

OFFICE OF INSPECTOR GENERAL CITY OF JACKSONVILLE



REPORT OF INVESTIGATION #2022-0012

Misuse of COJ Resources.

MATTHEW J. LASCELL
INSPECTOR GENERAL

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DATE ISSUED

“Enhancing Public Trust in Government Through Independent and Responsible Oversight”



EXECUTIVE SUMMARY

Report of Investigation 2022-0012

On February 9, 2022, the Office of Inspector General (OIG) received a complaint that three males (believed to be COJ employees) were witnessed utilizing City of Jacksonville (COJ) dump truck #8965 and filling potholes with hot asphalt in the parking lot of Jim's Place (nightclub). The OIG determined Mr. Dwayne Caughman, Maintenance Worker Crew Leader, Mr. Antonio Boyd, Maintenance Worker II, and Mr. Eric Kilpatrick, Maintenance Worker I, Right of Way and Stormwater Maintenance Division, Department of Public Works (Public Works), were assigned to COJ dump truck #8965 on February 9, 2022.

The OIG initiated an administrative investigation in accordance with §602.303, COJ Ordinance Code and found the allegation that Caughman, Boyd, and Kilpatrick used COJ resources, including a COJ owned vehicle and asphalt, on private property for non-COJ related business is substantiated.

COJ Ordinance Code §122.301 prohibits use of any motor vehicle owned or leased by the City or its independent agencies for private purposes or for any purpose other than the performance of City business, duties, or functions. Private use includes stopping to accomplish personal business while performing City business duties or functions.

COJ Ordinance Code §602.401 (d) (1) requires City officers, employees, and independent contractors to protect and conserve City property and resources and use official time and City property only for official business.

ALLEGATION AND FINDING

ALLEGATION: MISUSE OF COJ RESOURCES

Dwayne Caughman, Antonio Boyd, and Eric Kilpatrick utilized COJ resources, including a COJ owned vehicle and asphalt, on private property, for non-COJ related business. If substantiated, the allegation would be a potential violation of Executive Order No. 2018-02 Motor Vehicle Safety Policy, and City of Jacksonville Ordinance Codes: §122.301, and §602.401(d)(1). Pursuant to §602.921(a), in part, the Ethics Commission is authorized to issue findings alleging a violation of Chapter 602.

FINDING: SUBSTANTIATED

COMPLAINT

On February 9, 2022, Detective Brad Emerson, Jacksonville Sherriff's Office (JSO) contacted the OIG and advised he witnessed three males (believed to be COJ employees), utilize COJ dump truck #8965 and fill potholes with hot asphalt in the parking lot of Jim's Place (nightclub), located at 7900 Arlington Expressway, Jacksonville, Florida 32211. Emerson provided photographs of the asphalt crew and several potholes they filled.

Emerson Photo - February 9, 2022*Emerson Photo - February 24, 2022*

The OIG contacted Tim Smallwood, Public Works Superintendent, Right of Way and Stormwater Maintenance Division, Public Works, who determined Dwayne Caughman, Maintenance Worker Crew Leader, Antonio Boyd, Maintenance Worker II, and Eric Kilpatrick, Maintenance Worker I, were assigned to COJ dump truck #8965 on February 9, 2022.

WITNESS TESTIMONY

Statement of Det. Brad Emerson, JSO.

On the morning of February 9, 2022, Det. Emerson witnessed three males, whom he believed to be COJ employees, operating COJ dump truck #8956 and filling potholes with hot asphalt in the Jim's Place parking lot.¹ He then witnessed an unknown male exit the nightclub, approach the COJ employee driving the truck, and have a brief conversation. Det. Emerson stated he did not see them physically exchange anything.

Statement of James Carroll, Right of Way Grounds Maintenance Manager, Public Works

Mr. Carroll oversees the investigation and resolution of MyJax² complaints. He also has oversight of maintenance activities and the equipment support section of Public Works. He confirmed COJ Public Works does not service privately owned streets or privately owned parking lots.

Statement of Lamar Coker, Right of Way Ground Maintenance General Supervisor, Public Works

Mr. Coker oversees and supervises 10 maintenance crew employees, including Caughman, Boyd, and Kilpatrick. He advised maintenance crews are instructed to use the excess asphalt to fill in ruts that are found on the edge of roads only after they have completed their daily work orders. Coker further stated maintenance crews are verbally instructed they are not allowed to service potholes located in private parking lots and private property. Mr. Coker stated he did not instruct Caughman's maintenance crew to fill potholes located in Jim's Place on February 9, 2022.

¹ Jim's Place is a privately owned Nightclub located at 7900 Arlington Expy, Jacksonville, FL 32211.

² MyJax allows the citizen to report concerns such as blight, potholes, missed garbage collections, and a host of other issues.

RECORDS REVIEWED

Materials Invoice Records

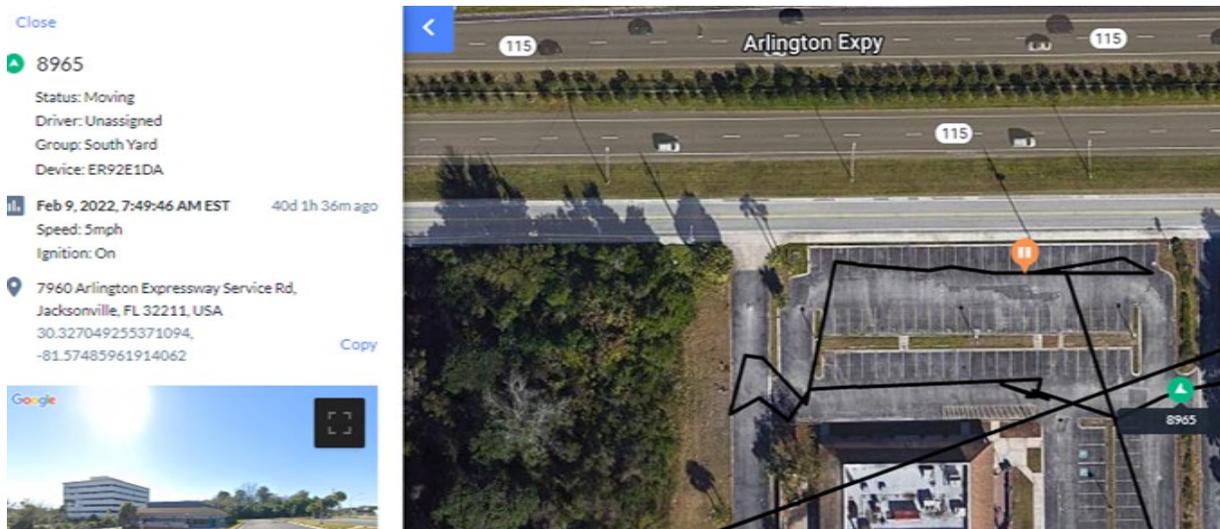
The OIG reviewed the Material Invoice pertaining to the Asphalt and Asphalt Materials that were loaded into COJ dump truck #8956 on February 9, 2022. 3.32 Tons of S-III/SP9.5 (Asphalt) were purchased at a Unit Price of \$64.00, amounting to \$212.48. Two five-gallon buckets of TACK³ were purchased at a unit price of \$55.00, amounting to \$110.00, totaling to \$322.48 as followed:

<u>Date</u>	<u>Description</u>	<u>Quantity</u>	<u>UOM</u>	<u>Unit Price</u>	<u>Amount</u>
February 9, 2022	S-III /SP9.5	3.32	T	\$64.00	\$212.48
February 9, 2022	TACK 5-Gal	2.00	EA	\$55.00	\$110.00

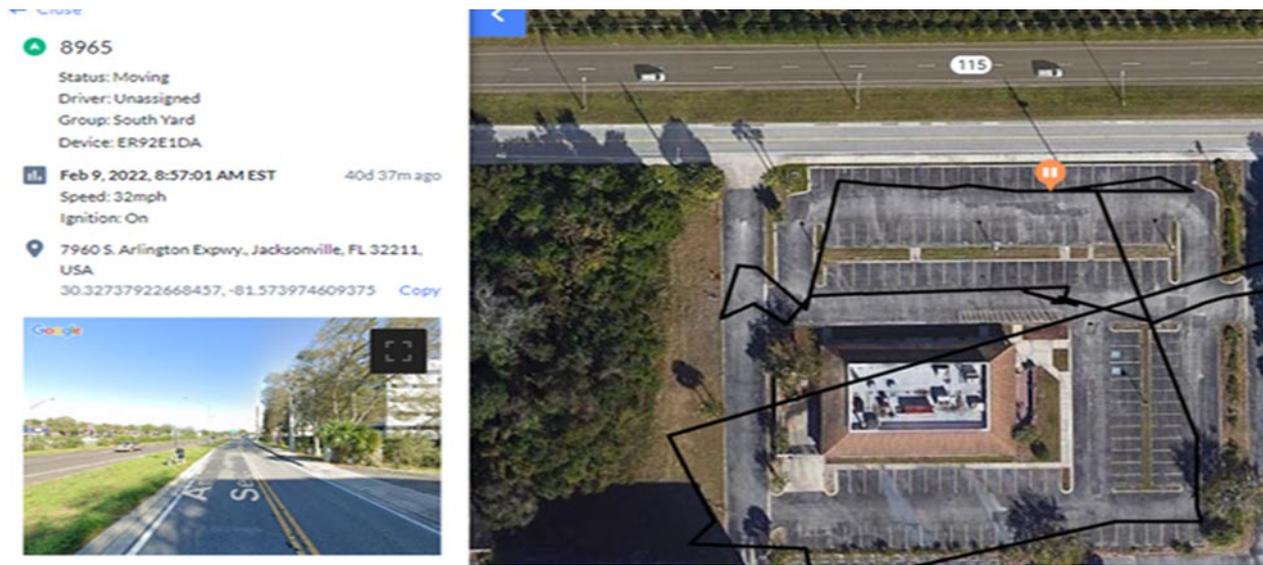
Global Positioning System (GPS) data

GPS data revealed truck #8965 entered the nightclub parking lot at 7:49 a.m., on February 9, 2022, and exited the nightclub parking lot at 8:57 a.m. on February 9, 2022, as followed:

February 9, 2022, 7:49 a.m., GPS ping



³ TACK is an asphalt bonding agent which is used to help the asphalt to adhere and stay in place.

February 9, 2022, 8:57 a.m., GPS ping**Work Report Forms**

The OIG reviewed February 9, 2022, work report forms completed by Caughman, Boyd, and Kilpatrick. There was no work report form for 7900 Arlington Expressway, Jacksonville, Florida 32211. Therefore, there was no care ticket and no work order issued by Coker for Jim's Place.

SUBJECT TESTIMONY**Statement of Antonio Boyd, Maintenance Worker II, Right of Way Stormwater Maintenance, Public Works**

Boyd recalled filling potholes with asphalt on the morning of February 9, 2022 with Caughman and Kilpatrick. He stated Caughman instructed him to fill the potholes. Boyd recalled a person approached and spoke with Caughman but he was unaware of what was discussed. Boyd stated he did not receive anything in return for filling the potholes and he was unaware if Caughman received anything in return. Boyd stated he did not know if Caughman had a work order for the nightclub parking lot. Other than to fill potholes, Boyd did not know the reason they went to the nightclub parking lot.

Boyd did not recall receiving any verbal instruction from Public Works explaining they are not allowed to fill potholes on privately owned streets or privately owned parking lots. Boyd stated he was not provided a handbook that explained the rules and regulations and he was not presented a form or policy to sign acknowledging he is to only service city owned streets and parking lots. Boyd stated if he would have known the nightclub parking lot was private property, he would not have filled the potholes. According to Boyd, he would have informed Caughman it was wrong, and he would have reported it to his supervisor.

Statement of Eric Kilpatrick, Maintenance Worker I, Right of Way Stormwater Maintenance, Public Works

Kilpatrick recalled filling potholes with asphalt in the nightclub parking lot with Caughman and Boyd. Kilpatrick stated Caughman was driving the truck on February 9, 2022, and he was instructed by Caughman to fill the potholes with asphalt in the nightclub parking lot. Kilpatrick observed a person approach and speak with Caughman at Jim's Place but he was unaware of what they discussed. Kilpatrick stated he did not receive anything in return for filling the potholes and he was unaware if Caughman received anything in return. Other than to fill potholes, Kilpatrick did not know the reason they went to the nightclub parking lot.

Kilpatrick was not aware if they are allowed to service privately owned streets or privately owned parking lots, stating verbatim *"I have no idea, I don't know none of that, none of the rules, or none of that."* According to Kilpatrick, he thought all streets were city owned streets, and he was never told that they are not allowed to service privately owned streets or privately owned parking lots. Kilpatrick stated he was not provided a handbook that explained the rules and regulations and he only received on the job training (OJT).

Kilpatrick stated if he would have known the nightclub parking lot was private property, he would not have filled the potholes, and he would have informed Caughman that they were on private property.

Statement of Dwayne Caughman, Maintenance Worker Crew Leader, Right of Way Stormwater Maintenance, Public Works

Caughman advised he has held the Crew Leader position for one year. As Crew Leader, his job duties require him to work out in the field and conduct various construction projects including laying asphalt, sidewalks, curbs, and filling potholes. While out in the field, Caughman is assigned to a team and, as the Crew Leader, he supervises and oversees the team. Caughman stated he learned his job from other workers and was never instructed that he was not to service privately owned streets or privately owned parking lots. Caughman was not provided a handbook when he began working with Public Works and he was never provided any jurisdictional documentation that explains where he is allowed to work and not to work.

Caughman stated he patronizes Jim's Place on Wednesdays. On February 2, 2022, while leaving the nightclub parking lot, Caughman hit a pothole with his personal vehicle. Caughman explained, after hitting the pothole he stated to himself, *"Well, I know how to fix that."*

Caughman recalled filling the potholes with asphalt in the Jim's Place parking lot on the morning of February 9, 2022, with Boyd and Kilpatrick. He advised it was his idea to fill the potholes. Caughman stated he filled the potholes in the nightclub prior to completing his COJ assigned jobs because he knew he had more asphalt on the truck than what was needed for the day. He assumed that filling the potholes in the nightclub parking lot was COJ related business. According to Caughman, he thought the nightclub parking lot was a COJ owned parking lot and did not know that it was a private parking lot. Caughman stated, while he filled the potholes in the nightclub parking lot, a male who introduced himself as Jim, approached him, Boyd, and Kilpatrick and

thanked them for filling in the potholes. Caughman stated he did not receive anything in return for filling the potholes.

SUBJECTS' RESPONSES

On May 5, 2022, the OIG mailed a copy of the draft report of investigative findings to Caughman, Boyd, and Kilpatrick for an opportunity to respond on or before May 16, 2022. The OIG did not receive a response from Caughman, Boyd or Kilpatrick within 10 calendar days.

RECOMMENDED CORRECTIVE ACTIONS

The OIG recommends the Director of Public Works:

1. Ensure all Public Works employees receive annual ethics training.
2. Provide Public Right of Way Stormwater Maintenance Division training to employees delineating allowable practices relating to the use of COJ vehicles and defining private versus public property.
3. Create an effective process to track employee policy attestations and certifications for the Public Right of Way and Stormwater Maintenance Division.

IDENTIFIED, QUESTIONED, AND AVOIDABLE COSTS

Identified Cost: N/A

Total Questioned Costs: \$322.48

Avoidable Cost: N/A

The amount of \$322.48 was derived from a review of the amount paid by COJ for Asphalt and Asphalt Materials loaded into COJ dump truck #8956 on February 9, 2022.

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