

Resolution No. 2025-3382

A Resolution of the City of Sanford, Florida relating to the adoption of a City grant policy pertaining to public funds being donated to private non-profit entities; providing for implementing administrative actions; providing for a savings provision; providing for conflicts; providing for severability and providing for an effective date.

Whereas, the City of Sanford is a Florida municipality which adheres to sound and generally accepted fiscal and public management practices and principles in order to provide fiscally sound and high quality services to the citizens of the City all in accordance with controlling law; and

Whereas, Section 10, Article VII, *Constitution of the State of Florida*, prohibits the State, and any county, school district, municipality, special district, or agency thereof from giving, lending or using its taxing power or credit to aid any corporation, association, partnership or person (see, *O'Neill v. Burns*, 198 So.2d 1 (Fla. 1967), in which the Florida Supreme Court mandated that a clearly identified and concrete public purpose be the primary objective and a reasonable expectation relating to the use of public funds and that such purpose must be substantially and effectively accomplished before the State or its subdivisions may disburse, loan or pledge public funds or property to a nongovernmental entity); and

Whereas, the City Commission desires to act in a manner that is consistent with and adheres to controlling law and sound and generally accepted fiscal and public management practices and principles; and

Whereas, City staff recommended to the City Commission that the City

adopt the grant award policy as set forth herein; and

Whereas, the City Commission of the City of Sanford determines that the adoption of the policy set forth herein would be in the public interest and serve a public purpose; and

Whereas, the City of Sanford has complied with all requirements and procedures of Florida law in processing and adopting this Resolution.

Now, Therefore, Be It Adopted And Resolved By The City Commission Of The City Of Sanford, Florida As Follows:

Section 1. Legislative Findings And Intent.

The City Commission of the City of Sanford hereby adopts and incorporates into this Resolution the recitals (whereas clauses) to this Resolution as well as the City Commission agenda memorandum presented to the City Commission as the legislative findings and intent relative to the policy adopted herein.

Section 2. Adoption Of City Policy Relating To Grants; Implementing Actions.

(a). The City Commission hereby approves and adopts the following policy relating to donating public funds to private entities:

(1). The grantee shall be nonprofit entity.

(2). The purposes for which the nonprofit agency is organized provides benefits to County residents as set forth in a written application.

(3). The services or activities to be provided as funded

with City funds, shall address an essential or supportive services, such as, but not limited to, the needs of the poor, youth, seniors, those with disabilities, education, culture and arts, and health crisis.

(4). The nonprofit agency shall have a governing board whose members serve without compensation and have no conflict of interest between their regular occupations and the services provided by the nonprofit.

(5). Only one application per agency will be considered per year.

(6). Grants will be memorialized and documented in a written agreement.

(b). The City Commission of the City of Sanford hereby authorizes the City Manager, Finance Director, City Clerk and City Attorney to fully implement the provisions of this Resolution in a plenary manner to include, but not be limited to, the authority to execute any and all documents which are the subject of this Resolution upon approval documents by City Attorney.

Section 3. Conflicts. All resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed and rescinded.

Section 4. Savings. The prior actions of the City of Sanford relating to the grants made by the City and the financial management of the City, as well as all related activities and matters, are hereby ratified and affirmed.

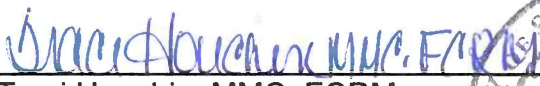
Section 5. Severability. If any section, sentence, phrase, word, or portion of this Resolution is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Resolution not otherwise determined to be invalid, unlawful, or unconstitutional.

Section 6. Effective Date. This Resolution shall take effect on April 14, 2025.

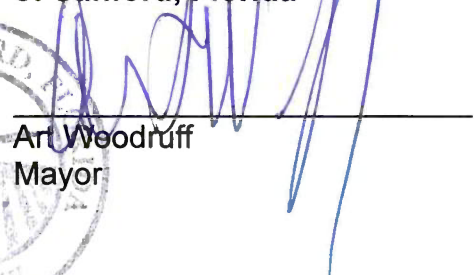
Passed and adopted this 28th day of April, 2025.

Attest:

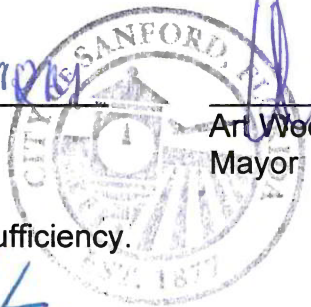
City Commission of the City of Sanford, Florida



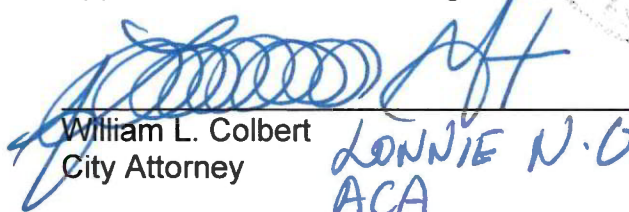
Traci Houchin, MMC, FCRM
City Clerk



Art Woodruff
Mayor



Approved as to form and legal sufficiency.



William L. Colbert
City Attorney

LONNIE N. GIBBS
ACA

Lonnie Groot

From: DEREK NOONAN <DEREKNOONAN@AUD.STATE.FL.US>
Sent: Wednesday, March 12, 2025 10:20 AM
To: Lonnie Groot
Cc: GINA BAILEY
Subject: Training On Public Purpose Expenditures By Local Governments

Lonnie,

One of the issues with public purpose expenditures is that there is no explicit statement in State law that “all expenditures must serve a public purpose.” Rather, the requirement is implicit and is supported by multiple Attorney General opinions. Below are some audit report findings involving public purpose and monitoring comments related to donations to non-governmental organizations.

2020-069, DEC 2019
CITY OF PALM BAY
FINDING NO. 17: ACCOUNTABILITY FOR DONATIONS TO ORGANIZATIONS

The Attorney General has opined that a public purpose may be carried out through donations provided the local governmental entity determines that an entity purpose is served by such donation and proper safeguards are implemented to assure the accomplishment of that purpose.¹ During the period October 2016 through February 2018, the City made 19 donations totaling \$31,310 to 13 different external organizations. These organizations included, for example, the Brevard Police Testing and Selection Center and the Brevard County Association for Women Lawyers, Inc.

To help ensure and demonstrate that donations to external organizations accomplish an authorized public purpose, it is important for established policies and procedures to:

- Define the criteria for making donations to the organizations.
- Specify the methodology for calculating donation amounts.
- Require agreements with the organizations specifying how the donations will serve a City purpose and what records, such as periodic financial reports and related support, the organizations must provide to the City to properly account for use of the donations.

In response to our inquiries in April 2019, City personnel indicated that the City had not established policies and procedures for making donations because, historically, only small dollar donations were made. However, due to recent larger dollar donations, City personnel agreed that such policies and procedures are necessary. Establishing effective policies and procedures to properly account for donations would provide additional assurance that City moneys are used for their intended public purpose.

As part of our audit, we requested for examination City records supporting donations totaling \$13,000 made to two external organizations during the period October 2016 through February 2018. Our examination disclosed that:

- The City approved donations totaling \$10,000 to the Brevard Police Testing and Selection Center for the prescreening of candidates for the City Police Department. However, according to City personnel, the City did not enter into an agreement with the Center to restrict use of the donation to the prescreening services or obtain documentation to verify that the moneys donated were used for the

¹ Attorney General Opinion No. 2002-18.

services. Without an agreement and documented verification procedures, the authority for the donations to the Center is not readily apparent.

- The City donated \$3,000 to the Brevard County Association for Women Lawyers, Inc. without an agreement with the Association, City Council approval, or other records to establish the public purpose for the donation at the time of donation. In addition, City records were not available to evidence how the Association used the \$3,000 donation. In response to our inquiries in February 2019, the City Attorney indicated that the City sponsored the Association to recognize members of the judiciary and their assistants' distinguished service for providing legal services to the community. According to the City Attorney, the recognition provided by the Association included, for example, complementary lunches to judicial assistants and sponsorship of a judicial reception for judges. Notwithstanding, absent documentation of the purpose, approval, and use of the donation, the City has limited assurance that the Association used the donated funds consistent with the City's intended public purpose.

Recommendation: The City should establish appropriate policies and procedures for making donations to external organizations. Such policies and procedures should:

- **Define the criteria for making donations to the organizations.**
- **Specify the methodology for calculating donation amounts.**

Require agreements with the organizations specifying how the donations will serve a City purpose and what records, such as periodic financial reports and related support, the organizations must provide to the City to properly account for use of the donations

2021-116, JAN 2021

**MELBOURNE (DOWNTOWN) CRA AND OLDIE EAU GALLIE RIVERFRONT CRA
FINDING No.1: DONATION POLICIES**

The Attorney General has opined¹ that a local government public purpose may be carried out through donations to external organizations provided the local governmental entity determines that an entity purpose is served by such donations and proper safeguards are implemented to assure the accomplishment of that purpose. To exercise controls over City donations, the City adopted policies² for the Grants-in-Aid Program (GIA Program) that limit donations to \$10,000 per organization and require that:

- Funds donated to external organizations be used to benefit City residents.
- External organizations seeking donations complete and submit applications to the City.
- A City review committee rank each applicant based on preselected criteria, determine the amount to recommend for donation to each organization, and prepare a formal recommendation and present it to the City Council for approval.
- Organizations approved by the City Council to receive donations sign a contract³ with the City prior to the organizations' receipt of the donated funds; the contracts establish applicable activities or services to be performed by the external organization as well as reporting, record retention, and audit requirements.

While the City adopted policies for exercising controls over donations, the City Council occasionally made donations apart from the GIA Program. During the period October 2017 through March 2019, the City made 21 donations totaling \$167,973 to 16 different external organizations, including \$100,000 to 13 organizations following the GIA Program requirements and \$67,973 to the other 3 organizations. However, donations to the 3 organizations were made without a City review committee ranking applicants, determining a recommended donation amount, and preparing a formal donation recommendation to the City Council. In addition, for 1 of the 3 organizations, City donations exceeded \$10,000⁴ and, for another organization, the City did not establish a contract when donating \$7,000 to partially offset the costs to organize a parade.

In response to our inquiry, City personnel indicated that the donations to the 3 organizations were not subject to the GIA Program requirements because the City Council dealt directly with the organizations and approved the donations. Notwithstanding, compliance with GIA Program requirements, or subjecting donations to other procedures established for donations apart from the GIA Program, would help ensure and demonstrate that City donations are distributed fairly to interested external organizations and used by such organizations only for intended purposes.

¹ Attorney General Opinion No. 2002-18.

² City of Melbourne Council Policy No. 10.

2021-116, Jan 2021

**Melbourne (Downtown) CRA and Oldie Eau Gallie Riverfront CRA
Finding No.1: Donation Policies**

The Attorney General has opined⁽¹⁾ that a local government public purpose may be carried out through donations to external organizations provided the local governmental entity determines that an entity purpose is served by such donations and proper safeguards are implemented to assure the accomplishment of that purpose. To exercise controls over City donations, the City adopted policies⁽²⁾ for the Grants-in-Aid Program (GIA Program) that limit donations to \$10,000 per organization and require that:

- Funds donated to external organizations be used to benefit City residents.
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In response to our inquiry, City personnel indicated that the donations to the 3 organizations were not subject to the GIA Program requirements because the City Council dealt directly with the organizations and approved the donations. Notwithstanding, compliance with GIA Program requirements, or subjecting donations to other procedures established for donations apart from the GIA Program, would help ensure and demonstrate that City donations are distributed fairly to interested external organizations and used by such organizations only for intended purposes.

Recommendation: To ensure that donations to external organizations are distributed fairly and used for intended purposes, the City should comply with the requirements of the GIA Program or, alternatively, establish effective procedures for donations made apart from that Program.

2021-116, Jan 2021

Melbourne (Downtown) CRA and Oldie Eau Gallie Riverfront CRA

Finding No.2: Donation Monitoring

As noted in Finding 1, the City made 21 donations totaling \$167,973 to 16 different external organizations during the period October 2017 through March 2019. Generally, standard contracts executed by the City with external organizations require the organizations to submit to the City quarterly and annual progress reports identifying the activities performed using donated funds and the number of persons assisted. The contracts also require the organizations to maintain adequate supporting documentation to account for the expenditure of City-donated funds, including financial accounts, client demographic records, descriptions of activities or services, and other related documents and records. The standard contracts further provide the City the right to examine such documentation at any time during the term of the contract and for a period of 5 years after the contract's expiration. Periodic examinations of such documentation by City personnel are essential to effectively monitor City-donated funds to ensure that the funds are used for the intended public purposes.

To determine whether the City effectively monitored the external organizations that received City donations during the period October 2017 through September 2018, we examined City records and activities for selected donations totaling \$57,500 made pursuant to the GIA Program to 10 organizations, and selected donations totaling \$64,454 made to 3 other organizations.^[5] For 11 of the 13 organizations,^[6] the contracts required the organizations to submit quarterly or annual progress reports, as applicable, to the City by October 2018 and authorized the City to examine organization documents and records supporting the contracted activities. Our examination disclosed that, for 5 organizations, the City received organization records documenting the use of the City-donated funds or the City already had records of in-kind City services rendered to the organizations, such as City utilities or City facility use. However, as of July 2020, or 21 months after the October 2018 required date, City personnel had not received documents and records supporting and substantiating the use of City-donated funds for 8 organizations. In response to our inquiry, City personnel indicated that the required annual and quarterly reports constitute sufficient documentation to evidence the expenditure of the donated funds for their intended purposes without City examination of organization documents and records supporting the contracted activities. In addition, City

personnel indicated that they read the submitted reports for appropriateness to determine if the external organization operations are consistent with the request for funding and that the funds are used to support the organization operations. City personnel also indicated that there were no discrepancies identified in the review of the annual and quarterly reports and; therefore, it was not necessary to further examine the organizations' expenditures and uses of City-donated funds. Notwithstanding these responses, annual and quarterly reports provided to the City by external organizations only included a general overview of the organizations' activities during the 2017-18 fiscal year and, as such, lacked sufficient detail to demonstrate that the donations were expended in accordance with the contracts.

For example, one external organization received a \$5,000 City donation during the 2017-18 fiscal year and provided statistics on the number of people served by a particular branch of the organization and quantitative indicators of success, such as the number of branch members who achieved a certain grade point average in school, but did not include records specifying how the City-donated funds were utilized. Absent periodic monitoring by City personnel of external organization documentation, as allowed by the contracts, there is an increased risk that donated funds may not be used for the intended public purposes.

In addition, we examined City monitoring efforts related to two City donations totaling \$15,000 made to an external organization, referred to as EO1, in September 2015 and January 2016 for roof repairs on a City-owned building leased to the EO1. Our examination disclosed deficiencies in the City monitoring of these donations as:

— The terms of the lease agreement provided that the EO1 was responsible for repairs to the City-owned building. Notwithstanding that provision, in February 2015, the City Council approved a motion presented by a City Council member,^[7] who was also the President of the EO1 at the time, to donate \$15,000 to the EO1 based on the understanding that an individual pledged \$15,000 for roof repairs contingent upon the City matching that amount. In March 2015, the then Director of Management Services^[8] directed the then Facilities Operations Manager^[9] to assess the overall condition of the City-owned building, inspect the roof, consult with a roofing contractor, and obtain an estimate for roof repairs. The Facilities Operations Manager estimated the cost of the roof repair to be \$25,000. Based on e-mail communications between the City Clerk, City Attorney, and Director of Management Services, during the months of February through April 2015, the City initially intended to manage and oversee the roof repairs. Specifically, the e-mail communications indicated that the City Clerk and Director of Management Services intended for a City contract to be executed with the EO1 regarding the use of the donated funds, and that the City would contract with a roofing contractor,^[10] monitor the project, inspect the roof repairs, and, if satisfactory, approve the project completion.

However, the EO1, rather than the City, hired the roofing contractor and scheduled work to begin in April 2015, 1 week after the Director of Management Services reported on the overall condition of the City-owned building to the then City Manager^[11] and discussed strategies for City personnel managing the repairs. According to City personnel, the City went along with the EO1 hiring the roofing contractor and assuming project management duties since the EO1's lease agreement provided that the EO1 was responsible for repairs. Because the EO1 contracted with the roofing contractor directly, the City's competitive procurement requirements were not applicable and the City's ability to oversee and control the roofing repair project was diminished, possibly contributing to the other deficiencies and discrepancies we noted.

— In August 2015 and January 2016, EO1 personnel submitted two unpaid roofing contractor invoices totaling \$30,600 to the City (a May 26, 2015, invoice for \$15,800 and a December 9, 2015, invoice for \$14,800). The City paid the EO1 \$7,900 in September 2015 (the City's 50 percent share of the \$15,800 invoice) and \$7,100 in January 2016 (the remaining portion of the City Council-approved \$15,000 donation). Our review of City records and discussions with City personnel disclosed that although City personnel inspected the roof repairs on May 7, 2015, (19 days prior to the invoice date) City records did not demonstrate whether the inspection included the work billed on the May 26, 2015, invoice, and City records did not evidence that City personnel inspected the work billed on the December 9, 2015, invoice. In response to our inquiries, City personnel confirmed that they did not verify whether inspections had taken place prior to paying the EO1. Inspecting and documenting the status of work performed prior to payment is essential to demonstrate that the work was of acceptable quality and satisfactorily completed.

— Our review of canceled checks obtained from the EO1 disclosed that the EO1 paid the roofing contractor subsequent to each of the City's donation payments. Specifically, the EO1 paid the roofing contractor \$15,800 in

September 2015 and \$14,000 in March 2016. A Brevard County Sheriff's Office (Sheriff's Office) investigation found that the \$14,000 paid to the roofing contractor in March 2016 differed from the \$14,800 amount on the roofing contractor's December 2015 invoice as a result of the roofing contractor leaving a business card and note on the door of the EO1 requesting payment of \$14,000. Without a written agreement documenting both parties' understanding as to payment terms, discrepancies in payment amounts occurred.

— In a letter dated March 24, 2017, the then Executive Director^[12] of the EO1 wrote to the City that it had come to his attention that the roof repair costs were being questioned; however, he did not indicate who was questioning the costs. On March 27, 2017, a City Council member, who is also a Florida-licensed roofing contractor, inspected the roof repairs and identified substandard and incomplete repairs (i.e., peeling paint, broken tiles, and flashing^[13] not installed at all required locations) and prepared an inspection report dated May 9, 2017^[14]. The City Council member brought the issues to the attention of the City Manager and City Attorney, who referred the issues to the City Code Compliance Division. According to the City Council member's inspection report, the roofing contractor had not applied for a building permit before the work was done or prior to being paid. Subsequent to the inspection, but before the report was issued, the roofing contractor filed an application for a permit listing the value of the repairs at \$14,800, or \$15,800 less than the \$30,600 the roofing contractor invoiced and \$15,000 less than the \$29,800 actually paid by the EO1. According to City Code Compliance personnel, although they verbally asked the roofing contractor why he listed the value of repairs on his application as \$14,800 but invoiced the EO1 \$30,600, the roofing contractor did not respond.

In May 2017, an anonymous individual contacted the Sheriff's Office to report that potential fraud may have occurred involving the roof repair. The Sheriff's Office performed an investigation and, in March 2018, charged the EO1 Executive Director at the time of the roof repairs with several crimes related to fraud, including intercepting a \$7,000 payment from the roofing contractor that was intended for the EO1^[15]. The roofing contractor was not charged with a crime and the City and roofing contractor signed a settlement agreement in April 2018 by which the City agreed not to pursue civil remedies against the roofing contractor in exchange for return of \$7,000 to the City, representing a portion of the \$15,000 City donation for the roof repairs. Pursuant to the agreement, the roofing contractor paid the \$7,000 to the City on April 9, 2018.

Subsequent to our inquiries, the City established a policy^[16] in October 2019 requiring any repairs or maintenance to City property leased by an external organization and funded by City donations to be coordinated, procured, and managed by the City Department of Management Services' Facilities Management Division^[17]. The policy also requires donation-funded work on City property to be overseen by a City-employed project manager, who shall coordinate with the Facilities Management Division to ensure that all City policies and procedures and building codes are followed.

Recommendation: To ensure that City-donated funds to external organizations are used for the intended public purposes, the City should:

- **Execute agreements with external organizations requiring those organizations to submit, as part of their annual report, documentation showing how the donated funds were expended to accomplish the intended public purpose of the donations.**
- **Periodically examine records maintained by the external organizations to verify that reports and documentation provided to the City are supported by organization records.**
- **Adhere to the October 2019 policy that requires all repair, maintenance, and improvement projects for City property leased to external organizations and funded by City donations to be coordinated, procured, and managed by the City Facilities Management Division in accordance with applicable City policies and procedures and building codes.**

Derek H. Noonan, Audit Manager
Auditor General, State of Florida
111 West Madison Street, Rm 401-Q
Tallahassee, FL 32399-1450
Office (850) 412-2864

Note: In the event your response contains information that may be considered sensitive or confidential pursuant to Federal or State law, please do not send that information via e-mail. Please contact me to make alternative arrangements to provide the information.

Dear Auditor General Staff:

Good morning.

First, let me say that I value the work that you do and the reports that you issue. I find them refreshing in the context of government affairs and efforts to improve government in constructive ways.

This law firm is pleased to represent the City of Sanford in the Charter role of City Attorney.

I have been tasked with conducting training on the appropriate public purpose tests and analysis for the expenditure of public funds. In particular, the matter that I am looking into is the test for determining when a lawful public purpose exists for the donation of funds to private groups to engage in community benefiting events and projects.

Could you please email me by providing me with any training resources that you all may have developed or may use? I, of course, have reviewed an array of Auditor General reports and will continue to research those reports, However, it occurred to me that, perhaps, you all have a ready resource for training purposes or a list of reports that you refer to when making such analysis of expenditures.

Your kind courtesies and assistance will be much appreciated.

I hope that all is well with you.

Thank you for your attention to this matter.

Please call me **ANYTIME** at the office (407-322-2171) or at my cell phone (386-748-3685). I answer my cell phone 24 hours a day. If long distance, the office's toll free number is 800-247-5225. My e-mail address is lgroot@stenstrom.com

Please let me know if I can ever be of assistance to you.

Lonnie Groot

STENSTROM, MCINTOSH, COLBERT & WHIGHAM, P.A.
300 International Parkway
Suite 100
Lake Mary, Florida 32746
Website: www.stenstrom.com

[1] Attorney General Opinion No. 2002-18.

[2] City of Melbourne Council Policy No. 10.

[3] The standard grant funding agreement (contract) requires the recipient of the donated funds to provide the City an annual program synopsis identifying outcome data that reflects evidence-based practices, including activities performed and number of persons assisted. In addition, the contract provides that the expenditure of the donated funds “may require periodic auditing to ensure that such funds will be used only for a municipal purpose.” Although not specified in the contract, in this context, “auditing” could include examinations by designated City personnel of the external organization’s records.

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- ^[4] The organization received \$50,000 to assist homeless City residents pursuant to a City-approved contract.
- ^[5] The donations to the 3 other organizations include amounts of \$50,000 and \$7,000, as discussed in Finding 1, and \$7,454 of the \$10,973 donated to the Melbourne Police Athletic League.
- ^[6] For one organization, the terms of the City donation were contained and documented in a lease agreement executed by the City with the organization rather than a contract. For another organization, a contract was not used.
- ^[7] This individual served on the City Council from November 2012 to November 2018. In August 2017, the City Council member was notified of a complaint filed with the Commission on Ethics (COE) for several alleged violations of State law, including Section 112.313(3), Florida Statutes, by serving concurrently as a City Council member and EO1 President when the City donation for the roof repair was approved. The COE determined that the complaint was legally sufficient and ordered a preliminary investigation. Based on the investigation, in April 2018 the Advocate to the COE recommended that the COE find probable cause to believe that the then City Council member violated Sections 112.313(3) and 112.313(7)(a), Florida Statutes. In June 2018, the COE voted to dismiss the complaint because the COE decided that the public interest would not be served by further proceedings due to: (1) the close, longstanding relationship between the City and the EO1; (2) steps the City Council member took toward remedying any conflict due to her public and private positions and the relationship between the City and the EO1; and (3) the City Council member's reliance on the advice of the then City Counsel.
- ^[8] This individual separated from City employment as Director of Management Services on May 31, 2018.
- ^[9] This individual separated from City employment as Facilities Operations Manager on March 7, 2016.
- ^[10] The City's Purchasing Manual requires formal bid solicitations for contracts with estimated total expenditures exceeding \$25,000; consequently, the City would have been required to solicit bids had it directly procured the roofing contractor services.
- ^[11] This individual separated from City employment as City Manager on November 30, 2018
- ^[12] This individual served as EO1 Executive Director subsequent to the individual who served as EO1 Executive Director at the time of the roof repairs.
- ^[13] Roof flashing is a thin material, usually galvanized steel, that professional roofers use to direct water away from critical areas of the roof, for example, where the roof plane meets a vertical surface like a wall, or around vents, chimneys, or skylights.
- ^[14] *EO1 Roof Issue Summary Report dated May 9, 2017.*
- ^[15] As of December 2020, the case was not yet resolved.
- ^[16] City of Melbourne Administrative Policies and Procedures Manual, *Repairs, Maintenance or Improvements to City Property by Outside Parties.*
- ^[17] City of Melbourne Administrative Policies and Procedures Manual, *Purchasing Manual.*

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

SENATOR JASON BRODEUR
10th District

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

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, sweeping underline.

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](https://winterspringsfl.granicus.com/DocumentViewer.php?file=winterspringsfl_709b6deb19ddfffe9e13ba1ade549990.pdf&view=1) &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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Community Services
Agency Partnership Grant
FY2023-2024
Request for Applications

Seminole County Community Assistance
520 West Lake Mary Blvd., Suite #100
Sanford, FL 32773
Phone: 407-665-2300 • Fax: 407-665-2358



COMMUNITY SERVICES AGENCY (CSA) PARTNERSHIP GRANT MISSION STATEMENT

The purpose of the CSA Partnership Grant program is to further the County's mission to deliver excellent public service that enhances quality of life and addresses our community's needs, now and in the future.

PROGRAM BACKGROUND

The CSA Partnership Grant program was initiated by the Board of County Commissioners to address human service needs in Seminole County. Seminole County has an extensive history of partnership with local non-profit agencies to benefit and improve the quality of life for residents.

It is deemed to be in the best interest of the citizens of Seminole County that funds be made available to establish partnerships with non-profit agencies who serve the community's social interests and needs. Therefore, it is the intent of this program to assist agencies that provide essential and supportive services, such as, but not limited to, the needs of the poor, youth, seniors, those with disabilities, education, culture, and arts.

The CSA program collaborates with community organizations in assisting residents with specific needs in the County. The program provides grant funds to qualified non-profit organizations that meet federal and state tax exemption requirements and have been in existence for a minimum of three years. Agencies must provide services to benefit and improve the quality of life for Seminole County. CSA funded programs must assist residents of Seminole County. The definitions of each are below:

Essential Services: Services that meet the basic needs for daily survival that sustain the quality of life for residents.

Supportive Services: Services that enhance the quality of life for residents.

Funds will be provided as approved by the Seminole County Board of County Commissioners and as requirements are clearly shown and proven by the various agencies that meet the guidelines as set by the County. The intent of the County is to provide funding for the good and welfare of its citizens.

TIMELINE OF FUNDING APPLICATION PROCESS

A Notice of Funding Availability (NOFA) will be released in the Seminole Section of the Orlando Sentinel on Sunday, April 30, 2023. The Request for Applications (RFA) will be posted by Monday, May 1, 2023 on the Seminole County Community Services website. Agencies are required to attend a mandatory pre-application workshop. For further details and to RSVP, please email mcahill@seminolecountyfl.gov.

- The completed application is due by 4:00 p.m. on Thursday, June 1, 2023 to the address below:
Seminole County Community Services Department
Community Services Agency (CSA) Partnership Program
ATTN: Michelle Cahill
520 West Lake Mary Blvd., Suite #100
Sanford, Florida 32773
- After applications are submitted, the Community Services Agency Application Review Committee will meet in May to review applications and scoring instructions pursuant to the formalized process as approved by the Seminole County Board of County Commissioners. Members of the team individually review and score each application and then meet again in June to compile their scores for County staff.
- Funding recommendations are compiled and finalized during the month of June. The Board of County Commissioners receives staff recommendations on CSA funding and makes the final award determination. All agencies that applied are notified of the funding recommendations provided to the Commissioners by July.
- During the months of August and September, the Community Services Department will be working with the County Attorney's Office and the recommended agencies to draft agreements for review and execution. Once the County issues the agreement to an agency for review and signature, the agency must have the original signed agreement back to the County Community Services Department within 10 business days. Failure to provide the original signed agreement with appropriate signatures within the 10 business days may result in denial of funding.
- All agencies that applied for the CSA Partnership Grant are notified in writing of the Board of County Commissioner's decision by October. Those that were awarded funding receive a contractual agreement outlining the responsibilities of the County and the collaborating agency, which must be executed by both parties before reimbursement can be made.
- The CSA contract year begins October 1 and the distribution of an executed agreement to the funded agencies typically occurs in October. A mandatory training session for any agency awarded funds is held to describe and explain funding and reporting requirements, which include monthly reimbursement, and

performance measurement reports. It is recommended that the organization's Finance Manager, Monitor, Manager/Supervisor that oversees the program attends this session. There are also monitoring requirements that are carried out to secure and maintain contract compliance throughout the year.

C.S.A. PARTNERSHIP GRANT APPLICATION GUIDELINES

REQUEST FOR APPLICATIONS (RFA):

The Request for Applications (RFA) is distributed in March to currently funded agencies and the general public on the Seminole County Community Assistance website. Each agency is required to submit four (4), hard copies of the application prior to the posted deadline. Each agency will also be required to submit an electronic version on a USB drive of their complete application as well. Emailed applications will not be accepted.

"PLEASE DO NOT SUBMIT APPLICATIONS IN BINDERS"

ELIGIBILITY CRITERIA:

This criterion was approved by the Seminole County Board of County Commissioners on October 23, 2012. Only the applications meeting the following criteria will be considered:

- ❖ The nonprofit agency is chartered or otherwise authorized to do business in the State of Florida for charitable purposes and exempted from the Federal income tax by the Internal Revenue Service 501(c)(3) for a minimum of three years.
- ❖ The purposes for which the nonprofit agency is organized provides benefits to Seminole County residents.
- ❖ The services or activities to be provided by the nonprofit agency, and funded with County funds, shall address an essential or supportive services, such as, but not limited to, the needs of the poor, youth, seniors, those with disabilities, education, culture and arts, and health crisis.
- ❖ The nonprofit agency shall have a governing board whose members serve without compensation and have no conflict of interest between their regular occupations and the services provided by the nonprofit.
- ❖ The nonprofit agency has bylaws or policies which describe the manner in which business is conducted, including management, audit, and fiscal policies and procedures, polices on nepotism, and policies on management of potential conflict of interest.
- ❖ The nonprofit has at least one year's experience providing the service or activity for which the funds are requested or can otherwise demonstrate to the satisfaction of the County sufficient expertise to successfully carry out the service or activity.
- ❖ The nonprofit must be licensed and accredited in accordance with applicable requirements of Federal, State and County laws.

- ❖ The nonprofit agency may not use a funding agency or other third-party arrangement to meet program requirements for eligibility.
- ❖ Nonprofit must provide the previous year's fundraising plan and a statement on future fundraising efforts.
- ❖ Only one application per agency will be considered per program – essential life or supportive life services.
- ❖ Grants will be made only to nonprofit agencies whose programs and activities benefit the residents of Seminole County.

An application that does not meet these minimum requirements will not be scored and the agency will be notified.

APPLICATION REVIEW COMMITTEE:

The Application Review Committee will be selected by the Director to evaluate all approved applications based on the categories of essential services and supportive services. The ARC will be comprised of a minimum of three (3) individuals who are familiar with social service programs in Seminole County. Each team member will individually review and score the submitted applications. The team will meet at a time & date as designated by the Program Manager to review and discuss the results of the scoring process. At this time, the team will review scores and submit to the Program Manager.

RECOMMENDATION SUMMARY:

The ARC evaluations will be compiled, and a summary will be presented to the Community Services Director. The Community Services Department Director will make the funding recommendations to the County manager and Board of County Commissioners.

FUNDING DECISIONS:

Final funding decisions will be determined by the Board of County Commissioners at the designated Board meeting. Agreements will be prepared for the agencies that were granted funding, and letters will be sent to all agencies who applied to notify them of the final funding decisions.

SPECIAL PREFERENCES:

Preference will be given to organizations that have the ability to leverage the County's funds at a minimum of 2:1 ratio.

- ❖ Agencies may demonstrate such leveraging by using matching funds, working in partnership with other agencies, or other means. Funding to this program should lead to broad and lasting benefits to the community.

Priority will be given to projects or programs where funds will have a positive, long-term spillover effect to reduce vulnerable problems in the community.

The County encourages social service agencies to collaborate in order to solve common problems and better address local social services needs. To serve these ends, the County will allow agencies to submit an application for funding as a Collaborative Project.

Preference will also be given to organizations that partner with other social service agencies and respond as a collaborative.

- ❖ The Collaborative must select a lead agency that will submit the application; and must include a list of other organizations that will be included in the implementation and ongoing operation of the project; and
- ❖ Must include current letters (within 60 days prior to application) from the organizations that have agreed to partner with your agency detailing the specific resources and services they will provide.



CITY OF
SANFORD
FLORIDA



APPROVED

WS	<u>X</u>	RM	<u>X</u>
-			
Item No			9.1

**CITY COMMISSION MEMORANDUM 25-126
APRIL 28, 2025 AGENDA**

TO: Honorable Mayor and Members of the City Commission
PREPARED BY: Cynthia Lindsay, CPA, CGFO, Director of Finance
 And Lonnie N. Groot, Assistant City Attorney
SUBMITTED BY: Norton N. Bonaparte, Jr., ICMA-CM, City Manager
SUBJECT: Public Purpose Determinations; Resolution No. 3382; Donations To Private Non-Profit Entities By City Commission

STRATEGIC PRIORITIES:

- Unify Downtown & the Waterfront
- Promote the City's Distinct Culture
- Update Regulatory Framework
- Redevelop and Revitalize Disadvantaged Communities

SYNOPSIS:

Requesting to approve a policy pertaining to public purpose determinations relating to donations approved by the City Commission and the adoption of which incorporates a policy for such actions that adhere to controlling law and sound and generally accepted fiscal and public management practices and principles.

FISCAL/STAFFING STATEMENT:

One of the primary goals of public fiscal and accounting practice is to ensure compliance with controlling law and sound and generally accepted public management practice and principles. The annual audit process and, on occasion, the non-regular auditing efforts of governmental entities maintains a normative process of checks and balances to ensure adherence to the above-stated principles. That is, the annual audit is accomplished by an auditor to provide the City Commission with the financial performance of local government management being evaluated. Occasionally, additional audits and types of audits are performed by government entities such as those accomplished by the Auditor General of State of Florida and the Joint Legislative Auditing Committee (JLAC) of the Florida Legislature. An array of audits by the Florida Auditor General of many local governments are generally available for review and relate to governmental entities from every area of the Florida. More locally and specifically, the JLAC recently engaged in an audit of the City of Winter Springs (attached) which made several troubling conclusions. The goal of Sanford City management is to have a very positive annual audit accomplished, without a significant adverse comment arising, while also ensuring that, should an audit of the JLAC or Auditor General occur, the City will have a clean audit without significant adverse comments.

BACKGROUND:

City staff has been concerned, from a fiscal management and auditing perspective, with the lack of documentation and record evidence of a public purpose being presented and articulated when the City Commission makes donations of public funds to various private groups. The Assistant

City Attorney was tasked with researching and evaluating this matter and developing a training session. Accordingly, he conducted legal research and contacted Mr. Derek H. Noonan, the Audit Manager of the Office of the Auditor General of the State of Florida. The research conducted and material provided by Mr. Noonan, however, made it clear that a basic policy should be adopted by the City Commission.

One of the issues with regard to public purpose expenditures is that there is no explicit statement in State law that “all expenditures must serve a public purpose.” Rather, the requirement is implicit and is supported by multiple Attorney General opinions. Controlling law derives, however, from Section 10, Article VII, *Constitution of the State of Florida*, which prohibits the State, and any county, school district, municipality, special district, or agency thereof from giving, lending or using its taxing power or credit to aid any corporation, association, partnership or person. See, *O'Neill v. Burns*, 198 So.2d 1 (Fla. 1967), in which the Florida Supreme Court mandated that a clearly identified and concrete public purpose be the primary objective and a reasonable expectation relating to the use of public funds and that such purpose must be substantially and effectively accomplished before the State or its subdivisions may disburse, loan or pledge public funds or property to a nongovernmental entity.

The law of Florida is such that municipalities have been granted home rule powers to exercise any power for municipal purposes except when expressly prohibited by law. This power is tempered by the basic proposition that municipal funds may be used only for a municipal purpose. The determination of what constitutes a valid municipal purpose for the expenditure of public funds is a factual determination for the legislative and governing body involved - the City Commission in the case of the City. In making this determination, the City Commission must make appropriate legislative findings.

In recognition of that controlling law, Mr. Noonan provided citations and excerpts relating to several audits conducted by the Auditor General. In sum, the audits recommended, among other things, that procedures, criteria and agreements be part of the process of giving public funds to private entities after determining that a valid public purpose existed. In developing potential processes and procedures, those of the Seminole County “Community Services Agency Partnership Grant Program” were evaluated (booklet attached). The criteria used by Seminole County in determining whether an entity is eligible for funding includes the following:

- (1). The nonprofit agency must be chartered or otherwise authorized to do business in Florida for charitable purposes and exempted from the Federal income tax by the Internal Revenue Service 501(c)(3) for a minimum of 3 years.
- (2). The purposes for which the nonprofit agency is organized provides benefits to Seminole County residents.
- (3). The services or activities to be provided by the nonprofit agency, and funded with County funds, shall address an essential or supportive services, such as, but not limited to, the needs of the poor, youth, seniors, those with disabilities, education, culture and arts, and health crisis.
- (4). The nonprofit agency shall have a governing board whose members serve without compensation and have no conflict of interest between their regular occupations and the services provided by the nonprofit.
- (5). The nonprofit agency has bylaws or policies which describe the manner in which business is conducted, including management, audit, and fiscal policies and

procedures, policies on nepotism, and policies on management of potential conflict of interest.

(6). The nonprofit agency has at least a year's experience providing the service or activity for which the funds are requested or can otherwise demonstrate to the satisfaction of the County sufficient expertise to successfully carry out the service or activity.

(7). The nonprofit agency must be licensed and accredited in accordance with applicable requirements of Federal, State and County laws.

(8). The nonprofit agency may not use a funding agency or other third-party arrangement to meet program requirements for eligibility.

(9). The nonprofit agency must provide the previous year's fundraising plan and a statement on future fundraising efforts.

(10). Only one application per nonprofit agency will be considered per program per year.

Resolution No. 2025-3382 was developed to allow the City Commission to adopt a very basic policy relative to the City's donation of public funds to private organizations. The policy simply requires as follows:

(1). The grantee agency shall be a nonprofit entity.

(2). The purposes for which the nonprofit agency is organized shall provide benefits to City residents as promised and set forth in a written application.

(3). The services or activities to be provided with City funds shall address an essential or supportive services, such as, but not limited to, the needs of the poor, youth, seniors, those with disabilities, education, culture and arts, and health crisis.

(4). The nonprofit agency shall have a governing board whose members serve without compensation and have no conflict of interest between their regular occupations and the services provided by the nonprofit agency.

(5). Only one application per agency will be considered per year.

(6). Grants shall be memorialized and documented in a written agreement.

LEGAL REVIEW:

The Assistant City Attorney has assisted in the development of this agenda item. The email from Mr. Derek H. Noonan, the Audit Manager of the Office of the Auditor General of the State of Florida, refers to an array of opinions issued by the Florida Attorney General. Those opinions have been reviewed and have been used from time-to-time to address various legal actions proposed by the City. They can be provided upon request. Also, there is an array of legal analysis and publications from other jurisdictions throughout the Nation discussing the public purpose doctrine. Other states have specific and detailed prohibitions while the *Florida Constitution* contains the broad prohibition, which was referred to above, in prohibiting the City from giving, lending or using its taxing power or credit to aid any corporation, association, partnership or person without

a clearly identified and concrete public purpose be the primary objective and a reasonable expectation relating to the use of public funds for that purpose. The out of state materials are also available upon request.

RECOMMENDATION:

City staff recommends that the City Commission adopt Resolution No. 2025-3382, adopting a policy pertaining to public purpose determinations relating to donations approved by the City Commission.

SUGGESTED MOTION:

“I move to adopt Resolution No. 2025-3382, as proposed.”

- Attachments:
- (1). Resolution No. 2025-3382.
 - (2). Seminole County “Community Services Agency Partnership Grant FY 2023-2024 Request for Applications” booklet.
 - (3). JLAC audit of Winter Springs.
 - (4). Email dated March 12, 2025, from Mr. Noonan of Auditor General’s Office to Lonnie Groot, Assistant City Attorney.