

## Office of Internal Audit

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THE CITY OF SPRINGFIELD, MASSACHUSETTS

### Memorandum

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To: William Mahoney, Director of Human Resources and Labor Relations  
From: Yong Ju No, Director of Internal Audit  
CC: Thomas Ashe, Chief of Staff, Chris Cignoli, Director of Department of Public Works, Patrick Sullivan, Director of Parks, Building and Recreation Management  
Date: September 28, 2020 (amended on February 16, 2021)<sup>1</sup>  
Re: Complaint Involving Nathan Bill's Restaurant

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### Allegation

In July 2020, you forwarded us an allegation from a city employee that city resources were unlawfully used to benefit a private citizen. Specifically, the allegation indicated that a sign from Nathan Bill Park, which belonged to the city, was given to Nathan Bill's restaurant and that city resources, including employee time and equipment, were used to deliver the sign to Nathan Bill's restaurant. The complainant emailed his allegation to Patrick Sullivan, the Director of Parks, Building and Recreation Management, and included pictures from Nathan Bill's restaurant Instagram post to substantiate his claim.

The complainant in his allegation asked Director Sullivan from where the 16-foot log that was placed along the Riverfront came. The OIA did not address the complainant's question, as it was deemed immaterial to the misuse of city resources.

### Background

We contacted Director Sullivan on August 7, 2020 to inquire about the allegation. Director Sullivan indicated that the Nathan Bill Park sign belonged to the Parks department, but it had been replaced many years ago because it was damaged; and unbeknownst to Director Sullivan, the sign ended up at Riverfront Park as a road block. According to Director Sullivan, DPW had disposed of the sign sometime in the spring of 2020.

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<sup>1</sup> Amended on February 16, 2021 to correctly reference Massachusetts General Law 268A, Section 23.



On August 24, 2020, we interviewed Chris Cignoli, Director of Department of Public Works (DPW), about the subject matter. Director Cignoli indicated the following:

The damaged sign was discovered about two and a half years ago in the North End area (Avocado Street) near the Riverwalk Bikeway, being used as a road block which DPW had to remove in order to have access to the flood control system. At that time, Director Cignoli contacted Peter Krupczak to see if the Parks department wanted the sign back. Peter Krupczak indicated that the Parks department did not want the sign back as Nathan Bill Park already had a replacement sign. The sign was brought to the DPW yard and has been there since it was found. Late in 2019, Director Cignoli had a conversation with the East Forest Park Civic Association and the owner of Nathan Bill's restaurant. During Director Cignoli's conversation with them, the owner of Nathan Bill's restaurant expressed an interest in the sign. In March 2020, DPW was cleaning the DPW yard and was going to throw out the damaged sign as it was taking up space and had no value. The sign was most likely going to have to be disposed by one of the city's bulk vendors; and the city would have to pay to dispose of it. Director Cignoli determined that it was more cost effective to give the damaged sign to the owner of Nathan Bill's restaurant. Since the damaged sign was already on a flat-bed truck ready to be disposed, he authorized his employees to deliver the sign to Nathan Bill's restaurant in March 2019.

Director Cignoli admitted that he was unaware of the City ordinance requiring that the Office of Procurement handle the disposal of scrap materials and that he did not confer with the Office of Procurement prior to disposing the sign.

On September 11, 2020, we interviewed Peter Krupczak. Peter Krupczak indicated that he did not recall Director Cignoli contacting him about whether the Parks department wanted the damaged sign back – Director Cignoli may have, but he doesn't recall. He also indicated that he would not have agreed to have the sign given to a private citizen and that he is aware of the city's policy of having all dispositions of obsolete materials be handled by the Office of Procurement.

## **Criteria**

The disposal of scrap materials and the misuse of city resources are defined by the following regulations:

*City Ordinance, Section 82-16 Obsolete, surplus and scrap materials –*

### **A.**

Whenever any property belonging to the City, except real estate, has become obsolete, disused, worn out or scrapped, it shall be the duty of the Department of Purchase or its authorized agent to take charge and control of such property and to keep an inventory of all such items.

### **B.**

All responsible administrative heads of each department and board in connection with the City shall furnish to the Department of Purchase, at such times and in such form as the Chief Procurement Officer prescribes, reports of all materials, supplies or equipment which are no longer used or which have become obsolete, worn out or scrapped.

## **H.**

The Chief Procurement Officer shall, before disposing of any surplus, obsolete or scrapped supplies, materials or equipment (as defined in Subsections E and F above), determine the value of the surplus, obsolete or scrapped supplies, materials or equipment and make a written assessment of the current or future needs for the supplies, materials or equipment. The Chief Procurement Officer may, in his sole discretion, determine the value of the surplus, obsolete or scrapped supplies, materials or equipment by hiring one or two certified appraisers or by using procedures customarily accepted by the appraising profession.

*MGL, Section 268A, Section 23* - A municipal employee may not use his official position to get something worth \$50 or more for someone else that would not be properly available to other similarly situated individuals.

*City Ordinance, Section 38-6, Use of City-owned property* – No City official, City employee or City contractor shall engage in or permit the unauthorized use of City-owned property or any other property being held by the City for public purposes.

## **What We Found**

We found evidence that Director Cignoli did not comply with *City Ordinance, Section 82-16, paragraph A*, when he, without conferring with the Chief Procurement Officer, he took possession of the sign and ultimately disposed of it by giving it to Nathan Bill's restaurant. Since the Parks department was the rightful owner of the sign, Director Cignoli should have instructed them to remove the sign upon discovering it at the North End (Avocado Street) and let them determine its future; and when Director Cignoli determined the sign to be scrap and wanted to dispose of it, he should have informed the Office of Procurement to handle its disposition. We requested that the Office of Procurement remind all city departments that the Office of Procurement must handle the disposal of all scrap and obsolete material.

We did not find evidence that Director Cignoli violated *MGL, Section 268A*, based on the following: according to Lauren Stabilio, Chief Procurement Officer, who we contacted for guidance on *City Ordinance, Section 82-16*, the Office of Procurement would have placed no value on the damaged sign based on Director Cignoli's good faith estimate. As previously mentioned, Director Cignoli determined that the damaged sign had no value.

We did not find evidence that Director Cignoli violated *City Ordinance, Section 38-6*, based on the following: the use of city resources for delivering the sign to Nathan Bill's restaurant was authorized by Director Cignoli and was done for a public purpose, i.e., it was more cost effective to dispose of the sign by giving it to Nathan Bill's restaurant than disposing of it through a vendor, thereby saving the City money.

## Other Matters

The Office of Internal Audit investigated a similar allegation of misuse of city resources in 2019. Specifically, an allegation was made that a forestry employee was misusing city resources by allowing an individual to take firewood from the facilities yard at the Parks department and was assisting that individual by loading the firewood onto that individual's truck with city equipment. In that investigation, we were able to substantiate the allegation and found evidence that the forestry employee violated ethics law (*MGL, Section 268A, Section 23*) and city ordinance (*City Ordinance, Section 38-6*).

Although, these two allegations appear to be similar, the results of our investigations are different in the following ways:

- Value - The damaged sign had no value, whereas the wood did have a value of more than \$50. As such, giving the wood to an individual violated ethics law (*MGL, Section 268A, Section 23*).
- Authorization - Giving the sign to Nathan Bill's restaurant and using city resources to deliver the sign were approved by Director Cignoli, whereas giving the wood to an individual and using city resource to load the wood onto that individual's truck were unauthorized by Director Sullivan. The unauthorized use of city resources violated city ordinance (*City Ordinance, Section 38-6*).