

**Memorandum in Response to the Heather E. Ross, Sheehey Furlong & Behm PC
Memorandum regarding Financial Review of Expenditures by Racial Equity
Inclusion and Belonging Department in Fiscal Years 2021 and 2022**

Executive Summary

This Memorandum is in response to the [review memo from Sheehey, Furlong, and Behm PC](#) from August 2023. We found this review memorandum to be poorly written; it failed to clearly lay out the facts or findings, causing confusion on what the actual findings were. We would like to clearly state a few of our findings in response. In this section you will find the summary findings and in the main section you will find additional detail on each of the findings.

1. **Juneteenth 2021 was an excellent and well-managed event.** Juneteenth 2021 was the City's first Juneteenth and the only Juneteenth that was managed and executed by former Director Tyeastia Green before her departure in March of 2022. There was no mismanagement found of the 2021 Juneteenth event in this review and the event came in under the City's allocated budget. Further, it was one of the City's largest events of the year and was well-attended and celebrated.
2. **Juneteenth 2022 was presumably on track until Tyeastia's departure.** There is no reason why Director Green should have been the focus of the review of the 2022 Juneteenth event. When she gave notice in February 2022, the event appeared to be on track compared to Juneteenth 2021. Yet, as with the 2021 event no vendors had been hired and the theme had not even been selected. If there was any mismanagement of the 2022 event, it happened AFTER her departure.
3. **The review was done and presented poorly.** The review was focused on whether or not abuse, waste, or fraud occurred. It clearly reveals, after you wade through it, that there was no waste, abuse, or fraud that is attributable to former Director Green, yet it seems to imply that there was throughout. The report seems to accuse without providing support or analysis for those accusations or even concluding mismanagement on Director Green's part, casting doubt on the fairness of its focus with regard to Ms. Green.
4. **The issues raised around the management of Juneteenth 2022 appear to be emblematic of a citywide culture.** The final review recommendations state clearly that the City needs to clarify and become more consistent with regard to several policies and practices. This was also the findings of a recent external review of the waterfront district's TIF mechanism. The report's final recommendations may be worth reviewing, but they all involve the workings of all departments and the administration.

5. **The call for this review may be a result of bias, given a review of similar cases in the City.** This review was based on an *accusation* of something happening somewhere else, an accusation that was never substantiated. This review found no mismanagement attributable to former Director Green. Meanwhile, we have documented instances of other department heads in Burlington violating policies and mismanaging city resources. Yet former Director Green is the only department head to be publicly reviewed in this way. We invite the Administration to strongly consider a potential bias in their response.

Details of the Findings

1. Juneteenth 2021 was the City's first Juneteenth and the only Juneteenth that was managed and executed by former Director Tyeastia Green before her departure in March of 2022. There was no mismanagement found of the 2021 Juneteenth event in this review and the event came in under the City's allocated budget. Further, it was one of the City's largest events of the year and was well-attended and celebrated.

For the City's first annual Juneteenth celebration, former Director Tyeastia Green was given a budget of \$100,000 from City funds. Director Green raised \$149,000 in private funds and underspent her city funds by \$17,000. The total cost of Juneteenth 2021 to the City was \$83,000 for a total budget of \$232,000. It was a fantastic, well-managed and well-attended event. The review found no information to the contrary.

Director Green planned to double the celebration for the second annual event in 2022. However, Mayor Weinberger created an increasingly hostile workplace for Director Green beginning in the spring of 2021 and continuing on through the new year.¹ Director Green gave notice to the City of Burlington in February of 2022, took sick leave for most of her remaining time, and departed March 10th, 2022.

2. There is no reason why Director Green should have been the focus of the 2022 Juneteenth event's review. When she gave notice in February 2022, the event was on track, but as with Juneteenth 2021, no vendors had been hired and the theme had not even been selected. If there was any mismanagement of the 2022 event, it happened AFTER her departure.

¹<https://www.sevendaysvt.com/OffMessage/archives/2022/02/15/tyeastia-green-burlingtons-racial-equity-director-to-re-sign>

At the time of Director Green's departure, plans for Juneteenth 2022 were well underway and everyone was looking forward to another successful event. She was in conversations to provide \$200,000 in private funding. However, although Director Green gave no public complaint of her treatment at the hands of the Mayor, even on public issues such as her (rescinded) removal from the CNA contract, four of her Managers followed-suit leaving the department with only 9 of its 14 employees.

Director Green had soft commitments estimated at \$200,000 in sponsorships and private donations for Juneteenth before she left the REIB in March 2022 which complemented her city-approved budget of \$180,000 to be on-track to nearly double the festivities of Juneteenth. And just as she had the year before, she had plans for reducing costs in the case that not all donations came through. However, her departure prompted the departure of additional staff – including staff who were in charge of planning, designing, permitting, and marketing and press and had that know-how from the previous year.

Juneteenth 2022 only received \$103,000 in private donations, less than the year before. The August memorandum speculates that this is because former Director Green was doing less fundraising than the year before but provides no proof of this beyond the volume of emails between 2021 and 2022. However, the donor commitments to Juneteenth made in 2021 were finalized by February and donations were coming in until the week before. The review appears to presuppose that the commitments wouldn't come through. However, if we follow the 2021 timeline as a template, it seems far more likely that donations were less enthusiastic due to the mass exodus after former Director Green's departure and/or that the interim REIB director did not have the strong fundraising capabilities former Director Green does.

3. The review was focused on whether or not abuse, waste, or fraud occurred. The review did not find any such mismanagement for 2021 or 2022. The problem with the memorandum is that it creates the *appearance* of mismanagement by former Director Green throughout, especially surrounding Juneteenth 2022. The reports seems to accuse without providing support or analysis for those accusations or even concluding mismanagement on Director Green's part, casting doubt on the fairness of its focus with regard to Ms. Green.

When former Director Green gave notice in February of 2022 the Juneteenth event was on track. Mayor Weinberger's actions contributed to the departures of REIB management in protest in the Spring of 2022. Although publicly Mayor Weinberger spoke positively about

Director Green during her tenure and even through the departure of her management team, after launching this audit this year he noted that they had a difficult working relationship.²

The departure of Director Green and REIB staff resulted in a very different 2022 event than the first under-budget and highly successful 2021 event. Decisions like hiring Okay Okay at the last minute or the slowdown of the process given the departure of the majority of the REIB staff may have been triggered by former Director Green's departure, but the only way the City can truly attribute responsibility to her is for blaming her for leaving and not being there to manage the event well.

The review makes assumptions and speculations about when the schedule of vendors should have been finalized for the 2022 Juneteenth event. Most vendor contracts were not sent out until April 2022, well after former Director Green had left her position. There is no evidence provided that various events put on by different departments in Burlington meet earlier timelines as to when vendors are locked in and schedules are finalized.

The review was commissioned to assess Juneteenth 2021. It does not present the facts and conclusions in a way that are clear and helpful with regard to this event. The entire review related to the 2021 seems to conflate all the events in the entirety of Ms. Green's tenure.

The 2022 Juneteenth event is at the center of the review but it does not do a sufficient job of differentiating between Ms. Green's role before her employment ended in March 2022 and the actions taken by others after it ended. For example, the review says that it looked at all her emails, including those from the planning of the 2021 event, but in the discussion of planning and private fundraising, or the lack thereof, it does not analyze the timelines for the two years to determine if fundraising or planning for the 2022 event was at a similar stage when Ms. Green left the City's employment as it was in 2021. It also does not analyze the activities leading up to former Director Green's departure or the impact of her departure on the planning. Without this comparison and analysis it is hard to place faith in the seemingly unsubstantiated conclusions drawn, including the implication that Ms. Green was careless or mismanaged the department.

The review makes an issue of the fact that some vendors were or are not "registered" with the state of Vermont to do business. They adopt the characterization of these vendors as "not to be a legal business" without qualification or correction or citation to Vermont law in Exhibit A. To our knowledge there is no legal requirement that a person is required to register with the State

²<https://www.sevendaysvt.com/vermont/burlington-to-audit-racial-equity-office-amid-questions-about-former-director/Content?oid=37861279>

in order to do business in Vermont (in contrast with Vermont statutes related to foreign corporations). There are many individual proprietors in the “gig” economy that operate using their social security numbers or EINs from the IRS that do not register; they are not acting unlawfully.

The review fails to cite the memo to the city council issued by the interim REIB director that gave reasons for the high cost of the 2022 event³ and analyze those reasons in relation to its other investigative findings. The published quote from the memo says that a staffer “attributed the high costs to inflation, the unexpected hiring of a ‘local marketing and event service to get things back on track,’ and ‘a transition in leadership which caused confusion around secured donations which delayed a final budget for Juneteenth until late April.’”

The failure of the review to delve into these reasons for the cost of the 2022 event is a major failing of the review and deprives the council and administration of the complete picture needed to oversee and improve city operations.

4. Given both the findings of this review and the recent TIF review, the issues raised around the management of Juneteenth 2022 appear to be emblematic of a citywide culture, and the lack of clarity and enforcement of City policies.

The final conclusions and review recommendations state clearly that the City needs to clarify and become more consistent in several policies and practices. They do not accuse any particular person of mismanagement.

Similarly, in January 2023, the Vermont State Auditor completed an audit of Burlington’s Lakefront Tax Increment Financing (TIF) district. The audit showed “years of sloppy record keeping” and financial mismanagement, while noting that Burlington has made “millions of dollars of mistakes.” Much of this was attributed to “poor recordkeeping, key staff turnover, and slow adoption of strategies recommended by the City’s own auditors...The City’s errors were so numerous and of so many different types, it is clear a new process is required to reduce the risk of significant errors in the future.” The result was well over a million dollars of debt to the state’s education and TIF funds. To our knowledge, there has been no broad public accounting for how the City intends to rectify the issues raised, or to avoid similar debt outcomes in the forthcoming state audit of the downtown TIF district.

³<https://www.sevendaysvt.com/vermont/burlington-to-audit-racial-equity-office-amid-questions-about-former-director/Content?oid=37861279>

5. This review was based on an *accusation* of something happening somewhere else, an accusation that was never substantiated and the review found no mismanagement attributable to former Director Green. Meanwhile, we have documented instances of other department heads in Burlington violating policies and mismanaging city resources. Yet former Director Green is the only department head to be publicly reviewed. We invite the Administration to strongly consider a potential bias in their response.

The Memorandum insinuates that former Director Green is not a competent Manager for not knowing what a sole-source contract is or the line between personal and professional use. However, nowhere in the memo does it actually provide evidence of where former Director Green was out of line with the City's policies. And at the same time, much more experienced Department heads have had more serious missteps that were not publicly reviewed at the request of the Mayor. For example:

In March of 2021, the City had to seek retroactive approval of a 5-year \$400,000 contract after the Director of Parks and Recreation signed a sole-source contract of a lease agreement with Green Mountain Boat Lines related to the Burlington Boathouse and Marina and operation of the Spirit of Ethan Allen III. The Director did not have authority to sign the initial contract. No review of the department's contracts or practices was publicly requested.

In response to a 2021 complaint by an employee, Human Resources Director Kerin Durfee and Chief Administrative Officer Katherine Schad investigated Director Gene Richards. They found that Richards used the gasoline facility 59 times in a six-month period for his personal car without documenting if the fuel was being used for work travel and also found several culture and personnel complaints. At the end of June, the mayor placed Richards on paid administrative leave and moved to hire an independent investigator and then recommended to the council the Director be removed from his position - which he was. Despite this the Administration did not publicly request an in-depth financial or fraud review of the airport for any of the years former Director Richards led the airport.

In January 2023 it was revealed that Burlington police officers had refused calls for service, citing a staffing shortage, then engaged in a lucrative private contract to provide neighborhood security to a Burlington homeowner's association. For these incidents, the City of Burlington's administration simply asked the Chief if there were other problematic contracts, and accepted a professed willingness to do things differently next time around. In June of 2023, the acting chief was appointed to a permanent position.

Former CEDO Director Peter Owens left his position with the City of Burlington in May, 2016 - a position where he was directly responsible for housing and acting as a good-faith liaison between landlords and tenants. Owens was already scheduled to step down from his role as CEDO Director, but resigned early in response to an illegal and inhumane eviction he perpetrated as a landlord in San Francisco. No formal critique or inquiry into Owens' actions, values, or past work was supported by the City of Burlington's administration.

While we are not saying that the reaction for other Directors should have been more punitive or stronger, we want to note that the response to accusations against former Director Green seems disproportionate. It feels similar to the Mayor's removal of former Director Green as manager of the CNA contract which he later apologized for noting "This decision was wrong and reveals my own bias."