



Joint Legislative Auditing Committee

Senator Joseph Abruzzo, Chair Representative Daniel Raulerson, Vice Chair

Meeting Packet

Monday, March 16, 2015 11:30 A.M. to 1:30 P.M. 301 Senate Office Building

AGENDA JOINT LEGISLATIVE AUDITING COMMITTEE

DATE: Monday, March 16, 2015 TIME: 11:30 a.m. to 1:30 p.m. PLACE: Room 301, Senate Office Building MEMBERS: Senator Joseph Abruzzo, Chair Representative Daniel D. Raulerson, Vice Chair

Senator Lizbeth Benacquisto Senator Rob Bradley Senator Audrey Gibson Senator Wilton Simpson Representative Debbie Mayfield Representative Amanda Murphy Representative Ray Rodrigues Representative Cynthia Stafford

Availability of the Secretary of the Department of the Lottery, Cynthia O'Connell, for members' questions regarding the annual audit of the Department

Consideration of a certified petition request for an audit of the City of Archer received, pursuant to s. 11.45(5), F.S., from citizens of the City of Archer

Consideration of a request for an audit of the North Lake County Hospital District received from Representative Metz

Presentation of the Auditor General's audit of the Department of Economic Opportunity – CONNECT

STAFF ANALYSIS (Revised)

Date: March 11, 2015

Subject: Certified Petition Requesting an Audit of the City of Archer by the Auditor General

Analyst Coordinator

White DW DuBose KD

I. Summary:

The Honorable Pam Carpenter, Supervisor of Elections for Alachua County, Florida, notified the Joint Legislative Auditing Committee (Committee) of a certified petition requesting an audit of the City of Archer (City), Florida, by the Auditor General. Pursuant to Section 11.45(5), Florida Statutes, 20 percent of the 696 registered electors in the City's last general election (139.2 electors) were required to sign the petition in order for the Committee to direct the audit. Ms. Carpenter verified that 146 registered electors signed the petition, which surpasses the amount required by Florida law. Consequently, the Committee is required by law to direct the Auditor General to conduct an audit of the City.

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(5)(a), Florida Statutes, provides that the Legislative Auditing Committee shall direct the Auditor General to make an audit of any municipality whenever petitioned to do so by at least 20 percent of the registered electors in the last general election of that municipality pursuant to this subsection. The supervisor of elections of the county in which the municipality is located shall certify whether or not the petition contains the signatures of at least 20 percent of the registered electors of the municipality. After the completion of the audit, the Auditor General shall determine whether the municipality has the fiscal resources necessary to pay the cost of the audit. The municipality shall pay the cost of the audit within 90 days after the Auditor General's determination that the municipality has the available resources. If the municipality fails to pay the cost of the audit, the Department of Revenue shall, upon certification of

the Auditor General, withhold from that portion of the distribution pursuant to Section 212.20(6)(d)5., Florida Statutes, which is distributable to such municipality, a sum sufficient to pay the cost of the audit and shall deposit that sum into the General Revenue Fund of the state.

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 report to determine the local governmental entity's progress in addressing the findings and recommendations contained in the report.

Background

City of Archer, Florida (City): The City was incorporated as a municipality in 1850.¹ Chapter 13906, Laws of Florida (1929), abolished the then present City and established a new City and charter, which was subsequently approved by voter referendum. The City is located in Alachua County, operates under a Commission-Manager form of government, and is governed by five elected commissioners. Section Seven of the City's Charter provides that the mayor shall be selected annually by members of the City Commission from their number with due regard to his or her experience in government, ability, and qualifications. The City provides citizens with the following services: general government, public works, recreation, water, and solid waste.² Public safety services (police, fire, and emergency medical) are provided by the Alachua County Sheriff's Office and the Alachua County Fire Rescue.³ The City's 2014 estimated population was 1,137.⁴

Certified Petition Request for an Audit of the City of Archer, Florida

Citizens of the City of Archer, Florida, have successfully completed the petition process set forth in Section 11.45(5), Florida Statutes, for an audit by the Auditor General. The statement at the top of the petition from the citizens of the City of Archer read: "We, the undersigned, pursuant to Section 11.45(5), Florida Statutes, hereby petition to have the Legislative Auditing Committee direct the Auditor General to conduct an audit of the City of Archer, FL. The cost of the audit is the responsibility of the City if the Auditor General determines that the City has the fiscal resources necessary to pay the cost of the audit. The audit should include a review of all accounts (water & general fund), supporting documentation, to include policy and operational procedures in addition to all the code violations and zoning changes."

The group of citizens that organized the petition drive provided a list of concerns to the Committee related to the City's operations, which included:⁵

- **Payroll and Personnel Issues:** Time sheets are not concise and show violations of the City's Personnel Policy, specifically persons in management getting overtime. There are also concerns relating to the use of and payment for sick leave.
- **Credit Card Expenditures:** There are questionable charges on credit cards such as local dining, hotel rooms, technical charges, car rentals (the city has a city vehicle for these purposes), online charges, and more. Also, charges include thousands of dollars' worth of computer hardware

¹ The Florida League of Cities Municipal Directory - page for the City of Archer.

² City of Archer's website [http://www.cityofarcher.com]

³ City of Archer's website [http://www.cityofarcher.com/Public-Safety.html]

⁴ Florida Estimates of Population 2014 (April 1, 2014); Bureau of Economic and Business Research; College of

Liberal Arts and Sciences; University of Florida.

⁵ Letter dated March 1, 2015, from the Concerned Citizens of Archer (attached)

and software, expensive laptops and IT billing, yet City staff cannot provide a profit and loss statement and daily routine tasks, or send citizens information via email.

- **Fuel Charges:** There is an excessive amount of charges for gas, almost three times more than what was used five years ago; however, there has been no increase in mowing over that time period. City employees are signing for gas on Sundays and holidays, and time sheets do not verify that they are working. Also, there is a lack of mileage records.
- Water Billing: (1) Eleven years' worth of water bills and related records have been lost, destroyed, or stolen, with no explanations; (2) "Mistakes" on water bills resulting in overcharges for usage over the past four years, as well as some water service disconnections and resultant law suits; and (3) Although \$87,000 was spent on new water meters, only a portion of them have been installed, and many have lids that don't fit.
- **Budgetary Controls:** (1) The City budget was not available for public access prior to the Public Hearing in the fall of 2014; (2) The City was \$130,000 over budget last year; and (3) the 2011-12 and 2012-13 fiscal years' budgets were not prepared at the required level of detail and did not consider the effect of available fund balances from prior fiscal years, contrary to law.
- Sewer System: (1) Giving incorrect information to other governmental agencies concerning the City to obtain funding for the sewer system; (2) Although the City has not created a Sewer Utility or conducted a Water Rate Study, there is an application for a Florida DEP State Revolving Fund Loan from the Small Community Wastewater Facilities Grant Program; (3) The loan request amounts have gone from \$7 million to \$14 million, yet there is a lack of historical data that the City can pay for it; and (4) The City has purchased a 74-acre tract of land outside the City limits with state funds, yet according to the City Manager the City has no plans for the sewer system.
- Lack of Competitive Bids: The City continuously has work done without bid proposals or advertising. One example is \$8,600 work done on Archer Lane which was claimed to be an emergency so school buses could utilize the road; however, it was discovered that the school buses do not use that road. (Jordon Glenn School).
- **Public Records Availability:** (1) Eleven years' worth of water bills and related records have been lost, destroyed, or stolen, with no explanations (as mentioned in "Water Billings" above; (2) Evidence of employee files being removed/destroyed/denied, if they contained negative comments about the employee; (3) Excessive charges for public records requests; and (4) At least two lawsuits against the City for public record violations have been settled in the last three years.
- **Miscellaneous Concerns:** (1) Use of Petty Cash Funds; (2) Neglected Infrastructure; and (3) Favoritism in code enforcement and changes in City ordinances to either favor or hinder certain citizens.

In addition, a review of news articles related to the City and conversations with a concerned citizen disclosed that there are various issues relating to over-billing for water usage and procedures for the timely resolution of incorrect water bills. Several of the news articles mention increases in water bills due to incorrect water meter readings and calculations for water use.

Some of the above-noted concerns are policy issues rather than audit issues and may be outside of the scope of what an audit would normally address (i.e., ordinance changes and city code issues).

Financial-Related Information of the City

In accordance with Section 218.39, Florida Statutes, the City has obtained annual financial audits of its accounts and records by an independent certified public accountant (CPA) and has timely submitted the audit reports to the Auditor General's Office as required. 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* (2011 Revision) as standards for auditing local governmental entities pursuant to Florida law.

The City's audit report for the 2013-14 fiscal year has not yet been received by the Auditor General's Office; it is required to be submitted no later than June 30, 2015. Excerpts from the City's annual audited financial statements for the fiscal years ended September 30, 2013, and September 30, 2012, are shown in the following table:

	FY 2012-13	FY 2011-12
General Fund		
Total Revenue	\$ 584,791	\$ 618,831
Total Expenditures	571,510	545,212
Excess (Deficiency) of		
Revenues Over (Under)		
Expenditures	13,281	73,619
Other Financing Sources		
(Uses)	49,779	9,300
Net Change in Fund Balance	63,060	82,919
Fund Balance, Beginning	247,971	165,052
Fund Balance, Ending	<u>\$ 311,031</u>	<u>\$ 247,971</u>
	FY 2012-13	FY 2011-12
Water Fund		
Total Operating Revenue	\$ 174,141	\$ 217,196
Total Operating Expenditures	206 980	166 008

Total Operating Revenue	\$ 174,141	\$ 217,196
Total Operating Expenditures	206,980	166,008
Operating Gain (Loss)	(32,839)	51,188
Total Nonoperating Revenues		
(Expenses)	1,454	1,641
Gain (Loss) Before Operating		
Transfers	(31,385)	52,829
Operating Transfers Out	(42,500)	0
Net Gain (Loss)	(73,885)	52,829
Net Position, Beginning of	1,276,913	1,224,084
Year		
Net Position, End of Year	<u>\$ 1,203,028</u>	<u>\$1,276,913</u>

- The City did not meet any of the conditions of financial emergency as defined within Section 218.503, Florida Statutes, for the fiscal years ended September 30, 2013 and 2012.⁶
- The audit findings in the FY 2012-13 annual financial audit report are listed below. (Note: The first finding is considered by the auditors to be a significant deficiency as defined by *Government Auditing Standards*, issued by the Comptroller General of the United States):⁷
 - Financial Statement Preparation (Finding #2013-1): The City does not have staff with the accounting knowledge and experience to prepare the financial statements and all required footnote disclosures in accordance with generally accepted accounting principles (GAAP). The City's response acknowledged the disclosure of this required finding and stated that, at this time, they do not believe it would be a justifiable expense to employ someone with such knowledge/experience and will continue to monitor the situation in the future.
 - Employee Leave Records (#2012-1 Management Letter): This finding was a prior year finding that had not been corrected and related to improvements needed in recording and maintaining accurate employee leave records. The auditors recommended that the City review employee leave balances at least quarterly for accuracy and compliance with the City's leave policy.
 - Payroll Transactions (#2013-1 Management Letter): This finding related to cash advances made to employees; the City did not have a policy in place authorizing such advances. The auditors recommended that, unless a policy is developed in compliance with Florida law, no such advances should be made to City employees.

Other Considerations

The Auditor General will conduct an operational audit and take steps to avoid duplicating the work efforts of the City's auditors performing the 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.

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 board and management, as well as the citizens living in 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 Commission 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

⁶ Management Letter - City's annual financial audit reports for the fiscal years ended September 30, 2013 and 2012.

⁷ Pages 52-54 of the City's annual financial audit report for the fiscal year ended September 30, 2013.

Committee may request the Chair of the City Commission 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 selected state revenues from the City that it would ordinarily be entitled to receive.

III. Effect of Proposed Request and Committee Staff Recommendation

The law requires the Committee to direct the Auditor General to perform an audit of the City when petitioned to do so by at least 20 percent of the electors of the City. Since the City is required to have an annual financial audit in accordance with Section 218.39(1)(b), Florida Statutes, the audit should be an operational audit as defined in Section 11.45(1)(g), Florida Statutes, and the scope should include the following areas:

- compliance with the City's payroll and personnel policies, specifically those relating to overtime and sick leave (use of and payment for);
- use of credit cards in accordance with City policies, applicable state laws, and good business practices, and testing of documentation for such expenditures as deemed appropriate;
- review of controls related to fuel charges and testing of documentation for such expenditures as deemed appropriate;
- review of the City's budgetary controls, including compliance with applicable state laws, and testing as deemed appropriate;
- review of controls over utility billings;
- review of the City's long-term plans for sewer system enhancements; and
- compliance with state law and City policies relating to the use of competitive bids, and testing as deemed appropriate.

Pursuant to the authority provided in Section 11.45(3), Florida Statutes, the Auditor General shall finalize the scope of the audit during the course of the audit, providing that the audit-related concerns of the citizens are considered. In addition, the Auditor General should be allowed to set the timing of the audit as audit resources are available, consistent with his work plan and so as not to jeopardize the timely completion of statutorily mandated assignments.

IV. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The City of Archer is responsible for the cost of the audit. After the audit is completed, the Auditor General is required to determine whether the City has the financial resources available to pay for the audit. If the Auditor General determines that the City does have the resources, he will forward the cost of the audit to the City for payment. The City is required to pay the cost of the audit within 90 days. If the City fails to pay for the audit within that time, the Auditor General is required to notify the Department of Revenue. The Department of Revenue is then required to withhold from that portion of the distribution pursuant to Section 212.20(6)(d)5., Florida Statutes, which is distributable to such municipality, a sum sufficient to pay the cost of the audit and shall deposit that sum into the General Revenue Fund of the state.

V. Related Issues:

None.

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

Chairman and Distinguished Members,

In compliance with your request for a clearer understanding of what needs to be focused on in the City of Archer audit, we have compiled the following concerns. The audit should be focused on the past four years in which Al Grieshaber was/is manager, John Mayberry was/is assistant manager. The City Commission consisted of Frank Ogborn, Doug Jones, Marjorie Zander, Gabe Green, and Fletcher Hope.

The following are our concerns and should be considered for review:

- 1. **TIME SHEETS:** Time sheets are not concise, and show violations of the City of Archer Personnel Policy, specifically persons in management getting overtime. They show time on the clock, while there is evidence the person was in another state. They show sick time taken, yet being paid for sick time at the end of the year. Over time is added incorrectly, and it appears at times against policy. We have documents to support these allegations.
- 2. CREDIT CARDS/ EXECESSIVE SPENDING: There are questionable charges on credit cards such as local dining, hotel rooms, technical charges, car rentals (the city has a city vehicle for these purposes), online charges, and more. Please investigate the thousands of dollars' worth of computer hardware and software, expensive laptops and IT billing. The city cannot provide a profit and loss statement and daily routine tasks, nor can they send citizens information via email. The city was capable of doing business in the past without all the high tech equipment and services. Is there another business being conducted in City Hall? AT&T made a comment to one citizen that the city is paying for some very high tech service.
- 3. **FUEL CHARGES:** The City has used an excessive amount of gas, almost three times more than what was used five years ago, and we aren't mowing any more than what we did then. Employees are signing for gas on Sundays and holidays, and time sheets do not verify them being on the clock. We also don't see any mileage records.
- 4. WATER BILLS: 11 years' worth of records have been lost, destroyed, or stolen, with no explanations. Countless citizens have been overcharged over the past four years. Three or more of these "mistakes" resulted in water being turned off, residents being forced to go before the codes board, and law suits brought against the City. The city has over charged their own community center by almost two thousand dollars. The City spent \$87,000.00 on new meters, with only part of them being installed, and many of those having lids that don't fit. A three night documentary on this problem, along with legal documentation, and meter cards show this is an ongoing problem and was not timely in correcting.
- 5. CODES: The Assistant City manager also serves as the Code Enforcement Officer and appears to have used this position to the advantage of family and friends. Ordinances being changed that would impact the Mayor and be costly to an outspoken constituent, liens being forgiven by the Code's Officer that should have gone through the Codes Board and Commission, for a family member, but the same lien being forced on the original purchaser. Code violations as a result of city mistakes that resulted in citizen's going without water for months (up to a year), and the city being forced by legal action to reimburse the citizens. A questionable land swap between the city and a Codes Board member which was never advertised.
- 6. EXCESSIVE COPY CHARGES: Several years ago the commission voted to hire a lobbyist and it was not on the agenda, it was voted on under managers' report and citizens could not ask questions. Latter when we requested the emails that went back and forth the charge was going to be \$672. A group of citizens started a Facebook page and showed credit card statements that came from City Hall. Within a couple of days, the cost for those copies doubled.
- 7. BUDGET: The City failed to provide a city budget prior to the Public Hearing. (Fall 2014) The City went 130k over budget last year and have not started saving toward the repayment of a \$700,000 [\$733,289 plus \$3,537 interest and \$14,666 loan service fee] with the first payment being due April 15, 2017. It is not even budgeted to save. The City's 2011-12 and 2012-13 fiscal years' budgets were not prepared at the required level of detail and did not consider the effect of available fund balances from prior fiscal years, contrary to law.
- 8. SEWER: The City has researched the feasibility of a sewer system for many years, and are still attempting to find the funding for it. We are wondering how the city of Archer is getting away with giving incorrect information to other governmental agencies concerning our city to obtain monies for the sewer system. We hope you can investigate this because we don't want to be stuck down the road paying monies back because of falsifying records. The City of Archer has

not created a Sewer Utility or conducted a Water Rate Study, yet has an application for an FL DEP State Revolving Fund Loan from the Small Community Wastewater Facilities Grant Program. Over 4 years, amendments have not been made regarding population decline and the true number of septic tank systems. (470, not 550) The loan request amounts have gone from \$7 million to \$14 million yet the City lacks historical data they can pay for it. The City has purchased 74 acre tract of land which is outside the city limits with state funds, yet according to the City Manager we have no plans for the sewer system.

- 9. **PUBLIC RECORDS:** There is evidence of employee files being removed/destroyed/denied, if they contained negative comments about the employee. Water bills that can't be located when customer asks for them. At least two lawsuits against the city for public record violations were settled in the last three years. Eleven years' worth of records are gone.
- 10. CODE OF ORDIANCES: The city continuously has work done without bid proposals or advertising. One example is they had \$8600 work done on Archer Lane and they claim it was emergency so school buses could utilize it. We found out that the buses do not use that road. (Jordon Glenn School)
- 11. **ZONING CHANGE:** There was a zoning change done 2 years ago for 100 Plus acres. The process is questionable for proper notification and they hid county, state and regional reports from the board and citizens and refused to have a workshop. Was the proper procedure done?
- 12. **PETTY CASH**: We want to make sure our petty cash funds are adequately safeguarded. Reimbursements from petty cash are questionable. Example-manager and assistant manager being reimbursed every month for stamps from petty cash.
- 13. NEGLECTED INFRUSTRUCTURE: The street/road budget has been cut in half, yet travel expenses have tripled. The city adopted a mile long county dirt road that they cannot maintain and other city roads are in disrepair. The city does not repair water leaks in a timely fashion. A recent "boil water notice" has been issued several times for many days at a time. Water lines need replacement all over town (many water leaks). A citizen reported that unlicensed employees were working on the water lines. We have deferred maintenance all over the city that will increase future costs.

What we have provided here is a sampling of the things that are going on in our city that we know about. We have documentation to provide that proves the allegations we have made are true.

We believe this audit will uncover more violations that we don't know about and ask that you begin this audit as quickly as possible to correct these problems. We realize that we are asking for a comprehensive audit and that it could be costly, but not as costly to our small city as losing everything we have strived to build.

Thank you for your time and consideration in this matter.

Concerned Citizens of Archer

From: bjaw618@hotmail.com [bjaw618@hotmail.com] Sent: Sunday, March 08, 2015 2:07 PM To: SIMPSON.WILTON.WEB Subject: Other (flsenate.gov)

Preferred Response By: No Response Needed

Joan White bjaw618@hotmail.com Archer, FL 32618 This zip code is in Districts 5 and 7

Receive updates via email: No

Comment or Question:

Senator Simpson,

I am writing in regards to the request for an audit on the City of Archer. I understand and appreciate the concern of costs associated with this audit, and the burden it could place on either the tax payers of the city or the state. I understand the need to be more specific in the scope of what needs to be investigated. This is not an email of criticism, but more to try and get you to understand the need for this audit, and to show you that it was not done on a whim or to retaliate against a sitting City Commission.

I served as an Archer City Commissioner for eight years, after that I served for 12 years as a member of our Codes Board. I love this little city, and feel I owe it a great debt. It's my home, and has been for over 50 years. Most people will tell you that I would never do anything that would cause negativity on our city. It was after a great deal of research and and asking questions that I signed this petition and asked others to sign it also. We didn't do it lightly, and we didn't do it ignorantly. We did it for the future of our home.

After serving as many years as I have, I know when things just don't seem right. I know our Charter well enough to know that it was being circumvented for projects to be implemented. I know how codes work, and I saw how that was being manipulated. I know how City Hall and how open government works, and I knew that law suits to gain public information was inexcusable. Closing the doors to City Hall for a day to attend a seminar on "How to Deal with Difficult People" seemed a little excessive, when all we hear is "it's a vocal few that like to create problems". These things caused me to delve a little deeper, and that's when I saw the problems that this audit will investigate.

Recently I saw a quote by Eric Hoffer on the Assistant City Manager's Facebook page that I honestly think sums up this administration, "Those in absolute power can not only prophesy and make their prophesies come true, but they can lie and make their lies come true". There have been too many lies, too much deception, and too much shade tree politics, in our small town. It's time to see how deep this goes.

Senator Bradley said it best when he spoke of Hampton, "we should all be outraged". We live in Florida, a state with one of most transparent forms of government there is. There should be no hesitation in granting this audit. Not only because it is law, but because we do live in Florida and we want to protect and preserve our open government. Anything that jeopardizes that should outrage all of us.

Thank you for your time and consideration in this. Joan A. White