



John A. Carey
Inspector General

OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY



Inspector General
Accredited

“Enhancing Public Trust in Government”

Investigative Report

2023-0009

**Planning, Zoning and Building
Overtime Pay**

May 30, 2024

Insight – Oversight – Foresight



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PLANNING, ZONING AND BUILDING OVERTIME PAY ABUSE

SUMMARY

WHAT WE DID

The Palm Beach County (County) Office of Inspector General (OIG) received a complaint from the Palm Beach County Department of Planning, Zoning and Building (PZB) concerning potential overtime pay abuse by PZB Deputy Building Official John Blake and PZB Manager Fred Held.¹ PZB alleged that both employees falsified their employee time records by claiming they worked extra hours commencing at 6:00 a.m. on multiple occasions, in addition to their normal forty (40) hour weekly work schedules, which resulted in the improper accrual of comp-time and/or payments for overtime. Mr. Blake and Mr. Held's jobs required them to perform their duties on County property. PZB management's review of Mr. Blake and Mr. Held's building access card records showed inconsistencies with their employee time records.²

Based upon our initial review of Mr. Blake and Mr. Held's employee time records and building access card records, the OIG

initiated an investigation of the following allegations:

Allegation (1): John Blake falsified employee time records, which resulted in improper payments of overtime.

Allegation (2): Fred Held falsified employee time records, which resulted in the improper accrual and use of compensatory time.

Our Investigation found that a lack of internal controls, combined with deliberately false submissions, allowed two PZB managers to submit multiple inaccurate overtime claims that resulted in the County improperly paying them overtime and/or compensatory time.

The OIG reviewed Mr. Blake and Mr. Held's employee time records for the period November 2021 through April 2023, paystubs for the period November 2021 through April 2023, and building access card records for the period January 2023

¹ The complaint originally referenced a third PZB employee. OIG preliminary review included an analysis of PZB digital monitoring via GPS location software and building key card entry records. Those records revealed that this employee was working during the overtime hours claimed. Therefore, this employee is not a subject of the investigation.

² The complaint also stated that Mr. Held resigned from County employment effective May 3, 2023.

through April 2023; applicable County and PZB policies and procedures; and their emails and internet search history using County-owned devices or networks. We also interviewed PZB's Building Division Director and Administration Division Director, as well as Mr. Blake and Mr. Held.

WHAT WE FOUND

Allegation (1) is supported. Although the County's time reporting system did not allow the OIG to determine conclusively all of the hours Mr. Blake worked during the investigative period, we found that on numerous occasions Mr. Blake inappropriately requested overtime payments from the County for his lunch hour and falsely reported that he arrived at work at 6:00 a.m. The OIG also found that on occasion, Mr. Blake approved his own employee time record without obtaining authority in writing from his department head.

The County paid Mr. Blake a total of \$38,552.35 for overtime from November 2021 through March 2023.³ Of that amount, \$25,427.25 was for hours he inappropriately claimed to have worked prior to the start of his normal work day.⁴ Because our examination of known entry records from January through March of

2023 detail that 16% of those overtime claims were supported by timely entries, we estimate that 84% of the entirety of morning overtime hours are a **Questioned Cost amounting to \$18,053.35.**⁵ Mr. Blake was also inappropriately paid **\$5,994.46** for overtime claimed during his lunch period. We find that amount to be an **Identified cost.**⁶

Allegation (2) is supported. Although the County's time reporting system did not allow the OIG to determine conclusively all of the hours Mr. Held worked during the investigative period, we found that Mr. Held inappropriately requested compensatory time payments from the County by falsely reporting on numerous occasions that he arrived for work at 6:00 a.m.

The County paid Mr. Held a total of **\$3,560.83** for compensatory time from August 2022 through March 2023. We find that amount to be a **Questioned Cost.**

WHAT WE RECOMMEND

We make four recommendations:

- 1) PZB institute appropriate internal controls to ensure that supervisors and timekeepers sufficiently monitor employee time records so as to

³ Mr. Blake also claimed overtime for hours worked after the end of his regular work day. These hours are not included in the OIG analysis of questioned or identified costs.

⁴ Although the OIG could not determine conclusively all of the hours that Mr. Blake worked, based upon our review of the documents and interview with witnesses, we are including overtime he claimed before the start of his regular work schedule in this report as a questioned cost.

⁵ Questioned costs are costs or financial obligations that are questioned by the OIG because of: an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, other agreement, policies and procedures, or document governing the expenditure of funds; a finding that, at the time of the OIG activity, such costs or financial obligation is not supported by adequate documentation; or, a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable. As such, not all questioned costs are indicative of potential fraud or waste.

⁶ Identified costs are costs that have been identified as dollars that have the potential of being returned to the entity to offset the taxpayers' burden.

- minimize the risk of employees improperly reporting leave, overtime, or compensatory time.
- 2) PZB train employees regularly on the rules and guidelines regarding working, earning, and reporting overtime and compensatory time.
 - 3) Reconfigure HRIS to ensure that employees cannot approve their own employee time records or to require the employee to attach a supervisor's written approval.
 - 4) The County seek reimbursement from Mr. Blake of \$5,994.46 in Identified Costs.
The County provided a written response to our report, which is included on page 26.

Mr. Held's response to our report is included on page 27.

Mr. Blake's response to our report, submitted by his attorney, is included as Attachment A.

BACKGROUND

The Department of Planning, Zoning, & Building (PZB) conducts comprehensive planning in the natural and built environments of Palm Beach County. PZB is responsible for development review that applies performance and aesthetic standards for new development and redevelopment; building inspections to promote a safe well-built environment; enforcement of County codes; and certification of contractors.

The County hired Mr. Blake in September 1996. During the period relevant to this investigation, Mr. Blake worked as the Deputy Building Official with PZB, which was a non-bargaining unit, exempt position. According to his job description, his duties included managerial and highly advanced technical work in the administration and enforcement of the County's building codes and related regulations, including the supervision of Building Division personnel in Plan Review and Inspection activities. He was assigned to perform his duties at the PZB Central location and was not approved to work remotely. Mr. Blake was a full-time Merit Service employee with an established work schedule of 8:00 a.m. to 5:00 p.m., with a lunch hour from noon until 1:00 pm, Monday through Friday, for a total of 40 hours per week. Mr. Blake reported to Douglas Wise.

Mr. Held was hired with the County in September 2014 and separated from the County in May 2023. During the period relevant to this investigation, Mr. Held was Assistant Deputy of Inspections with the PZB, which was a non-bargaining unit, exempt position. According to his job description, he was accountable for the final inspections of complex or unusual construction projects and leading the coordination activities of the four categories of inspections including structural, electrical, mechanical, and plumbing. He performed his duties on site at the PZB Central location. Mr. Held was a full-time Merit Service employee with an approved alternative work schedule of 7:00 a.m. to 4:00 p.m., Monday through Friday, for a total of 40 hours per week. At the time of his separation, Mr. Held reported to Mr. Blake.

The PZB Central location where Mr. Blake and Mr. Held were assigned is a secure facility that employees may access⁷ through secured doors using a uniquely coded ID card assigned to them pursuant to the terms in a signed Access Card Receipt and PPMs CW-L-033 and CW-L-041.⁸

County Policies regarding Work Schedules, Time and Attendance, and Comp-Time/Overtime Pay

⁷ Access cards showed an employee's name, picture, and department name. The cards were used primarily for identification, but could also be used in conjunction with electronic access control systems throughout the County. The access cards were not used for timekeeping or payroll purposes.

⁸ County PPM CW-L-041 stated, "An access card shall be used at all secured doors by the individual who was assigned to the access card. Holding-open of a secured door for others to piggybacking through a secured unlocked door shall not be permitted." Per PPM CW-L-033, effective November 5, 2018, County employees were required to individually swipe at all secured access locations that require a card swipe to gain entry.

Palm Beach County Policy CW-P-042, Alternative Work Schedules, effective March 29, 2016, states in part,

PURPOSE

To establish policy and procedures for the implementation of alternative work schedules.

....

POLICY

All departments under the Board of County Commissioners shall work a forty hour work week. Departments may establish alternative work schedules within the guidelines of this PPM to meet public service requirements, to increase efficiency and effectiveness, and to accommodate employee needs.... [Emphasis added]

PROCEDURE

- A. County offices that directly serve the public must remain open between 8:30 am. and 5:00 p.m., Monday through Friday. Starting times and lunch/rest break policies may vary among departments, and some departments may work a compressed work week of four ten-hour days.
- B. **Lunch breaks of a minimum of one-half hour are required;** rest breaks are optional at the discretion of the Department Head. Employees may not use assigned lunch or rest break time to leave early or to extend sick or vacation time. [Emphasis added]

The PZB's Attendance Policy PZB-P-023, effective January 1, 2009, and as subsequently revised October 28, 2022, both stated in part,

PURPOSE:

To establish a procedure to fairly and consistently address absenteeism, tardiness, and the proper use of sick, vacation, and other leave at Planning, Zoning and Building Department.

....

BACKGROUND:

PZ&B recognizes that employees will need time away from work and County Policy allows employees to accrue vacation leave, sick leave and compensatory leave. In return, employees are expected to utilize these benefits properly and to provide timely notification to their Supervisor. They are also expected to honor the Department's prescribed work hours or approved alternative schedule.

....

PROCEDURE:

....

Breaks and Lunch Time:Employees are allowed one unpaid lunch period per day at times predetermined by the employee's Supervisor, or between the hours of 11:00am and 2:00pm. The length of a lunch period is thirty (30) or sixty (60) minutes based on your approved work schedule. All employees are required to take a lunch. Lunch periods may not be used to shorten the workday... [Emphasis added]

....

Alternative Work Schedules: Supervisors, with the Division Director's permission, may grant alternative work schedules to employees pursuant to the provisions of Countywide PPM# CW-P-042 and PZB PPM# PZ-P-015. Employees wishing to work an alternative schedule must submit the request to their Supervisor. Once an employee selects a schedule and their Supervisor approves it, it should not be changed again for six (6) months. There may be instances where the Division Director may approve a schedule change request from an employee or ask an employee to change their schedule to adequately service customers.

RESPONSIBILITIES:

Supervisors are responsible for monitoring their employees' attendance.....

Breaks and Lunch Time: Generally, most employees have the flexibility to get up, stretch, go to the restroom, and/or get a drink. However, there are a few positions, like a receptionist, that may require scheduled breaks (15 minutes, one in the morning and one in the afternoon). The Division Head is authorized to determine which positions warrant the need for scheduled breaks. In some instances, as determined by the Supervisor, the ability to take a scheduled break may not be feasible. In these cases, no compensatory time or make-up time will be granted. Scheduled break time may not be used to extend a lunch period or shorten the length of the workday, nor can it be split up or accumulated.

Employees are allowed one unpaid lunch period per day at times predetermined by the employee's Supervisor, or between the hours of 11:00am and 2:00pm. The length of a lunch period is thirty (30) or sixty (60) minutes based on your approved work schedule. All employees are required to take a lunch. Lunch periods may not be used to shorten the workday. Employees are expected to return from their lunch on time. If late returning, this will be considered a tardy, subject to the guidelines of this policy.

The PZB's Alternative Work Schedule Schedules Policy PZ-P-015, effective January 4, 2016, stated in part,

SUBJECT: ALTERNATIVE WORK SCHEDULES

PURPOSE: To establish a Department policy for the implementation of alternative work schedules.

....

PROCEDURE: A. Department offices must remain open between 8:00 a.m. and 5:00 p.m., Monday through Friday.....

B. Lunch breaks of a minimum of one-half hour are required....Employees may not use assigned lunch or rest break time to leave early or to extend sick or vacation time.

The PZB's Alternative Work Schedule Schedules Policy PZ-P-015, was amended effective January 16, 2023, to state:

PURPOSE:

To establish a Department policy for the implementation of alternative work schedules in the Planning, Zoning and Building Department (PZB).

....

DEFINITIONS:

Work Schedule: A consistent timetable of arrival at the work location, taking of lunch, and leaving the work location at the end of the day.

POLICY:

Individual Divisions of the PZB Department may establish alternative work schedules within the guidelines of the County-wide Policies and Procedures Manual (PPM) CW-P-042 for permanent employees only.

The Department's offices are generally open to the public between 7:00 a.m. to 6:00 p.m., Monday through Friday, excluding holidays. This may vary by Division, but all Divisions must be available for contact with the public via email, telephone or whatever method reasonable, between the hours of 8:00 a.m. and 5:00 p.m. Office hours may be modified if needed, under the approval of the Department Director or designee. Start times and lunch/rest break policies may vary in each Division/Section.

Lunch breaks of a minimum of one-half hour are required. Employees may not use assigned lunch to leave early or to extend sick or vacation time. In addition, **lunch breaks are not eligible to account for overtime.** [Emphasis added]

The County Merit Rules (2007)⁹ stated in pertinent part,

RULE 2

DEFINITIONS

....

COMPENSATORY TIME – Time off with pay in lieu of overtime pay for hours worked in excess of the normal workweek.

....

EXEMPT EMPLOYEES – Employees excluded from the overtime provisions of the Fair Labor Standards Act.

....

....

OVERTIME PAY – Cash payment for hours worked in excess of 40 hours per week.

....

RULE 6

CLASSIFICATION AND PAY ADMINISTRATION

....

6.5 METHODS OF PAYMENT

A. GENERAL PROVISIONS

1. All full-time Merit Service employees, exempt and non-exempt, regularly working established normal workweeks of 40 hours, shall be paid at the bi-weekly or hourly rates set forth in the Palm Beach County Classification and Pay Plan.

....

C. OVERTIME WORK

It shall be the general policy of the County not to require frequent or considerable overtime. However, Department Heads may authorize or direct an employee to work over 40 hours when necessary to meet emergency deadlines or operating needs.

1. All overtime work must be scheduled and authorized by the

⁹ The County Merit Rules were revised in April 2023.

Department Head or designee. Overtime that is fully documented and approved by a Department Head or designee in advance of actual payment is considered to be in compliance with Merit Rule 6.

2. Department Heads shall maintain records of all overtime worked by Merit Service employees in their departments. No additional hourly pay or compensatory time off shall be granted, except on the basis of such records.

....

E. STRAIGHT TIME PAYMENT FOR EXEMPT EMPLOYEES

1. Employees exempt from paid overtime may be granted time off at a rate of one hour for each hour worked in excess of 40 hours with the approval of the Department head.
2. Payment to exempt employees at straight time rates can be made with the approval of the County Administrator as warranted by unusual circumstances, or when it is deemed counter-productive to allow employees to take time off or flex their schedules.

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2. Payment to exempt employees at straight time rates can be made with the approval of the County Administrator as warranted by unusual circumstances, or when it is deemed counter-productive to allow employees to take time off or flex their schedules.

County PPM CW-P-048, Time and Attendance Records, effective January 13, 2017, provides,

PURPOSE:

3. Time balances must be taken prior to termination.

To provide a standardized time and attendance recordkeeping system for all **non-exempt County employees**. [Emphasis added]

....

POLICY:

It is the policy of the Board of County Commissioners to require a positive record of time and attendance to accomplish the following: accurately compute employee's earnings, deductions, and net pay; monitor and report employee's annual, sick and other types of leave. **Exempt employees will not be required to maintain a daily record of their time and attendance.** [Emphasis added]

GUIDELINES:

Departments must use the Employee Time Record developed by Human Resources and Payroll (form and instructions attached). Departments wanting to use an alternative form which better meets their operational needs must submit the form to Human Resources for approval. If approved by Human Resources, the alternative form and instructions on how to complete must be in the form of a departmental PPM. [Emphasis added]

The County Employee Timekeeping Information & Instructions, revised September 21, 2018, includes *some* of the language from the Employee Time Record Information & Instructions attached to the 2017 County PPM CW-P-048, and states in part,

100.1 INTRODUCTION

Public Law 99 - 150 requires state and local governments to comply with the provisions of the Fair Labor Standards Act (FLSA)....

To fully comply, the County instituted standardized recordkeeping procedures for all departments and divisions. [Emphasis added]

The standardized time record was developed with input from Payroll, ISS, Human Resources and by employees actually responsible for performing the payroll functions in the departments.

100.2 PURPOSES

Certified time and attendance records authorize payments to employees, therefore timekeepers and supervisors must understand the detailed instructions which follow so that the data provided to the Payroll Office is timely and accurate....

....

CHAPTER 101 TIMEKEEPING RESPONSIBILITIES

101.1 SUPERVISORS

Supervisors are responsible for: 1) accurately reporting time and attendance for all employees in their work group; 2) advising employees regarding leave abuses; 3) assuring that timekeepers are informed of the correct time to be charged; and, 4) assuring that time is correctly recorded by the timekeeper on the Employee Time Records.

Supervisors are required to approve and certify employees' time through the end of the pay period by signing the Employee Time Record. Corrections and alterations must be approved by a supervisor or higher level administrative authority. **Employees will not be permitted to certify or approve their own Employee Time Record, except in rare circumstances where it is not practical to do otherwise and authority has been given in writing by the Department or Division Head, e.g., personnel working in the field.** [Emphasis added]

101.2 TIMEKEEPERS

Timekeepers are responsible for daily recording of all time in a pay and non-pay status for an assigned number of employees. This record is kept on the Employee Time Record. Timekeepers may only complete Employee Time Records for their own work group.

Timekeepers will record time and attendance based on positive knowledge of the employees' presence on or absence from the job as follows:

101.2.A Record daily hours in pay and non-pay status; keep supervisors informed as to attendance or absence of employees of whom they are responsible.

101.2.B Initiate a Personnel Action form when necessary to inform Human Resources and Payroll of changes in pay status, i.e., return from leave without pay, change in weekly work schedule, change in shift differential, lead worker or standby status.

101.2.C Complete the daily column(s) of the Employee Time Record for leave taken and have an Electronic Leave Request completed in HRIS. **Record in the Explanation Section of the Employee Time Record the exceptions to an employee's regular work schedule, e.g., overtime or compensatory time earned, leave without pay, absent time paid, suspension, etc....** [Emphasis added]

....

102 EMPLOYEE TIME RECORD FORMAT

....

The Employee Time Record is designed to provide the necessary information to accomplish the following operations: accurately compute employees' earnings, deductions and net pay; monitor and report employees' annual, sick and other leave.

....

103 AREA II REGULAR SCHEDULED HOURS WORKED

...timekeepers must record daily all hours worked by each employee. All employee activity for the pay period must be properly recorded to account for the number of hours and minutes scheduled for each day.

....

103.1 Regular Scheduled Work Hours

Enter the number of regularly scheduled hours worked for the day. The number should not exceed the hours listed in the Hours Per Day row. Any hours worked in excess of the scheduled hours per day should be recorded in the Additional Hours row....

....

103.11 Total Payroll Hours

At the end of the pay period the hours in each category should be totaled. **The subtotal of the regular hours, holiday hours and additional hours must exceed 40 before any time reported in the additional hours column can be paid at time and a half.** [Emphasis added]

....

105 Additional Hours Reported

This area is used to summarize any overtime paid at straight time, hours deducted or overtime paid at time and a half reported for the pay period.

....

OVERTIME

Merit Rule pertaining to overtime states "all overtime must be scheduled and authorized in advance by the department head."

Job classes designated as exempt (EX) are not eligible for additional pay for overtime, but may earn compensatory time on an hour for hour basis. (This also applies to part time exempt employees.) [Emphasis added]

General employees designated as non-exempt (NE) are eligible for overtime pay and may be paid at time and one half of their regular rate of pay for all hours over 40 in a work week OR an equivalent amount of compensatory time.

Overtime approved for Exempt Employees in PZB

Ramsay Bulkeley, Executive Director of PZB, sent a memorandum dated October 22, 2021 to County Administrator Verdenia Baker, requesting overtime compensation for PZB exempt employees, stating the following:

REQUEST: This memorandum is to request your approval for a temporary allowance of overtime compensation for Building Division Exempt employees effective immediately for a period of six (6) months or until demand decreases to normal levels. This request is being made pursuant to Merit Rule 6.05.E.2, as warranted by unusual circumstances and further described in the Justification Section.

JUSTIFICATION:...

The Building Division is facing many challenges and opportunities as it receives nearly 300 permits a day and receives nearly 1,000 daily inspection requests. The Division is experiencing an extreme employee shortage, with nearly 40 vacancies and difficulty hiring qualified candidates. The shortage combined with the volume of permit applications and inspections is requiring the Division to propose alternative options to ensure demand is met. We recently approved a demand based/required overtime program for the Division Inspectors. Combined with their effort, the Division needs supervisors to have the ability to work with their teams and be compensated as well.

....

It would be counterproductive for the Division to offer comp time or flex time during times where we need all hands on deck. [Emphasis added]

Diligence will be taken to ensure all overtime submissions are authorized by the supervisor prior to working over 40 hours per week, and we will take steps to shift workloads to minimize the number of overtime hours to the extent feasible.

...

As noted in Merit Rule 6.05.E.2, payment of overtime to exempt employees at straight time rates can be made with the approval of the County Administrator as warranted by unusual circumstances...

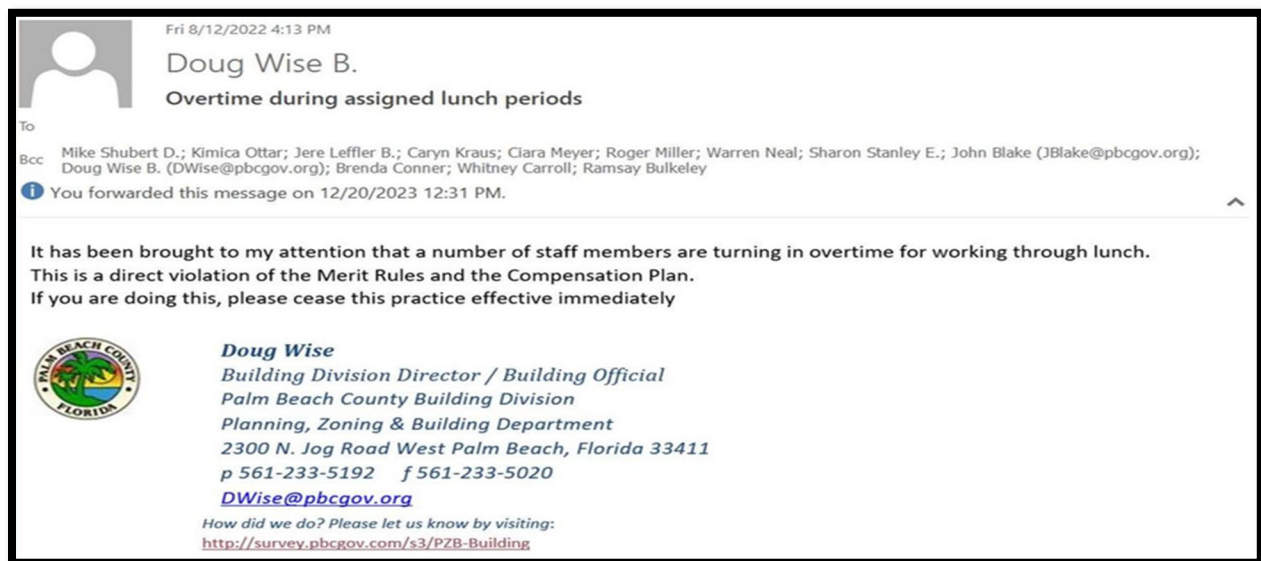
Ms. Baker wrote her initials on the memorandum to show her approval of the request on October 27, 2021.

Neither County nor PZB policies and procedures required individual exempt employees to input their regular scheduled work hours in employee time records into the County's Human Resources Information System (HRIS) showing they actually worked their standard schedule each day. Exempt employees, however, were tasked with entering exceptions such as vacation, sick, jury duty, or compensatory time into the system. When exempt PZB employees were approved for overtime pay in October 2021, they began inputting in HRIS any hours they worked that exceeded their normal forty (40) hour weekly work schedule.

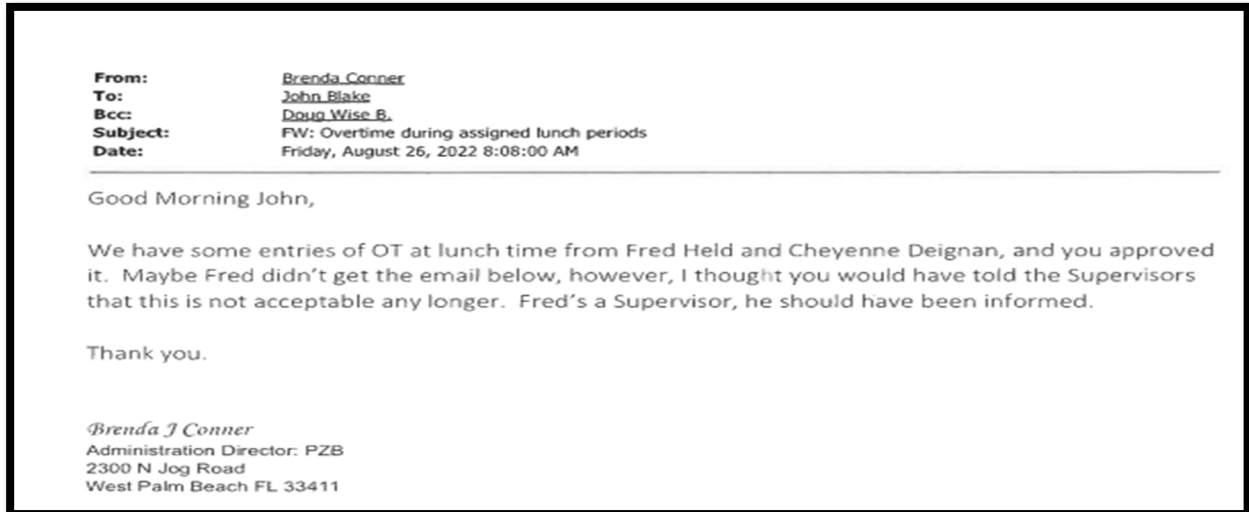
PZB Email Regarding Overtime during Lunch

Approximately nine and one-half months after PZB's exempt employees were approved for overtime pay, on August 12, 2022, PZB Building Division Director Douglas Wise sent an email blind copying several members of his staff, including Mr. Blake, wherein he stated,

It has been brought to my attention that a number of staff members are turning in overtime for working through lunch. This is a violation of the Merit Rules and the Compensation Plan. If you are doing this, please cease this practice effective immediately.



A couple of weeks later, on August 26, 2022, PZB Administration Director Brenda Conner sent an email directly to Mr. Blake stating that Mr. Blake had approved Mr. Held's requests for overtime for hours worked during lunch. Ms. Conner told Mr. Blake, "...I thought you would have told the Supervisors that this is not acceptable any longer."



Overtime Discrepancies

According to PZB's complaint to the OIG, in April 2023, Mr. Wise realized that there were unapproved time cards and multiple overtime requests by Mr. Blake and Mr. Held for hours worked between 6:00 a.m. and 8:00 a.m. Because both Mr. Blake and Mr. Held's jobs required them to perform their duties on site at the PZB Central location, Mr. Wise compared the overtime requests against Mr. Blake and Mr. Held's building access card records. PZB found that Mr. Blake and Mr. Held's overtime requests were not consistent with their building access card records.

On April 5, 2023, PZB suspended all overtime pay within the Building Division (with limited exceptions).

ALLEGATIONS AND FINDINGS

Allegation (1):

John Blake falsified employee time records, which resulted in improper overtime payments to him.

Governing Directives:

Palm Beach County Merit System Rules and Regulations, Merit Rules 6.5(C) and 7.02; Palm Beach County Policy CW-P-042 and Policy CW-P-048; PBZ Policy PZ-P-015 and

PZB Policy PZ-P-023; October 22, 2021 approved Memorandum re: Building Division Overtime Compensation Request for Exempt Employees.

Finding:

The information obtained **supports** the allegation. We also found that Mr. Blake approved his own overtime on several occasions without his department head's written approval.

OIG Review of Mr. Blake's Time Keeping Records and Overtime Funds Received

PZB provided the OIG with Mr. Blake's Overtime/Compensatory time report from HRIS for the period of November 1, 2021 through April 4, 2023.

In addition, the OIG obtained records of overtime payments made to Mr. Blake from the Palm Beach County Clerk of Circuit Court & Comptroller's office. The records show that the County paid Mr. Blake \$38,552.35 for 673 hours of overtime from November 2021 through March 2023.

Mr. Blake's Morning Overtime Claims

Mr. Blake signed an Access Card Receipt on January 10, 2020 noting his receipt of his uniquely coded ID card, which could be used to gain entry into County facilities using various doors for access points. The OIG obtained from PZB Mr. Blake's access card records for the period of January through April 2023.¹⁰

The following OIG chart compares Mr. Blake's earliest daily access card entries with the morning overtime he claimed for each of those days:

Comparison of John Blake Entry Swipes and Morning Overtime Claims			
Week	Date	Earliest Access Card Entry	Morning Overtime Claim
1	1/18/2023	6:54 am	6:00 – 8:00 am
	1/19/2023	7:05 am	6:00 – 8:00 am
	1/20/2023	6:54 am	6:00 – 8:00 am
2	1/23/2023	7:06 am	6:00 – 8:00 am
	1/24/2023	7:04 am	6:00 – 8:00 am
	1/25/2023	6:35 am	6:00 – 8:00 am
	1/26/2023	7:01 am	6:00 – 8:00 am
	1/27/2023	7:11 am	6:00 – 8:00 am
3	1/30/2023	7:15 am	6:00 – 8:00 am
	1/31/2023	7:03 am	6:00 – 8:00 am
	2/1/2023	No swipe card entry recorded	6:00–8:00 am
	2/2/2023	6:50 am	6:00 – 8:00 am

¹⁰ PZB was only able to retrieve swipe card access records going back to January 2023. Overtime was discontinued in April 2023.

	2/3/2023	No swipe card entry recorded	6:00—8:00 am
4	2/6/2023	7:16 am	6:00 – 8:00 am
	2/10/2023	7:14 am	6:00 – 8:00 am
5	2/13/2023	7:24 am	6:00 – 8:00 am
	2/14/2023	7:05 am	6:00 – 8:00 am
	2/15/2023	7:19 am	6:00 – 8:00 am
	2/16/2023	No swipe card entry recorded	6:00—8:00 am
	2/17/2023	7:16 am	6:00 – 8:00 am
6	2/21/2023	7:07 am	6:00 – 8:00 am
	2/22/2023	9:04 am	6:00 – 8:00 am
	2/23/2023	7:00 am	6:00 – 8:00 am
	2/24/2023	6:34 am	6:00 – 8:00 am
7	2/27/2023	6:52 am	7:00 – 8:00 am
	2/28/2023	No swipe card entry recorded	7:00—8:00 am
	3/1/2023	6:30 am	7:00 – 8:00 am
	3/3/2023	12:07 pm	7:00—8:00 am
8	3/6/2023	7:07 am	7:00 – 8:00 am
	3/7/2023	6:57 am	7:00 – 8:00 am
	3/8/2023	No swipe card entry recorded	7:00—8:00 am
	3/9/2023	7:21 am	7:00 – 8:00 am



No swipe card record



Swipe card consistent with employee time record

The OIG was able to compare Mr. Blake's requests for overtime payments on 32 days from January 18, 2023 to March 9, 2023, against the earliest building access card entry records for his uniquely coded ID card. On 84%¹¹ of the days that Mr. Blake requested overtime payments during that period, building access card records were inconsistent with his employee time records. On 23 occasions, Mr. Blake's earliest access card entry records showed he used his card to enter the building from 21 minutes to five hours and seven minutes later than he claimed in his overtime exception entries. On four days, there were no swipe card records that reflected the time of Mr. Blake's initial entrance to the building.

Mr. Blake's Lunch Overtime Claims

The OIG also noted that from November 1, 2021 through July 28, 2022, Mr. Blake submitted requests for and was paid for a total of 110.5 hours of overtime during his proscribed lunch hour. Ninety-five of those overtime claims were for one hour between 12:00 p.m. until 1:00 p.m. And 31 of those claims were for 30 minutes between 12:00 p.m. until 12:30 p.m. or from 12:30 p.m. until 1:00 p.m.

¹¹ On five days during the swipe card-captured time period, Mr. Blake claimed overtime, but there are no swipe card records detailing his morning arrival. We did not include those five days in this statistic.

In one instance, Mr. Blake submitted his employee time record for the pay period of February 12, 2022 through February 25, 2022, which included requests for overtime payments for six days during his regular lunch period. **His supervisor, Mr. Wise, returned the timesheet to Mr. Wise on February 25, 2022 with the remarks, “Need to review FLSA and Merit Rules regarding taking a lunch break.” Mr. Blake later approved his own employee time record for this period, which included his requests for overtime pay for his lunch period. He then submitted 85 additional requests for overtime pay for his lunch period between February 25 and July 28, 2022.**

Documents Attached				
Doc Name	Doc Date	Doc Desc	Attached By	Attached Date
OT Approval.pdf	10/27/2021	Increased demand for PR & Insp	jblake	02/25/2022
Routing Status				
Initiated By :	Blake, John M		Date: 02/25/2022 02:23:40 PM	
Returned OTCOMP By :	Wise, Douglas Bennett		Date: 02/25/2022 04:09:27 PM	
	Remarks: Need to review FLSA and Merit Rules regarding taking a lunch break...			
	Previous Type: Overtime Start Date: 02/22/2022 Total Hrs: 12.00			
Modified By :	Blake, John M		Date: 03/04/2022 11:25:36 AM	
Completed By :	Blake, John M		Date: 03/11/2022 04:03:00 PM	

Mr. Blake Approved his Own Employee Time Records

In total, Mr. Blake approved 22 of his own employee time records from February 2022 through August 2022 without the written approval of this department head. Although Mr. Wise returned Mr. Blake’s timesheet for the pay period of February 12, 2022 through February 25, 2022, wherein Mr. Blake requested overtime pay during his lunch hour with directions “to review FLSA and Merit Rules regarding taking a lunch break,” Mr. Blake later self-approved that timesheet on March 11, 2022.¹²

OIG Interview of PZB Administration Division Director Brenda Conner

Ms. Conner told the OIG that in October 2021, PZB requested authorization from the County Administrator to institute overtime for exempt employees, due to challenges they were having meeting deadlines for permits. Mr. Blake is an exempt employee. Under the County Merit Rules, she said, exempt employees are usually compensated with compensatory time for overtime hours worked.

Ms. Conner observed Mr. Blake walking from his car in the parking garage to the building after 7:00 a.m. on multiple occasions after she saw that Mr. Blake had started to request overtime for early morning hours prior to his regular work schedule. She thereafter

¹² Mr. Blake modified his timesheet on March 4, 2022, but the OIG was unable to determine the nature of the modifications.

accessed PZB payroll records, which showed that Mr. Blake reported working overtime from 6:00 a.m. to 8:00 a.m. Ms. Conner and Building Division Director/ Building Official Doug Wise then matched overtime records to building access badge swipe records to determine whether the employees were on-site when they claimed overtime.

Ms. Conner said she and Mr. Wise spoke with Mr. Blake about their findings. She said Mr. Blake told them that he was not at the office for part of the time he was claiming, but that he was working for part of the time. Ms. Connor advised the OIG that Mr. Blake was not approved to work remotely.

Ms. Conner and then PZB Interim Director Whitney Carroll interviewed Mr. Blake about his potential falsified overtime claims. Ms. Conner told the OIG that during this interview, Mr. Blake admitted that he had claimed overtime for hours that he did not work, and also said that he often worked through his lunch hour and claimed overtime for it.

The OIG showed Ms. Conner emails dated August 26, 2022 from her to Mr. Blake and an August 12, 2022 email sent by Mr. Wise to several PBZ staff members regarding working overtime during lunch. She told the OIG that employees were working overtime during their lunch and when she noticed it about ten months after PBZ employees became eligible for overtime pay, she told Mr. Wise that it was “totally inappropriate.” Ms. Conner stated that everyone must take a lunch due to Fair Labor laws, and that overtime is to be done either before or after one’s shift. Further, she said PZB has a standard that lunch must be taken between 11:00 a.m. and 2:00 p.m., and they adhere to the County PPM to ensure that lunch is not to be used at the end of the day. She said Mr. Wise sent the email on August 12, 2022 instructing staff to cease the practice “effective immediately.”

OIG Interview of PZB Building Division Director/ Building Official Douglas Wise

Mr. Wise told the OIG that after the approval of overtime for exempt employees, there was no additional guidance given to employees regarding the amount of overtime that could be worked. Mr. Wise stated that Mr. Blake requested permission from him to come in early to keep an eye on the Inspectors who were working early, and Mr. Wise approved.

Mr. Wise said that after assigning an employee he supervised to review time and attendance records, he was informed by one of his staff members that Mr. Blake and Mr. Held were coming to work at 7:30 a.m. on occasions that Mr. Wise was approving their overtime requests for time commencing at 6:00 a.m. Mr. Wise told Ms. Conner, and Mr. Wise stated that they discovered that Mr. Blake and Assistant Deputy of Inspections Fred Held were falsifying County records by putting in for overtime they were not working.

Mr. Wise spoke with Mr. Blake about his discoveries. Mr. Wise told the OIG that Mr. Blake was apologetic and wanted to know what was going to happen next. He said Mr. Blake did not admit wrongdoing “per se,” but he “didn’t deny it” and “was trying to figure out how he could make it right.”

Mr. Wise stated that overtime during lunch was not allowed. The OIG showed Mr. Wise an email that he sent dated August 12, 2022 regarding working overtime during lunch. Mr. Wise said that notification email was a reminder for a rule that was already in place.

OIG Interview of John Blake

Mr. Blake told the OIG he is the Deputy Building Official/ Deputy Building Division Director for PZB. As the Deputy Building Official, he supervises inspections, inspectors, plans examiners, and the permit center. Mr. Blake said his position requires him to be in the building every day. His normal shift starts at 8:00 a.m. He goes to the office every day, and the only reason he would leave the office after his shift begins is for an off-site meeting. He said that when he went into the building through the side entry or front door, he swiped his badge. However, he said that if he came in the front door earlier that day, a security guard often pushed the button and either he showed his badge or the security guard recognized him and was let in by the security guard.

Mr. Blake stated that once COVID started to subside, the demand for building permits was great, and there was a need for employees to work more than 40 hours a week. He said exempt employees were either working the extra hours but not reporting them, or they were not working the needed additional hours. As such, the October 2021 overtime memo was approved for leadership to be able to work overtime.

According to Mr. Blake, there was no guidance given regarding how much overtime an employee could work, and in the beginning, there was nothing said about working overtime during lunch.

Mr. Blake stated that Mr. Wise approved his overtime, but there was a period where Mr. Blake approved his own overtime. He explained that the overtime entries that he submitted stayed in the queue awaiting approval for weeks. He was also receiving requests from payroll personnel to approve the overtime entries of other employees because Mr. Wise had not approved them. On some occasions, he went in HRIS to approve those entries and "inadvertently" approved his own. He does not remember how often he approved his own time but he knows it was probably over the course of a few months. When the OIG asked Mr. Blake if he was allowed to approve his own overtime as one of his job duties he stated, "At the time, in HRIS it worked." He also said he "wasn't entirely comfortable with it, but it would just sit there."

Mr. Blake stated that he routinely worked through his lunch because "it's about customer service." He said that four out of five days a week he worked through lunch in some capacity. His lunch lasts one hour.

Mr. Wise told him around the fall of 2022 that he would not approve any overtime for lunch, because it was "against the law and he couldn't do it," so Mr. Blake stopped entering overtime for his lunch hour. Mr. Blake stated that after this notification, he still worked through lunch and entered a corresponding amount of time as overtime. Mr. Blake

said that since he could not claim the hour that he worked during lunch, he claimed it in the morning instead to compensate for it. Mr. Blake stated the email regarding working overtime during lunch said that you cannot approve lunch overtime or turn it in, but it did not say an employee could not work during that hour. Mr. Blake told the OIG that if that was not appropriate, he was willing to “fix it.” Mr. Blake said he worked the amount of overtime hours he entered, but the way he entered it in the system was “not the truth.”

Mr. Blake said he worked overtime in the mornings before his normal shift. Before what Mr. Blake described as “the overtime change regarding lunch”, he was working early one or two hours, through lunch, and then late one or two hours almost every day. When he was told that he could not turn in lunch overtime anymore, he stopped turning in the lunch time, stopped working late, and only came in early. He said he tried to come in at 6:00 a.m., but sometimes arrived at 6:30 a.m.

Mr. Blake said that Ms. Carroll, Ms. Conner, and Mr. Wise spoke with him regarding his overtime entries and said that his overtime was inflated. Mr. Blake told them that he was putting his overtime he worked for lunch in the morning overtime slot. He also told them that he worked through lunch.

The OIG asked Mr. Blake if he abused overtime. Mr. Blake responded, “I worked overtime, I entered an amount of time that was compensatory or less, but I did not follow the rules entirely.” The OIG then asked if he thought it was wrong to not follow those rules, and he said, “Yes.”

Mr. Blake said that if it is determined that he received more overtime than he should, that he would like to give that money back.

Conclusion

On October 27, 2021, the County Administrator approved a request for overtime for exempt PZB employees. Although County and PZB policies and procedures did not require individual exempt employees to input their regular scheduled work hours in HRIS showing they actually worked their standard schedule each day, the change in policy required them to input their overtime into the system. Additionally, PBZ employees were required to take a lunch break each day.

Although the County’s reporting system did not allow the OIG to determine conclusively all of the hours Mr. Blake worked during the investigative period, Mr. Blake’s own admissions to the OIG and other County officials, his employee time records, and his building access card records show that on numerous occasions Mr. Blake inappropriately requested overtime payments from the County for his lunch hour and falsely reported that he arrived at work at 6:00 a.m. The OIG also found that on occasion, Mr. Blake approved his own employee time records without obtaining authority in writing from his department head.

As a result of his actions, the County paid Mr. Blake a total of \$38,552.35 for overtime from November 2021 through March 2023. Of that amount, \$25,427.25 was for hours he claimed to have worked prior to the start of his normal work day. Because our examination of January through March 2023 swipe card record entries detail that 29% of those overtime claims were supported by timely entry card swipes, we extrapolate that 71% of the entirety of morning overtime hours are a **Questioned Cost, amounting to \$18,053.35. \$5,994.46 of overtime payments were for hours during his lunch period. We find that amount to be an Identified cost.**

The allegation that Mr. Blake submitted and received overtime funds based on false overtime submissions is **supported**.

Allegation (2):

Fred Held falsified Employee time records, which resulted in his improper accrual and use of compensatory time.

Governing Directives:

Palm Beach County Merit System Rules and Regulations, Merit Rules 6.5(C) and 7.02; Palm Beach County Policy CW-P-042 and Policy CW-P-048; PBZ Policy PZ-P-015 and PZB Policy PZ-P-023; October 22, 2021 approved Memorandum re: Building Division Overtime Compensation Request for Exempt Employees Memorandum

Finding:

The information obtained **supports** the allegation.

Mr. Held’s Morning Compensatory Time Claims

PZB provided the OIG with Mr. Held’s overtime/compensatory time report from HRIS for the period of November 1, 2021, through April 4, 2023. PZB also provided Mr. Held’s access card records for his uniquely coded ID Access Card for the period of January 2023 through April, 2023.¹³ The following OIG chart compares Mr. Held’s earliest daily swipe card entries with the morning compensatory time he claimed for each of those days.¹⁴

Comparison of Fred Held Entry Swipes and Morning Compensatory Time Claims			
Week	Date	Earliest Entry Swipe	Morning Comp Claim
1	1/18/2023	7:09 am	6:00 – 7:00 am
	1/19/2023	6:47 am	6:00 – 7:00 am

¹³ PZB was only able to retrieve swipe card access records going back to January 2023. Overtime was discontinued in April 2023.

¹⁴ Mr. Held did not claim morning overtime during the period when PZB retained swipe records.

	1/20/2023	7:03 am	6:00 – 7:00 am
2	1/23/2023	7:01 am	6:00 – 7:00 am
	1/24/2023	7:16 am	6:00 – 7:00 am
	1/25/2023	7:07 am	6:00 – 7:00 am
	1/26/2023	6:49 am	6:00 – 7:00 am
	1/27/2023	7:40 am	6:00 – 7:00 am
3	1/31/2023	6:52 am	6:00 – 7:00 am
	2/1/2023	6:54 am	6:00 – 7:00 am
	2/2/2023	6:55 am	6:00 – 7:00 am
	2/3/2023	7:00 am	6:00 – 7:00 am
4	2/7/2023	6:26 am	6:00 – 7:00 am
	2/8/2023	No swipe card entry recorded	6:00 – 7:00 am
5	2/13/2023	7:09 am	6:00 – 7:00 am
	2/15/2023	6:56 am	6:00 – 7:00 am
6	2/21/2023	6:55 am	6:00 – 7:00 am
	2/22/2023	7:10 am	5:45 – 7:00 am
	2/23/2023	7:13 am	6:00 – 7:00 am
7	2/27/2023	7:10 am	6:00 – 7:00 am
	2/28/2023	7:02 am	6:00 – 7:00 am
	3/1/2023	7:02 am	6:00 – 7:00 am
	3/2/2023	No swipe card entry recorded	6:00 – 7:00 am
8	3/6/2023	7:02 am	6:00 – 7:00 am
	3/7/2023	6:49 am	5:45 – 7:00 am
	3/9/2023	6:49 am	6:00 – 7:00 am
10	3/21/2023	6:50 am	5:30 – 7:00 am
	3/22/2023	7:00 am	6:00 – 7:00 am
	3/23/2023	7:11 am	6:00 – 7:00 am
	3/24/2023	6:48 am	6:00 – 7:00 am
11	3/27/2023	6:57 am	6:00 – 7:00 am
	3/28/2023	6:51 am	6:00 – 7:00 am
	3/29/2023	6:56 am	6:00 – 7:00 am
12	4/4/2023	6:54 am	5:45 – 7:00 am

From January of 2023 through April of 2023, the OIG compared Mr. Held's earliest daily swipe card entries on 34 days against his claimed compensatory time earned for those mornings. On 32 of the 34 examined days (94%), those swipe card entry times were inconsistent with the compensatory time he claimed in his employee time records for that period. On each of those 32 occasions, the swipe card records logged his entry into the building at least 26 minutes later than his claimed compensatory time. Mr. Held accrued 95 hours of compensatory time from September 2022 through April 2023 based upon his reports in HRIS that he worked hours that exceeded his normal forty (40) hour weekly work schedule. The report shows that from August 2022 through April 2023, the County paid Mr. Held \$3,560.83 for 80.25 hours of compensatory time.

OIG Interview of PZB Administration Director Brenda Conner

Ms. Conner told the OIG that when she was looking into the matter concerning Mr. Blake, she also noticed that Mr. Held's time reporting was "unusual." Mr. Held was a supervisor and an exempt employee. On multiple occasions he reported that he earned one hour as compensatory time and one hour as paid overtime. Ms. Conner said this was unusual because no one should have been getting compensatory time. When Ms. Conner looked at the access badge swipe reports, she saw that Mr. Held's badge swipes were inconsistent with the time he was reporting. Mr. Wise and Ms. Conner interviewed Mr. Held about potential falsified overtime claims, and Mr. Held said that he was working on emails from 6:00 a.m. to 7:00 a.m. However, Ms. Conner told the OIG that Mr. Held commuted to Palm Beach County from his home in another county, and Ms. Conner believed it would not have been possible for him to work on emails while commuting to work.

Ms. Conner said when she and Mr. Wise spoke with Mr. Held about what they found, Mr. Held "didn't deny" inaccurately reporting his overtime, "but wasn't as forthcoming" as Mr. Blake about the details of his inaccuracies. Within a couple of days after that meeting, Mr. Held resigned, stating he had gotten another job.

OIG Interview of PZB Building Division Director/ Building Official Douglas Wise

Mr. Wise said he was informed by one of his staff members that they had seen employees coming in to work at 7:30 a.m., while Mr. Wise was approving their overtime requests that indicated that they were coming in at 6:00 a.m. Mr. Wise told the OIG that he approved Mr. Held to work from 7:00 a.m. – 4:00 p.m. and that Mr. Held told him he was working on permits from 6:00 a.m. through 8:00 a.m. Mr. Wise told the OIG that it "didn't make sense" to Mr. Wise how Mr. Held could be working on permits while he was driving to work.

OIG Interview of Fred Held

Mr. Held told the OIG he was the Assistant Deputy of Inspections for the Palm Beach County Building Division until May 2023. In his role at Palm Beach County, he was responsible for plan intake, plan reviews and inspections. As part of his role, Mr. Held was required to be in the office throughout his workday.

Mr. Held said when the memo authorizing overtime compensation for exempt employees came out, there was no additional guidance given regarding overtime or compensatory time. He said there was a lot of confusion about the use of compensatory time, overtime, straight time, and flex time, and he could never get a straight answer from Mr. Wise or Mr. Blake about it. He said he probably asked Mr. Blake for guidance five or six times. The only guidance that Mr. Blake gave him was that whenever he applied for overtime, to attach the authorization memo and write a brief description of what he did.

Mr. Held's stated that his schedule was 7:00 a.m. through 4:00 p.m. He said that he lived in Port St. Lucie, Florida, and once he started claiming overtime, he often stayed at his house and started reviewing PPMs and checklists around 5:30 a.m. He also had his phone with him to answer phone calls or look at emails. He said he did that for about an hour and at about 6:30 a.m. he left for work. Some days, he stated he would perform his County work at a Dunkin's or McDonald's. He got to the office at 7:00 a.m., at which time his regular shift started. Mr. Held took a lunch on occasion, but not usually. He stated he left work at 8:00 p.m. on occasion.

Mr. Held explained that he did not put the actual time he worked on his timesheet; stating it made more sense to list the extra time as 6:00 a.m. to 7:00 a.m. rather than having it from 5:00 a.m. to 6:00 a.m. with a gap before his regular work hours began.

Mr. Held said he submitted compensatory time rather than overtime claims at first because he was under the impression that was all that was allowed.

Mr. Held said that he had a conversation with Mr. Wise and Ms. Conner about three weeks before he resigned. They told him that the overtime that he claimed in the mornings did not match up with his key card swipe records. He said he explained to them that he was doing work at home and he was monitoring his emails from home, and they told him they could look at his cellphone and laptop records. Mr. Held stated he tried to explain to them that it was "more than that," but he did not get the opportunity to do so.

Mr. Held said he did not abuse overtime pay and he did not claim overtime for hours that he did not work. He said he worked overtime in the morning but claimed a different time on his timesheet. When asked if he thought that was wrong, Mr. Held stated "I should've split it up to where it was not coinciding with my current eight hours, yes."

Conclusion

On October 27, 2021, the County Administrator approved a request for overtime for exempt PBZ employees. Although County and PZB policies and procedures did not require individual exempt employees to input their regular scheduled work hours in HRIS showing they actually worked their standard schedule each day, the change in policy required them to input their overtime into the system.

The 80.25 hours of compensatory time from August 2022 through April 2023 taken by Mr. Held had a monetary value of \$3,560.83 The OIG compared Mr. Held's building access card records from January 2023 to April 2023 against his employee time records for that period, and those records reflect inconsistencies regarding the comp time Mr. Held claimed he earned. On 32 of the 34 examined days, those swipe card entry records recorded him entering the building at least 26 minutes later than the time he input into HRIS. Additionally, Mr. Held told the OIG and PBZ managers that he did not accurately reflect his hours worked.

We find that \$3,560.83, the total of issued compensatory time, to be Questioned Costs.

The allegation that Mr. Held submitted and received comp-time for hours he did not accurately document is **supported**.

ACKNOWLEDGEMENT

The Inspector General's Investigations Division would like to thank the Palm Beach County Department of Planning, Zoning and Building staff for their cooperation throughout this investigation.

RECOMMENDED CORRECTIVE ACTIONS

- 1) PZB institute appropriate internal controls to ensure that supervisors and timekeepers sufficiently monitor employee time records so as to minimize the risk of employees improperly reporting leave, overtime, or compensatory time.
- 2) PZB train employees regularly on the rules and guidelines regarding working, earning, and reporting overtime and compensatory time.
- 3) Reconfigure HRIS to ensure that employees cannot approve their own employee time records or to require the employee to attach a supervisor's written approval.
- 4) The County Seek reimbursement from Mr. Blake of \$5,994.46 in Identified Costs.

RESPONSE FROM MANAGEMENT

Pursuant to Article XII, Section 2-427 of the Palm Beach County Code, PZB was provided the opportunity to submit a written explanation or rebuttal to the findings as stated in this Investigative Report within ten (10) calendar days. Their written response is:

We acknowledge receipt of your draft investigative report and advise that after review of the document, we concur with your findings on this matter.

We await the finalized version.

Yours sincerely,
Whitney Carroll, Esq., AICP
Executive Director, Planning, Zoning & Building

RESPONSE FROM MR. BLAKE

Pursuant to Article XII, Section 2-427 of the Palm Beach County Code, Mr. Blake was provided the opportunity to submit a written explanation or rebuttal to the findings as stated in this Investigative Report within ten (10) calendar days. His written response is attached to this report as Attachment A.

RESPONSE FROM MR. HELD

Pursuant to Article XII, Section 2-427 of the Palm Beach County Code, Mr. Held was provided the opportunity to submit a written explanation or rebuttal to the findings as stated in this Investigative Report within ten (10) calendar days. His written response is:

I was not deceitful in any way in regards to time records during my employment with the Palm Beach County Building Dept. I worked overtime hours and was directed by management to claim hours worked.

I did not resign from PZB due to this investigation but was in fact offered and accepted employment several weeks prior to being aware of this investigation.

Thank you,
Fred Held

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

ATTACHMENT A

Dear Mr. Robinson:

Before we had an opportunity to respond to your draft report, my client's employer, Palm Beach County, placed him on leave without pay effective today. This is devastating to my client and wholly inappropriate since your draft report is not finalized, and contains multiple errors, beginning with the assumption that my client did not work the hours claimed and implicitly approved by his supervisor through inaction.

As you know, I represent the Palm Beach County Employee John Blake, who is a subject of investigative report 2023-0009. Mr. Blake contends that all of the overtime that he submitted was worked and authorized specifically by the memorandum dated October 22, 2021, from Ramsay Bulkeley, then Executive Director of Palm Beach Zoning and Building, which was approved by County Administrator Verdinia Baker on October 27, 2021.

Mr. Bulkeley made a request that exempt employees be permitted to work and be compensated for overtime pay in order to help the department catch up to the staggering workload it was facing during the Covid pandemic of 300 permits per day and 1,000 daily inspection requests while it had 40 vacancies in the Department and difficulty in finding and hiring qualified candidates. Mr. Blake responded to the call by working overtime to help catch up to the backlog by giving up his lunch hour, coming in early, and/ or staying late. The evidence that you and the County cites as being "inconsistent" with the hours that he submitted for overtime, the daily access card entries, are not inconsistent at all, because daily access card entries are not a recognized method for keeping time. When a group of employees came into the workplace, very few would also swipe their cards since the door was open by one person already. That has never been recognized as a means to track time for County employees.

My client did submit on a timely basis his overtime hours to his supervisor, Division Director Douglas Wise. Mr. Wise had the ability to question the overtime or reject the overtime, and Mr. Wise never did, except for one occasion. My client would be paid for overtime if Mr. Wise did not object or take some other action in reviewing and objecting to the overtime my client worked. Now the County wants to claw back hours that my client worked and was authorized to be paid for in an emergency situation. The County is estopped from doing so.

In fact, as your draft report recognizes, neither the County nor PZB policies and procedures required exempt employees to input their regularly scheduled work hours in employee time records into the County's Human Resources Information System (HRIS). My client followed instructions to begin inputting hours worked which exceeded his normal 40-hour weekly work schedule, and did so on a timely and regular basis. He typically submitted his hours contemporaneously on a daily basis. Although County policy required that employees take a lunch period of one hour or one half an hour, my client was authorized, as he interpreted the approved memo of Ramsay Bulkeley to work through lunch so that he could leave work at a reasonable time at the end of the day. As you say in your report, on August 12, 2022, Mr. Wise sent an email instructing staff members to stop requesting overtime for working through lunch. However, given the fact that my client continued to work through lunch considering the emergency situation which existed in that department, that directive from Mr. Wise appears to be in violation of the Fair Labor Standards Act, since an employee who works in excess of 40 hours should be paid for those excess hours, given the clear authorization to do so per Ms. Baker.

My client had to respond to customer requests throughout the day, and this did not end during his lunch break, so all submissions for compensation beyond the 40 hours that he worked were in fact authorized by the action taken through the County Administrator's approval of this arrangement.

Your report falsely stigmatizes my client by stating he claimed hours for overtime he did not work; the County has now acted on that false information. My client requested prior to submitting his rebuttal, to review the evidence that the County submitted to you for a more comprehensive response and to perform a forensic examination of the records you relied upon; you declined that request. I renew that request now, and further, that you tell the County to rescind its action against my client relating to suspension without pay until we have a full opportunity to review the evidence against my client and respond more comprehensively. The false statements in that report violate my client's rights under the due process clause of the U.S. Constitution as recognized by *Buxton v. City of Plant City*, 871 F. 2d 1037 (11th Cir. 1989).

We request a name clearing hearing once you provide all access to the investigative materials.

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