



# CITY OF WINTER SPRINGS

**For Immediate Release:**

Monday, May 1, 2023

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**For Media Inquiries:**

Public Communications Officer  
407-327-5955

## **Mayor letter regarding the public disclosure of confidential draft of audit report**

**WINTER SPRINGS, Fla.-** Today, Winter Springs Mayor Kevin McCann sent a letter to the Seminole County Clerk of the Court and Comptroller office regarding the public disclosure of the confidential draft audit report.

A copy of the letter is included below:

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CITY OF WINTER SPRINGS, FLORIDA  
**OFFICE OF THE MAYOR**

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May 1, 2023

**Via Email: [gmaloy@seminoleclerk.org](mailto:gmaloy@seminoleclerk.org)**

Honorable Grant Maloy  
Seminole County Clerk of the Court  
and Comptroller  
Seminole County, Florida

**Re: Public Disclosure of Confidential Draft Audit Report – Interlocal 3<sup>rd</sup> Generation  
1 cent tax**

Dear Mr. Maloy:

As you are aware, the City of Winter Springs received an email from the Inspector General, Bill Carroll, on April 26, 2023 transmitting a draft Audit Report regarding the Winter Springs Infrastructure Fund (3rd Generation). The front page of the report conspicuously contained the following language in all-caps, red type, "DRAFT FOR MANAGEMENT REVIEW AND DISCUSSION."

Mr. Carroll requested that the City review and provide written comments no later than May 5, 2023, which you should know is common professional practice when conducting a government audit. The City's management team is currently reviewing the draft audit report and will be delivering a detailed written response to Mr. Carroll as requested. In the meantime, the City is encouraged that the draft audit report essentially finds the City in compliance with Florida Statutes, the Interlocal Agreement, and the referendum ballot language prepared by Seminole County and approved by the voters.

Nevertheless, I respectfully write to you because it was deeply disturbing to learn that at 4:13:26 PM, approximately twenty-eight (28) minutes after the draft audit report was sent to the City Manager for review and comment by May 5, 2023, you sent an email transmitting the draft Audit Report to Channel 9 news reporter Jeff Levkulich. Additionally, you and County Commissioner Zembower (who initiated the audit) were both interviewed by Mr. Levkulich on the nightly television newscast commenting on the contents of the draft Audit Report and criticizing the City of Winter Springs. Moreover, since your release of the draft report, the City has discovered that there are also some third party social media posts regarding the report.

Section 119.0713(2)(b), Florida Statutes provides that audit reports and investigative reports of the inspector general prepared for or on behalf of a unit of local government are *confidential* and not public records until the report is completed and presented as final to the local government. In fact, in Nicolai v. Baldwin, 715 So. 2d 1161 (Fla. 5th DCA 1998), the court not only found that this confidentiality provision governs the responsibilities of a county clerk of court serving in its government auditing capacity,

but the draft audit prepared by the clerk of court is confidential and exempt from public disclosure until the final audit is completed and presented to the unit of local government. Importantly, the court commented that the Legislature considered it a matter of public necessity that "draft audit reports" remain confidential until the final audit is completed and presented to the unit of local government to "protect against public dissemination of incomplete, and thus potentially misleading, information," and cited verbatim the legislative history explaining the rationale for the statute:

Section 2. The Legislature finds that it is a public necessity that certain work papers and notes as well as non-final audit reports be held confidential and exempt until the audit is complete and the auditor's report becomes final in order that the auditor's investigation be conducted as efficiently and effectively as possible. Because non-final reports and supporting documentation become available prior to audit completion, misinformation is often disseminated to the public. This is harmful to the reputation and economic well-being of those who are being audited who are found in compliance. Furthermore, this exemption is sufficiently narrow in that all audit work papers and notes as well as non-final drafts of reports become available upon completion of the audit and the report become final.

Nicolai, 715 So. 2d at 1162 (quoting Chapter 95-399, § 2, at 3273, Laws of Florida).

In this case, the draft audit report prepared by the County Inspector General is clearly in draft form because it is marked as such in all-caps, red lettering on the cover page. Further, the City of Winter Springs has not yet had an opportunity to provide a management response to the report as requested by the Inspector General. I must presume that you are fully aware that information deemed "confidential" in the statutes, which you have an obligation to protect according to the statute and case law, is not subject to inspection by the public and may be released only to those persons and entities designated in the statute. Under these circumstances, it is inexplicable as to why you felt it was necessary to publicly disclose the draft audit report to the news media when the law requires that it remain confidential until becoming final and presented to the City.

While the City looks forward to the public release of the final audit report by the County Inspector General, the draft audit report should have never been released to the news media because it is deemed confidential by law until the final audit report is completed by the County's Inspector General and delivered to the City. I am disappointed in your action which will undoubtedly cause public confusion and distrust, as anticipated and described by the Legislature and Florida courts. In my view, the citizens of Seminole County were not well-served by your actions.

Respectfully,



Kevin McCann  
Mayor of the City of Winter Springs

C: City Commission