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### REPORT NO. 2023-19

TO: The Honorable Chair and Members of the Board of County Commissioners  
Barry Burton, County Administrator  
Representative Linda Chaney, Chair, Pinellas County Legislative Delegation  
Mike Twitty, Property Appraiser  
Jewel White, County Attorney

FROM: Melissa Dondero, Inspector General/Chief Audit Executive *md*

DIST: Ken Burke, CPA, Clerk of the Circuit Court and Comptroller  
Kelli Hammer Levy, Director, Public Works Department  
Joseph Lauro, Administrative Services Department  
Kevin McAndrew, Building & Development Review Services Department

SUBJECT: Review of 2007 Grand Jury Presentment Recommendations

DATE: August 7, 2023

Per a request from Karen Seel, a former member of the Board of County Commissioners (BCC), we performed a review of the 2007 Grand Jury Presentment Recommendations related to the Civil Administration of the Government of Pinellas County (County), concerning the circumstances surrounding the County's purchase of a lot located in Tarpon Woods belonging to prior Property Appraiser Jim Smith.

Our objectives were to:

1. Determine the status of each recommendation from the 2007 Grand Jury Presentment.
2. Review the control environment to determine if additional safeguards are needed related to the recommendations and associated activities.

In order to meet our objectives, we requested information and/or documentation outlining the implementation of policies and procedures from the recommendations of those who were affected.



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Our review was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* and the *Principles and Standards for Offices of Inspector General*, and accordingly, included such tests of records and other procedures, as we considered necessary in the circumstances. The review period was May 5, 2023, through June 28, 2023. However, transactions and processes reviewed were not limited by the review period. The results of our review work are included herein.

We appreciate the cooperation shown by the BCC, the Constitutional Officers, and County leadership during the course of this review.

### **Background**

Former Property Appraiser Jim Smith (Smith) owned a vacant piece of property in Tarpon Woods. It is speculated that one or both of the hurricanes that impacted the County during the 2004 hurricane season caused a tree on Smith’s property to fall. County employees were notified about the fallen tree by a neighboring resident of Tarpon Woods. After hiring a contractor, County employees and the contractor went to Smith’s property and removed the downed tree. The area was known for flooding and County employees authorized the contractor to dredge a channel to meet with a nearby creek to facilitate better drainage.

Smith complained in 2005 and 2007 to the County about damage to the property. After the second complaint, Smith hired an attorney that sent a letter to County Officials unbeknownst to Smith, suggesting that the County purchase the property, inferring his legal fees would be less substantial if they did. After receiving the letter, certain County employees were asked if it would benefit the County to buy Smith’s property. The County Administrator “began efforts to purchase the property from Smith” shortly after.

The County purchased Smith’s property in June 2007. Due to the issue of the County buying property from a County Official and normal procedures being skipped, the St. Petersburg Times newspaper printed an “investigative report” regarding the purchase. This report led to the 2007 Grand Jury Presentment and its recommendations in a report dated August 23, 2007.

### **Methodology**

During the review, we performed the following:

1. Requested information and documentation on the implementation of the recommendations from those affected by the Grand Jury Presentment.
2. Reviewed documents provided in response to our request.
3. Evaluated the processes put in place from the Grand Jury recommendations.



**Objective #1:**

Determine the status of each recommendation from the 2007 Grand Jury Presentment.

1. *“It is therefore the recommendation of the Grand Jury that the County provide concise, but comprehensive written legal guidance to its employees concerning the circumstances under which emergency and other county personnel may enter on the private Property of one party in order to prevent the flooding of adjacent or upstream property or to end or prevent any other perceived emergency.”*

County Administrator Barry Burton (Burton) provided a memorandum (memo) dated September 27, 2007, from the former County Administrator, Stephen M. Spratt, that went out to all Directors under the County Administrator’s authority stating that County personnel “shall not access or utilize privately-owned property without the express legal authority to do so.” This included any “contractors working on behalf of the County.” In addition, Burton provided forms certain departments use to document the need to access a property and obtain the property owner’s approval to do so. We determined this recommendation was implemented.

2. *“In the event of potential conflicts in matters handled by the Office of County Attorney, the signing of a waiver form should become the knowledge of the County Administration and the remaining Commissioners and the bounds of such waiver should be unmistakably clear that no conflicting personal representation is approved.”*

County Attorney Jewel White (White) provided that a policy was established in March 2008, called the Legal Representation of Multiple Clients Policy, which the Board of County Commissioners adopted on March 18, 2008. It outlines the County Attorney’s responsibility when representing multiple clients and a direction for dealing with potential conflicts. Attorney White provided a copy of the policy with her response. We determined this recommendation was implemented.

3. *“Although there could be additional expense to the taxpayers and although it is unlikely that these circumstances would be replicated, the County Commission should review Sec. 4.02(c) of the County Charter and make a determination as to whether the County Attorney should continue to represent the County Constitutional Officers named in Sec. 4.03 of the Charter.”*

White provided in her response that the Charter Review Commission opted to add the County Constitutional Officers “to the hiring/firing and review process for the County Attorney” rather than “eliminate the representation of the Constitutional Officers.” The recommendation was made to have the County Attorney report directly to the Board of County Commissioners and was approved on November 8, 2016. We determined the County applied an acceptable alternative to this recommendation.



4. *“In the unusual circumstance that an elected official threatens a personal damage suit against, or wishes to engage in a significant financial transaction with the County, it is imperative that normal, objective procedures not be short circuited through rushed appraisals, confused attorney loyalties, or the failure to consider all appropriate alternatives.”*

Burton indicated there is a list of County-approved appraisers. Staff must obtain quotes from at least three appraisers and select the lowest-qualified bidder. The County-approved list is updated every five years. White stated that a policy exists which eliminates the ability for the County Attorney’s Office to “represent elected officials, officers, or employees in their private capacities in legal matters.” We determined this recommendation was implemented.

5. *There should be full public disclosure of the ownership of the property being purchased and such purchases should be subject of open discussion at the time of purchase contract approval. That discussion should include exploration of other alternatives to purchasing the entire property.”*

Burton indicated that when a property is being purchased (for any reason), “all purchase contracts are processed through the County’s public legislative software.” Each contract is reviewed by members of “Finance, Office of Management & Budget, Risk, Legal, two department directors (Administrative Services and requesting department), and County Administration, prior to final approval by the BCC.” Each approver has the opportunity to make comments, suggestions, or ask questions during the review process. In addition, the citizen(s) involved with the conveyance of property, either to the County or from the County, fills out a form that discloses whether they have family who works for the County, are an employee of the County, or if they are unaware if any family works for the County in either an elected capacity or not.

Property Appraiser Mike Twitty (Twitty) concurred with the recommendation and stated that “elected Constitutional Officers are required to file a Form 6 financial disclosure every year while in public office.” This disclosure details “all property owned in whole or in part by these elected officials” and shows transparency for the constituents of the County. We determined this recommendation was implemented.

6. *“The County should review the placement of the County Real Estate Division within the County’s organizational structure in a way that would create independence and avoid potential conflicts.”*

Burton confirmed the Real Estate Division is no longer under the guidance of the Public Works Department. It was moved within the Department of Administrative Services and was renamed Facilities and Real Property. We determined this recommendation was implemented.



7. *“Recommend that the legislative delegation seek enactment of a law providing for an independent review of appraisals of property in which any County Property Appraiser has an interest.”*

Since this recommendation involved an issue that was localized to the County, the County Legislative Delegation determined it did not need to be escalated to the State level. Twitty opined that passing such a law “would be applying a different standard to an elected Property Appraiser than to any other constitutional officer.” He also stated, “I know of no elected Property Appraisers that would ever be involved in the valuation of a property in which they hold an ownership interest.” We determined this recommendation was not implemented and found the justification reasonable.

**Conclusion:**

Based on our review, we determined five recommendations were implemented, one was not implemented, and the County applied an acceptable alternative to one. Policies and procedures have been implemented to deter a repeat of the incident that led to the Presentment.

**Objective #2:**

Review the control environment to determine if additional safeguards are needed related to the recommendations and associated activities.

**Conclusion:**

We commend the actions taken as a result of the 2007 Grand Jury Presentment and encourage County leadership to continue enforcing the implemented policies and procedures. We do not recommend any further controls at this time.

