26. *Analysis of Fund Reports by Chris Moran, CPA 2014-2023:*

*As you requested, I have analyzed the financial reports that the Cape Coral Construction Industry Association has received from the City of Cape Coral since 2014. I had done a previous analysis of the City's compliance with Florida Statutes 553.8 back in 2008. At that time the City was not able to document compliance with the statute. At the conclusion of that finding the City took certain steps to better document compliance with the statutes, including setting up a special revenue fund in the city's books to account for the building department fees and expenses.*

*To the best of my knowledge at that point in time the CCCIA felt like the city had made the effort to comply with the Florida Statutes by establishing a standalone special revenue fund.*

The City set up the Special Revenue Fund in 2009, not in 2008. Previously, to that change, the Building Fund was reported as an Enterprise Fund. It was determined in 2009 with the downturn in the building industry, maintaining the Building Fund as an Enterprise Fund was not sustainable as the City would have had to maintain balances to pay for accrued liabilities for the Building Fund employees. Pursuant to Generally Accepted Accounting Principles, Funds that are restricted by statute can be either an Enterprise Fund or a Special Revenue Fund. In this circumstance, it was beneficial to change to a Special Revenue Fund as the funds were restricted to the enforcement of the building code and the Enterprise fund concept was not sustainable.

*In an overview of the financial reporting, prior to 2014, and during 2014, the city was following standard accounting procedure for the methodology that they had adopted. They recorded permit revenue, direct expenses, and a transfer to the general fund for overhead. In 2014 Revenue was $4,020,000, building department costs were $2,688,000 (67% of revenue) and transfer out was $572,00 (14% of Revenue) and the opening fund balance at the start of the year 2014 was $152,000.*

*In 2015 they used the same methodology, with the same basic percentages of direct expenses and overhead transferred. In 2016 revenue increased to $6,447,000, an increase of over 30%, and the direct expenses and overhead were still approximately the same percentages of total revenue, but at the end of 2016, the fund balance in the building department fund was now $4,464,000*

*The same methodology was used during 2017, and 2018 with the same basic percentages of direct expenses 60%and transfers out 12%. However, the revenue was increasing dramatically during those two years, and the ending fund balance at the end of 2018 was now $9,600,000. So, in five years the fund balance had gone from $152,000 to $9,600,000.*

See the City's response to Assertion #9, which explains the principles of deferred revenue.

*Things changed in 2019, direct expenses were still around 60% of revenue, but the transfers increased from an average of 12% to over 36% and included as transfer out of $2,314,000 for a computer system. In 2020 the city completely changed its methodology to account for building department fees. Direct expenses increased to over 84% of revenue but transfers were reduced to $22,000. So, the city moved the transfer out as a direct expense and called it interfund SVC payment and stopped recording it a transfer out. but the total costs went from 60% direct and 12% indirect for a combined cost of 72% to now 84% combined expenses.*

See the City's response to Assertion #1, #7, #9, and #10.

*2021 followed the same pattern as 2020 where the city was not really doing the overhead transfer out but instead including it as a direct expense of the department. At the end of 2021, the fund balance had grown to $14,051,000. The growth in revenue was still considerable.*

*In 2022, once again things changed significantly total direct expenses including the $1,523,000 line item "interfund Svc payment" was $9,334,000 or 83% of revenue but the city has also transferred out*

*$10,000,000 to Bldg. Cap project fund.*
See the City's response to Assertion #10 and #13.

*In Overview, the city made changes in 2008 to better document compliance with the FS 553.80. They continued using the same methodology, along with the same basic percentages of expenses to revenues. The City had direct expenses charged to the "Building Fund" and made a transfer out to the general fund for administrative overhead. This methodology along with the actual percentages of expenses and transfers to total revenue appear reasonable. There were a few changes that started in 2017, basically the city started transferring out money for capital outlay.*

*The standard methodology changed significantly in 2019. In 2019, the City transferred out $2,314,549 for a new computer system.*

See the City's response to Assertion #15.

*In 2020, the methodology changed again. The interfund transfer to the general fund, was included as a direct expense in the building fund, two new expenses category was set up, titled "Building City Clerk" and Building Fire Expense.*
See the response for Assertion #10 which explains the difference between interfund transfers and Internal Service Fees. The "expense categories" referred to above are actually divisions created within the Building Fund to directly charge for positions that fully support the Building Fund. This addition did not impact the full cost allocation, as implied above.

*2021 was basically the same type of expenses as 2020. In 2022, once again things changed significantly. A new expense category was established "Building Customer Service" total direct expenses are now averaging over 80% of revenue. Compared to 52% back in 2014. But the most significant new item was the transfer of $10,000,000 to a Capital Project Fund. The proceeds transferred out, have not been used.*
The "new expense category" referred to above is a new division established specifically for permitting and fully supports the Building Fund.
See response to Assertion #13, which outlines the plan to relocate the Building Division. A portion of the dedicated funds were used to purchase a building in FY 2024 and the Building Fund contributed its proportionate share of the cost. By close of FY 2025, $9,068,681 remained in the capital project. In accordance with Florida Statute 553.80, the unspent funds were transferred back to the Building Operating Fund. Florida Statute 553.80 clearly states that "excess funds used to construct 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."

*At this point in time, the city cannot document compliance with the Florida Statute. Specifically, the following:*

> *(7)(a) The governing bodies of local governments may provide a schedule of reasonable fees, as authorized by s. 125.56(2) or s. 166.222 and this section, for enforcing this part. These fees, and any fines or investment earnings related to the fees, shall be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code.* ***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 for enforcing the Florida Building Code for the previous 4 fiscal years.*

*They have consistently provided a schedule of fees that have exceeded the total estimated annual costs of allowable activities.*

See the City's response for Assertion #9 where the principles of deferred revenue are explained.

*The local government may not carry forward an amount exceeding the average of its operating budget for enforcing the building code for the previous 4 fiscal years. The City has not been in compliance with this section since 2015. So, they were in violation for fiscal year, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, and 2023. The actual restricted fund balance as the end of 2022 was over $16,200,000.*
This law did not become effective until July 1, 2019, so to say that the City was in violation since 2015 is a misrepresentation.

*The Restricted fund balance for the building fund does not matter that the city transferred out $10,000,000. The overall fund balance (restricted to be used to enforce the building code per FS) is $14,051,000 plus the profit from 2022 of $2,153,000 for a balance of over $16,200,00. Transferring out $10,000,000 into a capital project fund to be held for some building to be built in the future at some yet to be determined date does not suddenly release the restriction of the original source of the funds.*
The assertion is incorrect. It assumes that resources from a Special Revenue Fund and a Capital Projects Fund can be combined or treated as a single pool of accumulated fund balance. This interpretation contradicts Generally Accepted Accounting Principles (GAAP), which require that each governmental fund be accounted for and reported individually based on the nature and purpose of its resources.

*So even with the increase in total costs in relation to total revenue, the fund still generated a profit of over $2,153,000 in 2022. And the city is sitting on a restricted fund balance of over $16,204,000. Clearly the City is setting fees at a rate that is far exceeding the total estimated costs of allowable activities and is leading to increases in costs that were not being incurred in previous years. You still have the following issues to deal with. A detailed explanation of how the transfer out of $2,314,549 in 2019 needs to be obtained to determine how it was used to enforce the building code. The overall increases in direct expenses, and allocated overhead, need to be documented to ensure compliance.*
See response to Assertion #1, #7, and #9, which explains the concept of full cost allocation and the methodology used, along with principles of deferred revenue.

*I am not sure why the city is not able to provide the quality of services your organization has outlined to the city manager. Just do not let them use the transfer out, as an excuse to raise revenue, or to cut expenses. The overall increase in direct expenses from an historical standpoint of 72-75% to what is now over 83% needs to be examined in more detail. What new expenses is the building department paying for since the 2019 year, and why? As an outsider looking in, it appears that city has changed their entire approach to allocating expenses to the enforcement of the building code in 2019, and perhaps it has to do more with the ever-increasing fund balance in the fund. In only eight years the fund balance has gone from $152,000 to over $16,204,000 ….*

This is a mischaracterization of the City's full cost allocation and a misrepresentation of the fund balance in the Building Fund. See responses above, along with the City's response to Assertion #1 and #7.