

COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON PUBLIC SAFETY & THE JUDICIARY

# **FEMS Apparatus Disposition Investigation**

**Final Report**

January 27, 2010

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## COMMITTEE MEMBERSHIP AND ACTION

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### Committee on Public Safety and the Judiciary:

Phil Mendelson, Chairperson	At-Large
Yvette M. Alexander	Ward 7
Muriel Bowser	Ward 4
Mary M. Cheh	Ward 3
Jack Evans	Ward 2

### Committee Action:

On April 9<sup>th</sup>, 2009, the Committee on Public Safety & the Judiciary met to consider the *Committee on Public Safety and the Judiciary FEMS Apparatus Disposition Investigation Authorization Resolution of 2009*. The resolution was approved by the Committee, and an investigation into the disposition of a fire engine and ambulance to the city of Sosua, Dominican Republic, was commenced. As provided for in the authorizing resolution (Appendix A to this report), the Committee cooperated and worked in conjunction with the Committee on Government Operations and the Environment throughout the course of the investigation. The Committee met and voted to enter into executive session on May 15, 2009.

Utilizing the authorized subpoena authority, the Committee issued a subpoena *duces tecum* on April 30 2009 for the testimony of, and production of documents by, Ronald E. Gill, Jr., Deputy Fire Chief of the Fleet Management Division for the Fire & Emergency Medical Services Department. After failing to appear on May 15, 2009, the deposition of Deputy Fire Chief Gill was taken on June 19, 2009. The Committee issued a subpoena *duces tecum* on June 2, 2009 for the testimony of, and production of documents by, David Jannarone, Director of Development for the Office of the Deputy Mayor for Planning and Economic Development. The deposition of Mr. Jannarone ultimately took place on July 27, 2009. The Committee also took the deposition of Vladimir Céspedes, Mayor of the City of Sosua, and the deposition of William Walker, CEO of Faith Productions Inc., on July 27, 2009. The Committee was also present and participated in the depositions of the Committee on Government Operations & the Environment. A schedule of those depositions can be found in Appendix B to this report.

On January 27, 2009, the Committee met to consider the “FEMS Apparatus Disposition Investigation Final Report.” The meeting was called to order at 11:10 a.m., and the report was the third item on the agenda. After ascertaining a quorum (Chairman Mendelson and Councilmembers Alexander, Bowser, Cheh, and Evans present), Chairman Mendelson made a motion, pursuant to Council Rule 504, to exit executive session and to release all evidence and

testimony obtained pursuant to the investigation. In so doing, Chairperson Mendelson noted that pursuant to the investigation authorization resolution, the Committee conducted its investigation in conjunction with the Committee on Government Operations & the Environment; both Committees having entered executive session on May 15, 2009. Further, and as required by Council Rule 504, both Committees sent written notice to affected witnesses of the Committees' intent to release evidence and testimony obtained in executive session and providing the prescribed 10 day opportunity to object. No witness who responded requested that any information be withheld. However, the notice to Ms. Robin Booth, Property Disposal Specialist with the Office of Contracting and Procurement, was sent on January 26, 2010. As the 10-day notice period would not expire until February 5, 2010, her recorded testimony was not being released. The motion was approved unanimously.

Chairperson Mendelson then moved the final report, with leave for staff to make editorial changes. Councilmember Bowser asked about the Committee's findings, and questioned whether the focus was really about lax management. Chairperson Mendelson stated that he believed there was lax management. Councilmember Evans stated that there were many things in the report he did not agree with, and so would not be voting for the report. Councilmember Cheh stated her belief that what is stated in the report is indeed relevant, and that in a legislative investigation the final report should indeed focus on policy. Councilmember Bowser expressed concern that the report too freely editorializes and so she would not be supporting the report. Councilmember Mendelson reiterated that the investigation could have been avoided if the Executive had been more forthcoming in providing witnesses and information. Further, that it is appropriate for the report to express opinion. Councilmember Alexander stated that she enthusiastically supported the report. After discussion, the vote on the report was 3 to 2 (Chairman Mendelson, Councilmembers Alexander and Cheh voting aye; Councilmembers Bowser and Evans voting no). The meeting adjourned at 11: 52 a.m.

## INTRODUCTION

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The Committee on Public Safety & the Judiciary, in conjunction with the Committee on Government Operations & the Environment, began inquiring into the District's disposition of a fire engine and ambulance to the city of Sosua in the Dominican Republic shortly after media reports surrounding this transaction surfaced. What attracted the public's concern about the disposition was the relative secrecy in which public property was being gifted, initially to a non-profit and then to a foreign country. That the disposition was shrouded in secrecy, and the Executive's subsequent refusal to provide any details about it, led to increased questioning and speculation about this transaction. Yet, no answers were provided.

The Committees, responding to the public's concern about the giving away of District property, sought answers from the Executive branch. Requests from both Committees for details about the disposition were frustrated by either the Executive or the Attorney General. Following the unwillingness of Executive witnesses to testify about the matter before the Council -- individuals involved in the transaction were withheld from testifying and their superiors either pleaded ignorance or refused to answer questions -- and the unwillingness of the Executive to provide any information, the Committees were required to initiate proceedings in order to find answers. In order to fulfill their required oversight role, the Committees launched investigations in order to compel information from the Executive through the Council's subpoena authority. Even subpoenaing information from the Executive, however, met with resistance if not an outright refusal to comply.

Though efforts to obtain information were made unnecessarily difficult, the Committees were able to obtain materials and testimony utilizing its respective subpoena authority. Having launched an investigation, the Committee provides the following report, as required by statute, regarding this matter. The report first outlines the basic facts of the District's attempted disposition of a fire engine and ambulance to the city of Sosua and the corresponding response from the Executive after this was made public. It then provides the findings and recommendations of the Committee on Public Safety and the Judiciary.\*

While the investigation was conducted in cooperation and in conjunction with the Committee on Government Operations & the Environment, this report focuses on the role of agencies under the Committee on Public Safety & the Judiciary's purview; namely: the Fire and Emergency Medical Services Department and the Office of the Attorney General for the District of Columbia. Other aspects of the investigation, such as the Office of Contracting and Procurement surplus property disposition decisions, are beyond the purview of this report.

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\* In the course of the investigation, the Committees took the depositions of ten witnesses. The deposition of Mr. Pozen was not properly recorded. However, because the information obtained from the deposition did not materially affect the Committee's findings, any reference to the deposition has been omitted from this report.

## **DISPOSITION OF FEMS FIRE ENGINE & AMBULANCE**

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### **Initiation of Efforts to Provide a Fire Engine to Sosua**

The District's relationship with the city of Sosua in the Dominican Republic began in October 2007, when Sosua Mayor Vladimir Céspedes approached the District government and requested that the District of Columbia become a sister city to Sosua. Although this request was denied (the District traditionally only partners with other capital cities) the District government would nevertheless go on to forge a less formal relationship with Sosua.

In November 2007, William Walker, a District resident and co-founder of local non-profit Faith Productions, Inc., worked with Mayor Céspedes to set up a boxing tournament involving District youth in Sosua. Shortly before the tournament, Mayor Céspedes and his assistant, Jorge Espallat, traveled to the District in order to meet with District officials for the purposes of building a stronger relationship between the cities. Mr. Walker helped facilitate a meeting to discuss economic development issues that took place on November 14, 2007. Representing the District at this meeting were Patricia Elwood, the District's Director of Protocol and International Affairs, and David Jannarone, the Director of Development in the Office of the Deputy Mayor for Planning and Economic Development (DMPED).<sup>1</sup> It is during the course of the meeting that Mayor Céspedes specifically inquired about the possibility of receiving a surplus fire engine and other emergency equipment for the city of Sosua.

Subsequent to the meeting with the Sosua contingent, Lamont Harrell, an employee in the Executive Office of the Mayor (EOM), contacted Fire and Emergency Medical Services (FEMS) Chief Dennis Rubin to inquire about the circumstances in which the District could donate used fire equipment. Chief Rubin responded in an e-mail, copying Office of Contracting and Procurement (OCP) Director David Gragan, that:

When [FEMS] is finished with a vehicle or other capital equipment item, it is turned over to the City Department that is responsible for surveying that item and removing it from the City's inventory listing. That Department is the Office of Contracting and Procurement. OCP then conducts a public auction in an attempt to get the best return on the City investment applying the funds to the General Fund.

The Fire & EMS Department does not have a problem with donating used, worn out equipment to needy recipients. However, your question can best be answered by the Director of OCP and the Attorney General's Office. I am sure that the liability of using worn out fire & EMS equipment is very high. So, I would suggest that you discuss this request with our Attorney General . . . as well Director Gragan. I am sure that there are various laws about the disposal of capital equipment that we are not aware of as well that will need to be considered

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<sup>1</sup> Also present at the meeting were Mayor Céspedes, Mr. Espallat, Mr. Walker, Rev. Yvonne Cooper, and Steve Moore of the Washington DC Economic Partnership.

before you can give the requested equipment away. I trust that this information is useful. If I can be of assistance, just ask.<sup>2</sup>

Director Gragan indicated that Mr. Giles would take the lead on facilitating any disposal of property. Shortly thereafter, Mr. Jannarone contacted Mr. Giles directly to let him know that he was seeking a “firetruck, police car, and an ambulance” to go to Sosua. Mr. Giles informed Mr. Jannarone that he had a point of contact for surplus vehicles, but that “due to evidentiary requirements we do not surplus MPD vehicles.” In a later e-mail he described the surplus personal property process, and explained that there may be need for emergency rulemaking or other steps.<sup>3</sup>

A month after this meeting, Mr. Jannarone and another DMPED employee, Jason Willock, took a planned vacation to the Dominican Republic. The itinerary for the trip included a bachelor party in Santo Domingo, Dominican Republic, for a friend of Mr. Willock. Also invited on trip was Sinclair Skinner, a principal of Liberty Industries, LLC, and several other corporations, including Liberty Engineering and Design, a subcontractor on several projects under the supervision of the Deputy Mayor’s office. Reservations for the group at a hotel in Sosua were made by Mr. Jannarone.

### **Return Trip to Sosua and Engine 194**

On December 26, 2007, shortly after this first trip to Sosua, FEMS Chief Rubin notified Mr. Jannarone that a fire engine, Engine 194, was to be “surplussed,” and that FEMS was gathering the maintenance records to further assist in the process. According to the FEMS records, the fire engine was described as “junk” and had a history of generally poor service. Chief Rubin inquired of Mr. Jannarone, by e-mail, whether he was able to get clearance from the Attorney General’s office to donate the vehicle. Mr. Jannarone responded that it was his understanding that Council approval was required.<sup>4</sup>

In January 2008, Mr. Jannarone and Mr. Skinner returned to Sosua for another vacation, this time to attend a Super Bowl party. Upon his return from the vacation, Mr. Jannarone contacted Mr. Giles to let him know that he “found a non-profit to do the transport of the truck.”<sup>5</sup> That non-profit was Faith Productions, operated by Mr. Walker. Meanwhile, Mr. Giles continued to work with his point of contact for surplus vehicles to obtain the equipment, and asked Ms. Robin Booth, Property Disposal Specialist with OCP, to begin the process of getting

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<sup>2</sup> E-mail chain ending in e-mail from David Jannarone (EOM) to Wilbur Giles (OCP), Jerome Henry (OCP), Robin Booth (OCP), William Walker, Lamont Harrell (EOM), and Barry Kreiswirth (EOM), Re: Surplus list, items needed (Jan. 30, 2008).

<sup>3</sup> *Id.*

<sup>4</sup> E-mail chain ending in e-mail from Chief Dennis Rubin (FEMS) to Ronald Gill, Jr. (EMA), David Jannarone (EOM), Thomas, Herlihy, Jr., Re: Eng. 194, surplus – follow up (Feb. 7, 2008).

<sup>5</sup> Email from David Jannarone (EOM) to Wilbur Giles (OCP), *supra* note 2.

Faith Productions, Inc. approved for the District's surplus property program and to initiate any necessary paperwork.<sup>6</sup>

Faith Production's application for the surplus property program was approved in early May 2008. With this approval, Mr. Walker waited for the official transfer of the Engine 194 to the Personal Property Division (PPD) within OCP. On May 9<sup>th</sup>, Mr. Jannarone inquired about the process for transporting Engine 194 to the Dominican Republic. Mr. Giles responded that PPD requires nonprofit groups that receive property to take responsibility for transporting the donated property to its final destination.<sup>7</sup> With Faith Productions responsible for getting the equipment to Sosua, Mr. Jannarone then asked whether the final destination being a foreign country affected this responsibility. To this Mr. Giles turned to Ms. Booth, asking the latter to determine whether it would be necessary to do emergency rule making to transfer the equipment to the Dominican Republic.

In May 2008, Mr. Jannarone contacted Chief Rubin regarding the "next steps" in donating the fire engine. Chief Rubin responded that the "donation of this pumper to the [Dominican Republic] has been underway for quite a while" and dispatched Deputy Fire Chief (DFC) Ronald E. Gill, Jr., Director – Fleet Management, to help determine what the process would entail. On August 27<sup>th</sup>, Mr. Jannarone wrote DFC Gill, asking if another fire engine would be going out of service anytime soon as Engine 194 was in "rough shape" and would cost upwards of \$50,000 to get it into working condition. Further, the condition of the equipment was such that shipping companies were unwilling to ship equipment. DFC Gill responded on November 25<sup>th</sup> that he had another fire engine going out-of-service in the next 60-75 days.<sup>8</sup>

### **Identification of Engine 104**

The donation of Engine 194 having fallen apart when it became clear that the equipment was in such bad shape that it could not be donated, another fire engine, Engine 104, that was scheduled to go out of service was identified for Sosua. Mr. Jannarone replied that he was "going back to [Dominican Republic] for a superbowl party and to meet with the mayor" between January 28<sup>th</sup> through February 2, 2009. Mr. Jannarone invited Mr. Gill to come along, noting that "[i]f we can get the truck there before then that would be perfect."<sup>9</sup>

On December 11<sup>th</sup>, Mr. Jannarone wrote DFC Gill to set up a time to meet and see the fire engine. He also asked whether an ambulance was available as that had been part of Sosua's initial request. DFC Gill would later identify a 2002 ambulance scheduled to go out-of-service to meet this need. A week later, on December 18<sup>th</sup>, DFC Gill met with Mr. Jannarone and Mr. Skinner, the latter invited by Mr. Jannarone, to take a look at the recently identified Engine 104.

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<sup>6</sup> Before a non-profit, tax exempt, educational or health institution can receive federal surplus property, the District's Personal Property Division must approve the organization to be part of the surplus property program. Once approved, the organization may then apply, using a standard form, each time they wish to receive surplus property.

<sup>7</sup> E-mail chain ending in e-mail from Wilbur Giles (OCP) to David Jannarone (EOM) and Robin Booth (OCP) Re: Faith Productions Inc. (May 9, 2008).

<sup>8</sup> E-mail chain ending in e-mail from Ronald Gill, Jr. (FEMS) to Ronnie Gill, Re: Eng. 194, surplus (Nov. 25, 2008).

<sup>9</sup> *Id.*

According to the District's citywide fleet database system, "FASTER" (used to record mileage during vehicle fueling), the 1998 Seagrave pumper truck identified as Engine 104 had approximately 197,000 miles at the time it was declared surplus.<sup>10</sup> Engine 104 had a listed acquisition cost of \$240,895. Documents prepared for declaring the property surplus listed the vehicle as "uneconomical to repair." Chief Rubin testified before the Committee that the 2002 ambulance, which was acquired by the District for \$75,132, had upwards of 100,000 miles.<sup>11</sup> At the time it was declared surplus, the vehicle was listed as "unserviceable."

### **January 2009 Trip to Sosua**

In January 2009, Mr. Skinner organized a trip to Sosua for himself and Mr. Jannarone, DFC Gill, and Jonathan Bolden (a friend of DFC Gill and a volunteer firefighter in Prince Georges County in Maryland). Accommodations for the trip were organized by Mr. Skinner. The group was to stay at the house of an associate of his: David Anderson. DFC Gill requested administrative leave for the trip to "deliver both a pumper and EMS unit" to Sosua. The fire engine and ambulance, however, were either not ready to be shipped or arrangements had yet to be made as of the date of the planned trip.

Nevertheless, the trip went forward with DFC Gill utilizing his time in Sosua to tour the city of Sosua, speak with members of the city's fire department, and assess their ability to utilize the equipment identified for the donation. While working to evaluate the role of the District's equipment in light of Sosua's infrastructure, DFC Gill found a number of challenges associated with the surplus equipment. In particular, he noted that "[t]he city has a limited number of hydrants that are utilized for firefighting (3-4) thus limiting this resource during firefighting operations. Additionally, it was discovered that there was insignificant pressure in the distribution system."<sup>12</sup> Because his presence was as a District official, the airfare and a *per diem* for DFC Gill were paid using District funds.

Though both were deposed by the Committees, the precise activities of Mr. Jannarone and Mr. Skinner during this trip were never determined. While documents provided to the Committee contained an e-mail involving all travelers listing an attachment labeled "updated agenda", the actual document was never provided to the Committees and when questioned about it during the depositions no one could remember it or its contents.<sup>13</sup> As such, the testimony about the trip -- DFC Gill's tour of the Sosua infrastructure aside -- was often incomplete and largely self-serving in terms of selective memories. One component of the 2009 trip that did come out during questioning of deponents, however, is that Mr. Jannarone and Mr. Skinner accompanied Mayor Céspedes and his assistant, Mr. Espailat, to a town in Haiti: Dajabon. In an e-mail exchange after the group returned from Sosua, Mr. Jannarone would ask DFC Gill

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<sup>10</sup> E-mail from Ronald Gill, Jr. (FEMS) to Chief Dennis Rubin (FEMS), Alfred Jeffery III (FEMS), and Angelo T. Westfield (FEMS) Re: FW Mileage for Retired Pumper S-104 (Apr. 6, 2009) and accompanying attachment.

<sup>11</sup> *Fire & Emergency Medical Services Department: Budget Oversight Hearing before the DC Council Committee on Public Safety and the Judiciary* (Apr. 1, 2009) (oral testimony of Chief Dennis Rubin).

<sup>12</sup> Notes of Deputy Fire Chief Ronald E. Gill, Jr., "Fire and Ambulance Donation Agenda."

<sup>13</sup> E-mail chain ending in e-mail from Ronald Gill, Jr. (FEMS) to Sinclair Skinner and David Jannarone (EOM), Re: Fire truck (Jan. 8, 2009).

whether he could also get some equipment for Dajabon. DFC Gill's responded: "that's in the works".<sup>14</sup>

While in Sosua, with the donation of the fire engine and ambulance seemingly imminent, Mr. Skinner received approximately \$11,000 in cash from Mayor Céspedes for the purpose of transporting the equipment to the Dominican Republic. Mr. Skinner accepted the funds for transportation but testified that he spent some of the money and deposited the remainder. When asked whether he knew Mr. Skinner did not work for the District government, Mayor Céspedes told the Committees when Mr. Skinner came to Sosua he said that he had relations with those in the government and that he could help out with the equipment donation. Mr. Skinner stated during his deposition that he never made any representation as being a government representative. Mayor Céspedes noted to the Committee that the monthly budget for the entire city of Sosua is only about \$130,000. Therefore, the funds expended for transportation of the fire engine and ambulance is significant. Though it still waits for a fire engine and ambulance, Sosua has not received any of these funds back.

In mid-February, with the group now back in the U.S., DFC Gill suggested that the donation should be advertised, presumably because it seemed like such a great gesture. This was echoed by Mr. Anderson in responding that "[w]e need to get the DC media machine rolling, delivering the fire truck and ambulance to [the Dominican Republic] is a great opportunity to get some good media attention." Mr. Jannarone offered that Sean Madigan, with the Deputy Mayor's office, could "let us know how the mayor wants to handle it." The sole opposition to this was Mr. Skinner, who stated that "[t]he media is a bad idea."<sup>15</sup> Though not a representative of the District government, this was, apparently, the last word on whether to advertise the donation. On February 25, 2009, FEMS declared Engine 104 as excess property, clearing the way for the equipment to be transferred to PPD. The same was done for the ambulance on March 12, 2009.

### **Disposition to a Nonprofit Organization**

As had been previously noted in an e-mail by Mr. Giles, PPD requires that a nonprofit organization take control of the surplus property and responsibility for transport. As such, finding an organization to do this was necessary to complete this donation. While William Walker and Faith Productions had been involved in trying to help the city of Sosua from the beginning, had already been cleared to accept property by the District's surplus property program, and had been the selected organization for the previous donation effort for Engine 194, Mr. Skinner apparently made an executive decision to select a different organization for the job. In December 2008 he informed Mr. Jannarone that the Peaceholics would be the nonprofit organization responsible for disposing of the fire engine and ambulance.<sup>16</sup>

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<sup>14</sup> E-mail chain ending in e-mail from Ronald Gill Jr. (FEMS) to David Jannarone (EOM), Re: Photos (Feb. 10, 2009).

<sup>15</sup> E-mail chain ending in e-mail from Sinclair Skinner to Ronald Gill, Jr. (FEMS), David Jannarone (EOM), Jonathan Bolden, David Anderson, and Sean Madigan (EOM), Re: Shipping Invoice (Feb. 17, 2009).

<sup>16</sup> E-mail chain ending in e-mail from David Jannarone (EOM) to Sinclair Skinner (Dec. 23, 2008).

On March 12, 2009, Mr. Skinner's company, Liberty Industries, LLC, paid \$11,630 to Peaceaholics to cover the costs of shipping the fire engine and ambulance. Two days later, Peaceaholics duly wrote a check in the amount of \$11,630 to the American Purchasing and Distribution Center to cover the costs associated with the shipment of the fire engine and ambulance to the Port of Puerto Plata, Dominican Republic. On March 16, PPD completed the transferring of title for the equipment, both fire engine and ambulance, to the selected nonprofit organization.

### **Emergency Rulemaking Process**

While the effort to select the equipment was conducted, a similar effort was being conducted on the legal side. As far back as January 2008, Mr. Giles had noted the necessity of emergency rulemaking in order to donate the property to a foreign country. He also asked that justification for that rulemaking be provided to the OCP general counsel. In May 2008, Mr. Giles instructed Ms. Booth to provide language for an emergency rule to OCP's general counsel, Nancy Hapeman, for review. On July 10<sup>th</sup> of that same year, Ms. Booth sent Mr. Giles and Mr. Jannarone an email with proposed language. Mr. Giles offered that the "language will need to include the specific reason why this donation is being made and at whose request." Mr. Jannarone then forwarded the email chain to Barry Kreiswirth, describing it as "part of the Dominican favor your [sic] helping me with."<sup>17</sup>

In February 2009, after it became clear that the fire engine and ambulance were likely to be declared surplus, Mr. Skinner contacted Thorn Pozen, the District's Chief Ethics Officer, and Andrew "Chip" Richardson, III, to seek their help in obtaining the equipment. Mr. Pozen then attempted to research the matter and contacted Nancy Hapeman at OCP. On February 19<sup>th</sup>, Mr. Pozen wrote to Mr. Giles stating that "Nancy Hapeman suggested I contact you to finalize the disposal of piece of equipment which the FEMS has determined to be surplus. . . . We also have a draft MOU outlining the proposal-including provisions noting that the equipment is to be taken at no cost to the District in as-is condition."<sup>18</sup> That same day, Richardson wrote to Mr. Giles that "hopefully there is a streamlined way to get it done quickly."<sup>19</sup>

In order to effectuate the disposition, an emergency rule was published in the *D.C. Register* on March 20, 2009 that would allow the Chief Procurement Officer (CPO) to donate surplus supplies to Peaceaholics, Inc., a District based nonprofit organization. The rulemaking did not state or explain the type of property to be transferred, the date of transfer, nor the method of transfer, but only noted the necessity of the emergency rulemaking to "preserve the public welfare in the District of Columbia."<sup>20</sup> Absent this emergency rulemaking, OCP would apparently not have been able to donate the surplus property to the Dominican Republic. However, as details were still being withheld at this point about the disposition of publicly

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<sup>17</sup> E-mail chain ending in e-mail from David Jannarone (EOM) to Barry Kreiswirth (EOM), Re: Fw: Language for Ruling (July 14, 2008).

<sup>18</sup> Email chain ending in e-mail from Wilbur Giles (OCP) to Robin Booth (OCP), Re: Disposing of Surplus D.C. Personal Property (Feb. 20, 2009).

<sup>19</sup> *Id.*

<sup>20</sup> 56 D.C. Reg. 002281 (Mar. 20, 2009)

owned property, particularly property as sizeable as the fire engine and ambulance, it is unclear why this was a proper subject of an *emergency* rulemaking.

The actual publication in the *D.C. Register*, however, is what ultimately made this entire transaction public. A March 27, 2009, article in the *Examiner* brought to light the proposed disposition.<sup>21</sup> Inquiries made to FEMS following this article prompted Chief Rubin to send an e-mail that the “[c]ompany line is that OAG is looking into [the] situation.”<sup>22</sup> On April 1<sup>st</sup>, in a previously scheduled budget oversight hearing before the Committee on Public Safety and the Judiciary, Chief Rubin pleaded ignorance to the entire transaction except for what he had read in the papers. He also noted that the Attorney General had begun investigating the matter. During this same hearing Chief Rubin testified that the fire engine had approximately 197,000 miles and that the ambulance had more than 100,000 miles, and that both vehicles were of little to no value. Subsequent to that hearing, the Committee discovered that the actual mileage on the fire engine was only 55,290 miles. The actual mileage on the ambulance was 106,696 miles.

### **Attorney General Investigation**

Following public revelations about the transaction, Attorney General Peter Nickles announced that his office would investigate the circumstances that led to the transfer of the fire engine. On April 3, 2009, Mr. Nickles released a “statement” finding that “that the disposition was legal and totally proper [and] in the service of important and legitimate public purposes” and concluding that:

I am convinced that those who worked to send the surplus fire truck and ambulance to the Dominican Republic, both Ronald Moten, of Peaceoholics, and his colleagues in the nonprofit community, and those in the District government, including FEMS, were operating with the very best of intentions and with the interests of not only the District but also of those in need in Sosua in mind. It is a shame that this humanitarian gesture was not able to be timely completed. Nonetheless, to assure full transparency, accountability, and to remove any possible concerns members of the public may have regarding this matter, the vehicles are back in the District's possession.<sup>23</sup>

Concerned that the Attorney General’s investigation of the matter might not be at arms-length, the respective Chairs of the Committee on Public Safety & the Judiciary and the Committee on Government Operations & the Environment sent a letter to the Office of the Inspector General prior to the release of the Attorney General’s report, requesting the Inspector General to investigate the matter. These concerns were later verified. Not only was the Office of the Attorney General involved in the emergency rulemaking that effectuated the disposition of the property, but over the course of this investigation the Committees learned Attorney General

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<sup>21</sup> Michael Neibauer, Odd deal sends D.C. fire truck, ambulance to Dominican town, *Washington Examiner* (Mar. 26, 2009), available at [http://www.washingtonexaminer.com/local/Odd-deal-sends-DC-firetruck-ambulance-to-Dominican-town\\_03\\_27-41950872.html](http://www.washingtonexaminer.com/local/Odd-deal-sends-DC-firetruck-ambulance-to-Dominican-town_03_27-41950872.html) (last visited Jan. 26, 2010).

<sup>22</sup> E-mail chain ending in e-mail from Ronald Gill, Jr. (FEMS) to Chief Dennis Rubin (FEMS), Re: Dominica (Mar. 31, 2009)

<sup>23</sup> Memorandum of Attorney General Peter Nickles, Re: Fire truck and ambulance statement (Apr. 3, 2009).

Nickles tasked Mr. Pozen and Mr. Richardson -- two individuals actually involved in helping in the disposition of the equipment -- to conduct the OAG's investigation.

On April 6<sup>th</sup>, the Committee on Government Operations and the Environment held a previously scheduled budget oversight hearing on the Office of Contracting and Procurement. At the hearing, Chairperson Cheh requested that Mr. Giles appear to testify about his role in the transaction. It was learned at the hearing that Attorney General Nickles directed Mr. Giles not to appear. Channeling public anger and frustration at the Executive's refusal to provide any details on what the Attorney General described as a "humanitarian gesture", the Committees launched investigations on April 10<sup>th</sup> into the disposition of the fire engine and ambulance.

## COMMITTEE FINDINGS & RECOMMENDATIONS

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### Lack of Internal Controls in Disposition of District Property

Based on the testimony of Executive witnesses in public hearings, the testimony of those deposed by the Committees, and the evidence collected by the Committees pursuant to subpoena, it is clear that the project of disposing of a fire engine, and later an ambulance, largely took on a life of its own. Lack of controls throughout the process left those who were swept up in it to assume that it was a project that, presumably, the Executive had decided to pursue. Further investigation into this matter, however, suggests that no such decision was made. No one individual -- at least not any individual within the government -- appeared to be driving the project to donate government property to Sosua.

The confusion over who was actually driving the donation of a fire engine and ambulance was highlighted in testimony provided by the FEMS leadership. While DFC Gill had traveled to Sosua a few months earlier, and with news of the donation having broken just a month earlier, Chief Rubin testified that he had no knowledge -- prior to news accounts made the trip public -- that an FEMS employee traveled to Sosua for the purposes of donating a fire engine.<sup>24</sup> Further questioning revealed that Assistant Fire Chief (AFC) Alfred Jefferies had approved DFC Gill's travel to Sosua, but did so without any inquiry for the purpose of the travel. The only question asked, it appears, was upon DFC Gill's return when AFC Jefferies asked him "if he had a good time."<sup>25</sup> AFC Jefferies further testified that, to his knowledge, the donation was well in the works prior to his promotion to his current position. When questioned why he approved a trip to a foreign country when it had nothing to do with the department, AFC Jefferies responded that "it was requested by... whoever."<sup>26</sup> Chief Rubin testified that he was aware that "there was discussion going on prior to my arrival" about some sort of donation, but that the donation *appeared to be* a city related program.

FEMS approval of expenses related to the donation of the fire apparatus went forward without any inquiry as to who within the District government approved of the donation. Further questioning from the Committee revealed that FEMS did not have any knowledge of who approved of the donation, who was responsible for the donation, or any other details about the donation. This lack of knowledge did not prompt agency leadership to ask any questions before committing funds and personnel. This lack of oversight on the part of leadership is not only incongruent with the level of performance District residents rightly expect, it also reduces faith in the effective administration of government.

This failure to ask questions, any questions, about this disposition to a foreign country was repeated several times throughout the process. The Committees regularly heard during depositions that those involved assumed that approval had for the project had been given. No one, however, knew of when or by whom.

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<sup>24</sup> Rubin testimony, *supra* note 11.

<sup>25</sup> *Fire & Emergency Medical Services Department: Budget Oversight Hearing before the DC Council Committee on Public Safety and the Judiciary* (Apr. 1, 2009) (oral testimony of Assistant Fire Chief Alfred Jeffery).

<sup>26</sup> *Id.*

FEMS also neglected its own rules for approving employee travel. The agency has a specific form employees must fill out when requesting travel.<sup>27</sup> Documents submitted to the Committee in compliance with a subpoena do not include this form, and deposition testimony revealed that no such form was ever filled out. Further, a standing special order requires that all out-of-city travel must be specifically authorized by the Fire Chief.<sup>28</sup> However, by Chief Rubin's own testimony he was unaware that his Deputy Fire Chief had even traveled out of the country until it was reported in the press. The Committee believes that internal controls must be put in place to ensure that such approvals do not occur without the knowledge of agency leadership. Further, the existence of red flags -- such as those that should be raised when an employee puts in a request to travel to a foreign country -- must prompt decision makers in the agency to make further inquiries before stamping approval on received requests.

The Committee is compelled to note, since much media attention was first placed on DFC Ronald Gill for his involvement in the trip to Sosua, that all evidence and testimony the Committee received suggests that there was no wrongdoing on the part of DFC Gill with regard to the identifying the surplus vehicles or traveling to Sosua. It was actually at Chief Rubin's prompting that DFC Gill was first involved in the donation.<sup>29</sup> It appears that DFC Gill's time in Sosua was spent largely examining the city's infrastructure, evaluating local firefighters' training to handle the apparatus, and meeting with city employees to review whether the identified apparatus could operate given the limitation on water pressure, etc.

One other issue with FEMS that has apparently been corrected since the Committee first identified the problem, is with the disparity in mileage that was reported by the agency for Engine 104. According to the District's citywide fleet database system -- "FASTER" (used to record mileage during vehicle fueling) -- Engine 104 had approximately 197,000 miles at the time it was declared surplus. The discrepancy in mileage was first discovered by the Committee in early April 2009, after the fire engine had returned from being shipped to Miami and long after it had been declared surplus. The actual reading on the odometer was 55,290 miles. FEMS has since instituted fail safe measures in order to prevent a recurrence. Specifically, DFC Gill, as head of FEMS' Fleet Maintenance, has made a recommendation to Chief Rubin that mileage, engine hours, and vehicle depreciation be included on all property disposal forms.<sup>30</sup> As these can be significant factors in determining whether a vehicle is of no value to the District, and thus can be surplus, the Committee recommends that FEMS initiate and follow the recommendation.

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<sup>27</sup> Form DC/FMS 431, "Request and Authorization for Official Travel" (a blank form is attached to this report).

<sup>28</sup> FEMS Special Order 1990-11, "Documentation of Official Employee Out-of-City Travel."

<sup>29</sup> E-mail chain ending in e-mail from Ronald Gill, Jr. (FEMS) to David Jannarone (EOM) and Dennis Rubin (FEMS), Re: Eng. 194, surplus (Nov. 25, 2008).

<sup>30</sup> Memorandum from Ronald E. Gill, Jr., Deputy Fire Chief, to Dennis L. Rubin, Fire Chief, Re: Vehicle Mileages (Apr. 14, 2009).

## Role of Private Individuals in Disposition of District Property

District government employees were unclear about who was responsible for, or who had sanctioned, the disposition of government property to Sosua. Even more surprising than this, however, is that a private individual was so heavily involved in moving the process forward. Sinclair Skinner, a principal of Liberty Industries, LLC, visited Sosua several times with Mr. Jannarone, including the first trip to the Dominican Republic in December 2007, as well as subsequent Super Bowl parties in 2008 and 2009.

Mr. Skinner's deposition, as well as documents the Committees received in conducting the investigations, paint a picture of a private individual -- who is politically connected -- driving many in government to donate surplus government property. Mr. Skinner is copied throughout the correspondence related to the transaction, e-mails involving District personnel from OCP, OAG, FEMS, and the Executive Office of the Mayor. What is disturbing, however, is the level of decision making authority Mr. Skinner appeared to possess in this correspondence.

Thus, Mr. Skinner organized the January 2009 trip to Sosua, if not others, that involved FEMS personnel. Mr. Jannarone turned to Mr. Skinner to select the non-profit that will be the pass-through for donating the apparatus to Sosua. While Mr. Jannarone was aware that another nonprofit had previously been approved into the surplus property program, it was Mr. Skinner who decided that Peaceaholics would receive the District government property.<sup>31</sup> Perhaps the most troubling aspect of all this, however, is that Mr. Skinner -- though not a government employee -- was able to accept \$11,000 in cash from Mayor Céspedes. Sosua officials believed that Mr. Skinner was the individual able to effectuate the disposition of District property to their city. But Mr. Skinner had no responsibility to the District government. Thus, the Committee learned, Mayor Céspedes received no report about his government's funds or the fire engine except that it was not coming. Mayor Céspedes further stated that his willingness to provide funds to Mr. Skinner was based on Mr. Skinner's close relationship with Mr. Jannarone.<sup>32</sup>

It is troubling that a private individual can be so heavily involved in the disposition of District owned property. It is troubling that the individual's connections to government officials can result in large sums of money being spent in order to get the District government to act; such a situation presents the opportunity for abuse. It is also troubling that the District's reputation was tarnished in part because our government was not directly involved.

The lack of a well defined and clearly understood process for donating surplus property to a foreign government is glaring. Without a clear plan and process, the result is the ad hoc process that actually transpired in the attempted donation to Sosua. Putting such a process in place would ensure that the District government is, first, aware of the intent to donate property, but also does so in a way that is legal and accountable. A clear plan and process would not have given so much authority -- or the appearance of authority -- to a private individual. The only major decision involving a government employee, as best the Committee can determine, was the decision by the Attorney General that the fire engine and ambulance be returned to the District in

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<sup>31</sup> See e-mail chain, *supra* note 16.

<sup>32</sup> *Deposition of Vladimir Céspedes, Mayor of Sosua, Dominican Republic: before the DC Council Committee on Public Safety and the Judiciary* (July 27, 2009) (oral testimony of Mayor Céspedes).

April 2009<sup>33</sup> (a decision for which there appears to be no authority since title had already been transferred from the District to a nonprofit organization).

The District should have confidence that the disposition of District property will occur only when government leaders decide it is appropriate to do so and in the best interests of the District of Columbia. A private individual should not be granted the degree of decision-making authority Mr. Skinner possessed here. A clear, understandable process needs to be implemented to ensure that this is the case.

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<sup>33</sup> See Nickles memorandum, *supra* note 23.

## Lack of Transparency from the Executive

It is antithetical to the ideal of open and transparent government that in response to inquiries over what the Attorney General described as a “humanitarian gesture”,<sup>34</sup> the Executive and the Office of the Attorney General respond by stonewalling information and obstructing witnesses from testifying. Every effort was made to prevent access to information -- from initial attempts to get answers to the most basic of questions, and throughout the investigation. This lack of transparency not only provoked speculation, but also fostered a perception by the public of corruption and diminished faith in the government and its elected leaders. Though it is still unclear why the Executive did not advertise this donation if it believed it to be an altruistic gesture (perhaps because they didn’t know), actions subsequent to it being made public were badly mismanaged.

Ultimately, it is this lack of transparency and accountability that caused the Committee on Public Safety & the Judiciary and the Committee on Government Operations & the Environment, to launch an investigation into this matter. On April 6, 2009, during a Committee on Government Operations and Environment budget oversight hearing on OCP, Chairperson Cheh asked OCP Director Gragan to summon Mr. Giles to the hearing, even recessing the hearing to provide time for him to make it to the hearing. Upon reconvening it was learned that Mr. Giles was instructed not to appear by Attorney General Nickles. This stonewalling was the impetus for this investigation.

Over the course of the Committees’ investigation, the Executive branch, and in particular the Attorney General, repeatedly attempted to frustrate if not outright obstruct efforts to gain information about this incident.

Required to launch an investigation in order to get answers, the Committees met repeated roadblocks before receiving requested documents and testimony. The Committees first requested of the Executive, on April 9, 2009, all documents relating to the disposition of the fire engine and ambulance.<sup>35</sup> These documents would presumably have been compiled by the Attorney General in his “thorough review” that culminated in the April 3<sup>rd</sup> statement. No response was ever received from the Executive. Instead, the Attorney General responded on April 20<sup>th</sup>, having self-determined that the benefits of an investigation were outweighed by the costs of compiling the evidence requested.<sup>36</sup> Though the request for documents was reiterated, the Committees were ultimately required to resort to subpoenas to access relevant information.

The Committees continued to encounter baseless roadblocks and attempts to delay the investigation -- even where seeking information by validly executed subpoenas. Two deponents, DFC Gill and Ms. Booth, were subpoenaed to appear before the Committees on May 15<sup>th</sup>. Their failure to appear, despite being subpoenaed, was later discovered to be at the direction of the Attorney General. The Attorney General delayed sending witnesses to depositions for over a month and a half because he sought to have the Committees provide the deponents with legal representation. In the end, he freely sent his own attorneys from the Office of the Attorney

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<sup>34</sup> *Id.*

<sup>35</sup> Letter from Councilmembers Cheh and Mendelson to Mayor Adrian M. Fenty (Apr. 9, 2009).

<sup>36</sup> Letter from Attorney General Peter Nickles to Councilmembers Cheh and Mendelson (Apr. 20, 2009).

General to represent them. Then another month was later wasted by the Attorney General over a debate about representing the employees in a “personal” or “official” capacity. The delays in interviewing deponents were mirrored by delays in receiving documentation.

The Attorney General’s unwillingness to cooperate with what is public information has been unnecessarily time consuming for the Committees, unresponsive to District residents, and counterproductive to the transparent operation of government. Frustrating the Committees in their investigation was partly the product of the Attorney General’s belief that he is more fit than the Council to determine what the Legislative branch can and should pursue.<sup>37</sup> The Attorney General considered the matter closed since he had looked into the matter and determined that there was nothing wrong.

The April 3, 2009 “Fire truck and ambulance statement” issued by Attorney General Nickles is remarkable for its lack of detail. No fact was revealed that had not been previously reported by the media. It was compiled in less than a week through a review conducted by the Office of the Attorney General. The two-and-one-half-page report failed to list a single government employee. It made no effort to explain how the donation was initiated. Indeed, the statement reads as if chastising anyone who dares raise questions about the donation of District property to a foreign country. (Yet those questions were raised because of the government’s forced silence on the matter).

The report was further flawed. Through the depositions conducted by the Committees it was determined that Mr. Nickles had asked Mr. Andrew “Chip” Richardson, general counsel to the Mayor, and Mr. Thorn Pozen with OAG to conduct the investigation. This is significant in that e-mails provided to the Committees pursuant to the subpoenas show that both of these individuals were involved in efforts to effectuate the donation -- the same donation they were being asked to investigate.

The report does state, while touting the importance of this humanitarian gesture, that Mr. Nickles directed the fire engine and ambulance be returned to the District “out of an abundance of caution.” It does not explain how, given that title to the equipment was with a nonprofit organization and that the actual equipment was in Miami in the physical possession of a shipping company, the Attorney General had authority to order this.

Finally, the Committee is concerned about the Attorney General’s actions as they relate to the still ongoing investigation by the Office of the Inspector General (OIG). Chairpersons for the Committees initiated a request for the OIG to investigate the matter on April 3, 2009, partly out of concern that the then ongoing Attorney General investigation would not be conducted at arms-length. On April 6<sup>th</sup>, the Attorney General submitted to OIG, although unsolicited, all documents that he had compiled and relied on for the purposes of preparing his April 3<sup>rd</sup> statement. This was probably appropriate.

However, in early May, Mr. Nickles began, still without solicitation, copying the OIG on all correspondence to the Committees. The correspondence from Mr. Nickles repeatedly hails

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<sup>37</sup> See, e.g., *Id.* at 3 (Nickles stating it is “not acceptable” for the Council to pursue an investigation and suggesting the Council should instead pursue the Executive’s legislative priorities) (*see* Exhibit 36 attached).

the humanitarian gesture of the donation while questioning the Committees actions for even investigating the matter. On January 25, 2010, for example, without access or the ability to review the Committees findings, Mr. Nickles (copying the Inspector General) calls on the Committees to terminate its efforts to look into the donation given the “frailties of [the Committees] investigation.”<sup>38</sup> Statements made by Mr. Nickles even suggest that the Committees are attempting to somehow influence the OIG investigation while he makes every effort to supply the agency with information he has gathered.<sup>39</sup> Furthermore, it is remarkable that the Attorney General is attempting, by copying the Inspector General, to make the preemptive argument that whatever findings the Committees release are somehow corrupted.

There is an obvious expectation that one will fully cooperate with an ongoing investigation of the Office of the Inspector General. The Attorney General, however, has made it clear in his letters to the Committees that an investigation into the matter is a waste of time and resources. Though never requested by OIG, Mr. Nickles has forwarded these statements to Inspector General during an ongoing investigation. As an independent office unassociated with the Mayor or the Attorney General, it is, at best, inappropriate to inundate OIG with a barrage of statements challenging the validity of efforts to investigate.

In sum, the Attorney General’s behavior has been antithetical to principles of open government and public accountability. Fundamental to this investigation was the Executive’s unwillingness and sometimes outright refusal to cooperate. The Committee believes this ill-conceived obfuscation of the Council’s oversight role is a misplaced Executive priority that is in need of revision.

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<sup>38</sup> Letter from Peter J. Nickles, Attorney General, Office of the Attorney General, to the Mary M. Cheh, Chairperson, Committee on Government Operations & the Environment, and Phil Mendelson, Chairperson, Committee on Public Safety and the Judiciary, Re: Council Investigation of Fire and Emergency Medical Services Surplus Equipment (Jan. 25, 2010).

<sup>39</sup> Letter from Peter J. Nickles, Attorney General, Office of the Attorney General, to the Mary M. Cheh, Chairperson, Committee on Government Operations & the Environment, and Phil Mendelson, Chairperson, Committee on Public Safety and the Judiciary, (June 24, 2009).

## CONCLUSION

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After reviewing the materials obtained under the investigation, and conducting a number of depositions of the parties involved, the Committee concludes that there were a number of faults -- processes not followed, questions not asked -- throughout the attempted disposition of the fire engine and ambulance. However, from what information the Committee has been able to access there does not appear to have been any criminal wrongdoing.

The Committee is compelled to reiterate that *had* the Committee been able to access information when first requested, and *had* it been able to interview or discuss the disposition with the respective parties when first attempted, it would never have been forced to enter into an investigation to subpoena the individuals involved. As stated elsewhere in this report, the efforts to obstruct the Council in performing its oversight role in this matter has hurt the ideal of an open and transparent government accountable to the people.

The District's attempted donation of a fire engine and ambulance to the city of Sosua may indeed have been a project worth pursuing, with the impoverished region being able to utilize equipment that the District would otherwise surplus. However, the property being declared surplus is, at the end of the day, property that is paid for and maintained at taxpayer expense. Thus, the decision to donate property should not and can not be made by private individuals. If the District decides to gift surplus property it should do so in light of day, as sunlight may serve to eradicate any appearance of wrongdoing -- whether actual or speculative. The public, and the Council in performing its oversight role, should be permitted to question and review such a transaction. If it is truly a humanitarian gesture, then there is indeed cause to "get the media machine rolling."<sup>40</sup>

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<sup>40</sup> See "Shipping Invoice" e-mail chain, *supra* note 15.

## **ATTACHMENTS**

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**Appendix A:** *Committee on Public Safety and the Judiciary FEMS Apparatus Disposition Investigation Authorization Resolution of 2009*

**Appendix B:** *Schedule of Depositions*

**Appendix C:** *Documents Cited in Report*

## APPENDIX A: INVESTIGATION AUTHORIZATION RESOLUTION

### A RESOLUTION

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#### IN THE COMMITTEE ON PUBLIC SAFETY AND THE JUDICIARY, COUNCIL OF THE DISTRICT OF COLUMBIA

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To authorize an investigation by the Committee on Public Safety and the Judiciary into the recent disposition of fire apparatus and related issues.

RESOLVED, BY THE COMMITTEE ON PUBLIC SAFETY AND THE JUDICIARY,

That this resolution may be cited as the “Committee on Public Safety and the Judiciary FEMS Apparatus Disposition Investigation Authorization Resolution of 2009”.

#### Sec. 2. Background.

(a) The Office of Contracting and Procurement (OCP) manages the District’s Personal Property Division. The Personal Property Division (PPD) is responsible for the auctioning of the District’s personal property that has been declared surplus. PPD is also responsible for personal property acquired from the Federal Government for use by District agencies or eligible non-profits.

(b) On March 20, 2009, OCP published an emergency rule establishing a new Chapter 47 of Title 27 of the *District of Columbia Municipal Regulations*, which concerns supply management. The emergency rules granted OCP authority to “immediately donate surplus property to assist the city of Sosua, in the Dominican Republic, as part of a socially responsible humanitarian initiative to address the economic and social crisis facing the people of Sosua. Peaceaholics, Inc., a non-profit organization, will provide assistance to help resolve Sosua’s need to address its public health and safety issues.” Neither the type of property to be transferred, the date of transfer, nor the method of transfer was explained in the emergency rulemaking. As it turned out, the property at issue was a 1998 Seagrave Pumper (S-104) fire engine, purchased for \$240,895, and a 2002 Ford E-450 (S-671) ambulance, purchased for \$75,132.

(c) On March 27, 2009, Councilmember Mary M. Cheh, Chairperson of the Committee on Government Operations and the Environment, sent a letter to the District’s Chief Procurement

Officer, David Gragan, asking for more information about the proposed rulemaking and the transfer of property from the PPD. To date, no formal response has been received.

(d) Additional information related to this matter has continued to come to light. News reports have suggested that the Fire and Emergency Medical Services Department (FEMS) fire engine and ambulance had already been sent to the Dominican Republic town of Sosua. The fire engine and ambulance were to be turned over to the anti-youth-violence organization Peaceaholics, which would then turn the vehicles over to Sosua. On February 12, 2009, a Sosua newspaper mentioned that on January 29, 2009, a delegation from the District arrived in Sosua to officially hand over an ambulance and fire engine to the Mayor of Sosua, Vladimir Cespedes. According to that report, the ambulance and fire engine were to be transported by ship and arrive in mid-February. In addition, the article mentions that the “Americans” were to also send instructors to train paramedics and personnel from the fire department on how to use such modern equipment.

(e) On April 1, 2009, Councilmember Phil Mendelson, Chairperson of the Committee on Public Safety and the Judiciary, held a hearing in which he questioned FEMS Chief Denis Rubin regarding the agency’s knowledge and/or role in the disposition of the fire engine and ambulance. Chief Rubin testified at that hearing that he was only made aware of the disposition of the FEMS property and Deputy Fire Chief Gill’s travel associated with the disposition within a few days preceding the April 1<sup>st</sup> hearing. Assistant Fire Chief Alfred Jeffery testified that he signed off on the travel for Deputy Fire Chief Ronald Gill to the Dominican Republic. Assistant Chief Jeffery stated that he was aware of the purpose of Gill’s travel, but did not ask any questions or request supporting documentation for the trip. Assistant Chief Jeffery testified that he believed the travel and donation were connected with a “program” for the disposition of such property that existed prior to both his and the Chief’s joining FEMS. No other details of this program were known by or provided to FEMS, and no further questions were asked by FEMS. FEMS testified that this program was supported by the Mayor. FEMS Chief Rubin further testified that the fire engine had approximately 197,000 miles and that the ambulance had more than 100,000 miles, and that both vehicles were of little to no value. Subsequent to that hearing, Chairperson Mendelson discovered that the actual mileage on the fire engine was only 55,290 miles. The actual mileage on the ambulance was 106,696 miles.

(f) On April 3, 2009, Councilmembers Cheh and Mendelson sent a letter to the Office of the Inspector General of the District of Columbia, requesting that the Inspector General immediately begin an investigation into the donation.

(g) On April 3, 2009, Attorney General Peter Nickles released a letter stating that the disposition was “totally proper,” but that he had nevertheless directed that the vehicles be returned to the District. The vehicles currently sit at the PPD facility on Adams Place, N.E., in the District.

(h) On April 6, 2009, OCP appeared before the Committee on Government Operations and the Environment for its annual budget oversight hearing. At the hearing the Chief Procurement Officer told the Committee that neither he nor his staff were fully informed as to what the true purpose of this rulemaking. OCP General Counsel Nancy Hapeman informed the

Committee that she received inquiries with regard to the disposition process from Thorn Pozen, of the Office of the Attorney General (OAG), and Andrew “Chip” Richardson, the General Counsel to the Mayor. The Committee also learned that OCP Chief of Staff Wilbur Giles instructed Ms. Hapeman to draft the emergency rules. Mr. Giles was summoned to appear at the request of the Committee; however, under the advice of Attorney General Nickles, Mr. Giles refused to attend.

(i) The Committee on Public Safety and the Judiciary finds that the circumstances surrounding the disposition of FEMS property and employee travel demonstrate inadequate controls, oversight, and accountability over these processes. Further, the Committee finds that unanswered and potentially inappropriate involvement of OAG in the disposition and subsequent investigation, along with allegations of alleged wrongful, negligent, or other inappropriate actions relating to inadequate controls or procedures by other agencies within the Government of the District of Columbia, warrant the conduct of an investigation. For the purpose of this investigation, the Chairperson of the Committee is authorized to issue subpoenas to compel a witness’s attendance, to obtain testimony, and to produce documents, evidence, other information, or tangible items, pursuant to the authority provided in section 413 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 789; D.C. Code § 1-204.13), and section 601(b) of the Rules of Organization and Procedure for the Council of the District of Columbia, Council Period XVIII.

### Sec. 3. Investigation

The Committee on Public Safety and the Judiciary will examine, and is authorized to cooperate and coordinate with a simultaneous investigation of the Committee on Government Operations and the Environment in investigating, the following:

(1) A determination of policies, procedures, or other practices surrounding the transfer of surplus property of the District government, including any controls intended to prevent the improper transfer of surplus property or any similar action by any employee of the District government;

(2) The rulemaking practices and procedures of the executive branch of the District government, including the practices and procedures for drafting, authorizing, and publishing rules in the *D.C. Register*, especially the role of the Office of the Attorney General in agency rulemaking;

(3) Any weaknesses, defects, or similar problems in internal controls that permitted the improper transfer of surplus property to occur, including contract and procurement practices of OCP, FEMS, OAG, the Executive Office of the Mayor (EOM), and any other agency or authority of the District Government;

(4) The role of FEMS and OAG in this matter;

(5) Any prior improper activity, noncompliance with existing laws, and unusual or unnecessary emergency rulemaking by any agency or authority of the District government;

(6) The financial, business, and personal relationships of any employee of OCP, FEMS, OAG, EOM, or any other agency or authority of the District government with regard to the above mentioned transfer, including any and all contacts with Peaceaholics, Inc., or the Dominican Republic city of Sosua;

(7) The development and implementation of a comprehensive plan of correction as the Committee may so determine; and

(8) All relevant facts and circumstances related to the matters listed above to determine what, if any, legislative action may be appropriate.

Sec. 4. Subpoena authorization.

The Committee is authorized to use subpoenas to compel the attendance of witnesses, to obtain testimony, or to produce documents or other information or tangible items.

Sec. 5. Filing of the resolution.

The Committee Clerk of the Committee on Public Safety and the Judiciary shall file this resolution, upon its adoption, in the Office of the Secretary, in accordance with section 601(b) of the Rules of Organization and Procedure for the Council of the District of Columbia, Council Period XVIII.

Sec. 6. Effective date.

This resolution shall take effect immediately.

## APPENDIX B: SCHEDULE OF DEPOSITIONS

Pursuant to the investigation authorization resolution of the respective Committees, the Committee on Public Safety and the Judiciary and the Committee on Government Operations and the Environment conducted investigations in cooperation and in conjunction with one another. A schedule of the depositions with the initiating Committee follows:

### Committee on Public Safety & the Judiciary

May 15, 2009 – DFC Ronald Gill Jr. (FEMS)  
*\* Deponent failed to appear the direction of the Attorney General*

June 19, 2009 – DFC Ronald Gill, Jr. (FEMS)

July 17, 2009 – David Jannarone (DMPED)  
*\*Rescheduled by agreement*

July 27, 2009 – David Jannarone (DMPED)

July 27, 2009 – Vladimir Céspedes (Mayor, City of Sosua, Dominican Republic)

July 27, 2009 – William Walker (CEO, Faith Productions, Inc.)

### Committee on Government Operations & the Environment

May 15, 2009 – Robin Booth (OCP)  
*\* Deponent failed to appear the direction of the Attorney General*

June 12, 2009 – Ronald Moten (Peaceaholics)  
*\*Deponent failed to appear*

June 19, 2009 – Robin Booth (OCP)

June 25, 2009 – Ronald Moten (Peaceaholics)  
*\*Public deposition*

July 28, 2009 – Wilbur Giles (OCP)

July 28, 2009 – Thorn Pozen (OAG)

July 28, 2009 – Andrew “Chip” Richardson (EOM)

September 3, 2009 – Sinclair Skinner (Liberty Industries, LLC)

## **APPENDIX C: DOCUMENTS CITED IN REPORT**

The attached documents have been received by the Committee through the FEMS Apparatus Disposition Investigation. The exhibit numbers on the attached documents correspond with the footnote citation number in this report