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Date: June 15, 2017
To: City Manager, Anthony Lyons
From: City Auditor, Carlos L. Holt
Subject: Internal Investigation: Parks, Recreation, and Cultural Affairs - CASE 2017-003

Source of Allegation

The City Auditor's Office was notified by the City Manager's Office on March 15, 2017, of concerns over possible unauthorized transactions made on City purchase cards (credit cards) at Parks, Recreation, and Cultural Affairs.

Investigators Assigned

Carlos L. Holt, CPA, CFF, CIA, CFE, CGAP – (Quality Assurance)
Eileen Marzak, CPA, CFE – (Lead Investigator)

Purpose of Investigation

The purpose of this or any investigation is to determine the facts concerning allegations made by a complainant or from matters surfacing in other ways. For findings indicating possible fraud or other crimes, the matter would then be referred to the Gainesville Police Department (through the City Manager and in consultation with the City Attorney) or the State Attorney's Office. Findings of employee misconduct warranting possible corrective or disciplinary action would be forwarded to management, who is responsible for administering such actions. Findings of waste or lack of efficient or effective operations would also be referred to management.

Standards

We conducted the investigation and created the report using the standards of the Association of Certified Fraud Examiners (ACFE) as a guide. Both investigators are Certified Fraud Examiners (CFE). Employee misconduct allegations are substantiated or not substantiated using a preponderance of the evidence standard; or, more likely than not, a 51% threshold (less than that used for a criminal case).

Summary and Outcome of the Investigation

After a thorough review of all transactions, numerous interviews with almost all personnel involved, examination of the process and examination of purchase card records, it was substantiated that purchase card transactions from the City purchase card of Parks, Recreation, and Cultural Affairs (PRCA) employee Natwaina Clark contained 136 transactions (for \$61,475.03) not for a business purpose. Further, 41 transactions (for \$32,134.28) were from cardholder statements closely associated with the same employee and accounts where she had physical access to. It was also substantiated that the Director of PRCA did not ensure that City Purchasing Policy 43-000 and others were implemented or even remotely followed despite making two previous representations (2013 and 2016) that policies were implemented as intended at PRCA. Human Resources' determination to not follow-up with the Orlando Police Department on arrest information of applicant Natwaina Clark, and to not provide known

unfavorable information received to the hiring department, while at the same time clearing the applicant for hiring, was found to be insufficient and not a reasonable action (although there was no policy or requirement that was violated). One employee at PRCA, a manager, was found to have against policy provided his purchase card information to Natwaina Clark for specified purchases but never followed up to ensure only those purchases were made. This resulted in 15 months usage of his card for 21 transactions totaling \$21,848.21 (a subset of the grand total of \$93,609.31).

Background

Parks, Recreation, and Cultural Affairs (PRCA) is a department that reports to the City Manager. Quarterly, the Finance Department compares actual spending of department *object accounts*¹ to budgeted amounts for those same accounts and object categories. This process led to questions of a particular area within the PRCA accounts. Subsequent research indicated that credit card billings contained transactions that would not normally be associated with spending at the PRCA. The majority of the questioned transactions were on the purchase card billings of Natwaina Clark (employee 17718) although three other cards were also used.

Allegations, Facts, Analysis and Conclusions

Allegation #1 – Credit Card Fraud Scheme

That employee Natwaina Clark, an employee at Parks, Recreation, and Cultural Affairs, between August 3, 2015, and March 22, 2017, intentionally caused and failed to disclose unauthorized purchase card transactions that were not for any legitimate City business purpose (but did benefit her). If true, her conduct would be a violation of the City of Gainesville's Policy E-3 Code of Conduct rules: 10 (unauthorized use of City property), 19 (immoral, unlawful, or improper conduct), 22 (removal of City property without authorization), and 25 (willful violation of statutory authority, rules, regulations or policies).

Facts

- 1) Natwaina Clark was hired as a temporary employee on August 3, 2015 as a Staff Specialist in the PRCA department located in the Thomas Center at 302 NE 6th Avenue at an hourly pay rate of \$14.82.
- 2) Background information received by Human Resources prior to hiring Ms. Clark indicated that Ms. Clark had been criminally charged in the past; once in 2004 for burglary, fraudulent use of personal identification, and a scheme to defraud and again in 2008 for a misdemeanor for giving false ID given to a law enforcement officer.
- 3) The 2004 charges against Ms. Clark were later dismissed, citing jurisdictional and speedy trial issues. Ms. Clark pled Nolo Contendere to the 2008 charge.
- 4) On September 23, 2015, Ms. Clark, as a temporary employee, was granted access to the Bank of America Visa Works[®] reporting system that granted her the ability to change object code allocations for expenses; no approval authority was granted with this access. This action was authorized by PRCA Director Steve Phillips.
- 5) On November 5, 2015, Ms. Clark, still as a temporary employee, was recommended to be issued a Sam's Club Business Card (credit card) through the City of Gainesville's account by Cultural Affairs Manager Russ Etling.
- 6) On January 16, 2016, Ms. Clark became a regular employee Staff Specialist.
- 7) Ms. Clark was one of 16 PRCA employees included on a list to get Sam's Club Credit Cards sent to the Finance Department by Account Clerk Constance Whitney on February 29, 2016.

¹ Classification of budget expenditures, such as office supply expenses

- 8) Sometime shortly after she was hired and granted access to Visa Works®, Cultural Affairs Manager Russ Etling, against City policy and Visa training, allowed Ms. Clark physical access to his City Visa P-Card. The first unauthorized charge on Mr. Etling's card is dated November 23, 2015 and consists of a 2-night hotel stay in Stuart, Florida. Ms. Clark continued to use Mr. Etling's card from November 2015 to February 19, 2017, for a variety of charges including hotel rooms and gift cards.
- 9) Records show Mr. Etling's card was used in 29 transactions for a total amount of \$21,848.21 in unauthorized charges from November 23, 2015, to February 19, 2017.
- 10) On or about November 2015, Ms. Clark was able to obtain cardholder information from Labor Crew Leader Walter Milne's card.
- 11) On November 13, 2015, the first unauthorized charge in this matter was made on Mr. Milne's Visa P-Card, a one night stay at the Best Western in Miami Beach for \$126.44. Mr. Milne's card was used in five transactions for a total amount of \$872.12 in fraudulent charges from November 12, 2015, through December 8, 2015.
- 12) On or around December 2015, Ms. Clark was able to obtain cardholder information on Parks Manager John Weber's card.
- 13) The first unauthorized charge noted by Mr. Weber is dated January 22, 2016, and consists of a \$50.00 SunPass prepayment.
- 14) Records show a Sam's Club charge card was issued in March 2016 after Ms. Clark became a regular employee.
- 15) Records show that Ms. Clark used the Sam's Club card on three occasions spending \$739.06 consisting of mostly food items and two 6-quart cookers. Items valued at \$182.40 purchased on January 28, 2017, were later deemed to be unauthorized and for no business purpose.
- 16) Records show Mr. Weber's Visa P-Card was used in seven transactions for a total amount of \$9,413.95 in fraudulent charges from January 26, 2016, to February 28, 2017.
- 17) On January 18, 2016, PRCA Director Steve Phillips formally requested that Ms. Clark be granted a City Visa P-Card with a single purchase limit of \$2,000 and a 30-day limit of \$10,000.
- 18) On March 9, 2016, Ms. Clark was issued her own Gainesville Visa Purchase Card (P-Card) and instructed, both in writing and verbally, that the credit card was to only be used for business purposes; Ms. Clark signed the required *Agreement to Accept the Visa Procurement Card* form.
- 19) On March 10, 2016, Ms. Clark made her first charge on her newly issued Visa P-Card in the amount of \$126.80 for Tablet Case protectors that would later be identified as unauthorized.
- 20) Ms. Clark continued using her City issued Visa P-Card until March 5, 2017, for a total of 136 unauthorized transactions totaling \$61,475.03.
- 21) A GPD investigation determined that Ms. Clark created a PayPal account that was directly linked to her personal bank account at Wells Fargo where she was able to channel \$41,089.73 to the account.

- 22) In September 2016, the Finance Department questioned nearly \$18,000 of expenses related to retirement and farewell celebrations, staff meeting meals, congratulation and sympathy gifts, and safety incentive gift cards which exceeded guidelines in City Manager Administrative Procedure No. 28.
- 23) Records show that from February 22, 2017, through March 2, 2017, Natwaina Clark used 45 hours of scheduled paid time off; informing her co-workers that she was having a required medical procedure.
- 24) Records show that on February 22, 2017, Natwaina Clark had cosmetic surgery (a Brazilian Butt Lift) costing roughly \$8,500 from proceeds from the PayPal account.
- 25) Within two months and during the leave period cited above, 11 transactions totaling \$21,149.25 were made on the P-Cards belonging to Clark, Etling, and Weber to a PayPal account (NC83FAMU) later traced by the GPD to Natwaina Clark. The PayPal account was also linked to a Wells Fargo Bank account belonging to Natwaina Clark.
- 26) Records show Ms. Clark obtained a work status return authorization from City of Gainesville's Employee Health on March 1, 2017.
- 27) Interviews confirm Ms. Clark represented to her fellow employees that she had a well-off boyfriend that provided her means for new clothes, make-up, and travel.
- 28) Interviews reveal that Ms. Clark received flowers sent to her at work and informed other employees that they were from her boyfriend. However, Visa P-Card charges on July 8, 2016, showed that the flowers were purchased on Ms. Clark's Visa P-Card from "Edible Arrangements" for \$123.16.
- 29) In early March 2017, the Finance Department notified the Director of PRCA of unfavorable fiscal year 2017 budgetary projections and requested that PRCA managers review fiscal year 2017 spending and determine where overruns were occurring.
- 30) On Thursday, March 9, 2017, Manager Russell Etling was working with Ms. Clark to look at purchase records and identify reasons for expenses being over budget. Mr. Etling stated that he pointed out to Ms. Clark that some of the P-Card charges for \$1,995.40 were to a PayPal account named "NC83FAMU", which matched Natwaina Clark's initials and that she had graduated from Florida A&M. Mr. Etling stated that Ms. Clark replied, "Yes, where's my money?" Mr. Etling stated that he also surmised that she was born in 1983.
- 31) An inspection of the front of Natwaina Clark's job application shows that her stated email address contained the exact same characters as her PayPal account (NC83FAMU).
- 32) Natwaina Clark did not work, and was not scheduled, at PRCA on Friday, Saturday, or Sunday, March 10 – 12, 2017.
- 33) On March 13, 2017, Ms. Clark was present at work at PRCA and was processing Visa P-Card purchases according to Manager Russ Etling.
- 34) Records show that on March 13, 2017, Ms. Clark's Visa P-Card was used to make purchases with her Visa P-Card at a CVS Pharmacy located at 1515 NW 13th St. in the amount of \$1,011.90 for two \$500 gift credit cards plus fees. Surveillance video of this transaction was obtained during the GPD investigation.
- 35) In reviewing individual expenses as instructed by Finance, the PRCA staff determined that over \$90,000 had been spent in unauthorized transactions with no business purpose for PRCA or the City of Gainesville.

- 36) On Monday, March 13, 2017, PRCA staff became aware of significant non-business related purchases on Ms. Clark’s P-Card and the cards of at other employees within PRCA. The Finance Department was notified and took action to suspend her P-Card.
- 37) Interviews and emails support that Ms. Clark was inadvertently informed that her Visa Card was being cancelled on the morning of March 14, 2017, and “10 minutes later” at 8:04 a.m. sent an email stating that she wasn’t “feeling the best today” to Manager Russ Etling and would not be in.
- 38) On March 15, 2017, Natwaina Clark was sent an “Employee Notice” recommending termination and suspension without pay citing violations of City of Gainesville Personnel Policies and Procedures, Policy E-3, Rules 19 and 22. She was also informed of a formal hearing scheduled for March 21, 2017.
- 39) Records seized by the Gainesville Police Department indicate that Ms. Clark used transferred funds to purchase a large television, a small drone quadcopter, a SunPass account, and cosmetic surgery (Brazilian Butt-Lift).
- 40) At the time of the unauthorized discovery of the P-Card charges, Ms. Natwaina Clark had a base salary of \$33,564 plus various City benefits.
- 41) On March 20, 2017, Natwaina Clark departed on a planned cruise on the Carnival Cruise Line ship “Liberty” and returned on March 22, 2017. Ms. Clark had requested leave for the period via a leave request form submitted on March 6, 2017.
- 42) On March 21, 2017 Natwaina Clark was noticed that her employment with the City was terminated.
- 43) On March 28, 2017 Natwaina Clark was arrested in Alachua County and charged with:
- Larceny; Property stolen valued at \$20,000 or more, but less than \$100,000, 2nd Degree Felony
 - Scheme to Defraud; Property obtained value of \$50,000 or more; 1st Degree Felony
- 44) As of June 1, 2017, the GPD investigation remains open; no trial date has been set by the State’s Attorney’s Office.
- 45) The extent of Ms. Clark’s unauthorized spending totaled \$93,609.31 with 177 separate transactions (see Exhibit 1).

Exhibit 1: Unauthorized Charges - City Visa P-Cards by Cardholder (November 2015 – March 2017)

Cardholder Name	No. of Transaction	Amount
Natwaina Clark	136	\$61,475.03
Russ Etling	29	21,848.21
John Weber	7	9,413.95
Walter Milne	5	872.12
Total	177	\$93,609.31

Source: Tabulation of Visa Works transaction data by the City Auditor’s Office

Discussion and Analysis

Right away, as a new temporary employee, Natwaina Clark was able to make unauthorized purchases on other employee’s cards. The poor internal control environment at the PRCA was easy prey for any new, well-traveled employee. Ms. Clark effectively utilized other cardholder’s P-Cards before she acquired her own in March 2016 and continued unauthorized transactions on hers and others’ P-Cards until her card was cancelled March 14, 2017.

Although Ms. Clark earned \$33,564 she also obtained another \$93,609 tax-free (an additional \$104,010 if an effective tax rate of 10%) for a combined earnings power of \$137,574. She apparently explained her likely noticeable condition of living beyond her means by having a boyfriend that bought her things. Many comments came to light that showed Ms. Clark was a quite capable employee. Intelligent and willing to help out at any time, it is likely that Ms. Clark could have legitimately risen through the organization at an above-average pace. Contrastingly, Ms. Clark very early on left a trail of suspicious transactions beginning while she was still a temporary employee at the three month mark. Her known purchases indicated that they benefitted primarily her alone.

Ms. Clark very likely knew her last two work days that her purchases were under suspicion due to the talk between her and Mr. Etling, giving her a final opportunity to use her card on Monday, March 13, 2017, for two last \$500 gift cards for \$1,011.90. The inadvertent tip-off to Ms. Clark that her card was cancelled (resulting in her almost immediate notification by email that she would not be at work) was a lost opportunity to interview Ms. Clark while she was still an employee with possible hope that participating might result in her keeping the job.

Conclusion

The allegation that employee Natwaina Clark, an employee at Parks, Recreation, and Cultural Affairs, between August 3, 2015, and March 22, 2017, intentionally caused and failed to disclose unauthorized purchase card transactions that were not for any legitimate City business purpose is **substantiated**. No recommendations can be made for the City to hold Ms. Clark accountable for her actions at work since she is no longer employed at the City of Gainesville but may face charges at the State Attorney's Office.

Allegation #2 – PRCA Management Control Environment

That Steve R. Phillips, Director of Parks, Recreation, and Cultural Affairs, inadequately and negligently provided control and oversight over departmental Visa purchase card (P-card) transactions between November 13, 2015, and March 2017, allowing public funds to be misspent in the amount of \$93,609. If true, Mr. Phillips would be in violation of Financial Services Procedures Manual, Chapter 43-000; the City of Gainesville's Policy E-3 Code of Conduct Rule 13 (productivity or workmanship not to required standards); and rule 25 (wanton or willful neglect in the performance of assigned duties).

Facts

- 1) Steven R. Phillips was hired on March 10, 1986 and served as Nature Operations Manager.
- 2) Steven R. Phillips was appointed as Assistant Director in October 2005.
- 3) Mr. Phillips was promoted to Director on October 8, 2007.
- 4) In 2013, during the self-assessment process for the Commission for Accreditation of Park and Recreation Agencies (CAPRA), the Director provided signature assurance that Gainesville's Parks, Recreation, and Cultural Affairs met national standards of best practices. Specific references in report sections 1.4 and 1.4.1 covered policies, rules, operational procedures and policy manual use. Assurance was provided that the Policy Manual is up to date and incorporates City policies and procedures, including those for purchase cards (P-cards).
- 5) The City of Gainesville subsequently received a "Mark of Excellence" from CAPRA due in part to the self-assessments provided Mr. Phillips.

- 6) In an October 2, 2016, questionnaire as part of the Committee on Sponsoring Organizations (COSO) internal control limited rollout by the City Auditor's Office, Mr. Phillips self-assessed the PRCA at the following rankings on particular internal control questions (1 is best and 5 the worst):
- Acceptable Business Practices: 2
 - Supervision Policies: 2
 - Enforces Accountability: 2
 - Consideration of Fraud: 2
 - Information Processing/accuracy and completeness of information: 2
 - Access to policies and procedures: 1
 - Ongoing evaluation of internal controls: 2
- 7) Steve Phillips signed Visa Purchasing Procedures for Parks, Recreation, and Cultural Affairs on April 2, 2013.
- 8) Visa Purchasing Procedures for Parks, Recreation, and Cultural Affairs require:
- Detailed receipts for all orders
 - All charges are signed off on by the cardholder and the unit administrator
 - Monthly packets are finalized, checked for all required documentation, and submitted to the group administrator
 - Cardholders must verify all charges and move them forward to the Group Administrator
 - Group Administrators have responsibility for reviewing charges, providing quality assurance on all charges and VisaWorks entries and forwarding packets to the System Approver
 - System Approvers are responsible for reviewing hard copy reports on Visa packets, electronically approving Visa charges in the Advantage Financial System, and return packets to the Group Administrator for timely delivery to Accounts Payable.
- 9) City of Gainesville Financial Services Procedures require that all cardholders hold and secure procurement cards and for the Department Head to review monthly procurement card packages and electronically approve by electronic signature all monthly charges.
- 10) City of Gainesville Purchasing Department Procurement Card Program training includes requirements for cardholders to hold and secure their purchase cards, for departmental representatives to verify all elements of the purchase as well as question all "funny" purchases such as *split transactions*², and for the Department Head's electronic approval of monthly purchases.
- 11) Records show that on November 13, 2015, employee Natwaina Clark while still a temporary employee used PRCA employee Walter Milne's purchase card to procure a reservation at a Best Western Hotel in Miami Beach for \$126.55. The purchase was not noted as unauthorized during monthly processing (and required reviews) of purchase card statements.
- 12) On November 23, 2015, employee Natwaina Clark while still a temporary employee used PRCA employee Russell Etling's purchase card at Courtyard by Marriot in Gainesville for \$327.77. The purchase was not noted as unauthorized during a monthly processing (and required reviews) of purchase card statements.

² The process of splitting a purchase into multiple parts to evade the maximum purchase limit of \$2,000.

- 13) Records show that Natwaina Clark subsequently used other employees' purchase cards to purchase a total of \$32,134.28 (including the two purchases noted above) worth of goods and service on items such as: I-Pod Touch, I-Pod Nano, Seafood, SunPass accounts, hotel rooms, etc. None of the purchases were noted as peculiar, odd, or "funny" (requiring further review) by PRCA staff during monthly processing (and required reviews) of purchase card statements.
- 14) The VisaWorks software application contains a setting whereby cardholders would be sent an email when each new purchase was made. All purchase cards at PRCA were found to have the function turned off.
- 15) Records show that Natwaina Clark used her P-Card issued to her in March 2016 to make her very first purchase of Tablet case protectors valued at \$126.80 from Sprint, an unauthorized purchase. The purchase was not noted as peculiar, odd, or "funny" (requiring further review) during monthly processing (and required reviews) of purchase card statements.
- 16) Natwaina Clark subsequently made purchases valued at \$61,475.03 on her own P-Card until March 2017 when her card was cancelled. None of the purchases were noted as peculiar, odd, or "funny" (requiring further review) by PRCA staff during monthly processing (and required reviews) of purchase card statements.
- 17) Records and interviews confirm that upon issuance of the Visa P-card, all employees signed formal Cardholder Agreements agreeing to follow City Visa P-Card policies and procedures.
- 18) Interviews with 18 PRCA employees confirm that PRCA staff understood their responsibility in accordance with City Procedure 43-210, that City cards were for business use only, that receipts were required for all transactions detailing both the purchase amount and account distribution, and an employee signed "certification of purchases" was to be affixed to the monthly P-Card packet.
- 19) Interviews with 18 PRCA employees confirm that pre-signed approval stickers were manufactured in PRCA for use by cardholders rather than have the cardholder review and sign off on their monthly statements prior to supervisory review, falsely indicating a proper review took place.
- 20) Interviews with 18 PRCA employees confirm that various required procedures related to P-Cards were not followed and no refresher training was obtained.
- 21) Interviews with 18 PRCA employees confirm that almost all cardholders failed to review and reconcile their final P-card packets prior to processing and forwarding for final approval.
- 22) Interviews with 18 PCRA employees indicated that they lacked any knowledge of supervisory or managerial review that took place after their packet was turned in (no deterrent value present to prevent misuse).
- 23) No cardholder interviewed stated they recalled any supervisor or manager inquiring about any purchase at any time although some did recall times when the Account Clerk requested clarification or asked about receipts.

- 24) Director Steven Philips delegated department-wide authority to five (5) PRCA Division Managers to approve Visa P-card purchases (and payroll) even for divisions they had no control over. The department has a total budget of \$11,687,296 with 89 FTE positions and payroll of \$5,883,816.
- 25) Records show that the PRCA Department had 59 Visa cardholders or 66% of all regular PCRA employees.
- 26) Interviews confirm that upon notification that the 59 departmental Visa reports were closed for the monthly reporting period, the departmental practice was for the first Division Manager responding to the email to approve all expenses for all departmental Visas, except for their own card.
- 27) Interviews and records reveal that an email request was then made to the remaining four Division Managers requesting approval of that one single remaining P-Card (so that the cardholder would not approve their own P-Card).
- 28) Annual "Signature of Authority Delegation" forms were signed by PRCA staff giving each Manager and Assistant Director the Delegated authority Amount" of \$20,000 each but noted that the "Approver is not restricted or limited to approving the listed home unit" (meaning that the City Arborist, Golf Manager, and other managers could approve all PRCA cards even though they had nothing to do with the division).
- 29) In fiscal year 2016, Division Managers approved Visa expenses of \$599,000 and another \$355,592 during the first seven months of 2017.
- 30) Records show that Parks, Recreation, and Cultural affairs exceeded their budgets from time to time, overspending \$244,659 in fiscal year 2015 with divisional budget to actual reports being an ongoing concern in 2016 and 2017.
- 31) Records and communications show that the Finance Department began having concerns over amounts spent for retirements and farewell celebrations, staff meeting meals, congratulation and sympathy gifts, and safety incentive gift cards which exceeded guidelines in City Manager Administrative Procedure No. 28.
- 32) Unfavorable budget to actual projects in March 2017 were communicated to Director Phillips by the Director of Finance. The unauthorized transactions were then uncovered and subsequently investigated.
- 33) It is unknown how many other transactions from P-Card holders were made by others during the same time period. It is also unknown how many unauthorized dollars were needlessly used on unauthorized purchases. Such transaction would likely be difficult to identify at this time.

Discussion and Analysis

It is clear from documentary and testimonial evidence from 18 PRCA employees that there was little control over purchase card transactions in the Parks, Recreation, and Cultural Affairs Department. For pre-printed, pre-signed labels to be used as a standard practice was a beacon to even new employees that controls were non-existent. Another indicator that controls were weak was the annual "Signature Authority Delegation" that let each manager approve all 59 PRCA Visa P-cards, except one, their own. This could be characterized as a complete disregard for required procedures. The fact that the approving manager would not approve their own card but ask another manager to do so was nothing more than a farce, a façade to show that procedures were followed. Even the sheer number of cardholders, 66% of regular employees, demonstrated that cards were not issued on need; rather, as a rite of employment or status reward for employees. Since the control weaknesses were so easy to spot and there

was little perception of getting caught, it is likely other unauthorized purchases were made by current or previous employees. Any deterrent value of oversight or transactions was not present in the PRCA environment.

For Director Phillips to sign certification documents to send to an outside agency giving his department high marks when he either knew or chose not to inquire about the lack of procedures in place for purchase card transactions indicates an ignorance of fraud risks that he self-assessed his department so high at. Not one of the unauthorized transactions was questioned, even from seafood vendors, Florida SunPass, and PayPal. Although Director Steven Phillips delegated his authority for approval to several division managers, who had little knowledge of the other divisions' purchasing needs, he could not delegate his responsibility for their actions and lack of control. During his initial interview, Director Phillips expressed a complete lack of accountability, instead blaming his subordinates for the failure to carry out required procedures. At his final interview on June 1, 2017, he had realized and agreed that he was responsible for his department's actions.

Conclusion

The allegation that Steve R. Phillips, Director of Parks, Recreation, and Cultural Affairs, inadequately and negligently provided control and oversight over departmental Visa purchase card (P-card) transactions between November 13, 2015, and March 2017, allowing public funds to be misspent in the amount of \$93,609, a violation of Financial Services Procedures Manual, Chapter 43-000; the City of Gainesville's Policy E-3 Code of Conduct rule: 13 (productivity or workmanship not to required standards); and rule 25 (wanton or willful neglect in the performance of assigned duties) was **substantiated**.

Recommendations

We recommend that the City Manager take steps to:

1. Hold Director Steven R. Phillips accountable for his actions.
2. Re-evaluate the voluminous issuance of P-Cards to a majority of regular employees at PRCA.
3. Ensure immediate compliance with Visa policies and procedures through training and compliance reviews.
4. Conduct follow-ups to ensure cardholders, card verifiers, and managers stay current with and abide by City Purchasing Card Procedures, including the duties of their roles in card use enforcement.
5. Conduct periodic re-training on at least a bi-annual basis for each employee.
6. Require cardholders to establish the default setting to receive email notifications for each purchase.

Allegation #3 – Human Resources Management Control Environment

That the City of Gainesville's Human Resources Department in the matter of employee applicant Natwaina S. Clark, failed to follow-up on details of a new employee background screening; failed to advise the hiring department of concerns related to the applicant's moral turpitude issues; while clearing the employee to be hired. If true, the department's actions were insufficient and not reasonable.

Facts

- 1) On January 6, 2006, an arrest warrant was issued in Orange County, Florida for Natwaina S. Clark for seven charges resulting from her previous employment at Hughes Supply, Inc., a national residential electrical and plumbing supply distributor.

1 Count:	Burglary of a Structure (Third Degree Felony) September 20, 2004
5 Counts:	Fraudulent Use of Personal Identification Information (Third Degree Felony) (August 2004 and September 1, 2004)
1 Count:	Scheme to Defraud (and "Principal in First Degree (Grand Theft)"- August 1, 2004

- 2) Orlando Police Department investigation notes obtained by the City Auditor in April 2017 indicate that claims were made that Ms. Clark, through her position as a “seasonal employee” in the HR Department of Hughes Supply, illegally obtained employee banking and personal information and sold that data for monetary gain to a third party.
- 3) Records show that the Orlando Police Department determined that Ms. Clark knew the third party was using the data fraudulently to purchase items or make cash withdrawals. Thirty (30) employees were affected nationwide; eleven (11) victims filed formal complaints with a combined loss of \$10,630. Ms. Clark was charged with felony crimes of “Criminal Use of Personal Identification Information” and “Principal in first degree (grand theft)”. She was also found to have entered the premises several weeks after she was no longer employed to obtain more data to sell and was charged with burglary.
- 4) On May 20, 2008, Ms. Clark was charged in Leon County, Florida on a Misdemeanor, 1st Degree charge for giving a false name and identification to the Tallahassee Police. On June 17, 2008, Ms. Clark entered a plea of “nolo contendere”.
- 5) Charges were dismissed on the 2004 matters (and 2006 arrest) on September 2, 2008. The Orange County Court granted a dismissal of all seven charges based on “lack of jurisdiction/statute of limitations” and the trial was cancelled.
- 6) The dismissal of a case happens before a trial begins and is not the same as being found not guilty or acquitted, and the case can be re-filed. A dismissal will show up in a background check and can affect a person’s application although their record will not carry a mark of jail time or criminal consequences.
- 7) In May 2015, Ms. Clark applied for a temporary position as Staff Specialist in the Parks, Recreation, and Cultural Affairs Department and was subsequently hired effective August 3, 2015.
- 8) The Staff Specialist job description indicates the position involves handling confidential information, grant processes and “oversees division travel, accounting, payables, contract billing, timekeeping functions, and project budgets”.
- 9) During the hiring of Ms. Clark, Human Resources Talent Acquisition staff followed Section II Human Resources Practices Guide, Background Screening Process, and requested a background screening report through Edge Information Management for national criminal and driver’s license history, Equifax for address history, FDLE for sex offender and state criminal lists, Alachua County Sheriff’s Office for county criminal activity and the Gainesville Police Department for City incidents.
- 10) The background information received included the previously noted criminal charges from 2004 for the burglary, fraudulent use of personal identification, and scheme to defraud. The information also included the 2008 misdemeanor for giving false identification to a law enforcement officer.
- 11) The Human Resources Background Screening Process provides in Section III that “If an unfavorable report is received, the Human Resources/Organizational Representative will notify the Staffing Services Manager regarding the results of the report”.

- 12) The Employee Relations Specialist noted the “unfavorable” background events and per procedure submitted the report to the Talent Acquisition Manager for further review. The Talent Acquisition Manager reviewed the reports and focused on the length of time since the charges took place and the fact that the Orange County Court dismissed the seven counts.
- 13) The Talent Acquisition Manager did call the applicant to discuss the screening results in order to gain more information. The applicant, Natwaina Clark, provided an explanation and some type of document she recalls (although she was unable to produce it).
- 14) Without documenting the conversation, the Talent Acquisition Manager cleared the applicant for hiring.
- 15) The Talent Acquisition Manager did not request additional information from the law enforcement agencies that had been involved so that she could verify the applicant’s story.
- 16) The Talent Acquisition Manager later stated that after seeing the law enforcement information later obtained by the City Auditor’s Office, had she seen this previously, she likely would have changed her mind.
- 17) In November 2015, Ms. Clark then applied for the same position on a regular basis and was hired as a regular employee Staff Specialist on January 16, 2016.
- 18) The Staff Specialist job description indicates the position involves handling confidential information, grant processes and “oversees division travel, accounting, payables, contract billing, timekeeping functions, and project budgets”.
- 19) During the hiring of Ms. Clark as a regular employee, Human Resources Talent Acquisition staff again followed Section II Human Resources Practices Guide, Background Screening Process, and requested a background screening report through Edge Information Management for national criminal and driver’s license history, Equifax for address history, FDLE for sex offender and state criminal lists, Alachua County Sheriff’s Office for county criminal activity and the Gainesville Police Department for City incidents.
- 20) The background information received included the previously noted criminal charges from 2004 for the burglary, fraudulent use of personal identification, and scheme to defraud. The information also included the 2008 misdemeanor for giving false identification to a law enforcement officer.
- 21) The Human Resources Background Screening Process provides in Section III that “If an unfavorable report is received, the Human Resources/Organizational Representative will notify the Staffing Services Manager regarding the results of the report”.
- 22) Although the second background report contained the exact same information as the first, and was processed by the Human Resources Specialist, it demanded no further review because the Talent Acquisition Manager had previously “cleared” Ms. Clark as a temporary employee.
- 23) Records and interviews confirm that the hiring department, PRCA, was not informed of the unfavorable information found during the background screening process for the regular position.
- 24) Human Resources no longer obtains credit checks on applicants except those for high-level manager positions.

- 25) Human Resources no longer conducts employment and education verifications on applicants unless requested by the department.
- 26) The City Auditor's Office requested employment and education reports on Ms. Clark. Two previous employers did not respond; one being Hughes Supply who had filed charges against Ms. Clark in 2004. The educational verification of Ms. Clark's claimed bachelor and master's degree could not be completed due to a hold on the account (a common practice by institutions of higher learning when the previous student owes a balance).
- 27) Between November 2015 and March 2017, Ms. Clark inappropriately used City Visa cards in the amount of \$93,609.31.
- 28) On March 14, 2017, PRCA staff became aware of the extent that Ms. Clark had been using her City Visa P-card and the P-cards of at least two other employees.
- 29) On March 15, 2017, Natwaina Clark was issued an "Employee Notice" recommending termination and suspension without pay citing violations of City of Gainesville Personnel Policies and Procedures, Policy E-3, Rules 19 and 22 and a formal hearing scheduled for March 21, 2017.
- 30) On March 21, 2017 Natwaina Clark was noticed that her employment with the City was terminated.
- 31) On March 28, 2017 Natwaina Clark was arrested in Alachua County and charged with:
- Larceny; Property stolen valued at \$20,000 or more, but less than \$100,000, 2nd Degree Felony
 - Scheme to Defraud; Property obtained value of \$50,000 or more; 1st Degree Felony

Discussion and Analysis

Human Resources neither followed up with law enforcement about the arrests and multiple charges nor notified the hiring department of any of the "unfavorable" information. Additional information proved to be readily available when requested by the City Auditor's Office in April 2017. The result was that PRCA unwittingly hired an individual who quickly took advantage of the very weak internal controls. Although there is risk of Human Resources releasing negative information to the hiring manager, this case highlights the risk of vetting a candidate in a vacuum. By keeping certain information secret, Human Resources was encouraging hiring of applicants that management would not have hired (for this position³) had they known. This matter had nothing to do with the "check the box" removal from applications since a background check would have been (and was) performed either way once the applicant was selected for hire. Further, by the job description Human Resources knew the position would have access to financial systems, cash, and credit cards yet they performed no credit check either.

The potential risks of not completing thorough background checks and other screenings include:

1. False credentials such as falsified education details (Ms. Clark's degrees could not be validated by the institution due to a hold on her account), misleading or incorrect information, inaccurate job titles, seniority levels, and employment dates.
2. Fraud, hacking, and cybercrime facilitated because employees may have access to sensitive data which such as customer and employee information that can be stolen and used for personal gain or sold.

³ Discussions with PRCA management indicate they would have considered hiring her for something not involving money, charge accounts, etc.

3. Negligent hiring liability. "Negligent hiring" is a legal term that describes an employer's liability for an incident caused by an employee on the theory that the employer knew or should have known about the employee's background which, if known, indicates a dangerous or untrustworthy character.
4. Unsafe workplace conditions for employees, citizens, and customers.

The following internal control weaknesses in HR were identified in the handling of Ms. Clark:

- HR did not review all available public documents to completely assess the criminal background check
- HR is not conducting a complete package of verifications that include employment, education and credit checks
- HR upon detecting "unfavorable" events in the background that would have impacted the hiring decision, did not communicate any information to the hiring manager who then unwittingly hired a high-risk applicant
- Staff facilitating the screening process were not completely aware of written guidelines

Conclusion

The allegation was **substantiated** that the City of Gainesville's Human Resources Department in the matter of employee applicant Natwaina S. Clark, failed to follow-up on details of a new employee background screening; failed to advise the hiring department of concerns related to the applicant's moral turpitude issues; while clearing the employee to be hired (insufficient and unreasonable actions).

Recommendations

We recommend that the City Manager assess policies and procedures to:

- 7) Ensure a thorough screening of all new hires that include a full range of screenings
- 8) Mandatory communication to the hiring department if; and, when any unfavorable or negative item is found in a background screening, is relevant, and the applicant is being recommended for hire.
- 9) Ensure Human Resources staff members are adequately trained.

Allegation #4 – Violation of Purchase Card Requirements

That Russell H. Etling, Cultural Affairs Manager, negligently provided his Visa P-Card for use to another employee not authorized to use the card between the dates of November 23, 2015, and February 19, 2017, a violation of City of Gainesville Financial Services Procedures and City of Gainesville Purchasing Department Procurement Card Program requirements.

Facts

- 1) Russell H. Etling was hired on November 28, 2011, and served as a Program Coordinator in Cultural Operations.
- 2) Russell H. Etling was promoted to his current position as Cultural Affairs Manager on July 22, 2013.
- 3) Mr. Etling was issued a Visa P-Card in his first year of employment on February 28, 2012.
- 4) Mr. Etling undertook required Visa P-Card training and signed his name acknowledging such prior to being issued his purchase card.

- 5) The required P-Card training included the requirement that P-Card holders hold and secure their purchase card and review and reconcile Visa packets for accuracy.
- 6) Records show that Mr. Etling's Visa P-Card was used to make 29 unauthorized purchases between the dates of November 23, 2015 and February 19, 2017 in the amount of \$21,848.21.
- 7) Research and interviews indicated that the 29 purchases were accomplished by former PRCA employee Natwaina Clark as part of a larger scheme that was undetected for a period of time.
- 8) During his interview when the unauthorized purchase transactions were being investigated, Mr. Etling stated that he had provided his Visa P-Card information to employee Natwaina Clark to use for purchases that he thought needed to be made.
- 9) During his first interview, Mr. Etling stated that when Ms. Natwaina Clark interviewed for the position, she had an excellent application and was impressive during the interview.
- 10) Records show that the front of the application for employment of Ms. Clark contained the code: NC83FAMU as part of Ms. Clark's contact email address.
- 11) On Thursday, March 9, 2017, Manager Russell Etling was working with Ms. Clark to look at purchase records and identify reasons for expenses being over budget. Mr. Etling stated that he pointed out to Ms. Clark that some of the P-Card charges for \$1,995.40 were to a PayPal account named "NC83FAMU", which matched Natwaina Clark's initials and that she had graduated from Florida A&M. Mr. Etling stated that Ms. Clark relied, "Yes, where's my money?" Mr. Etling stated that he also surmised that she was born in 1983 (which is true).
- 12) Mr. Etling stated he did not review and reconcile his Visa packet for receipts as required by policy and procedures and he used pre-signed labels rather than signing off as a cardholder, falsely indicating a proper review took place.
- 13) At his final interview on June 1, 2017, Mr. Etling stated that he was the one who "found the fraud" but could not seem to remember which Visa P-Card of the four that he first noted the charges on.
- 14) In the same interview, Mr. Etling failed to acknowledge any responsibility for the voluminous charges on his account over a 15-month period, stating that it was "the system" being used at the time.

Analysis and Discussion

Having full knowledge that it was against City policy, Mr. Etling (a manager responsible for ensuring policies are followed) provided his purchase card information to a new temporary employee. He never once questioned the transactions on his monthly statements for a 15-month period. His decision resulted in a loss of 21,848.21 to the City of Gainesville on his P-card. His bold statement that he was responsible for finding the fraud fails to note that casually inspecting his own monthly statements during the previous 15-months (as he was required to do) would have resulted in tens of thousands of dollars not being fraudulently used in the first place. He also omits that the only reason that he finally did look at his Visa P-Card statements was that the Finance Department mandated that research be conducted to locate where the overspending had occurred. Mr. Etling was no hero in this fraud scheme; rather, an enabler of theft that failed to carry out procedures that he acknowledged by signature he was required to perform. Further, he described how good her application and initial interview were yet did not immediately identify the NC83FAMU letters in the PayPal account that was used to make purchases. Mr. Etling's card was the only card not belonging to Ms. Clark that she used through the period, rather than initial purchases then more near the end.

Conclusion

The allegation that Russell H. Etling, Cultural Affairs Manager, negligently provided his Visa P-Card for use to another employee not authorized to use the card between the dates of November 23, 2015 and February 19, 2017, a violation of City of Gainesville Financial Services Procedures and City of Gainesville Purchasing Department Procurement Card Program requirements is **substantiated**.

Recommendation

- 10) The City Manager should take action to hold Mr. Russell H. Etling accountable for his actions.

End of Report

Enclosure A: Interview List

Enclosure B: Response Letter and Response Matrix

Enclosure C: Itemized Expenditures

(Enclosure A: Interview List)

P-Card Investigation Interview List -PRCA

Parks, Recreation, and Cultural Affairs

Steve Phillips, Director of Parks, Recreation, and Cultural Affairs
Michelle Park, Assistant Parks, Recreation, and Cultural Affairs Director
Shannon Keleher, Recreation Manager
Russell Etling, Cultural Affairs Manager
Linda Demetropoulos, Nature Operations Manager
John Weber, Parks Operations Manager
Jeff Cardozo, Golf Course Manager
Jeff Moffitt, Recreation Supervisor
Ben Dillard, Recreation Supervisor
William Bennett, Labor Crew Leader II
Erica Chatman, Facilities Coordinator
Mary Harker, Program Coordinator
Sunshine Andrei, Events Coordinator
Wendy Bates, Program Assistant
Denese Wethy, Staff Specialist
Maxine Rushing, Grants Program Specialist
Kristy Crawford, Senior Executive Assistant
Connie Whitney, Account Clerk

City Manager's Office

Paul Folkers Assistant City Manager

Human Resources

Audrey Gainey

(Enclosure B: Response Letter and Matrix)



INTER-OFFICE COMMUNICATION

DATE: June 12, 2017
TO: Carlos Holt, City Auditor
FROM: Anthony Lyons, City Manager
SUBJECT: Internal Investigation, Case 2017-003 (PRCA)

This is to acknowledge receipt of the Parks, Recreation and Cultural Affairs Division Internal Investigation. Our responses to the audit findings are attached to this memorandum.

Please do not hesitate to call if you have any questions regarding our response.

AL:hh

(Enclosure B: Response Letter and Matrix)

Recommendations to the City Manager	Action
<p>1. Hold Director Steven R. Phillips accountable for his actions.</p>	<p>Agree. Disciplinary measures are being taken.</p>
<p>2. Re-evaluate the voluminous issuance of P-Cards to a majority of employees at PRCA.</p>	<p>Some steps have already been taken and further steps will be taken City-wide.</p> <p>Specific to PRCA, immediately following the incident, the number of cardholders was evaluated and the number of cards has been reduced 28%. The department is continuing to evaluate their need for procurement in different areas and will reduce this number further as they streamline the process. In addition, once our new Finance Director has been identified, they will be tasked with reviewing the number of cards issued City-wide and make further recommendations on reducing this number overall. The City Manager has also put procedures in place to ensure cards are not issued to temporary or probationary employees.</p>
<p>3. Ensure immediate compliance with Visa policies and procedures through training and compliance reviews.</p>	<p>In progress.</p> <p>Mandatory training sessions are being held throughout June and July for all card holders and card approvers to review all policies and procedures.</p>
<p>4. Conduct follow-ups to ensure cardholders, card verifiers, and managers stay current with and abide by City Purchasing Card Procedures, including the duties of their roles in card use enforcement.</p>	<p>In progress.</p> <p>The City Manager is hiring an Internal Controls Manager, who will report directly to the City Manager, and will be responsible for proactively auditing departments and assuring compliance and internal controls are being followed. In addition, the new Finance Director we select will have a strong background in fiduciary compliance and internal control procedures.</p>
<p>5. Conduct periodic re-training on at least a bi-annual basis for each employee.</p>	<p>Agree. Immediately following the incident, the City Manager requested the Finance Department review its current training process to ensure it was thorough and to issue training at the time a card is assigned, when an approver is added to the system, and in addition, to mandate an annual re-training for all card-holders and approvers.</p>

Recommendations to the City Manager	Action
<p>6. Require cardholders to establish the default setting to receive email notifications for each purchase.</p>	<p>Done. The City Manager has requested this setting be turned on and it be required that all cardholders receive notifications of purchases.</p>
<p>7. Ensure a thorough screening of all new hires that include a full range of screenings.</p>	<p>Agree. Immediately following this incident, the Human Resources department took additional steps to ensure all background review processes are followed. If any charges are identified on an applicant’s criminal background, the Talent Acquisition team requests the public record for the charge and discusses this with the applicant to verify the charge and gain additional information. This information will then be presented to the HR Director and City Attorney’s Office to review before a recommendation of hire, or not hire, is provided to the hiring manager.</p> <p>In addition, the City Manager hired a new Human Resources Director in January 2017, and they have been reviewing all hiring procedures, including pre-hire screening processes. The department is immediately expanding the service packages offered through Edge for all pre-hire screenings, including additional criminal background searches for all cities, counties and states of residence and verifying employment and education as well.</p> <p>The Human Resources department is also recommending that the Finance department request a credit check and background verification through Human Resources, before issuing credit cards or authorizing credit approvers.</p>
<p>8. Mandatory communication to the hiring department if; and, when any unfavorable or negative item is found in a background screening, is relevant, and the applicant is being recommended for hire.</p>	<p>Disagree. This goes against the EEOC recommendations to keep criminal background information confidential and limited for those who have access to this information. In the same fashion that personally protected medical information is considered private, information returned in a criminal background, or credit check, should also be limited and kept confidential from hiring managers. Any negative outcome in reviewing an applicant’s file, would simply be communicated to the hiring manager as a recommendation to not hire.</p>

Recommendations to the City Manager	Action
	<p>Human Resources is responsible for ensuring consistency in the hiring process, to remove unintended bias in hiring practices. In discussing this topic with several hiring managers, some indicated they would disqualify a person based on any conviction, some are more accepting to giving the person an opportunity and some indicated the person would be “watched” or treated differently based on what they knew about the background. This does not promote fairness or equitable treatment. Also, in the case of an employee transitioning from one department to another, would we then terminate the person because one hiring manager was accepting, yet the next is not?</p> <p>To verify best practice, the Human Resource department has consulted with the Executive Chief of Staff, who has extensive experience in Public Sector Human Resources, and with the EO Director, and both have recommend it not be the practice to share this information with the hiring manager. Also, in responses received from other Human Resources professionals and Attorneys, across many entities, this is not common practice nor is it recommended. Again, the reasoning is to remove any unintended bias or disparate treatment from the hiring process.</p> <p>Also, if the process the City has in place now, would have been in place then, this applicant would not have been hired.</p> <p>Today, the Talent Acquisition Manager, HR Director and City Attorney’s office are involved in the review and recommendation to hire or not hire. With the expansion of our background searches, this process will be sufficient to ensure this particular issue will not occur again.</p>
<p>9. Ensure Human Resources staff members are adequately trained.</p>	<p>Done. All Talent Acquisition reps have been re-trained on the process, new hires will be trained on this process as well, and the Human Resources Director will ensure a re-training is conducted on an annual basis.</p>
<p>10. The City Manager should take action to hold Mr. Russell H. Etling accountable for his actions.</p>	<p>Agree.</p> <p>Disciplinary measures are being taken.</p>