

**Manatee County Clerk of the Circuit Court and Comptroller  
Division of Inspector General**

**Final Report  
Code Enforcement Division Investigation**

**Allegations**

On March 25, 2021, an article was published in the Bradenton Herald regarding allegations of misconduct and favoritism made by Code Enforcement Officer Tanya Shaw against Code Enforcement management. Subsequently, the Division of Inspector General (IG) reached out to Officer Shaw for additional information. In interviews conducted March 30, 2021, and April 1, 2021, and an email dated April 2, 2021, Officer Shaw further clarified the allegations as follows:

- Code Enforcement was not properly investigating complaints received regarding construction on property in Myakka City, owned by Jeremy Croteau, because of management's relationship with his mother, Kathy Croteau, the Sarasota County Building Official. (Allegation #1)
- Building and Development Services and Code Enforcement management instructed staff to close cases and not enforce Manatee County codes due to personal/professional relationships. (Allegation #2)
- Someone other than Officer Shaw entered notes and signed off/closed cases in her name. She had previously sent password information to Supervisor Tom Wooten at his request. (Allegation #3)
- Zone 4 (Myakka area) was no longer assigned to a Code Enforcement officer due to Officer Shaw's pursuit of the Croteau (Mallaranny, LLC) property case. (Allegation #4)

Officer Shaw later filed two additional complaints with the IG on April 27, and April 30, 2021, which alleged the following:

- Deanna Ward (Permitting Manager) approved permit BLD2101-1847 for a barn on the Mallaranny property without the required documents, applications and/or requirements for exemptions based on who the individuals are. The permit was issued for the wrong parcel, a signed and sealed survey with the correct address was not provided, and proof of agricultural use was not provided. (Allegation #5)
- Stephanie Charles (Licensing Manager) accessed a Code Enforcement case and deleted documents for a friend who was cited. (Allegation #6)

**Summary of Findings**

The Division of Inspector General uses the following terminology for the conclusion of fact/finding(s):

- **Substantiated** – An allegation is substantiated when there is sufficient evidence to justify a reasonable conclusion that the allegation is true.
- **Unsubstantiated** – An allegation is unsubstantiated when there is insufficient evidence to either prove or disprove the allegation.
- **Unfounded** – An allegation is unfounded when it is proved to be false or there is no credible evidence to support it.

Based upon information obtained during the investigation, we have concluded the following:

**ALLEGATION #1** – *Code Enforcement was not properly investigating complaints received regarding construction on property in Myakka City, owned by Jeremy Croteau, because of management's relationship with his mother, Kathy Croteau, the Sarasota County Building Official. **PARTIALLY SUBSTANTIATED, PARTIALLY UNSUBSTANTIATED.*** (See Allegation #1 on pages 7-23)

While it does appear that some Code Enforcement complaints related to the property owned by Jeremy Croteau (Mallaranny property) were not investigated and/or documented properly, there was no evidence to support that this was due to a relationship with Kathy Croteau. Our investigation did confirm that several employees, including management, knew Kathy Croteau; and although she was not the property owner, Ms. Croteau was often the primary point of contact for the property. However, we found no evidence that management instructed anyone to close any cases without investigation. Documentation was found to support that, in several instances, management instructed staff to open cases and investigate complaints. Additionally, many of the concerns reported were also being investigated and addressed by state regulatory agencies.

The mishandling of some of the cases appears to have been the result of inadequate investigation and/or mistakes by Code Enforcement officers. In addition, some violations were not properly addressed initially, due to the County's Geographic Information System (GIS) maps incorrectly reflecting that the property had the bona fide agricultural (Greenbelt) classification, when it did not. Because officers and other Building and Development Services personnel relied on the incorrect information, several of the determinations made were incorrect; however, it does not appear that in these instances, the officer mishandled the case, as the processes followed in making those determinations were appropriate. Furthermore, the Manatee County Property Appraiser's Office (MCPAO) approved an agricultural classification for the property prior to the Code Enforcement cases being closed.

**ALLEGATION #2** - *Building and Development Services and Code Enforcement management instructed staff to close cases and not enforce Manatee County codes due to personal/professional relationships. **SUBSTANTIATED.*** (See Allegation #2 on pages 24-37)

Evidence supports that certain individuals were given favorable treatment by management with Code Enforcement cases and the permit process. In some instances, this appeared to be due to personal/professional relationships; however, the existence of a relationship could not always be determined. We also identified several cases and permits which appeared to have been handled incorrectly by staff, without any involvement from management or any appearance of a relationship with the property owners. This mishandling appears to be the result of inadequate investigation and/or mistakes.

In total, we analyzed 240 Code Enforcement cases and 103 permits/plans. These were identified through several methods including tips from current and former employees, data analytics, review of employee emails, and complaints received from citizens. From our analysis, we identified 26 Code Enforcement cases and 7 permits that were not handled in accordance with policies, procedures, rules, and/or codes; these cases and permits involved 18 properties. Five (5) of the mishandled Code Enforcement cases and 6 of the permits had evidence of involvement by management; 3 of these cases and 5 of the permits also had evidence of a personal or professional relationship with management. Additionally, another instance was identified where management instructed Code

Enforcement not to enforce the Land Development Code (LDC) regarding prohibited sign placement for an organization's upcoming event. This also appears to have been motivated by a personal/professional relationship.

The inconsistent and preferential treatment of certain cases and permits based on relationships appears to have created a culture of favoritism within the Building and Development Services department. Furthermore, these actions may have violated the Code of Ethics for Public Officers and Employees included in Manatee County's Personnel Policy, Rules, and Procedures, as well as F.S. 112.311-112.326.

It was also noted that many of the procedures and practices of Permitting and Zoning, including permit documentation requirements, have not been formalized in writing. This lack of clear guidance sometimes resulted in certain requirements being inconsistently applied to customers. In addition, while Code Enforcement policies provide officers discretion in handling their cases, we found that case notes were not always well documented to support their justifications for why cases were closed with "no violations," or why some property owners were given more time to obtain compliance. Instances were also identified where Code Enforcement officers appear to have made incorrect interpretations of the LDC, building codes, and/or ordinances. These mistakes likely occurred because officers lacked the legal or technical expertise needed to evaluate some of the potential Code violations.

Overall, we found the Code Enforcement officers and Building and Development Services staff to be knowledgeable, dedicated, and hard-working employees, many of whom have a considerable amount of institutional knowledge. However, the lack of clear, written policies, procedures, and guidelines, as well as the lack of expertise needed to handle some of the more complex cases, increases the risk that mistakes will be made or requirements will not be applied fairly and consistently to everyone.

**ALLEGATION #3** - *Someone other than Officer Shaw entered notes and signed off/closed cases in her name. She had previously sent password information to Supervisor Tom Wooten at his request. **UNSUBSTANTIATED.*** (See Allegation #3 on pages 38-44)

There was no evidence to support that someone other than Officer Shaw closed cases or entered case notes in her name. Accela (Building and Development Services' permitting and case management software) audit logs were reviewed and confirm that all notes entered in Officer Shaw's name were made with her system credentials (user name and password). While it is possible for someone else to have made entries using Officer Shaw's credentials, evidence does not exist to substantiate that this occurred. Accela does not capture IP addresses, so we were unable to identify from what specific device the entries were made. Additionally, there was no evidence to support that Officer Shaw shared a valid Accela password with anyone, including Supervisor Wooten, or that he ever requested this information. Although Officer Shaw stated that she had evidence to support this, she was unable to provide any.

**ALLEGATION #4** - *Zone 4 (Myakka area) was no longer assigned to a Code Enforcement officer due to Officer Shaw's pursuit of the Croteau (Mallaranny) property case. **UNFOUNDED*** (See Allegation #4 on pages 45-46)

Documentation supports that Zone 4 was assigned to Officer Chet Brown in January 2021. According to supervisors, the change was made due to Officer Shaw having difficulties keeping up with the case load in Zone 4. According to several officers, including Officer

Shaw, she often required assistance from others in order to get caught up. It was further confirmed by Officer Shaw in multiple interviews, that this change was not related to the Mallaranny property and was in the works prior to her allegations/complaints being made. Upon Officer Brown's promotion to supervisor in March 2021, Zone 4 was no longer assigned to an officer; however, as supervisor over Zone 4, he continued to handle cases for that zone until the position was filled by another officer in April 2021.

**ALLEGATION #5** - *Deanna Ward (Permitting Manager) approved permit BLD2101-1847 for a barn on the Mallaranny property without the required documents, applications and/or requirements for exemptions based on who the individuals are. The permit was issued for the wrong parcel, a signed and sealed survey with the correct address was not provided, and proof of agricultural use was not provided. **PARTIALLY UNFOUNDED, PARTIALLY SUBSTANTIATED*** (See Allegation #5 on pages 47-50)

- The Zoning Division, not Deanna Ward, approved a permit for the wrong parcel. According to Zoning, this was because the permit application requires an address, and the parcel approved was the only part of the property which had an address assigned. A survey provided with the application included the entire property with all 3 parcels identified. - **allegation unfounded**
- A signed and sealed survey with the correct address was received prior to the permit approval. - **allegation unfounded**
- Deanna Ward approved the agricultural use exemption without all of the required proof/support – **allegation substantiated**. Information such as verification of the business name and federal employer identification number (FEIN) or business plan was not provided or available at the time the permit was approved on February 9, 2021. Sufficient information was also not obtained to prove that Jeremy Croteau was authorized to sign for the business at the time of the application. Ms. Ward has stated she used Sunbiz to verify this information; however, Sunbiz did not list Mr. Croteau as the owner of Mallaranny, Inc., nor list his FEIN, until April 2021. Prior to that time, the registered agent was listed as Cross Street Corporate Services, LLC, and the company name was Mallaranny, LLC, not Mallaranny, Inc., as was indicated on the application. Although not specified in the allegation, it was also noted that Zoning did not obtain proof of agricultural use prior to approval of the permit exemption application.

The agricultural use exemption was approved by Permitting based on Ms. Ward's determination that the property had the Greenbelt classification, when it did not. Ms. Ward relied on the incorrect information reflected in the GIS maps to verify this requirement. Although the classification was incorrect, Ms. Ward's process for making this determination was appropriate, given the GIS information available to her at the time.

**ALLEGATION #6** - *Stephanie Charles (Licensing Manager) accessed a Code Enforcement case and deleted documents for a friend who was cited. **UNFOUNDED***. This allegation was addressed in a separate memorandum. (**Exhibit A**)

In conducting this investigation, additional findings have been identified which include violations of County policies, rules and/or procedures. (See details on pages 41-43)

PASSWORD SHARING – Information Technology Services Policy D.1, Acceptable Use-Accounts and Authentication. *Users are required to conduct all activity using their own user credentials, and not share their passwords or delegate their responsibilities.*

Officer Shaw shared her Banner and Apple ID passwords through email and/or Jabber.

Chief Jeff Bowman and Supervisor Tom Wooten shared a NEOGOV password. In addition, they delegated responsibilities and conducted NEOGOV activity without using their own credentials.

RECORD RETENTION – Information Technology Services Policy D.1, Public Records. *All data captured, created or stored electronically by users under the Board of County Commissioners may be considered a public record under Florida law. Therefore, such data must be properly retained, backed-up and recoverable upon request.*

Supervisor Wooten deleted business-related text messages from his personal cell phone.

Officer Shaw failed to retain business-related text messages from her personal cell phone when she changed cell phone carriers.

Chief Bowman, who received a County cell phone allowance, was unable to produce all of the call logs from his personal cell phone for the time period requested. His personal cell phone carrier does not provide this information.

PERSONAL USE OF COUNTY EMAIL – Information Technology Services Policy D.1, Messaging. *County messaging systems including email and Instant Messaging (IM) (for example, Jabber) are to be used only for official County business purposes. Use of messaging must not involve non-County business, religious, charitable, political or financial solicitation.*

In reviewing employee emails, instances were noted where several employees, including members of management, used their County email for personal communications. Details of the accounts identified can be found on page 42.

INAPPROPRIATE CONDUCT – Personnel Policy, Rules, and Procedures XI.B. Grounds for Discipline or Discharge:

14. *Discourteous, insulting, abusive, or inflammatory language or conduct toward any person, which disrupts the workplace or serves to offend any citizen, vendor or other person with whom the employee comes into contact during the performance of duties.*
22. *Unlawful or improper conduct, either on or off the job, which would tend to affect the employee's relationship to his or her job, his or her fellow workers, or Manatee County's reputation or goodwill in the community.*

On March 14, 2021, Officer Shaw and a Florida Department of Transportation (FDOT) representative who had been working on the Mallaranny permits, exchanged text messages in which inappropriate comments were made regarding a Code Enforcement supervisor. In the exchange, statements were made about wanting to punch the supervisor, and push him down a flight of stairs. In one text message Officer Shaw stated "...I think it would actually be worth the charge and staying overnight in jail just to punch him in the throat..."

## **Background**

The Building and Development Services (BADS) Department was comprised of three programs: Building Regulation/Compliance, Planning and Development, and Code Enforcement. The Building Regulations/Compliance program includes, but is not limited to, Permitting, Plans Review, Licensing, Floodplain Management, and Inspections. The Planning and Development program handles processes involving development applications and proposals, including Environmental Planning. Code Enforcement is responsible for ensuring compliance with the LDC, Florida Statutes, Manatee County Code of Ordinances, Florida Building Codes and Property Maintenance Standards Code.

*Effective September 11, 2021, the Code Enforcement Division was placed under the direction of the Public Safety Department. In addition, effective March 4, 2022, the BADS Department was renamed as the Development Services Department. Because the scope of our investigation only included activities that took place prior to the name change, this report refers to the department as BADS, with respect to any findings identified.*

Accela software is used as the case management system for Code Enforcement cases, building permits, and planning and zoning reviews. Code Enforcement documents all aspects of each case in Accela, including the initial complaint, inspection observations, evidence of violations, and case resolution. For building permits and planning and zoning reviews, Accela serves as a central point for customers to submit applications and upload requested documentation. In addition, Manatee County staff and outside regulatory agencies use Accela to document their review of applications and record inspection results.

The County was divided into 13 zones for Code Enforcement, with an officer assigned to each zone. According to Code Enforcement Standard Operating Procedures (SOP), while officers are given discretion in handling their cases, they are expected to make timely inspections, write detailed entries for every inspection or event, and upload all photos and supporting documentation. Officers are expected to work in conjunction with other departments when needed for their cases, and if violations are found, the main goal is “voluntary compliance.”

## **Investigative Procedures and Results**

In an effort to determine the validity of the allegations, investigators obtained and reviewed documentation, conducted interviews, and performed research of relevant policies, rules, and laws.

The following sections detail the procedures performed and the results of our investigation.

## **Allegation #1 – Mallaranny Property Code Enforcement Complaints**

*Code Enforcement was not properly investigating complaints received regarding construction on property in Myakka City, owned by Jeremy Croteau, because of management's relationship with his mother, Kathy Croteau, the Sarasota County Building Official.*

### **Procedures Performed:**

Investigative procedures included, but were not limited to:

- Interviews with complainant
- Site visit to Mallaranny Property
- Interviews and site visits with Mallaranny property neighbors
- Interviews with current and former BADS and Code Enforcement personnel
- Inquiry with former BADS director through personal attorney
- Interviews with other County department personnel (Public Works, Information Technology Services [ITS])
- Interviews with MCPAO personnel
- Interviews with state agency personnel (Florida Department of Environmental Protection [FDEP], FDOT, and Florida Department of Agriculture and Consumer Services [FDACS])
- Review of Accela permit records, and Code Enforcement case documentation and audit logs
- Review of documentation provided by current and former BADS and Code Enforcement personnel
- Review of information and records from FDEP, FDOT, Southwest Florida Water Management District (SWFWMD), MCPAO, Florida Division of Corporations (Sunbiz), Manatee County GIS Interactive Maps, and Manatee County Clerk of the Circuit Court and Comptroller's Office Official Records
- Analysis of emails and Jabber messages of select BADS and Code Enforcement personnel
- Analysis of office phone records, and cell phone call logs and text messages of select BADS and Code Enforcement
- Analysis of select emails of Kathy Croteau, as provided by Sarasota County via public records request
- Review of Manatee County Code of Ordinances, LDC, Code Enforcement SOP, Florida Statutes, and Florida Attorney General Opinions
- Internet research of rules and standards of Federal Emergency Management Agency (FEMA), Florida Agritourism Association, Florida Farm Bureau, and FDACS

### **Results:**

Mallaranny, LLC, owned by Jeremy Croteau, purchased 3 parcels (171610009, 166110007, and 166400002) totaling 46.85 acres located at 29847 State Road 70 East in Myakka on September 4, 2020. All 3 parcels are zoned "A" (General Agriculture District) by the County. Parcels 171610009 and 166400002 are located in a flood zone, also known as the 100-year floodplain; and parcel 166400002 includes delineated wetlands.

Kathy Croteau, Jeremy Croteau's mother, was the Sarasota County Building Official until May 12, 2021. Prior to her son's purchase of the property, as early as June 1, 2020, Ms. Croteau began reaching out to several Manatee County BADS employees to obtain information about hosting a festival and/or doing work on the Mallaranny property. Some of the staff admitted to having known Ms. Croteau either professionally or personally. After her son's purchase of the property under Mallaranny, LLC, Ms. Croteau continued to be involved in the dealings with the County, even though she was not an owner or agent for Mallaranny, LLC. She initiated contact with Code Enforcement after the first complaint was received, and remained the primary contact for that Code Enforcement case, as well as the next two cases. In addition, Ms. Croteau was a primary contact for the barn permit, as her email was the only one listed for the permit, and she responded to inquiries regarding the permit. From November 2, 2020, through April 27, 2021, there were 4 emails, and 15 phone calls between Ms. Croteau and either Code Enforcement or BADS personnel. There were potentially more phone calls with Ms. Croteau; however, this could not be determined as Chief Jeff Bowman was unable to provide his cell phone records, due to his carrier not providing that information. (See Allegation #3)

As of April 2021, there were 3 permits located for the property; all of them were linked to the addressed front parcel, which is 171610009. The details of these permits are as follows:

- Accessory Building permit for a pole barn issued June 3, 1997, to a previous owner
- Agricultural Exemption permit for a barn issued February 9, 2021
- Electrical permit for a new barn issued February 12, 2021

Several Florida Statutes (F.S.) address agricultural land and uses, including the following:

- F.S.163.3162 Agricultural Lands and Practices - provides definitions and protects reasonable agricultural activities conducted on bona fide farm operations from duplicative regulation.
- F.S. 193.461 Agricultural lands; classification and assessment - authorizes the Property Appraiser's Office to determine bona fide agricultural use on land to classify it for assessment purposes and provides for certain exemptions for lands classified as agricultural.
- F.S. 604.50 Nonresidential farm buildings; farm fences; farm signs - exempts certain structures from the Florida Building Code and county codes, except for those implementing floodplain management regulations, when they are located on lands used for bona fide agricultural purposes, as defined by F.S. 193.461.
- F.S. 823.14 Florida Right to Farm Act - provides definitions and protects reasonable agricultural activities conducted on farm land from nuisance suits. It also limits local government's ability to regulate the activity on a bona fide farm operation on land classified as agricultural land per F.S. 193.461.

Mr. Croteau submitted an application for an agricultural classification to MCPAO on February 24, 2021, for 7.75 of the 46.85 acres. The agricultural classification was approved on June 3, 2021. There was no agricultural classification for the Mallaranny property during most of the Code Enforcement cases, as classifications are not transferable when ownership of the property changes. According to the MCPAO, agricultural classifications are only determined once a year, and the classification runs from January 1<sup>st</sup> to December 31<sup>st</sup>.

Many of the BADS divisions, including Code Enforcement, utilize the County GIS, rather than the MCPAO, to verify the agricultural classifications, referred to as “Greenbelt” in GIS. During most of the Mallaranny property investigations, and the permitting process, the GIS maps incorrectly reflected that the property had the Greenbelt classification, when it did not. While the previous property owner did have the Greenbelt classification, it expired on December 31, 2020, due to the ownership change in September 2020. Although the MCPAO database correctly reflected this change, as confirmed with County IT, GIS had not properly updated the information from the MCPAO. Sometime after March 28, 2021, GIS was updated to accurately reflect the change in classification. However, as noted in Case #5 below, and in Allegation #5 on page 49, several determinations were made based on the incorrect information reflected in the GIS maps.

A timeline documenting activity related to the Mallaranny property is provided in **Exhibit B**.

Below are details and an analysis of each Code Enforcement case received on the Mallaranny property. A summary of the Code Enforcement case information obtained from Accela is provided in **Exhibit C**. In addition, a summary of potential violations associated with the property, and the resolution of those violations, is provided in **Exhibit D**.

### **Code Enforcement Cases**

There were eleven Code Enforcement cases initiated from complaints on the Mallaranny property from October 15, 2020, to April 30, 2021. The majority of the complaints were made in March and April 2021. Officer Tanya Shaw was the zone officer assigned to the property for the first three cases. For these cases, Officer Shaw worked exclusively with Kathy Croteau, rather than Jeremy Croteau, the owner.

Officer Chet Brown took over the zone in January 2021, and was assigned all eight subsequent cases. Unlike Officer Shaw, Officer Brown worked primarily with the owner, Jeremy Croteau. Records show that Officer Brown had only 3 calls with Ms. Croteau, and 20 calls with Mr. Croteau between March 8, 2021 and May 7, 2021.

#### *CASE #1 (CE2010-0300): opened October 15, 2020; closed November 25, 2020 - Officer Shaw*

The complaint for this initial case was called in to Code Enforcement from a neighbor on October 15, 2020, stating “approximately 5 truck loads of soil brought into property, that will cause flooding.” Per Accela documentation, Officer Shaw went to the property on November 2, 2020; however, she was not allowed on the property, as the owner was not present. She was only able to view the property from the front gate. From this vantage point, Officer Shaw noted in Accela that she observed the following:

- Numerous heavy equipment machines
- Clearing of land
- One RV
- One porta potty

Officer Shaw left her contact information with a worker and later received a call from Kathy Croteau. According to Officer Shaw, she did not ask for the owner’s contact information, rather she only spoke to Ms. Croteau, who provided information about the work being done, including clearing land to remove invasive trees and bushes. Officer Shaw inquired about the truckloads of fill and Ms. Croteau stated she did not know and would have to ask her son. Officer Shaw said she did not see any trucks with fill coming onto the property during the initial visit to the property or any piles of dumped dirt that she could count. Ms. Croteau never provided any fill information. Officer Shaw’s inspection notes also stated that there was a friend staying in the RV and it was hooked up to utilities. She advised that it needed to be unhooked and removed from the property

as it is zoned agriculture (Ag). As per Manatee County Code of Ordinances Section 2-9-108(b), restricted vehicles, including RVs, could only be parked on agricultural property if there was no service facility (water, sewer, electrical) attached.

Although the inspection notes do not document whether Ms. Croteau informed Officer Shaw about the planned use for the property, in an email the same day with Phyllis Strong, Zoning Manager, Officer Shaw noted that Ms. Croteau told her there was a nursery business. In the same email, Officer Shaw clarified that Zoning did not have any concerns with the work being done on the property and that the only concern could be with Floodplain due to possible fill in a flood zone. Yet, no emails or phone calls were found to show that Officer Shaw reached out to Sandy Tudor, Floodplain Section Manager, regarding any flood zone concerns. Officer Shaw confirmed in an interview that she did not contact Ms. Tudor or anyone in Floodplain, because she felt that floodplain issues were not the focus, even though the complaint was for fill and that fill was potentially in a floodplain. Officer Shaw stated that her main focus was dealing with the RV, and the trash and debris.

In interviews with Officer Shaw, she stated she met with Russell Ireland at his neighboring property. This visit was not documented in Accela case records; however, it appears from photos provided to the IG by Officer Shaw, that the visit occurred on November 6, 2020. Officer Shaw also emailed FDEP on the same day to report a complaint of burying trash on the Mallaranny property. This additional complaint for the trash burial was not added to the Accela case, nor was a new case created. Officer Shaw could not provide a reason why the trash complaint was never entered in Accela. In a November 16, 2020, email, an FDEP Special Agent informed Officer Shaw that a search of the property was conducted, and he observed no evidence of buried solid waste items. The FDEP Special Agent did note that the owner had collected 16 dump trucks of solid waste left from the previous tenants. He indicated the case had been turned over to FDEP's Environmental Resource Permitting (ERP) section to investigate possible wetland dredge/fill violations. He also noted that one of the owners is a Sarasota County worker.

Officer Shaw did not follow up with FDEP ERP about the possible wetland violations until March 5, 2021, more than three months after this case had been closed. According to Officer Shaw, she felt there was no reason to follow up on the wetland issue for the first case due to management telling her to close the case. However, the email received from FDEP was more than a week before she spoke with management and closed the case. FDEP was working with SWFWMD on this property, and documentation obtained from SWFWMD supports that they were investigating this property beginning in October 2020. However, because Officer Shaw failed to follow up with FDEP, she was not aware of SWFWMD's concurrent investigation of the property when she spoke to management and closed the case. As noted below (Case #3; reopened), SWFWMD did ultimately identify flood zone and wetland impacts related to the dredge/fill activities that were required to be restored. Had management known that SWFWMD had an open investigation, they may have determined that the case should be kept open until those issues were fully investigated by SWFWMD and resolved.

Officer Shaw has stated that during a meeting on November 24, 2020, Supervisor Tom Wooten discovered, through Sunbiz, that Kathy Croteau was involved with the Mallaranny property; however, this information was not in Sunbiz at that time. Sunbiz records for Mallaranny, LLC did not list Kathy Croteau or Jeremy Croteau, as persons associated with the company. Additionally, phone calls between Ms. Croteau and Supervisor Wooten on November 18, 2020, indicate that Supervisor Wooten was already aware of Ms. Croteau's involvement with the property prior to this meeting. Officer Shaw also stated that in a subsequent meeting later that day with Supervisor Wooten and Chief Bowman, she was told to call Mr. Ireland to let him know there were no violations and to close the case. She stated that she was not comfortable calling Mr. Ireland, so

Chief Bowman made the call. Phone records support that Chief Bowman called both Mr. Ireland and Ms. Croteau on November 24, 2020. In independent interviews, both Chief Bowman and Supervisor Wooten stated that Officer Shaw was told to close the case *only* if she did not have any violations. They both said that she was primarily focused on the clearing of trash and trees and that she could not provide any evidence for a violation on the property. They stated that she also mentioned the RV, but told them she did not have proof it was being occupied. Chief Bowman said Officer Shaw told him the property was previously a nursery and would continue to be, which he verified via a phone call to Ms. Croteau that same day. He stated that Officer Shaw told him there were no violations.

Officer Shaw closed the case on November 25, 2020, noting there were no violations as determined by a meeting with Supervisor Wooten and Chief Bowman, and the FDEP findings. The case note failed to address the original complaint for the added fill.

Officer Shaw visited the property twice, but never performed an onsite inspection or spoke directly with the owner, Jeremy Croteau. Her last visit was almost three weeks prior to closing the case.

### ***Case #1 Mishandled - Code Enforcement Procedures 24.2 and 29.2 Not Followed***

*Code Enforcement Procedure 24.2 – Job duties of a Code Enforcement Officer include initiating investigations of code violations as observed, following up on complaints and work in conjunction with other departments engaged in various code compliance tasks, i.e., health and sanitation codes, licensing, building, zoning, lot mowing, etc.*

Officer Shaw did not adequately investigate the case as follows:

- Did not contact or communicate with property owner, Jeremy Croteau.
- Did not perform an onsite inspection of the property to determine violations, as she was not permitted access during her first visit, and never asked for access again.
- Did not add trash and debris complaints/issues to the case.
- Did not pursue obtaining the fill information from Kathy Croteau or the property owner, as no additional efforts were documented.
- Did not follow up with the Floodplain Section Manager regarding the fill in a flood zone.
- Did not seek assistance from Public Works Stormwater Engineering or BADS Environmental regarding the amount of fill and potential earthmoving violations.
- Did not follow up with FDEP ERP section on the possible wetland dredge/fill violations on the property.
- Did not ensure removal of the occupied RV or cite for a violation.

*Code Enforcement Procedure 29.2 - It is the Code Enforcement Officer's responsibility to ensure all cases have all required photos, notes, affidavits, additional supporting evidence documentation and/or contacts etc.*

The Accela case was missing the following supporting documentation:

- Communications from Phyllis Strong reflecting that there were no Zoning issues for the Mallaranny property.
- November 6, 2020, visit documentation with Mr. Ireland, including the additional trash burial complaint and the photos sent to FDEP.
- Communications with FDEP Special Agent, including his investigation results.

It appears there was ample time for Officer Shaw to perform additional investigative work to determine if there were any violations on the Mallaranny property between the time of her visit to Mr. Ireland's property on November 6, 2020, and when she met with Code Enforcement management on November 24, 2020, and eventually closed the case. It also seems likely that she would have been given access to the property had she asked the owner, since Officer Brown was granted access several times when he asked. (see Case #5 below)

CASE #2 (CE2012-0477): opened December 31, 2020; closed January 6, 2021 - Officer Shaw

The second complaint was filed through the County's call center from a neighbor; the complaint stated that there was "major construction going on without a permit." Officer Shaw did not perform any inspections; she only input a note on January 6, 2021, to close the case. The note stated that no violations were found from inspections conducted by Supervisor Wooten and Chief Bowman. In interviews, both Supervisor Wooten and Chief Bowman stated that they had not been to the property at that time, and they were unaware of the case note. In addition, Supervisor Wooten stated that he was not aware of any open complaints remaining on the property until March 2021; he thought it was all taken care of in the first case and that there were no violations.

**Case #2 Mishandled-Code Enforcement Procedure 24.2 Not Followed**

No investigation was performed for this case.

CASE #3 (CE2101-0207): opened and closed January 12, 2021 - Officer Shaw

The third complaint was made on January 11, 2021, to Commissioner Baugh's office from a neighbor regarding continuous construction on the property without any permits. The complaint was emailed to Chief Bowman who forwarded the complaint to Supervisor Wooten with instructions to "create a case and handle." Supervisor Wooten forwarded the complaint the next day to Officer Shaw, who opened a case. Accela records indicate she closed the case within a minute of its opening. The closing note stated that no violations were found from inspections conducted by Officer Shaw, Supervisor Wooten, and Chief Bowman. Officer Shaw sent a Jabber message to Supervisor Wooten later that same day asking that the case be reopened per the Chief. Also on January 12, 2021, Chief Bowman sent an email to the Commissioner's assistant stating that the Mallaranny property "is used for agricultural purposes and is agriculturally exempt. The property owner is doing everything within the law." Chief Bowman forwarded his response to Officer Shaw who replied, thanking him, and records show that the case was not reopened at that time. Her email thanking Chief Bowman suggests she was in agreement with how the case was being handled. None of the emails were documented in Accela.

On March 1, 2021, Officer Shaw added a note in the case, which stated that she did not write the January 12, 2021, note to close the case. However, documentation was found which contradicts her statement. Officer Shaw's January 12<sup>th</sup> Jabber message to Supervisor Wooten, where she asked for the case to be reopened, supports that she was aware, at that time, that the case had been closed. Furthermore, if she was aware that the case had been closed, she presumably would have been aware of the case note used to support why the case was closed. In addition, on March 8, 2021, at Officer Shaw's request, Chief Bowman emailed an Accela audit log of the case to her which showed that she had entered the January 12<sup>th</sup> case note and closed the case. Officer Shaw replied to Chief Bowman that, based on a conversation she had with Officer Brown, it was possible that she had written the January 12<sup>th</sup> note.

### **Case #3 Mishandled-Code Enforcement Procedures 24.2 and 29.2 Not Followed**

- No investigation was performed for the case
- Documentation (emails) which supports why the case was closed were not included in Accela

#### Activity – No open Code Enforcement case

On January 20, 2021, approximately one week after case #3 was closed, Chief Bowman received a phone call from Mr. Ireland regarding the Mallaranny property. Mr. Ireland followed up with an email on January 22, 2021, which contained information from the Sarasota Medieval Fair website, including the announcement of a new permanent home and 2021 merchant information, with fair dates and times, located at “The Woods of Mallaranny. 29847 Florida 70 East, Parmalee FL 34251.” Chief Bowman forwarded the email to Supervisor Wooten on February 3, 2021. There is no evidence to support that Chief Bowman or Supervisor Wooten shared this email with either Officers Shaw or Brown at this time, nor were there any open Code Enforcement cases for Mallaranny. In an interview with Chief Bowman, he said he felt that “they weren’t doing anything at that point that made us believe that they were doing the medieval fair, because the owner said he didn’t have any intentions of doing it.” In interviews with Chief Bowman, and Supervisors Wooten and Brown, they all stated that on multiple occasions Mr. Croteau said the property was going to be a cattle farm and nursery, and they did not have any evidence to prove that this was not the case. Mr. Croteau was made aware that if he did host the Medieval Fair, a special permit would be required.

#### CASE #4 (CE2102-0205): opened and closed February 10, 2021 - Officer Brown reopened and closed March 8, 2021 - Officer Brown

A fourth complaint about clearing and filling land was received from a neighbor through the Citizen’s Action Center. The complaint stated that wetlands had been filled and property had been built up, affecting drainage and causing flooding. Pictures of culverts under elevated dirt were provided with the complaint. Officer Brown closed the case the same day it was opened, citing it as a duplicate of the previous case. In an interview with Officer Brown, he stated that he initially did not perform any inspections for the case; he based his finding off of Officer Shaw’s notes from the previous cases closed in January, as he mistakenly believed it to be a duplicate of the other cases already closed with no violations.

When Officer Shaw asked Officer Brown to help her with this property, he did a site visit on March 8, 2021, and reopened this case. He did not go on to the property for this visit; he only viewed it from the front gate. He noted the new driveway being put in and verified there was a permit with FDOT for it. He also noted that the GIS map showed the wetlands had been removed and were now considered a loss. The case was then re-closed. As Officer Brown did not go on to the property, it does not appear that the complaint about fill and flooding was addressed for all of the Mallaranny parcels. In an interview with Officer Brown, he stated that at the time, he was unaware that there were three parcels for the property; he only knew about the one assigned to the address, which was located near the front gate.

#### **Case #4 Mishandled-Code Enforcement Procedure 24.2 Not Followed**

- No investigation was performed for the initial case.
- The investigation of the reopened case did not fully address the fill/drainage issues. Because Officer Brown did not realize that the property included more than one parcel, he did not investigate potential issues located on the other parcels.

#### CASE #3 (CE2101-0207): reopened March 9, 2021; re-closed June 14, 2021 - Officers Shaw and Brown

Almost two months after Officer Shaw originally closed the case, she requested that it be reopened. According to management, although this zone had been reassigned to Officer Brown, officers are permitted to continue investigating cases previously assigned to them. According to Officer Shaw, her finding out about additional complaints prompted her to pursue the case again. However, in an email from Chief Bowman on March 8, 2021, he *directed* her to “follow through on investigating this case or reassigning to Chet.” In an interview with Officer Brown, he said that Officer Shaw called him on March 8, 2021, to help her with this case. Accela records indicate he went to the property that same day and noted the case had been closed in error due to numerous cases. According to Officer Brown, he could not get on the property that day, but he did talk to Jeremy Croteau. He included permit information for a barn and electrical work, and FDOT permit information received from Kathy Croteau for the new driveway being installed. Phone records confirm he made calls to both Jeremy and Kathy Croteau.

Officer Shaw requested Robin Dyer, Code Enforcement Administrative Assistant, reopen the case on March 9, 2021. That same day Officer Shaw inspected the Mallaranny property from Mr. Ireland’s neighboring property, and noted the following:

- The property is being advertised for a medieval fair as its permanent home
- There are no earthmoving permits, no site plan and no wetland investigation
- Observed 4 dump trucks with fill dirt coming onto the property during this visit
- Observed solid waste dumpsters
- Observed what appears to be more buildings (barns or wood buildings) being erected with piles of new concrete cinder blocks
- Followed up with FDEP Special Agent requesting information where he transferred a case to FDEP’s ERP department

According to emails in the case, Officer Shaw communicated with SWFWMD ERP Bureau Regulation Division employees on March 9, and March 10, 2021, where she was made aware of a complaint they investigated in October 2020. Emails and documentation obtained from SWFWMD confirm that they had investigated a complaint for this property and found flood zone and wetland impacts that needed to be restored. Mr. Croteau was provided information on restoring the areas back to historical levels on December 15, 2020, with a due date for completion of March 1, 2021. It should be noted that restoring the property as instructed may also have required the use of heavy equipment and accounted for some of the activity on the property. In the March 9, 2021, email, a SWFWMD Sr. Environmental Specialist stated that the property had been properly restored, so he closed their case. He also stated that he had fielded other complaints from a neighbor and FDOT about the activities on the property and determined they were all “under an Ag Exemption so far.”

According to an email from Darin Rushnell, Senior Engineering Technician with Public Works Stormwater Engineering, he also visited Mr. Ireland on March 9, 2021, and viewed the neighboring Mallaranny property. According to Officer Shaw, she and Mr. Rushnell performed the site visit together; although, this is not documented in the case notes. She requested his help to determine earthmoving issues, as well as impacts to wetlands and the floodplain. Mr. Rushnell noted Mr. Ireland's drainage concerns and that he saw 5 dump trucks enter the Mallaranny property while he was present. According to Mr. Rushnell, one dump truck typically equates to 20 cubic yards of fill. There is no documentation that Mr. Rushnell took any measurements or acquired other usable information to prove more than 200 cubic yards of fill were brought onto the property at that time. As per LDC Section 702.2.B.5, an earthmoving permit is not required until the fill exceeds 200 cubic yards. Mr. Rushnell's recommendation was to refer the potential issues of wetland impacts and compliance to SWFWMD and Code Enforcement. Mr. Rushnell provided the IG with the pictures he took of the dump trucks from March 9, 2021; however, there is no evidence that Mr. Rushnell ever sent the photos to Officer Shaw.

Although the case documents included drone pictures showing several piles of dirt submitted by Mr. Ireland, according to Code Enforcement management and staff, because of potential legal issues, they are not able to use drone pictures taken by a citizen as evidence of a violation. In addition, as noted in Case #5 below, Mr. Croteau stated to Officer Brown that several piles of dirt were on the property prior to his purchase and that, besides 5 truck loads, he got other dirt from digging ponds on the property.

On March 10, 2021, Mr. Ireland sent the same information provided to Chief Bowman back in January 2021, regarding the Mallaranny property being the permanent home to the Sarasota Medieval Fair, directly to Officer Shaw, who put it into the case records in Accela. Chief Bowman sent an email to Supervisor Wooten on March 12, 2021, asking if he ever looked into the information provided by Mr. Ireland about the fair occurring on the property; Supervisor Wooten replied, "Chet is working this case and says [they're] in compliance."

On March 15, 2021, Officer Shaw stated in an email that she "will continue to speak with SWFWMD and our Engineering Department regarding the amount of fill dirt brought in on the parcels without Earth moving permits and any adverse impact to the surrounding properties... I will let both SWFWMD and our Engineering Department investigate those and take enforcement action upon their findings." Both SWFWMD and the County's Stormwater Engineering Department found the work or changes that occurred on the property to be in compliance with their respective laws/codes.

As of March 18, 2021, Officer Brown was assigned the case. According to Supervisor Wooten, management felt that Officer Shaw had not handled the Mallaranny cases properly. In an interview, Officer Brown stated that when he and Officer Shaw changed zones, Shaw commented that she closed the Mallaranny case, because she did not want to upset Kathy Croteau, since Officer Shaw lived in Sarasota County and was planning to remodel her house. When Officer Shaw was asked about making this statement, she said she did not recall saying that, and had not pulled any remodel permits in Sarasota. We confirmed that Officer Shaw had not obtained any remodel permits in Sarasota County; however, in March 2021, Shaw made a similar statement to an FDOT representative involved in the Mallaranny complaints. In a text message, Officer Shaw stated, "Guess I'm not going to get permits for my house to renovate as I live in Venice (her territory)." This appears to contradict the claim that management influenced Officer Shaw to not properly investigate complaints on the Mallaranny property.

On March 22, 2021, another complaint was received and a new case was opened and assigned to Officer Brown. All subsequent case notes and documentation were recorded in this new case (Case #5).

Officer Brown closed out the case on June 14, 2021, stating, "Many different county departments and state agencies have been to this property and investigated. There are numerous complaints made with no violations found."

CASE #5 (CE2103-0455): opened March 22, 2021; closed June 14, 2021 - Officer Brown

The fifth complaint also came through the Citizen's Action Center and was reported by a neighbor. The complaint was for building up the land with a lot of fill dirt causing drainage issues. Officer Brown completed a site visit and issued the Mallaranny property a Notice of Violation on March 24, 2021, citing LDC Section 801.1 (F) for "adverse impacts on adjacent property caused by diverting or blocking surface water flow." Specifically, the violation was for culverts that had been placed under a new dirt road along the southeast property line (parcel 166400002); these culverts directed water onto the neighbor's property. This violation was later cancelled after receiving documentation that SWFWMD authorized the culverts to be put in. The SWFWMD documentation was not put in the Accela case; the IG obtained it through a review of Officer Brown's emails. Based on emails and interviews with several County employees, the County's practice is to defer to SWFWMD for work that is or is not allowed, as SWFWMD is considered the "governing body for agricultural lands with respect to drainage."

As per the Accela case notes, on March 24, 2021, Officer Brown obtained the following information from Mr. Croteau about the property and its intended use:

- Property use – nursery and cattle
- Medieval fair – unsure if will have the fair but knows about needing a special permit, will take down advertisements, as Officer Brown told him that he should not advertise without approvals
- Medieval structures – storing them until can get rid of them
- Buried trash – not ever done as determined by FDEP
- Added dirt – already several mounds on property when purchased, brought in 5 loads, dug from ponds to spread over property
- Crushed concrete – brought in 80 loads for the driveway, was told by County no permit needed for driveway
- Parking lot – not putting one in, but may asphalt driveway
- Pipes (culverts) under road – SWFWMD said the pipes had to be there
- RV – used as office for workers

Mr. Croteau's stated use of the RV as an office contradicted Ms. Croteau's previous statement to Officer Shaw that a friend of Mr. Croteau's was living in it. As noted in Case #1, the RV was a violation of the Manatee County Code of Ordinances Section 2-9-108(b) at the time of Officer Shaw's investigation. Although Ms. Croteau stated that the RV would be removed, it was not, and Officer Shaw failed to follow up. On December 10, 2020, the Code of Ordinances Section 2-9-108(b) was updated and included a provision which exempted properties with bona fide farm operations from the restrictions related to the RV. Officer Brown confirmed that when he initially investigated the Mallaranny property, he used GIS to verify the agricultural classification (Greenbelt). As previously noted, at this time, the GIS maps incorrectly reflected that the property had the Greenbelt classification. It appears that Officer Brown's allowance of the RV was appropriate, given the updated exemption in the Code of Ordinances, and the GIS information available at the time of his determination.

Officer Brown also noted the following observations:

- Structures on property – 2 pole barns with concrete floors that appear to be getting closed in, a moveable metal shed, MCPAO search showed 5 structures for the 3 parcels, will follow up with Permitting about these structures
- Permits – for pole barn from 2002, new electrical, and new pole barn exemption
- Cargo containers – 6 of them, allowed per CCO 2-9-107(e)(4) and (5)
- Agricultural exemption – The property is ag exempt

Officer Brown determined that the cargo containers were allowed on the property citing CCO (Code of Ordinances) Section 2-9-107, which provides that cargo containers are prohibited, except in certain instances, one of which is when they are located “on properties with a bona fide farm operation...” Our review of the Code of Ordinances Section 2-9-107 also found that containers on A-zoned properties of 5 acres or more are allowed, but must comply with the setbacks in that zoning district. At the time of Officer Brown’s inspection, the Mallaranny property was A-zoned, but did not have the bona fide agricultural classification. Therefore, the containers should have been evaluated for proper setbacks; however, as Officer Brown relied on GIS to verify the Greenbelt status, and the GIS maps incorrectly reflected the property had the Greenbelt classification, the cargo containers were allowed. His allowance of the cargo containers appears appropriate, given the information available in GIS at the time of his determination.

Based on a review of the GIS images, it appears that the RV and cargo containers were located in a designated flood zone, and Officer Brown did not consider floodplain regulations with respect to their location on the property. According to Sandy Tudor, Floodplain Section Manager, anything that is located in a flood zone must meet floodplain requirements. She felt that a permit, or agricultural permit exemption, should have been obtained to ensure compliance with the floodplain regulations. Officer Brown stated that he verified through GIS maps that the RV and containers were not located in a wetland; however, that layer in GIS does not show flood zones. He did not review the flood zone maps and, therefore, did not realize the RV and containers had been placed in a flood zone. Officer Brown further stated that if he had known, he would have reached out to the Floodplain Section for direction.

As per the Accela case notes, on March 25, 2021, Officer Brown reached out to several County departments and SWFWMD and documented the following:

- Stephanie Raucci, Building Official, regarding the structures [barns] on the property; she told him they were allowable without permits due to the agricultural exemption
- Gary Race, Environmental Section Manager, regarding the work done on the property; he told Officer Brown that Environmental will defer to SWFWMD since they are handling this property
- Sandy Tudor, Floodplain Section Manager, regarding the crushed concrete for the drive aisle; she did not have any issues with the use of this material
- SWFWMD told Officer Brown that “all the dirt, ditches, culverts and any land changes were investigated and oked” by them

Officer Brown also noted that he reiterated to Mr. Croteau that hosting a medieval fair would require a special permit from the County, and that all advertisements for the fair need to be taken down. Additionally, he did not have “any evidence of dirt being brought on the property other than what Jeremy has stated.” In an interview with Officer Brown, he said that he did not reach out to Public Works/Stormwater regarding earthmoving, as he saw that Darin Rushnell was already involved in Case #3. He also said that he would rely more on BADS Environmental to determine earthmoving, rather than Stormwater.

In subsequent visits and phone calls, Officer Brown noted that Mr. Croteau removed the medieval structures and claimed that all materials inside the cargo containers were for his nursery and cattle. In an interview, Officer Brown stated that Mr. Croteau told him he could look inside the containers; however, even after multiple requests, he was never given access. According to Code Enforcement management and staff, as well as Code Enforcement's SOP, officers cannot force an owner to provide them access to their property. The Florida Attorney General concluded in AGO 2002-27, that code inspectors are not authorized to enter onto any private, commercial, or residential property to assure compliance with, or to enforce the various technical codes, or to conduct any administrative inspections or searches, without the consent of the owner, operator, or occupant of the premises, or without a duly issued search or administrative inspection warrant; the Fourth Amendment to the United States Constitution, and Article 1, section 12 of the State Constitution, provide protection from unreasonable searches.

Although not documented in the case, a site visit of the property occurred on April 16, 2021, with Jeremy Croteau and representatives from SWFWMD, Code Enforcement, BADS, Public Works Stormwater, MCPAO and the IG's office. During the visit, Mr. Rushnell took measurements to determine land elevation changes. In an email to Public Works management, BADS management, Code Enforcement, and the IG's Office, he reported that his findings showed violations of Section 702 of the LDC for Earthmoving. He included a Cut/Fill Report generated by Public Works that showed over 29,000 cubic yards of fill had been added. However, the Public Works Engineering Specialist, who generated the report based on Mr. Rushnell's elevation change data, stated that the numbers in this Cut/Fill Report were unreliable due to having few data points for such a large area. Also, according to Scott May, County Engineer (Public Works), the issues noted in Mr. Rushnell's report were invalid due to Public Works considering the property to be agriculturally exempt.

On May 3, 2021, Chief Bowman issued a memorandum to Director John Barnott in which he disputed Mr. Rushnell's findings and concluded that the property involved two major concerns: concerns from the public regarding the Sarasota Medieval Fair being held at that location, and concerns from neighbors regarding stormwater drainage. He documented that these concerns were being addressed by staff by informing the property owner that the event would require a special permit, and that SWFWMD was handling the stormwater concern. On May 6, 2021, Director Barnott submitted a Request for Legal Services (RLS) to William Clague, County Attorney, seeking a legal opinion as to whether the decisions/responses of BADS, regarding the Mallaranny property, were defensible. On September 30, 2021, Mr. Clague notified Robert Wenzel, Zoning Official, that the County Attorney's Office could not provide the requested legal advice due to several reasons, including the ongoing County and IG investigations, several of the employees being placed on administrative leave, and the anticipated scheduling of a quasi-judicial public hearing for a special permit application, which could affect the legal analysis.

Officer Brown closed the case on June 14, 2021, with no violations. He wrote that "many different county departments and state agencies have been to this property and investigated. There are numerous complaints made with no violations found." However, he did not include the documentation from the departments and agencies to support his conclusion. On May 24, 2021, SWFWMD had emailed Officer Brown a copy of a letter sent to Mr. Croteau dated May 4, 2021, notifying Mr. Croteau that the corrective actions requested "have been satisfactorily completed." The letter also stated that "activities that have taken place on site are normal and customary agricultural activities associated with a nursery and future pasture for a cattle operation" and, therefore, "exempt from Environmental Resource Permitting." Additionally, on June 9, 2021, Officer Brown was forwarded an email from Stormwater Engineering with their final conclusion that the culverts under the new access road built along the southern edge of parcel 166400002 do not create an adverse impact to the neighbors and that there is no earthmoving violation.

### **Case #5 Mishandled and Code Enforcement Procedures 24.2 and 29.2 Not Followed**

Officer Brown did not consider floodplain regulations with respect to the RV and cargo containers, which were located within a designated flood zone.

Accela did not include the following supporting documentation:

- Observation and notes from April 16, 2021 site visit
- Email from SWFWMD regarding their authorization of the culverts
- Email and corresponding letter from SWFWMD regarding the property being in compliance and agriculturally exempt
- Email and corresponding analysis from Stormwater Engineering regarding the property not causing adverse impacts or needing an earthmoving permit

CASE #6 (CE2103-0481): opened March 24, 2021; closed June 14, 2021 - Officer Brown

CASE #7 (CE2103-0610): opened March 30, 2021; closed June 14, 2021 - Officer Brown

The sixth complaint was sent from a neighbor to the County Commissioners and forwarded to Code Enforcement. The concerns were regarding the added fill dirt, the alteration of the land affecting natural resources and drainage, the medieval fair bringing increased traffic, and the lack of preservation of rural and agricultural community.

The seventh complaint was called in to Code Enforcement from an anonymous source regarding large work going on without permits.

Officer Brown did not have any inspection notes documented in either of the cases. Officer Brown stated that he mainly used Case #5 to document his investigation and findings for many of the complaints. However, he did not reference Case #5 as part of the documentation for these cases. For each case, there is only a note to close the case stating, "Many different county departments and state agencies have been to this property and investigated. There are numerous complaints made with no violations found."

*When there are multiple cases for the same address, it seems appropriate for the complaint to be investigated and documented under one primary case for efficiency. However, it would be beneficial to reference the primary case within the secondary cases, to ensure that all cases are adequately documented. Without that information, it can appear that the subsequent cases were not investigated.*

CASE #8 (CE2104-0036): opened April 2, 2021; closed June 14, 2021 - Officer Brown

The eighth complaint came through the Citizen's Action Center from a neighbor's attorney and was regarding the property being used to host the Sarasota Medieval Fair and to store cargo containers and medieval buildings. Officer Brown noted in the case on April 28, 2021, that the medieval buildings "have been removed." He also noted that Mr. Croteau claimed the cargo containers have items for the nursery and cattle operation; although, he was not able to verify Mr. Croteau's claim. In addition, Officer Brown noted that the medieval fair was still being investigated.

As previously noted in case #5, there was a site visit on April 16, 2021, that was not documented in any of the cases. IG staff who were present at the visit noted that the medieval buildings had been removed from the property.

Officer Brown closed out the case on June 14, 2021, stating, "Many different county departments and state agencies have been to this property and investigated. There are numerous complaints made with no violations found."

CASE #9 (CE2104-0484): opened April 28, 2021; closed June 14, 2021 - Officer Brown

The ninth complaint originated from an email received from the IG's office; a call was received from Mr. Ireland on April 27, 2021, regarding 10 loads of dirt being brought onto the property. That same day, Officer Brown visited the property with Mr. Croteau's permission. He did not observe any mounds of dirt or any areas where dirt may have just been spread; he only saw crushed concrete that had recently been spread out on the property's roadway. Officer Brown took photos of his observations and included them in the case. Mr. Croteau stated he had just brought in crushed concrete, as he intended to pave the road. He also told Officer Brown that SWFWMD and FDACS gave him permission to pave his access road/driveway. Officer Brown obtained and uploaded the emails with SWFWMD and FDACS granting permission for the paving into the case. It was also noted that Mr. Croteau had hired an attorney. Officer Brown closed out the case on June 14, 2021, stating, "Many different county departments and state agencies have been to this property and investigated. There are numerous complaints made with no violations found."

CASE #10 (CE2104-0505): opened April 28, 2021; closed June 14, 2021 - Officer Brown

The tenth complaint was phoned in to Code Enforcement by a citizen and was for bringing in more soil and laying asphalt. Officer Brown had been to the property on April 27, 2021, and documented his investigation of the soil and access road/driveway in case #9. Officer Brown closed out the case on June 14, 2021, stating, "Many different county departments and state agencies have been to this property and investigated. There are numerous complaints made with no violations found."

CASE #11 (CE2104-0564): opened April 30, 2021; closed June 9, 2021 - Officer Brown

The last complaint was submitted through the Citizen's Action Center by a neighbor and was regarding the paving of a 2-lane road without a permit. Officer Brown had been to the property three days earlier on April 27, 2021, as noted in case #9. He did not visit the property again until May 27, 2021, when he attended a site visit, with BADS Zoning, BADS Environmental, Public Works, and SWFWMD. It was noted that no permit was needed for paving the road and the only changes to the property from the previous April 16, 2021, site visit were paving and more nursery plants. The case was closed. The email from SWFWMD and FDACS as support for the allowance of the paving was included in Case #9.

### **Sarasota Medieval Fair**

Many of the concerns regarding the activities on this property were due to its connection to the Sarasota Medieval Fair. On multiple occasions, the owner was asked by Code Enforcement and other agencies about using the site for the Medieval Fair, and Mr. Croteau claimed that either he was not, or was unsure if he would be, hosting it there. In an email to Officer Shaw dated March 10, 2021, the SWFWMD Sr. Environmental Specialist stated, "they vehemently deny that are having a venue of any sorts and that they are ag." However, information obtained through inquiries, websites, advertisements, newspaper articles, Sunbiz, and emails support that it was always Mr. Croteau's intention to hold the Medieval Fair at the Mallaranny property.

IG investigators conducted research and obtained the following information:

Sunbiz documentation shows Jeremy Croteau has been the president of the Sarasota Medieval Fair since 2005. Documents show that on January 13, 2021, the principal address for the company was changed to 29847 FL-70 E, Myakka City, which is the Mallaranny, LLC property address. A later review of Sunbiz showed that the principal address was changed on April 14, 2021, to 1613 Napoli Drive W in Sarasota.

A public records request of Kathy Croteau's Sarasota County work emails contained the following information:

- Insurance policy for Sarasota Medieval Fair effective August 22, 2020 that lists the location at 29847 SR 70 Myakka City
- Certificate of Liability Insurance forms showing insured as "Sarasota Medieval Fair, 29847 St Rd 70 East, Myakka City, FL 34251"
- Invoices for large equipment rentals made by Sarasota Medieval Fair to be used at 29847 SR 70 beginning as early as November 6, 2020

On March 30, 2021, the Sarasota Medieval Fair website noted a "Big 2021 Announcement" of the new location out east and showed the fair dates of November 6 – 28, 2021. It appeared that tickets could be purchased from the website. Also the Facebook postings for the Sarasota Medieval Fair announce the new location at the "Woods of Mallaranny," located on State Road 70, 13 miles east of I-75, as early as October 20, 2020. The postings from February 2021 note the progress being made on the property for the fair. Documents provided for the third Accela case show that as of early March 2021, the merchant information from the website listed the fair location at "The Woods of Mallaranny: 29847 Florida 70 East."

As early as January 21, 2021, and as late as May 5, 2021, there were multiple websites advertising that the Sarasota Medieval Fair was occurring on November 6 – 28, 2021, at 29847 Florida Highway 70 in Myakka City, and some of the sites offered tickets for sale. After Chief Bowman sent an email to Mr. Croteau inquiring about the ticket sales, the location of the fair was revised on the ticket sale website to "to be announced," as of May 5, 2021.

According to Mr. Wenzel, the Medieval Fair would be deemed a high intensity recreational use, and according to Table 4-2 Uses in Agriculture and Residential Districts in LDC Chapter 4, this use would require a special permit on property zoned "A." As noted in Case #5, Mr. Croteau was advised multiple times that he would need a special permit to host the fair. Additionally, as stated by several members of Code Enforcement management, the owner could not be cited for having the fair until he actually did so, without the proper permit.

On September 3, 2021, Mr. Croteau applied for a special permit to host the Medieval Fair on the Mallaranny property. According to Mr. Wenzel, this permit was sent to a third party consultant for review, but did not get finalized prior to the commencement of the fair. In a memo to Dr. Scott Hopes, County Administrator, on November 3, 2021, Mr. Wenzel stated that since procedures for the approval of Agritourism-related special permits were not yet created, the event would be permitted under a temporary use and tent permit. This permit was applied for on November 2, 2021, and approved on November 5, 2021.

## **Conclusion:**

**The allegation is partially substantiated and partially unsubstantiated.**

Inadequate investigation/documentation - **substantiated**

- We found a lack of investigation efforts by Officer Shaw prior to the November 24, 2020, meeting where she alleges that Code Enforcement management instructed her to close the case. She never performed an onsite inspection or spoke to the property owner. The first case did not include all of the documentation or information she obtained. The inclusion of this information could have aided management in making decisions initially about the case. Documentation obtained by the IG supports that Officer Shaw was investigating the burial of trash and not the actual complaint of fill being brought on site. She also did not follow up with the BADS Floodplain Section or FDEP regarding concerns raised about the property at that time, or ensure the occupied RV was removed or cited. Subsequent cases assigned to her were closed without any investigation.
- Officer Brown did not adequately document one of his cases to reflect a site visit and additional information obtained, nor did he address floodplain regulations with respect to the RV and cargo containers being located within a designated flood zone. In addition, one case was closed without a thorough investigation, as he initially did not realize that the property contained three parcels. At the time, he was only aware of the one parcel assigned the address. However, overall, he appears to have more thoroughly investigated all of his cases on the Mallaranny property. In total, he worked on nine different cases, during which he communicated with the property owner, performed onsite inspections, coordinated with other County departments and regulatory agencies, and cited the property owner for a potential violation of adverse impacts to a neighbor.

Relationship with Croteaus - **unsubstantiated**

- Officers Shaw and Brown stated that they did not know Kathy or Jeremy Croteau prior to working their Code Enforcement cases; however, several BADS Department staff did have a professional relationship with Kathy Croteau, including Director Barnott and Supervisor Wooten. Chief Bowman stated that he had previously worked with Ms. Croteau in Sarasota County and also knew her personally. As we were unable to obtain Chief Bowman's cell phone records, due to his cellular carrier's inability to provide this information, we could not determine the amount of contact he had with Ms. Croteau during this time.
- Ms. Croteau may have been attempting to influence the handling of her son's Code Enforcement cases. Kathy Croteau was not the property owner or an authorized agent of Mallaranny; however, she appeared to be the primary point of contact for the first three Code Enforcement cases, as well as a building permit.
- We were unable to determine whether these relationships or Ms. Croteau's involvement had any effect on how Code Enforcement handled the cases. No evidence was found to support that anyone was instructed to intentionally ignore code violations. Both Supervisor Wooten and Chief Bowman stated that in November 2020, they instructed Officer Shaw to close her case, *only* if there were no violations. Emails also support that Chief Bowman was directing staff to investigate the cases. In January 2021, after receiving a complaint, Chief Bowman instructed Supervisor Wooten to "create a case and handle." Supervisor

Wooten forwarded the complaint to Officer Shaw, who opened a case. In early March 2021, Chief Bowman instructed Officer Shaw to investigate the property or give it to Officer Brown. In addition, in early March 2021, Chief Bowman emailed Supervisor Wooten asking if he ever looked into information about the fair occurring on the property.

In addition to the instances noted above, some violations on the Mallaranny property (RV, cargo containers) were not properly addressed initially due to the GIS maps incorrectly reflecting that the property had the bona fide agricultural (Greenbelt) classification, when it did not. As per the BADS Department's policies, procedures, and practices, Code Enforcement officers and other BADS personnel rely on the County GIS to verify whether property has the Greenbelt classification. Many codes and laws apply differently to agricultural property, so this information is critical in determining permitting requirements, and whether property owners are in compliance with regulations. During most of the Mallaranny property investigations, and the permitting process, the GIS maps incorrectly reflected that the property had the Greenbelt classification. While the previous property owner did have the Greenbelt classification, it expired on December 31, 2020, due to the change in ownership in September 2020. Although the MCPAO database correctly reflected this change, as confirmed with County IT, GIS had not properly updated the information from the MCPAO. Sometime after March 28, 2021, GIS was updated to correctly reflect the change in classification. However, because the officer relied on the incorrect information, several of the determinations made were incorrect. It does not appear that in these instances, the officer mishandled the cases, as the processes followed in making those determinations was appropriate. Furthermore, the MCPAO approved an agricultural classification for the property on June 3, 2021, prior to the closing of the related Code Enforcement cases.

## **Allegation #2 - Favoritism**

*Building and Development Services and Code Enforcement management instructed staff to close cases and not enforce Manatee County codes due to personal/professional relationships.*

### **Investigative Procedures:**

Investigative procedures included, but were not limited to:

- Interviews with complainant
- Interviews with current and former BADS and Code Enforcement personnel
- Inquiry with former BADS director through personal attorney
- Interviews with Manatee County citizens
- Interviews with other County department personnel (Property Management, Utilities, Public Works, and Human Resources)
- Review of Accela Code Enforcement cases and building/other permits
- Review of Accela report listing deleted documents to identify potentially mishandled cases
- Review of documentation provided by current and former BADS and Code Enforcement personnel
- Review of Manatee County employment records
- Review of information and records from MCPAO, Sunbiz, GIS Interactive Maps, and Manatee County Clerk of the Circuit Court and Comptroller's Office Official Records and Board Records
- Analytic and detailed testing of permits and Code Enforcement cases involving Manatee County employees
- Detailed testing of a selection of permits requiring signed and sealed surveys
- Analysis of emails and Jabber messages of select BADS and Code Enforcement personnel
- Analysis of emails and Jabber messages obtained by the Records Division from keyword searches for specific Code Enforcement cases and permits
- Review of Manatee County Code of Ordinances, LDC, Florida Statutes, Code Enforcement SOP, and Manatee County Personnel, Rules, and Procedures
- Internet research of rules and standards of Manatee County BADS, FEMA, and Florida Building Codes

### **Results:**

Interviews were initially conducted with current and former Code Enforcement officers and BADS employees to ascertain whether they had been pressured by management to close Code Enforcement cases before violations were resolved, or were aware of instances where favoritism was shown to property owners. We reviewed the electronic communications of current and former BADS employees to identify additional cases that were potentially mishandled, or involved personal or professional contacts. We also obtained and reviewed a report listing documents that were deleted from the Accela system to identify other potentially mishandled cases. The results of this preliminary work led us to also investigate the handling of permits and plans. We performed data analytics testing on permits and Code Enforcement cases to identify permits and cases on properties owned by Manatee County employees. In addition, throughout this investigation, we received tips through interviews with employees and complaints from citizens.

All of the cases and permits/plans identified were investigated to determine whether they were handled in accordance with policies, procedures, rules, and/or codes. If cases or permits were deemed to have been mishandled, we further determined whether this was due to any involvement by management, and if so, whether there was a personal or professional relationship involved. It was noted during the investigation that many of the practices and requirements of BADS were not formalized in writing, requiring investigators to identify permitting, zoning, and agricultural exemption criteria through interviews, Accela permit templates, informal reference sheets, and review of email communications.

In total, we analyzed 240 Code Enforcement cases and 103 permits/plans. We identified 26 Code Enforcement cases and 7 permits that were not handled appropriately; these cases and permits involved 18 properties. Five Code Enforcement cases and 6 permits included evidence of involvement by management, of which 3 Code Enforcement cases and 5 permits also had evidence of a personal or professional relationship. We further noted that management instructed Code Enforcement to not remove prohibited signs for an annual event hosted by a local building industry association.

LDC Section 311 states, "The Department Director may, subject to the procedures and limitations of this section, issue written letters of interpretation of the provisions of one (1) or more standards or requirements of this Code or the Comprehensive Plan as it relates to a particular type of development on a particular property." When interpretations are requested, the LDC specifies that, "the Department Director shall issue a letter of interpretation specifying the facts, reasons, analysis and standards upon which the interpretation is based." None of the cases/permits noted below, where determinations were made by the Department Director (John Barnott), included any documentation of the facts, reasons, analysis, and/or standards to support the actions taken.

Below are details of the Code Enforcement cases and permits/plans that were determined to have been handled inappropriately. We also determined whether management was involved in the actions taken, and whether a personal or professional relationship existed. A summary of this test work can be found at **Exhibit E**.

#### Allegation Substantiated - Management Involvement and Relationship Identified

- Permit BLD2008-0694; Case CE2007-0191  
Identified through review of BADS emails

A family member of Manatee County Commissioner Priscilla Trace was granted an agricultural permit exemption for a pole barn; however, it does not appear that the property owner qualified for the exemption. In addition, the property owner did not submit the required documentation or pay the required \$73 permit exemption fee.

As per LDC Section 310.3, permits are required to construct, enlarge, alter, repair, move, or demolish a structure; however, per F.S. 604.50, nonresidential farm buildings on land used for bona fide agricultural purposes may be exempt from the permitting requirement. When F.S. 604.50 applies, BADS requires owners to apply for an agricultural permit exemption. Although this property is zoned A (agriculture), according to the MCPAO, it does not have the bona fide agricultural (Greenbelt) classification, and is classified as single family residential property.

On July 7, 2020, Code Enforcement received a complaint regarding the unpermitted structure. On July 10, 2020, Director John Barnott contacted staff, stating that Commissioner Trace wanted to know who complained about the pole barn. The case was

closed on July 23, 2020, with an explanation that the pole barn was built on an ag-exempt parcel; as noted above, this was not an ag-exempt property. An agricultural permit exemption was then issued on August 17, 2020. It appears the property owner had no involvement in the agricultural permit exemption, and the FEIN used to support the exemption was actually for Commissioner Trace's business, which is not associated with the property. The permit was processed by Permitting Manager Deanna Ward, at the direction of Director Barnott. Ms. Ward noted in Accela, "Fees removed and exemption issued per FL Statute and FL Building Codes per John Barnott."

As per a response received from Mr. Barnott's attorney, the pole barn was a pre-existing structure that had been upgraded, and it was his understanding that no application or exemption fee was required to repair an existing structure on a property that is zoned agricultural. BADS included no documentation with the agricultural permit exemption that indicates the pole barn was pre-existing. Based on our review of GIS images, a structure was previously on the property, but the current pole barn appears to be a different size.

- Permit BLD1809-1290  
Identified through a tip from an employee

Based on a review of emails, it was noted that a property owner contacted Commissioner Trace in May 2018, before applying for a permit for an accessory structure on a vacant lot with no agricultural use; this is not permitted per LDC Section 510.A. The owner applied for the permit on September 18, 2018. Jamie Elbert, then Planning and Zoning Technician, notified the contractor on October 25, 2018, that Zoning needed to verify that the principal land use was agricultural. The owner provided photos and Manatee County performed a physical inspection. On November 13, 2018, Ms. Elbert denied the permit application, noting that the photos and inspection were insufficient to prove agricultural use. The contractor responded that he believed the property owner was given approval ahead of time by the commissioner and that he was to have another meeting with her that morning.

On November 14, 2018, Phyllis Strong, then Development Services Manager, emailed the permit information to Director Barnott, detailing that the customer stated he called Commissioner Trace, who stated that she spoke with John Barnott and the permit was okay. Director Barnott confirmed to Ms. Strong that the property met the farm act and the owner could build a barn to store farm equipment on it. Ms. Strong responded that the property was not a farm and did not have an agricultural use. Ms. Elbert then requested Deanna Ward reopen the permit, as the customer stated he had been given approval for the accessory structure through Commissioner Trace and John Barnott.

Ms. Elbert documented in Accela, "Accessory Structure approved per Management and BADS Director." On December 30, 2018, the property owner emailed Commissioner Trace, thanking her for her assistance, stating, "Just wanted to wish you a happy new year but more importantly thank you for helping me obtain my building permit. I truly believe I would not have obtained my permit in 2018 had I not visited with you back in May. I don't know how I can return the favor but if you think of something please do not hesitate to contact me."

- Permit BLD1903-1672  
Identified through a tip from a citizen

Florida Building Code Section 105.4.1, Building, stipulates that permits become invalid if the work authorized by the permit does not begin within six months or if the work is suspended for a period of six months. Once permits expire, property owners must apply for a permit extension to move forward with the permit. A permit issued on July 16, 2019, for a property owned by Commissioner Trace and her husband was extended several times for various reasons. On April 15, 2021, it was extended again; however, the property owners failed to submit the required application, and did not pay the \$10 extension application fee until June 25, 2021, more than two months later. A comment noted in Accela by Deanna Ward indicates that the extension was approved by John Barnott and Stephanie Raucci, Building Official, based on an application the property owners submitted for a prior extension. According to Ms. Raucci, she recalled verbally approving the extension but did not realize the property owner had not submitted the required application, which should have been completed. According to Ms. Ward, she believed the extension request came from John Barnott, and was then approved by Stephanie Raucci, because she was the Building Official.

- Permit BLD2002-2043  
Identified through tips from former employees

In February 2020, a personal and professional contact of Director Barnott and Robert Wenzel, then Planning Section Manager, was not required to obtain a Certificate of Occupancy for a change in occupancy classification, when a commercial property was converted from an antique mall (mercantile classification) into a daycare (educational classification). LDC Section 310.4, and Florida Building Code Section 1001.3, Existing Building, state that, "No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the Building Official has issued a Certificate of Occupancy..." and "A certificate of occupancy shall be issued where a change of occupancy occurs that results in a different occupancy classification...", respectively. Certificates of Occupancy specify that the structure has been inspected for compliance with the requirements of the Florida Building Code and any other applicable codes or ordinances. The property owners were permitted to occupy the building through a temporary use permit and were required to apply for an off-street parking plan to address the change of use for planning and zoning purposes. The temporary use permit did not address the Florida Building Code provisions for change of occupancy, which included fire protection, accessibility, electrical wiring and equipment, and light and ventilation. No inspections were required before the temporary use permit was issued.

Our review of emails indicates that Director Barnott had golfed with the property owner. According to a written response received from Mr. Barnott's attorney, Mr. Barnott has personal relationships and friendships with many individuals, including this property owner, but no favoritism was ever shown to him. He further stated that a Certificate of Occupancy was not required in this instance, because this was not a construction project; however, this appears to contradict the requirements in LDC Section 310.4 and Florida Building Code Section 1001.3. Mr. Wenzel also referred to the property owner as his friend, but stated that he was not very involved with this temporary use permit.

Interviews and electronic communications support that the former Building Official, former Licensing Manager, Permitting Manager, and two Permitting Supervisors disagreed with

issuing the temporary use permit; changes of occupancy have historically been processed through a commercial alteration permit. A Permitting Supervisor stated that she was approached by Mr. Wenzel and told to process the temporary use permit. There was a deadline, and the owner needed to get the permit, because they had a goal and had to get the building open. She further stated that she felt she needed to issue the permit, because she was being told to by people above her.

Former employees also expressed safety concerns with the daycare occupying the building through the temporary use permit, because Florida Building Code provisions for change of occupancy, such as egress and fire sprinklers, were not addressed. Due to these concerns, we contacted the North River Fire District independently, to verify whether they had performed any separate inspections. They confirmed that they had performed an inspection for a new fire detection system before the temporary use permit was issued, and at that time the building was safe for occupancy from a fire standard. However, the temporary use permit documentation does not indicate that BADS was aware that this separate inspection had been completed.

Mr. Barnott's attorney stated that Mr. Barnott viewed the property with Stephanie Raucci, then Senior Plans Examiner, and she handled this particular issue. However, in an interview with Ms. Raucci, she recalled only being asked to review the educational occupancy requirements in the Florida Building Code for the daycare. She did not know why the property was handled through a temporary use permit, rather than a commercial alteration permit. Additionally, notes in Accela indicate that the permit was processed as a temporary use permit "per John Barnott."

- Permit BLD1905-1579; Cases CE1809-0125, CE1811-0060  
Identified through a tip from a former employee

This property was owned by the same individual who owned the commercial property noted in permit BLD2002-2043 above. Although no evidence indicates that Robert Wenzel was involved with this property, it does appear that Director Barnott influenced the handling of the property as detailed below.

Code Enforcement Officer Donna Finch worked a case for renovations made on a house without a residential alteration permit, as required by LDC Section 310.3. Officer Finch issued a Stop Work Order and a Notice of Violation in September 2018. She requested to take the case to Magistrate in November 2018 and March 2019; both requests were approved by Supervisor Tom Wooten, but were then denied by Chief Jeff Bowman to give the owners more time. In June 2019, Officer Finch again requested to take the case to Magistrate, which was again approved by Supervisor Wooten; however, no review by Chief Bowman was documented and no further information regarding the Magistrate request was in the Accela case history.

Supervisor Wooten closed the case on February 10, 2020, after Officer Finch transferred out of Code Enforcement. When closing the case, Supervisor Wooten noted that several separate permits had been obtained for the property, including permits for doors and windows, a roof, electrical, and A/C. However, the permits did not cover the full residential alteration. According to Supervisor Wooten, he believed the case was in compliance because of the permits that had been issued. It was also noted that the property was located in a flood zone. Because the residential alteration permit was not obtained, the property was not assessed to determine whether it met FEMA's substantial improvement rule which stipulated that if the cost to improve the residence met or exceeded 50 percent

of the market value of the structure, the property owners would have been required to meet flood requirements for new construction. This could have required the owners to elevate the building to the current base flood elevation.

One permit issued for the property contained a condition stating, “do not close until res alt applied for.” On August 10, 2020, Director Barnott contacted staff to ask what was going on with this property. Three days later, Code Enforcement removed the condition from the permit.

- Case CE2016070646  
Identified through a tip from complainant:

Code Enforcement closed a case for an unpermitted shed on a property owned by two Manatee County Utilities Department employees. Permits are required by LDC Section 310.3. When the case was first initiated in August 2016, Director Barnott emailed the Building Official and Code Enforcement management stating that the property owner “...got a letter on the shed... put everything on hold for this complaint...” Our review of employee records shows that Director Barnott and the property owner worked together from April 2005 until May 2008, when he worked in Utilities Customer Service and she was a Fiscal Analyst at the Utilities Department. As per a response from Mr. Barnott’s attorney, Code Enforcement allowed the property owner time to obtain the necessary permits rather than citing her and having her go through a costly hearing; he would have done this for anyone else in the same situation. However, the permits were never obtained.

Four different Code Enforcement officers worked on the case between the time it was opened in August 2016 and closed in December 2019. The property owners never obtained a permit for the shed, and, therefore, never brought the property into compliance. Officer Tanya Shaw took over the case in July 2019. She spoke with the property owner on October 28, 2019. Supervisor Wooten emailed the property owner on November 6, 2019, stating, “We have had this case open since 2016 in reference to your shed, can you please get with permitting and rectify this situation so we can close your case. We do not want to have to take any enforcement action but we can not close the case until the permit is issued.” Officer Shaw then met with the property owner at the County landfill on November 26, 2019, and closed the case on December 9, 2019, noting, “This case was supposed to be closed in 2016.” No documentation was included to support why it was closed. Officer Shaw did not specifically recall whether she closed this case, but said that if she did close it, she was instructed to. We found no evidence to support that she was instructed to close the case.

- Identified through review of BADS emails

In February 2021, Director Barnott instructed Code Enforcement management through email not to remove signs advertising a Parade of Homes event for the Manatee-Sarasota Building Industry Association. Signs within any public rights-of-way or on public lands are prohibited per LDC Section 604.D. Parade of Homes is an annual event allowing residents to tour local model homes. The event was sponsored in part by local developers and construction companies. Director Barnott’s email to Code Enforcement management stated, “It’s parade of homes time in the county. Make sure we do not pick up those signs. Leave them alone.” As per a response received from Mr. Barnott’s attorney, the County Commissioners instructed Code Enforcement to not interfere with the Parade of Homes; however, based on a review of Board of County Commissioner meeting minutes, we noted no official actions instructing Code Enforcement to not address signs for this event.

## Allegation Partially Substantiated - Management Involvement but No Relationship Identified

- Case CE1907-0356  
Identified through a tip from complainant

Officer Shaw issued a Notice of Violation in July 2019 for an “RV (recreational vehicle) occupied and hooked up to utilities, a shed with electric, vehicles etc. being stored on the vacant property without a primary structure.” Per our review of photographs saved to the case, “vehicles etc.” appeared to be mowing equipment, a trailer storing miscellaneous items, and outdoor furniture. The required corrective action on the Notice of Violation was to remove the RV, shed, vehicles, etc. from the property. Officer Shaw documented that the RV was subsequently removed by the property owner. Per photographs in the case file, it appears the trailer may also have been removed. Officer Shaw requested to send the case to Magistrate for the shed and remaining items on August 20, 2019. Per LDC 510.A, no accessory structure may be constructed on a property without a principal structure or use, such as an agricultural use. According to Officer Shaw, the property owner called Director Barnott. On August 23, 2019, Director Barnott requested details on the case from Code Enforcement management; Chief Bowman explained through email that there were no agricultural uses or animals on the property. Director Barnott forwarded this information to the Building Official, CJ Dupre, with the statement, “Let’s talk.”

Supervisor Wooten originally approved the Magistrate request on August 27, 2019. He then denied it on September 4, 2019, documenting, “T. Shaw is requesting to remove from magistrate, to give the owner more time after conversing with Chief Bowman.” Chief Bowman then closed the case on September 19, 2019, documenting that he and the Building Official concluded there was no violation and that research revealed agricultural uses on the property, including cattle grazing for years and goats. However, in his August 23, 2019, email to Director Barnott, Chief Bowman originally stated there were no agricultural uses or animals on the property. In an earlier email to the property owner, Officer Shaw also documented that she had never seen any animals during her several visits to the property. Chief Bowman included no evidence, such as photos or documentation from the property owner, to support changing his and Officer Shaw’s prior conclusion and closing the case. Chief Bowman also documented that a former shed was replaced with the new shed on an existing slab and was used to house equipment for agricultural use. Even if Code Enforcement concluded the property had an agricultural use and therefore an accessory structure was allowed, the shed still would have required a permit per LDC 310.3, or an agricultural permit exemption. Additionally, since the property was in a flood zone, a permit or permit exemption would have ensured the shed went through the proper floodplain review.

- Case CE1908-0401  
Identified through a tip from an employee

In August 2019, a Code Enforcement case was opened on a property when a County A/C inspector reported that the garage was converted into a living space with a bathroom, plumbing, A/C, and electric. Officer Finch issued a Notice of Violation in October 2019, because the property owners built the living space without a permit, which is required by LDC Section 310.3. The case was sent to Magistrate in November 2019. The case was subsequently dismissed after the property owners’ attorney met with BADS management in January 2020. The meeting included Director Barnott; Stephanie Raucci, then Senior Plans Examiner; and Sandy Tudor, Floodplain Section Manager. After the meeting, Director Barnott documented through email to the attorney that the property was in

compliance, stating, "Glad we could work this problem out to a successful conclusion. It is our recommendation to the Magistrate that this case be dismissed as it is in compliance with our regulations and codes." No explanation or evidence was included in the case notes to support how the property was in compliance.

- Permits – multiple, including BLD2010-2099  
Identified through review of BADS emails

The LDC allows builders to construct model homes through temporary use permits. LDC Section 521.4 specifies that the number of model homes can be no more than ten percent or a maximum of ten units within the development or construction phase. Builders are motivated to obtain approval for model homes, because they can be built before the developments are platted, which allows the homes to be ready to sell once the plats are approved. We noted an instance where a development was approved for temporary use permits in excess of the number allowed through the LDC. In October 2020, Robert Wenzel, then Planning Section Manager, approved permits for 20 model homes (10%) across four construction phases, which had been approved for a total of 208 units. Brenda Dillard, Senior Permitting Technician, requested clarification, because the builder had already been approved for 25 model homes across these four construction phases. Mr. Wenzel responded that the additional 20 model permits (total 45) were okay, without further explanation. Stephanie Charles, then Permitting Supervisor, questioned Mr. Wenzel when the builder specified that the excess temporary use permits were not for model homes, but were in fact, for homes under contract with clients. Deanna Ward responded that, in this specific instance the development could have temporary use permits for construction.

According to Mr. Wenzel, if the infrastructure is in place and the site is safe, there have been times when BADS has allowed extra model permits. He further stated that BADS has been evaluating the LDC to determine whether changes can be made that will be safe and work well for everybody, including the County. However, until these changes are made, allowing the extra model permits violates the model home provision of the LDC.

#### Allegation Unsubstantiated – No Management Involvement or Relationship Identified – Cases Deemed to be Mishandled

- Case CE2018070482  
Identified through a tip from complainant

Code Enforcement closed a case on a property with an unpermitted residence (a portable converted into a dwelling unit) and unpermitted accessory structures (pole barn, shed, and carport). Permits are required by LDC Section 310.3. Officer Shaw was assigned to the case when it was initiated on July 25, 2018, until she closed it on April 14, 2020, with an inspection comment that the structure was seen in base map photos going back to 2003 and was being used for security and ranch hands to tend to cattle and horses. However, based on our review of GIS images, base map photos indicate no structures were on the land from 2003-2015. The next available map was dated 2017 and showed one of the structures. The subsequent map dated 2019 showed all four structures. Additionally, a homestead exemption was on the property for tax years 2018-2020, indicating the structure was used as a residence. Officer Shaw denied closing the case, alleging that she did not write the inspection comment and Chief Bowman notified her that he closed her case. We found no evidence to support that someone closed the case in her name. (see Allegation #3 on pages 38-44)

Officer Shaw also alleged that Director Barnott provided her with a list of individuals who could help her when she was out working in Duette alone. She stated that the list included the name, address, and telephone number of this property owner's ex-husband, and she visited the property and met the property owner with Director Barnott when he introduced her to several friends of his in her Code Enforcement zone. Officer Shaw was unable to provide this list of individuals, and we were unable to verify that Director Barnott influenced this case or had any relationship with the property owner. However, emails confirm that Officer Shaw and Director Barnott spent a day in the field together on August 10, 2018, and Officer Shaw thanked him for introducing her to the community in her zone.

- Case CE2003-0517  
Identified through a tip from complainant

A business applied for two permits for bathhouses at its campground. The permits were issued on June 14, 2019. An Environmental Manager from the Florida Department of Health notified Code Enforcement on March 30, 2020, that during an inspection on March 6, 2020, it appeared that one of the restroom buildings was in use, and he inquired as to whether a Certificate of Occupancy had been issued. A Code Enforcement case was opened because the Certificate of Occupancy had not been issued. As per LDC Section 310.4, no building or structure shall be used or occupied until the Building Official has issued a Certificate of Occupancy.

Officer Shaw investigated the case and spoke with the property owner by phone on April 21, 2020. He stated that he would make sure the remainder of items needed to close the permits would get done and the bathrooms would not be utilized. The Accela audit log shows that Officer Shaw then closed the case without additional follow-up to verify the bathhouses were not in use or the Certificates of Occupancy were issued; although, she denies having closed the case.

The last inspections conducted by BADS inspectors passed on May 26, 2020. However, the permits remained open due to a Health Department hold for final septic inspection and approval. The general contractor subsequently requested to be removed from the permits on October 13, 2020, at which time Cindi Blake, Licensing Manager, placed another condition on the permits listing that a new general contractor was required. She notified Code Enforcement that there was no general contractor on the permit and the restrooms were in use. Although email and Jabber messages indicate that Officer Shaw and Supervisor Wooten both contacted individuals at the business, no Code Enforcement case was opened.

The Health Department recorded that the septic condition was met on October 12, 2021, and Stephanie Raucci, Building Official, removed the condition for the new general contractor, because all inspections had passed before the prior contractor removed himself from the permits. However, as of March 2022, the Certificates of Occupancy had not been issued.

- Cases CE2005-0181, CE2006-0239  
Identified through a tip from an employee

Two complaints were received in May and June 2020 for an exotic animal display or zoo operating on Rye Road that was a nuisance to residents. As per LDC Section 401.2, zoos or animal exhibits are high intensity uses that require a special permit when in an agricultural zone. Officer Shaw was assigned to both cases. The first case was closed on

June 10, 2020, after the owner agreed not to open unless he obtained permission and required documents from the County. The second case was closed five days later, with a note that an Administrative Permit was issued in 1985. Upon researching this information, we found that there was no Administrative Permit for this property in 1985; however, there was an Administrative Determination from 1983 which allowed for the storage of trucks or mobile equipment on the property, but specifically prohibited business operations. It is not clear whether Officer Shaw ever reviewed the Administrative Determination, because she did not include the document in the case records. Code Enforcement was notified of this issue and began reinvestigating in February 2022.

- Case CE2002-0251  
Identified through review of BADS emails

Code Enforcement received a complaint in February 2020 from a Manatee County building inspector, who had noted a barn being constructed without a permit. Officer Shaw was assigned to the case and issued a Notice of Violation in August 2020. However, no photo evidence of the violation was recorded, and it does not appear that Officer Shaw ever inspected the property. She closed the case in January 2021 based on an Administrative Determination letter regarding agricultural exemptions on the property. The Administrative Determination stated that the addition of an equestrian center to the existing farm operation was exempt from Manatee County zoning requirements; however, it specified that the exemption did not cover compliance of the buildings with applicable floodplain regulations. According to the flood data in the GIS maps, a portion of the property is located in the 100-year floodplain. Officer Shaw closed the Code Enforcement case without ensuring the required floodplain review was completed through an agricultural permit exemption. The property owners did apply for an agricultural permit exemption for a barn in September 2021, but due to the lack of documentation in Officer Shaw's case, it is unclear whether the permit exemption application covers the barn Officer Shaw was investigating.

- Cases – multiple, including CE2012-0392, CE2101-0253  
Identified through a tip from a citizen

Beginning in December of 2020, a resident made complaints to Code Enforcement about a neighbor's fence blocking road access to a parcel north of the fence and being in the right-of-way. LDC Section 511.6 stipulates that no fence or wall may be located in a right-of-way or easement. Officer Shaw closed the first two cases in January 2021, stating the complaint was a civil issue. This was an incorrect interpretation, as a County-owned right-of-way was involved. A third complaint was received in January 2021. In this case, Officer Chet Brown obtained assistance from Manatee County Public Works to address the fence being in the right-of-way. Additional complaints were later received from May 2021 to September 2021 regarding a new fence and dirt in a drainage ditch. These cases were handled by Officer Heather Sonntag, who again reached out to Public Works for assistance regarding these complaints. Public Works determined the new fence was not in the right-of-way and informed Code Enforcement that the dirt was a result of permitted work, and the contractor was aware that they needed to grade and drain the area in question.

- Cases – multiple, including 2016030507, CE2108-0409  
Identified through a tip from a citizen

A residential neighbor of a commercial property submitted multiple complaints to Code Enforcement for continuous loud fan and mechanical noises coming from an adjacent restaurant beginning in March 2016. Multiple restaurants have operated at the location over the time the complaints have been received. Manatee County Code of Ordinances Section 2-21-34 prohibits any person from making any noise disturbance or exceeding maximum permissible sound levels. Factors that should be considered when evaluating whether a sound is a noise disturbance include volume, intensity, nature of the noise, volume and intensity of any ambient noise, proximity to residential sleeping facilities, and the nature and zoning of the area; *noises do not need to exceed maximum permissible sound levels to be considered a disturbance*. Initially, the cases were not handled correctly, because they were not addressed as a disturbance; officers only verified that the noise fell within the maximum permissible sound levels and did not consider the other factors. Cases were closed by Officer Zach Stiscak and Supervisor Jorge Martello for multiple reasons, including the restaurant owner stating he would come into compliance, taking noise readings and determining there was no violation based on the sound level, and documenting there was no violation without revisiting the property. Corrective action was later taken when Officer Stiscak issued a Notice of Violation for the noise disturbance in January 2018. Officers Matthew Schneidt and Pete Chadziewicz also worked with the property owner on later cases to reduce the noise.

- Cases CE1903-0565, CE2104-0020  
Identified through a tip from a citizen

A resident complained to Code Enforcement in March 2019 regarding possible commercial activity on a nearby residential property, indicating there were many vehicles and boats, and they were using a wood chipper on the property. Upon Officer Vicki DiOrazio's first inspection, there were several RVs, vehicles, and a pile of tree debris on the property. She returned to the property with Supervisor Jorge Martello and scheduled a pickup for the tree debris. The property owner would not allow the officers to walk around the property to determine whether or not the vehicles had tags, so Officer DiOrazio closed the case. As per AGO 2002-27, Code Enforcement officers do not have the authority to enter onto private property without the consent of the owner or a search warrant; the Fourth Amendment to the United States Constitution, and section 12, Article I of the State Constitution, provide protection from unreasonable searches.

Code Enforcement did not address the complaint regarding potential commercial activity or whether the vehicles were commercial vehicles. Manatee County Code of Ordinances Section 2-9-108(a) stipulates that commercial vehicles shall not be parked on any residential lot except on properties with a bona fide farm operation or when no more than two commercial vehicles are parked in a garage, carport, or driveway. After a second complaint was received in April 2021, Code Enforcement opened a new case and addressed the commercial activity when Officer Zach Stiscak issued a Notice of Violation in May 2021 for storage of commercial vehicles. The property owner then removed the vehicles from the property.

- Cases – multiple, including CE2102-0499, CE2110-0120  
Identified through a tip from a citizen

Beginning in February 2021, a resident made multiple complaints regarding boats being stored in the front yard of a residential property. Manatee County Code of Ordinances Section 2-9-108(b) stipulates that boats that are owned by the property owner may be stored on a single-family residential property when they are in a garage or carport or are parked in the side yard or rear yard of the property, provided they do not extend more than five feet past the front of the structure. Officers inspected the property, and multiple cases were closed because no boats were on the property when officers arrived. Officer Pete Chadziewicz issued a Notice of Violation in June 2021 when two boats located on the property were not in the property owners' names. The case was sent to County Court and the property owners were fined \$500. The issue was resolved when ownership of the boats changed from a business to an individual.

The owners then parked the boats under their carport or next to their carport, but they were still in front of the house. In October 2021, Officer Chadziewicz began documenting that a boat parked next to the carport was not in violation, because the carport was a fixed section of the house, and the boat did not extend more than five feet past the carport. However, based on our review of photos from the case, the boat was clearly in the front of the house, which is not allowed as per County Code of Ordinances Section 2-9-108(b). According to Code Enforcement supervisors, this interpretation was a general rule at that time, made by Code Enforcement management. In November 2021, management changed its interpretation, and Acting Chief Joel Richmond issued a memorandum to Code Enforcement staff explaining that restricted vehicles parked next to a carport, but in front of a house, are not allowed. Officer Cory Hayden issued a Notice of Violation to the property owner on November 18, 2021.

- Permit 1610456, Variance PLN1803-0064  
Identified through a tip from a citizen

In December 2016, BADS issued a permit for construction of a front-loaded, detached garage with a 20-foot setback, rather than a 25-foot setback, as is required per LDC Section 401.4. A resident reached out to a commissioner in July 2017 regarding the incorrect setback. Phyllis Strong, then Development Services Manager, defended the setback through email by stating that the subdivision was approved, platted, and recorded before the setback requirements for front-loaded garages changed in the LDC from 20 to 25 feet in 2009. A Certificate of Completion for the garage was then issued in December 2017 when construction was complete. However, two months later, BADS sent a letter to the property owner informing him that the setback was incorrect and should be 25 feet. The letter stated that the error came to light due to a public records request for the permit. To correct the error, the homeowner applied for a variance, which was granted on June 13, 2018.

During our testing of individual Code Enforcement cases and permits/plans, we noted instances where documentation recorded by Code Enforcement and BADS was insufficient. Although the cases and permits/plans were tested for the purpose of identifying instances of favorable treatment and not for the purpose of determining whether sufficient documentation was recorded, we did note documentation weaknesses for 3 of the 103 permits/plans reviewed, and 17 of the 240 Code Enforcement cases reviewed. This lack of documentation included instances where determinations made by Director Barnott were not supported by standards, analysis, or evidence, as required by LDC Section 311. Other instances included inspections and evidence not documented by Code Enforcement officers, and consultations with outside agencies and departments, such as the SWFWMD, FDEP, and Public Works, that were not saved to Code Enforcement case files.

In addition, instances were identified where Code Enforcement officers appear to have made incorrect interpretations of the LDC, building codes, and/or ordinances. These mistakes likely occurred because officers lacked the legal or technical expertise needed to evaluate some of the potential code violations. While we found the officers to be knowledgeable, dedicated, and hard-working employees, these individuals have often been tasked with interpreting laws and ensuring compliance with various building codes and regulations, for which they may not have been adequately trained to do. As noted in the Recommendations/Corrective Actions section of this report (pages 51-52), we are recommending that management evaluate the job duties for the officer positions, implement additional training where needed, and update its policies and procedures to ensure that all of the officers are adequately trained, and have sufficient resources available to effectively fulfill the responsibilities of their positions. Additionally, a new Code Enhancement Division has been created to address concerns with the community and ensure compliance with the LDC, Florida Statutes, and the Manatee County Code of Ordinances.

Through our testing, we also noted that BADS did not consistently enforce its requirement that surveys submitted for permits be signed and sealed. Although not documented in BADS policies and procedures, the requirement was communicated through an email news blast to all Accela users in October 2018. We tested a sample of 41 permits for this requirement and found that BADS did not obtain signed and sealed surveys for 17 of the permits. In these instances, surveys were not signed or sealed, or other documents, such as aerial images, were accepted in place of surveys. According to several BADS employees, signed and sealed surveys may not be required if structures clearly meet required property setbacks; however, there is no formal guidance on how that is verified. Furthermore, inconsistently enforcing this requirement gives the appearance of favoritism and may result in a benefit to certain individuals, as those who complied with the requirement without objection may have been required to delay their project and/or incur additional costs for a land surveyor in order to obtain a signed and sealed survey.

We also performed analytic testing on permits and Code Enforcement cases involving Manatee County employees. Based on the results of these analytic tests, we conducted detailed testing of 71 permits and 42 Code Enforcement cases. One of the 71 permits tested was missing required documentation; a hand drawn sketch was accepted for a dock permit, in place of building plans and a site plan/survey. While we did note other instances where hand drawn sketches were accepted in place of building plans or a site plan/survey for members of the public, acceptance of these sketches does not meet the permit requirements and could give the appearance of favoritism. Our review of 42 Code Enforcement cases for current and former employees found no evidence of favoritism.

## **Conclusion:**

### **The allegation is substantiated.**

BADS and Code Enforcement closed cases and issued permits that were in violation of the LDC and/or Code of Ordinances. In some instances, this appeared to be due to mistakes, which can occur in any process or activity; however, we also found instances where cases were inadequately investigated. Instances were also identified where certain property owners were given favorable treatment due to management involvement, and at times, this appeared to be due to personal or professional relationships. This inconsistent and preferential treatment based on relationships appears to have created a culture of favoritism within the BADS Department. Furthermore, these actions may have violated Manatee County's Personnel Policy, Rules, and Procedures Section X, Code of Ethics for Officers and Employees, as well as F.S. 112.311-112.326, Code of Ethics for Public Officers and Employees. County Policy states that "Conduct that gives the appearance that decisions and actions are motivated by personal relationships or for personal gain do not meet the standards of conduct for employees under the policy." Additionally, F.S. 112.313(6), Misuse of Public Position, stipulates that "No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others."

It was also noted that many of the procedures and practices of Permitting and Zoning, including permit documentation requirements, have not been formalized in writing. This lack of clear guidance sometimes resulted in certain requirements being inconsistently applied to customers. In addition, while Code Enforcement policies provide officers discretion in handling their cases, we found that case notes were not always well documented to support their justifications for why cases were closed with "no violations," or why some property owners were given more time to obtain compliance, when others were not. Instances were also identified where Code Enforcement officers appear to have made incorrect interpretations of the LDC, building codes, and/or ordinances. These mistakes likely occurred because officers lacked the legal or technical expertise needed to evaluate some of the potential Code violations.

Overall, we found the Code Enforcement officers and BADS staff to be knowledgeable, dedicated, and hard-working employees, many of whom have a considerable amount of institutional knowledge. However, the lack of clear, written policies, procedures, and guidelines, as well as the lack of expertise needed to handle some of the more complex cases, increases the risk that mistakes will be made or requirements will not be applied fairly and consistently to everyone.

### **Allegation #3 - Passwords**

Someone other than Officer Shaw entered notes and signed off/closed cases in her name. She had previously sent password information to Supervisor Tom Wooten at his request.

#### **Investigative Procedures:**

Investigative procedures included, but were not limited to:

- Interviews with complainant
- Interviews with current and former BADS and Code Enforcement personnel
- Interviews with other County department personnel (Information Technology Services, Property Management Records Division, Utilities)
- Interviews with Accela Sr. Account Executive
- Review of Accela Code Enforcement case documentation and audit logs
- Analysis of emails and Jabber messages of select BADS personnel for the period May 1, 2020, through June 28, 2021. Additional emails were requested by key words for certain employees for the period March 1, 2018 through April 30, 2021
- Analysis of select Code Enforcement personnel network files obtained from the County's Information Technology Department as of March 6, 2021, and July 27, 2021
- Review of Florida Statutes, Manatee County Personnel, Rules, and Procedures, and Manatee County Information Technology Services Policy D.1

#### **Results:**

At the start of this investigation, Code Enforcement officers were assigned laptops, iPads, and basic flip-style cell phones to use in completing their case assignments. During the course of the investigation, officers began using iPhones in place of the iPads and flip-style cell phones. To document their cases, officers utilize the Accela application on the laptops, and the Accela Mobile application on the iPads and iPhones. According to Glenna Campana, BADS Business Services Manager, both applications require users to have a unique username and password; however, a user can choose to make them the same.

It is possible for a user to enter case notes or close cases in another person's name, if someone has shared his/her login information. Although Accela can produce an audit log with a record of all activity on a case, this information only reflects the user name that was used to access the system. According to an Accela Senior Account Executive, the Accela software does not capture IP addresses, so we are not able to determine from which device the entries were made. Although Officer Shaw insists that she provided her login information to Supervisor Wooten, she was unable to provide any evidence of this, nor were we able to find evidence to substantiate it.

Officer Shaw provided the following statements, through either email, telephone conversations or interviews held on June 23 and September 27, 2021:

- She has had the same password in Accela since training in 2018, she believed.
- She sent a screenshot of all her passwords to Supervisor Wooten when she first started in 2018. (Ex - Admin, Accela, Apple, laptop, air card, insurance, DAVID, Community Plus, Banner)

NOTE: *Officer Shaw started employment with Code Enforcement on 3/18/2018.*

- She did not know the purpose for Supervisor Wooten asking for her passwords and did not ask.

- She never gave anyone other than Supervisor Wooten her passwords, though she did not know whether he had ever shared them.
- She accessed Accela from her laptop and never her iPad.
- She is aware that there is a county IT policy that employees are not to share passwords.

Officer Shaw provided two emails from October 5, 2020, where she had sent Supervisor Wooten her Apple ID password and an Accela Mobile App password. (This Accela password appears to have been a generic password that would have required her to create a new one upon initial login. See “October 5, 2020 – Accela Mobile App” details on page 40) Officer Shaw included an explanation that she had previously requested an audit of cases closed out in her name, and Chief Bowman had requested and received an audit log for one of her cases. The audit log showed that the case was closed by her. She further stated, “I forgot that I have been asked for passwords in the past and thought nothing of providing them to Tommy (Wooten) via screen shot of my notes app on my phone where I keep all my passwords for different computer programs and sites we use in Code Enforcement. Attached is one I sent to him via email. I can attempt to locate in icloud the texted screenshot I sent him in the past or do a records request through my phone service.”

Officer Shaw could not produce the screen shot of her passwords, or the text message she claims she sent to Supervisor Wooten in 2018. She stated that she was with a different cell phone carrier at that time, and the information is no longer available. She did provide information that she was trying to obtain the documentation from the carrier; however, it was never provided. Officer Shaw also provided county business-related text messages from her current personal cell phone for the time period requested, November 1, 2020, through April 5, 2021. None of the text messages between Officer Shaw and Supervisor Wooten included her Accela password, or any other password.

Supervisor Wooten stated in an email that in early March 2021, he deleted all of the text messages on his personal cell phone between Officer Shaw and himself, and was not able to obtain them from his cell phone carrier. He also deleted text messages with Officer Kelvin Albritton; however, Officer Albritton was able to provide his text messages with Supervisor Wooten. According to the Property Management Department Records Division Manager, deleting these records is a violation of County policy. The Public Records section of Information Technology Services (ITS) Policy D.1 establishes the following:

- All data captured, created or stored electronically by users under the Board of County Commissioners may be considered a public record under Florida Law. Therefore, such data must be properly retained, backed-up and recoverable on request.
- Public records laws are not limited to data stored on County computers. Data transferred to a personal account or computer to allow a person to work away from the office may also be requested, even though the system and account are private. For this reason, users are not permitted to store any County information on personal computers or other devices.

A review of Officer Shaw’s and Supervisor Wooten’s email and Jabber messages, found the following communications related to the Accela system login and/or password information:

- March 19, 2018 – BADS Business Services sent Officer Shaw an email with her Accela login information. It contained an assigned user name and password, with the message, “it will prompt you to change it.” While Supervisor Wooten is copied on this email, there is

no evidence that Officer Shaw sent him her password after being required to change it upon her initial login.

- October 2, 2018 – Officer Shaw communicated with Diane Morrissey, formerly in BADS Business Services, regarding her Accela password being invalid. Ms. Morrissey attempted to troubleshoot the problem and offered to change her password. Officer Shaw stated that Sanford Zapata, formerly in BADS Business Services, had already reset it. There is no evidence to support that she sent the new Accela password to Supervisor Wooten after the reset.
- October 5, 2020 – Accela Mobile App - There were multiple communications between Code Enforcement officers and Business Services during the day regarding officers having issues with the new Accela Mobile App.
  - 8:19 AM - Officer Brad Szink messaged with Officer Shaw and sent two passwords for her to try, of which one, "P@ssword1" worked for her. In an interview, Officer Szink did not recall this specific instance; however, he confirmed Business Services' use of generic passwords, and stated that everyone gets the same password and must make their own password when they sign in.
  - 3:13 PM - Katie Pearson, BADS Business Services, emailed several BADS and Code Enforcement staff and supervisors stating that all Code Enforcement staff can log in and she reset passwords for three employees. (The three employees are not named.)
  - 3:14 PM – Officer Shaw sent Supervisor Wooten an email stating "mobile app on ipad password changed to P@ssword1" with the note, "I know I will forget so I'm sending to you".

According to Glenna Campana, BADS Business Services Manager, when people are having problems logging in to Accela, they will set up a generic password. Accela will then require it be changed after initially logging in. It appears that the password received by Officer Shaw and then sent to Supervisor Wooten was the generic password set up by Business Services, which would have been changed after Officer Shaw logged in.

- December 10, 2020 - Mindy Carver, BADS Business Services Analyst, sent Supervisor Wooten a Jabber message stating, "P@ssword1", in what appears to be in response to an email sent to Building Business Services on December 9, 2020, where he states the Accela Mobile app will not accept his password. Again, this supports that the Accela password Officer Shaw previously sent Supervisor Wooten was a generic password that had to be changed upon initial login.

Officer Shaw also had the following communications regarding usernames and passwords for other applications:

- In May 2019, Officer Shaw emailed Supervisor Wooten stating that she could not log on to the new site to record her time off, as it would not recognize her password. Supervisor Wooten replied with the name of someone to contact. She later replied that the password was reset.
- October 5, 2020, Officer Shaw sent Supervisor Wooten her Apple ID login and password, which she changed earlier in the day per an email received from Apple.

- On two occasions, in November and December 2020, Officer Shaw received emails from Apple indicating she had reset her Apple ID password.
- On three occasions, Officer Shaw shared her password for the Utilities Department Banner system. Officers have read-only access to Banner to look up customer information, such as addresses and phone numbers. In October 2018, Officer Shaw provided her password through Jabber to Ms. Morrissey, when she was having problems logging in. Ms. Morrissey replied with a statement advising Officer Shaw not to send passwords through email or Jabber. In January 2020, Supervisor Wooten emailed Officer Shaw requesting her Banner username, and she responded by sending both her username and password to him. In April 2020, Officer Shaw emailed Supervisor Wooten asking for her Banner username, and stated that she knows the password and included it.

Although requesting a username does not appear to violate ITS Policy D.1, sharing a password is a violation. The policy states, “a username identifies a particular user and should be unique on any given system”, while a “password is a secret that should only be known by the user associated with a particular username.” In addition, users “must not share their passwords.” While it is evident that Officer Shaw shared her Banner system and Apple ID credentials, these would not provide access to Accela, or any Code Enforcement cases.

According to Supervisor Wooten, he never requested Officer Shaw’s passwords nor does he know any of her passwords. When asked whether Officer Shaw had sent him a screenshot of her passwords at some point, he responded, “No, not true.” When asked whether Officer Shaw had sent her password to him at other times, like when she updated passwords, he responded, “No.” While evidence does support that Officer Shaw sent Supervisor Wooten her Banner and Apple ID password information on multiple occasions, there is no evidence to support that he requested them. An analysis of Code Enforcement emails and Jabber messages for Supervisor Wooten also did not find evidence that he asked any other Code Enforcement employees for password information.

In interviews conducted with 19 current and former Code Enforcement employees, all 19 stated that they were never asked for, nor had they provided, their usernames and/or passwords to a coworker or supervisor. In addition, all 11 current Code Enforcement officers interviewed, including two officers specifically identified by Officer Shaw to support her allegation, stated that they never found where someone else had put in notes or closed their cases in their names.

Evidence was found that on one occasion Supervisor Wooten sent an email on March 25, 2021, to Chief Bowman with a screenshot of the NEOGOV login page that said the account had been locked because of too many invalid login attempts. It included Chief Bowman’s username and the password entered, which is hidden, with the following message, “It wouldn’t let me in. I had your user name and password saved and used it a few times yesterday.” NEOGOV is the software used for managing the hiring of County employees and is not related to the Accela applications. Both Chief Bowman and Supervisor Wooten violated the ITS Policy D.1, regarding the sharing of passwords and not conducting all activity with their own credentials.

### **Other Issues:**

While not specifically related to this allegation, it was noted during the review of county employee emails, Jabber messages, and phone records, that the following county policies and procedures were also violated:

### **Personal Mobile Device:**

The Mobile Device Communications Procedure 401.001, Accountability section provides that employees authorized to use mobile devices for County business are required to abide by any provisions of law, as well as the County's personnel and ITS policies. Chief Bowman was not able to provide the necessary telephone records requested from his personal phone for the period November 1, 2020, through January 6, 2021, for which he received an employee-owned mobile device allowance. As per an email sent on May 5, 2021, he replaced an old phone and was not able to retrieve its call log and the carrier does not maintain phone records. Chief Bowman stated in an interview that the carrier was Cricket, and they would not provide the records without a subpoena. Not being able to provide the records as requested is a violation of the Public Records section of the ITS Policy D.1, as included in the section above. In an interview, Chief Bowman said he was no longer receiving the cell phone allowance, as confirmed with Payroll effective August 13, 2021, as he was now using a county owned phone.

### **Personal Email/Jabber Use:**

The ITS Policy D.1, Messaging (Email and Instant Messaging) section, allows the county messaging systems to be used *only for official County business purposes*. It further specifies that messaging may be used for such things as setting office lunches; however, social discussions regarding such things as romance, religion, sport, investments, and charities are strictly prohibited.

While reviewing email and Jabber records, it was noted that several employees used the email and Jabber communication systems for personal reasons, not including minor transitory messages (scheduling lunches, breaks, etc.). The following employees were identified as having violated this policy due to quantity and/or the content of the messages:

- Cindi Blake (11) – Emails and Jabber messages related to work being done and a permit for her personal property
- John Barnott (8) – Emails include scheduling golf outing, pursuit of other job opportunities, personal correspondence with spouse, and pictures of guns
- Kevin Morris (3) – Emails soliciting a charitable donation and the awarding of a scholarship
- Robert Wenzel (7) - Emails to/from his personal and work email addresses regarding a dock for his personal property
- Tanya Shaw (50) – Emails include Sprint dispute letters; spouse's business information, transcripts, letters; estate plans; home refinancing process; investment information; Some of the emails asked for items to be printed, which would indicate that office equipment and supplies may have been used for personal reasons
- Tom Wooten (3) – Emails were exchanged with his spouse and included assignments for a class he was taking.

As the documentation obtained was incidental to the allegations and not the primary reason for the review, there may be additional personal emails and Jabber messages for employees, including those noted above, not identified during the review.

## **Inappropriate Conduct:**

Personnel Policy, Rules, and Procedures XI.B. Grounds for Discipline or Discharge, stipulates that the following actions are grounds for discipline or discharge:

*14. Discourteous, insulting, abusive, or inflammatory language or conduct toward any person, which disrupts the workplace or serves to offend any citizen, vendor or other person with whom the employee comes into contact during the performance of duties.*

*22. Unlawful or improper conduct, either on or off the job, which would tend to affect the employee's relationship to his or her job, his or her fellow workers, or Manatee County's reputation or goodwill in the community.*

During the review of Officer Shaw's text messages, received through the Records Division, it was noted that some of her communications with an FDOT representative contained inappropriate comments regarding a Code Enforcement supervisor. On March 14, 2021, Officer Shaw and the FDOT representative, who had been working on the Mallaranny permits, exchanged text messages in which statements were made about wanting to punch the supervisor, and push him down a flight of stairs. In one text message Officer Shaw stated "...I think it would actually be worth the charge and staying overnight in jail just to punch him in the throat..."

## **Conclusion:**

### **The allegation was unsubstantiated.**

- Accela audit logs were reviewed and confirm that all notes entered in Officer Shaw's name were made with her system credentials (user name and password). While it is possible for someone else to have made entries using Officer Shaw's credentials, evidence does not exist to substantiate that this occurred.
- Officer Shaw could not provide any documentation to support that she sent Supervisor Wooten valid Accela passwords.
- Emails support that the Accela Mobile App password that Officer Shaw sent Supervisor Wooten in October 2020, was a generic password set up by BADS Business Services.
- IP evidence is not available through Accela to determine the source device for case entries.
- There is no evidence that Supervisor Wooten ever requested passwords from Officer Shaw.

Additional findings included:

- Violation of Information Technology Services Policy D.1, Acceptable Use-Accounts and Authentication.
  - Officer Shaw shared her Banner and Apple ID password through email and/or Jabber.
  - Chief Bowman and Supervisor Wooten shared a NEOGOV password. In addition, they delegated responsibilities and conducted NEOGOV activity without using their own credentials.

- Violation of Information Technology Services Policy D.1, Public Records.
  - Supervisor Wooten deleted business-related text messages from his personal cell phone.
  - Officer Shaw failed to retain business-related text messages from her personal cell phone when she changed cell phone carriers.
  - Chief Bowman, who received a County cell phone allowance, was unable to produce all of the call logs from his personal cell phone for the time period requested. His personal cell phone carrier does not provide this information.
  
- Violation of Information Technology Services Policy D.1, Messaging.
  - Several employees, including members of management, used their County email and/or Jabber for personal communications.
  
- Inappropriate conduct as stipulated in Personnel Policy, Rules, and Procedures XI.B, Grounds for Discipline or Discharge.
  - Officer Shaw made inappropriate statements to an FDOT representative, via text message, about wanting to punch a supervisor.

## **Allegation #4 - Zone Change**

*Zone 4 (Myakka area) was no longer assigned to a Code Enforcement officer due to Officer Shaw's pursuit of the Croteau (Mallaranny LLC) property case.*

### **Procedures Performed:**

Investigative procedures included, but were not limited to:

- Interviews with complainant
- Interviews with current and former Code Enforcement personnel
- Review of Code Enforcement zone assignments from October 1, 2020, through April 30, 2021
- Review of Accela Code Enforcement case documentation and audit logs
- Analysis of emails and Jabber messages of select BADS personnel for the period May 1, 2020, through June 28, 2021

### **Results:**

Code Enforcement management make zone assignment changes on an as needed basis, primarily due to changes in staffing. Officer Shaw was assigned to zone 4, which includes the Myakka City area, as early as August 18, 2020. Documentation obtained noted zone changes occurring on December 16<sup>th</sup>, 22<sup>nd</sup>, and 28<sup>th</sup> of 2020. Officer Shaw remained in zone 4 through each of these reassignments.

On January 11, 2021, Supervisor Wooten drafted additional zone changes. In this draft, Officer Shaw was to switch zones with Officer Chet Brown, moving from zone 4 to zone 5. Additionally, seven other officers' zones were to be changed.

According to Chief Bowman, Officer Shaw was always behind in zone 4, and they frequently had other officers help her get caught up. Officer Brown also stated that it was common for her to be behind in working her cases and that Supervisor Wooten was constantly trying to get someone to help her. This is supported by an email Officer Shaw sent on January 14, 2021 to Supervisor Wooten, Supervisor John Howard, and Chief Bowman thanking them for allowing Officer Cory Hayden to help her with her caseload. Officer Shaw also confirmed that she was usually behind in zone 4, since it was such a large zone.

On January 20, 2021, the zone changes drafted by Supervisor Wooten became effective. At this time, the first three Mallaranny property cases had already been opened and closed by Officer Shaw. In addition, at this time there were no open cases on the property.

On March 10, 2021, Officer Brown was promoted to Supervisor, filling a vacancy. Supervisors are not assigned to an individual zone, so at this time, zone 4 became "vacant," or unassigned, as they did not have the staff necessary to fill it. Although Supervisor Brown was not officially assigned to a zone after becoming a supervisor, he continued to handle the cases and complaints for zone 4, as it was under his supervision. Documentation also supports that on March 24, 2021, he performed a site visit to the Mallaranny property and continued to have communications with the owner and perform investigations for the property until all the cases were closed on June 14, 2021.

On April 13, 2021, Officer Heather Sonntag was assigned to zone 4.

In an April 14, 2021, interview, Officer Shaw stated that she did not feel that the zone change was due to her reporting the issues with the Mallaranny property, as the change was already in progress prior to her complaint. In two other separate interviews, Officer Shaw reiterated that while she was not given a reason for the zone change, it had been in the works prior, and the zone change was not related to the Mallaranny property.

**Conclusion:**

**The allegation is unfounded.**

The review of email and case documentation and information obtained from interviews support that the zone assignment changes were not related to the Mallaranny property. Management changed Officer Shaw's zone from 4 to 5 in January 2021, after three cases for the Mallaranny property had already been closed by her. There were no open cases for Mallaranny at the time of Officer Shaw's zone change. In addition, it appears that Officer Shaw had difficulty keeping up with the caseload in zone 4. The zone became vacant after Officer Brown, who had taken over zone 4, was promoted to Supervisor in March 2021; however, as he was the supervisor of that zone, he continued to handle the Mallaranny complaints. Officer Shaw also stated that the zone change that removed her from zone 4 was not related to the Mallaranny cases.

## **Allegation #5 – Mallaranny Property Permitting**

*Deanna Ward (Permitting Manager) approved permit BLD2101-1847 for a barn on the Mallaranny property without the required documents, applications and/or requirements for exemptions based on who the individuals are. The permit was issued for the wrong parcel, a signed and sealed survey with the correct address was not provided, and proof of agricultural use was not provided*

### **Investigative Procedures:**

Investigative procedures included, but were not limited to:

- Interviews with complainant
- Interviews with current and former BADS personnel
- Interviews with ITS personnel
- Interviews with MCPAO personnel
- Review of Accela building permits
- Review of documentation provided by current and former BADS personnel
- Review of information and records from MCPAO, Sunbiz, Manatee County GIS Interactive Maps, and Manatee County Clerk of the Circuit Court and Comptroller's Office Official Records
- Analysis of emails and Jabber messages of select BADS personnel for the period May 1, 2020 through June 28, 2021
- Analysis of office phone records of select BADS personnel
- Analysis of select emails of Kathy Croteau, as provided by Sarasota County via public records request
- Review of Manatee County Code of Ordinances, LDC, Code Enforcement SOP, and Florida Statutes

### **Results:**

The permit identified in the complaint, BLD2101-1847, is an agricultural permit exemption for a barn for the Mallaranny, LLC property. Pursuant to F.S. 604.50, permits are not required for non-residential farm buildings, as they are exempt from the Florida Building Code. However, according to Stephanie Raucci, Building Official, Florida Statutes and the Manatee County Code of Ordinances still require the building to meet floodplain regulations and setbacks, and the County requires owners to apply for a permit exemption. The permitting system, Accela, and the Permitting Division's "Reference Information," required the following documents for this exemption:

- building plans
- a business plan/FEIN
- a site plan/survey

In addition, the notes on the Reference Information sheet for Agricultural Exemption state that the business "must have FEIN # (State Identification Number for agricultural businesses) and Greenbelt Certificate preferred. Verify on GIS for Greenbelt Zone."

An Agricultural Non-Residential Farm Building Exemption Application was submitted to the County for permit BLD2101-1847 on January 22, 2021. According to the application, the location of the farm is 29847 SR 70, and the business name is Mallaranny, Inc, with FEIN 84-4588986. (This FEIN is assigned to Mallaranny, LLC. There is no business registered in Florida with the name Mallaranny, Inc.) The application included three parcels: 166110007, 166400002, and

171610009. In addition, the application stated that the barn will be used for equipment and supplies for a nursery and cattle farm. The application included a notarized affidavit signed by Jeremy Croteau certifying that the information provided is for a working farm, the structure is a non-residential farm building to be used only for farm purposes, and the structure is on land classified as agricultural under F.S. 193.461.

Mr. Croteau also submitted detailed building plans for the barn, along with a survey (not signed and sealed) and site plan. He did not submit a business plan for the agricultural use, and Permitting did not request that one be submitted.

Permitting and Zoning each have responsibilities for obtaining and approving information for agricultural exemption permits. Permitting is responsible for verifying the information provided on the exemption application. They ensure that the FEIN is active on Sunbiz and that the property has an established bona fide agricultural classification, typically through the "Greenbelt Layer" on the County's GIS maps. Permitting also uses Sunbiz to validate that the person who signed the exemption application, is an authorized signer. Zoning is responsible for ensuring that there is a signed and sealed survey, in order to verify that the structure meets required setbacks; and that there is an agricultural use on the property, in order to allow an accessory structure without a primary structure. According to Phyllis Strong, Zoning Manager, agricultural use can be established in several ways; examples include verifying the MCPAO classification, or confirming they have animals on site.

On February 4, 2021, the Zoning Technician reviewing the documentation submitted, sent an email to the email address listed in the permit, which was for Kathy Croteau. The email requested information and documentation for the parcel, including a signed and sealed survey, and proof of agricultural use. Ms. Croteau responded that Accela would only accept a parcel that has a street address, and the only parcel with an address is 171610009. BADS Business Services confirmed that the Accela Online Permitting System requires an address, which automatically pulls the respective parcel number from the MCPAO. According to the MCPAO website, the only parcel with an address is 171610009. On February 8, 2021, Ms. Croteau supplied a signed and sealed survey for the property; however, no proof of agricultural use was provided. After soliciting the advice and approval of Phyllis Strong, the Zoning Technician signed off on the permit for Zoning on February 9, 2021.

According to Deanna Ward, and Stephanie Raucci, Permitting does not check the work of other divisions. If Zoning approves their section for a permit, then Permitting assumes that the applicant has submitted the necessary documentation required for Zoning. Ms. Ward stated that she searched Sunbiz to verify that Jeremy Croteau was an owner or authorized signer for Mallaranny, LLC; she used the FEIN provided on the application to find the business in Sunbiz. She also stated that she looked up the property on GIS to verify that it was Greenbelted. In addition, she stated that a business plan is not always required, especially if the FEIN can be verified. She issued the permit on February 9, 2021.

It is doubtful that Ms. Ward was able to verify the applicant's information on Sunbiz prior to approving the permit exemption in February 2021. On March 30, 2021, the IG obtained information in Sunbiz for the Mallaranny, LLC business, which appears to be the original information since the file date in January 2020, as there were no dated changes noted in Sunbiz. The following details were obtained:

- Company Name: Mallaranny, LLC
- FEI/EIN Number: NONE
- Date Filed: January 29, 2020
- Principal Address: 200 S Orange Ave, Sarasota FL

- Registered Agent: Cross Street Corporate Services, LLC (Sunbiz lists James-Allen McPheeters as the only “authorized person” for Cross Street Corporate Services, LLC)
- Authorized Person(s): NONE

A later review of Sunbiz showed that some information had been updated as of April 30, 2021, to reflect the following:

- FEI/EIN Number: 84-4588986
- Principal Address: 29847 SR-70 East, Myakka City
- Authorized Person(s): Title MGR, Croteau, Jeremy C

Ms. Ward also did not obtain sufficient information to prove that Mr. Croteau was authorized to sign the permit application and affidavit for Mallaranny, LLC. Sunbiz did not list Mr. Croteau as an “authorized person” until almost 3 months after the permit had been approved. It was additionally noted in Kathy Croteau’s work emails that the insurance company could not put Mallaranny, LLC on the insurance with Jeremy Croteau as the owner, since Sunbiz only showed Cross Street as an owner. This email was dated January 28, 2021. Furthermore, the company name of Mallaranny, Inc., per the application, does not match the name in Sunbiz, which is Mallaranny, LLC.

Regarding the Greenbelt status, as noted in Allegation #1, it appears that the property reflected as having the Greenbelt classification in GIS at the time of the permit application; however, this designation was incorrect. Although the MCPAO database correctly reflected that the property did not have the classification, as confirmed by the County’s ITS personnel, GIS was not properly updating information from the MCPAO to reflect the change in classification.

Ms. Ward confirmed in an interview that she knew Kathy Croteau professionally. And although Ms. Ward denied that any preferential treatment was given to Ms. Croteau, it does appear that Ms. Croteau may have been attempting to influence the permitting process. Kathy Croteau was not the property owner or an authorized agent of Mallaranny, LLC; however, she appeared to be the primary point of contact for the permit. Her email address was provided on the permit application, and evidence exists to support that as early as June 1, 2020, she was contacting BADS with questions regarding permits for the property and the Medieval Fair. Informational emails between Ms. Croteau and Ms. Ward were exchanged on June 1, 2020, and September 18, 2020, and Ms. Ward received a phone call from Ms. Croteau on January 22, 2021, the day the permit application was submitted. Emails were also exchanged between Ms. Croteau and a Zoning Technician during the application process.

### **Conclusion:**

**The allegation is partially unfounded and partially substantiated.**

Deanna Ward approved the permit for the wrong parcel – **Unfounded**

Zoning, not Deanna Ward, approved the permit listing parcel 171610009 as the location of the barn, rather than the correct parcel of 166400002. However, Zoning noted the discrepancy and approved the permit with the 171610009 parcel, as that was the only parcel with an assigned address. All of the parcels were included on the application for the agricultural exemption permit.

No signed and sealed survey – **Unfounded**

It is the responsibility of Zoning, not Permitting, to ensure that a signed and sealed survey is obtained. A signed and sealed survey for the Mallaranny property was received and documented in Accela prior to the permit exemption approval on February 9, 2021. The survey, which included all 3 parcels and reflected the address of 29847 SR 70 East, was received by Zoning on February 8, 2021.

No proof of agricultural use – **Substantiated**

Information such as the verification of the business name and FEIN or business plan was not provided or available at the time the permit was approved on February 9, 2021. It does not seem possible that Ms. Ward used Sunbiz to verify the FEIN for Mallaranny, LLC, as claimed, since Sunbiz did not have an FEIN for the company until almost 3 months after the permit had been approved. Sufficient information was also not obtained to prove that Mr. Croteau was authorized to sign for the business at the time of the application. Ms. Ward stated that she used Sunbiz to verify this information; however, Sunbiz did not list Mr. Croteau as the owner of Mallaranny, Inc. until April 2021. Prior to that time, the registered agent was listed as Cross Street Corporate Services, LLC, and the company name was Mallaranny, LLC, not Mallaranny, Inc., as was indicated on the application.

Although not specified in the allegation, it was also noted that Zoning did not obtain proof of agricultural use prior to approval of the permit exemption application.

The agricultural use exemption was approved by Permitting based on Ms. Ward's determination that the property had the Greenbelt classification, when it did not. Ms. Ward relied on the incorrect information reflected in the GIS maps to verify this requirement. Although the classification was incorrect, Ms. Ward's process for making this determination was appropriate, given the GIS information available to her at the time.

## **Recommendations/Corrective Actions**

Based on the results of this investigation, the following recommendations are provided to management:

1. Develop and distribute formal policies and procedures to Development Services Department employees for all processes and functions within the Department. Document all requirements for services (ex. permits, permit exemptions), and ensure the information is provided to staff and made available to customers requesting services. Ensure that the information specifies when signed and sealed permits are required.
2. Provide training to all Development Services Department employees regarding current policies, procedures, rules, and laws to ensure consistency in the work performed and information provided to customers.
3. Implement and document periodic quality control reviews of Development Services Department processes to ensure compliance with policies, procedures, rules, and laws.
4. Ensure temporary use permits are only issued when they meet the requirements of the LDC. Evaluate the use of temporary use permits for model homes, and determine whether alternate options exist, which meet the needs and interests of both the builders and Manatee County.
5. Develop formal procedures to ensure that decisions made using management's discretion are adequately supported with explanations and documentation.
6. Develop formal procedures for documenting support for the final resolution of permits and plans in instances where staff and/or management disagree on the outcome.
7. Develop formal procedures requiring Development Services Department staff and management to document and report when conflicts of interest exist, such as personal/professional relationships with applicants. Document the oversight mechanisms used to ensure the proper processing of permits and plans involving conflicts of interest.
8. Clarify procedures regarding what constitutes sufficient evidentiary support for the final resolution of Code Enforcement cases. Ensure officers understand what information must be obtained and documented to adequately support their investigations and determinations.
9. Implement periodic quality control reviews of Code Enforcement cases by management to ensure staff are thoroughly investigating and documenting cases. Ensure the information included in Accela supports the determinations made regarding potential violations and/or cases deemed to be in compliance.
10. Develop procedures requiring Code Enforcement staff and management to document and report when conflicts of interest exist, such as personal/professional relationships with property owners and/or complainants. Document the oversight mechanisms used to ensure the proper processing of cases involving conflicts of interest.
11. Revisit the Code Enforcement cases and permits that were determined to be mishandled, including the floodplain issues noted for the storage containers and RV on the Mallaranny property. Ensure any outstanding code violations and/or permitting issues are addressed.

12. Consider obtaining agricultural classification/Greenbelt status for a property directly from the MCPAO to ensure approvals and determinations are based on current and accurate information.
13. Evaluate the current practice of employees using personal devices for County business. Consider developing a policy to address the use and retention of the related records, including, but not limited to, call logs, text messages, and emails.
14. Provide additional training to County employees on the permissible uses of the County's email and Jabber messaging systems, and record retention rules and laws.
15. Take appropriate disciplinary action with employees found to have violated County policies.

The following corrective actions have already been implemented, or are currently in progress:

1. To ensure password security, effective November 4, 2021, BADS Business Services implemented a requirement that all internal Accela users are required to change their password every 90 days.
2. As part of the March 4, 2022, realignment and renaming of the BADS Department to the Development Services Department, a new Code Enhancement Division has been created to address concerns with the community, and ensure compliance with the LDC, Florida Statutes, and the Manatee County Code of Ordinances. This change will allow the Code Enforcement Division to focus on enforcing compliance with the Property Maintenance Standards of the Code of Ordinances. The Department is still in the process of evaluating and formalizing the responsibilities of the new Division.

We appreciate the efforts and timeliness by the Development Services (BADS) Department, and the Public Safety Department's Code Enforcement Division, in addressing the issues raised during this investigation, and look forward to improved monitoring controls and accountability.



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