



AUDITOR GENERAL

WILLIAM O. MONROE, CPA



CITY OF WEEKI WACHEE, FLORIDA

Follow-up on Operational Audit Report No. 2005-178

SUMMARY

This report provides the results of our follow-up procedures for each of the findings included in our report No. 2005-178 and the Mayor's response thereto. Our follow-up procedures to determine the City of Weeki Wachee's progress in addressing the findings and recommendations contained in our report No. 2005-178 disclosed that the City, as of the completion of our follow-up procedures in February 2007, had adequately addressed 2 of the 20 findings included in that report. The City had partially addressed 7 findings, and had taken no action regarding the remaining 11 findings.

BACKGROUND

The Auditor General is authorized by State law to perform audits of governmental entities in Florida. As directed by the Legislative Auditing Committee, we conducted an operational audit of the City of Weeki Wachee, Florida, for the period October 1, 2002, through April 30, 2004, and selected actions taken prior and subsequent thereto. Pursuant to Section 11.45(2)(l), Florida Statutes, the Auditor General, no later than 18 months after the release of report No. 2005-178, must perform such appropriate follow-up procedures as deemed necessary to determine the City of Weeki Wachee's progress in addressing the findings and recommendations contained within that report.

STATUS OF REPORT NO. 2005-178 FINDINGS

In her response to finding Nos. 1, 4, 7, 10, 11, 13, 15, 16, and 17, the Mayor indicated that the City and LLC are separate, unrelated entities. However, as discussed at length in report No. 2005-178, finding No. 1, the

City accepted donation of the LLC in July 2003 and, as such, the LLC is wholly owned by the City.

Finding No. 1: Acquisition of Weeki Wachee Springs LLC

Previously reported

The City acquired Weeki Wachee Springs, LLC (LLC), effective July 31, 2003. Depending on the outcome of related civil actions, and the LLC's ability to improve its financial condition, the City's financial condition may have been adversely impacted by the acquisition and retention of the LLC. Additionally, the City appeared to be experiencing financial difficulties, including cash shortages, operating losses, limited available resources, and uncertainty as to the amount of legal fees owed by the City, raising questions as to the ability of the City to continue as a going concern.

We recommended that the City Commission demand invoices for all legal services provided to date by attorneys representing the City and LLC so that the impact of such billings on the financial condition of the City can be assessed. We also recommended that the City Commission explore all available options for increasing revenues or decreasing park expenditures, including analyzing the existing fee structure for the tourist attraction and recreational park operated by the City. In addition, we recommended that the City Commission, if it is determined that the LLC's ability to generate a profit is not viable, consider selling or leasing the LLC. Further, absent the ability to generate sufficient revenues or reduce expenditures, we recommended that the City Commission evaluate

whether or not the City should continue as an incorporated municipality and, if determined to be appropriate, consider dissolution under the provisions of Section 165.051, Florida Statutes.

Results of follow-up procedures

The City has partially addressed this finding. The LLC management increased park admission fees and instituted a daily parking fee on March 19, 2005; however, the increase in park admission fees and the newly instituted parking fees were not implemented based on any formal analysis of actual or estimated expenses. In addition, no formal review was conducted to determine the existence of available options for decreasing park expenditures. Although the 2005 and 2006 calendar years unaudited Profit and Loss Statements show that the LLC had net income of \$50,367 and \$30,057, respectively, the 2005 Annual Financial Report, reported on the City's fiscal year, shows expenditures in excess of revenues in the amount \$6,228 for the General Fund and expenses exceeding revenues in the amount of \$31,111 for the LLC Enterprise Fund. In response to our inquiry, the City indicated that it has not considered selling or leasing the LLC and intends to continue ownership and operation of the LLC. Additionally, the City had not considered or evaluated whether or not the City should continue as an incorporated municipality, as the City firmly believes that the City of Weeki Wachee should remain as an incorporated municipality. We further noted that the City Commission had not demanded invoices for all legal services provided to date by attorneys representing the City and LLC in the civil matters, which were pending as of February 1, 2007.

Follow-up to Mayor's Response

In her response, the Mayor indicated that the sole reason for financial difficulty on the part of the City is the action by the Florida Legislature, in 2005, to reduce the City's allowable millage rate, thereby limiting the funding that the City can raise through ad valorem taxation, its major source of revenues. However, the City has decreased

its millage rates from 2.55 in 2003 to 2.3898 in 2006 on its own volition and not due to the enactment of Chapter 2004-432, Laws of Florida. Further, the revenues collected in connection with the Weeki Wachee Springs tourist attraction represent a much larger source of revenues to the City than ad valorem taxes.

Also see comments on page 1 under Status of Report No. 2005-178 Findings.

Finding No. 2: Attempted Condemnation of Utility System

Previously reported

Contrary to City Charter provisions, the City attempted the condemnation of a utility system that was engaged in the sale, transportation, or delivery of water, and incurred approximately \$63,200 of legal fees in doing so. As of March 2005, the City had outstanding legal fees of \$58,200 relating to this action.

We recommended that the City Commission ensure that all City actions are taken in strict accordance with the City Charter.

Results of follow-up procedures

The City has adequately addressed this finding. As of November 30, 2006, the \$58,200 legal fees incurred for the previous action, which was prohibited by the City Charter, remains an unpaid liability of the City. Our review of City actions during the current review period disclosed that the City did not attempt the condemnation of a utility system.

Finding No. 3: Written Policies and Procedures

Previously reported

During the audit period, the City had not established written policies and procedures for most of its accounting and other business-related functions. For example, written procedures were not available to document controls over budgets, revenues, fixed assets, disbursement processing, or bank reconciliations.

We recommended that the City adopt comprehensive written policies and procedures that are consistent with applicable laws, ordinances, and other guidelines. In doing so, we recommended that the City ensure that the written policies and procedures address the instances of noncompliance and control deficiencies discussed in the report.

Results of follow-up procedures

The City has not addressed this finding. The City did not adopt policies and procedures for its accounting and other business-related functions.

Follow-up to Mayor's Response

See comments regarding the City's financial difficulties on page 2 under Follow-up to Mayor's Response for finding No. 1.

Finding No. 4: Separation of Duties

Previously reported

The City had not provided for an adequate separation of duties, or established compensating controls for certain areas of City and LLC operations.

We recommended that the City, to the extent possible, 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), or implement adequate compensating controls.

Results of follow-up procedures

The City has partially addressed this finding. Although the City assigned two individuals to the duties of preparing and delivering bank deposits, and maintaining the accounting records, these functions are primarily performed by one of the individuals. Additionally, this individual still processes the mail, including checks made payable to the City, and performs the City bank reconciliations without supervisory review and approval.

There has been some improvement over the separation of duties in the park operations finance area, in that the General Manager now approves all invoices for payment.

Also, in the food service and retail departments, the General Manager now functions as final approver for invoices for payment.

Follow-up to Mayor's Response

See comments on page 1 under Status of Report No. 2005-178 Findings. Also see comments regarding the City's financial difficulties on page 2 under Follow-up to Mayor's Response for finding No. 1.

Finding No. 5: Financial Reporting

Previously reported

Contrary to law, the City had not provided for a 2002-03 fiscal year audit. In addition, the City's annual financial reports for the 1999-00, 2000-01, and 2001-02 fiscal years were not submitted timely.

We recommended that the City ensure that all required audits and annual financial reports are completed, and that copies of audit reports are filed with us, and other appropriate entities, within statutorily mandated time frames.

Results of follow-up procedures

The City has partially addressed this finding. Contrary to Section 218.32, Florida Statutes, the City did not file its annual financial report for the 2003-04 fiscal year until April 2006, seven months late. However, the City timely filed its annual financial report for the 2004-05 fiscal year.

Contrary to Section 218.39, Florida Statutes, the City did not provide for annual financial audits for the 2002-03, 2003-04, and 2004-05 fiscal years. Based on our inquiry, the Mayor stated that, "The City of Weeki Wachee has not contracted for and/or obtained financial audits due to the prohibitive cost in relation to the City's budget. The City Attorney is in the process of determining whether the State will assist with the cost and/or what other options are available. The City of Weeki Wachee will proceed with financial audit requirements when recommendations from the City Attorney are received."

Follow-up to Mayor's Response

See comments regarding the City's financial difficulties on page 2 under Follow-up to Mayor's Response for finding No. 1.

Finding No. 6: State Distributed FundsPreviously reported

The City failed to deposit in its accounts State warrants totaling \$3,713 issued to the City by the Florida Department of Revenue from September 2001 through March 2003 for the City's share of municipal revenue sharing and communication services taxes. Although the State warrants were canceled, the City has recovered most of the moneys, but still has not recovered \$579 of this amount.

We recommended that the City contact the Florida Department of Financial Services (FDFS) to recover the remaining \$579 in State warrants. We also recommended that the City consider contacting the Florida Department of Revenue (FDOR) to request receipt of State funds through electronic funds transfer (EFT).

Results of follow-up procedures

The City has not addressed this finding. The City did not contact FDFS to recover the remaining \$579, or FDOR to request receipt of State funds through EFT.

Follow-up to Mayor's Response

In her response, the Mayor indicated that it is cost prohibitive for the City to engage professional services to recover \$579 for a lost warrant. However, the Mayor did not provide an explanation as to why contacting the FDFS could not be accomplished by City employees and would require the services of a professional.

Finding No. 7: Bank ReconciliationsPreviously reported

For certain bank accounts, monthly bank statements were not timely reconciled to the accounting records, and reconciliations prepared were not signed and dated by the preparer and reviewer.

We recommended that the City enhance controls to provide for sufficient monitoring of available cash on deposit and timely reconciliation of bank accounts. Additionally, we recommended that bank reconciliations be signed and dated by the preparer and appropriate supervisory personnel.

Results of follow-up procedures

The City has not addressed this finding. Our current review of 54 bank statements and reconciliations for the City General Tax Fund, the LLC Merchant, and the LLC Operating accounts, disclosed that 16 reconciliations were not completed and 32 of the 38 reconciliations that were completed were not done so on a timely basis (untimely reconciliations were performed from 47 to 430 days after month's end). None of the 38 bank reconciliations included the initials of the preparer, and there was no indication that the reconciliations were reviewed by supervisory personnel. In addition, the account reconciliations for the City General Tax Fund included various unexplained differences between the bank balance and the general ledger balances for the months June 2005 through February 2006.

Follow-up to Mayor's Response

See comments on page 1 under Status of Report No. 2005-178 Findings.

Finding No. 8: Fixed Asset RecordsPreviously reported

General ledger control accounts had not been established for classes of fixed assets, and complete and accurate property records were not maintained.

We recommended that the City establish general ledger control accounts for fixed assets and ensure the proper recording of all assets, including asset descriptions, and acquisition and disposal information in the subsidiary records.

Results of follow-up procedures

The City has not addressed this finding. Our current review disclosed that general ledger control accounts were not established for fixed assets, and the subsidiary records generally did not disclose all of the information necessary to properly identify and evidence the establishment of accountability for tangible personal property items. Missing information included name of manufacturer; model number; serial number; method of acquisition and, for purchased items, the vendor and check number; the dollar amount paid for the items; the custodian with assigned responsibility for the item; and method of disposition, if applicable.

Follow-up to Mayor's Response

In her response, the Mayor indicated that the City has no substantial assets. However, since the City wholly owns the LLC, and the LLC has substantial assets, complete and accurate fixed asset records should be maintained.

Finding No. 9: Accountability for Restricted Resources

Previously reported

The City did not maintain separate accountability for moneys previously held in a bank account titled Federal Revenue Sharing and subsequently transferred these moneys to the City's General Tax fund account. No documentation was maintained evidencing the original source of these moneys. Consequently, the City could not be assured that disbursements of these moneys were for allowable purposes.

We recommended that the City communicate with the appropriate Federal agency to determine what restrictions, if any, exist regarding disbursements of these moneys, and that the City ensure that the

moneys are used for their intended purpose, as appropriate.

Results of follow-up procedures

The City has not addressed this finding. Our current review disclosed that the City has not contacted the appropriate Federal agency regarding the \$2,480 of restricted funds, and has not established separate accountability for these funds held in the City's General Tax fund account. In addition, the City has subsequently received and deposited an additional \$189 of Federal Revenue Sharing funds into the City's General Tax fund account.

Follow-up to Mayor's Response

In her response, the Mayor indicated that the City has not disbursed Federal revenue sharing funds for any unpermitted purpose. However, as noted in our finding, the City did not provide documentation as to the restricted uses of those funds from the applicable Federal agency. Therefore, it is not apparent how the City is assured that the funds were used as intended.

Finding No. 10: Loan Proceeds

Previously reported

Two loans received, totaling \$50,000, were not reduced to writing in the form of documented loan notes setting forth the repayment schedules, interest rates, if any, and other provisions generally found in similar business loans. As such, we could not conclusively determine the nature of the loans, the amount of loans actually received, any restrictions as to the use of the loan proceeds, and whether there were any loan terms that had not been complied with, including scheduled repayments.

We recommended that the City ensure that all loans to the LLC are reduced to written form with all terms, including the required repayment schedule and interest rate, clearly defined.

Results of follow-up procedures***The City has partially addressed this finding.***

Although the LLC obtained a new loan during the follow-up period that was adequately documented as to terms, including interest rate, the LLC did not reduce to writing the loans discussed in report No. 2005-178. As of February 28, 2007, the remaining balances on those loans totaled \$20,000.

Follow-up to Mayor's Response

See comments on page 1 under Status of Report No. 2005-178 Findings.

Finding No. 11: Payroll Time Keeping Procedures**Previously reported**

In many instances, leased employee timesheets were manually overridden without evidence of supervisory approval. One leased employee with manual corrections to the timesheets showing overtime was paid, totaling \$7,377, for 477.5 overtime hours without supervisory approval. In addition, worksheets generated from the time management system, although reviewed, were submitted to the payroll leasing company for the preparation of payroll checks without any evidence of supervisory approval.

We recommended that the City require documentation of the supervisory review of all time cards or timesheets and other payroll-related documents. In addition, manual overrides to the electronic time management system should be kept to a minimum; however, in the event that such overrides become necessary, supervisory review and approval of all such manual overrides should be documented, including the reason for each manual override.

Results of follow-up procedures

The City has not addressed this finding. Our current review disclosed the following:

- Our review of the 26 pay period timesheets from November 20, 2005, through November 18, 2006, for the Maintenance Lead leased employee disclosed that the employee had, on occasion,

manually recorded the time worked during this time period, including a total of 365.25 overtime hours. The manual corrections to the employee's timesheets were not initialed by the employee's supervisor. Therefore, this employee was paid \$6,703 in overtime without evidence of supervisory approval.

- Payroll worksheets generated from the time management system, although reviewed, were submitted to the payroll leasing company for the preparation of payroll checks without any evidence of supervisory approval.

Our review of employee timesheets and related records also disclosed that two LLC personnel were given salary increases; however, there was no documentation in the personnel files to support the reason(s) for, or approval of, these increases.

Follow-up to Mayor's Response

See comments on page 1 under Status of Report No. 2005-178 Findings.

Finding No. 12: Compensation of Selected Individuals**Previously reported**

City Commission members, the City Clerk, and an animal trainer were classified as independent contractors rather than employees and, as such, no employment taxes were withheld or paid on their compensation; however, it appears that some or all of these individuals should have been treated as employees pursuant to Internal Revenue Service (IRS) regulations. In addition, no compensation, as either an employee or an independent contractor, was reported to the IRS for a deputy sheriff and a City Commission member who were provided free living accommodations at the LLC park in return for providing park security.

We recommended that the City contact the IRS to determine how the compensation to the City Clerk, animal trainer, deputy sheriff, and City Commissioner should be treated, and what corrective actions, if any,

should be taken regarding unpaid employment taxes. Additionally, the members of the City Commission, and those individuals determined to be employees, should be treated as employees rather than independent contractors, and appropriate employment taxes should be withheld and paid on their compensation.

Results of follow-up procedures

The City has partially addressed this finding. Our current review disclosed the following:

- The City classified the City Clerk and the Deputy City Clerk as salaried employees of the City, for the period under audit, and properly withheld and paid all required employment taxes. The City did not contact the IRS to determine what corrective action should be taken regarding unpaid employment taxes for the former City Clerk.
- The LLC continued to classify the animal trainer as an independent contractor rather than an employee, and did not contact the IRS to determine how the compensation should be treated and whether any corrective action is necessary.
- No compensation, as either an employee or independent contractor, was reported to the IRS for a deputy sheriff and a City Commission member who were provided free living accommodations at the LLC park in return for providing park security. In addition, no changes to reporting the value have been made for new residents that have subsequently moved onto park grounds.
- Subsequent to the release of our prior audit report, the City discontinued paying City Commission members the \$10 per month payment provided for in the City Charter. However, Section 6 of the City Charter provides that the annual salary of City Commissioners shall be One Hundred Twenty Dollars (\$120.00), payable in monthly installments. Therefore, the

action of discontinuing these payments was contrary to the City Charter.

Follow-up to Mayor's Response

In her response, the Mayor indicated disagreement with our opinion that the former City Clerk and the animal trainer appear to meet the definition of an employee rather than an independent contractor pursuant to Internal Revenue Service (IRS) regulations. However, the Mayor did not provide documentation from the IRS to support her opinion.

Finding No. 13: Fringe Benefits

Previously reported

Contrary to United States Treasury Regulations and the Internal Revenue Code, the LLC did not include the value of on-site living accommodations provided to employees in the employees' Forms W-2, Wage and Tax Statements.

We recommended that the City contact the Internal Revenue Service (IRS) to determine the extent to which the above-noted fringe benefits should be included in employee Forms W-2, or independent contractors' Forms 1099-MISC, and determine what corrective actions, if any, should be taken regarding unreported amounts.

Results of follow-up procedures

The City has not addressed this finding. The LLC continued to exclude the value of on-site living accommodations from the employees' Forms W-2, Wage and Tax Statements and the independent contractors' Forms 1099-MISC, and did not contact the IRS to determine the extent to which these fringe benefits should be included and whether any corrective action is necessary.

Follow-up to Mayor's Response

See comments on page 1 under Status of Report No. 2005-178 Findings.

Finding No. 14: Unauthorized Expenditures

Previously reported

Expenditures related to holiday decorations totaling \$3,348 were not supported by documentation demonstrating the public purpose served by the expenditures.

We recommended that the City ensure and document in its public records that expenditures serve a public purpose, are reasonable, and necessarily benefit the City.

Results of follow-up procedures

The City has not addressed this finding. Our current review disclosed expenditures totaling \$2,502, for which the City's records did not clearly demonstrate the public purpose served. Specifically, we noted City disbursements consisting of: \$1,000 for the purchase of Halloween candy during October 2005, \$302 for the purchase of Easter candy, and \$1,200 for the purchase of Halloween candy during October 2006.

Follow-up to Mayor's Response

In her response, the Mayor indicated that the City has documented the purposes of the questioned expenditures in its public records. However, the Mayor did not provide such documentation for our review.

Finding No. 15: Disbursement Processing

Previously reported

Deficiencies in the processing of disbursements for goods and services included lack of properly approved purchase orders, and lack of adequate supporting documentation for disbursements.

We recommended that the City ensure that written purchase orders are used to document the approval of purchases prior to incurring an obligation for payment. In addition, the City should ensure that appropriate supporting documentation, such as vendor invoices or receipts, is maintained for all payments made.

Results of follow-up procedures

The City has not addressed this finding. Our current review disclosed the following:

- Purchasing practices related to the City and the LLC park operations do not include the use of purchase orders unless a vendor requests one.
- Our tests of disbursements disclosed the following instances in which there was a lack of vendor invoices, receipts, or other appropriate supporting documentation for payments evidencing that goods or services had been received for which payment was made.
 - Payments totaling \$43,504 from the LLC Operating or Merchant bank accounts for consulting fees, maintenance services, office supplies, and other various services.
 - Payments totaling \$890 from the City's General Tax Fund bank account for legal fees, and a payment to the former City Clerk.

Follow-up to Mayor's Response

See comments on page 1 under Status of Report No. 2005-178 Findings.

Finding No. 16: Contractual Services

Previously reported

Contrary to good business practices, contractual services were generally acquired without using a competitive selection process and without benefit of formal written agreements. In addition, invoices submitted by firms that provided legal and medical services were not in sufficient detail to allow a determination as to whether fees charged, and expenses submitted for reimbursement, were appropriate. One contractor selected to provide renovation, remodeling, and repair services for \$116,738, is the husband of the LLC Park's Finance Manager. The lack of a competitive selection process in selecting this contractor could raise questions of favoritism, regardless of the quality of the contractor's work.

We recommended that the City establish and adopt written policies and procedures that address the purchase of goods and contractual services. The City, as a matter of good business practice, should use a competitive selection process to acquire contractual services, and enter into written agreements with selected contractors to document the nature of services to be performed, and the amount of compensation to be provided. In addition, the City should obtain adequate invoices for all services rendered.

Results of follow-up procedures

The City has not addressed this finding. The City has not established and adopted written policies and procedures that address the purchase of goods and contractual services. In addition, our current review disclosed the following:

- A competitive selection process was not used to procure the following contractual services obtained by the LLC:

Legal Services	\$ 13,640
Repair & Renovations	309,731
Insurance	58,342
Janitorial Services	13,434
EMT Services	8,500

Of the \$309,731 paid for repair and renovations, payments, totaling \$263,373, were made to one contractor, who is the husband of the LLC park’s Finance Manager/City’s Deputy City Clerk.

- Payments for contractual services were made without benefit of written agreements signed by City or LLC park officials or employees and the contractors, as follows:

Renovation & Remodeling	\$291,174
Animal Trainer	87,500
Legal Services	13,640
Janitorial Services	13,434
A/C System Installation	12,800
Compressor Upgrade	15,900
Flooring & Installation	9,600

Follow-up to Mayor’s Response

See comments on page 1 under Status of Report No. 2005-178 Findings.

Finding No. 17: Cellular Telephone Usage

Previously reported

The City had not established written policies and procedures relating to cellular telephone usage, and had not otherwise established adequate controls over the usage of cellular telephones.

We recommended that the City implement policies and procedures relating to cellular telephone usage, and require cellular telephone users to sign written agreements specifying acceptable uses of cellular telephones. We also recommended that the City cease reimbursing the City Clerk for calls made using her personal cellular telephone, except to the extent that she can demonstrate that such calls were for authorized City purposes, and that the City take appropriate action to recover from the City Clerk the amount paid for calls not related to City business. For leased employees, we recommended that the City request the cellular telephone vendor to provide detailed billings, and that the City implement appropriate controls to ensure that cellular telephone usage is for authorized purposes.

Results of follow-up procedures

The City has partially addressed this finding. The City did not implement policies and procedures relating to cellular telephone usage, and has not required cellular telephone users to sign written agreements which specify acceptable uses of cellular telephones. In addition, our current review disclosed the following:

- The City ceased reimbursing the former City Clerk for calls made using her personal cellular telephone; however, the City did not take any action to recover from the former City Clerk the amount paid for calls not related to City business.

- For the LLC-provided cellular telephones to leased employees, the LLC did not request the cellular telephone vendor to provide detailed billings or implement appropriate controls to ensure that cellular telephone usage is for authorized purposes.

Follow-up to Mayor's Response

See comments on page 1 under Status of Report No. 2005-178 Findings.

Finding No. 18: City Hall Rental

Previously reported

Contrary to the City Commission's approved action at its September 2002 meeting, the City had not collected from the LLC its \$3,200 share of a \$6,400 lawn mower purchased for use by both the City and the LLC, through a reduction in City rent payments to the LLC for office space.

We recommended that the City continue waiver of the rental fee until the LLC has fully repaid its share of the lawn mower.

Results of follow-up procedures

The City has adequately addressed this finding. The City has recovered the balance that was owed relating to the lawn mower transaction between the City and the LLC.

Finding No. 19: Commission Meetings

Previously reported

Contrary to Section 14 of the City Charter, the City Commission did not enact an ordinance fixing regular meetings, and regular Commission meetings were not held monthly. Also, City records did not adequately document the reasons for canceled meetings.

We recommended that the City Commission enact an ordinance providing for regular meetings and ensure that meetings are held at least monthly, as required by Section 14 of the City Charter. We also recommended

that the City document in its records the reasons for meeting cancellations and Commissioners' absences.

Results of follow-up procedures

The City has not addressed this finding. The City Commission did not enact an ordinance providing for regular meetings. In addition, of the 18 regular monthly meetings scheduled during the review period, 10 were canceled. According to City records, one scheduled meeting, for the month of October 2006, was canceled due to the lack of a quorum. City records did not indicate the reasons for the remaining 9 canceled meetings.

Follow-up to Mayor's Response

In her response, the Mayor indicated that the City cancels meetings when there is no business to be conducted. However, the City Charter does not provide exemptions for holding at least monthly meetings of the City Commission.

Finding No. 20: Statements of Financial Interests

Previously reported

Contrary to Section 112.3145(2), Florida Statutes, two City Commissioners failed to annually file statements of financial interests.

We recommended that the City notify the Commission on Ethics of the names and addresses of the current members of the City Commission. We also recommended that those City Commissioners who have failed to submit statements of financial interests immediately file the required statements for the years since they took office and ensure that annual statements are filed thereafter as required by law.

Results of follow-up procedures

The City has partially addressed this finding. All three City Commissioners filed the required statement of financial interest for the calendar year ended December 31, 2005. Two City Commissioners failed to submit the required statements for the calendar years ended December 31, 2004, and earlier. In April 2006, the City notified the Commission on Ethics of

the names and addresses of the current City Commission members.

Section 5 of the City Charter provides that members of the City Commission shall have been residents of Florida for one year and shall be taxpayers on real property within the limits of the City, or shall have been residents of the City continuously for three months immediately preceding the date of the commencement of the term of office for which they are elected. This Section further provides that any member of the City Commission ceasing to possess the foregoing qualifications shall forfeit his office. As provided by Section 91 of the City Charter, the City held an election for City Commission members in November 2006. One of the three Commission members elected, the Mayor, was not a taxpayer on real property within the City, and had not been a resident of the City continuously for three months immediately preceding the date of the commencement of the term of office. Therefore, the election of, and remainder in office of, one of the Commission members is contrary to the City Charter.

In response to our audit inquiry, the City Attorney stated that the City Charter provision requiring qualified City Commission members to be a taxpayer on real property within the City is unconstitutional and, therefore, should not be considered when determining a qualified Commission member. While this provision of the City Charter may be unconstitutional, the residency requirements included in the City Charter have not been determined to be unconstitutional. The election of a City Commissioner that had not been a resident of the City continuously for three months immediately preceding the date of the commencement of the term of office, and the continuance of this Commission member in office, is contrary to the City Charter.

Follow-up to Mayor's Response

Prior to May 14, 2007, the plain language of the City Charter required City Commissioners to be residents of Florida for one year and additionally be either (1) taxpayers on City real property or (2) be residents of the City continuously for three months preceding the date of taking office. Contrary to the City's response that indicates the Charter was amended in 1985 to "permit persons living outside of the City to serve as City Commissioners," these amendments were clearly made to authorize non-city residents who were owners of City real property to be qualified for election to the City Commission.

The City indicated it amended its Charter on May 14, 2007, to delete the "unconstitutional requirement of taxpayer status." The City also amended the Charter to establish durational residency requirements of either one year Florida residency or three months City residency. These changes would appear to resolve our concerns relating to qualifications of the Mayor in elections subsequent to May 14, 2007.

SCOPE AND OBJECTIVES

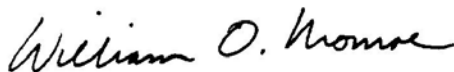
The scope of this project included selected actions and transactions taken subsequent to June 2006 to determine the extent to which the City has corrected, or is in the process of correcting, deficiencies disclosed in our report No. 2005-178.

METHODOLOGY

The methodology used to develop the findings in this report included the examination of pertinent City records in connection with the application of procedures required by applicable Generally Accepted Government Auditing Standards.

AUTHORITY

Pursuant to the provisions of Section 11.45(2)(l), Florida Statutes, I have directed that this report be prepared to present the results of our follow-up procedures regarding findings and recommendations included in our report No. 2005-178, operational audit of the City of Weeki Wachee, Florida, for the period October 1, 2002, through April 30, 2004, and selected actions taken prior and subsequent thereto.



William O. Monroe, CPA
Auditor General

MAYOR'S RESPONSE

The Mayor's responses to our findings are included in this report as Appendix A. The Mayor also attached the City's response to report No. 2005-178 to her responses to this report. Those responses were included in report No. 2005-178.

This follow-up review was conducted by Denis Jessen, CPA, and supervised by Marilyn D. Rosetti, CPA. Please address inquiries regarding this report to James M. Dwyer, CPA, Audit Manager, via E-mail at jimdwyer@aud.state.fl.us or by telephone at (850) 487-9031.

This report, as well as other audit reports prepared by the Auditor General, can be obtained on our Web site (<http://www.state.fl.us/audgen>); by telephone at (850) 487-9024; or by mail at G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.

APPENDIX A
MAYOR'S RESPONSE

**RESPONSE OF CITY OF WEEKI WACHEE, FLORIDA,
TO FLORIDA AUDITOR GENERAL APRIL 5, 2007,
PRELIMINARY AUDIT, FINDINGS AND RECOMMENDATIONS**

Attached hereto and incorporated herein as fully as if set forth in full text is the response of the City to the prior Audit Report by the Auditor General. The responses to each of the items referenced below are still applicable, and are incorporated by this reference into each of the hereinbelow set forth responses.

The City of Weeki Wachee, Florida, responds to the April 5, 2007, draft report of the Auditor General, as follows:

**Response to Finding N^o 1:
Acquisition of Weeki Wachee Springs, LLC**

The financial condition of the City is in no way related to the operations of the LLC, since the City neither expends funds for the LLC nor receives funds from the LLC. The sole funding connection between the City and the LLC is the "Save Our Tails" fund, which was money specifically donated to the City, in trust for the LLC, which funds have been expended for the benefit of the LLC, in compliance with the condition of the donations thereof.

The organizational documents of the LLC prohibit its member from engaging in the management of the LLC.

The sole reason for any financial difficulty on the part of the City is the action by the Florida Legislature, in 2005, to reduce the City's allowable millage rate, thereby limiting the funding that the City can raise through *ad valorem* taxation, its major source of revenues.

**Response to Finding N^o 2:
Attempted Condemnation of Utility System**

As noted in the response to the prior Auditor General's report, the attempt by the City to acquire the Hernando County operating assets of Florida Water Services Corp., was not prohibited by the City Charter. Previously, the Auditor General has been supplied with a definitive opinion from counsel for the City to that effect.

The Law of Florida clearly defers to the interpretation by a governmental agency of the statutes, ordinances, and regulations pursuant to which it exists and operates. Based upon the opinion of counsel engaged for the specific purpose of determining whether the City could acquire

the subject utility assets, the City has interpreted its authority as permitting it so to do. The litigation regarding the acquisition of those utility assets was settled and dismissed prior to any definitive determination of that issue by any Court.

**Response to Finding N^o 3:
Written Policies and Procedures**

Because of the legislative action limiting the amount of *ad valorem* taxation that can be raised by the City, the City has been unable to afford to engage the accounting services necessary to develop the policies to which reference is made in this finding.

**Response to Finding N^o 4:
Separation of Duties**

As with Finding No. 3, the reduction by the legislature and the ability of the City to raise *ad valorem* taxes limits the ability of the City to hire employees to undertake the matters recommended in this finding.

Further, reference to operations within the park business of the LLC are irrelevant to the operations of the City.

**Response to Finding N^o 5:
Financial Reporting**

The State has provided no relief in terms of funding annual financial audits of the City, and, instead, has limited the financial ability of the City to do so on its own. Accordingly, as with Findings No. 3 and 4, above, the City is unable to afford to engage private accounting services to accomplish the recommendations made herein.

**Response to Finding N^o 6:
State Distributed Funds**

It is cost prohibitive for the City to engage professional services to deal with reimbursement of an amount as small as \$579.00, in a lost warrant. Further, the City has chosen not to receive funding from the State through electronic funds transfers, preferring to receive the same by check. The City will give consideration to requesting electronic funds transfers for future such payments.

**Response to Finding N^o 7:
Bank Reconciliations**

The LLC is a completely separate entity from the City, and the reconciliation of its bank

statements is not a matter for concern herein. However, as an aside, management of the LLC has represented that it will address the issue of late reconciliations.

**Response to Finding N° 8:
Fixed Asset Records**

The City has no substantial fixed assets. The few fixed assets which it has have been properly identified. Unfortunately, the age of those assets is such that the specific information recommended by this finding is no longer available for many of its tangible assets.

**Response to Finding N° 9:
Accountability for Restricted Resources**

The City has not disbursed federal revenue sharing funds for any unpermitted purpose.

**Response to Finding N° 10:
Previously Reported**

The City has no loans payable. The loans to the LLC by others are the sole liability of the LLC, for which the City has no exposure.

**Response to Finding N° 11:
Payroll Time Keeping Procedures**

The City has no leased employees. Its only employees are two (2) part time employees fulfilling the function of the City Clerk.

The employees to which reference is made by this finding are leased employees of the LLC, for which the City has no payroll responsibility. Management of the LLC has represented that it will review the referenced employees payroll records.

**Response to Finding N° 12:
Compensation of Selected Individuals**

The City has no responsibility for payment of employment taxes regarding the former City Clerk, who was an independent contractor, and undertook those duties among many other duties, and provided, in most instances, the implements necessary to perform the job.

The animal trainer is an independent contractor to the LLC not the City. Accordingly, the City has no responsibility to make withholdings. Management of the LLC has represented that the animal trainer indeed functions as an independent contractor, and not as an employee.

The City submits appropriate Forms 1099 for each person serving as an independent contractor.

**Response to Finding N^o 13:
Fringe Benefits**

The City has no employees living in City owned or controlled accommodations. The employees and accommodations to which reference is made are leased employees of the LLC, and are accommodations leased to and controlled by the LLC.

Management of the LLC has represented that the employees of the LLC who live in such accommodations are requested to live therein for the convenience of the LLC.

**Response to Finding N^o 14:
Unauthorized Expenditures**

The City annually hosts community events for family oriented holidays, for the minimal expense of purchasing and distributing candy to the attendees thereof, mostly children. Those events, and the purposes for those expenditures, have been appropriately documented in the City's records.

**Response to Finding N^o 15:
Disbursement Processing**

This finding addresses issues related to the operation of the LLC and its park business. They do not relate to the City. However, management of the LLC has represented that it will review the issues raised by this finding.

The payments referenced as legal fees paid from the City's general tax fund were not legal fees, but were for costs involved with legal matters.

**Response to Finding N^o 16:
Contractual Services**

The LLC is a separate legal entity from the City, and is not subject to the provisions of the Consultants Competitive Negotiation Act. Further, even if subject thereto, the engagement of legal services is not thereby covered.

The expenses to which reference is made by this finding are all expenses of the LLC, for which the City has no responsibility or liability, and for which there have been no public funds

expended.

**Response to Finding N^o 17:
Cellular Telephone Usage**

The City owns no cellular telephones, and has no cellular telephone accounts. All reference to cellular telephones made in this finding relate to the LLC, which is a separate legal entity from the City, and for which no public funds of the City have been expended.

However, management of the LLC has represented that it will review the issues raised by this finding.

**Response to Finding N^o 18:
City Hall Rental**

No response is necessary with regard to this finding.

**Response to Finding N^o 19:
Commission Meetings**

When there is no business to be conducted by the City Commission, meetings are canceled rather than waste everyone's time in appearing for a meeting and immediately adjourning the same.

**Response to Finding N^o 20:
Statements of Financial Interests**

The City Charter is manifestly misinterpreted in this finding, with regard to the qualifications to be met by members of the City Commission.

Section 94 of the Charter was amended in 1985, to remove any requirement that a City Commissioner be a resident of the City. The specific amendment to that Section of the Charter remove the requirement that a City Commissioner be an "elector" of the City, which status requires residency, so that any "person" can be a Commissioner.

At the same time, Section 4 of the Charter was amended to accomplish the same change with regard to the residency requirement.

Further, at the same time, Section 5 of the Charter was amended to provide that the qualifications of the "persons" seeking to serve as a member of the City Commission would be that they:

- a. Shall have been residents of Florida for one year and shall be taxpayers on real property within the limits of the city, or
- b. shall have been residents of the city
- c. continuously for three (3) months immediately preceding the date of the commencement of the term of office for which they are elected.

This finding exhibits significant misinterpretation of the language of Paragraph 5, of the Charter. This finding asserts that a City Commissioner must have been a resident of Florida for one (1) year and a taxpayer of property within the City. It acknowledges that the requirement that a City Commissioner be a taxpayer is unconstitutional. Therefore, it acknowledges that a person that has been a resident of Florida for one (1) year is eligible to serve on the City Commission.

Thereafter, this finding confuses the alternative and shorter term of residency within the City, and asserts that not only must a City Commissioner have been a resident of Florida for one (1) year, but also must have been a resident of the City for three (3) months. That interpretation flies in the face of the amendments to the City Charter made in 1985 in order to permit persons living outside of the City to serve as City Commissioners.

It further flies in the face of the Law of Florida, pursuant to which a governmental agency is accorded great deference in its interpretation of the statutes, ordinances, and regulations pursuant to which it exists and operates.

However, in order to eliminate any confusion generated by this finding, the City has amended its Charter, effective by a referendum passed by the residents of the City on Monday, May 14, 2007, pursuant to which the reference to the unconstitutional requirement of taxpayer status has been removed. The change was made in Section 5 of the Charter, which now reads, in relevant part, as follows:

Members of the City Commission shall have been residents of Florida for one (1) year or shall have been residents of the City continuously for three (3) months immediately preceding the date of the commencement of the term of office for which they are elected.

That has been the interpretation of the City regarding the requirements of its Charter for at least twenty-two (22) years. Accordingly, the City is entitled to the deference of other agencies regarding its interpretation of the requirements that must be met by persons holding the office of City Commissioner.

CONCLUSION

The City submits these responses to the various preliminary findings conveyed to it by the Auditor General's letter of April 5, 2007, and requests that they be incorporated into his final report.

CITY OF WEEKI WACHEE, FLORIDA

BY: Robyn Anderson
Robyn Anderson, Mayor

