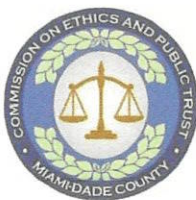


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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February 18, 2020

Mayor Carlos A. Gimenez
Stephen P. Clark Center
111 NW 1st Street, 29th Floor
Miami, Florida 33128

Re: COE Case No. K19-38, County Firefighters, Station 39
Use of County Real Property Resources

Dear Mayor Gimenez:

Enclosed you will please find the Investigative Report and Close-Out in Case No. K19-38, relating to Firefighters assigned to County Fire Station 39 located at Port Miami.

The investigation revealed a long-standing practice whereby County Firefighters collected money from cruise line passengers who were permitted to park their personal vehicles at Station 39 for days at a time while away on their cruise. The money received was placed in the Station 39 "kitty" where it was co-mingled with the regular and required Firefighter donations to that fund. In addition to paying for food and beverages from the kitty, monies were used to pay for a television cable subscription, Wi-Fi, televisions, and a barbecue.

The investigation implicated the exploitation and prohibited gift sections of the County Ethics Code. For the reasons detailed in the report, we declined to bring an enforcement action against any one Firefighter. It is noteworthy, that our reasoning was largely based on the fact that every Firefighter assigned to Station 39, for years, benefitted from the renting of the spaces to cruise passengers and that management either specifically or tacitly allowed the practice to occur.

This is the second investigation that we have closed in the last six months involving County employees using County property for purposes that did not involve the direct performance of County business. In a previous case, a County Airport employee parked his personal vehicle for several days while he was on vacation, free of charge, in a lot that the general public has to pay to utilize. That employee was directed to compensate the County for the several hundred dollars of accrued time that he parked his personal vehicle at the airport lot.

As a result of these two cases, we thought it an opportune time to speak to senior County administrators more generally about the County's policy regarding the use of County property by employees for purposes that did not involve the direct performance of County business. It does not appear that, as regards surface, covered, or stacked parking facilities, there is a specific rule that applies County-wide.

As a general policy, the Commission on Ethics advises local governments to restrict the use of public resources by their employees to the specific performance of public duties. Put another way, unless a benefit is directly related to an employee's compensation or benefits, public employees should not get for free, what the general public has to pay for.

The County addresses the use, care, control, and disposal of County Property in Administrative Order No. 8-2. That AO specifies that: "County property may only be used by employees in direct performance of County business." The AO applies to tangible property, not real property.

While the Ethics Code contains prohibitions on the exploitation of public position and gifts, it may be advisable to amend the above referenced AO or to issue a similar one that would apply to County owned real property including buildings, surface, covered or stacked parking facilities. The amended or newly issued AO should also contain the very specific and clear prohibition against the use of County *real* property for purposes that are not related to the direct performance of County business.

The enclosed report and this correspondence are being forwarded to Alan Cominsky, the Interim Fire Chief, so that he may consider what appropriate actions should be taken in response to the investigation's findings and possible violations of County or Fire Rescue Department policies.

Sincerely,

JOSE J. ARROJO
Executive Director

A handwritten signature in blue ink, appearing to read 'J. Arrojo', is written over the printed name and title.

Enclosures

cc: Alan Cominsky, Interim Fire Chief (MDFR)
Michael Murawski, Advocate (COE)
Susannah Nesmith, Investigator (COE)

gimenez k19-38 021820



Miami-Dade Commission on Ethics & Public Trust
Investigative Report

Investigators: Susannah Nesmith and Karl Ross
Complainant: Andy Alvarez
Date Opened: 9/12/19

Case No.: K19-38
Subject/Case Name: Station 39
Date Submitted: 11/7/19

Allegation(s):

It was alleged that Firefighters assigned to County Station 39 at the Port of Miami are renting out parking spaces to other firefighters from the County and other jurisdictions and to members of the public in exchange for money for the station "kitty," a fund used to buy condiments and pay the television cable bill at the fire station.

Relevant Law, Administrative Orders, and Policies:

Sec. 2-11.1 (g) of the Miami-Dade County Code (Ethics Code), relating to prohibited exploitation of official, provides as follows:

No person included in the terms defined in subsection (b)(1) through (6) and (b)(13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.

Section 2-11.1 (e) of the Miami-Dade County Code (Ethics Code) relating to prohibited gifts and gift disclosure, provides as follows:

A person described in subsection (b)(1) through (6) [includes Firefighters] shall neither solicit nor demand any gift. It is also unlawful for any person or entity to offer, give or agree to give to any person included in the term defined in subsection (b)(1) through (6) or for any person included in the term defined in subsection (b)(1) through (6) to accept or agree to accept from another person or entity, any gift for or because of:

- a. An official public action taken, or to be taken, or which could be taken;
- b. A legal duty performed or to be performed, or which could be performed; or
- c. A legal duty violated or to be violated, or which could be violated by any person included in the term defined in subsection (b)(1).

Any person included in the term defined in subsection (b)(1) through (6) shall disclose as provided herein any gift, or series of gifts from any one person or entity, having a value in excess of one hundred dollars (\$100.00). Said disclosure shall be made by filing a copy of the disclosure form required by Chapter 112, Florida Statutes, for "local officers" with the Clerk of the Board of County Commissioner simultaneously with the filing of the form with the Secretary of State.

Sec. 21-29.1.(a), of the Miami-Dade County Code, relating to persons undertaking any service for compensation on County property, provides as follows:

It shall be unlawful for any person, firm, corporation or other legal entity to engage in any private business, commercial activity, or to undertake to provide any service for compensation, or to advertise or display merchandise, or to transact any business for profit, or to solicit business, on any property or facilities owned or operated by Miami-Dade County without first obtaining a permit, concession, lease, or other authorization in writing approved or authorized by the Board of County Commissioners. A County occupational license shall not authorize any person, firm, corporation or other legal entity to engage in any of the prohibited activities on County property or facilities.

A.O. 8-5, of the Miami-Dade Implementing and Administrative Orders, provides as follows:

The Miami-Dade County Code provides that "It shall be unlawful for any person, firm, corporation or other legal entity to engage in any private business, commercial activity, or to undertake to provide any service for compensation, or to advertise or display merchandise, or to transact any business for profit, or to solicit business, on any property or facilities owned or operated by Dade County without first obtaining a permit, concession, lease, or other authorization in writing approved or authorized by Board of County Commissioners."

Section 5.02 of the Miami-Dade Fire Rescue Department's Policy and Procedures, provides, in relevant part, as follows:

MDFR employees will not accept nor solicit directly, or indirectly, any gift, tip, gratuity, loan, fee, or anything of value that is offered for services rendered in the line of duty, or as result of MDFR employment. The donor will be advised that contributions may be made to one of the Department's recognized non-profit organizations...

If the donor insists on contributing to MDFR, approval from the Fire Chief or County Mayor is required in accordance with Miami-Dade County Administrative Order (AO) 1-3 Gifts/Donations to the County.

MDFR employees will not under any circumstances accept or solicit any tips or gratuities, or take or be part of any personal or official action, that is, or appears to be, a conflict of interest.

Investigation:

Site Visits:

On September 19, 2019, Investigators Susannah Nesmith and Karl Ross photographed vehicles parked in the back lot of County Fire Station 39. Investigator Ross returned on Sept. 20 to re-photograph vehicles which were obscured in the first day's pictures. Vehicle registration records show several of the vehicles parked in the lot belong to active duty Miami-Dade Fire Rescue firefighters.

Also, in the lot were vehicles belonging to:

- Chad Burg, a Jacksonville resident who is not a firefighter.
- Tamera Tinoco, a Homestead resident who is not a firefighter.
- Richard Rafalski, a Boca Raton resident and firefighter with that city.

Chad Burg, a Jacksonville resident who is not a firefighter.



Tamera Tinoco, a Homestead resident who is not a firefighter.



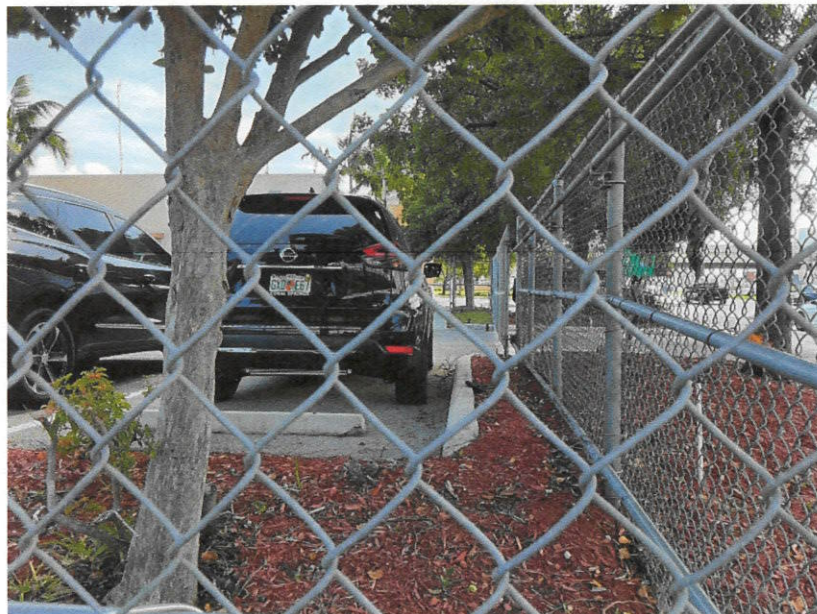
Richard Rafalski, a Boca Raton resident and firefighter with that city.



On Sept. 27, 2019, both Investigators returned to Station 39 and photographed vehicles in the parking lot. Some belonged to active duty MDFR personnel. Also, in the lot were vehicles belonging to:

- Rubens Ribeiro Campos, a Pompano Beach resident who is not a firefighter.
- Maily and Felix Rodriguez, who are not firefighters.
- Jesse Alexander Lapin-Bertone, who is a Tamarac firefighter.
- Christopher Musser, who is not a firefighter, though his sons are reportedly firefighters with Monroe County and City of Miami.

Rubens Ribeiro Campos, a Pompano Beach resident who is not a firefighter.

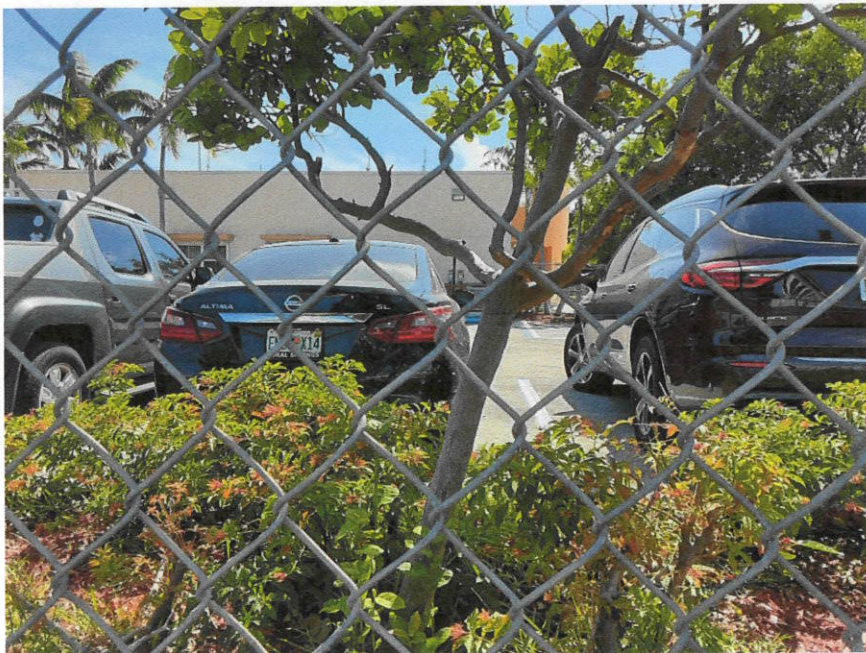


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Maily and Felix Rodriguez – neither are MDRF firefighters.



Jesse Alexander Lapin-Bertone, who is a Tamarac firefighter.



Christopher Musser, who is not a firefighter, though his sons are reportedly firefighters with Monroe County and City of Miami.



Interviews:

Chad Burg, Jacksonville

Mr. Burg was interviewed by phone by Investigator Susannah Nesmith on Sept. 25, 2019. Burg said his truck was parked at Station 39 for a week while he went on a cruise with his girlfriend. He said his girlfriend had booked the cruise and the travel agent who booked it for her told her that she went to high school with a firefighter who would let Burg and his girlfriend park at a fire station at the Sea Port. He said they were told to ask for Mike Peyini or Peyuni – he did not recall the spelling. He said he spoke with Mike when they arrived at the station and he took down Burg's name and phone number, just in case he didn't pick up his truck for some reason. Burg said he gave the firefighter \$20 for the kitty in exchange for letting him park at the station. Burg's truck was photographed parked at the station on 9/19/19.

Deputy Mayor and Acting Fire Chief Maurice Kemp

On Oct. 1, 2019, Investigators Ross and Nesmith spoke with Deputy Mayor and Acting Fire Chief Maurice Kemp to apprise him of the investigation. He said the firefighters did not have authorization to let non-MDFR personnel park in the station's lot in exchange for kitty donations. He assured the investigators his department would cooperate with the investigation and asked them to let him know personally if anyone failed to cooperate.

Capt. Shane Dawson, Miami-Dade Fire Rescue – Station 39

On Oct. 8, 2019, Investigators Nesmith and Ross interviewed Capt. Shane Dawson, who was the highest-ranking officer at the station house that day. He was advised that COE was investigating allegations that firefighters were renting out parking spaces to members of the public and using the proceeds to fund the internal “kitty,” which functions as a petty cash fund for the station house kitchen.

Capt. Dawson acknowledged that such a practice did exist but said that as far as he was aware it is limited to other Miami-Dade County fire-rescue personnel. He said he was not aware of any more widespread use or misuse of the parking spaces in the employee parking area but indicated that he is not directly involved with this practice.

“It’s kind of an unspoken thing,” Dawson said. “I’m not going to say it hasn’t happened or that it’s not happening.”

Capt. Dawson said his instruction to those in charge of the kitty is that they should never ask for anything from the individuals parking in the employee lot. “We never ask for anything, but that’s not to say we wouldn’t accept a donation.” He said such a donation might typically be \$20, but that there is no set amount.

He said he was not aware of private individuals such as a travel agent brokering the rental of parking spots as had been suggested by a witness.

“I am aware there are some firefighters who go on cruises, who park there. I believe most are from our department.” He said this includes many senior firefighters including a recently retired fire chief though he didn’t identify anyone by name. “We’ve had some higher-ups come in here (to park), including the retired one.”

Dawson said the kitty is managed by firefighters Javier Perez and Toni Machado (Marguilla is her newly married L/N). He said Machado is on leave with a medical concern.

He said the kitty is normally funded by each firefighter chipping in \$10 per pay period, and that this money is used to buy condiments, eggs, milk and other minor items for the kitchen. He acknowledged the kitty is also used to pay for the cable TV bill and other expenses. He said firefighters pay for their meals separately. “We pay meals out of our own pocket,” he said.

Capt. Dawson indicated that the number of non-staff vehicles parked in the lot at present was minimal compared to the number of vehicles parked there during high season for the cruise-ship industry. He said that during high season, the lot can become so full that the garbage truck cannot get in to pick up the garbage from the dumpster. On a subsequent interview, when Capt. Dawson called to provide the name of the station captain, he said that he and another firefighter had, on at

least one occasion, put up a sign at the driveway to the parking lot warning potential visitors that the lot was full.

He said that personal vehicles parked in the front or side of the station, sometimes can overflow and cause congestion in the lot as well.

Capt. Dawson said he was aware of the department policy requiring a form be filled out and permission obtained from the Division Chief for County employees to park at fire departments. He said that was not done for people going on cruises and he understood that the policy was designed to allow people who lived near stations to park there long-term, perhaps because they had County vehicles they did not want to park at their homes. He said he was not aware of any logbook to keep track of non-employee vehicles being parked in the lot.

Investigators observed approximately 13 parking spots in the restricted (employees only) parking area, not counting a handicapped spot, plus two others on the south side of the dumpster – for a total of about 15 available spots, not including space along the edges of the facility that could also be used for parking.

Capt. Dawson agreed to cooperate with the investigation.

Michael Pellini, Firefighter, Station 39

On Oct. 24, 2019, Investigators Nesmith and Ross interviewed Michael Pellini, a firefighter with Miami-Dade Fire Rescue for 27 years. Pellini was accompanied by Lisa Bullard, his fire union representative.

He said he had been the firefighter responsible for overseeing the kitty for the past six to seven years. He described it as a “thankless” job and said he turned over such duties to firefighter Toni Machado in the past year, but that she is out due to a medical condition, and that the interim manager of the kitty is Javier Perez. He said Perez has been in charge for the past four to six months.

Pellini said he inherited the kitty responsibilities from retired firefighter Pete Shea. With respect to donations from individuals parking at Station No. 39 while away on cruises, Pellini said the practice predates his time at the station and he and his union rep, Bullard, described it as “a long-standing practice.” He said that, as far as he is aware, the parking lot is used mainly by active and retired firefighters and family members. He said it has come to his attention that civilians (i.e., non-firefighters) have used the parking lot, but he couldn’t elaborate.

"I know of the firemen who come here to park," Pellini said, adding that: "It's gotten out of hand ... with so many other people parking here." He said that the fire house does not actively solicit cruise ship passengers, and that the practice has increased over time due to word-of-mouth advertising. He noted that there are 2,600 active and retired firefighters in Miami-Dade County.

Pellini said the kitty is usually funded with contributions of \$10 per payday from the 21 firefighters who are assigned to Station No. 39. He said these firefighters are "bid in" and work in three shifts with seven firefighters serving per shift. He affirmed that normal monthly contributions to the kitty are in the \$400 to \$500 range and include extra payments for overtime. The overtime payments are generally in the \$5 range, though Captains may put in \$10.

Pellini said cash donations to the kitty are made through a lock box installed in the kitchen. He said cruise ship passengers are invited to make donations but there is no requirement or specific amount requested based on the length of the cruise -- typically three to seven days. He said he pulls a lot of small bills out of the kitty and a smaller number of \$20 or larger bills.

"We don't tell them how much to give ... We just ask them if they want to make a donation, and it goes into a lock box."

Pellini said he couldn't estimate how many cruise ship passengers use the parking lot or make donations to the kitty. He was advised that the parking lot has 13 spaces, plus two on the other side of the dumpster, for a total of about 15 available spaces. He said that firefighters can use the parking lot but often prefer to park closer to the station house on the side. He said that no log was kept on individuals leaving vehicles in the parking lot, though some of them would leave slips of paper indicating which cruise they were boarding.

Pellini said he has no formal accounting procedures for the kitty and does not log the amounts received. He said he did keep a log to track which firefighters contributed. He said that most of the money is not identifiable (roughly 80 percent), while the remaining balance (20 percent or so) is deposited in envelopes with the name of the donor written on it.

He said he transfers the money from the kitty to a locker, and that the money is then used, as needed, to pay for utilities, food and occasional amenities like a TV or BBQ grill.

Pellini said that he also pays the satellite TV (cable) and internet (wifi) and that the accounts were kept in his name. He said he would pay the accounts on a credit card and reimburse himself from the kitty. He said the monthly bill for TV runs about \$180 and another \$110 for internet. He said that food runs to BJ's or Publix average \$240 a week or \$1,000 or more per month -- "easily."

He said that surplus funds can be used for larger-ticket items such as flat-screen TVs, a grill or other minor maintenance and repairs around the station house. For example, he spent \$600 for a grill not too long ago.¹

With respect to individuals whose vehicles were identified in the parking lot this past September, Pellini said he didn't recognize most of the names provided: Tamera Tinoko, Richard Rafalski of Boca Raton, Chad Burg, et al. When he was told that non-firefighters are parking in the lot and the COE has found evidence that a travel agent who went to high school with a local firefighter was directing her clients to Station 39, he said his sister was friends with a travel agent who may have mentioned the parking perk to customers. He said his sister is a retired City of Miami firefighter, and that she has used the parking lot. He said a close friend of hers from high school is a travel agent and that he knows her identity.

Pellini said that firefighters at Station No. 39 have recently suspended the practice of accepting donations for parking, noting that a memo was issued stating that the lot was to be used for authorized, active firefighters only and that an electronic gate would be installed on the lot to discourage outsiders from parking there. He expressed that he was relieved the practice of renting out parking spaces was being discontinued, reiterating that, in his opinion, the practice had gotten "out of hand" over the years and that its use was more widespread than was desirable.

Javier Perez, Firefighter, Station No. 39

Firefighter Perez agreed to a voluntary interview with Investigators Nesmith and Ross on Oct. 28, 2019, at Station No. 39. He was not accompanied by supervisory or union personnel. He indicated that he had been a firefighter for the past 25 years and that the last 23 years of his career have been with Miami-Dade Fire Rescue. He confirmed he is presently in charge of the station's "kitty account."

He said he has been discharging this responsibility for approximately three months since Firefighter Toni Machado went on leave due to injury. He said he believed Machado had handled the kitty since February or March 2019 and that Firefighter Pellini had assumed that responsibility prior to Machado. Perez said he has been assigned to Station No. 39 for the past five years.

Firefighter Perez said that for as long as he has been a Miami-Dade firefighter he has been aware of the practice of allowing active and retired firefighters and their family members to leave

¹ Based on these figures, it would suggest that income from cruise ship parking exceeds the amount from firefighters by at least double and more likely by about a 3-to-1 ratio. The money the kitty gets from the \$10 per paycheck that each firefighter stationed at 39 puts in amounts to roughly \$5,460 a year. The above detailed expenses amount to \$15,960 a year, not including the grill.

vehicles at the station parking lot when embarking on passenger cruises. He said he was not aware of any more widespread use than the aforementioned groups, though he said he had “heard a rumor” about a travel agent referring customers to the facility. He said he did not know whether or not this was true but stated that he would not approve of this practice, if true.

“We tend to get a lot of Chiefs from across the nation, and recently one of our own Chiefs” who use the parking lot while taking passenger cruises, he said. “They’ll say, ‘We understand you have this courtesy [parking] for firefighters, and we’d like to donate something.’” He said some “Chiefs” will buy coffee and donuts and others will donate to the kitty.

Perez said the kitty manager doesn’t keep tabs on the vehicles in the parking lot, and that this is done on an informal basis. He said he was aware of an issue last year with difficulty emptying a garbage dumpster, but other than that he was not aware of any operational issues resulting from the use of the employee parking lot for cruise ship passengers.

Asked about the balance of the “kitty account” at the time he assumed responsibility for it, he estimated that the balance was approximately \$2,000. He said there is no formal “account” for the kitty in a bank or other financial institution. He said there is an administrative policy regarding the kitty account and that he tries to follow all procedures.

Perez said Station No. 39 used to have one of the more expensive kitties at \$10 per pay period since only four firefighters were assigned per shift at that time, but that it is now one of the more affordable kitties – possibly due to the outside contributions from parking. Perez said the kitty is used to pay for appliances as well as food and condiments, including a refrigerator and a special mixer/ juicer that he is aware of.

Asked to estimate the monthly contribution from cruise ship passengers, Perez said approximately \$400 per month. He noted that he has only had responsibility for overseeing the kitty during the late summer/ early fall months and understands that receipts might have been higher “high season” for the cruise ship industry.

Perez said a “spreadsheet” is kept tracking firefighters’ payments. He said that income from parking donations is also noted on the spreadsheets or log. He said he believes that Firefighter Machado was the first kitty manager to track these third-party donations and that he has continued to note such donations. He agreed to provide copies of the log if a public record request were made.

Perez subsequently provided Investigators Ross and Nesmith with identical binders with copies of the hand-written “spreadsheet” that he and Machado used to keep track of the kitty money. Perez explained how their accounting practices evolved as they looked for the best way to account for the various revenue streams. In addition to dues, the firefighters buy soda out of the kitty money and sell it to themselves at a mark-up. They also had station t-shirts made and sell those at a mark-up. These revenues were initially comingled with the parking revenues in a “misc” (miscellaneous) category but were separated out later to give the accounting more transparency.

The binders also included bank statements and receipts for items purchased with kitty money. The binder is more fully described below.

Documents/Exhibit Review:

The Station 39 “Kitty Book Account” provided by Firefighter Javier Perez includes an accounting of the firefighters on each shift and whether they paid their kitty dues each month. It also includes an accounting of the money going into the account from all sources, beginning on March 25, when Firefighter Machado took over managing the account. At that point, Machado opened an account at Wells Fargo and deposited \$3,500. There was another \$392 in the kitty box.

Over the next seven months, \$3,395.87 that was deposited into the kitty was attributed to parking either specifically, or in the “miscellaneous” column after Perez said that everything that wasn’t parking had been taken out of that column. This amounts to roughly \$680/month during the slower cruise season.

The penultimate entry is a deposit for \$2,629, representing the amount that was in the bank account that Machado closed after firefighters at the station learned of this investigation.

Firefighter Perez also turned over copies of the bank statements from the Wells Fargo account opened by Machado for kitty money on March 25, 2019.

Finally, Firefighter Perez turned over copies of receipts for purchases made using kitty funds. They include kitchen staples like eggs, milk and olive oil and also small luxuries for the station like a salad spinner, cast iron skillet, cutting board and a water filter.

An Oct. 11, 2019 email from Battalion Chief Michael Rossman to Capt. Dawson regarding measures that were being taken regarding the parking situation at Station 39. They include plans for a fence to secure the parking. Capt. Dawson was informed that the excess parking not needed by station personnel is restricted to MDFR personnel. The email further provided that:

All other personnel will have to contact the Station Captain and follow the existing P&P and submit the proper paperwork.” (See Policy and Procedure I-G-16, regarding policies for non-MDFR personnel who are county employees parking at stations.)

Chief Rossman’s email also provided that station personnel will maintain a log of anyone parked overnight at the station that is not assigned to it.

Policy and Procedure, I-G-16 was provided by MDFR pursuant to a public records request for any and all policies related to parking at stations. The policy was signed off on in August of 2017 and establishes a procedure for Miami-Dade County employees to request permission to park at an MDFR station if there is parking available. The policy provides for a memo to be filled out by the employee requesting parking. The station Captain forwards it to the Division Chief for approval. This is the policy Capt. Dawson said he thought was for the purposes of County employees assigned County vehicles they did not want to park at their homes.

This report was turned over to the Ethics Advocate for his review and consideration.



Investigator Susannah Nesmith



Investigator Karl Ross

Conclusion:

The conduct of the County Firefighters assigned to the County's Sea Port Fire Station 39, implicates Section 2-11.1(g) of the Conflict of Interest and Code of Ethics Ordinance (County Ethics Code), relating to prohibited exploitation of official position. To restate from the above, that section provides that:

No person included in the terms defined in subsection (b)(1) through (6) and (b)(13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.

Without question, the investigation established that County Firefighters assigned to the County's Sea Port Fire Station 39, allowed friends, family, and strangers to park their cars for days in spaces assigned to that fire station and not available to the general public. Monies were solicited or accepted as consideration for the parking. The costs associated with parking in the spaces was less than what the general public would have had to pay at the regular County lots at the Sea Port that are available for cruise customers. Finally, the monies solicited or accepted as consideration for the parking was used to buy food, beverages, television cable service, wifi service, a flat screen television, and a barbecue.

Quite simply put, a number of Firefighters, over many years, used their official positions to monetize a County property resource and secure special parking privileges for others and did so in exchange for consideration, donations to a Fire Station kitty.

Charging any one Firefighter with an exploitation charge under the County Ethics Code is made difficult if not impossible inasmuch as the practice involved so many Firefighters for so many years. It is difficult to identify factually, and decide equitably, who should be charged with violating Section (g) of the Ethics Code when the investigation reveals that the practice has been going on for decades. Thus, every Firefighter assigned to Station 39 for many years has benefitted in one way or another from the practice.

Moreover, the practice was so well established that clearly rank and file Firefighters, supervisors, and the Station Captains were aware of it and allowed it to go on. While undoubtedly the practice was not specifically permitted by ordinances or resolutions ordained or adopted by the Board of County Commissioners, as required by the County Ethics Code, it has been occurring with the

knowledge and either direct, or at a minimum, tacit approval of the Station Captain. Interviews suggest that at least one County Fire Chief seemed to know of some variation of the practice.

The conduct of the County Firefighters assigned to the County's Sea Port Fire Station 39, also implicates Section 2-11.1(e) of the Conflict of Interest and Code of Ethics Ordinance, relating to prohibited gifts and gift disclosure. Again, to restate from the investigative report, that section provides that:

A person described in subsection (b)(1) through (6) [includes Firefighters] shall neither solicit nor demand any gift. It is also unlawful for any person or entity to offer, give or agree to give to any person included in the term defined in subsection (b)(1) through (6) or for any person included in the term defined in subsection (b)(1) through (6) to accept or agree to accept from another person or entity, any gift for or because of:

- a. An official public action taken, or to be taken, or which could be taken;
- b. A legal duty performed or to be performed, or which could be performed; or
- c. A legal duty violated or to be violated, or which could be violated by any person included in the term defined in subsection (b)(1).

Any person included in the term defined in subsection (b)(1) through (6) shall disclose as provided herein any gift, or series of gifts from any one person or entity, having a value in excess of one hundred dollars (\$100.00). Said disclosure shall be made by filing a copy of the disclosure form required by Chapter 112, Florida Statutes, for "local officers" with the Clerk of the Board of County Commissioner simultaneously with the filing of the form with the Secretary of State.

While that section prohibits quid pro quo gift transactions where a gift cannot be accepted as consideration for an "official public action" or "legal duty" taken or not taken, we decline to consider the renting of County parking spaces to constitute a Firefighter's official public action or legal duty.

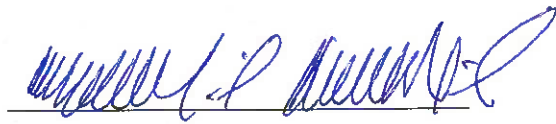
Also, while the Firefighters assigned to Station 39 clearly received gifts in the form of monies solicited or received for the kitty, it is impossible to establish that any one Firefighter received any one gift from a person allowed to park that had a value in excess of one hundred dollars.

It is frustrating to discover that County employees have monetized a County property asset for personal gain as part of a decades long established practice, known and permitted by supervisors, and that an enforcement action for violating the Ethics Code is not feasible for the reasons stated herein.

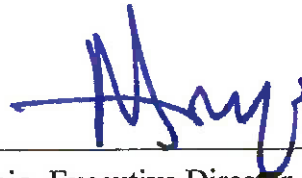
If there is any solace to be found, it is that Fire Rescue command staff, when informed of the practice by Ethics Commission Investigators, immediately put a stop to it.

The investigation also revealed that the Firefighters have also violated other sections of the County Code, Implementing and Administrative Orders, and Policies and Procedures of the Fire Rescue Department. Those violations are referred to the Deputy Mayor for his consideration. A copy of

this report will be forwarded to the Deputy Mayor and the current Fire Chief so that appropriate administrative or disciplinary action may be taken.

A handwritten signature in blue ink, appearing to read 'Michael Murawski', written over a horizontal line.

Michael Murawski, Advocate

A handwritten signature in blue ink, appearing to read 'Jose Arrojo', written over a horizontal line.

Jose Arrojo, Executive Director

Date: February 18, 2020