

**Investigative Report
Workman Road**

December 2021

City Auditor

Stan Sewell, CPA, CGFM, CFE





OFFICE OF INTERNAL AUDIT

Stan Sewell, City Auditor

December 23, 2021

To: Emily O'Donnell, Chief Ethics Officer
City Council Members

Subject: Workman Road Homeless Encampment Investigation

Dear Ms. O'Donnell and City Council Members:

As requested by the City's Chief of Staff, the Office of Internal Audit (OIA) conducted an independent review of the City's efforts to help relocate homeless individuals and abate potential City Code violations on non-residential properties owned by Mayor Tim Kelly. The objectives of our review were to determine whether Mayor Kelly used, or attempted to use, his position as mayor for personal financial gain or to receive preferential treatment contrary to the best interest of the City.

To accomplish our objectives, we performed the following steps and analyses:

- Reviewed the City's Code of Ethics and Executive Order 2014-01;
- Reviewed sections of the City Code applicable to public nuisance violations and enforcement;
- Examined policies, procedures and records maintained by the Economic and Community Development (ECD) department regarding public nuisance violations and enforcement;
- Examined policies, procedures and records maintained by the Office of Homeless and Supportive Housing (OHSH) regarding the relocation of homeless individuals from private property;
- Examined policies, procedures and records maintained by the Public Works department regarding bulk trash removal;
- Reviewed clean-up and litter removal invoices provided by Southern Honda Powersports;
- Examined internal correspondence and news media reports; and
- Interviewed City personnel, including Mayor Kelly.

Standard of Review

Chattanooga City Code Section 2-750, *et seq.* establishes the City's Code of Ethics, which applies to all employees, including members of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City. Section 2-757 of the Code specifically prohibits any official or employee from using or attempting to use his or her position for personal financial gain or to secure any privilege or exemption not authorized by the City Charter, general law, or ordinance or policy of the City. In addition, Executive Order No. 2014-01 prohibits employees from engaging in any action, whether or not specifically prohibited by law or the Code of Ethics, which might result in or create the appearance of preferential treatment to any person, contrary to the City's best interest.

Summary of Findings

In November 2021, Mayor Kelly sold several non-residential properties located in a predominately industrial area on Workman Road, including one (1) tract formerly occupied by a business he owns called Southern Honda Powersports. The timing of the sale prompted a local newspaper to question whether Mayor Kelly had a conflict of interest because prior to the sale, the City's Office of Homelessness and Supportive Housing (OHS) assisted in the relocation of a homeless encampment from one (1) of the properties Mayor Kelly sold.

Our investigation revealed that the City received multiple complaints over several months about the accumulation of litter and debris from the homeless encampment on Mayor Kelly's property. In response to the complaints, the City's Code Enforcement Division sent public nuisance notices to Mayor Kelly's former business address informing him that his property was in violation of City Code 21-133.¹ David Carmody, the chief executive officer of Southern Honda Powersports, promptly responded to the notices on Mayor Kelly's behalf and agreed to hire a contractor to clean and remove litter from the area at no cost to the City.² After the clean-up process was complete, the Code Enforcement Division conducted several inspections and determined Mayor Kelly's properties complied with City Code requirements.

In or around July 2021, after Southern Honda Powersports had moved to another location, Mr. Carmody contacted OHS Program Outreach Coordinator Casey Tinker to discuss potential options for relocating the homeless encampment that remained on Mayor Kelly's property. According to Mr. Tinker, Mr. Carmody did not wish to have the occupants of the encampment removed by police for trespassing. Mr. Tinker subsequently met with Director of Community Development Sam Wolfe to develop a plan to offer relocation assistance and other services to the individuals impacted by the removal of the encampment.

Consistent with OHS's policy and procedures for homeless intervention, approximately 20-25 displaced individuals from the encampment were transported to a local hotel and offered lodging and other supportive assistance, funded by a Homeless Emergency Solutions Grant from the U.S. Department of Housing and Urban Development. No police officers or emergency responders participated in the removal of the encampment; nor did we find any indication that Mayor Kelly ever contacted City officials or employees to influence the decision to remove and relocate homeless individuals from his property.

¹ City Code 21-133 prohibits the accumulation of litter and debris on private property that causes unsafe, unhealthy or unkempt conditions.

² We examined invoices documenting expenditures by Southern Honda Powersports for cleanup and removal.

As part of our investigation, we also spoke with Mayor Kelly. Mayor Kelly stated unequivocally that he has not been involved with the Workman Road properties since becoming mayor. He explained the properties were placed under the control of a business management team. He was not directly involved in the management, maintenance, or sale of the properties; nor did he recall ever receiving any notices from the City concerning potential litter violations. He insisted that he is completely divested from the operations of Southern Honda Powersports, and was unaware that a blind trust had not been established to administer his business investments.

Conclusion

Our investigation determined that at all times relevant herein Mayor Kelly abided by the City's Code of Ethics and Executive Order 2014-01 regarding his business and personal real estate transactions. We found no evidence or indication that Mayor Kelly used, or attempted to use, his position as mayor for personal financial gain, or to receive preferential treatment from any City official or employee.

Our investigation consisted of interviews, examination of supporting documentation and review of authoritative guidance. The evidence we obtained provided a reasonable basis for our conclusions. However, the issues discussed in this report are not the result of an audit performed in accordance with generally accepted government auditing standards. Had we performed such an audit, additional issues might have been reported.

Sincerely,

Stan Sewell, CPA, CGFM, CFE
City Auditor

cc: Audit Committee Members
Mayor Tim Kelly
Joda Thongnopnua, Chief of Staff

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