

Operational Audit of the Town of Welaka, Florida
For the Period October 1, 1999, Through February 28, 2001,
and Selected Actions Taken Prior to October 1, 1999

OPERATIONAL AUDIT REPORT
Issued August 31, 2001



WILLIAM O. MONROE, CPA

**STATE OF FLORIDA
AUDITOR GENERAL**

TOWN OF WELAKA, FLORIDA

OPERATIONAL AUDIT

***For the Period October 1, 1999, Through February 28, 2001,
and Selected Actions Taken Prior to October 1, 1999***

OPERATIONAL AUDIT

TOWN OF WELAKA, FLORIDA

FOR THE PERIOD OCTOBER 1, 1999, THROUGH FEBRUARY 28, 2001, AND

SELECTED ACTIONS TAKEN PRIOR TO OCTOBER 1, 1999

Table of Contents

LETTER OF TRANSMITTAL

ABSTRACT

SCOPE, OBJECTIVES, AND METHODOLOGY

SUMMARY OF FINDINGS

FINDINGS AND RECOMMENDATIONS

GENERAL MANAGEMENT CONTROLS

Prior Audit Findings

Written Policies and Procedures

Separation of Duties

BUDGETARY CONTROLS

Budget Preparation

Budget Adoption

Budget Overexpenditures

CASH IN BANK

Bank Reconciliations

Stale-Dated Checks

Certificates of Deposit

Restricted Funds

CASH CONTROLS AND ADMINISTRATION

Prenumbered Forms

Responsibility for Collections

Deposit of Collections

REVENUES AND OTHER RECEIPTS

Water and Sewer Services

Fire Inspection Fees

PERSONNEL AND PAYROLL ADMINISTRATION

Council Members' Compensation

Hiring Practices

OTHER MATTERS

Awarding of Contracts for Services

Public Records Retention

Public Records Copy Fees

Sunshine Law

APPENDICES

BACKGROUND

STATEMENT FROM AUDITED OFFICIAL



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August 31, 2001

The President of the Senate, the Speaker of the
House of Representatives, and the
Legislative Auditing Committee

Pursuant to the provisions of Section 11.45, Florida Statutes, and as part of the Legislature's oversight responsibility for operations of local governmental entities, I have directed that an operational audit be made of the

TOWN OF WELAKA, FLORIDA

FOR THE PERIOD OCTOBER 1, 1999, THROUGH FEBRUARY 28, 2001,

AND SELECTED ACTIONS TAKEN PRIOR TO OCTOBER 1, 1999

The results of the operational audit of the Town of Welaka, Florida, are presented herewith.

Respectfully submitted,

A handwritten signature in cursive script that reads "William O. Monroe".

William O. Monroe
Auditor General

Audit supervised by:
Ted J. Sauerbeck

Audit made by:
Dawn M. Posey

ABSTRACT

OPERATIONAL AUDIT OF THE TOWN OF WELAKA, FLORIDA
FOR THE PERIOD OCTOBER 1, 1999, THROUGH FEBRUARY 28, 2001,
AND SELECTED ACTIONS TAKEN PRIOR TO OCTOBER 1, 1999

This abstract highlights the findings of audit report No. 02-027. The entire audit report should be read for a comprehensive understanding of our audit findings and recommendations.

SCOPE, OBJECTIVES, AND METHODOLOGY

SCOPE

The Auditor General is authorized by State law to perform independent financial and operational audits of governmental entities in Florida. At its February 6, 2001, meeting, the Joint Legislative Auditing Committee (JLAC) was presented with a certified petition signed by over 20 percent of the electors of the Town of Welaka, Florida (Town), requesting that the Auditor General conduct an audit of the Town. Specific allegations that prompted the petition relate generally to public records, budgets, cash, water and sewer and other revenues, compensation of the mayor and council members, contractual services, grant administration, and accounting records. Pursuant to Section 11.45(3)(b), Florida Statutes (2000), the JLAC directed the Auditor General to conduct the audit, but not to duplicate the audit coverage afforded by the Town's annual financial audit performed by a certified public accounting firm or by reviews conducted by the Florida Department of Community Affairs. Consequently, the Town's 1999-2000 fiscal year financial audit report disclosed several findings in areas that were excluded from the scope of this audit. This audit should be read in addition to the Town's annual financial audit for a comprehensive understanding of the adequacy of the Town's financial-related management controls and the Town's compliance with governing laws, ordinances, and other guidelines.

The scope of this audit included transactions during the period October 1, 1999, through February 28, 2001, and selected transactions taken prior to October 1, 1999, related to allegations concerning the Town's operations to determine whether such transactions were executed, both in manner and substance, in accordance with governing provisions of laws, ordinances, and other guidelines. In some instances, certain allegations required us to examine transactions related to certain specified Town officials, employees, or contractors that were the subject of the allegations.

As part of our audit and as required by generally accepted auditing standards, we requested certain written representations from the Town's attorney. As of August 31, 2001, the requested listing of litigation, claims, and assessments has not been received from the Town attorney. Absent the requested information, we were precluded from considering these representations on our evaluation of the administration of Town operations.

OBJECTIVES

Our audit objectives for the scope of this audit were to:

- Document our understanding of the Town's management controls relevant to the areas identified in specific allegations. Our purpose in obtaining an understanding of management controls and making judgments with regard thereto was to determine the nature, timing, and extent of substantive audit tests and procedures to be performed.
- Evaluate management's performance in administering its assigned responsibilities in accordance with applicable laws, ordinances, and other guidelines.
- Determine the extent to which the Town's management controls promoted and encouraged the achievement of management's objectives in the categories of compliance with controlling laws, ordinances, and other guidelines; the economic and efficient operation of the Town; the reliability of financial records and reports; and the safeguarding of assets.

METHODOLOGY

The methodology used to develop the findings in this report included the examination of pertinent records of the Town in connection with the application of procedures required by generally accepted auditing standards and applicable standards contained in *Government Auditing Standards* issued by the Comptroller General of the United States.

SUMMARY OF FINDINGS

This section of our report summarizes the results of our operational audit of the Town of Welaka, Florida, for the period October 1, 1999, through February 28, 2001, and selected actions taken prior to October 1, 1999.

GENERAL MANAGEMENT CONTROLS

Finding No. 1: Several findings included in the Town's 1999-2000 annual financial audit report had been reported for two to four years without correction. These included findings related to inadequate separation of duties, lack of general ledger control accounts, budget overexpenditures, improper assessment of late fees, failure to reconcile utility escrow deposit subsidiary records to the general ledger, and failure to file Internal Revenue Service Forms 1099 for contracted services.

Finding No. 2: The Town did not have written policies or procedures for many of its accounting and other business-related functions. Such policies and procedures are essential to providing both management and employees with guidelines regarding the proper conduct of Town business and the effective safeguarding of assets, and help ensure that Town records provide reliable information necessary for management oversight.

Finding No. 3: The Town had not provided for an adequate separation of duties in certain areas of operation, and had not adequately implemented certain compensating controls.

BUDGETARY CONTROLS

Finding No. 4: Contrary to Section 166.241(3), Florida Statutes, the Town did not consider all beginning fund equities available from prior fiscal years when preparing the 1999-2000 and 2000-2001 fiscal years budgets. In addition, the 1999-2000 and 2000-2001 fiscal year budgets did not include appropriations for all funds.

Finding No. 5: The Town, in adopting the 1999-2000 fiscal year budget ordinance, did not of record comply with the notice requirements prescribed by Section 166.041(3)(a), Florida Statutes.

Finding No. 6: Contrary to Section 166.241(3), Florida Statutes, actual 1999-2000 fiscal year expenditures and other financing uses exceeded amounts budgeted for certain expenditure object categories for the General Fund and in total for the Utility (Water and Sewer) Fund.

CASH IN BANK

Finding No. 7: The Town's bank reconciliation procedures were not sufficient to ensure that bank accounts were adequately and promptly reconciled.

Finding No. 8: Contrary to Sections 717.117 and 717.119, Florida Statutes, checks written by the Town that had been outstanding for over a year and constituting unclaimed property as defined by Sections 717.113 and 717.115, Florida Statutes, had not been reported or remitted to the Florida Department of Banking and Finance.

Finding No. 9: During the 1999-2000 fiscal year, the Town invested significant amounts of surplus moneys in certificates of deposit. Additional interest earnings could have been earned had the excess moneys been invested through the Florida State Board of Administration, and the Town may have been able to avoid short-term borrowings.

Finding No. 10: Contrary to the Florida Department of Banking and Finance's Uniform Accounting System Manual, the Town did not maintain separate accountability for the use of certain restricted revenues through the use of special revenue funds.

CASH CONTROLS AND ADMINISTRATION

Finding No. 11: Our audit disclosed deficiencies in management controls relating to accountability for, and safeguarding of, forms used to document collections and other transactions affecting cash resources.

Finding No. 12: Collections received through the mail were not documented at the initial point of collection, and checks were not immediately restrictively endorsed. In addition, collections were transferred between employees without the use of a transfer document.

Finding No. 13: The Town has not established adequate controls to ensure that amounts collected are recorded in the accounting records and deposited intact in a timely manner. Our tests disclosed instances where amounts collected were not, of record, posted to the accounting records and/or deposited.

REVENUES AND OTHER RECEIPTS

Finding No. 14: The Town had not established adequate controls to ensure the timely collection of amounts due from a local camp resort for lots sold pursuant to a written agreement related to the Town's providing of water and sewer services to the camp resort. We determined that as of April 2001, the camp resort owed the Town \$4,550 for lots sold since the inception of the agreement in May 1994.

Finding No. 15: The Town had not established adequate controls to ensure that annual fire safety inspections are performed for all the Town's existing commercial buildings and new construction projects, and that all fees assessed are collected. Our tests disclosed that the Town's records did not adequately support the basis for fire safety inspection fees assessed and also disclosed numerous inconsistencies between fees assessed and fees authorized to be assessed.

PERSONNEL AND PAYROLL ADMINISTRATION

Finding No. 16: Increases in Town Council members' compensation pursuant to Ordinances 96-3 and 98-13 may have been contrary to law and, as a result, Council members may have been overpaid \$33,900 during the period October 1996 through February 2001.

Finding No. 17: The Town has not established adequate controls to ensure that only qualified applicants were hired. Our tests disclosed several instances of noncompliance with Resolution 94-2B, which establishes requirements for hiring new employees.

OTHER MATTERS

Finding No. 18: Contrary to law and good business practices, the Town acquired certain professional services without using a competitive selection process and, in some instances, without benefit of formal written agreements. In addition, invoices submitted by contractors for financial services were not in sufficient detail to allow a determination as to whether fees charged were appropriate, and some fees charged appeared to be inconsistent with those agreed upon.

Finding No. 19: During the course of our audit, the Town was unable to provide certain public records. Town personnel were unable to provide explanations for the missing public records and there was nothing, of record, to indicate that the records were disposed of in accordance with a disposal program established pursuant to Section 119.01(4), Florida Statutes.

Finding No. 20: The Town, for a public records request that required extensive effort by Town personnel, did not demonstrate that related charges were calculated in accordance with Section 119.07(1)(b), Florida Statutes, and the Town's Public Records Ordinance, and has been unable to recover costs associated with the request. Also, the Town's Public Records Ordinance may not be consistent with State law.

Finding No. 21: Contrary to Section 286.011, Florida Statutes, minutes of meetings of the budget committee, which made recommendations to the Town Council regarding the preparation of the Town's annual budget, were not recorded.

The Town's written response to the audit findings and recommendations is presented as Appendix B to audit report No. 02-027.

OPERATIONAL AUDIT OF THE TOWN OF WELAKA, FLORIDA

For the Period October 1, 1999, Through February 28, 2001,

And Selected Actions Taken Prior to October 1, 1999

FINDINGS AND RECOMMENDATIONS

General Management Controls

FINDING No. 1: Prior Audit Findings

Pursuant to Section 11.45, Florida Statutes (2000), the Town is audited annually by a certified public accounting firm. Several findings included in the Town's annual financial audit report for the 1999-2000 fiscal year had been reported for two to four years without correction. Three of these findings, relating to inadequate separation of duties, lack of general ledger control accounts, and budget overexpenditures, have been reported in the Town's last four audit reports. The other three findings, relating to improper assessment of late fees, failure to reconcile utility escrow deposit subsidiary records to the general ledger, and failure to file Internal Revenue Service Forms 1099 for contracted services, have been reported in the Town's last two audit reports. Failure to take corrective actions in response to recommendations contained in the audit reports increases the chances of errors or irregularities occurring without detection.

Recommendation

The Town Council should ensure that audit findings are addressed in a timely manner.

FINDING No. 2: Written Policies and Procedures

Written policies and procedures, which clearly define responsibilities of employees, are essential in order to provide both management and employees with guidelines regarding the efficient and consistent conduct of Town business and the effective safeguarding of the Town's assets. In addition, written policies and procedures, if properly designed, communicated to employees, and effectively placed in operation, provide management additional assurances that Town activities are conducted in accordance with applicable laws, ordinances, and other guidelines, and that Town financial records provide reliable information necessary for management oversight. Also, written policies and procedures assist in the training of new employees.

Our review of Town operations disclosed that the Town did not have written policies and procedures for many of its accounting and other business-related functions. Written procedures were not available to document controls over budgets, revenues, petty cash, cash, fixed assets, payroll processing, and procurement of contractual services. Instances of noncompliance or inadequate management controls, which may have resulted, at least

in part, from a lack of written policies or procedures, are discussed in subsequent findings.

Recommendation

The Town, as applicable, should adopt comprehensive written policies and procedures consistent with applicable laws, ordinances, and other guidelines. In doing so, the Town should ensure that the written policies and procedures address the instances of noncompliance and management control deficiencies discussed in this report.

FINDING No. 3: Separation of Duties

The Town's 1999-2000 annual financial audit report indicated a general lack of separation of duties, which increased the possibility that unintentional errors or irregularities could exist and not be promptly detected. The audit report recommended that the Town, to the extent possible with existing personnel, separate employee duties so that no one employee has access to both physical assets and the related accounting records, or to all phases of a transaction. Our review of the Town's controls related to the areas included within the scope of our audit also disclosed inadequate separation of duties as follows:

- For water and sewer fee collections, one employee collected money, issued receipts, recorded collections to the accounting records, updated customers' accounts for payments received, prepared bank deposits, and reconciled collections of record to amounts deposited per validated deposit slips.
- For other types of collections, one employee was given custody of collections, recorded collections to the accounting records, prepared bank deposits, and reconciled collections of record to amounts deposited per validated deposit slips.

We recognize that the Town has limited staff available, making it difficult to adequately separate these functions; however, inadequate separations of duties due to a lack of available staff can be mitigated through the implementation of compensating controls such as the use and control of prenumbered documents and documented supervisory review. Our audit disclosed that the Town had not always adequately implemented such compensating controls as discussed in Findings Nos. 7 and 11.

Recommendation

The Town should, to the extent practicable, separate duties so that one employee does not have control of all aspects of a transaction (i.e., both recording responsibility and custody of assets). The Town should also ensure that adequate compensating controls are implemented to help mitigate circumstances in which adequate separation of duties is not possible.

Budgetary Controls

Section 166.241(3), Florida Statutes, provides that the governing body of each municipality shall adopt a budget each fiscal year by ordinance unless otherwise specified in the respective municipality's charter. The Town Council, by Ordinances 99-13 and 00-5, adopted budgets for the 1999-2000 and 2000-2001 fiscal years, respectively. Our review disclosed several deficiencies and/or violations of applicable law in the preparation, advertisement, and implementation of the budget as discussed in the following paragraphs.

FINDING No. 4: Budget Preparation

Our review of the Town's procedures for preparing the annual budgets for the 1999-2000 and 2000-2001 fiscal years disclosed the following:

- Section 166.241(3), Florida Statutes, states that the amount available from taxation and other sources, including amounts carried over from prior fiscal years, must equal the total appropriations for expenditures and reserves. Contrary to this law, the Town did not include in its annual budgets the beginning fund equities available from prior fiscal years. Although the Town's general purpose financial statements for the 1998-1999 and 1999-2000 fiscal years showed total ending fund equities of \$147,047 and \$169,983 (excluding contributed capital), respectively, for all governmental and proprietary fund types, the Town's 1999-2000 and 2000-2001 fiscal year budgets did not include any beginning fund equities. Failure to consider beginning fund equities in the budget diminishes the Town's ability to determine appropriate increases/decreases in revenues and/or expenditures that may be needed for the fiscal year for which the budget is being adopted.
- Section 166.241(3), Florida Statutes, provides that the budget must regulate expenditures of the municipality, and it is unlawful for any officer of a municipal government to expend or contract for expenditures in any fiscal year except in pursuance of budgeted appropriations. The Town receives various Federal, State, and local grants. A total of \$80,058 of grant revenues was reported on the Town's audited general purpose financial statements for the Special Revenue Fund for the 1999-2000 fiscal year. Although the Town Council approves grant agreements that are the basis for grant-related expenditures, the budgets adopted by the Town Council for the Town's 1999-2000 and 2000-2001 fiscal years did not include budgeted appropriations for Federal, State, and local grants. Note 1 to the Town's 1999-2000 general purpose financial statements states that an annual budget is not required for the Special Revenue Fund; however, we are unaware of any exemption from the requirements of Section 166.241(3), Florida Statutes, for revenues and expenditures accounted for in a special revenue fund.

We also noted that the Town's 1999-2000 and 2000-2001 fiscal year budgets did not include budgeted appropriations for amounts received from donations and/or fund-raising events. Such amounts totaled \$5,500, of record, for the 1999-2000 fiscal year. In response to our inquiry regarding this matter, the Mayor indicated that donations related to specific events involve volunteer efforts and are beyond the

scope of the day-to-day operation of the Town. However, any such moneys received by Town officers or employees and deposited into Town bank accounts constitute public funds that should be included in the Town's budget.

Recommendation

The Town, pursuant to Section 166.241(3), Florida Statutes, should consider all beginning fund equities when preparing future annual budgets, and ensure that all funds are considered when preparing future annual budgets.

FINDING No. 5: Budget Adoption

Section 166.041(3)(a), Florida Statutes, requires that all ordinances, except certain ordinances that make changes to zoning maps, be noticed once in a newspaper of general circulation in the municipality at least 10 days prior to adoption. Although requested, we were not provided with evidence that the Town had noticed Ordinance 99-13, by which the 1999-2000 fiscal year budget was adopted, in the manner required by Section 166.041(3)(a), Florida Statutes.

Recommendation

The Town Council, in the future, should ensure that budget ordinances are noticed in accordance with Section 166.041(3)(a), Florida Statutes, and maintain documentation evidencing such notices.

FINDING No. 6: Budget Overexpenditures

Section 166.241(3), Florida Statutes, provides that the budget must regulate expenditures of the municipality, but does not establish the level of detail at which budgeted appropriations are to be made. Likewise, the Town Charter does not establish the legal level of budgetary control (i.e., the level at which expenditures cannot be lawfully exceeded). Consequently, it is incumbent on the Town Council to make appropriations and adopt a budget at the level of detail that it deems necessary to provide for appropriate budgetary control. Once the Town Council has established the legal level of budgetary control, expenditures must be limited accordingly. The 1999-2000 fiscal year budget adopted by the Town Council by Ordinance 99-13, and amended by Ordinance 00-4, established the legal level of budgetary control at the object level. Appropriations for expenditures were presented at the object level for each fund, and there was no indication in the cited ordinances or Town's minutes that a level other than the object level should be used to control expenditures.

The Town's annual financial audit reports have disclosed, for several years, that General Fund expenditures have exceeded amounts budgeted, due to costs of certain grants that were not reimbursed, accrual of disbursements at year-end, and other unbudgeted items. In addition to such budget overexpenditures, which totaled \$123,588 in 20 expenditure categories for the 1999-2000 fiscal year, we noted that the Town's total actual expenditures/expenses and other financing uses for the Utility (Water and Sewer) Fund

for the 1999-2000 fiscal year, as shown on the Town's audited general purpose financial statements, exceeded the total budgeted expenditures/expenses and other financing uses by \$39,191.

Recommendation

Although the Town had available resources for the 1999-2000 fiscal year to offset the above-note overexpenditures, the Town, in accordance with Section 166.241(3), Florida Statutes, should ensure that future expenditures do not exceed budgetary authority.

Cash in Bank

FINDING No. 7: Bank Reconciliations

An essential element of internal control over assets entrusted to a governmental organization is the periodic comparison of such assets actually determined to be on hand with the recorded accountability for the assets. Because of the susceptibility of cash to loss, this is particularly important for cash on deposit with banking institutions. Accountability for such deposits is accomplished by the preparation of bank reconciliations as soon as possible after the receipt of monthly bank statements. In the event of a loss of cash, failure to reconcile bank accounts to the records of the Town could result in a failure to detect and recover the loss.

The Town maintained several bank accounts into which the Town's public funds were deposited. Total cash held on deposit in these accounts at September 30, 2000, was \$26,845 (excluding certificates of deposit and customer utility deposits). The Town's 1999-2000 annual financial audit report dated February 26, 2001, indicated that bank reconciliations had not been prepared since August 2000, and recommended that all bank accounts be reconciled monthly and reviewed by someone in authority. Our review of the Town's bank reconciliation procedures for the General and Utility Funds operating bank accounts disclosed the following:

- Several reconciling items were not promptly resolved, including numerous checks that had been outstanding for several years (see discussion in Finding No. 8).
- In several instances, check information shown in the accounting records did not match check information shown on the cancelled check and/or the bank statement. For example, in some instances, the accounting records indicated that a check was written to a different person than the person indicated on the check, while in other instances, the amount of a check as shown in the accounting records did not match the amount of the check as shown on the bank statement. In other instances, the same check number was recorded several times in the accounting records. Although Town officials provided explanations for some of these instances, such instances make it difficult to timely and adequately prepare bank reconciliations.

Given the above-noted inadequate and untimely bank reconciliations and check information discrepancies, and considering other control deficiencies disclosed in this

report, such as the inadequate separation of duties and lack of controls over collections as discussed in Findings Nos. 3 and 11, respectively, there is an increased risk that errors or irregularities could occur without being promptly detected.

Recommendation

To assure that accountability is maintained for cash on deposit with banks, the Town should ensure that the recommendations included in the Town's annual financial report are implemented. Additionally, the Town's bank reconciliation procedures should be enhanced to ensure that reconciling items are promptly resolved and prompt adjustments made to the accounting records to correct check information discrepancies such as those disclosed above.

FINDING No. 8: State-Dated Checks

Sections 717.113 and 717.115, Florida Statutes, state that all intangible property and unpaid wages, including wages represented by unrepresented payroll checks, owing in the ordinary course of the holder's business that have remained unclaimed by the owner for more than one year after becoming payable are presumed abandoned. Furthermore, Sections 717.117 and 717.119, Florida Statutes, require that any person holding abandoned property shall report such property to the Florida Department of Banking and Finance (FDBF) by May 1 of each year for the previous calendar year, and simultaneously deliver such property to the FDBF.

Our review of the Town's accounting records disclosed that as of April 2001, payroll and other expenditure checks for the Town totaling \$1,231 had been outstanding in excess of one year. These included payroll and other expenditure checks for the Town totaling \$888 that had been outstanding in excess of one year as of December 31, 1999, and were required to be reported and remitted to the FDBF as of May 1, 2000. Contrary to the above-noted law, these unclaimed outstanding checks, which constitute unclaimed property as contemplated by Chapter 717, Florida Statutes, had not been reported or remitted to the FDBF as of the time of our review in April 2001. Pursuant to Section 717.117(4), Florida Statutes, the Town may be subject to as much as \$500 in penalties for failing to timely report abandoned property to the FDBF.

Recommendation

The Town should take appropriate action to file the required report and deliver any unclaimed moneys to the FDBF.

FINDING No. 9: Certificates of Deposit

Section 218.415, Florida Statutes, governs the investment of surplus funds by local governmental entities and authorizes various types of investments including the Local Government Surplus Funds Trust Fund administered by the Florida State Board of Administration (SBA), money market funds, interest-bearing time deposits, savings accounts, and direct obligations of the United States Treasury. However, Section 37 of

Chapter 24975, Laws of Florida (1947), imposes certain restrictions on the Town's investments that may limit the Town's ability to utilize investments authorized by Section 218.415, Florida Statutes, such as the SBA Local Government Surplus Funds Trust Fund, and other investment products developed since 1947.

The Town primarily invested surplus moneys in certificates of deposit, which totaled \$223,904 and \$291,902 at September 30, 1999, and 2000, respectively. Based on information provided by Town personnel, interest rates on the certificates of deposit during the period October 1999 through December 2000 ranged from 2.76 to 5.9 percent. The Town could have earned additional interest had it invested surplus moneys with the SBA, which offered an average rate of return of about 6.15 percent during the same time period, rather than investing the funds in certificates of deposit.

Placing investments with the SBA also provides greater liquidity than certificates of deposit and may eliminate the need for the Town to make short-term borrowings. For example, we noted that the Town borrowed \$30,206 at an interest rate of 9.5 percent in October 2000 while at the same time it had well in excess of that amount invested in certificates of deposit.

Recommendation

To maximize interest earnings on surplus Town funds and reduce the need to make short-term borrowings, and thereby reduce the costs borne by the taxpayers for services provided by the Town, the Town should review its investment practices and, when appropriate, make investments through the SBA or in other authorized investments offering competitive returns consistent with safety and liquidity requirements. If necessary, and given the subsequent enactment of Section 218.415, Florida Statutes, as well as the development of new investment products since 1947, the Town should adopt an ordinance amending Section 37 of Chapter 24975, Laws of Florida (1947), so as to permit the Town greater flexibility in making investments.

The Mayor, in his response to this finding, indicated that the Town's certificates of deposit are pledged to certain reserves and as an inducement for funding from a bank apparently needed to obtain grant funding. However, the Mayor did not provide with his response, or during the course of the audit, documentation that would allow us to verify the stated pledges of the certificates of deposit. The Mayor further stated that "parties to whom we are responsible currently are satisfied with the certificates of deposit and wish that we do not become as flexible as the finding brings to our attention." The Mayor did not identify the parties to whom the city is responsible; however, the citizens of the Town of Welaka certainly represent a significant party to which the Town is responsible. The point of our finding is that it is in the best interests of the Town's citizens to obtain the highest earnings on its moneys consistent with liquidity and safety considerations.

FINDING No. 10: Restricted Funds

Pursuant to Section 218.33(2), Florida Statutes, local governmental entities must follow uniform accounting practices and procedures promulgated by the Florida Department of Banking and Finance (FDBF). The FDBF has developed a *Uniform Accounting System Manual (Manual)*, which establishes financial accounting and reporting requirements for all units of local government. Chapter 1 of the *Manual* requires that local governmental entities use the classification of funds as prescribed in the *Manual* and classifies a special revenue fund as the fund to use “To account for the proceeds of specific revenue sources (other than expendable trusts or for major capital projects) that are legally restricted to expenditure for specified purposes.” Accordingly, to maintain separate accountability for restricted revenue sources, the Town should establish a special revenue fund for each type of restricted revenue source in accordance with the *Manual*.

During the 1999-2000 fiscal year, the Town received several types of revenues that were legally restricted to expenditure for specified purposes, but for which the Town did not use a special revenue fund to separately account for the revenues. These included the following revenue sources:

- Local option motor fuel taxes received pursuant to Section 336.025, Florida Statutes, which may be used only for specific transportation expenditures as defined by Section 336.025(7), Florida Statutes. These moneys, which totaled \$19,250 for the 1999-2000 fiscal year, were accounted for in the General Fund together with unrestricted Town revenues.
- Revenues from donations and/or fund-raising events, which may be used only for donor-specified purposes or for purposes for which a fund-raising event was held. The Town established separate bank accounts for deposit of such moneys, which totaled \$5,500, of record, for the 1999-2000 fiscal year. However, such moneys were not accounted for separately through the use of special revenue funds, but were instead commingled with General Fund moneys and, as a result, expenditures of such moneys were not separately identified.
- Various Federal, State, and local grants, including a community development block grant and recreation development assistance grant, which may be used only for specific purposes as prescribed by grantor guidelines. The Town established separate bank accounts for deposit of such moneys, which totaled \$80,058 for the Special Revenue Fund for the 1999-2000 fiscal year, and the Town attempted to account for grant transactions in its accounting records through the use of a special revenue fund. However, the Town’s accounting records did not fully reflect all grant transactions for the 1999-2000 fiscal year. Consequently, amounts reported on the Town’s audited general purpose financial statements for the Special Revenue Fund for the 1999-2000 fiscal year had to be determined by the independent certified public accounting firm, at least in part, based on an examination of a manual ledgers, monthly reports from grant administrators, and documentation supporting individual transactions.

Failure to record transactions related to restricted revenues in the Town's accounting records, and to account for restricted revenues through the use of separate special revenue funds, limits the Town's ability to control the use of restricted moneys and/or to demonstrate in its public records that such moneys were used for authorized purposes. Further, the use of separate fund accounting would eliminate the need to maintain a separate bank account for each restricted revenue source.

Recommendation

The Town should ensure that all transactions related to restricted revenues are recorded in the accounting records, and establish accountability for each restricted revenue source through the use of separate special revenue funds in accordance with the FDBF Manual. To the extent practical, the Town should review balances on hand and recent transactions to ensure that all restricted moneys have been used for authorized purposes.

The Mayor, in his response to this finding, indicated that consideration would be given to transferring responsibility for fund-raising events from the Town's control to private enterprises, which would then present the funds to the Town. The Mayor should be aware that regardless of the fund-raising mechanism, once the moneys come into the possession of the Town, they become public funds and must be subjected to the same recordkeeping requirements and controls as other public funds.

The Mayor also indicated that the Town realizes that ad valorem taxes may not be used on street and road improvements and does not allocate ad valorem tax proceeds to such purposes. While the Town may place such a restriction on the use of ad valorem tax proceeds, we are unaware of any such restriction under Florida law. As indicated in the finding, it is the local option motor fuel taxes received pursuant to Section 336.025, Florida Statutes, that should be accounted for in a separate fund.

Cash Controls and Administration

Collections of various taxes, fees, and charges (see discussion under the subheading Revenues and Other Receipts) are generally received at the Town Hall. Town management is responsible for establishing adequate controls that provide reasonable assurance that cash collections are safeguarded against loss from unauthorized use or disposition. To accomplish this, management should establish controls that include appropriate documentation procedures, separation of duties among employees, and independent internal verification procedures. Documentation procedures should include the preparation of records evidencing collections, such as the use of a receipt log (listing) and/or the use of prenumbered receipts, immediately upon receipt of the collections. In addition, transfers of collections between employees should be properly documented from the time of collection to deposit.

FINDING No. 11: Prenumbered Forms

Prenumbered forms can provide a means of accounting for collections and other transactions affecting cash resources. For example, prenumbered receipt forms provide a means for documenting amounts collected by employees and for fixing responsibility for such amounts. Once a prenumbered receipt has been written for an amount collected, it is possible, by accounting for the prenumbered receipts, to determine whether amounts received for are subsequently recorded to the accounting records and deposited.

Collections of water and sewer fees were documented through the use of computer-generated, sequentially numbered, receipts and, if requested by customers, by manually prepared prenumbered receipt forms. Other collections were generally documented through the use of manually prepared prenumbered receipt forms (see Finding No. 12 regarding collections received through the mail). In addition, the Town issued prenumbered building permits and non-prenumbered occupational licenses that provide a basis for accountability for building permit and occupational license fees collected. Our audit disclosed the following deficiencies relating to accountability and control over these forms:

- The Town did not maintain a record showing the description and numbers of prenumbered receipts and building permits purchased, personnel to whom the receipts and building permits were assigned, the numbers and dates of receipts and building permits used, and the numbers and dates of receipts and building permits returned unused. As such, an accounting for prenumbered receipts and building permits was not accomplished of record. As a result, it was not practical for us to determine whether all prenumbered receipts and building permits acquired were properly accounted for; however, we did note that seven prenumbered receipts were missing and one building permit was missing (i.e., neither the original or copy was available). Town personnel were unable to provide explanations for these missing forms.
- Most collections (other than those received by mail) were documented through the use of prenumbered receipts; however, individuals making the payments were only provided a prenumbered receipt copy if requested.
- Occupational licenses issued were not prenumbered. In the absence of prenumbered forms, the Town cannot obtain reasonable assurance that occupational license fees have been properly assessed, collected, and deposited.
- Unused prenumbered receipts and building permits, as well as the non-prenumbered occupational license forms, were kept on a shelf in Town Hall and were generally accessible by Town personnel without restriction.

Recommendation

The Town should use prenumbered forms to document all cash collections, maintain a record of prenumbered forms purchased, and periodically reconcile the record of forms purchased to forms on hand, assigned, used, or returned, and outstanding to

determine whether all forms have been properly accounted for. The forms should be adequately safeguarded, and access to such forms restricted to only those employees whose duties require such access.

FINDING No. 12: Responsibility for Collections

An adequate internal control structure requires that the receipt of collections be recorded at the initial point of collection in order to establish accountability as soon as possible. Also, the immediate placement of restrictive endorsements on checks can be an effective deterrent to misappropriation of checks. Our audit disclosed that responsibility for collections was not documented from time of collection to subsequent deposit as follows:

- Collections received through the mail were not documented at the initial point of collection through the use of a mail log or other means.
- Checks received in the mail were not restrictively endorsed by the employee opening the mail, and checks received in person were not immediately restrictively endorsed.
- Collections were transferred between Town personnel without the use of transfer documents to evidence the transfer of collections.

Under the above conditions, should a loss of collections occur, it may not be possible for the Town to fix responsibility for the loss to the appropriate individual.

Recommendation

The Town should establish procedures that require all collections to be recorded at the initial point of collection and provide for evidence of transfers among employees. All checks should be restrictively endorsed immediately upon receipt.

The Mayor, in his response to this finding, stated: "There is no ability at the present time with 2 and ¾ employees to become totally bogged down in mundane transfers among the two plus employees." The Mayor also stated, in response to Finding No. 1: "The Town cannot afford a sufficient staff to have an ideal separation of duties, but safeguards are in place to have handling of funds appropriately separated." The inability to hire sufficient staff to provide for an ideal separation of duties makes the reliance on other controls, such as transfer receipts, particularly important in safeguarding the collections. With neither an adequate separation of duties nor transfer receipts, it is not apparent how the Town could assure an adequate level of control.

FINDING No. 13: Deposit of Collections

Our test of collections for the period October 1999 through February 2001 indicated that the Town's procedures were not adequate to ensure that amounts collected were timely

posted to the accounting records and deposited intact. Specifically, our test of 60 collections disclosed the following:

- Four collections (7 percent) were not deposited but were instead used to replenish petty cash rather than maintaining a fixed petty cash amount and replenishing such amount periodically through a disbursement from the Town's operating account. These amounts were generally small amounts (less than \$10).
- Four collections (7 percent) totaling \$143 were not, of record, deposited or used to replenish the petty cash fund. Town personnel were unable to provide explanations for the failure to deposit these collections.
- Twenty-six collections (43 percent) totaling \$6,161 were not timely deposited (the number of days from collection date to deposit date ranged from 5 to 40 working days).
- Twenty-five collections (42 percent) totaling \$1,488 did not appear to have been recorded in the accounting records. The Town's procedures for recording collections in the accounting records were such that in many instances the amounts collected per individual receipts were lumped together with other collections and recorded in a miscellaneous revenue account, precluding us from tracing individual amounts collected per receipts to the accounting records. Because of a lack of sufficiently detailed records and/or untimely recording of the collections (see below), it was not practical for us to determine whether or not such recording was accomplished for these 25 instances.
- Seventeen collections (28 percent) totaling \$6,080 were not timely posted to the Town's accounting records. The deposit dates in these instances ranged from January 10, 2001, to March 21, 2001, and were subsequently recorded in the Town's accounting records in April 2001 after we inquired about them.

Recommendation

The Town should enhance its procedures to ensure that amounts collected are timely recorded in the accounting records and deposited intact. This should include discontinuing the practice of replenishing petty cash with amounts collected, and maintaining sufficiently detailed documentation clearly evidencing that each payment received is recorded in the accounting records and deposited. Also, the Town should investigate the discrepancies disclosed by our audit, details of which were provided to the Mayor, and take appropriate action based on their findings.

Revenues and Other Receipts

For the 1999-2000 fiscal year, the majority of Town revenues were from water and sewer charges; ad valorem, utility service, and local option taxes; Federal, State, and local grants; and State revenue-sharing. The Town also received a substantial amount of revenue from other sources such as franchise, building permit, occupational license, and fire inspection fees, and various other miscellaneous sources, including amounts collected from donations and fund-raising events.

FINDING No. 14: Water and Sewer Services

The Town's 1999-2000 annual financial audit report included several findings and recommendations relating to water and sewer billings and collections. Consistent with the Joint Legislative Auditing Committee's request that our audit not duplicate audit coverage afforded by the Town's annual financial audit, the scope of our audit did not include water and sewer billings and collections. However, we did address specific concerns brought to our attention regarding special fees assessed to a local camp resort.

In May 1994, the Town entered into a five-year agreement with a local camp resort whereby the Town agreed to provide water and sewer services to the camp resort. In addition to regular charges for water and sewer services, the agreement, which was extended for a period of five years in February 1999, provides that the camp resort will pay to the Town the sum of \$100 per site for each site sold from the project. According to the Mayor, this provision was included as an inducement for the Town to provide water and sewer services to the camp resort.

According to the Town's records, the Town has received \$4,700 of payments from the camp resort for lots sold since the inception of the agreement in May 1994. Prior to August 2000, the Town had not sent notices to the camp resort regarding amounts due to the Town for lots sold, nor made any other attempts to determine which lots had been sold and what amounts of payments were due. Instead, the Town relied on the camp resort to inform the Town as to which lots have been sold and to remit payments to the Town in accordance with the agreement. The Town sent a letter dated August 7, 2000, to the camp resort requesting proof of all lots sold and fees paid. The Town, based on an examination of camp resort records, determined that it was due an additional \$1,700 related to 17 lots sold for which the Town had not received payment. The Town, in a letter dated November 20, 2000, requested the camp resort to remit the \$1,700, and a follow up letter was sent to an attorney representing the camp resort in January 2001. As of the time of our review in April 2001, the camp resort had not remitted the \$1,700 to the Town.

Through examination of the Putnam County Property Appraiser's records of properties sold since the inception of the agreement, and examination of other available documentation, we determined that the camp resort still owed the Town \$4,550 as of the time of our determination in April 2001 (\$2,850 more than the amount indicated in the Town's letter dated November 20, 2000).

Recommendation

The Town, in consultation with its legal counsel, should take appropriate actions to compel the camp resort to pay the amount due. The Town should also establish procedures that require periodic assessments (at least annually) of amounts due to the Town for lots sold by the camp resort and notification to the camp resort thereof.

The Mayor, in his response to this finding, appears to indicate that under the terms of the Town's agreement with the camp resort, it is the

responsibility of the camp resort to assure that all amounts owed to the Town are paid to the Town. Notwithstanding the existence of any such provisions, the Town has a responsibility for assuring that all amounts owed to the Town are, in fact, collected.

FINDING No. 15: Fire Inspection Fees

The Town Council of Welaka adopted Ordinance 97-34 for the fire inspection of existing buildings and of new construction projects within the corporate limits of the Town. Ordinance 97-34 provides that fees shall be established by resolution for permits, certificates, approvals, and other functions performed under the fire safety codes. On October 14, 1997, the Town Council of Welaka passed Resolution 97-35R, which established fire marshal plan review and inspection fees. Fees for reviewing plans were, in some instances, based on the total square footage of the building although fees for certain types of plan reviews were fixed per plan (for commercial hood and duct systems) or event (for public fireworks displays). Fees for annual inspections of occupied buildings, and for second and third re-inspections required because of violations noted during the initial or first re-inspection, were based on total square footage (the first re-inspection is free).

Our examination of fire safety inspection fees assessed and collected for calendar year 2000 and 2001 inspections (done in February 2000 and February 2001, respectively) disclosed the following:

- The Town maintained a record of all businesses and other occupied buildings in Welaka requiring an annual fire safety inspection. According to the Town's list of occupied buildings requiring inspection, a total of 37 occupied buildings were required to have such an inspection for the calendar years 2000 and 2001. However, according to Town records, only 28 and 29 inspections of occupied buildings were done in February 2000 and February 2001, respectively, including inspections done for 6 businesses that were not on the Town's list of occupied buildings requiring inspection. In response to our inquiry, Town personnel indicated that 3 of these businesses had paid occupational license fees and were required to have an inspection, while the other 3 should not have had inspections as they were not located in Welaka. In addition, according to the Town's records, inspections were not done for 15 and 14 buildings, for the calendar years 2000 and 2001, respectively, included on the Town's list of occupied buildings requiring inspection.
- As prescribed by Resolution 97-35R, fees for annual inspections of occupied buildings are \$20 for buildings with up to 25,000 of square footage, \$35 for buildings with between 25,000 and 50,000 of square footage, and \$10 for each additional 5,000 of square footage above 50,000 square feet. Because the Town did not maintain a record of the square footage of the buildings inspected, we could not determine whether fees were properly assessed for these inspections. However, we noted that the fees assessed in February 2001 were either \$25 or \$40, which are not consistent with the fees established by Resolution 97-35R.

- As prescribed by Resolution 97-35R, fees for second re-inspections of occupied buildings are \$20 for buildings with up to 25,000 of square footage and \$35 for buildings with more than 25,000 of square footage. Fees for third re-inspections of occupied buildings are \$40 for buildings with up to 25,000 of square footage and \$75 for buildings with more than 25,000 of square footage. According to Town records, a total of 10 and 7 re-inspections of occupied buildings were done in March 2000 and March 2001, respectively. Because the Town's record of re-inspections done did not indicate whether these were first, second, or third re-inspections, we could not determine whether fees were properly assessed for these re-inspections. However, we noted that the fees assessed in February 2000 and February 2001 were either \$10 or \$15, which are not consistent with the fees established by Resolution 97-35R.
- As prescribed by Resolution 97-35R, fees for specialty plan reviews related to sprinkler systems and fire alarm systems are \$40 and \$30, respectively, per 50,000 of square footage, while the fee for specialty plan reviews related to commercial hood and duct inspections is \$30. We noted that fees assessed for these types of inspections in February 2000 and February 2001 were either \$10 or \$15, which were not consistent with the fees established by Resolution 97-35R.
- As of the time of our review in June 2001, 13 of 28 businesses for which inspections were made in February 2000, and 9 of 29 businesses for which inspections were made in February 2001, had not paid their fire safety inspection fee. Delinquent fees related to these inspections totaled \$715. Although the Town sent notices of payments due to the businesses (in some cases up to three notices), neither the notices or Resolution 97-35R indicated the time frame in which dues were required to be paid following inspections. Further, Resolution 97-35R does not provide for any consequences regarding the failure to pay such fees, nor did the Town, of record, take any action beyond the notices (e.g., cancellation of occupational licenses) to compel payment of the fees.

Although requested, we generally were not provided with explanations and supporting documentation regarding the above-noted discrepancies. Based on the results of our audit procedures, the Town does not have adequate controls in place to ensure that annual fire safety inspections are performed for all the Town's existing commercial buildings and new construction projects, and that all related fees are properly assessed and timely collected.

Recommendation

The Town should review and modify, as appropriate, its fire safety inspection procedures to ensure that inspections are performed as required, fees assessed and collected in accordance with Resolution 97-35R, and sufficiently detailed documentation maintained clearly evidencing the basis for fees assessed. Also, the Town Council should consider modifying Resolution 97-35R to provide consequences for failure to pay such fees. In addition, the Town should investigate the discrepancies disclosed by our audit, details of which were provided to the Mayor, and take appropriate action to remedy over or under assessments of fees.

Personnel and Payroll Administration

The Town reported salary expenditures/expenses of approximately \$194,000 for the 1999-2000 fiscal year. Section 15 of Chapter 24975, Laws of Florida (1947), provided that the Town Council was to fix by ordinance the salary or compensation of all officers. Subsequently, the Town Council adopted several ordinances related to officer/employee compensation and other personnel policies and procedures.

FINDING No. 16: Council Members' Compensation

Section 8 of Chapter 24975, Laws of Florida (1947), provided that Town Council members serve without pay. Subsequently, the Town Council enacted ordinances that established compensation for Town Council members, including the Mayor. The most recent of these ordinances was Ordinance 89-8, which increased the Mayor's compensation to \$200 per month, and each of the other Town Council members' compensation to \$100 per month.

The Town's 1996-97 fiscal year budget, adopted pursuant to Ordinance 96-3, provided for an increase in the Mayor's compensation to \$400 per month. The Town's 1998-99 fiscal year budget, adopted pursuant to Ordinance 98-13, provided for an increase in the Mayor's compensation to \$800 per month, and an increase in the other Town Council members' compensation to \$200 per month.

Section 166.041(2), Florida Statutes, provides that each ordinance must embrace but one subject and matters properly connected therewith, and must clearly state the subject in the title. This Section further states that ordinances to revise or amend shall set out in full the revised or amended act, section, subsection or paragraph. Ordinances 96-3 and 98-13 did not comply with the requirements of Section 166.041(2), Florida Statutes, regarding the change in Town Council members' compensation as they did not state in their title, or otherwise in the ordinance, that they addressed a change in compensation for the Town Council members. We also noted that the budget advertisement for Ordinance 96-3, required by Section 200.065(2)(d), Florida Statutes, and ordinance notice for Ordinance 98-13, required by Section 166.041(3)(a), Florida Statutes, did not specifically address the issue of Town Council members' compensation. Further, although requested, we were not provided with evidence of compliance with the ordinance notice requirements of Section 166.041(3)(a), Florida Statutes, for Ordinance 96-3, and evidence of compliance with the budget advertisement requirements of Section 200.065(2)(d), Florida Statutes, for Ordinance 98-13.

Based on our review of Town ordinances and discussions with the Mayor, Ordinances 96-3 and 98-13 appear to be the only ordinances adopted since Ordinance 89-8 that affected Town Council members' compensation. Given the lack of specificity of Ordinances 96-3 and 98-13 regarding of the Town Council members' increases in compensation, it is questionable as to whether such increases were lawful, in which case the Town Council members should have been compensated in accordance with Ordinance 89-8. We determined that had Town Council members been paid in

accordance with Ordinance 89-8, they would have received \$33,900 less in compensation during the period October 1996 through February 2001.

Recommendation

The Town Council should ensure that future increases in Council members' compensation are specifically addressed by properly noticed ordinances in the manner prescribed by Section 166.041, Florida Statutes. The Town Council should also consult with legal counsel regarding any actions that should be taken relating to compensation paid in excess of that authorized by Ordinance 89-8.

The Mayor, in his response to this finding, stated that "both of the amending ordinances provided that all prior ordinances and parts of ordinances in conflict therewith were repealed. Further, it has been held that an amendatory ordinance is sufficient if it is complete and intelligible in itself without the necessity of referring to the books to relate it to the amended ordinance in order to ascertain the meaning of the amendment. Hallandale v. State, 371 So.2d 186 (Fla. 4th DCA 1979). In fact, it is axiomatic in this State that an ordinance may be impliedly repealed by a subsequent enactment of an ordinance plainly in conflict with it." We do not concur that the Hallandale case cited in the Mayor's response supports the propriety of the increase in the Mayor's and Town Council members' compensation to a level greater than that specified in Ordinance 89-8. The purpose of Subsection 166.041(2), Florida Statutes, as made clear in Hallandale, is to inform both the legislative body and the public of the nature and extent of the proposed change in existing law. See also Attorney General Opinion No. 73-449. We continue to believe that increases in the compensation paid to the Mayor and Town Council members require a specific amendment to Ordinance 89-8 and may not be accomplished by merely including such increases in the Town's adopted budget. We recommend that future payments be limited to the levels specified in Ordinance 89-8 until, and if, such Ordinance is appropriately amended.

FINDING No. 17: Hiring Practices

As a matter of good business practice, the Town procedures for hiring new employees should include ensuring that applicants are qualified by contacting previous employers to verify work experience and by examining documentation of education. Such procedures help ensure that persons hired are capable of fulfilling the responsibilities of the position for which they are hired and that the most qualified applicant is hired for the position. Advertising available positions enhances the Town's ability to find qualified persons for vacant positions.

Resolution 94-2B, which establishes the Town's personnel policies and procedures, including the hiring of new employees, provides that an individual appointed by the Mayor must oversee the advertising of positions to be filled, screen applications for

required qualifications, and make recommendations to the Town Council on hiring for said position(s). Our audit test disclosed the following instances of noncompliance with Resolution 94-2B:

- For six new hires during the period September 1998 through February 2001, the Town did not, of record, advertise the positions to be filled. In response to our inquiry, the Mayor indicated that five of the six were hired through employment agencies. While the use of employment agencies may be an appropriate means of hiring employees, failure to advertise vacant positions does not appear to be consistent with Resolution 94-2B.
- For three new hires, there was nothing of record demonstrating that the hirings of the employees were recommended to (and approved by) the Town Council prior to the employee being hired. In response to our inquiry, the Mayor stated that the hiring of one of these employees, who was contracted through a employment agency prior to being employed on a permanent basis as Town Clerk in September 1998, was approved by the Town Council. However, while the minutes for the Town Council's September 25, 1998, meeting evidence discussion of using this employee to temporarily take over the Town Clerk's duties while the Town Clerk was on a leave of absence, there was no indication that the Town Council approved hiring this employee as a permanent replacement for the Town Clerk.

Recommendation

The Town should review and modify its procedures for hiring new employees to ensure compliance with Resolution 94-2B.

Other Matters

FINDING No. 18: Awarding of Contracts for Services

The Town is responsible for establishing internal controls that provide assurance that the process of acquiring contractual services is effectively and consistently administered. As a matter of good business practice, procurement of services should be done using a competitive selection process to provide an effective means of equitably procuring the best quality services at the lowest possible cost. In addition, contractual arrangements for services should be evidenced by written agreements embodying all provisions and conditions of the procurement of such services. The use of a formal written contract protects the interests of the Town, identifies the responsibilities of both parties, defines the services to be performed, and provides a basis for payment.

Expenditures for professional services totaled approximately \$45,500 for the 1999-2000 fiscal year. As discussed below, our audit disclosed several deficiencies regarding the administration and payment of professional services:

- Section 11.45(3)(a)6., Florida Statutes (2000), requires that a municipality establish an auditor selection committee and competitive auditor selection procedures for employing a firm to perform the municipality's required annual audit. The Town

may elect to use its own competitive auditor selection procedures or the procedures outlined in Section 11.45(3)(a)7., Florida Statutes (2000). The Town used a public accounting firm to provide auditing services. The same public accounting firm has been used for several years. The Town Council, at its March 10, 2000, meeting approved the continued use of the firm for auditing services for fiscal years ended September 30, 1999, through September 30, 2001, and entered into an agreement with the firm. Although requested, we were not provided with documentation evidencing that the Town used a competitive selection process as required by Section 11.45(3)(a), Florida Statutes, prior to entering into the agreement.

The Town also used the above-noted public accounting firm to provide nonauditing services such as computer software training and other technical assistance. Although requested, we were not provided with documentation evidencing that the Town used a competitive selection process prior to selecting the firm to provide the nonauditing services. Payments for nonauditing services not related to bookkeeping and recordkeeping assistance during the period October 1999 through February 2001 were made without benefit of a written agreement specifying the exact nature of the nonauditing services to be provided or the hourly rates associated with such services. Subsequent to our inquiry, the Town entered into a written agreement with the firm regarding these types of nonauditing services.

According to the Town's accounting records, the firm was paid a total of \$14,238 for auditing and nonauditing services rendered during the period October 1999 through February 2001. Although requested, we were not provided with invoices supporting \$7,351 of payments made to the firm. Invoices supporting the remaining payments totaling \$6,887 were not in sufficient detail to demonstrate the specific nature of the services provided, the hourly rates, the number of hours, and/or details of out-of-pocket expenses for which the firm was seeking reimbursement. However, we did note one instance in which the firm was paid \$150 more than the amount shown as payable on the invoice.

- The Town Council, at a special meeting held April 1, 1996, selected a law firm to provide legal services and has used the same firm since. According to the minutes for that meeting, and attachments thereto such as letters/resumes, three other firms also submitted proposals to provide legal services to the Town. Although requested, we were not provided with documentation, such as the criteria used to evaluate and rank each applicant, demonstrating the basis for the Town Council's selection.

During the period October 1999 through February 2001, the firm was paid a total of \$48,177 for services rendered. Payments made to the firm for legal services were made without benefit of a written agreement specifying the nature of the services to be provided. The proposal submitted by the firm, and Town Council meeting minutes, indicated that the firm would provide legal services for a \$450 per month retainer to cover the first five hours of services provided and \$125 for each hour thereafter. Our review of invoices submitted by the firm for services rendered during the period October 1999 through February 2001, disclosed three instances in which the Town was charged \$125 per hour for the first five hours rather than at the rate specified in the proposal and meeting minutes, resulting in apparent net overpayments

totaling \$179.50. Although requested, we were not provided with an explanation for these discrepancies.

Without using a competitive selection process when acquiring professional services, the Town cannot be assured that such services are being obtained at the lowest cost consistent with acceptable quality and performance. Furthermore, in the absence of a written contract specifying the nature of the services to be performed and the amount of compensation to be provided, and/or detailed invoices describing the services provided, hourly rate charged, and number of hours billed, the Town cannot be assured that payments made to contractors are in compliance with the intent of the Town Council and that the Town received the services to which it is entitled.

Recommendation

The Town should comply with the competitive selection provisions of Section 11.45(3)(a)5., Florida Statutes (2000), when acquiring auditing services for the Town. As a matter of good business practice and/or as required by State law, the Town should award contracts for professional services only after using a competitive selection process and enter into written agreements with selected contractors to document the nature of the services to be performed and the amount of compensation to be provided. The Town, for those instances identified above in which invoices submitted by contractors were not in sufficient detail or included fees that were inconsistent with those previously agreed upon, should obtain adequate invoices and/or clarification and take appropriate action regarding any overpayments or underpayments that are identified.

The Mayor, in his response to this finding, stated “it is my understanding that the Town of Welaka had engaged the firm for a three-year term prior to the effective date of the statute in question.” However, the current requirement for the Town to use competitive auditor selection procedures was established by Chapter 96-324, Laws of Florida, effective October 1, 1996, which is well before the March 10, 2000, date that the Town Council approved the use of the public accounting firm for fiscal years September 30, 1999, through September 30, 2001.

The Mayor further stated, in his response, that “I would not recommend that the Town take any action to interfere with or otherwise breach that established contractual relationship through the September 30, 2001, fiscal year.” We did not suggest that the Town attempt to breach its current contract with the public accounting firm.

FINDING No. 19: Public Records Retention

Pursuant to Chapter 119, Florida Statutes, the Town is required to maintain public records that are, with some exceptions, to be open for inspection by the public. Section 119.01(4), Florida Statutes, requires all agencies, including municipalities, to establish a program for the disposal of records without sufficient legal, fiscal, administrative, or

archival value pursuant to retention schedules established by the Florida Department of State, Division of Library and Information Services (Division). Because of its fiduciary responsibilities associated with the handling of public funds, it is important that the Town maintain adequate records demonstrating that such funds were properly utilized in carrying out its legally established duties. Failure to maintain such records in accordance with State law could result in Town officials being subjected to the penalties outlined in Section 119.10, Florida Statutes.

During the course of our audit, we requested, but were not provided with, the following public records:

- Bank statements or other financial records documenting the existence of certificates of deposit during the period March 1996 through June 1996. These records were requested to assist us in following up on an allegation relating to the disposition of two \$50,000 certificates of deposit that, according to Town records, were purchased in March and April 1996 and matured in June 1996.
- A 60-day promissory note approved by the Town Council on November 10, 1998. This record was requested to assist us in following up on an allegation relating to whether the amount of the bank loan exceeded the amount approved by the Town Council.
- A loan agreement relating to a United States Department of Agriculture (USDA) Rural Development loan to the Town. This record was requested to assist us in following up on an allegation relating to whether the Town had complied with a depreciation reserve requirement included in the loan agreement.

Town personnel were unable to provide explanations for the missing public records and there was nothing, of record, to indicate that the records were disposed of in accordance with a disposal program established pursuant to Section 119.01(4), Florida Statutes. Although we suggested that the Town obtain the requested documents from other sources, such as the banks, the documents were not provided for our examination. As a result, we were unable to resolve the allegations referred to above.

Recommendation

The Town should contact the bank and USDA to obtain the requested records. In addition, the Town should exercise greater care in maintaining public records as required by Chapter 119, Florida Statutes, and should establish a program for disposal of public records in accordance with Section 119.01(4), Florida Statutes.

The Mayor indicated, in his response to this finding, that one of the \$50,000 certificates of deposit "in the general account" has continued to roll over and now exceeds \$58,000 dollars, and that the other \$50,000 certificate of deposit was cashed, deposited to the utility account in August 19, 1996, and subsequently used as part of the annual payment to the United States Department of Agriculture Rural Development. The Mayor attached to his written response copies of certain records, and indicated that such records were related to these two \$50,000 certificates of deposit.

Such documentation appears to support the Mayor's assertion regarding the "general account" certificate of deposit. However, it does not show the final matured amount of the certificate of deposit that was purportedly deposited to the utility account, nor does it demonstrate that such amount was included in the amount deposited to the utility account in August. As such, the documentation provided does not conclusively demonstrate that the certificate of deposit related to the utility account was disposed of in the manner described by the Mayor.

The Mayor further stated, in his response, that "Although Town officials were unable to provide alleged missing public records as discerned by the audit staff they were available and overlooked. Our reply is based on the very same records, which were available to the audit team. If questions had remained the answers were available from the Bank of America, two blocks from Town Hall." Contrary to Section 11.47(1), Florida Statutes, neither the Mayor nor the Town employees provided the records upon our request. It is the Town's responsibility to maintain adequate public records in connection with the transaction of official business by the Town.

FINDING No. 20: Public Records Copy Fees

Section 119.07(1)(a), Florida Statutes, provides that every person who has custody of a public record shall permit the record to be examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under the supervision of the custodian of the public record or the custodian's delegate. This Section further provides that a custodian shall furnish a copy or a certified copy of the record upon payment of the fee prescribed by law. Section 119.07(1)(b), Florida Statutes, authorizes the imposition of a special service charge when the nature or volume of public records to be inspected is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance, or both. The special service charge must be reasonable and based on the labor costs incurred. The Town's Public Records Ordinance (Ordinance 98-5) provides for a charge of 15 cents per page and, for those requests that are voluminous or require extensive clerical or supervisory assistance, a special service charge of \$5 for the first one-half hour expended and, for each hour thereafter, a special service charge of \$15.

In May 2000, and again in September 2000, a citizen requested copies of documents relating to the Town's collections of amounts due based on lots sold by a local camp resort (see discussion in Finding No. 14). In November 2000, the Town sent a letter to the citizen indicating that the requested copies were ready and that the Town had expended \$634.52 because of research required to comply with the public records request. As of the time of our review in April 2001, the citizen had not yet picked up the records. Our audit disclosed the following deficiencies regarding the Town's Public Records Ordinance and the Town's handling of this public record request:

- The Attorney General, in Opinion No. 2000-11, dated February 21, 2000, stated that a determination of whether the nature or volume of a public records request requires extensive assistance must be made on a case-by-case basis such that a special service charge may not be routinely imposed and must reflect no more than the labor costs actually incurred to comply with the request. As such, the legality of Ordinance 98-5 is questionable since such Ordinance establishes a fixed special service charge that may not be consistent with actual labor costs incurred at a given point in time rather than allowing for the special service charge to be determined on a case-by-case basis.
- The Town could not provide documentation demonstrating how the Town calculated the \$634.52 of costs related to this public records request or that such amount was based on actual labor costs consistent with Section 119.07(1)(b), Florida Statutes, and the Town's Public Records Ordinance. Town records indicate that Town personnel spent 56 hours in connection with this request; however, based on 56 hours, it is not apparent how the \$634.52 amount was calculated based on the 15 cents per page charge and special service charge hourly rates established by Ordinance 98-5.
- In response to our inquiry as to why Town personnel spent 56 hours on this public records request, the Mayor stated that there was extensive and prolonged work necessary to completely accumulate the requested records. As discussed in Finding No. 14, the Town had not established adequate controls to ensure that it had received all amounts due from the local camp resort for lots sold. Had adequate controls been established, including the maintenance of a record of amounts due and collected, it may not have been necessary for Town personnel to spend 56 hours related to this request.

Recommendation

The Town should establish procedures to ensure, for future public record requests, that charges are properly assessed in accordance with Section 119.07(1)(b), Florida Statutes, and Public Records Ordinance 98-5. The Town should also seek legal clarification from the Attorney General as to the legality of its Public Records Ordinance regarding special service charge provisions and, if appropriate based on such clarification, should amend Ordinance 98-5 accordingly.

The Mayor, in his written response to this finding, characterized the finding as "subjective and biased" and "an attack on the Town of Welaka public records ordinance and public records procedures," but did not provide the basis for these characterizations. To the contrary, the finding was based on factual determinations regarding the Town's ordinance and records, the related provisions of Florida law, and Attorney General's Opinion No. 2000-11. The Mayor further stated that the charges established for extensive public records requests were set after an internal analysis of the actual costs incurred. The Mayor did not address the Attorney General's opinion that determinations that public records requests required extensive assistance must be made on a case-by-case basis or the lack of documentation for the calculation of \$634.52 of costs related to the public records request in question.

The Mayor concludes his response to this finding by stating that “I believe that our current public records ordinance and procedure meet or exceed the essential requirements of law.” Given the Mayor’s apparent disagreement with our concerns as to the legality of Ordinance 98-5 based on Attorney General’s Opinion No. 2000-11, we suggest that the Town seek an opinion from the Attorney General on this matter.

FINDING No. 21: Sunshine Law

Section 286.011(1), Florida Statutes (commonly referred to as the Sunshine Law), states that all meetings of any board or commission of any State agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided by the Constitution of the State of Florida, at which official acts are to be taken are declared to be public meetings open to the public at all times. Additionally, Section 286.011(2), Florida Statutes, states that minutes of a meeting of any such board or commission shall be promptly recorded and such records shall be open to public inspection. The Attorney General, in the publication *Government-in-the-Sunshine Manual* states, “when a committee possesses or exercises not only the authority to conduct fact-finding but also to make recommendations, the committee is participating in the decision-making process and is subject to the Sunshine Law.”

In a letter dated September 12, 1996, the Mayor indicated that the Town Council had approved a year-long operating budget committee to improve financial control. Our review of the Town Council minutes for regular and special meetings disclosed, for meetings held during the period June 1996 through June 1998, numerous references to the budget committee, including discussions of upcoming budget committee meetings and budget committee recommendations to the Town Council regarding the preparation of the Town’s annual budget. In addition, we noted three notices describing the time and place of budget committee meetings to be held on May 8, 1997, August 1, 1997, and September 18, 1997. There were no references in Town Council minutes to the budget committee after June 1998. In response to our inquiry regarding the current committee membership, the Mayor indicated that there is no budget committee other than the group of the Mayor, office staff, and occasional input from the Town’s public accounting firm. Contrary to Section 286.011, Florida Statutes, minutes for budget committee meetings held during the period June 1996 through June 1998 were not recorded.

Recommendation

To comply with the Sunshine Law, minutes should be promptly recorded for meetings of any committees that have the authority to make recommendations to the Town Council affecting official Town business.

APPENDICES

The following Appendices are attached to and form an integral part of this report:

Appendix - A *Background.*

Appendix – B *Statement from Audited Official.*

APPENDIX – A
BACKGROUND
OPERATIONAL AUDIT OF THE TOWN OF WELAKA, FLORIDA
FOR THE PERIOD OCTOBER 1, 1999, THROUGH FEBRUARY 28, 2001,
AND SELECTED ACTIONS TAKEN PRIOR TO OCTOBER 1, 1999

Authority

Chapter 6410, Laws of Florida, established the Town of Welaka, Florida in 1911. The Town is located in Putnam County, Florida. As provided in Article VIII, Section 2.(b) of the Constitution of the State of Florida, and Section 166.021(1), Florida Statutes, the Town is empowered to conduct municipal government, perform municipal functions, and render municipal services.

In 1973 the Florida Legislature enacted the “Municipal Home Rule Powers Act” (Chapter 73-129, Laws of Florida). This Act established Section 166.021, Florida Statutes, which extended to municipalities the exercise of powers for municipal governmental, corporate, or proprietary purposes not expressly prohibited by the Constitution of the State of Florida, general or special law, or county charter, and removed any limitations, judicially imposed or otherwise, on the exercise of home rule powers other than those expressly prohibited. The “Municipal Home Rule Powers Act” also provided that all then existing special acts pertaining exclusively to the power or jurisdiction of a particular municipality, except as otherwise provided in Section 166.021(4), Florida Statutes, were to become ordinances of the municipality on the effective date of the Act (October 1, 1973). There have been no special acts of the Florida Legislature pertaining to the Town since Chapter 59-1969. Procedures for amending the Town Charter and establishing new ordinances are set forth in Sections 166.031 and 166.041, Florida Statutes, respectively.

The original Town Charter was established by Chapter 6410, Laws of Florida (1911), and later reestablished by Chapter 24975, Laws of Florida (1947). The Charter, as amended by Chapter 59-1969, Laws of Florida, and various ordinances, establishes the general powers and duties of the Town Council, including the Mayor; Town officials, including the Town Clerk; administrative requirements, procedures, and guidelines for various Town activities and functions; and provisions for the administration of Town Council meetings.

Organizational Structure

As provided by Article VIII, Section 2.(b) of the Constitution of the State of Florida, the Town is governed by an elective legislative body. Section 8 of Chapter 24975, Laws of Florida (1947), as amended by Town Ordinances (most recently by Ordinance 89-8), provides that the Town Council consists of five members, one of which will act as the Mayor, who shall be elected at large and serve for two-year terms.

The Town Council serving during the period October 1, 1999, through February 28, 2001 were:

Gordon Sands, Mayor

Shirley Gillins to August 30, 2000 (1)

Alfred V. Johnson

Eileen McGuire, Council President to August 11, 2000

Willie Washington from September 6, 2000 (1)

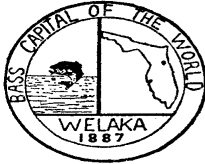
Curtis Williams, Council President from August 12, 2000

Note: (1) This Town Council seat remained vacant until Willie Washington took office on September 6, 2000.

Related Audits

Our audit did not extend to an examination of the Town's financial statements. The Town's financial statements for the fiscal year ended September 30, 2000, were audited by a certified public accounting firm and the audit report is on file as a public record with the Town.

APPENDIX – B
STATEMENT FROM AUDITED OFFICIAL
OPERATIONAL AUDIT OF THE TOWN OF WELAKA, FLORIDA
FOR THE PERIOD OCTOBER 1, 1999, THROUGH FEBRUARY 28, 2001
AND SELECTED ACTIONS TAKEN PRIOR TO OCTOBER 1, 1999



Town of Welaka

P. O. Box 1098

Welaka, Florida, 32193-1098

1-904-467-9800/467-2303

FAX ; 1-904-467-8863

Utilities Dept.
1-904-467-8677

August 10, 2001

William O. Monroe, CPA
Auditor General
State of Florida
G74 Claude Pepper Building
111 West Madison Street
Tallahassee, FL 32399-1450

Dear Mr. Monroe:

The following is an answer to your preliminary and tentative audit findings and recommendations as of July 20, 2001: It is the Town's understanding that on February 28, 2001 staff of your office met with members of the community in Welaka. It is further understood that from these discussions that forty-seven areas of concern were derived. Additionally, four concerns from Councilwoman Eileen McGuire were included to create fifty-one areas of concern to be reviewed.

Provided to us in your letter of July 20, 2001 are areas of concern in preliminary and tentative findings for twenty-one specific tentative findings. Without in depth statements regarding the conditions of May 18, 1996 and August 30, 2000 this reply addresses only the tentative findings without any underlying contributing factors or actions. The findings are addressed on the Town's part as follows:

FINDING No. 1: Prior Audit Findings

The Council will ensure that audit findings are addressed in a timely manner. It is impossible to totally correct some such items as separation of duties when the work force is of such a small number. We are required to place the duties of each person in such a

APPENDIX – B (CONTINUED)
STATEMENT FROM AUDITED OFFICIAL
OPERATIONAL AUDIT OF THE TOWN OF WELAKA, FLORIDA
FOR THE PERIOD OCTOBER 1, 1999, THROUGH FEBRUARY 28, 2001
AND SELECTED ACTIONS TAKEN PRIOR TO OCTOBER 1, 1999

manner that they do fit the budget to which they are assigned namely: General and Utility. Other items addressed by our annual audit will be attempted to be placed in compliance during the next year. The Council will make every effort (through computerized checklist) to address audit findings in a timely manner henceforth.

1. Separation of Duties-The Town cannot afford a sufficient staff to have an ideal separation of duties, but safeguards are in place to have handling of funds appropriately separated.
2. General Ledger Control Accounts are being computerized, which will give the Town necessary control.
3. Budget overspending will be eliminated thru the improved rapid availability through use of our computer system.
4. Establishing fee schedules, which cannot be altered except by Council action, will eliminate improper assessment of late fees.
5. The general ledger will be completely computerized; therefore the reconciliation will be available rapidly and timely.
6. IRS Form 1099, (Contracted services) was overlooked due to lack of control, this will be updated. This is a prioritized project.

FINDING No. 2: Written Policies and Procedures

The Council will review and determine the written policies and procedures deemed necessary in order to control and conduct the business of the Town. These will be reviewed and addressed in order that deficiencies discussed in this report might be corrected in the daily operation.

FINDING No. 3: Separation of Duties

With the very limited staff and with the distinct separation of employees duties; namely utility and general accounts, there is little that can be done to include more than one employee in the work place. The Utility Clerk is responsible to work through the utility department since the funds of that enterprise division preclude her from being the agent of record for the general operation of the Town itself. Furthermore, the parties doing the work for the general Town area are precluded primarily from performing the duties of the enterprise fund; namely the utilities. As much as can be ensured that compliance is being met between the two departments they will be verified by the Council, but the Council will also make sure that we do not cross lines between the designated duties of two separate entities. For the convenience of the work force the utilities and the Town general employees are housed in the same office. The efficacy of the separation looses itself in such a situation. The Council will determine if it is desirable to separate the offices and the employees.

FINDING No. 4: Budget Preparation

APPENDIX – B (CONTINUED)
STATEMENT FROM AUDITED OFFICIAL
OPERATIONAL AUDIT OF THE TOWN OF WELAKA, FLORIDA
FOR THE PERIOD OCTOBER 1, 1999, THROUGH FEBRUARY 28, 2001
AND SELECTED ACTIONS TAKEN PRIOR TO OCTOBER 1, 1999

The Council pursuant to Florida statutes, with the assistance of our auditing firm, shall consider all beginning fund equities in preparing future annual budgets. Further, all funds will be considered prior to the passage of the annual budget.

FINDING No. 5: Budget Adoption

The Council in the future will make certain that the notices are in accordance with Florida statutes and maintain documentation evidencing such notices. However, the Department of Revenue is consulted prior to final acceptance of the annual ordinance. This has ensured that all compliance is made, that the TRIM process is in compliance, and that notices are published as such. The previous experiences of the 95-96 budget year have sufficed to ensure that during the current tenure of members of this Council, loss of funding has not been a threat of the Department of Revenue, rather that our ordinances and budgets are in compliance. Said records are available through the Department of Revenue.

FINDING No. 6: Budget Overexpenditures

The Mayor and the Council have made it a matter of record that amending ordinances are filed annually to ensure compliance with budget expenditures throughout the year. Additionally, all future budgets will be addressed in such a manner that the total budget will be the governing factor rather than the individual items. Further, all future budgets will ensure that the budget figure itself is not over expended without amending ordinances rather than the line item of each budget.

FINDING No. 7: Bank Reconciliation's

The numerous and various accounts will be processed in such a way that the third person in the office (who does not prepare the items of the banking account) shall reconcile the monthly statements. Additionally, a member or members of the council shall review.

FINDING No. 8: Stale Dated Checks

All checks have now been identified in such a manner that notice is given, said check expires 60 days upon issuance. The Town will take appropriate action in regards to such items.

FINDING No. 9: Certificates of Deposit

The majority of the CD's in the possession of the Town are pledged to certain reserves, namely Rural Development long term depreciation is maintained in an annual CD with additions being made as possible. Rural Development is satisfied with this arrangement and feels that it is a policy that needs to be continued in order that liquidity

APPENDIX – B (CONTINUED)
STATEMENT FROM AUDITED OFFICIAL
OPERATIONAL AUDIT OF THE TOWN OF WELAKA, FLORIDA
FOR THE PERIOD OCTOBER 1, 1999, THROUGH FEBRUARY 28, 2001
AND SELECTED ACTIONS TAKEN PRIOR TO OCTOBER 1, 1999

is not an option for the municipality. Further, that all reserves for annual payment be in such a manner that they are not available to the municipality without approval from Rural Development. CD's in the general fund are pledged at the current time as an inducement for funding from Capital City Bank in order that the EL Nino grant municipal portion be funded. We will review section 37 of chapter 24975, and if so deemed necessary an amending ordinance shall be created; if desired by the Town and advised by the Town Council. However, parties to whom we are responsible currently are satisfied with the certificates of deposit and wish that we do not become as flexible as the finding brings to our attention.

FINDING No. 10: Restricted Funds

The Town does draw notice of the fact and has drawn notice through Supreme Court decisions that monies for such as local option fuel taxes are spent on streets and roads. Consideration will be made of fund raising events and if the council deems so these events will be removed from the direct control of the Town and handled in such a way through private enterprise with the funds raised being presented to the Town rather than the Town having control. In complying the Town fully realizes as has been brought to the attention of local County entities that ad valorem money and designated funds such as sales tax and fuel tax must be expended in such a way as is necessary by restraints. The Town fully realizes that ad valorem may not be used on street and road improvements and as such does not allocate ad valorem money to such areas. Further, separate revenue funds are handled with the grants in order that these actual accounts might be handled in compliance with restrictions. As previously stated, we will work with our Auditor in establishing a budget that addresses the beginning balances of these various accounts through the general budget.

FINDING No. 11: Prenumbered Forms

The Town is working with our computer consultant and will create, (through internal programming) prenumbered forms that will document all cash collections and that these will be created through the program. Additionally, sufficient control will be in place and as these numbers are used from the program the permanent record will be maintained and will be verified. Off site printing should become negligible and as such will remove the possibility of various numbers being used throughout the course of the year. It is felt that certain programs even though costly will protect against this finding in the future.

FINDING No. 12: Responsibility for Collections

As answered in finding 11, the provisions of the computer program would be such that this will be accomplished. There is no ability at the present time with 2 and ¾ employees to become totally bogged down in mundane transfers among the two plus employees. Checks will be restrictively endorsed immediately upon receipt of the party that is providing and creating the records for deposit.

APPENDIX – B (CONTINUED)
STATEMENT FROM AUDITED OFFICIAL
OPERATIONAL AUDIT OF THE TOWN OF WELAKA, FLORIDA
FOR THE PERIOD OCTOBER 1, 1999, THROUGH FEBRUARY 28, 2001
AND SELECTED ACTIONS TAKEN PRIOR TO OCTOBER 1, 1999

FINDING No. 13: Deposit of Collections

Petty cash will be handled with a computer trail and will be documented and available for evidence. It is fully felt that the proper programming will create an easier atmosphere for the employees to comply with recommendations of the Audit Committee. It is further felt that provided longevity that much of the current findings and recommendations will be handled as tenure increases.

FINDING No. 14: Water and Sewer Services

The Town is consulting with its Counsel as to the proper and appropriate actions to compel the Camp Resort to pay the amount determined by your audit team. It is still felt that the responsibility of the said report by the Camp Resort shall remain the part of the responsible party as per the agreement, namely the Camp Resort. There however will be an annual review, if not more often. The County shall be requested to notify the Town upon all property transfers.

FINDING No. 15: Fire Inspection Fees

The entire fire inspection program will be programmed and placed on-line, which will help mitigate the current situation. As required by State law it is necessary for us to have a Fire Marshall and that it is further his responsibility for an annual inspection. The Town Council will review these matters and will take appropriate action under the code enforcement committee to enforce payment of these inspections, which we have been reluctant to enforce.

FINDING No. 16: Council Member's Compensation

Chapter 24975, Laws of Florida (1947), is the Town Charter of the Town of Welaka (the "Charter"). Sections 8. through 17. of the Charter are addressed to the qualifications, powers and duties of the Town Council.

Section 8. of the Charter provides that members of the Town Council shall serve without pay. Section 15. of the Charter provides that the Town Council shall fix by ordinance the salary or compensation of all officers provided for by the Charter, except as provided in Section 8.

These provisions established as of the promulgation of the 1947 Charter that:

1. Councilpersons would serve without pay; and
2. The Council would fix by ordinance the salary or compensation of all other officers of the Town.

Notably, the office of Mayor is dealt with separately from the Town Council. Section 18. and 19. of the Charter establish the qualifications, powers and duties of the Mayor.

APPENDIX – B (CONTINUED)
STATEMENT FROM AUDITED OFFICIAL
OPERATIONAL AUDIT OF THE TOWN OF WELAKA, FLORIDA
FOR THE PERIOD OCTOBER 1, 1999, THROUGH FEBRUARY 28, 2001
AND SELECTED ACTIONS TAKEN PRIOR TO OCTOBER 1, 1999

The significance of this distinction is that there does not ever appear to have been any requirement that the Mayor serve without compensation.

Ordinance 89-8, promulgated on October 10, 1989, states on its face that it amends Section 8 of the Town Charter, and among other things, it fixes compensation for Town Council members and the Mayor. It should be noted that the Municipal Home Rule Powers Act of 1973 (Chapter 166, Florida Statutes) provides for the amendment of municipal charters by ordinance, and establishes the procedures for such amendment. From the information currently available to me, it appears that Ordinance 89-8 was never challenged, and must be presumed to have amended the Charter to the extent set forth in the ordinance.

After the amendment of Section 8. of the Charter, it appears that Section 15. of the Charter remained intact to the extent that the Town Council retained the power to fix the salary or compensation of all officers of the Town by ordinance. This provision does not specify the form of ordinance necessary to fix or establish official compensation.

From my review of Finding No. 16 of the preliminary audit findings, it appears to me that the primary concern of this preliminary finding is that the ordinances amending the specified compensation for the Mayor and the Town Council (Budget Ordinances 96-3 and 98-13) were not separately titled and separately adopted from the annual budget ordinances within which they were contained.

At the outset, I would agree that the better practice would have been to promulgate separate amending ordinances to address changes in compensation of the Mayor and Councilpersons (hindsight is 20/20, after all). However, I would also note that both of the amending ordinances provided that all prior ordinances and parts of ordinances in conflict therewith were repealed. Further, it has been held that an amendatory ordinance is sufficient if it is complete and intelligible in itself without the necessity of referring to the books to relate it to the amended ordinance in order to ascertain the meaning of the amendment. Hallandale v. State, 371 So.2d 186 (Fla. 4th DCA 1979). In fact, it is axiomatic in this State that an ordinance may be impliedly repealed by a subsequent enactment of an ordinance plainly in conflict with it.

In any event, I can find no basis to support the implied suggestion of the preliminary audit findings that the Town might somehow seek to recover \$33,900 in past compensation paid to the Mayor and Councilpersons during the period October 1996 through February 2001. In fact, the preliminary audit findings do not suggest a legal theory upon which the Town might rely in such an undertaking. Therefore, I believe that the suggestion of seeking recovery of compensation paid and received in good faith pursuant to budget ordinances duly enacted by the Town Council is without merit.

In conclusion, I concur in the recommendation contained in the preliminary audit findings that future increases in Council Members' compensation be specifically addressed by ordinances noticed in the manner prescribed by Section 166.041, Florida Statutes. On the other hand, I believe that the compensation provisions of Ordinance 89-8

APPENDIX – B (CONTINUED)
STATEMENT FROM AUDITED OFFICIAL
OPERATIONAL AUDIT OF THE TOWN OF WELAKA, FLORIDA
FOR THE PERIOD OCTOBER 1, 1999, THROUGH FEBRUARY 28, 2001
AND SELECTED ACTIONS TAKEN PRIOR TO OCTOBER 1, 1999

were either expressly or impliedly repealed by subsequent enactment of the Town Council, and that there is no equitable basis to seek recovery of compensation paid and received by the Mayor and Town Council Members in good faith in pursuant to duly enacted subsequent budget ordinances.

More importantly, my review of the Charter necessitated by the preliminary findings of the Auditor General lead me to further recommend that the Town Council prioritize consideration of amending the Town Charter to bring it into the new millenium. Our Town Charter was promulgated in 1947 and superseded a previous Town Charter and amendments thereto dating back to the last century. Many of the provisions of the Charter are simply antiquated and inconsistent with current government and good business practices. As you know, the Florida League of Cities and other organizations offer model city charters, which are designed to modernize and enhance efficient municipal government. We should explore these resources and consider a comprehensive Charter amendment in the near future.

FINDING No. 17: Hiring Practices

The Town Council anticipates reviewing and possibly modifying procedures of resolution 94-2B. It shall further be a policy and potentially replace a resolution in this matter.

FINDING No. 18: Awarding of Contracts for Services

The preliminary findings are addressed and limited to two types of professional services rendered to the Town of Welaka, i.e., auditor services and legal services. I will address them separately:

1. Auditor Services: The preliminary audit comments cite Section 11.45(3)(a)6., Florida Statutes (2000), as requiring a municipality to establish an auditor selection committee and competitive auditor selection procedures for employing a firm to perform the municipality's required annual audit and other auditing services. In fact, the statute recited in the preliminary report actually authorizes the Town to establish and use its own competitive auditor selection procedures, or to use the alternative procedures set forth in Section 11.45(3)(1)7., Florida Statutes. It is important to note that the statute does not dictate a "cheapest is best" bidding process. The statutory formula provides for evaluation of bidders based upon capabilities, adequacy of personnel, past record, and experience of the firm or individual.

In the case of the present Town Auditors, Davis, Monk & Company, it is my understanding that the Town of Welaka had engaged the firm for a three-year term prior to the effective date of the statute in question. If this is correct, I would suggest that the implementation of the competitive bidding statute for audit services would not supersede prior contractual arrangements. As of March 30, 2000, the Town Council reaffirmed the Davis, Monk & Company Contract for auditing services for fiscal years ended September 30, 1999, through September 30, 2001.

APPENDIX – B (CONTINUED)
STATEMENT FROM AUDITED OFFICIAL
OPERATIONAL AUDIT OF THE TOWN OF WELAKA, FLORIDA
FOR THE PERIOD OCTOBER 1, 1999, THROUGH FEBRUARY 28, 2001
AND SELECTED ACTIONS TAKEN PRIOR TO OCTOBER 1, 1999

I would not recommend that the Town take any action to interfere with or otherwise breach that established contractual relationship through the September 30, 2001, fiscal year. Further, I would recommend that the Town establish an auditor selection committee to adopt procedures for the evaluation of professional services. The criteria for such evaluation should include, among other things, the capabilities, adequacy of personnel, past record, experience, results of recent external quality control reviews, and such other factors as may be determined by the committee to be applicable to its particular requirements. Our rights to establish our own auditor selection procedures are established by Sections 11.45(3)(a)6. and 7., Florida Statutes.

With respect to other lesser issues raised in the preliminary audit findings, the Town has now entered into a written contract with Davis, Monk & Company memorializing the scope of accounting services previously contracted.

With respect to the purported \$150.00 overpayment to Davis, Monk & Company for the period October 1999 through February 2001, the same is *de minimus* and hardly worthy of comment. If deemed appropriate, you may wish to ask Davis, Monk & Company whether the preliminary audit assertions are correct in this regard, and request a credit if appropriate.

2. Legal Services: Since comments on this issue are directed to the legal services provided by me and my law firm, I must respectfully decline to comment.

FINDING No. 19: Public Records Retention

Attached hereto are records from March through June and beyond of 1996, which show that two \$50,000 dollar plus certificates were on deposit, that they are numbered by Barnett Bank (now a member of the Bank of America group). Said deposits were rolled over and the utility deposit (as evidenced by the bank statements and records of August 1996) was cashed by Mayor Sands and Council President Eileen McGuire on August 19th and deposited to the utility account and on the 21st was used as portion of the payment of the annual payment to the Rural Development. Additionally, the \$50,000 plus CD in the general account continues yet to this date and now exceeds \$58,000 dollars and is a CD provided by Capital City Banks of Tallahassee. Further, that said CD is the security for the loan in regards to an El Nino CDBG grant. Further, in reference to the loan agreement relating to the United States Department of Agriculture, the conditions of this loan are satisfactory at the current time to the United States Department of Agriculture and a letter is provided herewith in regards to their desires as far as the Town of Welaka's agreement is held in regard to this audit. The Town does establish and maintain records and further it will be a very serious consideration of the Council as the budget of 2001-2002 is prepared that a complete electronic process be in place that all records of the Town of Welaka shall be on electronic retrieval prior to the next review by the Auditor General's office Although Town officials were unable to provide alleged missing public records as discerned by the audit staff they were available and overlooked. Our reply is based on the

APPENDIX – B (CONTINUED)
STATEMENT FROM AUDITED OFFICIAL
OPERATIONAL AUDIT OF THE TOWN OF WELAKA, FLORIDA
FOR THE PERIOD OCTOBER 1, 1999, THROUGH FEBRUARY 28, 2001
AND SELECTED ACTIONS TAKEN PRIOR TO OCTOBER 1, 1999

very same records, which were available to the audit team. If questions had remained the answers were available from the Bank of America, two blocks from Town Hall.

FINDING No. 20: Public Records Copy Fees

This is the most subjective and biased of the “findings” contained in the Preliminary & Tentative Audit Findings. The review personnel have taken the complaint of one Welaka citizen and have made that the basis of an attack on the Town of Welaka public records ordinance and public records procedures. Notably, although the Town of Welaka has expended substantial personnel resources to respond to the public records request in issue, the complainant has never paid the \$634.52 in costs expended by the Town responding to this request.

My first recommendation in response to this “finding” is that the Town of Welaka should require a reasonable cost deposit prior to the expenditure of significant employee time and expense responding to extensive public records requests. The incident highlighted in the tentative findings provides a perfect example. Although the Town through its employees expended extensive resources responding to the public records request in issue, the citizen requesting the records has refused to pay for the records requested and the Town has wasted important resources needlessly.

With respect to the purported “deficiencies” in Welaka’s public records ordinance, I would emphasize the following:

1. Our ordinance incorporates, almost verbatim; the public records requirements of Chapter 119, Florida Statutes.
2. The charges established for extensive public records requests were set by the Town Council after an internal analysis of the actual costs incurred by the Town in responding to extensive records requests.
3. Our definition of “extensive” requests is consistent with the decision in Florida Institutional Legal Services, Inc. v. Florida Dept. Of Corrections, 579 So.2b 267 (Fla. 1st DCA 1991). In that case, the Court upheld a Department of Corrections rule which defined “extensive” as any request which required DOC personnel to take more than 15 minutes to locate, review for confidential information, copy and refile the requested information.

I find it ironic that the Auditor General Preliminary findings criticize our public records ordinance and procedures while asserting that its own records are privileged and exempt from public inspection.

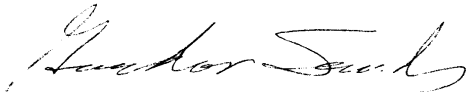
In conclusion, I believe that our current public records ordinance and procedure meet or exceed the essential requirements of law. At the same time, I would emphasize that Town personnel responding to public records requests should be ever diligent and timely in responding to public records requests.

APPENDIX – B (CONTINUED)
STATEMENT FROM AUDITED OFFICIAL
OPERATIONAL AUDIT OF THE TOWN OF WELAKA, FLORIDA
FOR THE PERIOD OCTOBER 1, 1999, THROUGH FEBRUARY 28, 2001
AND SELECTED ACTIONS TAKEN PRIOR TO OCTOBER 1, 1999

FINDING No. 21: Sunshine Law

The Town will review the Sunshine Law. Further, the Town will comply with prompt minutes. The minutes will be retained by the Town and will be placed in the electronic files of the Town. We feel that the staff has performed well and will continue to do so under the past and current conditions.

Sincerely,



Gordon Sands
Mayor

GS/jt