

# OFFICE OF INSPECTOR GENERAL CITY OF JACKSONVILLE



## REPORT OF INVESTIGATION #2021-0003

JEA Employee Solicited and Accepted  
Materials from Homebuilder Employees

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**MATTHEW J. LASCELL**  
INSPECTOR GENERAL

**AUGUST 16, 2022**

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**DATE ISSUED**

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



# EXECUTIVE SUMMARY

*Report of Investigation 2021-0003*

In August of 2021, the Office of Inspector General (OIG) received information from JEA Audit Services regarding Michael “Opie” Colley (Colley), Meter Specialist Foreman, Field Services Department (Field Services), JEA (civil service position).

Colley’s supervisor Kyle Padgett (Padgett), Manager of Field Services, Field Services, JEA, became concerned Colley’s approved secondary employment was negatively affecting Colley’s work at JEA due to Colley’s delayed response to a JEA-related accident in August of 2020.

In September of 2020, Padgett brought his concerns to the attention of JEA Audit Services. In July of 2021, JEA Audit Services confirmed there was a potential conflict where Colley may have worked his approved secondary employment during scheduled hours and/or overtime hours claimed at JEA. Based on Colley being potentially in violation of JEA policies, JEA Audit Services referred this matter to JEA Labor Relations in July of 2021. JEA Labor Relations conducted a fact-finding meeting in August of 2021.

As part of JEA Audit Services’ review, they reviewed the contents within Colley’s JEA-issued cellphone for calendar years 2017 through 2021. The review revealed the following: images and text messages of various construction materials including grass, crown molding, and irrigation parts, some of which were associated with five homebuilder employees; audio recordings, some of which were associated with JEA related matters; and Global Positioning System (GPS) data indicating potential falsification of time and attendance records by Colley.

Based on their review, JEA Audit Services referred the matter to the OIG. This resulted in the OIG initiating an administrative investigation in accordance with §602.303, *City of Jacksonville (COJ) Ordinance Code*. In December of 2021, the OIG received additional information from JEA Audit Services alleging Colley had received materials from a homebuilder employee for personal use. This resulted in Colley instructing other JEA employees to provide the homebuilder employee with preferential treatment in the form of expedited JEA services.

In accordance with §602.303(j), *COJ Ordinance Code*, the OIG referred this matter to the Jacksonville Sheriff’s Office Integrity/Special Investigations Unit (JSO Integrity) for criminal investigation and consideration of the following Florida Statutes in April of 2022: §112.313(2), *Solicitation or Acceptance of Gifts*; §112.313(2)(6), *Misuse of Public Position*; §812.014, *Theft*; §838.015, *Bribery*; and §838.022, *Official Misconduct*. In June of 2022, the State Attorney for the Fourth Judicial Circuit (SAO) declined to criminally prosecute this matter and determined it was better handled administratively by the OIG.

## **The OIG conducted an investigation of the following:**

### ***Allegation 1:*** Misuse of Position

Colley misused his position by soliciting and/or accepting materials from five homebuilder employees, two of which were JEA vendors/suppliers. Finding: ***SUBSTANTIATED***.

**Allegation 2: Circumventing an Internal JEA Process**

Colley acted in a manner contrary to an internal JEA process to benefit a homebuilder employee from whom Colley had solicited and accepted materials. Finding: ***SUBSTANTIATED***.

The investigation will be referred to the COJ Ethics Commission, through the Office of Ethics, to review and determine whether Colley violated §602.401(a) of the COJ Ethics Code.

## ALLEGATIONS AND FINDINGS

### ALLEGATION 1: MISUSE OF POSITION

***Michael “Opie” Colley, Meter Specialist Foreman, Field Services Department, JEA, misused his position by soliciting and/or accepting materials from five homebuilder employees, two of which were JEA vendors/suppliers. If substantiated, the allegation would be a potential violation of JEA Organizational Policies & Procedures: Acceptable Use Policy; Ethical Conduct Guidelines; Gifts Procedures; JEA and the JEA Supervisors Association; COJ Policies and Procedures: COJ Civil Service and Personnel Rules and Regulations; and COJ Ordinance Code §602.401(a). Pursuant to §602.921(a), in part, the Ethics Commission is authorized to issue findings alleging a violation of this Chapter.***

### FINDING 1: SUBSTANTIATED

#### **JEA Cellphone Records**

An OIG review of Colley’s JEA-issued cellphone revealed text messages dated September 18, 2020 through June 30, 2021 exchanged between Colley and five homebuilder employees. The texts messages revealed Colley soliciting, being offered, and/or accepting items from the homebuilder employees listed in the charts below:

**Text Messages dated September 18, 2020 through May 17, 2021, exchanged between Colley and Neal Goodman, Area Manager, DR Horton Homes (hereinafter referred to as Area Manager, Homebuilder 1) reflected:**

Dates	Items	Colley Solicited Items	Homebuilder Offered Items	Colley Accepted Items
September 18, 2020	100 Feet of Crown Molding	X		X
January 20, 2021	60 - 70 Feet of Crown Molding	X		
January 31, 2021	60 - 70 Feet of Crown Molding and Grass (No Specific Amount of Grass)	X		
March 18, 2021	St. Augustine Grass (No specific amount)	X		
March 31, 2021	Grass (No specific amount)		X	
April 5, 2021	40 Pallets, Half Pallet, or Quarter Pallet of Grass	X		
April 19, 2021	4 Pallets of Grass		X	X
April 25, 2021	Several Pallets of Grass	X		
May 3, 2021	Grass (No specific amount)		X	
May 13, 2021	Approx. 2 Pallets of Grass		X	
May 17, 2021	Approx. 2 Pallets of Grass	X		X

Text Messages dated March 9, 2021 through June 30, 2021, exchanged between Colley and Cedric Henderson, Construction Manager, Lennar Homes (*hereinafter referred to as Construction Manager, Homebuilder 2*) reflected:

Dates	Items	Colley Solicited Items	Homebuilder Offered Items	Colley Accepted Items
March 9, 2021	Half Pallet of Grass		X	X
March 9, 2021	Half Pallet of Grass	X		
March 12, 2021	1 Pallet of Grass		X	X
May 26, 2021	Grass (No specific amount)	X		
June 29, 2021	Couple Pallets of Grass		X	X

Text Messages dated June 28, 2021, exchanged between Colley and Quinn Keller, Building Superintendent, Dream Finders Homes (*hereinafter referred to as Building Superintendent, Homebuilder 3*) reflected:

Dates	Items	Colley Solicited Items	Homebuilder Offered Items	Colley Accepted Items
June 28, 2021	Grass (No specific amount)	X		

Text Messages dated June 28, 2021, exchanged between Colley and Ryan of Dream Finders Homes (*hereinafter referred to as Homebuilder 3 Employee*) reflected:<sup>1</sup>

Dates	Items	Colley Solicited Items	Homebuilder Offered Items	Colley Accepted Items
June 28, 2021	Grass (No specific amount)	X		

Text Messages dated January 22, 2021 through April 26, 2021, exchanged between Colley and Phillip of Oakleaf Plantation (*hereinafter referred to as Homebuilder 4 Employee*) reflected:<sup>2</sup>

Dates	Items	Colley Solicited Items	Homebuilder Offered Items	Colley Accepted Items
January 22, 2021	Grass (No specific amount)		X	
February 1, 2021	Stone (No specific amount)	X		
February 10, 2021	Grass (No specific amount)	X		
February 13, 2021	Siding and Scrap PVC (No specific amount)			X
February 19, 2021	Stone (No specific amount)		X	X
March 9, 2021	Materials and Grass (No specific materials or amount)	X		
March 9, 2021	Siding (No specific amount)		X	X
March 11, 2021	Siding (No specific amount)		X	
April 23, 2021	Grass (No specific amount)	X		

### JEA Vendor/Supplier Records

According to JEA records, the following homebuilders are JEA vendors/suppliers: Homebuilder 1 with a corresponding supplier number of 923160 dating back to 2019, and Homebuilder 2 with a corresponding vendor number of 915704 dating back to 2014.

<sup>1</sup> The Homebuilder 3 Employee was not interviewed during this OIG investigation.

<sup>2</sup> The Homebuilder 4 Employee was not interviewed during this OIG investigation.

**JEA Training Records****JEA Organizational Policies & Procedures**

According to JEA training records, Colley completed the following relevant JEA Organizational Policies & Procedures addressing unacceptable use of JEA-owned resources (e.g., cellphone), conflicts of interest, and ethical related matters:

<b>JEA Organizational Policies &amp; Procedures</b>	<b>Colley's Completion Dates</b>
Acceptable Use Policy, Revised Date October 2, 2018	March 8, 2019
Ethical Conduct Guidelines, Effective Date March 5, 2019	November 21, 2019
Gift Procedures, Effective Date October 3, 2019	November 21, 2019
Acceptable Use Policy, Effective Date February 11, 2021	March 18, 2021
JEA Code of Conduct, Effective Date February 18, 2021	March 18, 2021

**JEA Refresher Learning Courses**

According to JEA training records, Colley also completed the following relevant JEA Refresher Learning Courses addressing misuse of position, conflicts of interest, and ethical related matters:

<b>JEA Refresher Learning Courses</b>	<b>Colley's Completion Dates</b>
Business Ethics Refresher 2019 Course CBT	March 5, 2019
Business Ethics Refresher 2020 Course	February 26, 2020
Business Ethics Refresher 2021 Course	March 16, 2021

**WITNESS TESTIMONY****Statement of Area Manager, Homebuilder 1**

The Area Manager stated the following regarding text messages exchanged between him and Colley:<sup>3</sup>

Regarding the September 18, 2020 text messages reflecting Colley soliciting and obtaining 100 feet of crown molding from the Area Manager, the Area Manager stated they did not recall this incident or the surrounding circumstances regarding this incident.

Regarding the January 20, 2021 text messages reflecting Colley soliciting 60 to 70 feet of crown molding from the Area Manager, the Area Manager recalled this incident. However, they did not recall ordering crown molding specifically for Colley on this occasion. The Area Manager explained Homebuilder 1 has a process whereby the Superintendent orders the materials, the Area Manager approves the order, and then the Purchasing Manager approves the order. Based on this process, the Area Manager assumed they contacted the Superintendent, requested the crown

<sup>3</sup> Refer to the chart on page 2 of this report.

molding, and then asked for the crown molding be placed in a garage for Colley to pick up. The Area Manager estimated the cost of crown molding to exceed \$1 per foot.

Regarding the January 31, 2021; March 18, 2021; April 5, 2021; April 25, 2021; and May 17, 2021 text messages reflecting Colley soliciting various amounts of grass from the Area Manager, the Area Manager stated Colley had solicited grass, specifically leftover St. Augustine grass, from them on various occasions. The Area Manager could not recall the specific dates or number of occasions this occurred. However, they agreed the dates and number of Colley's solicitations identified by the OIG were accurate.<sup>4</sup> The Area Manager explained when Homebuilder 1 has leftover home materials (e.g., grass), they consider it to be trash. Therefore, it is either disposed of or taken by other people. The Area Manager estimated the cost of a pallet of St. Augustine grass to be \$170.

Regarding the March 31, 2021; April 19, 2021; May 3, 2021; and May 13, 2021 text messages reflecting the Area Manager offering and/or providing Colley with various amounts of grass, the Area Manager stated they offered and/or provided Colley with grass based on them personally knowing Colley and their meter services being expedited by Colley. The Area Manager stated, *"It was kind of a you're helping me out, I'm a help you..."* Overall, the Area Manager stated they would not have offered and/or provided Colley with grass and crown molding if it were not for Colley's initial solicitation.

### **Statement of Construction Manager, Homebuilder 2**

The Construction Manager stated the following regarding text messages exchanged between him and Colley:<sup>5</sup>

Regarding the March 9, 2021 text messages reflecting the Construction Manager offering and providing Colley with a half pallet of grass, the Construction Manager stated Colley initially solicited grass, specifically St. Augustine grass, from them in person on-site at Homebuilder 2 residences on March 9, 2021. During this time, the Construction Manager told Colley that Homebuilder 2 was not going to use the grass so Colley could have it. The Construction Manager thought this conversation may have occurred while Colley was working his JEA duty hours as there were electric meters being installed during this time.

On the evening of March 9, 2021, the Construction Manager sent Colley a text message stating there was a half pallet of grass available for Colley. This text message was a follow up to Colley's earlier (March 9, 2021) in-person solicitation for grass. The Construction Manager could not recall the dates or total number of occasions they offered and/or provided Colley with grass. However, the Construction Manager recalled offering and/or providing Colley with various amounts of grass on several occasions, based on its availability, which was then picked up by Colley outside of his JEA duty hours.

Regarding the June 29, 2021 text messages reflecting the Construction Manager offering Colley a couple pallets of grass in exchange for covering some non-JEA property with grass, the

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<sup>4</sup> Refer to the chart on page 2 of this report.

<sup>5</sup> Refer to the chart on page 3 of this report.

Construction Manager stated they had leftover grass and some areas needing to be covered with grass on June 29, 2021. The Construction Manager stated, *“I think I told him [Colley], he can have it [grass] just put those couple of pieces down for me [sic] and take the rest.”*

Overall, the Construction Manager offered and/or provided Colley with grass based on Colley’s initial solicitation for grass on March 9, 2021. The Construction Manager stated they would have offered and/or provided Colley with grass, whether Colley was or was not a JEA employee. However, the Construction Manager has never offered and/or provided home materials to any other JEA employees, except for Colley. The Construction Manager stated when Homebuilder 2 has leftover home materials (e.g., grass), it is either disposed of, or taken by other people. The Construction Manager estimated the wholesale cost of a pallet of grass to be approximately \$175.

### **Statement of Building Superintendent, Homebuilder 3**

The Building Superintendent stated the following regarding text messages exchanged between him and Colley:<sup>6</sup>

Regarding the June 28, 2021 text messages reflecting soliciting grass from the Building Superintendent, the Building Superintendent stated Colley solicited grass from them through text message on June 28, 2021, believed to be leftover St. Augustine grass. However, there was no grass available then and Colley did not obtain any grass on that date or later. The Building Superintendent stated this was the only occasion Colley had solicited any type of home materials from them. The Building Superintendent estimated the wholesale cost of a pallet of St. Augustine to be \$250.

The Building Superintendent stated when Homebuilder 3 has leftover home materials (e.g., grass), it is either disposed of or taken by other people. However, in Colley’s situation, the Building Superintendent stated, *“After one time meeting the guy [Colley] and him [Colley] helping me out that one time, I thought it was like kind of out the blue.”*

### **Statement of Kyle Padgett, Manager of Field Services, Field Services, JEA**

Padgett stated the following regarding the five charts reflecting Colley soliciting, being offered, and/or accepting items from five homebuilder employees:<sup>7</sup>

Padgett stated he was unaware of these incidents as Colley never reported any of these matters to him. Padgett explained if he had been made aware of these incidents, he would have requested for a fact-finding investigation to be completed. Overall, Padgett stated Colley’s actions were inappropriate because Colley should not solicit, be offered, and/or accept materials from any homebuilder employees. Padgett stated Colley soliciting and/or accepting materials from homebuilder employees is unacceptable and a conflict of interest.

## **SUBJECT TESTIMONY**

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<sup>6</sup> Refer to the chart on page 3 of this report.

<sup>7</sup> Refer to the charts on pages 2 and 3 of this report.

**Statement of Michael “Opie” Colley, Meter Specialist Foreman, Field Services, JEA**

Colley stated he used his JEA-issued cellphone to solicit “*extra scrap materials*” from the Area Manager and Construction Manager. Colley also stated he accepted materials from the Area Manager and Construction Manager. Colley advised he would not have known the homebuilder employees if it were not for his official JEA employment/position. Colley explained he would not have purchased any materials (e.g., grass and crown molding) using his personal funds because he saw the materials being provided by the homebuilder employees as waste.

Colley stated the following regarding text messages exchanged between him and the Area Manager:<sup>8</sup>

Regarding the September 18, 2020 text messages, Colley had knowledge of scrap crown molding (crown molding) being at different job sites. Based on this knowledge, Colley inquired if the Area Manager saw any crown molding, which Colley intended to use for a personal project. Colley believed he obtained 100 feet of crown molding from the Area Manager on this occasion. Colley stated his personal project may or may not have been completed if he had not been provided with the crown molding. According to Colley, the crown molding had no value based on it being scrap material.

Regarding the January 20, 2021 text messages, Colley had knowledge of crown molding being in certain areas because he had seen it in previous years. Based on this knowledge, Colley solicited 60 to 70 feet of crown molding from the Area Manager, which Colley intended to use for his personal master closet. Colley did not know if he obtained the 60 to 70 feet of crown molding from the Area Manager on this occasion.

Regarding the March 31, 2021 text messages, Colley stated the Area Manager offered him grass because, “*Maybe there was a previous discussion...or he [the Area Manager] knew in the past, I had asked for some sod [grass] or something.*” As a result, the Area Manager informed Colley eight yards of grass were being installed and there may be left over grass for Colley.

Regarding the April 5, 2021 text messages, Colley stated he did not solicit 40 pallets of grass from the Area Manager because Colley did not directly ask for the grass. Colley explained his text messages related to this grass were meant to be humorous, but his intentions were to obtain any amount of grass available from the Area Manager. As a result, Colley followed up with a text message asking the Area Manager for a half or quarter pallet of grass, which Colley intended to install around his new home and pool. According to Colley, the grass had no value based on it being scrap material.

Colley stated the following regarding text messages exchanged between him and the Construction Manager:<sup>9</sup>

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<sup>8</sup> Refer to the chart on page 3 of this report.

<sup>9</sup> Refer to the chart on page 3 of this report.



Regarding the March 9, 2021 text messages, Colley stated the Construction Manager offered him grass because, *“If something was left over, he [the Construction Manager] may have previously given me some, or if I had asked him [the Construction Manager] in the past, he [the Construction Manager] didn’t have any at the time and he [the Construction Manager] remembered it.”*

Regarding the June 29 and 30, 2021 text messages, Colley stated there was no grass underneath the pallets of grass being offered by the Construction Manager. As a result, Colley took grass from the pallet, removed the pallet, then installed grass in the vacant spot. Afterwards, Colley used his JEA-issued cellphone to send the Construction Manager a photograph, as proof Colley had covered the vacant spot with grass.

According to Colley, his subordinates were aware of him soliciting and accepting materials from the homebuilder employees. Colley explained he made his subordinates aware of these matters through verbal and text message communication. Colley stated he would tell them, *“If you see something just ask them. They’re going to throw it away.”*

Colley also believed Padgett was aware of the above-mentioned matters, as Padgett and another JEA employee were present when Colley solicited materials (possibly scrap grass or siding trim) from a homebuilder employee in early/mid 2021. Overall, Colley had not reported any occasions to JEA officials, including Padgett, where he had solicited, been offered, and/or accepted materials from the homebuilder employees. Colley did not report these matters to JEA officials because he described the materials as waste with no value.

Colley stated he did not recall using his JEA-issued cellphone to solicit for materials from the Building Superintendent, Homebuilder 3 Employee, and Homebuilder 4 Employee. Colley also stated he did not recall if he had used his JEA-issued vehicle to obtain materials from the homebuilder employees.

Colley stated he did not recall soliciting, being offered, and/or accepting materials from any other homebuilder employees. Colley stated he did not provide any homebuilder employees with a benefit or preferential treatment in exchange for materials. Further, Colley stated he did not provide any homebuilder employees with expedited JEA services in exchange for materials.

## **ALLEGATION 2: CIRCUMVENTING AN INTERNAL JEA PROCESS**

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***Michael “Opie” Colley, Meter Specialist Foreman, Field Services Department, JEA, acted in a manner contrary to an internal JEA process to benefit a homebuilder employee, from whom Colley had solicited and accepted materials. If substantiated, the allegation would be a potential violation of JEA Organizational Policies & Procedures: Ethical Conduct Guidelines; JEA and the JEA Supervisors Association; COJ Policies and Procedures: COJ Civil Service and Personnel Rules and Regulations; and COJ Ordinance Code §602.401(a). Pursuant to §602.921(a), in part, the Ethics Commission is authorized to issue findings alleging a violation of this Chapter.***

## **FINDING 2: SUBSTANTIATED**

### JEA E-mail Records

An OIG review of Colley's JEA e-mail account revealed the following relevant e-mails exchanged between Colley (also referred to as "Opie") and Shannon Leggett (Leggett), Customer Advisor III, Electric Services and Development Projects Department (Electric Services), JEA, pertaining to Construction Manager, Homebuilder 2:

**From:** Colley, Michael A. <collma@jea.com>  
**Sent:** Thursday, July 22, 2021 3:43 PM  
**To:** Leggett, Shannon K. <leggsk@jea.com>  
**Cc:** Funches, Brian T. <funcbt@jea.com>; Smith, Michael S. <SmitMS@jea.com>  
**Subject:** Benson Installs

Shannon,  
[Construction Manager, Homebuilder 2] should be reaching out to you to see if we can expedite the line work for these townhomes. The city inspector is scheduled to re-inspect today due to conduit issues. We can install the meters tomorrow afternoon once they tap it up.

**From:** Leggett, Shannon K. <leggsk@jea.com>  
**Sent:** Thursday, July 22, 2021 3:49 PM  
**To:** Colley, Michael A. <collma@jea.com>  
**Cc:** Funches, Brian T. <funcbt@jea.com>; Smith, Michael S. <SmitMS@jea.com>; Electric Services <electricsservices@jea.com>  
**Subject:** RE: Benson Installs - 10355 BENSON LAKE DR APT UM01

Opie,  
We do not expedite new service line orders unless it's a JEA error. We have too many repair line orders out there already in line waiting for reconnects. The unmetered main needs a final and engineer inspection before it is released.

### JEA Cellphone Records

An OIG review of Colley's JEA-issued cellphone revealed the following relevant text messages exchanged between Colley and the Construction Manager pertaining to JEA services:

Dates	Times	From	To	Text Messages
July 22, 2021	7:25 p.m.	Construction Mgr	Mr. Colley	Hey brother you get A minute call me real quick please. Got something to run by you no
	7:52 p.m.	Mr. Colley	Construction Mgr	pls see my email, let me know once it's done and I'll send the installs out same day
	7:59 p.m.	Construction Mgr	Mr. Colley	Yes sir
July 26, 2021	2:21 p.m.	Construction Mgr	Mr. Colley	Good morning brother don't know if you're back in town or not we finally just got the electrical past the inspector is leaving as we speak so I'm just waiting on him to update everything in the system so we're good to go so as soon as you see it on your so I can you do it check for me we're kind of stuck between a rock and a hard place right now getting these things close this week. Let me know...I owe you!
	2:22 p.m.	Mr. Colley	Construction Mgr	I will follow up shortly and confirm everything processed correctly, I'll make a call once the engineer releases the line work
	2:23 p.m.	Construction Mgr	Mr. Colley	Ok
July 27, 2021	1:11 p.m.	Construction Mgr	Mr. Colley	Good morning brother just checking to see has anything changed on your side as far as the engineers etc.?
	1:25 p.m.	Mr. Colley	Construction Mgr	I'll check
	4:32 p.m.	Mr. Colley	Construction Mgr	I'm still working on it
	4:33 p.m.	Construction Mgr	Mr. Colley	Ok
July 28, 2021	12:15 p.m.	Construction Mgr	Mr. Colley	Good morning buddy I see a JEA truck here I believe it's possibly the engineer.
	12:18 p.m.	Mr. Colley	Construction Mgr	sweet
	12:27 p.m.	Construction Mgr	Mr. Colley	OK he's leaving look like he's done

### WITNESS TESTIMONY

#### Statement of Shannon Leggett, Customer Advisor III, Electric Services, JEA

Leggett stated meter related services should only be expedited for two reasons: JEA permit exceptions and JEA errors. Leggett explained a JEA error could be either a systematic or employee error. She described a JEA systematic error as JEA's internal systems not reflecting the finalization of electrical inspections or release of the electrical permits. She described a JEA employee error as the System Tech-Electric not releasing the electrical permit.

Leggett and/or Electric Services is responsible and has the discretion to determine if a JEA error has occurred. If a situation is deemed as a JEA error, Leggett would send an e-mail to Field Services' Distribution inbox requesting Field Services expedite the meter ticket (ticket). This e-mail would be comprised of the request to investigate the ticket, act immediately (e.g., meter installation), and the type of JEA error. In abnormalities requiring line work or repairs, she would contact the Field Services' Dispatchers directly and request for the line work or repairs to be completed. Ultimately, once a request is made, Field Services has the discretion to determine how and when the meter related services will be completed.

Regarding the July 22, 2021 e-mails,<sup>10</sup> Leggett stated the Benson address appeared to be a new townhome with more than six meters. Therefore, JEA requires the homebuilder's electrician (electrician) obtain an unmetered main permit. She recalled the meter tickets were finalized for the Benson address, but the unmetered main permit had not been inspected and finalized by the System Tech-Electric. She stated the unmetered main permit is generally inspected and finalized, then the line work is issued to be inspected. Based on her knowledge, she stated, *"They got finals on the permits before the unmetered main permit was final, so there was no reason to try and expedite something."*

Regarding Colley's July 22, 2021 e-mail request to expedite line work, she stated, *"The line order wasn't even out in the field to issue to the crew yet, it had not been finalized or released at that time...I would assume he [Colley] was trying to expedite the meter install tickets."*

Regarding her response to Colley's July 22, 2021 e-mail request, she stated, *"I was explaining that this was not something that needed to go out, that the other customers that already waiting are the ones that needed to be completed first."* She explained this situation would not have warranted expedited meter services from JEA based on JEA's standard practice/timeline, as a JEA error had not occurred.

On July 23, 2021, she spoke with Daniel Griffis (Griffis), System Tech-Electric, JEA, regarding another matter. During their conversation, Griffis informed Leggett that Colley contacted him regarding the unmetered main breaker permit for the Benson address. Griffis told Leggett, *"Why did Opie call me about that unmetered main permit, was there something like wrong, why are we trying to get it done."*

Further, Griffis stated Colley asked him if he was going to inspect the unmetered main permit related to the Benson address on July 23, 2021. Griffis informed Leggett that Colley does not contact him (Griffis) regularly. Therefore, Griffis assumed the Benson address *"needed to be done,"* which caused Griffis to make it one of the first inspections he completed. On July 23, 2021, Leggett contacted Colley, and, during their conversation, she told Colley, *"I already told you no...you can't do that, you don't expedite new homes."* Additionally, she told Colley if he tried to expedite meter related services again, she would report him.

Leggett stated Colley's actions were inappropriate because, *"It's a new building and there was no reason to try and push to get this done, when there's already other permits... other line orders... there was no reason to expedite a brand-new building."* Leggett believed Colley's actions expedited the meter related services for the Benson address.

Approximately two weeks after July 22, 2021, Leggett heard rumors Colley had received grass from Homebuilder 2 (source of rumor not recalled). After hearing this rumor, she thought, *"It explained why he [Colley] was trying to expedite this...because you would have been doing a favor for sod [grass]."* During the OIG interview, she believed these rumors were related to either Homebuilder 2 or another homebuilder.

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<sup>10</sup> Refer to the e-mails on page 9 of this report.

**Statement of Daniel Griffis, System Tech-Electric, JEA**

Griffis explained after the unmetered main permit is finalized by COJ, the System Tech-Electric must inspect the work within 48 hours and determine whether the completed work is in accordance with JEA rules and regulations. According to Griffis, the electrician is responsible for ensuring each meter socket within the unmetered main is assigned a unique address, which would be inspected and released by the System Tech-Electric.

Griffis stated Colley contacted him regarding the Benson address prior to July 27, 2021. Griffis stated, *“He [Colley] may have called and said, hey can you stop by and take a look at this, they’re calling me wanting to get this done or something like that...I said, oh okay I’ll put it on the top of my list or something like that.”* Griffis stated he would not have provided the Benson address with priority service if it were not for Colley’s actions. Therefore, Griffis believed Colley was expediting JEA services for Homebuilder 2.

Afterwards, Griffis contacted Leggett regarding his above-mentioned conversation with Colley and asked Leggett, *“Why is Opie calling me because I’m going to go out and look at it because it on my list of things to do...he [Colley] normally doesn’t call about stuff like that.”*

On or about July 27, 2021, the unmetered main permit for the Benson address was finalized by COJ. Within 48 hours (on or about July 28, 2021), Griffis visited the Benson address and saw each individual meter socket within the unmetered main was not assigned a unique address. Based on this issue, Griffis contacted the electrician and made them aware this issue needed to be corrected. The electrician assigned the meter socket addresses as required and Griffis released the permit after this matter had been resolved.

**Statement of Kyle Padgett, Manager of Field Services, Field Services, JEA**

Padgett explained Colley’s job duties included communicating directly with homebuilders in a professional manner regarding JEA meter services. However, Padgett stated homebuilders, *“should really not have that much communication with our department”*, because they need to communicate directly with Leggett as she is responsible for identifying JEA errors, determining the JEA services needing to be completed, and contacting the specific JEA department to have those services expedited.

Based on Colley’s official position, Padgett stated Colley is familiar with the JEA error process as Colley communicated with Leggett and other relevant JEA departments within this process. If JEA errors are identified (i.e., by Leggett) and forwarded to Field Services, then Colley is responsible for ensuring a Meter Specialist is dispatched to complete the meter services timely.

Padgett believed it was inappropriate for Colley to expedite meter services for homebuilders under any circumstance. Padgett stated, *“If a JEA error occurs, it wouldn’t be in my department, so therefore he [Colley] has no reason to expedite...”* If homebuilders ask Colley to expedite their meter services, Padgett’s expectation is for Colley to make them aware of JEA’s process and resolve issues as appropriate without expediting their meter services.

Regarding the July 22, 2021 e-mails,<sup>11</sup> Padgett stated line work and unmetered main permits are outside of Colley's job duties. Therefore, Padgett believed it was inappropriate for Colley to contact Leggett and/or other JEA employees to expedite the line work and unmetered main permit in relation to a homebuilder. Padgett's expectation is for Colley to inform the homebuilder to contact Leggett directly in these situations.

Padgett stated, *"He [Colley] should not be contacting the engineer [System Tech-Electric], that's not his role, he doesn't have that authority to direct an engineer [System Tech-Electric] on what to make a priority, that is not his job description at all."* Padgett believed Colley's actions were a conflict of interest and provided a benefit and/or preferential treatment to the Construction Manager, who Padgett thought received expedited JEA services in exchange for providing Colley with materials.

### **Statement of Construction Manager, Homebuilder 2**

To the Construction Manager's knowledge, neither they nor Homebuilder 2 received any benefits or preferential treatment from Colley in exchange for providing Colley with home materials.

## **SUBJECT TESTIMONY**

### **Statement of Michael "Opie" Colley, Meter Specialist Foreman, Field Services, JEA**

Colley stated either the Construction Manager or another JEA employee made him aware of the surrounding circumstances regarding the Benson address. Colley sent the July 22, 2021 e-mail<sup>12</sup> to Leggett because he was aware of this situation, he had a work order to look into these matters, and he was also providing customer service. According to Colley, he had a habit of sending e-mails directly to Leggett rather than the Electric Services inbox.

Colley understood Griffis was going to receive a work order related to the Benson address. Based on this knowledge, Colley contacted Griffis directly and informed Griffis of the work order. During their conversation, Colley also asked Griffis if Griffis could inspect and release the unmetered main so Field Services could install the meters at the Benson address. Colley asked Griffis, *"If you could look at it today rather than tomorrow."*

Colley admitted line work services, JEA errors, unmetered main permits, and expediting JEA services were outside of his job duties. Colley explained these matters only led him to completing his job duties. Colley stated he did not go outside of his job duties to assist the Construction Manager in relation to the Benson address because Colley only communicated with other JEA departments. Therefore, Colley stated he did not provide the Construction Manager with a benefit or preferential treatment in the form of expedited JEA services.

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<sup>11</sup> Refer to the e-mails on page 9 of this report.

<sup>12</sup> Refer to the e-mail on page 9 of this report.

**RECOMMENDED CORRECTIVE ACTIONS**

The OIG recommends JEA:

1. Ensure JEA employees are directing customers to the Electric Services internal inbox, [electricsservices@jea.com](mailto:electricsservices@jea.com), for permit related questions.
2. Upon public release, JEA place a copy of the OIG report in Colley's personnel file.

**IDENTIFIED, QUESTIONED, AND AVOIDABLE COSTS**

**Identified Cost:** N/A

**Total Questioned Costs:** N/A

**Avoidable Cost:** N/A

**SUBJECT'S RESPONSE**

On July 21, 2022, the OIG provided a copy of the draft report of investigative findings to Colley's legal representative. On August 1, 2022, the OIG received a written response from Colley's legal representative. The OIG reviewed the response and determined there was not sufficient information to change the OIG's findings. The subject response is attached in its entirety to this report.

**MANAGEMENT'S RESPONSE**

On July 21, 2022, the OIG provided a copy of the draft report of investigative findings to JEA. The OIG did not receive a response from JEA within 10 calendar days.

Attachment:

- A. Subject Response, dated August 1, 2022

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



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August 1, 2022

**VIA U.S. MAIL & EMAIL**

Office of Inspector General  
231 E. Forsyth Street  
Suite 470  
Jacksonville, FL 32202  
Email [InspectorGeneral@coj.net](mailto:InspectorGeneral@coj.net)

Re: Employee's Response to Draft Investigative Report

Dear Office of Inspector General:

I am submitting this letter on behalf of my client, Michael Colley, in response to the draft report provided to my office for review. In the past, my office has provided responses to draft reports, only to find that our analysis of investigative issues and concerns was simply added as an exhibit, and the draft report published without addressing or acknowledging the employee's concerns or position. We would hope that your office has changed its policies and would at least consider the employee's input and concerns.

The Office of Inspector General draft investigation concludes that Michael Colley asked various contractors whether he could take scrap materials that were getting thrown out anyway and were otherwise freely available to members of the public. From those findings, the draft report concludes that Colley technically violated ethical guidelines.<sup>1</sup> What the investigation does not address is why the JEA spent untold amounts of time and money to squash a low-level employee for technical violations, while failing to conduct an investigation to determine whether or not its own policies or procedures should be evaluated and changed. The OIG has a larger purpose than

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<sup>1</sup> Apparently, the OIG has included the one or two of the contractors were actually "vendors" of JEA. Certainly, Michael Colley had no knowledge of such fact, and none of the parties involved engaged in any vendor activity relating to Colley. Nevertheless, the report concludes that one or more contractors had vendor status, in order to try to wedge this case into the narrow definition contained in the Jacksonville Ordinance code. Such a hyper technical use of vendor status is simply not reasonable and does not reflect a good faith effort to truly address the roles of parties in question. Further, testimony from the Jacksonville Civil Service Board hearing revealed that Colley had been told by the contractors in question that he was free (as anyone else would be) to take scrap before he ever specifically asked about any specific scrap materials, and therefore he did not "solicit" such materials (to the extent that asking to take away scrap or trash can be considered the product of "solicitation" to begin with)



simply to "pile on" allegations for low-level employees who committed relatively minor or effectively technical offenses. The investigative conclusions miss the larger questions, and I am writing to ask that they be considered before the investigation is formally concluded.

One significant question that should have been asked is why JEA spent enormous resources on a large-scale, detailed analysis of alleged "time theft" and came to conclusions that the OIG apparently determined were too insignificant to address in its report. As reflected in the JEA investigative summaries sent to the OIG, JEA seriously contended that Michael Colley engaged in "time theft" for, among other things, taking a minute or two to answer texts or engaging in personal phone calls with his wife and other family members. Scores of spreadsheets were produced with red markings, showing that JEA focused on the fact that Michael Colley had dared to visit a Chick-fil-A despite the fact that virtually every one of those visits showed that he was on the phone or texting or emailing members of his crew at time. The records assert that various personal activities were "time theft," while failing to acknowledge that Colley daily took lunch breaks of much less than the hour that he was permitted, and during such breaks engaged in constant communications that were clearly work-related. JEA further failed to obtain the computer records that would have clearly shown that Michael Colley began his workday each and every day and engaged in further work activities after the end of the day.

Instead of focusing on the efforts of a very hard-working, dedicated, and highly evaluated JEA employee to obtain scrap materials that were already disposed of or ready to be disposed of by builders, perhaps the OIG should examine JEA's pattern of selective vindictiveness. Rooting out misconduct and ensuring an ethical workplace requires that rules be equitably applied, and that discipline not be selectively enforced. If JEA seriously contended that Michael Colley engaged in wage theft by taking personal phone calls or occasionally driving to a Chick-fil-A, any reasonable person would realize that the JEA should have applied such standards to its other executives, managers, and other employees. JEA has obviously not done so because characterizing the taking personal phone calls or texts (or grabbing a chicken biscuit) as wage theft is quite clearly absurd. Further, there was no effort by JEA to evaluate whether other foremen, who were similarly told during the Covid-19 pandemic to work from home or work remotely, had engaged in same or similar patterns of work. Further, to the extent that the concerns were based on Michael Colley's use of a JEA issued cellular phone, there was no effort to evaluate the rules or regulations created for the use of such phones. There was no review of memoranda or communications regarding the duties or responsibilities of employees such as Michael Colley who were instructed to work remotely.

The fact that the OIG refused to find fault based on the incompletely investigated and logically suspect allegations of "time theft" hopefully suggests that the OIG is willing to independently address an agency's overblown allegations. If so, then the OIG should likewise evaluate whether the obviously enormously expensive investigation into an employee's personal phone calls and texts to determine whether the JEA's focus on such matters is itself evidence of JEA's own waste or abuse.

With regard to the first alleged infraction supported by the OIG investigation, nothing in the report documented any understanding or belief by any contractor that Michael Colley would take special action on behalf of a contractor. The contractors who were interviewed deny that any such understanding existed, and from speaking with them myself it is apparent that the intensive

focus on how their trash was distributed struck them as absurd.<sup>2</sup> Only one instance of Colley requesting expedited service was noted in the OIG report, but other records exist that will demonstrate that Colley regularly provided similar expedited or extraordinary service, and that he did so with no expectations of favors or benefits. The text records that were presented during the Civil Service Board hearing (and therefore, I would conclude were also provided to the OIG) clearly showed that Colley had a history of providing excellent service and expediting work on behalf of a number of contractors well before he obtained any scrap materials. If it is seriously alleged that Colley somehow provided extraordinary service in exchange for scrap sod or boards that had no actual value, all of Colley's communications with contractors for the last few years (readily available from his text records) should be evaluated. Such an evaluation will reveal that Colley went above and beyond, and provided excellent customer service, as reflected in his annual performance evaluations. JEA claims to be a customer service-oriented organization, but at the same time has used Colley's willingness to go "above and beyond" to suggest something nefarious. A full review of the records will reveal that Colley provided the same or similar type of service to numerous different contractors, and his providing of excellent service had absolutely nothing to do with any contractor's willingness to let him take away scrap materials.

Carla Miller, the City's Chief Ethics Officer, testified at the Civil Service Board hearing and conceded that if materials that would otherwise be thrown away were freely available to members of the public, no city employee would be prevented from obtaining those same materials. Ms. Miller suggested that the city employee should likely ask before taking away the materials from the job site, which is exactly what Michael Colley did. While Ms. Miller suggested that if she was an employee who directly deals with such contractors, she may not approach the contractor for such purpose, she did not testify that it would be improper to do so if the materials were truly scrap. Her testimony from that hearing can be transcribed upon request and I submit that it would be very useful for your analysis.

JEA periodically conducts similar detailed, extensive, and overblown investigations of relatively minor assertions of misconduct, concluding that each specific employee it targets is public enemy number one. In 2007, the JEA conducted such an investigation of several IT employees (Speicher, Haddock, and Carroll) who allegedly left work few minutes before or arrived a few minutes after their regular work hours, refusing to acknowledge the substantial work that such employees performed outside of business hours. The Civil Service Board ultimately upheld some discipline, less than termination, against such employees implicitly realizing the silliness of such overblown claims. Likewise in the 2018 David Valez case, the JEA focused its extensive investigative powers on a foreman, who performed some of his duties while in a gym rather than in his vehicle. The Civil Service Board in that case likewise issued lesser disciplinary action than the requested termination based largely on the failure of JEA to consider a host of other factors regarding its policies. Undoubtedly, the JEA has periodically engaged in such similar extensive investigations, targeting individual employees to make examples of them. My question is if JEA

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<sup>2</sup> The investigative report mistakenly focuses on the value of various products in their new condition, and neglects to evaluate the value of scrap that Michael Colley removed from the property. None of the contractors suggested that any of the scrap had any value, and the photographs revealed that it was truly trash that would have otherwise been dumped. The relevant question to ask the contractors was how much they would have paid to have the scrap sod or building material carted away, and whether any person off the street could have obtained such materials upon asking. Indeed, in one instance, a contractor told Colley he could take the remainder of a pallet of sod if he finished spreading the sod on the area where the pallet had been laid.

has the resources to evaluate employee comings and goings and extensive forensic investigative reports, why doesn't it simply use its investigative powers to more closely monitor and warn employees in a constructive fashion? Instead, JEA is selectively vindictive, using a sledgehammer to occasionally smash gnats.

Lastly, the OIG investigative report comes to the conclusion that Michael Colley violated an internal JEA policy by requesting the expedition of certain meter services. I am unaware of any authority or responsibility of the OIG to review an employee's compliance with internal operating procedures, I find it strange that the OIG would spend its time and resources conducting such an investigation. Frankly, it is very conceivable that each and every employee in the City of Jacksonville and its independent agencies violate some internal policy each and every day, and I doubt the OIG has the resources to conduct investigations of every such employee. However, I would ask the OIG, if it is seriously going to review Michael Colley's compliance with an internal policy in this instance, to review JEA's compliance with policies that are binding on it. The OIG report made clear that all information was provided to the OIG by December 2021. If Colley's conduct was so egregious, why didn't JEA discipline him at that time? The OIG process is completely separate from an agency's internal discipline process, and ultimately JEA moved forward with discipline without the OIG's conclusions in June 2022. In waiting so long to take action, JEA violated Civil Service Rule 9.05(2)(a) which provides that a department must furnish the employee with a detailed written statement of the charges within sixty working days of the conclusion of the department's own investigation.<sup>3</sup> The delay also violated the JSA collective bargaining agreement, which requires that the charges be provided within forty-five days of the end of an investigation.<sup>4</sup> While the Civil Service Board ignored the untimeliness in this case, if the JEA and other agencies continue to violate applicable standards, eventually either a future civil service board or the courts (as they have done in the past) will eventually invalidate discipline that has been unreasonably delayed.

In closing, I know from experience that the OIG generally just attaches the subject attorney's letter to its draft language and ignores the points made by the employee when an agency alleges misconduct. I would hope that, based on the significant criticism that has been recently raised about your office's investigations, and especially its unreasonable focus on low-level employees, that you would address these matters more thoroughly and reconsider the direction and

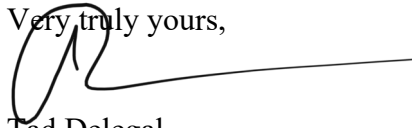
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<sup>3</sup> Any claim that the JEA did not conclude its investigation until after its June "fact-finding" meeting with Colley is belied by the fact that JEA had already concluded its determination through preprinted a letter of termination which was handed to Colley immediately upon the conclusion of the "fact-finding" conference, held roughly 7 months after the actual investigation was concluded and the investigative materials were handed to the OIG. As Judge Martin found in *Farley v. Department of Recreations and Parks*, 91-14-AP (Hon. Henry F. Martin, Jr., October 24, 1991), a subsequent investigation after the employer had more than 61 days to conduct an investigation does not negate the failure to conduct the initial investigation within 60 days. Colley asserted a violation of the sixty-day rule, which the Civil Service Board never addressed, but which could have been asserted in an appeal had Colley and the JEA not reached a settlement.

<sup>4</sup> The 45-day rule is tolled during the pendency of a criminal investigation, but the 45 days had expired well before the OIG (not the JEA) submitted the case to the Jacksonville Sheriff's Office and Office of the State Attorney in April 2022. Even if the 45 days had not already expired, the extremely brief time that the JSO and State Attorney took to find no criminal concern with the conduct could not have tolled the limitations period for more than a couple of weeks, which obviously would not have cured the improper delay.

findings of your report.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Tad Delegal', with a long horizontal line extending to the right.

Tad Delegal

TAD/pc