



Agenda

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CITY OF SANTA FE AUDIT COMMITTEE MEETING
CITY COUNCILORS' CONFERENCE ROOM
Wednesday, September 5, 2012
2:00 P.M.

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES:
August 1, 2012
5. STATUS REPORT FROM CITY OF SANTA FE, FINANCE DEPARTMENT:
 - A. Summary of Internal Auditor Presentation
 - B. Gross Receipts Tax Report
 - C. Lodger's Tax Report
 - D. (1) identify each CAFR deficiency noted for FY 6/30/2011 audit, (2) identify each department affected and (3) set up proposed audit committee requests to such departments for their proposed plans for corrective action of such deficiencies.
 - E. Investment Report
 - F. Cash and Investment Balances
 - G. Advantage Asphalt Response
 - H. Status of Audits
6. SUB-COMMITTEE REPORTS:
 - Internal Audit
 - External Auditor
7. OLD BUSINESS
8. NEW BUSINESS
9. OTHER MATTERS FROM THE COMMITTEE
10. NEXT MEETING DATE:
 - A. Next meeting scheduled on October 3, 2012
12. ADJOURNMENT

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CITY OF SANTA FÉ
AUDIT COMMITTEE
September 5, 2012

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MINUTES OF THE
CITY OF SANTA FÉ
AUDIT COMMITTEE

September 5, 2012
2:00 p.m. – 4:00 p.m.

1. CALL TO ORDER

A regular meeting of the City of Santa Fé Audit Committee was called to order by Chair Maurice A. Lierz on this date at approximately 2:00 p.m. in the City Councilors' Conference Room at City Hall, 200 Lincoln Avenue, Santa Fé, New Mexico.

2. ROLL CALL

Roll call indicated the presence of a quorum as follows:

Members Present:

Maurice A. Lierz, Chair
Hazeldine Romero-Gonzales [arriving later]
Randy Randall
Clark de Schweinitz
Marc A. Tuppler

Members Absent:

Others Attending:

Melville L. Morgan, PhD, Director, Department of Finance
Teresita Garcia, Deputy Director, Department of Finance
Carl Boaz, Stenographer

NOTE: All items in the Committee packet for all agenda items are incorporated herewith to these minutes by reference. The original Audit Committee packet is on file in the Finance Department.

3. APPROVAL OF AGENDA

Mr. Randall moved to approve the agenda. Mr. Tuppler seconded the motion and it passed by unanimous voice vote.

Ms. Romero-Gonzales arrived.

4. APPROVAL OF MINUTES – August 1, 2012

Chair Lierz requested a correction on page 2, first paragraph under Gross Receipts Tax Report should said TRD, not DFA. In the second to last line there it should say, "look at last year's actuals" - not budget.

In the next paragraph it was \$28,000 down; not up. [The corrected minutes said "off."]

On page 4 - under cash and investment balances - third paragraph, Chair Lierz was surprised \$200 million (not \$20 million).

At that point, the stenographer said those last two corrections were incorporated in the corrected minutes and it was evident that Committee did not have the corrected version of the minutes.

Mr. Randall moved to approve the minutes as amended. Mr. de Schweinitz seconded the motion and it passed by unanimous voice vote.

5. STATUS REPORT FROM CITY OF SANTA FÉ FINANCE DEPARTMENT

Mayor's Comments from the Finance Committee Presentation

Mayor Coss came to the meeting and said the work of this committee was very important to City government. He had tried to not be influential here but supportive of the Audit Committee's work. He appreciated the work they were doing.

He said he was caught up a little last night and when he heard that the Audit Committee was working with one hand behind its back and talked with City Manager this morning and found out why.

He was in support of the ordinance for an internal auditor who was the most unpopular person on staff.

He wanted the Audit Committee to hear that he didn't want to impede this work. It was in the City's best interest to allow it to proceed and if he was impeding that in any way he wanted the Audit Committee to tell him. The article this morning said the committee had its arm behind its back because the internal auditor position was not filled. Then Commissioner Dominguez said it was the City Manager. "We do want to help you make things work. Those things happen all the time with audits. We want to be on the same page. I don't tell you what to do."

Chair Lierz said he didn't say it that way. Mayor Coss understood.

Chair Lierz said this took over a year to get it where it is.

Mayor Coss said to my knowledge the City had never had an internal audit committee before.

Mr. de Schweinitz asked if the Committee was to shore up the independence part of that job description.

Mayor Coss said he wouldn't judge that bit it was an interesting question. Ultimately, the City Manager

was responsible. There was an accusation that he fixed parking tickets and it took lots of time to clear that. We asked the judge to nominate the people for this committee. But didn't think she wanted to receive the reports of this committee. Maybe twice a year the Audit Committee should report straight to the Governing Body.

Mr. Randall said it provided a sounding board for the auditor if that person finds something wrong but the internal auditor should be supervised by the City Manager.

Mayor Coss agreed as did the City Charter.

Ms. Garcia noted one problem was maybe that they didn't see the oversight of the State Auditor and Attorney General in the chart. Yes the City Manager was responsible for personnel but reporting should be part of the internal audit committee as well as the External Auditor, State Auditor and Attorney General.

Maybe we should clarify that the External Auditor wouldn't function as before but have oversight between State Auditor and Attorney General. This wouldn't be going back as the City once did but it was a new direction for compliance.

Chair Lierz related that he was in one of the big four accounting firms and had Walter Reston, CEO of CitiBank, to deal with the issue and saw the world from three points of view. What he learned was if the organization structured itself so bad news could float to the top that was all that was needed. And he knew Mayor Coss was working for transparency. So how you allow that information to come to the top levels was the issue.

He explained that he was trying to tell the Finance Committee last night that with the plan developed they would be interested in the process - the big C of communication.

Mr. Randall didn't remember how the Committee said the internal auditor could be hired and fired. He asked if the City Manager could do that. They might require the Mayor's approval to insure the auditor could not be intimidated by the City Manager.

Dr. Morgan reminded them it was not an exempt position so the person had to be fired for cause.

Mr. Randall thought that might be one way to answer Commissioner Dominguez's concern.

Mayor Coss clarified that the Charter prohibited the Mayor and Council from being involved in personnel situations but having the auditor classified would help. This Committee was also part of the checks and balances.

Mr. de Schweinitz said that they might think about their review before hiring or firing the auditor. In the draft it could be clearer that there were no executive or administrative activities but strictly an auditor. We didn't want the auditor to be part of the solution - (not fixing things up).

Mr. Tuppler said there was an established protocol for this type of position.

Ms. Romero-Gonzales said the Finance Department often got an offer to fix the things we reported needed to change and we always declined. That had happened here at the City when an auditor did the audit of waste water and then went to work there.

Dr. Morgan said that was in the guidelines about how the auditor was expected to present it and to whom. That person was not part of doing the solution.

Chair Lierz reminded them that the Audit Committee was an advisory committee. How we relate to the internal auditor could be worked out but not a direct reporting.

Dr. Morgan said the internal auditor would also work out the internal audit plan.

Mr. Randall asked if there was any way within the charter to make sure the auditor could not be bullied or pushed.

Dr. Morgan thought they had a time line for the ordinance to go to Council with September 12 for a request to publish, Finance Committee on September 18 and then a public hearing on October 30.

Mr. Randall recalled no one understood the first version and it was simplified.

Ms. Garcia suggested having a local auditor as a consultant to the internal auditor on a retainer so the independence was transparent. Until the department was developed the local auditor would be the resource for the auditor.

Chair Lierz figured that was where we walk before we run. The City would have paid quite a bit of money for what the Audit Committee did in consulting. We have your Finance Department with us in the deliberations and the Audit Committee would be a sounding board for that individual. We could help that internal auditor or have outside consulting.

Mayor Coss said maybe the City should just have an audit firm on contract but it would be a lot of money.

Mr. Randall thought they could test the market as the job opening notice went out and see what response we get. We didn't want a lot of unqualified applicants.

Mayor Coss said using an advisory committee might be appropriate here so it wasn't just Mayor Coss and Robert Romero who decided.

Mr. Randall said the Audit Committee would like to serve that role.

Mr. de Schweinitz added they should check the ordinance to make sure that was possible.

Ms. Garcia cautioned it couldn't be a whole committee because it would be a public meeting.

Mayor Coss excused himself from the meeting.

Mr. Tuppler thought perception was also important. Auditing sort of had a bad guy image but shouldn't. He welcomed an auditor because he felt they worked on the same team.

Dr. Morgan didn't mind findings. They were a good thing and he worried when audits had no findings.

A. Summary of the Internal Audit Presentation

Dr. Morgan said the agenda was being left as it had been each month but he would not report on agenda items D, E or F. They remained as placeholders on it. Dr. Morgan composed an email and sent it to the Audit Committee members and Finance Committee members. In it he talked about how hard the Finance Department had worked with or without an internal auditor to provide what was needed.

He started work on Sept 19, 2011 with the first Finance Committee meeting in October and Mr. Randall, Ms. Romero-Gonzales and he didn't start meeting on this until November. From November on, they wrote things and edited things. There were times he was increasingly frustrated because they needed to get along with things.

But at no time did he try to block the committee's work. So it caused him problems when Chair Lierz said they were working with one hand tied behind their backs. He had expressed his frustration every time he and Chair Lierz sat to make the agenda since last April that he wanted to get on with it.

Now the job description was finished and at HR being advertised. The Mayor and Councilor Wurzburger were going to sponsor the ordinance and the time line was set. Now he wanted to see someone hired who had wonderful experience by October 1. So now we need to move on. He asked if anyone could recommend possible candidates.

Dr. Morgan referred to page 2 of the draft ordinance where it had the language Councilor Calvert proposed that the report would be made to the Governing Body through the Finance Committee, the auditees, the City Manager and he Audit Committee that was changed in three places

The other change was at the bottom on page 4 under Penalties that added "written or electronic."

The presentation had four major pieces: the proposed ordinance, the internal auditor mission, the code of ethics and the plan of work to answer what types of audits, how the annual plan was developed, steps involved and job description.

Ms. Garcia pointed out that nothing in job description said the candidate should go through a background check and it should include that. The Committee agreed.

Dr. Morgan agreed to provide the edited ordinance to the committee after meetings with Ms. Amer.

Mr. Randall felt this was a well thought out ordinance and a huge change in how city treats the internal audit. It was a process that takes time. He thought Chair Lierz' comments at the Finance Committee were

misunderstood.

B. Gross Receipts Tax Report

Dr. Morgan shared the latest monthly figures and some market projections. He was not really concerned the fluctuations because it fell within $\pm 1\%$. He used 1% for the acceptable deviation.

Ms. Garcia reminded them the figures were two month's behind.

Mr. Randall asked how the City would respond to shortfalls.

Ms. Garcia said the City Manager made decisions to not fill a vacancy or other reductions in spending to control costs such as not buying uniforms or curtailing travel. The Finance Department informed department directors when they hadn't stayed within budget and any expense supported by the revenue gets looked at.

C. LODGERS' TAX REPORT

Dr. Morgan said the 26% increase in the report was for delinquent taxes collected.

Ms. Garcia explained that lodgers had cash flow problems in the winter so they used summer revenue to pay delinquencies.

Mr. Tuppler reasoned it was like the City provides a line of credit to them.

Dr. Morgan understood the cycle but also the 7% was a tax above and beyond so if he was a lodger he would set aside that money for the payment.

Mr. Randall asked if there was no penalty or enforcement possible.

Dr. Morgan explained the schedule. When the City called to say they were preparing to file a lien they usually got a response. Some hotels didn't own the land the hotel was on and Ms. Barkley could notify the land owner.

Mr. Randall noted the importance of having all of that process documented to treat every delinquency the same way. The City would get a black eye if all were not treated the same.

Dr. Morgan said they codified it but he did have mixed feelings about it.

Ms. Garcia added that hotels seemed to be changing ownership more quickly. And as soon as the city knew it changed she would notify the new owners of the delinquency. Some of them didn't know they owed lodgers' tax.

Dr. Morgan said for the five year plan, developing the assumptions was very hard.

D. Deficiencies

- 1). **Identify each CAFR deficiency noted for FY 6/30/2011 audit.**
- 2). **Identify each department affected.**
- 3). **Set up proposed audit committee requests to such departments for their proposed plans for corrective action of such deficiencies.**

This item was not considered.

E. Investment Report

This item was not considered.

F. Cash and Investments Balances

This item was not considered.

G. Advantage Asphalt Response

Dr. Morgan provided a little history of this matter. Some time ago we got letter from the Santa Fé Coalition for Good Government (SFCGG) at about time that the Advantage issue exploded again and SFCGG wanted all the records, contracts, etc. going back 10 years.

The City has a destruction of records ordinance but keeps electronic records. So he and Mr. Rodarte put them all together. The Clerk's office was trying to digitize all of it. It was 10,000 pieces of paper.

SFCGG went through the documents and had specific questions listed by year and designed like an interrogatory from an attorney. He explained the formatting and wanted the Committee members to have a copy of it because the ordinance said the Audit Committee was to be provided all reports. He believed they had satisfied the request.

Ms. Garcia deduced from their questions of the county that they wanted to know if the city had sufficient internal controls and didn't have the same weakness.

Chair Lierz thought this was a good test case of our system and the results showed the system was working.

Mr. Randall agreed it was reassuring. He asked for copies of releases for the audit committee when

those press releases were issued.

Ms. Garcia agreed to send them automatically.

Ms. Romero-Gonzales said the only party left was the AG.

Dr. Morgan said he sent the AG a copy of this too.

Mr. de Schweinitz asked if the SFCGG knew about the audit committee.

Dr. Morgan said he didn't tell them about the committee.

Ms. Garcia clarified their request was an IPRA request. They were doing it through the public Information Act which went through the City Attorney Office. The documents were all scanned because the District Attorney requested a copy too.

Mr. de Schweinitz asked what members were expected to do with this huge stack of paper.

Dr. Morgan said he was asked to provide it as required by the ordinance that the audit committee would get all of the reports.

Chair Lierz thanked Dr. Morgan for furnishing the report. It was a live example and true test of the procurement procedure.

H. Status of Audits

Ms. Garcia reported. We lost two financial analysts. So we were two short. She changed the format on the report a little and this was presented to the Finance Committee last night.

Chair Lierz said the auditors would commence work September 15 on the city.

Chair Lierz asked Ms. Garcia if she could charge BDD the administrative fees for the cost of the audit.

Ms. Garcia agreed.

Chair Lierz noted on the construction audit there was money left over and felt the City could charge a fee. He assumed they got the city-county agreement squared away.

Ms. Garcia said when audit was complete they could determine if there could be a carve out.

Mr. Randall asked when the BDD audit would be complete.

Ms. Garcia said it would be when the BDD Board approves the audit. They were not an agency of the City. The Board of BDD would probably deal with it next month.

She said the Short Term Rental audit would be in the packet next month.

The Committee briefly reviewed the status of the audits. In the summary of audit findings on pages 69-80 was a litany of detail. He didn't know if the Committee should express any concern but for the poor quality of data from the Housing Authority.

Ms. Romero-Gonzales reminded them this was the Audit Committee of the City and this agency was not a unit of the city. (No jurisdiction.)

Ms. Garcia said HUD usually got their report and could decide to restrict the funding or request that the City take over the funding control. She suggested they could send an email to the Housing Authority and/or the auditor to correct the disclosure.

Mr. de Schweinitz asked if the Finance Committee actually reviewed all of these six audits.

Ms. Garcia said the Finance Department reviewed joint agreements like with Railyard. These were the most visible but also got other audits like from Santa Fé Estates.

Chair Lierz liked what he was seeing here.

Mr. Randall asked if the City would be on time with the audit this year. Ms. Garcia hoped so.

Chair Lierz thanked Ms. Garcia for the summarization.

6. SUB-COMMITTEE REPORTS

A. Internal Audit

Ms. Romero-Gonzales said they needed to work on the risk assessment forms report for human resources.

There was nothing further to report.

B. External Auditor

Chair Lierz said he appeared at Finance when the auditors made their presentation.

Mr. de Schweinitz thought that was where they got the misconception that all of the reports would be given to them.

Mr. de Schweinitz asked Mr. Tuppler if he wanted to be on the external audit sub-committee.

Mr. Randall asked if there would be any other subcommittee needed. He didn't see procurement as a big deal.

7. OLD BUSINESS

There was no old business.

8. NEW BUSINESS

Chair Lierz asked to keep the water supply financial numbers on the radar screen. He met with the Water Division and asked at that time about water rights in ac/ft. for 2010 production and water in storage. It was a one-page report. In the status report area either semi-annual or annual and the Audit Committee would need an update on it. Mr. Randall agreed.

Mr. Randall suggesting using the same cutoff date as the 2010 report - June 30, 2011. The 2012 report should be pretty clear by now too.

Dr. Morgan agreed to follow up.

Ms. Romero-Gonzales commented from the meeting last night that Audit should have the ability to audit the contracts. She asked if the contracts would provide the ability to get the information from them.

Ms. Garcia agreed that usually the contract specified the requirement for audit or retention of the records for 3 years.

Ms. Romero-Gonzales thought they should talk with Legal to make sure it was part of the boilerplate.

Ms. Garcia explained that they were private entities so they usually didn't open their books to a municipality. With franchise agreements that was done but otherwise it needed a court order.

Ms. Romero-Gonzales said staff had to look at time sheets to make sure that people were on the job.

Ms. Garcia said with construction work it was a federal requirement.

Mr. Randall thought it was not whether person was on the job but whether the work got done.

Ms. Garcia thought they had them on all MOUs but not all service contracts.

Mr. de Schweinitz moved to inquire with the City Attorney whether the contracts would allow the internal auditor to go through the records. Ms. Romero-Gonzales seconded the motion and it passed by unanimous voice vote.

9. OTHER MATTERS FROM THE COMMITTEE

Mr. Tuppler cautioned in the event of another Advantage Asphalt, like NMFA, the Committee should have its eyes vigilant.

Mr. de Schweinitz thought this Committee was advisory and might not have the obligation to assure audits were done properly. We were not the City Council who would likely be liable if the audit was not didn't get done correctly.

Ms. Garcia suggested a new policy of criteria for financing new bond issues to determine how they finance our debt. We didn't have a debt policy but in light of NMFA, how the city was going to determine whether the City would vote on bonds or go through NMFA.

That was a major weakness that the City didn't do any evaluation when going out for financing. The Governor's request was to go through NMFA for the convention center. What procedures would we go through to evaluate the financing - whether the state or NMFA, or whoever? How to maintain the best bond rating and what needs to be done for that? Maybe we should set a policy or procedure on it. When we bought the Market Station she asked how the City decided to go through NMFA for it.

Chair Lierz said it was a good suggestion. They City needed to determine what steps were needed to get AAA bond ratings; what could be financed internally and when the City needed to borrow from the outside. They would review the factors involved including tourism, the Los Alamos market and others.

Ms. Garcia said the City didn't have a debt consultant or a debt plan. So that would be a good place we could work.

Mr. de Schweinitz asked that the Committee consider that for next time. He said they should also discuss how Finance was working in concert with the Audit Committee which Councilor Bushee had raised.

10. NEXT MEETING DATE: October 3, 2012


11. ADJOURNMENT

The meeting was adjourned at 4:12 p.m.

Approved by:

Maurice Lierz, Chair

Submitted by:



Carl Boaz, Stenographer

Panel: City needs audit dept.

By Julie Ann Grimm
The New Mexican

The city's citizen advisory Audit Committee is asking Santa Fe to establish a new department for internal audits and to formalize the department's responsibilities in an ordinance.

Santa Fe already has a position called "internal auditor," but the job has been vacant since late 2011, when the former auditor retired.

Maurice Lierz, chairman of the Audit Committee, told elected officials on the Finance Committee on Tuesday night that the group feels "very strongly" that the lack of an internal audit program in the last year and a half has been a problem.

"We felt like, as a committee, we had one hand tied behind our back because there was no one to carry out the internal

audits," he said.

Internal audits have been an issue for city officials in recent years. The city attorney initially refused to release to the public audits of the Santa Fe Police Department and the Parking Division that were delivered to the city manager because staff identified them as "drafts."

Councilor Carmichael Dominguez, the Finance Committee chairman, questioned whether the new auditor should be closely supervised by the city manager.

"I'm of the opinion, especially after some of the things that have gone on lately, that there's got to be some space between the city manager and the auditor, that there be some insulation, for lack of a better word, or some independence," he said.

Lierz said the new internal auditor would "bird-dog"

spending activities in the city and have the authority of a department head, which should have the effect of earning respect from other department heads. One of that person's first jobs will be to conduct a risk assessment of all city departments.

No city councilor is yet sponsoring the proposed legislation. It calls for the Audit Committee to develop an annual audit plan that is approved by the City Council and would require all audits to be presented publicly to the city's elected officials. It also specifies that if the auditor uncovers potential criminal activity that he or she report that immediately to "the appropriate prosecuting authority."

Contact Julie Ann Grimm at 986-3017 or jgrimm@sfnewmexican.com.

9.5.12