

## STAFF ANALYSIS

**Date:** November 15, 2025

**Subject:** Request for an Audit of the City of Cape Coral's Building Department

**Analyst**      Coordinator

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### I. Summary

The Joint Legislative Auditing Committee (Committee) has received a request from Representative Mike Giallombardo and Senator Jonathan Martin to have the Committee direct the Auditor General to conduct an operational audit of the City of Cape Coral's Building Department.

### 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 Audit of the City of Cape Coral's Building Department

Representative Giallombardo and Senator Martin have requested the Committee to direct an audit of the City of Cape Coral (City)'s Building Department and state that: (1) "[a]llegations reveal concerning patterns of potential statutory violations, financial mismanagement, and discriminatory practices that

warrant immediate legislative oversight;” and (2) “[i]n support of these claims, the Cape Coral Construction Industry Association (CCCIA) has provided extensive financial analysis and detailed documentation.”<sup>1</sup> In addition, there is concern that the City is “re-reviewing private provider permits and thinks doing so is in violation of state statutes.”<sup>2</sup>

## **Background**

The City of Cape Coral was incorporated in 1970 by Chapter 70-623, *Laws of Florida*.<sup>3</sup> The City is located in Lee County and has a population of 220,236.<sup>4</sup>

The City operates under a Council-Manager form of government and is governed by an elected City Council consisting of eight members, including an elected Mayor, who are elected at large on a nonpartisan basis from districts.<sup>5</sup> The Mayor and Council members serve a term of four years and are limited to two consecutive terms.<sup>6</sup> The City Council is responsible for all policy-making functions of the City and retains the services of a City Attorney, a City Auditor, and a City Manager. The City Manager is responsible for the administration of the City.<sup>7</sup> The City provides a comprehensive range of municipal services, including general government, public safety (police, fire, building), public works, community development, parks and recreation, planning and zoning, utilities (water, wastewater, reclaimed water services, stormwater utility services), transportation, education, and economic development.<sup>8</sup>

The City’s Development Services Department (Department) is “responsible for promoting the orderly growth and environment of the City through the planning and enforcement of codes [, which are] adopted to promote the health, safety, and welfare of the residents and visitors of the City.”<sup>9</sup> In addition to Administration,<sup>10</sup> the Department is staffed by 185 FTE positions and 4 contracted employees and has the following five divisions:<sup>11, 12</sup>

- (1) Code Compliance - responsible for enforcing codes for residential and commercial properties, as well as occupational license ordinance violations:<sup>13</sup>

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<sup>1</sup> Letter from Representative Mike Giallombardo and Senator Jonathan Martin to Chair Chase Tramont and Vice Chair Jason Brodeur, Joint Legislative Auditing Committee, dated October 9, 2025 (on file in Committee Office).

<sup>2</sup> Email received October 27, 2025, from staff in Representative Giallombardo’s office (on file in Committee Office).

<sup>3</sup> Chapter 70-623, *Laws of Florida*.

<sup>4</sup> University of Florida, College of Liberal Arts and Sciences, Bureau of Economic and Business Research, *Florida Estimates of Population by County and City 2024 (Table 1 only)*, page 11, available at: <https://edr.state.fl.us/Content/population-demographics/data/Estimates2024.pdf> (last visited November 14, 2025).

<sup>5</sup> *Letter of Transmittal and Note I.1. to the Financial Statements, Annual Comprehensive Financial Report, City of Cape Coral, Florida, For the Fiscal Year Ended September 30, 2024*, pages II and 38, available at: [https://flauditor.gov/pages/mun\\_efile%20rpts/2024%20cape%20coral.pdf](https://flauditor.gov/pages/mun_efile%20rpts/2024%20cape%20coral.pdf) (last visited November 15, 2025).

<sup>6</sup> City of Cape Coral’s website, available at: [https://www.capecoral.gov/government/city\\_government/city\\_council/index.php](https://www.capecoral.gov/government/city_government/city_council/index.php) (last visited November 14, 2025).

<sup>7</sup> See *supra* note 5.

<sup>8</sup> *Id.*

<sup>9</sup> City of Cape Coral’s website, *Development Services* webpage, available at: [https://www.capecoral.gov/department/community\\_development/index.php](https://www.capecoral.gov/department/community_development/index.php) (last visited November 14, 2025).

<sup>10</sup> Comprised of the Development Services Director, the Deputy Development Services Director, and three additional staff.

<sup>11</sup> *Monthly Building Activity Report, September 2025*, page 10; available on the City of Cape Coral’s website at: [https://www.capecoral.gov/department/community\\_development/building\\_division/building\\_and\\_permit\\_reports.php#outer-3127](https://www.capecoral.gov/department/community_development/building_division/building_and_permit_reports.php#outer-3127) (last visited November 14, 2025).

<sup>12</sup> See *supra* note 9.

<sup>13</sup> *Id.*

- Includes: (1) accepting and responding to code complaints and holding code compliance hearings; (2) addressing the maintenance of abandoned and vacant property; (3) offering citizens a lien reduction program; (4) collecting a rental property registration form and a one-time fee for every rental property located within the City; and (5) tracking unlicensed contractors.<sup>14</sup>
- (2) Permitting Services - responsible for the processing and issuance of all building permits for the City:<sup>15</sup>
- The City requires permits and inspections for safe building and land use, quality site planning, and coordinated development.<sup>16</sup>
- (3) Building - responsible for plan reviews, inspections, and certificates of occupancy for all building construction in the City:<sup>17</sup>
- Staff conduct plan reviews and inspections for structures throughout the City to ensure compliance with federal, state, and local laws, building codes, and floodplain management regulations.<sup>18</sup>
  - Codes Enforced by the Building Division are: (1) Cape Coral Code of Ordinances; (2) Cape Coral Engineering Design Standards; (3) Cape Coral Land Development Code (LDC); (4) Florida Statutes; (5) 2023 (8<sup>th</sup> Edition) Florida Building Codes; (6) 2027 (6<sup>th</sup> Edition) Florida Building Codes (effective for permits with application dates between December 31, 2017, and December 30, 2020); (7) Federal Floodplain Management Ordinance (Article 9 of the LDC); and (8) 2017 National Electric Code. The City is in a wind-borne debris region with a wind speed of 160 mph for residential, commercial, and other structures, which may be 170 mph, as referenced in Chapter 16 of the Florida Building Code.<sup>19</sup>
- (4) City Planning - Responsible for current planning and development review, long-range planning, environmental, Federal, and State grant management, Geographic Information System, and special projects:<sup>20</sup>
- Comprised of three sections: (1) Current Planning, which focuses on new development in the City; (2) Comprehensive Planning, which oversees the long-term goals, objectives, and programs of the City; and (3) Housing and Grants, which interacts with the administration of State and Federal grants.<sup>21</sup>
  - “A central responsibility of the Planning Division is to implement the City’s Comprehensive Plan, as well as the Land Use and Development Regulations. The Planning Division is involved with a wide range of activities ranging from processing applications for development projects to conducting complex policy and research studies for the City.”<sup>22</sup>

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<sup>14</sup> City of Cape Coral’s website, *Code Compliance* webpage, available at: [https://www.capecoral.gov/department/community\\_development/code\\_compliance\\_division/index.php](https://www.capecoral.gov/department/community_development/code_compliance_division/index.php) (last visited November 14, 2025).

<sup>15</sup> See *supra* note 9.

<sup>16</sup> City of Cape Coral’s website, *Permitting Services Division* webpage, available at: [https://www.capecoral.gov/department/community\\_development/customer\\_service-permitting/index.php](https://www.capecoral.gov/department/community_development/customer_service-permitting/index.php) (last visited November 14, 2025).

<sup>17</sup> See *supra* note 9.

<sup>18</sup> City of Cape Coral’s website, *Building Division* webpage, available at: [https://www.capecoral.gov/department/community\\_development/building\\_division/index.php](https://www.capecoral.gov/department/community_development/building_division/index.php) (last visited November 14, 2025).

<sup>19</sup> *Id.*

<sup>20</sup> See *supra* note 9.

<sup>21</sup> City of Cape Coral’s website, *City Planning Division* webpage, available at: [https://www.capecoral.gov/department/community\\_development/city\\_planning\\_division/index.php](https://www.capecoral.gov/department/community_development/city_planning_division/index.php) (last visited November 14, 2025).

<sup>22</sup> *Id.*

- (5) Land Development - responsible for plan review, permitting, inspections, and certificates of completion for all commercial and residential land development projects and subdivision plats:<sup>23</sup>
- Issues construction approvals and permits for all commercial land development activities in the City, except permitting for single-family homes and duplexes (issued directly through the Permitting Services Division).<sup>24</sup>
  - Staff, during construction, assures compliance with the approved plans prior to issuing a Certificate of Completion.<sup>25</sup>
  - Processes the following permit/plan types: (1) parking lot (reseal/restripe/remove/replace); (2) relocation of residential storm drain; (3) full demolition (residential and commercial); (4) underground fire line/dry standpipe; (5) land clearing and fill (commercial only); (6) spot dredge; (7) utility services relocation; (8) backflow prevention; (9) commercial driveway (ROW improvements); (10) site development plans (full and limited); (11) site improvement phase – misc.; (12) pre-application meeting; (13) preliminary subdivision plan; (14) engineering design standards deviation; and (15) PLAT.<sup>26</sup>

Pursuant to Section 553.80(7)(a), *Florida Statutes*, a municipality may charge reasonable fees as set forth in a schedule of fees adopted by its governing body for the issuance of a building permit, and such fees shall be used solely for carrying out the municipality's responsibilities in enforcing the Building Code. The municipality is required to post all building permit and inspection fee schedules on its website.<sup>27</sup> Section 553.80(7)(a)1., *Florida Statutes*, states that "enforcing the Florida Building Code:" (1) includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing; building code enforcement; and fire inspections associated with new construction; and (2) may also include training costs associated with the enforcement of the Florida Building Code and enforcement action pertaining to unlicensed contractor activity to the extent not funded by other user fees.

Section 553.80(7)(a), *Florida Statutes*, further provides that, when providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances must be carried forward to future years for allowable activities or must be refunded at the discretion of the local government. A local government may not carry forward an amount exceeding the average of its operating budget, not including reserve amounts, for enforcing the Building Code for the previous four fiscal years. As required by Section 553.80(7)(a)2., *Florida Statutes*, a local government must use any excess funds that it is prohibited from carrying forward to rebate and reduce fees, to upgrade technology hardware and software systems to enhance service delivery, to pay for the construction of a building or structure that houses a local government's building code enforcement agency, or for training programs for building officials, inspectors, or plans examiners associated with the enforcement of the Florida Building Code. Excess funds used to construct such a building or structure must be designated for such purpose by the local government and may not be carried forward for more than four consecutive years.

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<sup>23</sup> See *supra* note 9.

<sup>24</sup> City of Cape Coral's website, *Land Development Division* webpage, available at: [https://www.capecoral.gov/department/community\\_development/land\\_development\\_division/index.php](https://www.capecoral.gov/department/community_development/land_development_division/index.php) (last visited November 14, 2025).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Section 166.222(2), *Florida Statutes*.

In 2002, Section 553.791, *Florida Statutes*, was created to allow property owners and contractors to hire licensed building code officials, engineers, and architects, referred to as private providers,<sup>28</sup> to review building plans, perform building inspections, and prepare certificates of completion.<sup>29</sup> Private providers and their duly authorized representatives are able to approve building plans and perform building code inspections as long as the plans approval and building inspections are within the scope of the provider's or representative's license.<sup>30</sup> Pursuant to Section 553.791(2)(b), *Florida Statutes*, if an owner or contractor opts to use a private provider, the local government must calculate the cost savings to its building department for not having to perform the services and reduce the building permit fees accordingly; in addition, a local government may not charge a fee for building inspections when an owner or contractor uses a private provider but may charge a "reasonable administrative fee." A "reasonable administrative fee" must be based on the cost that is actually incurred by the local government, including the labor cost of the personnel providing the service, or the cost attributable to the local government for the clerical and supervisory assistance required, or both.<sup>31</sup>

Section 553.791(17)(a) and (b), *Florida Statutes*, provides that a local enforcement agency, local building official, or local government: (a) may not adopt or enforce any laws, rules, procedures, policies, qualifications, or standards more stringent than those prescribed by Section 553.791, *Florida Statutes*" and (b) may establish, for private providers, private provider firms, and duly authorized representatives working within that jurisdiction, a system of registration to verify compliance with the licensure and insurance requirements set forth in Section 553.791, *Florida Statutes*. The City has established a registration process and requires private providers to complete and submit a one-time registration to the Permitting Services Division before commencing work, as well as keeping the registration records current. The City's website includes documents required to be submitted for registration, for submission of building permit applications, during inspections, and after inspections and before Certificates of Occupancy/Certificates of Completion.<sup>32</sup>

### **Concerns**

As stated previously, "[a]llegations reveal concerning patterns of potential statutory violations, financial mismanagement, and discriminatory practices that warrant immediate legislative oversight."<sup>33</sup> Also, there are concerns that the City is "re-reviewing private provider permits" which may be in violation of

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<sup>28</sup> Section 553.791(1)(n) and (o), *Florida Statutes*, defines "private provider" and "private provider firm," respectively, as: (1) "a person licensed as a building code administrator under part XII of chapter 468, as an engineer under chapter 471, or as an architect under chapter 481. For purposes of performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term "private provider" also includes a person who holds a standard certificate under part XII of chapter 468;" and

(2) "a business organization, including a corporation, partnership, business trust, or other legal entity, which offers services under this chapter to the public through licensees who are acting as agents, employees, officers, or partners of the firm. A person who is licensed as a building code administrator under part XII of chapter 468, an engineer under chapter 471, or an architect under chapter 481 may act as a private provider for an agent, employee, or officer of the private provider firm."

<sup>29</sup> *Florida House of Representatives Staff Final Bill Analysis for CS/CS/CS/HB 267, Building Regulations*; Sponsor(s): Commerce Committee and Local Administration, Federal Affairs & Special Districts Subcommittee and Regulatory Reform & Economic Development Subcommittee, Esposito and others, dated June 6, 2024, pages 6-7; available at: <https://www.flhouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0267z1.RRS.DOCX&DocumentType=Analysis&BillNumber=267&Session=2024> (last visited November 14, 2025).

<sup>30</sup> *Id.*

<sup>31</sup> Section 553.791(2)(b), *Florida Statutes*.

<sup>32</sup> City of Cape Coral's website, Permitting Services Division's *Private Provider Process* webpage, available at: [https://www.capecoral.gov/departments/community\\_development/customer\\_service-permitting/private\\_provider.php](https://www.capecoral.gov/departments/community_development/customer_service-permitting/private_provider.php) (last visited November 14, 2025).

<sup>33</sup> See *supra* note 1.

state statutes.<sup>34</sup> The concerns relate mostly to the City’s Building and Land Development Divisions, with specific concerns related to the allowability of using Building Fund monies to pay for code compliance officers in the Code Compliance Division.<sup>35</sup>

Correspondence from the Cape Coral Construction Industry Association (CCCIA) outlines issues that are impacting industry members and directly affecting City residents through increased housing costs and delayed development.<sup>36</sup> Correspondence from the CCCIA states that the following issues are considered to be “Critical Areas of Concern.”<sup>37</sup>

1. Apparent Violations of Section 553.80, *Florida Statutes*
  - Financial analysis conducted by a CPA indicates the City has potentially violated Section 553.80, *Florida Statutes*, which mandates that building permit fees must be reasonable and may only fund the cost of operating the building department.
  - Key findings include: (1) In 2014, the Building Department generated \$4,020,000 in revenue with direct costs of \$2,688,000 (67% of revenue); (2) The Building Fund has operated with significant surpluses that appear to be improperly transferred to other city departments; (3) The “Interfund Service Fee” has grown dramatically from \$572,000 in FY 2014 to a peak of \$1,879,000 in FY 2020; and (4) The Building Fund is now operating in [a] deficit for FY 2025 despite years of surplus collection.
2. Questionable Interdepartmental Transfers
  - Numerous instances of building permit fees being diverted to seemingly unrelated expenses
  - Example: \$264,910 was budgeted in FY 2023 for “Building Fire Expense” despite no fire review requirements for single-family homes. Fire Department representatives have stated they do not receive the fire plan review and inspection fees collected through permitting. The FY 2023 fire budget was amended to \$419,930 to cover hurricane-related emergency pay, an inappropriate use of building permit funds.
3. Systemic Operational Issues Affecting Industry and Customers
  - Consistent patterns of problematic practices such as: (1) arbitrary and inconsistent project valuations resulting in inflated permit fees; (2) discriminatory treatment of contractors utilizing state-authorized private providers; (3) preferential treatment creating an uneven playing field among builders; (4) confusing, inconsistent, and burdensome permitting processes causing costly delays; and (5) aggressive enforcement tactics that undermine trust between the industry and City officials.
4. Impact on Cape Coral Community
  - These practices directly harm City residents by: (1) increasing housing costs during an affordability crisis; (2) delaying construction timelines and housing availability; (3) creating unnecessary regulatory burdens that stifle economic growth; and (4) undermining the transparent and fair application of building costs.

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<sup>34</sup> See *supra* note 2.

<sup>35</sup> Telephone conversations with Representative Giallombardo and staff on November 12, 2025.

<sup>36</sup> Letter from CCCIA to Representative Mike Giallombardo and Senator Jonathan Martin, dated September 25, 2025 (on file in Committee Office).

<sup>37</sup> *Id.*

Additional information relating to the allegations and concerns includes:

1. Alleged Financial Mismanagement<sup>38</sup>

- There has been systematic violations of Section 553.80, *Florida Statutes*, by “treating restricted permit-fee revenue as a general slush fund.”
  - From 2019-2022, the Building Fund ballooned to \$16.2 million in excess reserves—far beyond the four-year average cap—then bled red every month in FY 2025.
  - Only after audit threats did the City admit to \$2.1 million in mischarged code-officer salaries, return \$9 million from a raided capital project fund, and repeal the 25% fee discount effective January 1, 2026—all without the required utilization study.
- “Unjustified Overhead” of \$3.3 million per year charged to Building Fund; allegedly there is “[n]o breakdown; includes improper billing for Fire Department vehicles, hurricane OT, and floodplain software unrelated to code enforcement.”<sup>39</sup>
- A financial analysis conducted by a CPA, as referenced previously, stated, in part, “By 2022...with the fund balance at over \$14,050,000 the City transferred out \$10,000,000 with no explanation how that money was used to enforce the building code.”<sup>40</sup> The City purportedly intended to use these funds to construct a building; however, it has not been constructed to date.<sup>41</sup>
- In August 2024, the City Auditor’s Office conducted a performance audit of the Building Fund special revenue fund, which had been added to the Office’s approved Audit Plan at the request of the Financial Services Department.<sup>42</sup> The report noted “opportunities for improvement in the following areas: [1] The fund balance was not in compliance with the [Florida Statutes] requirement for FY19 through FY21. (See Finding 2024-01); [2] Supporting documentation is not attached to all transactions in the financial system. (See Finding 2024-02); and [3] Payroll expenditures charged to the fund were inaccurate. (See Finding 2024-03).”<sup>43</sup> Management agreed with all three findings and provided responses and corrective action plans.<sup>44</sup>

2. Operational Chaos and Private-Provider Suppression Allegations<sup>45</sup>

- “[D]ay-to-day operations are confusing, inconsistent, and punitive, as proven by 176 contractor emails (258 pages) since November 2022. Specific examples include: (1) ... (Honc Docks & Lifts) —Permit #BLDM25-000769 failed for cross-bracing [which was] already installed, with [a City] Inspector...ghosting all follow-up attempts [to schedule inspection or advise on how to resolve – project frozen as a result]; (2) ... (Holiday Builders) —dozens of closed homes with COs<sup>46</sup> still flagged as “expiring” on the portal, risking \$1,000/day fines; and (3) ... (eAtlantic Engineering)—the City illegally demands revision fees [to accept private provider notices] and denies timely inspections to block state-authorized private providers under [Section]

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<sup>38</sup> Emails received November 12, 2025, from staff in Representative Giallombardo’s office (on file in Committee Office).

<sup>39</sup> See *supra* note 38 and email received November 14, 2025, from staff in Representative Giallombardo’s office (on file in Committee Office).

<sup>40</sup> Letter to Michael Ilcyszyn, City Manager, City of Cape Coral, from Chris Moran, Moran & Smith LLP, dated September 30, 2023 (on file in Committee Office).

<sup>41</sup> See *supra* note 35.

<sup>42</sup> Report No. 24-04. *Building Fund Audit*; cover letter to Mayor Gunter and Council Members from Andrea R. Russell, City Auditor, dated August 21, 2024; available at:

[https://www.capecoral.gov/government/city\\_government/city\\_auditor/audit\\_reports.php](https://www.capecoral.gov/government/city_government/city_auditor/audit_reports.php) (last visited November 14, 2025).

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> See *supra* note 38.

<sup>46</sup> COs = Certificates of Occupancy.

553.791(17)(a), [*Florida Statutes*,]<sup>47</sup> while paying [a company in Miami-Dade County specializing in providing building department services exclusively to government clients<sup>48</sup>] millions for identical services. These are not isolated incidents—they are institutional failures that stall projects, inflate costs, and erode trust.”

- There are new documentation demands when documentation was never required before, (arbitrary and inconsistent reviewer demands; for example, same plans are rejected by one reviewer, passed by another one), and retroactive ordinance enforcement (i.e., HVAC permit rejected due to new rules after plan approval). This is reportedly resulting in delayed closings, with homebuyers unable to move in.
3. “Call to Action: The City’s sudden \$6 million “surplus” is not reform—it is damage control. Higher fees are now locked in, evidence is at risk, and Cape Coral’s construction industry—its economic backbone—remains hostage to a department that treats permit payers as adversaries...[with the scope of the] audit covering: (1) all interfund transfers and overhead, (2) FS 553.80 reserve and fee compliance, (3) FS 553.791 private-provider treatment, and (4) permitting-portal accuracy and enforcement practices. CCCIA stands ready with 258 pages of testimony, CPA reports, financial ledgers, and members prepared to testify under oath. The law is clear. The evidence is overwhelming. It is time for accountability.”<sup>49</sup>

## **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*.<sup>50</sup> The most recent financial audit report submitted to the Auditor General is for the 2023-24 fiscal year was timely filed and included no findings.<sup>51, 52</sup>

There was one audit finding reported in the prior year as a significant deficiency in internal controls over financial reporting; the auditors reported the status of this audit finding as resolved in the 2023-24 fiscal year audit report:

**2023-001 Permitting System Internal Controls:** In February 2022, the City implemented a new permitting system module for permitting and licensing fee transaction processing. The prior audit noted the following related to the permitting and licensing internal controls and processes:

- Workflows and controls were not properly set up to require approvals within the system for adjustments or modifications to permit rates and fees.

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<sup>47</sup> This section states, “A local enforcement agency, local building official, or local government may not adopt or enforce any laws, rules, procedures, policies, qualifications, or standards more stringent than those prescribed by this section.” [relating to private providers].

<sup>48</sup> Allegedly, this company was a previous employer of a current building division employee.

<sup>49</sup> See *supra* note 38.

<sup>50</sup> 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.

<sup>51</sup> *Annual Comprehensive Financial Report, City of Cape Coral, Florida, For the Fiscal Year Ended September 30, 2024*.

<sup>52</sup> Source: The Committee’s database includes, in part, the dates local governmental entities have filed their annual financial audit report.



- Noted instances of end user controls not properly set up that would prevent an employee from processing transactions without proper authorization and approval within the system.
- The Development Services and Public Works utility permitting departments have policies in place requiring documentation within permit files for any changes to rates or fees including documentation of approval received for adjustments to rates and fees when required. Noted instances of transactions and adjustments lacking documentation of changes made or approval received for adjustments within the permit file as required; however, there were no errors or inappropriate transactions noted.
- Noted the Development Services and Public Works Departments allowed for an informal transition period following system implementation where normal procedures for documentation were lessened or, in some cases, waived to help eliminate backlog and allow for expedited processing of transactions.
- Noted absence of regular review procedures in place for review of transaction history reports and system audit logs for user changes or deletions made to permit rates and fees by department supervisors to detect potential errors or unauthorized changes made.
- An absence of formal documented user policies and procedures for the permitting system. Formal department policies and procedures specific to the system were not put in place prior to the implementation date; however, were subsequently put in place after the system was already in use.

*Financial Highlights Included in the City's Audit Report:*

- “For fiscal year 2024, the City’s total net position increased by \$196.1 million or 20.8%. The governmental activities net position increased by \$130.5 million or 49.0% and the business-type activities net position increased by \$65.6 million or 9.7%.”<sup>53</sup>
- “The governmental activities revenue increased by \$76.1 million or 19.6%. In fiscal year 2024, the results of governmental activities produced an increase in net position of \$130.5 million, while in fiscal year 2023 governmental activities net position increased by \$13.2 million.”<sup>54</sup> The total revenue increased “as a result of an increase in revenues from charges for services, property tax, Federal Emergency Management Agency (FEMA) revenues from Hurricane Ian and investment earnings.”<sup>55</sup> Specifically:<sup>56</sup>
  - “Charges for services increased \$22.7 million or 21.4% due to increases in the annual assessment rates for fire service and solid waste service.”
  - “Operating grants and contributions increased by \$21.7 million or 53.8% primarily due to hurricane-related revenues from the FEMA of over \$40 million.”
  - “Property tax revenue for fiscal year 2024 increased \$23.3 million or 19.2% to \$144.8 million, representing 31.3% of the total revenue from the City’s governmental activities. Despite a decrease in the millage rate of 5.3694 mills to 5.2188, the increase in revenue is attributable to the continued rise in taxable assessed property values to \$26.3 billion.”
- “The business-type activities revenue increased by \$32.0 million or 15.1%. In fiscal year 2024, the results of business-type activities produced an increase in net position of \$65.6 million, while in fiscal year 2023 net position increased by \$58.8 million.”<sup>57</sup> The total revenue increased “mainly due

<sup>53</sup> *Management’s Discussion and Analysis, Annual Comprehensive Financial Report, City of Cape Coral, Florida, For the Fiscal Year Ended September 30, 2024, page 5.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*, page 10.

<sup>56</sup> *Id.*

<sup>57</sup> *See supra* note 53.

to increases in revenues from charges for services [water, sewer, wastewater], capital grants and contributions, and investment earnings.”<sup>58</sup>

- “The City’s total expenses decreased by \$16.0 million or 3.0%.”<sup>59</sup> “The large decrease in total expenses [for fiscal year 2024] is due to the majority of Hurricane Ian expenses being included in fiscal year 2023.”<sup>60</sup>
- “The General Fund, the primary operating fund, reflected on a current financial resource basis, reported an increase in fund balance of \$41.3 million, compared to a decrease of \$56.5 million in fiscal year 2023.”<sup>61</sup>

### **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 Mayor 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.

### **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 Cape Coral’s Building Department, 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 Representative Giallombardo and Senator Martin are considered.

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<sup>58</sup> *Id.*, page 12.

<sup>59</sup> *See supra* note 53.

<sup>60</sup> *Id.*, page 11.

<sup>61</sup> *See supra* note 53.

#### **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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