

STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

Report No. 2019-214
May 2019

**CITY OF PALATKA
AND
PALATKA DOWNTOWN
REDEVELOPMENT AGENCY**

Prior Audit Follow-Up



Sherrill F. Norman, CPA
Auditor General

**City of Palatka
Mayor, Vice Mayor, City Commissioners, and City Manager**

During the period October 2017 through August 2018, Matthew Reynolds served as Interim City Manager through January 24, 2018, Zeriah Folston served as City Manager from January 25, 2018, through July 23, 2018, and Betsy Driggers served as Interim City Manager from July 24, 2018. The following individuals served as City Commissioners:

Terrill Hill, Mayor
Mary Lawson Brown, Vice Mayor
Rufus Brown, Commissioner
Justin Campbell, Commissioner
Tammie Williams, Commissioner

**Palatka Downtown Redevelopment Agency (PDRA)
Chairman, Vice Chairman, Commissioners, and Director**

During the period October 2017 through August 2018, the Mayor, Vice Mayor, City Commissioners, and City Manager served as the PDRA Chairman, Vice Chairman, Commissioners, and Director, respectively, along with two appointed Commissioners: Sam Deputy and Terry Suggs.

The team leader was Walt Cunningham, and the audit was supervised by Derek H. Noonan, CPA.

Please address inquiries regarding this report to Michael J. Gomez, CPA, Audit Manager, by e-mail at mikegomez@aud.state.fl.us or by telephone at (850) 412-2881.

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CITY OF PALATKA AND PALATKA DOWNTOWN REDEVELOPMENT AGENCY

Prior Audit Follow-Up

SUMMARY

This operational audit of the City of Palatka (City) and the Palatka Downtown Redevelopment Agency (PDRA) focused on the progress that the City and the PDRA had made, or was in the process of making, in addressing the findings and recommendations in our operational audit report No. 2017-107. Our audit disclosed that the City and the PDRA had corrected 3 findings (Findings 2, 3, and 4) and partially corrected 2 findings (Findings 1 and 5).

BACKGROUND

In 1853, the City of Palatka (City) was incorporated as a municipality. The City is located in Putnam County, governed by the City Commission, which is composed of four elected commissioners and an elected mayor, and operates under a Commission-Manager form of government. The longest serving non-mayor Commissioner serves as vice mayor.

In 1983, the City established the Palatka Downtown Redevelopment Agency (PDRA), a community redevelopment agency. The City Commission serves as the governing board of the PDRA along with two other appointed individuals, including one from the Board of County Commissioners and one from Palatka Downtown, Inc.¹ The Mayor serves as PDRA Chairman and the City Manager serves as PDRA Director.

In 2017 and 2018, the City had estimated populations of 10,662 and 10,649, respectively.² The City provides citizens with services including general government, public safety, planning and zoning, and community enrichment and development. The City also operates a municipal golf course and airport, and provides sanitation, water, and wastewater utility services.

¹ Palatka Downtown, Inc. is a non-profit merchants association that supports the economic development, enhancement, and promotion of downtown Palatka.

² Florida Population Estimates for Counties and Municipalities, April 2017 and April 2018, Florida Legislative Office of Economic and Demographic Research.

FINDINGS AND RECOMMENDATIONS

CITY OF PALATKA

Finding 1: Local Government Infrastructure Surtax

Previously Reported

City records did not document that infrastructure surtax proceeds were always expended for authorized purposes.

We recommended that the City enhance procedures to ensure that surtax proceeds are expended only as authorized by State law.³ We also recommended that the City either document the allowability of surtax proceed transfers totaling \$339,593 to the Golf Course Fund, as well as any 2008 refunding debt proceeds used for operating expenses or prior advances for golf course operating deficits, or restore the applicable amounts to the Better Place Plan (BPP) Fund.

Results of Follow-Up Procedures

The City partially corrected this finding. Our follow-up procedures regarding the undocumented allowability of surtax proceed transfers identified in our report No. 2017-107 disclosed that, in February 2017, the City restored \$518,464 to the BPP Fund from the Golf Course Fund. The restored amount included the \$339,593 reported in our prior audit report and \$178,871 that, according to City personnel, was for other amounts improperly transferred prior to and subsequent to our prior audit period.

State law⁴ provides that sales surtax proceeds may be used to acquire any interest in land for public recreation, conservation, or protection of natural resources. During the period February 2016 through August 2018, the City incurred infrastructure surtax expenditures totaling \$4.9 million. To determine whether the surtax proceeds were properly expended, we examined City records supporting 30 selected expenditures totaling \$3.8 million.

We found 5 surtax expenditures totaling \$737,541 that were for principal and interest payments on a 2008 bond issue used to purchase blighted property in the City. Subsequent to the 2008 bond issue, in September 2013 the City sold the property to a developer to build a hotel. In response to our inquiry, the City Attorney indicated that the hotel was to be a key part of the overall development of the City's riverfront for public recreation. Notwithstanding this response, use of surtax proceeds to purchase property that was sold to a developer to build a hotel does not appear to be authorized by law as it did not directly relate to public recreation, conservation, or protection of natural resources.

Recommendation: **We continue to recommend that the City enhance procedures to ensure that surtax proceeds are expended only as authorized by State law. Additionally, the City should either document the allowability of surtax proceeds totaling \$737,541 used to purchase property sold to a developer for hotel construction or restore the applicable amounts to the BPP Fund.**

³ Section 212.055(2), Florida Statutes.

⁴ Section 212.055(2)(d), Florida Statutes.

Follow-Up to Management's Response

Management indicated in the written response that “by purchasing this property, the City was able to better pursue its plan for public recreation as a part of an overall plan for improvement of public facilities.” Notwithstanding this response, information was not provided to demonstrate the allowability of using surtax proceeds to purchase property for subsequent sale to a developer for hotel construction and, therefore, we continue to recommend that the City restore the applicable amounts to the BPP Fund.

Finding 2: Competitive Selection Process

Previously Reported

The City did not always follow the required competitive procurement process.

We recommended that the City adhere to and document compliance with the required competitive procurement processes to demonstrate the City’s fair, equitable, and economical selection of service providers and vendors and the procurement of goods and services at the lowest cost consistent with desired quality.

Results of Follow-Up Procedures

The City corrected this finding. In March 2017, the City Commission amended City rules and regulations to authorize purchases based on bids made to another governmental entity. According to City records, during the period October 2017 through August 2018, there were 49 payments totaling \$4.9 million that individually exceeded the City’s \$25,000 competitive selection threshold. Our examination of City records supporting 22 selected payments to 13 vendors for goods and services totaling \$2.3 million disclosed that the City had competitively selected the vendors in accordance with City rules and regulations.

Finding 3: Guarantee for Payment – Development Project

Previously Reported

City procedures were not sufficient to ensure that a project developer provided the letter of credit, payment and performance bond, or other form of security necessary to protect the interests of the City.

To protect the City’s interests in the event of unsatisfactory developer performance or incomplete development projects, we recommended that the City establish procedures to require a developer to provide written guarantees for payment, such as letters of credit, payment and performance bonds, or other forms of security, prior to executing a contract with the developer. We also recommended that the City ensure that developers provide the total project cost estimates during the request for proposal and contracting processes to establish the appropriate dollar amounts for the guarantees.

Results of Follow-Up Procedures

The City corrected this finding. According to City records, during the period October 2017 through August 2018, the City entered into seven contracts totaling \$4.2 million with construction contractors and developers. Our examination of City records and discussions with City personnel supporting the seven contracts disclosed that, when applicable, the invitation to bid and the contract documents required the

developer to obtain a guarantee for payment in an amount sufficient to either protect the City against unsatisfactory developer performance or to allow the City to complete the project. In addition, City personnel provided records to evidence that they verified the existence of the payment guarantee instruments with the surety, when appropriate.

Finding 4: Anti-Fraud Policy

Previously Reported

The City had not established anti-fraud policies and procedures for the mitigation, detection, and reporting of suspected or known fraud.

We recommended that the City develop and implement anti-fraud policies and procedures to aid in the mitigation, detection, and prevention of fraud.

Result of Follow-Up Procedures

The City corrected this finding. In July 2017, the City adopted a resolution⁵ that created anti-fraud policies intended to protect the City, its operations, employees, and assets against financial risks, operational breaches, and unethical activities. The policies addressed:

- Suspected ethics and fraud violation reporting procedures that allow employees to report the suspected violation to their supervisor unless the supervisor or City Manager is involved, in which case the individual should report suspected fraud to the City Attorney.
- Responsibilities for investigating suspected violations.
- Protections for the reputation of persons suspected but not found guilty of fraud.
- Consequences for fraudulent behavior.

Effective July 2017, the anti-fraud policies were added to the *City of Palatka Policy Manual (Manual)* and, upon employment, individuals are required to sign an acknowledgement form that they will adhere to the policies included in the *Manual*.

PALATKA DOWNTOWN REDEVELOPMENT AGENCY

Finding 5: Tax Increment Funds

Previously Reported

Procedures for awarding and monitoring Palatka Downtown Redevelopment Agency (PDRA) grants need enhancement to better ensure and demonstrate that the grants are awarded to eligible recipients and that grant terms and conditions are appropriately met.

We recommended that the PDRA enhance procedures to:

- Verify, of record, the eligibility of grant recipients. Such documented verifications should include records to demonstrate appropriate rankings of grant applicants and recipient contributions of required matching amounts.

⁵ Resolution No. 2017-12-73.

- Conduct, and maintain records of, physical inspections of grant-funded projects to verify that grant funds are expended only for projects designated in grant agreements and that the work quality of the projects is acceptable.
- Maintain copies of recipient-signed agreements establishing the recipient's grant agreement responsibilities.
- Document that grant-funded construction contract services costing more than \$5,000 but less than \$25,000 are selected based on three quotes from different contractors. Such procedures should also ensure that the services are acquired from the most qualified contractor with the lowest quote before contracting for the services.
- Independently monitor BIG-funded properties and, if sold within 5 years, promptly seek recovery of the BIG funds from the recipient.
- Ensure that grants are not awarded to an entity with a business relationship with a PDRA Commissioner.

Results of Follow-Up Procedures

The PDRA partially corrected this finding. According to PDRA records for the period October 2017 through August 2018, the PDRA incurred expenditures totaling \$41,120 pursuant to four PDRA grants. Our discussions with PDRA personnel and examination of PDRA records supporting expenditures for these four grants disclosed that:

- The PDRA documented verifications that grant recipients were eligible for the grants and contributed the required matching amounts. Grant applicant rankings were unnecessary because, beginning in April 2017, rather than ranking grant applicants, the City began awarding grants to eligible applicants on a first-come, first-served basis.
- Records were maintained to evidence physical inspections of grant-funded projects to support that grant funds were expended only for projects designated in grant agreements and that the project work quality was acceptable.
- Copies were maintained of recipient-signed agreements establishing the recipient's grant agreement responsibilities.
- For grant-funded construction contract services costing more than \$5,000 but less than \$25,000, records evidenced that a minimum of three quotes from different contractors were received before contracting for the services, and the services were awarded to the most qualified contractor with the lowest quote.
- Grants were not awarded to an entity with a business relationship with a PDRA Commissioner.
- Liens were filed on properties for which the grant recipient was required to repay the PDRA within 5 years. We also found that property costing \$11,492 associated with one of the four grants was sold within the repayment period specified in the grant agreement and the grant recipient repaid the PDRA the required amount. However, PDRA records did not evidence that PDRA personnel periodically monitored the properties to determine whether they were sold within the 5-year repayment period. Absent documented monitoring procedures to identify property sales that occur before the 5-year period, or any other time period specified in the grant agreement, the PDRA has limited assurance that grant funds are properly safeguarded.
- The PDRA did not document any action to recover from the title company or the grant recipient the amounts required to be repaid for property sold within 5 years identified in our report No. 2017-107 or, alternately, document that legal actions to recover the moneys would not be cost effective. Although we requested an explanation, PDRA personnel did not explain why action

was not taken to collect the grant amounts required to be repaid and did not provide records evidencing consultation with the PDRA attorney.

Recommendation: We continue to recommend that the PDRA enhance policies and procedures to provide for documented, independent monitoring of grant-funded properties with repayment provisions. If properties are sold within the repayment period, the PDRA should seek the prompt recovery of grant funds from the recipient. In addition, we continue to recommend that the PDRA take action to seek repayment for the grant property sold within 5 years as disclosed in our report No. 2017-107 or document that actions to recover the moneys would not be cost effective.

OBJECTIVES, SCOPE, AND METHODOLOGY

Pursuant to Section 11.45(3)(a), Florida Statutes, we conducted an operational audit of the City of Palatka (City) and the Palatka Downtown Redevelopment Authority (PDRA) and issued our report No. 2017-107 in February 2017. Pursuant to Section 11.45(2)(j), Florida Statutes, the objective of this audit was to perform, no later than 18 months after the release of that report, appropriate follow-up procedures to determine the City's progress in addressing the findings and recommendations contained within report No. 2017-107.

We conducted this follow-up audit from August 2018 to December 2018 in accordance with applicable generally accepted government auditing standards. Those standards require that we plan and perform the follow-up audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the follow-up audit, weaknesses in management's internal controls; instances of noncompliance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our follow-up audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included transactions, as well as events and conditions, occurring during the audit period of October 2017 through September 2018, and selected City and PDRA actions taken prior and subsequent thereto. Our audit included the examination of pertinent City and PDRA records and transactions, inquiry

of City and PDRA personnel, observation of procedures in practice, and additional follow-up procedures as appropriate. Unless otherwise indicated in this report, records and transactions were not selected with the intent of projecting the results, although we have presented for perspective, where practicable, information concerning the relevant population value or size and quantifications relative to the items selected from examination.

Specifically, we:

- Reviewed applicable laws, rules, regulations, and City and PDRA policies and procedures, and interviewed City and PDRA personnel to gain an understanding of City and PDRA operations.
- Evaluated City and PDRA policies and procedures for business-related functions during the audit period to determine whether the established policies and procedures provided adequate and sufficient controls over procurement and tax increment fund grant management.
- Examined the minutes of City Commission meetings during the audit period and the minutes of selected meetings prior and subsequent to the audit period to determine the propriety and sufficiency of actions taken related to the scope of this audit.
- Determined whether the City restored \$339,593 of unallowable infrastructure surtax transfers to the Better Place Plan Fund.
- From 347 infrastructure surtax expenditures totaling approximately \$4.9 million incurred during the period February 2016 through August 2018, examined records supporting 30 selected expenditures totaling \$3.8 million to determine whether the expenditures were allowable uses of the infrastructure surtax.
- For the 49 payments totaling \$4.9 million that individually exceeded the City's \$25,000 competitive selection threshold for the period October 2017 through September 2018, examined City records supporting 22 selected payments for goods and services totaling \$2.3 million to determine whether the City competitively selected the vendors in accordance with City rules and regulations.
- Examined documentation supporting the seven contracts with construction contractors and developers entered into by the City during the period October 2017 through August 2018 totaling \$4.2 million to determine whether:
 - The City required a guarantee for payment.
 - The amount of the guarantee instrument was sufficient to protect the City in the event that the contractor or developer did not complete the project or did not satisfactorily complete the project.
 - City personnel verified the existence of the payment guarantees.
- Evaluated the City's anti-fraud policy to determine whether the policy contained necessary elements to be effective.
- Examined documentation supporting all four grants awarded by the PDRA to entities and individuals that incurred expenditures during the period October 2017 through August 2018 and totaling \$41,120 to determine whether the PDRA complied with grant guidelines, agreements, and good business practices in awarding and administering the grants.
- Evaluated the adequacy of actions taken by the City to recover grant funds from a grant recipient that improperly sold its property during the 5-year repayment period.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.

- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.

A handwritten signature in blue ink that reads "Sherrill F. Norman". The signature is fluid and cursive, with "Sherrill" on the first line and "F. Norman" on the second line.

Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE

TERRILL HILL
MAYOR-COMMISSIONER

MARY LAWSON BROWN
VICE MAYOR –
COMMISSIONER

RUFUS J. BOROM
COMMISSIONER

JUSTIN R. CAMPBELL
COMMISSIONER

TAMMIE M. WILLIAMS
COMMISSIONER



Regular meeting 2nd and 4th Thursdays each month at 6:00 p.m.

BETSY JORDAN DRIGGERS
INTERIM CITY
MANAGER/CLERK

LOGAN B. BECKER
FINANCE DIRECTOR

JASON SHAW
CHIEF OF POLICE

KEITH 'JR' GRIMES
CHIEF FIRE DEPT.

DONALD E. HOLMES
CITY ATTORNEY

May 15, 2019

The Honorable Sherrill F. Norman
Florida Auditor General
Claude Denson Pepper Building, Suite G74
111 West Madison Street
Tallahassee, FL 32399-1450

Dear Mrs. Norman:

I write to you in response to the findings and recommendations noted in the audit of the City of Palatka and Palatka Downtown Redevelopment Agency, Prior Audit Follow-Up.

Finding 01 *Resolution, Comments* – It was essential for the vitality of Palatka’s Riverfront that the high-rise be purchased and demolished if the City ever wanted to promote anything other than crime in said area. The area being referenced frustrated any plan for redevelopment or public use in its prior condition. The purchase and demolition of the high-rise was and is key to the recreational development of the Palatka Riverfront. By purchasing this property, the City was able to better pursue its plan for public recreation as a part of an overall plan for improvement of public facilities including construction of a ship store, addition of a public park and a public educational building. Therefore, it would appear to the City that the purpose of the referenced statute was served.

Finding 02 *Resolution, Comments* – Auditor General Office has found that the City has corrected this finding.

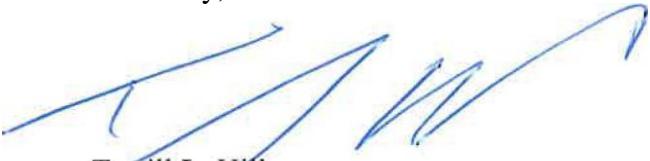
Finding 03 *Resolution, Comments* – Auditor General Office has found that the City has corrected this finding.

Finding 04 *Resolution, Comments* – Auditor General Office has found that the City has corrected this finding.

Finding 05 *Resolution, Comments* – After multiple failed attempts of seeking repayment for the grant property sold prior to the program restricted time frame, the City, along with its attorney, has determined that continued efforts to recover monies will need to be initiated by way of Commission recommendation. Therefore, the City intends on bringing this issue to the Commission to seek further direction. Additionally, as a response to the tentative finding, the provisions within the existing CRA programs are currently being reviewed and enhanced to maximize effectiveness.

Please contact me if you have any questions or need additional explanation.

Sincerely,



Terrill L. Hill
Mayor, City of Palatka