

KATHLEEN PASSIDOMO
President of the Senate



PAUL RENNER
Speaker of the House



Joint Legislative Auditing Committee

Senator Jason Pizzo, Alternating Chair
Representative Michael Caruso, Alternating Chair

Meeting Packet
Thursday, January 26, 2023
412 Knott Building

1:00 p.m. – 3:00 p.m.

The Florida Legislature
COMMITTEE MEETING AGENDA
JOINT LEGISLATIVE AUDITING COMMITTEE

Senator Jason W. B. Pizzo, Alternating Chair
Representative Michael A. “Mike” Caruso, Alternating Chair

MEETING DATE: Thursday, Jan 26th

TIME: 1:00 – 3:00 P.M.

PLACE: 412 Knott Building

MEMBERS:

Senator Jason Brodeur
Senator Tracie Davis
Senator Nick DiCeglie
Senator Corey Simon

Representative Daniel “Danny” Alvarez, Sr.
Representative Christopher Benjamin
Representative Peggy Gossett-Seidman
Representative Dianne “Ms Dee” Hart
Representative Vicki L. Lopez

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- 1. Consideration of a request for an Auditor General operational audit of the City of Winter Springs submitted by Senator Brodeur**
 - 2. Consideration of a request for an Auditor General operational audit of the North Springs Improvement District submitted by Representative Daley**
 - 3. Presentation of the Auditor General’s operational audit of the West Volusia Hospital Authority and the response from the Authority**
 - 4. Unfinished Business**

**1 Audit Request: City of
Winter Springs**



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Committee on Agriculture,
Environment, and General Government, *Chair*
Health Policy, *Vice Chair*
Appropriations
Appropriations Committee on Health
and Human Services
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR JASON BRODEUR

10th District

January 4, 2023

The Honorable Jason W. B. Pizzo
Chair, Joint Legislative Auditing Committee
876 Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1400

Dear Chair Pizzo,

I am requesting that the Joint Legislative Auditing Committee direct the Auditor General to perform an operational audit of the City of Winter Springs. I am aware of concerns regarding activities of the current Mayor, City Commission and City Manager. The residents of Winter Springs have compiled extensive material showing rampant mismanagement and even malfeasance which is harming the 38,000+ residents of the City of Winter Springs.

The scope of the audit, at a minimum, should include the following areas:

- Compliance with Florida law and the City's policies relating to wastewater disposal and environmental protection, and testing of documentation for such operations as deemed appropriate;
- Compliance with Florida law and the City's policies relating to third-party contracting, specifically relating to contracts for wastewater disposal, environmental protection, and marketing, and testing of documentation for such contracts as deemed appropriate;
- Compliance with Florida law and the City's policies relating to the 2017 Central Florida Water Initiative, specifically compliance with state law regarding Consumptive Use Permits, and testing of documentation for such permitting as deemed appropriate;
- Compliance with Florida law and the City's policies relating to public records requests, and testing of documentation for such requests as deemed appropriate;
- Review of the City's internal controls over wastewater disposal, environmental protection, and third-party contracting, and testing as deemed appropriate;
- An evaluation of City's ethics and fraud policies and the City's Code of Conduct

REPLY TO:

- ☐ 110 Timberlachen Circle, Suite 1012, Lake Mary, Florida 32746 (407) 333-1802
- ☐ 405 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

January 4, 2023

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Thank you for your consideration of this audit request.

Sincerely,

A handwritten signature in black ink that reads "Jason Brodeur". The signature is written in a cursive style with a long horizontal flourish at the end.

Senator Jason Brodeur – District 10

STAFF ANALYSIS

Date: January 25, 2023

Subject: Request for an Operational Audit of the City of Winter Springs

Analyst Coordinator

 DW KD
White DuBose

I. Summary:

The Joint Legislative Auditing Committee (Committee) has received a request from Senator Jason Brodeur to have the Committee direct the Auditor General to conduct an operational audit of the City of Winter Springs.

II. Present Situation:

Current Law

Joint Rule 4.5(2) provides that the Legislative Auditing Committee may receive requests for audits and reviews from legislators and any audit request, petition for audit, or other matter for investigation directed or referred to it pursuant to general law. The Committee may make any appropriate disposition of such requests or referrals and shall, within a reasonable time, report to the requesting party the disposition of any audit request.

Joint Rule 4.5(1) provides that the Legislative Auditing Committee may direct the Auditor General or the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an audit, review, or examination of any entity or record described in Section 11.45(2) or (3), *Florida Statutes*.

Section 11.45(3)(a), *Florida Statutes*, provides that the Auditor General may, pursuant to his or her own authority, or at the discretion of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of the accounts and records of any governmental entity created or established by law.

Section 11.45(2)(j), *Florida Statutes*, provides, in part, that the Auditor General shall conduct a follow-up to his or her audit report on a local governmental entity no later than 18 months after the release of the audit report to determine the local governmental entity's progress in addressing the findings and recommendations contained in the previous audit report.

Request for an Operational Audit of the City of Winter Springs

Senator Brodeur has requested the Committee to direct an operational audit of the City of Winter Springs (City) and stated that he is aware of concerns regarding activities of the current Mayor, City Commission and City Manager and the residents of Winter Springs have compiled extensive material showing

rampant mismanagement and even malfeasance which is harming the 38,000+ residents of the City of Winter Springs. Senator Brodeur has requested that the scope of the audit, at a minimum, include the following areas:¹

1. Compliance with Florida law and the City's policies relating to wastewater disposal and environmental protection, and testing of documentation for such operations as deemed appropriate;
2. Compliance with Florida law and the City's policies relating to third-party contracting, specifically relating to contracts for wastewater disposal, environmental protection, and marketing, and testing of documentation for such contracts as deemed appropriate;
3. Compliance with Florida law and the City's policies relating to the 2017 Central Florida Water Initiative, specifically compliance with state law regarding Consumptive Use Permits, and testing of documentation for such permitting as deemed appropriate;
4. Compliance with Florida law and the City's policies relating to public records requests, and testing of documentation for such requests as deemed appropriate;
5. Review of the City's internal controls over wastewater disposal, environmental protection, and third-party contracting, and testing as deemed appropriate; and
6. An evaluation of City's ethics and fraud policies and the City's Code of Conduct.

Background

The City of Winter Springs, Florida, was originally incorporated in 1959 under the provisions of Chapter 59-1614, *Laws of Florida*,² as the Village of North Orlando. In 1972, Chapter 72-718, *Laws of Florida*, abolished the Village of North Orlando and established the City of Winter Springs (City). The City is located in Seminole County and has an estimated population of 39,038.³

The City operates under a council-manager form of government and is governed by five elected City Commissioners and a separately elected Mayor, each of whom are elected for four-year terms.⁴ The City Manager is a charter officer appointed by the City Commission, acts as the chief administrative officer of the City, and is responsible for the day-to-day management of the City.⁵ The City provides a full range of services to its residents, including police protection; the construction and maintenance of highways, streets, and other infrastructure; and recreational facilities, activities, and cultural events.⁶ The City also provides water, wastewater, garbage, and stormwater utility services to its residents.⁷

The City's Water Works program was "designed to improve the City's water aesthetics and to upgrade the City's current wastewater, reuse, and stormwater infrastructure. [It] is a multi-year program that

¹ Letter from Senator Jason Brodeur to The Honorable Jason W. B. Pizzo, Chair, Joint Legislative Auditing Committee dated January 4, 2023 (on file in Committee Office).

² Note 1 to the Financial Statements, *Annual Comprehensive Financial Report of the City of Winter Springs for the Fiscal Year Ended September 30, 2021*, page 33.

³ University of Florida, College of Liberal Arts and Sciences, Bureau of Economic and Business Research, *Florida Estimates of Population by County and City 2022 (Table 1 only)*, page 17, available at https://bebr.livewire-web-applications.com/wp-content/uploads/2022/12/estimates_2022.pdf (last visited January 24, 2023).

⁴ *Letter of Transmittal, Annual Comprehensive Financial Report of the City of Winter Springs for the Fiscal Year Ended September 30, 2021*, page v.

⁵ City of Winter Springs' website: <https://www.winterspringsfl.org/citymanager> (last visited January 24, 2023).

⁶ See *supra* note 3.

⁷ City of Winter Springs' website: <https://www.winterspringsfl.org/finance/page/utility-billing> (last visited January 24, 2023).

began in 2011 and focuses on improving City facilities and infrastructure related to water. These projects encompass all the City utilities, including the three water treatment plants, both wastewater treatment plants, the water distribution and sewer collection system, the reuse system and augmentation plant, and the stormwater system of ponds, culverts, and pipelines. Phase 1, which began in 2011, included \$3.5 million for the construction of the Lake Jessup Reclaimed Water Augmentation Plant and a \$6.3 million drinking water system upgrade in 2015 at Water Treatment Plant No. 1...In addition to improvements to the drinking water system, Phase 1 also included four major stormwater projects. Phase 2...includes improving the taste and smell of the drinking water. The City has engaged two...engineering firms...to consult with the City on how improvements can be realized. This phase is currently underway...The final phase of the program is the replacement of the City's two wastewater plants. In 2019, the City contracted with Veolia Water North America - South, LLC (Veolia) to assume the operation, maintenance, and management services for the City's drinking water treatment, wastewater treatment, and reuse utilities."⁸

Concerns

Concerned residents of Winter Springs provided a detailed letter and documentation to Senator Brodeur's office regarding the following concerns/allegations:⁹

- Rampant mismanagement and even malfeasance which is harming the 38,000+ City residents;
- Issues surrounding the Consent Orders from the Florida Department of Environmental Protection (DEP) to the City; the City's hiring of Veolia, a company sued for its involvement in the Flint, Michigan Water Crisis; demand letters from the St. Johns River Water Management District (SJRWMD) to the City for issues with the City's Consumptive Use Permits (CUP);
- Suspected violations of state ethics laws (one commissioner may have paid another commissioner's utility bill);
- A complete lack of transparency and censoring residents;
- Taxpayer-funded misinformation campaigns and inappropriate use of taxpayer dollars to aid commissioner(s) re-election campaigns; and
- Possible public corruption and profiteering with a commissioner, who is an attorney, threatening a special assessment in writing on residents to pay his own legal fees.

Wastewater Issues and DEP Consent Orders

In their letter, the citizens state that, "[o]n January 1, 2021, a massive environmental catastrophe occurred in which hundreds of fish died in a pond in a [City] subdivision...As 10,000-15,000 gallons of wastewater was unlawfully released into a pond in the middle of a neighborhood, killing the fish and putting endangered birds at risk who depended on the fish for food. This was widely reported in local news media outlets¹⁰...Prior to the first signs of fish dying, residents had been reporting odors and discoloration in the same pond as early as November 29th. The City failed to act upon reports, even

⁸ City of Winter Springs' website: <https://www.winterspringsfl.org/publicworks/page/water-works> (last visited January 24, 2023).

⁹ Source: December 21, 2022 Email from Senator Brodeur's legislative assistant with a link to the detailed letter and documentation received from residents of Winter Springs (on file in Committee Office).

¹⁰ One local news media outlet reported that "In an email to [them], the DEP said Winter Springs says it was a valve malfunction, which has since been repaired. That means 10,000 to 15,000 gallons of partially-treated effluent was released which impacted a stormwater pond, which resulted in a fish kill." [Dave McDaniel, *Significant fish kill brings foul smell to Winter Springs neighborhood*, wesh.com, updated January 20, 2021. Available at: <https://www.wesh.com/article/significant-fish-kill-winter-springs-neighborhood/35272251> (last visited January 24, 2023).]

though DEP documents showed there were unauthorized discharges of sewage into the environment as early as November 11th.¹¹

The letter further states:

- “As a result of the fish kill incident, [DEP] issued an initial warning letter...and conducted an investigation in which they found the city to have committed at least 24 violations...The DEP took disciplinary action and issued three separate Consent Orders against the City.”¹²
- “Leaders of the Winter Springs Community Association, who are tracking many of these issues, interviewed an individual who was a licensed Plant Manager and employee of Veolia at the time, who gave testimony of malfeasance by his supervisors with Veolia, including allegations he was denied access to make appropriate notes in the log books, his log book entries were altered, he notified and met with the City Public Works Director...who stated he would go back to his supervisor, the City Manager, he notified and met with, advised and questioned his Veolia senior Manager about critical issues even before the fish kill and additional sewage dumping, that he was required to improperly test the water, leading to falsified test results being sent to the state. This testimony matches several findings of the March, 2021 DEP Investigation, and indicates foul play on the part of Veolia and possibly [the] City Manager..., who may have engaged in a purposeful attempt to hide test results and send false test results to the state.”¹³

Documentation provided with the citizens’ letter included copies of DEP letters to the City Manager in December 2021 and Consent Orders relating to two enforcement cases against the City.¹⁴

- One Consent Order¹⁵ related to facility spills, maintenance, and operational violations at the City’s West Wastewater Treatment Plant (West Facility).
 - There were reports of multiple unauthorized discharges of partially treated effluent¹⁶ from the West Facility. The City failed to report such discharges to the DEP within 24 hours of discovery, in violation with DEP Rule 62.620.610(20), *Florida Administrative Code*.
 - The reported instances included the January 1, 2021 event referenced above.
 - DEP staff performed a complaint inspection regarding such on January 6, 2021, followed by a compliance evaluation inspection on January 12, 2021, which noted 16 violations. In addition, two reconnaissance inspections were conducted on January 28 and February 11, 2021, in which two and five additional violations were noted, respectively.
 - The DEP ordered the City to comply with specified corrective actions within stated time periods, including paying \$150,417.65¹⁷ to the DEP in settlement of the regulatory matters addressed in the Consent Order.

¹¹ See *supra* note 9.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ The citizens provided a copy of an unsigned Consent Order, along with a December 13, 2021 letter from the DEP to the City regarding such. The executed Consent Order, dated December 20, 2021, was subsequently obtained from DEP by Committee staff.

¹⁶ Effluent means wastewater flowing out of the treatment plant.

¹⁷ \$149,417.65 for civil penalties and \$1,000 for costs and expenses incurred by DEP during its investigation and the preparation and tracking of the Consent Order. The Consent Order states that “[t]he civil penalty in this case includes 9 violations that each warrant a penalty of \$2,000 or more.”

- The City was provided two options it could elect in lieu of making a cash payment for the civil penalties of \$149,417.65: (1) implementing a Pollution Prevention (P2) Project; or (2) implementing an in-kind penalty project with a value of 1^{1/2} times the civil penalty (or at least \$224,126.47), which must be either an environmental enhancement, environmental restoration, or a capital/facility improvement project and could not be a corrective action requirement of the Consent Order or otherwise required by law. The City was required to obtain DEP's approval for either project option it chose.
- The City proposed an in-kind project¹⁸ in lieu of paying the civil penalty.¹⁹
- The second Consent Order, executed on December 20, 2021, related to facility maintenance violations noted during a March 23, 2021 compliance evaluation inspection performed at the City's East Wastewater Treatment Facility (East Facility).
 - These violations included, in part,: (1) calibration and verification procedures and records were incomplete in violation of DEP Rule 62.160.210, *Florida Administrative Code*; (2) an unauthorized discharge occurred at the East Facility's reclaim water distribution pump station in violation of DEP Rule 62.620.610(7), *Florida Administrative Code*; and (3) the air distribution system had multiple malfunctions in violation of DEP Rule 62.620.610(7), *Florida Administrative Code*.
 - The DEP ordered the City to comply with specified corrective actions within stated time periods, including paying \$20,896²⁰ to the DEP in settlement of the regulatory matters addressed in the Consent Order.
 - The City was provided two options it could elect in lieu of making a cash payment for the civil penalties of \$20,396: (1) implementing a Pollution Prevention (P2) Project; or (2) implementing an in-kind penalty project with a value of 1^{1/2} times the civil penalty (or at least \$30,594), which must be either an environmental enhancement, environmental restoration, or a capital/facility improvement project and could not be a corrective action requirement of the Consent Order or otherwise required by law. The City was required to obtain DEP's approval for either project option it chose.

DEP staff stated that additional correspondence and documentation related to both Consent Orders are available on DEP's website through its electronic management system (OCULUS).²¹ In March 2022 DEP approved both the in-kind project and the P2 Project proposed by the City in lieu of paying the civil penalties imposed in the Consent Orders on the West Facility and the East Facility, respectively. DEP staff stated that some extensions for additional time have been granted, mainly due to supply chain delays that all utility companies have been facing. In addition, the City has been and is continuing to provide the quarterly reports to DEP as required by the Consent Orders.

Water Contractor (Veolia) Hiring

The citizens' letter includes concerns regarding the City's current water contractor and states that "The City... hired a company called 'Veolia' to take over all operations of the [City's] water system. Veolia

¹⁸ The in-kind project was a facilities improvement project to complete SCADA (Supervisory Control and Data Acquisition) system improvements at both its West Water Reclamation Facility and the 57 lift stations within the City's boundaries by replacing old equipment.

¹⁹ Letter from the City Public Works and Utilities Director to DEP Central District staff dated January 28, 2022 (on file in Committee office).

²⁰ \$20,396 for civil penalties and \$500 for costs and expenses incurred by DEP during its investigation and the preparation and tracking of the Consent Order.

²¹ Phone conversation with an Environmental Consultant in DEP's Central District on January 23, 2023.

is known for its involvement in the Flint, Michigan water crisis. Veolia was originally sued by the State of Michigan for making misleading statements to the public about the safety of water in Flint, Michigan. That case did not move forward, in favor of another class action lawsuit which is still pending, in which Veolia is still a party, and in which there have already been hundreds of millions of dollars paid out by other companies who have been part of that suit. The City Commission was well advised of the issues concerning Veolia not only in Flint, but in several other cities throughout the country.”²²

The letter further states: “The City Manager, in concert with [the] Commissioner [who was Deputy Mayor at the time]..., attempted on May 20, 2019 to hire Veolia to a 5-year, \$17-million NO BID contract at a city workshop in which the Mayor was known to not be present and in which [he]...was running the agenda. According to [a May 21, 2022 letter from the former Mayor], it was known that the City Manager...had prior connections to Veolia. It was only media presence and public pressure that derailed the attempt to make the NO BID hire on May 20, 2019, but [the City Manager]’s personal past relationship, favoritism and professional neglect ensured the Flint, Michigan water company would ultimately be hired and the ‘bidding process’ which followed would be perfunctory. After the failed NO BID attempt, an RFQ (Request for Qualifications) was crafted in part by Veolia, which included questions and issues that only Veolia would be able to answer which caused other qualified water management companies to not bid, realizing the ‘fix’ was in.”^{23 24}

During the September 9, 2019 City Commission meeting in which the City Advisory Selection Committee’s ranking and recommendation for RFQ #05-19 LR (“Professional Services for Utilities Operations, Maintenance, and Management Services”) were presented.²⁵ Only two companies responded to the RFQ, and Veolia had the highest scoring total and was recommended as “the most qualified firm, demonstrating experience and financial capability to effectively and efficiently assume responsibility for managing the City’s two wastewater plants, three water plants, reuse augmentation plant, reclaimed water storage and pumping system, 50 lift stations, and stormwater infrastructure.” The City Commission voted 4-1 to accept the Advisory Selection Committee’s ranking of Veolia and authorize contractual negotiations with Veolia.

St. Johns River Water Management District - Violations, Demands, and Water Shortages

In their letter, the citizens state that “in addition to running afoul [with]...DEP standards, the City...has faced many issues with its Consumptive Use Permits²⁶ (CUPs). Residents made public information requests and discovered the City had not taken any action to comply with the requirements of the 2017 Central Florida Water Initiative²⁷ to develop alternate sources of water. This is despite previous

²² See *supra* note 9.

²³ At the time of the RFQ, Veolia was providing Wastewater Emergency Assistance Services as approved by the City Commission.

²⁴ See *supra* note 9.

²⁵ City Commission Meeting Packet for September 9, 2019. Available at:

https://winterspringsfl.granicus.com/DocumentViewer.php?file=winterspringsfl_709b6deb19ddfffe9e13ba1ade549990.pdf&view=1 (last visited January 24, 2023)

²⁶ It typically allows water to be withdrawn from groundwater or surface water for reasonable-beneficial uses - such as public supply (drinking water), agricultural and landscape irrigation, commercial use and power generation - in a manner that does not interfere with other existing legal water uses and protects water resources from harm (such as saltwater intrusion and drying up of wetlands, lakes and springs). Source: <https://www.sjrwmd.com/permitting/#about-cups> (last visited January 25, 2023).

²⁷ “The Central Florida Water Initiative (CFWI) is a collaborative process involving the Department of Environmental Protection, the St. Johns River Water Management District, the South Florida Water Management District, the Southwest Florida Water Management District, the Department of Agriculture and Consumer Services, regional public water supply

leadership having knowledge of an artesian well in the Parkstone HOA which was certified to be producing 1 million daily gallons of potable water from an artesian well. The Parkstone HOA board began to interact with the SJRWMD to assert its rights...The City wrongfully asserted its rights as the owner of the water on the Parkstone HOA property. This fraudulent claim to ownership of the water was the basis for obtaining the CUP and a \$3 million grant from [SJRWMD] in 2013. The [SJRWMD] sent a letter to Parkstone HOA on March 18, 2022 stating the [C]ity never produced documentation proving ownership of the water. The leadership of the City continues to defraud the SJRWMD and residents of [the City] by unlawfully asserting its ownership of the artesian well.”²⁸

Three letters from the SJRWMD were included as addendums to the citizens’ letter:

- The first letter, dated July 30, 2021, was addressed to the City’s Public Works and Utilities Director and referenced a meeting with him and other City representatives, a subsequent visit to the free-flowing artesian well site, and review of the City’s CUP No. 105763 and related compliance. The letter stated that “it is our understanding that the incorporation of this well as a supplement to the City’s reclaimed water system is incomplete. Specifically, the construction of a submersible pump station, flow meters, and piping to the Lake Jesup Reclaimed Water Augmentation Plant from the artesian well as envisioned when the CUP was issued in 2007 (Conditions 13 and 14 of the CUP) has not been completed.” The letter further references SJRWMD’s understanding of the City intent to “evaluate the feasibility of completing the construction noted above, as well as stabilizing the surface soils in the vicinity of the well on the Parkstone Community Association’s property to alleviate episodic subsidence in the area of the well (Condition 4 of CUP 105763)” and requests that the City provide “an evaluation of the feasibility of utilization of this resource within 90 days of receipt of this letter” and requests if, after the evaluation, the City: (1) “wish[es] to retain the use of the water...[the City’s] report include a schedule to install the infrastructure required to connect the artesian well to the City’s reclaimed water distribution system;” or (2) “determine[s] that it is not feasible to use the artesian well for beneficial purposes, you may submit a permit modification request to remove the well and attendant metering stations from CUP 105763.”²⁹
- The second letter, dated October 28, 2021, was addressed to the City Manager and related to the City’s CUP No. 105763 and the utilization of the free-flowing artesian well in the Parkstone

utilities, and other stakeholders. As set forth in the Central Florida Water Initiative Guiding Document of January 30, 2015, the initiative has developed an initial framework for a unified process to address the current and long-term water supply needs of Central Florida without causing harm to the water resources and associated natural systems. The “CFWI Area” is all of Orange, Osceola, Polk, and Seminole Counties, and southern Lake County. Section 373.0465, *Florida Statutes*, directs the agencies to develop a water supply planning process to identify measures necessary to prevent further harm to water resources in the area. The CFWI’s planning process concluded that traditional resources alone cannot meet future water demands or currently permitted allocations without resulting in unacceptable harm to water resources and related natural systems. The public interest requires protection of the water resources from harm. Section 373.0465, *Florida Statutes*, directs the Department of Environmental Protection to adopt uniform rules for application within the CFWI Area. Rules 62-41.300 through 62-41.305, *Florida Administrative Code*, and [the Central Florida Water Initiative] Supplemental Applicant’s Handbook address the public interest by providing a uniform regulatory framework to allow for the allocation of available groundwater in the area, subject to avoidance and mitigation measures to prevent harm. This regulatory framework is one component of a comprehensive joint water management strategy for regional water resource management that also includes regional water supply planning, alternative water supply project funding, and water resource investigations and analyses. These rules will apply to consumptive use permit applicants in the CFWI Area.” [Source: *Central Florida Water Initiative Area Supplemental Applicant’s Handbook*, page 3, located on the St. Johns River Water Management District’s website: <https://www.sjrwmd.com/documents/permitting/#cup> (last visited January 25, 2023).]

²⁸ See *supra* note 9.

²⁹ *Id.*

Subdivision.³⁰ SJRWMD requested that: (1) “the City provide a detailed timeline with respect to the individual projects that City is undertaking that will result in delaying completion of the feasibility evaluation for the free-flowing artesian well located within the Parkstone project;” (2) “if there are tasks that can be undertaken by the City’s hydrogeological consultant, regardless of the outcome of the feasibility analysis, they be completed as soon as possible;” and (3) “the City provide a detailed timeline for the artesian well feasibility evaluation for District’s review and consideration...by November 15, 2021.”^{31 32}

- The third letter, dated March 18, 2022, was addressed to the Parkstone Community Association and provided answers to three questions that had been recently asked by the Association:
 1. “To date St. Johns has been unable to locate a well on the property? District Response: Evaluation by District staff indicates there is no wellhead associated with the groundwater discharge occurring with PCA’s property.”
 2. “No one has produced a signed agreement between Winter Springs and Parkstone giving Winter Springs access to this water, correct? District Response: Yes, a signed agreement has not been provided to the District.”
 3. “Whomever Parkstone decides to give access is a private matter between Parkstone and that entity, and does not require approval from the District, correct? District Response: Yes, that is correct.”³³

Committee staff discussed the artesian well issue with SJRWMD staff. Approximately 20 years ago, a free-flowing artesian feature was encountered on property within the Parkstone subdivision by the developer during site earthwork operations. The groundwater seepage to the land surface was addressed by installing a subsurface drainage collection system that was connected to a pipe that laterally conveys the water from the property to Lake Jesup, approximately a few hundred feet away. It is SJRWMD staff’s understanding that, although the parties involved at the time apparently agreed to such, there was no financial agreement made and the City has never tried to perfect an easement on this portion of the property. Based on such and additional information provided by SJRWMD, this item is considered to be more of a legal issue than an audit issue.³⁴

Suspected Violations of State Ethics Laws; Public Records Access Issues

The citizens’ letter stated that “as pressure mounted on the City...by the DEP and SJRWMD, and in response to the emergency water shortages, the City leadership decided instead to launch an ‘investigation’ and issue subpoenas to a long list of individuals who were known political adversaries of [one] Commissioner...many of whom [the Commissioner] had received ‘Cease and Desist’ letters during the last election after it was discovered they were supporting his opponent. This was done under the pretense of attempting to get to the bottom of the water crisis, however the current City Manager who presided over this crisis, the long time current City Attorney..., both who were deeply involved in the original CUP negotiations with SJRWMD, and the contractor Veolia who operated the water system since 2019, were not called in for questioning.”³⁵

³⁰ SJRWMD’s letter references a letter from the City dated October 6, 2021, and a meeting on September 9, 2021.

³¹ *Id.*

³² No additional documentation was provided regarding this matter.

³³ *See supra* note 9.

³⁴ Phone conversations with SJRWMD staff on January 23 and 25, 2023.

³⁵ *See supra* note 9.

The citizens provided a copy of a letter from an attorney, who represented many of the individuals who were subpoenaed, to the City Commission, dated September 20, 2021, and stated that the letter outlines: (1) “The blatant abuse of power of the [City] Mayor and Commission;” (2) “The motive, bias and lack of candor of the commission meetings;” (3) “How [a certain] Commissioner...incited the City [a]gainst his constituents;” (4) “How [a certain] Commissioner...violated his Code of Ethics six times;” (5) “How the Commissioners fell in line with a taxpayer funded witch hunt of residents;” and (6) “How the Commission and Mayor abused their power on the dais to make knowingly false statements to the public.”³⁶

In addition, the citizens allege that an informant told them that one City commissioner “had personally paid the water utility bill for [another City commissioner]” and stated that “[t]his is a violation of state ethics laws which prevent conflicts of interest in voting on [C]ity business and has not been reported as gifts.”³⁷ The citizens stated that the City did not provide the public records regarding such as requested.³⁸

Other Concerns

The citizens’ letter also references other areas of concern relating to: (1) lack of transparency; (2) censoring of residents; (3) concerns of public corruption and profiteering; (4) a former employee’s statement that “[p]ayment card compliance isn’t worried about since they say no one will ever audit them;” and (5) a toxic environment at City Hall and a high exodus of senior staff over the past three years.³⁹ The letter states that “[t]he condition in city hall became so bad that six former elected city officials wrote a letter demanding the resignation of [the current City Manager].”^{40 41} In regards to the staff turnover, the citizens’ letter states that the:

- “The long-time City Clerk with over 24 years [of] experience...was forced to resign and retire.”
- “The replacement Clerk had no experience in that position.”⁴²
- City is on at least its 3rd Chief of Police, Finance Director, Parks Director, Public Works Director, and City Engineer (and now is mostly an outsource).⁴³
- City is on at least its 4th Community Development Director.⁴⁴
- IT department is down to one person and is mostly outsourced now.⁴⁵
- Water department was outsourced to Veolia including all water employees.⁴⁶
- “The larger concern is that despite outsourcing so many employees, the [C]ity payroll has exploded due to the apparent policy of just throwing bodies at issues without any viable plans for real solutions.”⁴⁷

In addition, Senator Brodeur received concerns from another citizen relating to the following areas:⁴⁸

1. Records that reflect how the City has spent its share of the 2014 penny sales tax;

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ The referenced letter is included as an addendum to the citizens’ letter.

⁴² *See supra* note 9.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Emails from Senator Brodeur to Committee staff dated January 23, 2023 (on file in Committee Office).

2. Records that reflect what was spent to repair and maintain certain bridges since 2014 (request appears to be limited to bridges damaged by Hurricane Ian):
 - The citizen, a former Seminole County Commissioner, stated that the City included the bridges on its list of infrastructure that needed updating when it was supporting the penny sales tax passed in 2014.⁴⁹
 - In late November 2022, the citizen made a public records request for the following: (1) records reflecting the current damage assessment relating to these bridges; (2) an estimate of the design and repair work that is being done; and (3) any records that reflect applications the City is making to FEMA for compensation concerning damages incurred relating to Hurricanes Ian and Nicole and, in particular, relating to the subject bridges. He was informed that it would cost him in excess of \$1,000 for the City to compile and provide the requested records.⁵⁰
3. City reserves to fund capital improvements and needed repairs without borrowing money:
 - The City's Water and Sewer Utility Enterprise Fund had \$18,560,505 in unrestricted net position at the end of the 2020-21 fiscal year.⁵¹ The citizen states that "[i]t is well known that [the City's] W&S Utility has suffered from deferred maintenance for quite some time. The problems with our water and wastewater treatment plants have already been the subject of some TV news reports. It has been represented by the mayor at a public meeting recently that the system needs about \$70M to address deferred maintenance and repairs that are needed. Clearly, the system does not have cash to fund a \$70M capital expenditure and needs to plan and execute a Capital Improvement Program ("CIP")...[the City] needs to perform a rate study to determine the parameters of what that CIP would be, including the amount needed to be borrowed, the rates of interest and, most importantly, the effect on rates for water and sewer to be charged to the customers."⁵² In addition, the citizen stated that in August 2022 he was told by the City Manager that "this 'rate study' was going to be done in December 2022."⁵³

Financial Audit

The City has obtained annual financial audits of its accounts and records by an independent certified public accountant (CPA). The City has submitted the audit reports to the Auditor General's Office in accordance with Section 218.39(1), *Florida Statutes*.⁵⁴ The most recent financial audit report submitted to the Auditor General is for the 2020-21 fiscal year and did not include any audit findings. In addition, the audit report stated that there were no audit findings or recommendations in the prior year that required corrective action.

Summary of Certain Financial Information Included in the City's Audit Report:

- "The assets and deferred outflows of the City of Winter Springs exceeded its liabilities and deferred inflows at the close of the most recent fiscal year by \$139,413,122 (net position). Of this amount,

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Pursuant to Section 218.39(7), *Florida Statutes*, these audits are required to be conducted in accordance with rules of the Auditor General promulgated pursuant to Section 11.45, *Florida Statutes*. The Auditor General has issued *Rules of the Auditor General, Chapter 10.550 - Local Governmental Entity Audits* and has adopted the auditing standards set forth in the publication entitled *Government Auditing Standards* (2018 Revision) as standards for auditing local governmental entities pursuant to Florida law.

\$35,787,436 (unrestricted net position) may be used to meet the government's ongoing obligations to citizens and creditors."⁵⁵

- "As a result of the current year's activities, the government's total net position increased by \$6,010,110 or 4.51% from the prior year."⁵⁶
- "As of the close of the current fiscal year, the City of Winter Springs' governmental funds reported combined ending fund balances of \$38,476,471. Approximately 23% of this total amount, \$8,777,061, is available for spending at the government's discretion (unassigned fund balance)."⁵⁷
- "At the end of the current fiscal year, unassigned fund balance for the general fund was \$8,811,749, or 57% of total general fund expenditures."⁵⁸
- "As a result of current year's activities, the City of Winter Springs' total debt decreased by \$1,453,827 (5%)."⁵⁹ At fiscal year-end, the City had total debt outstanding of \$30,679,047.⁶⁰

Other Considerations

The Auditor General, if directed by the Committee, will conduct an operational audit as defined in Section 11.45(1)(i), *Florida Statutes*, and take steps to avoid duplicating the work efforts of other audits being performed of the City's operations, such as the annual financial audit. The primary focus of a financial audit is to examine the financial statements in order to provide reasonable assurance about whether they are fairly presented in all material respects. The focus of an operational audit is to evaluate management's performance in establishing and maintaining internal controls and administering assigned responsibilities in accordance with laws, rules, regulations, contracts, grant agreements, and other guidelines. Also, in accordance with Section 11.45 (2)(j), *Florida Statutes*, the Auditor General will be required to conduct an 18-month follow-up audit to determine the City's progress in addressing the findings and recommendations contained within the previous audit report.

The Auditor General has no enforcement authority. If fraud is suspected, the Auditor General may be required by professional standards to report it to those charged with the City's governance and also to appropriate law enforcement authorities. Audit reports released by the Auditor General are routinely filed with law enforcement authorities. Implementation of corrective action to address any audit findings is the responsibility of the City's governing board and management, as well as the citizens living within the boundaries of the City. Alternately, any audit findings that are not corrected after three successive audits are required to be reported to the Committee by the Auditor General, and a process is provided in Section 218.39(8), *Florida Statutes*, for the Committee's involvement. First, the City may be required to provide a written statement explaining why corrective action has not been taken and to provide details of any corrective action that is anticipated. If the statement is not determined to be sufficient, the Committee may request the Chair of the City Council to appear before the Committee. Ultimately, if it is determined that there is no justifiable reason for not taking corrective action, the Committee may direct the Department of Revenue and the Department of Financial Services to withhold any funds not pledged for bond debt service satisfaction which are payable to the City until the City complies with the law.

⁵⁵ *Management's Discussion and Analysis; Annual Comprehensive Financial Report of the City of Winter Springs for the Fiscal Year Ended September 30, 2021*, page 4.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*, page 15.

III. Effect of Proposed Request and Committee Staff Recommendation

If the Committee directs the Auditor General to perform an operational audit of the City of Winter Springs as addressed herein, the Auditor General, pursuant to the authority provided in Section 11.45(3), *Florida Statutes*, shall finalize the scope of the audit during the course of the audit, providing that the audit-related concerns of Senator Brodeur as included in his request letter and herein are considered.

IV. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

If the Committee directs the audit, the Auditor General will absorb the audit costs within her approved operating budget.

V. Related Issues:

None.

This staff analysis does not reflect the intent or official position of the requestor.
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