Rapalo did not accept Respondent's offer to remove the yard debris for money, Respondent did use his official position as a City employee in an effort to obtain an improper special financial benefit for himself.

- Conclusion

Based on the facts and circumstances of the initial inquiry and the investigation, there is probable cause to conclude that Respondent, Kevin Lamont Black, violated Section 2-443(a) of the Palm Beach County Code of Ethics.

By: _____

Marissa Hoffman, Esquire
Florida Bar No. 195162

Date 3/3/15