R. B. "Chips" Shore
CLERK OF THE CIRCUIT COURT AND COMPTROLLER OF MANATEE COUNTY

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MEMORANDUM

TO: Jim Seuffert, Financial Management Department Director

FROM: R. B. "Chips" Shore, Clerk of the Circuit Court

DATE: June 25, 2013

RE: Impact Fee Expenditures Audit Report

Enclosed is the Internal Audit Report for the Impact Fee Expenditures as of December 31, 2012. I wish to thank you and your staff for their courteous and professional cooperation with our Internal Auditors throughout the audit. If you have any further questions regarding this report, please feel free to contact Lori Stephens at 749-1800, extension 4170.

RBS/LJS

Enclosures

R. B. "Chips" Shore
CLERK OF THE CIRCUIT COURT AND COMPTROLLER OF MANATEE COUNTY
Internal Audit Department

Audit Report

Financial Management Department
Impact Fee Expenditures Audit

As of December 31, 2012

June 25, 2013

Audit No. 21310300

Manatee County Clerk of the Circuit Court
Internal Audit Department

FINANCIAL MANAGEMENT DEPARTMENT
IMPACT FEE EXPENDITURES LIMITED SCOPE AUDIT

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The Internal Audit Department conducted a limited scope audit of the Impact Fee Expenditures for the Financial Management Department for the period of January 1, 2008 through December 31, 2012. The audit was performed in accordance with *Generally Accepted Governmental Auditing Standards* issued by the Comptroller General of the United States, and the *Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors.

BACKGROUND:

Impact Fees are one-time charges that are collected when new homes or businesses are built, or when existing homes or businesses are expanded, in the unincorporated areas of Manatee County. The fees are used by the County to help pay for building or acquiring County capital facilities necessary to accommodate the new development. Under the provision of Chapter 8 of Manatee County's Land Development Code, there are four types of County Impact Fees: Parks, Law Enforcement, Public Safety, and Roads. The use of the Impact Fees is restricted by type, benefit district, and time period. The responsibility for spending the Impact Fees as required lies with several County departments, with the Financial Management Department providing oversight.

PURPOSE/OBJECTIVES:

The main audit purpose/objectives included, but were not limited to, the following:

- Ensuring that Impact Fee expenditures are accurately accounted for per state and local laws.
- Verifying that the monies are expended as required.
- Evaluating the effectiveness of reporting the expenditures.

SCOPE:

The scope of the audit was limited to Impact Fee expenditures: the accuracy and accountability of the use of the fees, but not how those fees were collected. A separate audit for Impact Fee collections was previously conducted; the report was issued on February 8, 2013. The time period tested for Impact Fee expenditures was the 5-year period ending December 31, 2012.

METHODOLOGY:

Internal control evaluations and tests of compliance were accomplished through discussions with management and staff, as well as substantive testing of individual controls. Risk analysis was used to establish the priorities of the audit objectives.

IRREGULARITIES, ABUSE, OR ILLEGAL ACTS:

No indications of irregularities, abuse, or illegal acts were discovered during the audit of the Impact Fee Expenditures for the period ending December 31, 2012.

TEST OF COMPLIANCE:

Internal Audit tested compliance with certain laws, regulations, and the Department's Policies and Procedures. Tests performed were limited to the specific areas included in the Purpose/Objective section of this report and appeared to provide sufficient evidence to support an opinion on compliance and internal controls for the areas tested. The results of these tests are included in this audit report.

STATEMENT ON INTERNAL CONTROL STRUCTURE:

In planning and performing the audit of the Impact Fee Expenditures for the Financial Management Department for the period ended December 31, 2012, the internal control structure was considered in order to determine the auditing procedures for the purpose of this report. Internal control weaknesses involve matters relating to deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the organization's ability to record, process, summarize and report on data consistent with management's intentions.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be reportable conditions. In addition, because of the inherent limitations in any internal control structure, deficiencies in the design or operation of the internal control structure may exist and not be detected. In this report, we did not note any matters involving significant internal control weaknesses.

MANAGEMENT TEAM AND MANAGEMENT ACTION PLAN:

A Management Action Plan will be given for each Area for Improvement. Management Action Plans are corrective actions with implementation dates developed in cooperation with the Financial Management Department's management team and the Internal Audit Department. The Financial Management Department management team included Jim Seuffert, Director; Angie Bibler, Budget Division Manager; Jan Brewer, Budget Division Manager; and Sharla Fouquet, Impact Fee Program Manager.

MANAGEMENT SUMMARY:

Impact Fees were established by the Board of County Commissioners so that new development could help offset the costs for the additional County capital facilities needed to accommodate growth. Use of the Impact Fees is governed primarily by the Land Development Code (LDC), which is updated through ordinances passed by the Board of County Commissioners. Impact Fee expenditures are limited to projects that provide additional capacity infrastructure or improvements of the type for which the Impact Fees were assessed and collected, such as parks or roads. In addition, some Impact Fees can only be spent in the district from which the fees were collected. The audit found that the majority of Impact Fees collected have been properly used and the expenditures have been accurately accounted for. The audit did, however, identify the following areas where improvements could be made:

- Discrepancies were found between the requirements contained in certain sections of Chapter 8 of the LDC and actual County practices. The Management Team through its Management Action Plan will seek revision of the LDC as well as County procedures to ensure consistency between them and to ensure clarity within the LDC.
(See Area for Improvement #1 at page 5.)

- A few exceptions were identified during test work to determine whether Impact Fees were used in accordance with the LDC. The Management Team through its Management Action Plan has already implemented procedures to help ensure Impact Fee funds are only spent as allowed. In addition, the Management Team will obtain the necessary Board approval for any out-of-district use. **(See Area for Improvement #2 at page 6.)**

- Some of the information provided in the annual Impact Fee report prepared for the Board is ineffective and incorrect. The Management Team through its Management Action Plan will consider the recommended changes to the report and will implement a review process.
(See Area for Improvement #3 at page 6.)

The findings listed in this report were discussed with the Financial Management Department Director, Jim Seuffert. Other minor audit findings were discussed and/or corrected during the audit. We would like to thank the Financial Management Department's management and staff for the cooperation and courtesy afforded to our auditors throughout the audit. We appreciate the efforts and timeliness in addressing the issues raised during the audit and aggressively seeking solutions to these matters.

AUDIT REPORT AUTHORIZATION:

This audit report has been reviewed and authorized by:

Lori Stephens

Lori Stephens, CPA, CFE
Director of Internal Audit

R. B. "Chips" Shore
Clerk of the Circuit Court & Comptroller

AREA FOR IMPROVEMENT #1 ....Land Development Code

Chapter 8 of the LDC addresses all aspects of the Impact Fees; Sections 804, 805, 806, and 809, specifically provide guidance for use of the fees. The requirements outlined in these four sections were reviewed and test work was performed to ensure compliance. While the County appears to comply with the majority of the stipulations, there were a few issues noted, as detailed below.

Effective February 17, 2007, the Local Park Benefit Districts were dissolved by Ordinance 06-75. Section 804.2.1 of the LDC requires that monies "collected from the previously imposed Local Park Impact Fee… shall be transferred to the Countywide Parks Impact Fee Fund." As of December 31, 2012, however, there are still balances in several of the old Local Park Impact Fee Funds.

According to Section 805.5 of the LDC, the Impact Fee Administrator is responsible for ensuring that Impact Fees are expended in their proper benefit district. Currently, however, the benefit district review is performed when an Impact Fee project is set up, and involves the Budget Division of the Financial Management Department as well as the Clerk's Finance Department. The Impact Fee Administrator is not involved with verifying that the Impact Fees are being spent in their proper benefit district.

Section 806 of the LDC addresses the time frame in which Impact Fee collections are required to be spent. The language contained in Section 806.1.3 regarding the time frame requirement is confusing and appears to contradict Section 806.1.1. Section 806.1.3 states that an application for a refund is to be made "within one (1) year following the end of the calendar quarter immediately following the seventh year from the date on which the last Certificate of Occupancy was issued for the Impact-Generating Land Development or the expiration date of the extension, whichever is later." This language seems to imply that the 7-year "clock" begins when the last Certificate of Occupancy is issued for an entire development. This contradicts language contained in Section 806.1.1 which provides that the 7-year "clock" starts the day that the Impact Fees are paid.

Section 809.3 of the LDC includes a requirement for developing an annual capital improvements program (CIP) for all four Impact Fee components, "including related equipment and vehicles." While a CIP is developed and approved by the Board each year, the CIP does not include vehicles or equipment for the Law Enforcement and Public Safety components.

> **Management Action Plan:** Management is in the process of revising and updating Chapter 8 of the LDC to address the discrepancies noted and to ensure clarity in the language contained in the LDC and consistency with County procedures. In addition, management will work with the Clerk's Finance Department to close and consolidate the old Local Park Impact Fee Funds. Management anticipates implementation by December 31, 2013.

AREA FOR IMPROVEMENT #2 ....Use of Impact Fees

1. A review of 55 Parks and Roads Impact Fee projects was conducted to determine whether the Impact Fees were used in accordance with the requirements of the LDC. Of these projects, there were three (3) exceptions noted, as detailed below:

   - For one (1) Parks project, Impact Fees funded the entire project; however, only two-thirds of the project was Impact Fee eligible, as one-third of the new structure was actually a replacement. According to the definitions included in Chapter 2 and Section 809.1 of the LDC, Impact Fees are to be used for expanded capacity only and cannot be spent on replacements. The amount expended on the replacement portion of the project was approximately $44,000.

   - For two (2) Roads projects, the location of the project was outside of the benefit district from which the Impact Fees were collected. In both instances, the projects were located in District C; however, a portion of the project was paid for with District D funds. According to section 805.2.2 of the LDC, a neighboring district can pay for a project from another district as long as the Board makes a written determination that the originating district will benefit. While management believes that the Board did approve the out-of-district use for these projects, no written documentation could be located. The total amount of Impact Fees expended out of district for these two projects was approximately $2,325,000.

   Management Action Plan: Management has already implemented procedures to require more detailed descriptions of the projects and their specific funding sources for the CIP, which is the official summary record for project information. This will ensure that the percentage of the project, which is related to growth, is clearly identified and, thus, Impact Fee eligible. In addition, unless a written determination can be found, management will obtain an official approval from the Board for the prior out-of-district use or provide for repayment of the funds to the originating district. Anticipated implementation is October 31, 2013.

AREA FOR IMPROVEMENT #3 ....Annual Report

Each year the Financial Management Department prepares a report for the Board on the Transportation/Road Impact Fees as of the fiscal year-end. This report provides summary information regarding actual and future Impact Fee revenues and expenditures for all ten of the transportation and road Impact Fee districts. The purpose of the report is to show that Impact Fee collections have been spent properly and/or are being allocated for future projects. While the report appears to be well-structured to provide quality information on past, present, and future Impact Fee activity, there are some changes that could be made to better portray the true revenues and expenditures for these Impact Fees. These recommended improvements include the following:

- Move debt service payments and large expenditures/projects from the Net Transfers/Contributions, which is currently included in the revenue total, to the expenditure section;

- Include an explanation of the sources of income which comprise the total revenue figure (Impact Fee collections, interest earned, grants/contributions);

- Provide information on large contributions and/or reimbursements and the projects to which they relate; and

- Include information on any Impact Fee credits used, especially those that are refund payments and, therefore, directly affect current revenue figures.

It was also noted that there is currently no process in place to review the annual report for accuracy and to ensure agreement with supporting documentation before it is issued. Internal Audit's review of the most recent report, for the fiscal year ending 09/30/11, identified errors that, in total, resulted in revenues being overstated by approximately $24.3 million, expenditures being overstated by more than $718,000, and the "budgeted but not yet spent" figure being understated by $75,000. The cumulative effect of these errors was an overstatement of the balance available for future projects by $23.6 million.

Management Action Plan: Management has made staffing changes that have resulted in assigning this report to different personnel, and it will be prepared and/or reviewed by a staff member with CPA credentials. Management will consider incorporating the recommended changes identified above into the report to improve the usefulness and accuracy of the information provided and plans to issue a corrected 09/30/11 report. Implementation is anticipated by October 31, 2013.