



Palm Beach County OFFICE OF INSPECTOR GENERAL

Report of Investigation
Case Number: 2010-0009

Sheryl G. Steckler
Inspector General

EXECUTIVE SUMMARY

Political candidate Andrew Schaller compiled and presented to the OIG, a "Request for Inquiry" detailing 10 separate alleged violations of county rules and state laws against Commissioner Jess Santamaria and his staff. Four alleged violations involving destruction of public records, misuse of the county email system, circumventing the procurement rules and conducting political activities utilizing county equipment during county work hours fell under the jurisdiction of the OIG. Investigation revealed the allegation that Commissioner Jess Santamaria failed to retain his pocket calendars in accordance to the General Records Schedule GS1-SL is **supported**. Although unintentional, each month Commissioner Santamaria discarded his county purchased pocket calendars without being reconciled with his electronic county maintained calendars. The three allegations concerning Dennis Lipp conducting political activities during work hours; Commissioner Santamaria circumventing of the procurement process; and Commissioner Santamaria and Johnnie Easton inappropriately conducting political activities utilizing county equipment during work hours are **not supported**.

CORRECTIVE ACTION(S) RECOMMENDED

It is recommended the County Attorney formalize the orientation training process for new Commissioners and conduct annual public records/retention refresher training for all Commissioners and staff. It is further recommended that the County Administrator review PPMs CW-P-012 and CW-R-006 to determine if either policy needs clarity or strengthening.

BACKGROUND

On September 23, 2010, political candidate Andrew Schaller presented the Office of Inspector General with a 118 page spiral bound complaint which outlined 10 Exhibits illustrating or questioning potential violations allegedly committed by Commissioner Jess Santamaria and his staff. A review of the exhibits revealed the following allegations under the jurisdiction of the Inspector General:

- (1) Exhibit 3 – Destruction of Public Records by Commissioner Santamaria;
- (2) Exhibit 6 – Commissioner Santamaria did not follow the county procurement rules using personal funds and a non-certified locksmith to place locks on the inside doors of the Belle Glade courtroom;
- (3) Exhibit 9 – Commissioner Santamaria and county staff conducted political activities utilizing county equipment during county work hours; and
- (4) Exhibit 10 – Misuse of the county email system by Administrative Assistant Dennis Lipp.

Mr. Schaller was informed the remainder of his issues was under various jurisdictions to include the Supervisor of Elections and the Commission on Ethics.

MATTERS INVESTIGATED AND FINDINGS**Matter Investigated (1)**

Commissioner Santamaria did not retain his pocket calendars in accordance with the retention schedule. If supported, it would be a violation of General Records Schedule GS1-SL, item #89.

Findings

The information obtained *supports* the allegation.

According to Administrative Assistant Charles Suits, he is responsible for keeping Commissioner Santamaria's daily calendar and he keeps the calendar on the county MS Outlook. Mr. Suits noted the online calendar is not totally comprehensive because the Commissioner keeps a monthly pocket calendar into which he writes personal appointments and some county meetings. Per Mr. Suits these two appointment calendars are not routinely synchronized.

According to Administrative Assistant Johnnie Easton, the Commissioner's monthly pocket calendars are supplied to the office by the county in a package of all 12 months for the calendar year. Ms. Easton stated she provides these calendars, one month at a time, to Commissioner Santamaria. Ms. Easton indicated the pocket calendars are not routinely synchronized with the online MS Outlook appointment calendar kept by Mr. Suits who has mentioned this issue to her on occasion. An OIG review confirmed Commissioner Santamaria's pocket calendars for 2009 and 2010 were purchased by the county.

According to Assistant County Administrator Brad Merriman, each Commissioner that comes into office has a comprehensive sit down with County Administrator Bob Weisman and his senior staff as well as the County Attorney. The new Commissioner is provided, among many things, the Guide to the Sunshine Law and the Nuts and Bolts of County Government. The new Commissioner is given the opportunity for one on one follow-up. Mr. Merriman indicated public records' training is available to top officials and those who would need it.

According to Assistant County Attorney Leonard Berger, new Commissioners and Commission staff are provided an orientation to the county to include Working in the Sunshine by the County Attorney's office. They are also provided the Nuts and Bolts of County Government booklet and an informal training. Currently, there is nothing formalized that each Commissioner and their staff sign off on. When asked about whether Commissioners or Commission staffs are provided with public records retention training regarding calendars, Mr. Berger indicated they are told that all communications that involve county business are subject to the public records law.

According to County Attorney Denise Nieman, she received an email from Andrew Schaller on August 20, 2010, questioning maintaining pocket calendars in accordance to the General Records Schedule of the State of Florida for a period of one year. Ms.

Nieman responded back to Mr. Schaller on August 23, 2010 indicating, in part, that Commissioner Santamaria contended that all public meetings identified in his personal pocket calendar can be found in his official County calendar. Ms. Nieman further stated the Commissioner's personal pocket calendars, so long as they reflect the public calendar's appointments and include no others that are scheduled to be held pertaining to County business, may be disposed of as he wishes.

Ms. Nieman was asked if the pocket calendars were not reconciled, would the Commissioner have to retain the calendars for one year in accordance with the Retention Schedule. Ms. Nieman said yes. Ms. Nieman was further asked if a county purchased calendar would not be considered personal and need to be retained for one year. She said yes.

Ms. Nieman stated Bob Weisman and his executive team meet with each new Commissioner and they are provided several books by Brad Merriman. In addition, she and two members of her staff have a separate meeting with the Commissioner to go over disclosure and general information as well.

Commissioner Jess Santamaria stated his Assistant Chuck Suits maintains his electronic calendars. When questioned about whether he reconciled his pocket calendar with the electronic version, Commissioner Santamaria indicated his pocket calendars mainly contain personal appointments but he did not regularly reconcile the two. When questioned what he did with his monthly calendars for the past year, he stated he discarded his pocket calendars. Commissioner Santamaria was asked whether he received public records training with respect to retaining calendars. He indicated he had not. Commissioner Santamaria was informed that under the GS1 schedule, he is required to retain his calendars (including his pocket calendars if they contain any county business that is not on his electronic calendar) for a period of one year. Commissioner Santamaria indicated no one told him he was required to keep them.

Matter Investigated (2)

Commissioner Santamaria did not follow the county's procurement procedure using personal funds and a non-certified locksmith to place locks on the inside doors of the Belle Glade courtroom. If supported, it would be a violation of PPM-CW-L-008.

Findings

The information obtained ***does not support*** the allegation.

Director of Facilities & Maintenance Audrey Wolf stated there has been an on-going issue of appropriate security at the West County Courthouse. Judge Bailey had been complaining that his courtroom was insecure and was asking for security locks to be placed on his courtroom.

Per Ms. Wolf, as part of the capital improvements budget, Judge Bailey and Judge Blanc again made the request for the courtroom door locks and again the request was denied. Ms. Wolf stated the request was denied because the court would soon be moving to new facilities and since whenever court was in session Sheriff's deputies were present both inside the courtroom and the hallways outside the courtroom. As a result of that denial, the judges invited Commissioner Santamaria to the courthouse to explain why they needed the lock. Ms. Wolf stated she was not apprised of the results of that visit.

Weeks later Ms. Wolf received a correspondence which was a copy of a "cost estimate" to add locking hardware to the courtroom door. She explained Commissioner Santamaria's staff sent the estimate to County Administrator Bob Weisman who in turn sent it to Ms. Wolf. She was told Commissioner Santamaria wanted to personally pay for the lock installation. She informed the Commissioner's staff that even though the invoice is being paid privately and the work being done by a non-PBC vendor, the vendor Al's Locksmith Shop, Inc., 735 Royal Palm Beach Blvd., Royal Palm Beach, FL 33411, (561) 790-3815, would have to pass all the qualifying criteria of a regular PBC vendor, which includes the proper licensing and insurance. Ms. Wolf stated her staff spent less than 30 minutes qualifying Al's Locksmith Shop because all the required paperwork for the certification was readily produced by them. Ms. Wolf stated she and her staff monitored the work throughout installation and certified the quality of the work. Upon completion Commissioner Santamaria was notified the work was completed.

Per Commissioner Jess Santamaria, he stated that in early July 2010 he was approached by Judge Bailey of the Palm Beach County Court in Belle Glade about what the judge perceived as a security problem in his courtroom. The judge's concern centered on the courtroom's interior locks which, in his opinion, were unsatisfactory to prevent someone intent on bad behavior from gaining access to the courtroom. Commissioner Santamaria informed Judge Bailey he would take the matter up with the county to inquire if putting locks on those doors was a possibility. Upon making that inquiry to County Administrator Bob Weisman and Audrey Wolf, Director of the Facilities Development & Operations Department, he was informed they were aware of the Judge's concern; however, since the court would be moving to a new facility within a short time, they did not consider the expenditure for the locks as necessary. The Commissioner stated County Administrator Weisman informed him that he sympathized with the Judge's concern but it was money which would be ill spent on a building the court would be leaving in about one year. Commissioner Santamaria stated he "felt bad" about the situation.

Commissioner Santamaria stated he subsequently contacted Frank Nasto, a contractor with whom he had worked in the past, about installing the locks. He further stated he, along with Mr. Nasto and members of Judge Bailey's staff, went through what the staff thought was needed and subsequently developed a "wish list". After Mr. Nasto worked up a price for all the identified work, Commissioner Santamaria volunteered to only personally pay \$3,188.42 for the lock installation. He stated he again contacted Mr. Weisman and informed him of the price for the locks and that he would personally pay

for the installation. Mr. Weisman informed him to go ahead and use his own money if he chose. Commissioner Santamaria stated he then contacted Ms. Wolf, informed her of the situation, and she set about vetting Mr. Nasto's sub-contractor, Al's Locksmith Shop because at the time he was a non-certified contractor. Ms. Wolf arranged for a Facilities Department supervisor to be present when the locks were installed.

Matter Investigated (3)

Commissioner Santamaria and county staff conducted political activities utilizing county equipment during county work hours. If supported, it would be a violation of PPM CW-P-012 and a potential violation of §106.15(3) F.S.

Findings

The information obtained ***does not support*** the allegation.

Assistant County Administrator Shannon LaRocque stated the Water Utilities Department (WUD) has been negotiating with US Department of Agriculture (USDA) for a grant to be applied to water facilities in the Glades area. USDA was asserting the county was not making a significant investment in the Glades area and was using this as an obstacle to the grant process. Ms. LaRocque stated a joint meeting of the Board of Commissioners and the Tri-City Commission (Belle Glade, Pahokee and South Bay) was scheduled on April 12, 2010, to address PBC spending in that geographical area. In preparation for that meeting, Ms. LaRocque prepared a 12 page document showing past, present and future spending in the Glades area. To prepare this document, she asked all the division heads to assemble the information and she asked Sherry Howard, Director of Economic Development to be the "gatekeeper." When Johnnie Easton Administrative Assistant to Commissioner Santamaria sent out an email asking about Glades spending, Ms. LaRocque informed Ms. Easton the information was already compiled and would suit her purposes.

Ms. LaRocque stated she did not know why Commissioner Santamaria wanted the information, but she did not think it was unusual because it was normal for a Commissioner to ask about spending in his district. She further stated Ms. Easton would occasionally call her with questions, mostly about budget items.

Administrative Assistant Johnnie Easton stated she has been working for Commissioner Santamaria for approximately 4 years. She stated the Commissioner asked her to determine how much total funding from all sources was put into the Glades area. She stated the only figures she had immediate access to were those for the Recreation Assistance Program (RAP) and some of the gas tax funding. Ms. Easton set about collecting from all the divisions in PBC the information requested. Ms. Easton subsequently found the Office of Economic Development had, by coincidence, produced the exact type of document containing all the information she was looking for. She asked the Office of Economic Development why they produced that type of document and was told they had done so in order to apply for a federal grant from the US Department of Agriculture (USDA). She asked them to provide her with a copy of the spreadsheet which was entitled "Glades Area Projects – Present and Proposed per

County Departments/Divisions, Programs & Funding Agencies.” She subsequently received a 12 page document she believes by inter-office mail. Upon receiving the document, she made two (2) copies - a copy for herself and one for Commissioner Santamaria. Upon his review of the document he asked her to explain what was contained therein. She told him she could only explain the RAP and gas tax portions and subsequently asked Assistant County Administrator Shannon LaRocque to stop by the Commissioner’s office to answer his questions. Ms. LaRocque told him all the answers to his questions were contained in the document. The Commissioner told both Ms. Easton and Ms. LaRocque he wanted a summary of current and future expenditures in the Glades area. Taking his instruction, Ms. Easton set about creating another spreadsheet summarizing the Glades funding currently in place and what was coming in the future. After completing the summary and giving it to Commissioner Santamaria, he instructed her to send the information to Francine Nelson. She stated she did not know Francine Nelson and he provided her with a cell phone number. She called the number and a man answered whom she said she did not recognize and they spoke for approximately one minute. She stated she later learned the man who answered the phone was Richard Giorgio, the Commissioner’s campaign manager. She stated she has not met him nor would she recognize him. When asked if she knew who Francine Nelson was, she stated she subsequently learned that Ms. Nelson worked for “Patriot Games” the campaign organization for the Commissioner.

When asked how, after working for the Commissioner for nearly 4 years, it was possible for her not to know his campaign people – she again reiterated she does not know either Mr. Giorgio or Ms. Nelson. When asked how Giorgio answered the phone she stated she did not remember. When asked if he subsequently identified himself she said “no he did not.” She stated she identified herself by saying she was “Johnnie from Commissioner Santamaria’s office.” She stated the man did not in turn identify himself or make any other comments but only gave her Francine Nelson’s email address. Ms. Easton stated she scanned the 12 page document and made it an attachment to an email and sent it Ms. Nelson.

Commissioner Jess Santamaria stated he never saw a 12 page document on revenue spending in the Glades – only the summary. When asked why the document was originally produced he explained by way of background that Germaine Webb, a political activist in the Belle Glade area was publicly stating the county was not spending a sufficient amount of money in the Glades area. Mr. Webb also complained about the Sheriff’s Department mistreatment of local citizens. Commissioner Santamaria stated he has concerns about the “idle” youth in the Glades area and he considers crime to be equivalent to “idle young people.” He stated Mr. Webb met with him at his county office and asked him to do something to get youth in the Glades “off the streets.” The Commissioner stated he worked on that problem and over the next year was able to get \$40,000 for Glades youth to attend courses at Palm Beach State College. Regardless of this educational funding, Mr. Webb still complained the Commissioner had not spent enough money in the Glades. In order to address Webb’s complaints he asked his Administrative Assistant Johnnie Easton to compile a summary of Glades spending for 2007-2011. While making this inquiry, the Commissioner learned that Assistant County

Administrator Shannon LaRocque had previously compiled this information on a separate project she was working on within her own department for the USDA. He stated he had a summary of this information sent to Mr. Webb via email on July 27, 2010 with a suggestion that Mr. Webb let it be known that Glades area spending levels were 404 million dollars.

The Commissioner further stated that several weeks later it occurred to him the "summary" he sent to Mr. Webb would make a "good ad" so he asked his assistant to send the information to his campaign assistant Francine Nelson at his campaign office "Patriot Games." In a mis-communication, the Commissioner's Administrative Assistant Johnnie Easton did not send the "summary" as directed by the Commissioner, but instead the entire 12 page document previously produced by Assistant County Administrator Shannon LaRocque. The "summary" was subsequently used in a political ad in The Sun newspaper on August 12, 2010.

According to Assistant County Attorney Leonard Berger, the 12 page document and any summaries derived from it, produced by Ms. LaRocque and Ms. Howard for the USDA was a public record and therefore could be provided to anyone requesting it.

Matter Investigated (4)

Dennis Lipp, Administrative Assistant to Commissioner Santamaria, worked on Town of Loxahatchee Groves business during his Palm Beach County employment hours and misused the county email system by communicating with Town officials regarding Town business. If supported, it would be a violation of PPM CW-P-012 and PPM-CW-R-006.

Findings

The information obtained ***does not support*** the allegation.

A review by the OIG of Commissioner Santamaria's staff emails during the period of June 1 to August 11, 2010, indicates between the hours of 9:46AM and 3:29PM, Administrative Assistant Dennis Lipp sent approximately 17 emails to officials of the Town of Loxahatchee Groves where he serves without compensation as Vice Mayor. However, the allegation is not supported based on vagueness in the current policy regarding established times for lunch and breaks and no documented core work hours as well as lunch and breaks for Mr. Lipp.

Commissioner Jess Santamaria stated the core work hours for his staff are 9am to 5pm daily. Commissioner Santamaria indicated that Mr. Lipp does work hours outside of his core hours for meetings at various times throughout District 6.

According to Director of Human Resources Wayne Condry, the policy regarding conducting political activities states that at no time may any County employee engage in any political activities during normal working hours, nor shall any public property, equipment or funds be utilized in the conduct of such activities. Further, according to Mr. Condry, "comp time" has to be pre-approved per occasion not used as "flex time"

wherein an employee is free to declare oneself "on then off" comp time at his/her own discretion.

According to Director of Information System Services Mr. Steve Bordelon, the personal use of the county email system is "murky." While PPM-CW-R-006 allows for limited personal use of email and the internet on an employee's twice daily break time (two periods of 15 minutes each during established work hours) there are other situations wherein employees accumulate comp time because of doing another job or on time-compensated overtime – but all these special situations must have record keeping associated with comp time acquired or used otherwise there would be no way to keep track of it.

Administrative Assistant Dennis Lipp stated he is not a 9am to 5pm worker. His duties for Commissioner Santamaria require him to attend meetings which start after 5pm. He stated his normal work week exceeds 40 hours because he represents the Commissioner throughout District 6. He further stated that Commissioner Santamaria hosts, and Mr. Lipp attends, an evening Community Forum in the Wellington Mall which routinely lasts until 9pm or later. Mr. Lipp stated as a result of these long hours he has tracked on his county MS Outlook program an accumulated 116 hours of comp time. He further states the amount of hours he actually spends on county business is "several times that number" and as such he always has comp time available to him to perform his duties for Loxahatchee Groves. His testimony further contends he is "within his rights" to use county computers to answer personal emails during his comp time driven personal time. Mr. Lipp also stated his use of county email to communicate with Loxahatchee Groves officials is authorized by PPM-CW-R-006 which states: "Limited personal use of such property for email purposes is acceptable during personal time in accordance with individual policies whether written or not."

SUBJECT'S RESPONSE(S)

Johnnie Easton and Dennis Lipp did not provide a written response. Commissioner Jess Santamaria thanked the Office of Inspector General for conducting a thorough investigation. The full text of the Commissioner's response is attached.

This investigation has been conducted in accordance with the ASSOCIATION OF INSPECTORS GENERAL Principles & Quality Standards for Investigations.



JESS R. SANTAMARIA
County Commissioner
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Palm Beach County
Board of County Commissioners

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December 21, 2010

Office of the Inspector General
Investigations Section
Attn: Investigator Michael Davis
2633 Vista Parkway
West Palm Beach, FL 33411

Re: OIG Case Number: 2010-0009

Dear Ms. Steckler and Mr. Davis:

Thank you for your very thorough investigation and report on OIG Case Number: 2010-0009. As you may know, I was among the first to volunteer to testify in front of the Palm Beach County Grand Jury assembled by State Attorney Michael F. McAuliffe which eventually led to the establishment of the "Office of Inspector General" for Palm Beach County, which I have always strongly supported.

Thank you for giving me the opportunity to comment on the investigative findings summarized in your December 14, 2010 letter.

To the best of my knowledge and belief, the following is true:

- (1) The most important job responsibility of my Administrative Assistant Charles Suits is to keep a complete record in my "online calendar" of my every appointment and/or meeting that has anything to do with County business - no exception whatsoever.
- (2) My "online calendar" maintained by my Administrative Assistant is totally comprehensive regarding all County business I participate in, because both Mr. Suits and I make every effort to make sure that all my County business meetings are recorded in this "online calendar".
- (3) The only reason that my "monthly pocket calendar" is not routinely synchronized with the "online calendar" is simply because I never knew that anyone expected them to be synchronized or that there existed any governmental rule that required my "online calendar" and my "monthly pocket calendar" be synchronized. Not once, since I was sworn-in as Palm Beach County Commissioner in



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November 2006, has anyone given me any indication that this synchronization was expected or required. Had anyone informed me of this, I would have easily done so. In fact, now that you have informed me of this, you can be sure that from here on, I will make sure that both my "online calendar" and my "monthly pocket calendar" are synchronized at all times. In any event, I never had a meeting or other item related to County business recorded on my "monthly pocket calendar" that was not also recorded on my "online calendar".

For over forty (40) years, I have kept a "monthly pocket calendar" primarily for very personal reminders, such as: doctor and dental appointments; reminder of birthdays, anniversaries, special occasions of close family members and friends; different social events; reminders to purchase needed items (groceries, etc.); vacation trips; reminders to pay bills when due; direction to an unfamiliar location; reminder to respond to letters; reminder of deadlines on anything important; etc., etc., etc. It never ever occurred to me that the above type of notes on my "monthly pocket calendar" was anybody's business but mine.

I have always been extremely sensitive to the "Florida Sunshine Law", long before I was elected Palm Beach County Commissioner in November 2006. I have always been concerned that the "Sunshine Law" is often not followed by Government Officials. It is for this reason that I have taken it upon myself to "tape record all my meetings" with anyone representing a "For Profit Entity" that has any existing business or potential future business with Palm Beach County (Zoning applications, business contracts, financial concessions, etc.). In addition, one of my Administrative Assistants is always present with me at these meetings. These tape recordings are maintained in my County office by my Administrative Assistants and are available to anyone at any time for any reason whatsoever. If the "Sunshine Law" is to be effective and have any "real teeth", tape recording of private meetings by all Government officials should be mandatory. If this rule were made part of the Florida Sunshine Law, perhaps it would have prevented our being labeled "Corruption County".

The main reason I decided to run for Palm Beach County Commissioner is because I wanted to do something of the ignominious title "Corruption County" given to Palm Beach County by the national media. I wanted to set an example of the true meaning of "public service". I wanted to "give" of myself to the County, and make up for the "taking" by my predecessor and



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others in government. I have never accepted any campaign funds, presents, favors, free lunches, etc. from anyone doing business with the County. On the contrary, I have donated my entire \$92,000 annual salary the past four years to the homeless (The Lord's Place), Scientific Research (Max Planck), education (Palm Beach State College), local public schools, churches, synagogues, various charities, needy families, payment of security door locks at the West County Courthouse after the County denied the request of Judge Bailey and Judge Blanc, payment of other expenses normally paid by the County, etc., etc., etc. I do not want nor do I need anything from any "special interest" (individuals or entities). I want nothing for myself. All I want to do is to serve the people of Palm Beach County, especially the thousands of needy and less fortunate families.

Your investigation was triggered by the **libelous 118-page document Andrew Schaller wrote to malign me** in his attempt to run for the Commission seat I fill (after the County denied his request to pave the road fronting his home). Mr. Schaller's document is **replete with falsehoods and misleading information**. It has caused substantial amounts of taxpayer's money to be spent on the work of your investigation, and for the efforts of the Ethics Commission, and other County expenses. In today's economy, the County cannot afford to waste its valuable limited resources in such a manner. The Andrew Schallers of this world should not be allowed to get away with these type of self-serving and malicious actions.

Once again, I thank you for your thorough and necessary work. Palm Beach County's 1.3 million residents need you to continue your efforts to make certain that all Palm Beach County officials understand and comply with Florida's Sunshine Law.

Sincerely,

Jess R. Santamaria
County Commissioner
District 6