

MANATEE COUNTY CLERK OF THE CIRCUIT COURT
INTERNAL AUDIT DEPARTMENT

IMPACT FEE DISBURSEMENT AUDIT
As of December 31, 2007

A U D I T R E P O R T

TABLE OF CONTENTS

I. INTERNAL AUDIT REPORT

A.	Background; Purpose/Objectives; Scope.....	2
B.	Methodology; Irregularities, Abuse or Illegal Acts; Test of Compliance; Statement of Internal Control Structure Management Team and Management Action Plan	3
C.	Management Summary.....	4
D.	Audit Report Authorization.....	5
E.	Audit Findings.....	6 - 9

MANATEE COUNTY CLERK OF THE CIRCUIT COURT
INTERNAL AUDIT DEPARTMENT
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A U D I T R E P O R T

The Internal Audit Department conducted a financial, compliance, and operational audit of disbursements of Impact Fees collected for the 10 year period ending December 31, 2007. 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:

The spending of Impact Fees collected from land development in Manatee County is administrated by several Manatee County Departments with accountability for record keeping of those expenditures maintained by the Clerk of the Circuit Court's Finance Department. Impact fees are spent according to the rules and regulations contained in Ordinance 86-09 which has been subsequently amended.

PURPOSE/OBJECTIVES:

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

- To ensure that the expenditures of impact fees are accurately accounted for according to State and Local laws and regulations.
- To verify that impact fees were expended according to requirements and regulations of the State of Florida and Manatee County Ordinances.
- To evaluate effectiveness of reporting of impact fee expenditures to interested stakeholders.

SCOPE:

The scope of the audit included reviewing the overall adequacy of the internal controls over the expenditure of impact fees and the operational efficiency and effectiveness of documentation and reporting of expenditures of impact fees by examining and testing financial and operational records to verify compliance with state and county laws governing those expenditures for the approximately 10 year period ending December 31, 2007. This audit was limited to the accuracy and accountability of expenditures of impact fees but did not include how those fees were collected. A separate Audit Report was issued on June 13, 2007 which details the results of our audit of the collection of impact fees.

Impact Fee Disbursement Audit Report

As of 12/31/07

Issue Date: October 2, 2008

Page 3

METHODOLOGY:

Internal control evaluations were accomplished by reviewing financial and operational information, including but not limited to discussions with management and staff, observations, analytical and substantive testing of individual records and internal controls. Risk analysis was used to establish priorities of audit objectives.

IRREGULARITIES, ABUSE, OR ILLEGAL ACTS:

There were no indications of irregularities, abuse, or illegal acts that were discovered during the Impact Fee Revenue Audit for the audit period ending December 31, 2007.

TEST OF COMPLIANCE:

Internal Audit tested compliance with certain laws and regulations, obtained an understanding of internal controls and assessed control risk. 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. Except as noted in our audit report, tested items were in compliance with regulations and other policies established by the Board of County Commissioners.

STATEMENT ON INTERNAL CONTROL STRUCTURE:

In planning and performing the audit of the impact fee disbursements for the audit period ending December 31, 2007, the internal control structure was considered in order to determine the auditing procedures for the purpose of this report. As a result, we noted in the audit report matters involving the internal control structure and its operations that are considered reportable conditions under standards established by the U.S. General Accountability Office, *Government Auditing Standards*. Reportable conditions 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, as defined above. 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. We believe the conditions identified in our audit report may constitute reportable conditions as previously defined.

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, the County Administrator, the County Attorney's Office, the Clerk of the Circuit Court's Finance Department and the Internal Audit Department.

MANAGEMENT SUMMARY:

Impact fees are established by the Board of County Commissioners, assessed and collected on private development projects to build County infrastructure to offset the effects of added costs created by new developments and improvements of properties on existing County infrastructure. These fees are subsequently expended on improvements in compliance with Ordinances passed by the Board of County Commissioners. In this audit, Internal Audit examined the expenditures related to impact fees for compliance with these Ordinances.

We found that Impact fees collected were properly spent for qualified expenditures in compliance with the Impact Fee Ordinances and their amendments. We also found that impact fees expended are properly segregated and accounted for by type of impact fee (i.e. Transportation, Parks & Recreation, etc.) and are separately accounted for in the Clerk of the Circuit Court's finance system. We further found that Impact fee expenditures are properly restricted to and spent within the appropriate district of their collection in compliance with the Impact Fee Ordinances and their amendments. (See Audit Finding # 1, at page 6)

In 2006, the Florida Statutes were changed to limit the administrative fees collected for impact fee administration to amounts not exceeding expenditures on such administration. Administrative fees collected exceeded administrative expenses prior to the change of this Florida Statute, which as of the date of the audit had an unspent balance of approximately \$2.2 million dollars. In recognition of this change in Florida Statutes, the Board of County Commissioners placed a moratorium on administrative fees collected until this unspent balance is reduced by future administrative expenses by passing Ordinance 06-75 which became effective in February of 2007. (See Audit Finding #2, at page 7)

A survey of other neighboring counties found that comprehensive reporting of impact fee activity could be improved in all counties surveyed, including in Manatee County. Reporting on projects that extend over many fiscal years is a complex task, but we believe reporting can be improved to provide comprehensive information regarding impact fee activity. In this report we encourage consolidated reporting of collection, expenditures, credits, and commitments to future projects for impact fees assessed and collected in Manatee County. Providing comprehensive and meaningful reporting of impact fee activity will assist the County and public in understanding how the funds are allocated and spent. (See Audit Finding #3, at page 8)

The Impact Fee Ordinances include a methodology for calculating refunds of impact fees paid if those fees are not used within a certain time frame. We found the language specifying the methodology for the calculation of the time frame for receiving a refund presents an unreasonable calculation burden. Under the current language, the timing of the seven year period in which impact fees that are collected have to be spent begins at a date not easily determinable. The current language also appears to be unique among neighboring counties surveyed by Internal Audit. While impact fee funds generally appear to be spent timely, we recommend in this report that the language be changed to allow an easier calculation based on the payment date of impact fees received. (See Audit Finding #4, at page 9)

Impact Fee Disbursement Audit Report
As of 12/31/07
Issue Date: October 2, 2008
Page 5

We would like to thank the Clerk of the Court, County Administrator, County Attorney, and the Financial Management Department personnel as well as the Manatee County personnel from various County Departments responsible for administration of impact fees for the cooperation and courtesy afforded to our auditors throughout the audit. We appreciate the efforts and timeliness in discussing and addressing the issues raised during the audit.

AUDIT REPORT AUTHORIZATION:

This audit report has been reviewed and authorized by:

Richard J. Orienti, CIA, CFE
Director of Internal Audit

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

AUDIT FINDING #1.....

Impact fees are established by the Board of County Commissioners, assessed, and collected on private development projects to offset the effects of added costs created by new developments and improvements of properties on existing County infrastructure. Expenditures of impact fees are limited to projects that provide infrastructure of the type for which the impact fees were assessed and collected in accordance with provisions of Impact Fee Ordinances and their amendments legislated by the Manatee County Board of County Commissioners. These laws further determine that certain impact fee expenditures, such as transportation impact fees, are required to be spent in the districts from which they were collected.

The overall objectives of the audit were to determine the following:

- 1) To verify that impact fees collected are spent for expenditures that qualify as the correct type and as appropriate to impact fee expenditures in compliance with those authorized by the Impact Fee Ordinances and their amendments.

RESULTS OF AUDIT TESTING: Impact fees collected were spent for expenditures of the correct type and as appropriate to impact fee expenditures in compliance with those authorized by the Impact Fee Ordinances and their amendments.

- 2) To verify that impact fees collected and spent are properly segregated and accounted for by type of impact fee collected and that the expenditures of impact fees are also separately accounted for separately by the appropriate type of impact fee authorized by the Impact Fee Ordinances and their amendments.

RESULTS OF AUDIT TESTING: Impact fees collected are properly segregated and accounted for by type of impact fee and the expenditures of impact fees are also separately accounted for separately by the appropriate type of impact fee authorized by the Impact Fee Ordinances and their amendments.

- 3) To verify that impact fee expenditures were restricted to expenditures within the district of their collection in compliance with the Impact Fee Ordinances and their amendments and where in fact expended in those proper districts, according to district definitions at the time of expenditure, as required.

RESULTS OF AUDIT TESTING: Impact fee expenditures are properly restricted to and spent within the appropriate district of their collection in compliance with the Impact Fee Ordinances and their amendments, according to district definitions at the time of expenditure.

AUDIT FINDING #2.....

Administrative fees are collected as part of the impact fees paid during the construction process. Administrative fees are assessed to cover the costs of administrating the impact fee program.

Since the inception of the impact fee program, which included the construction boom in Manatee County, administrative fees collected exceeded the costs of administrating the program. This appears to have been a common occurrence in Florida and in 2006 the Florida Statutes were changed to limit the administrative fees collected for impact fee administration to amounts not exceeding expenditures on such administration.

In Manatee County, most of the administrative fees collected which exceeded administrative expenses were accumulated prior to the change in this Florida Statute. The unspent balance of administrative fees collected as of September 30, 2007 amounted to approximately \$2,260,000.

In recognition of the change in Florida Statutes, the Board of County Commissioners exercised their authority to end the over accumulation of administrative fees by adopting Ordinance 06-75. This Ordinance, effective in February of 2007, placed a moratorium on assessments of administrative fees until this surplus is reduced by current and future administrative expenses.

Management Action Plan:

Management will continue reducing the administrative fees already collected through current and future expenses incurred for the administration of impact fees.

AUDIT FINDING #3.....

Reporting of Impact fee expenditures includes activity on projects that extend over many fiscal years, whose priorities undergo a high level of change often due to unforeseen growth patterns and is therefore a complex task. Reporting of impact fees collected and spent is important to all taxpayers and particularly to those in the construction industry who fund impact fees from their developments.

We found through a survey of other neighboring counties that comprehensive reporting of impact fee activity could be improved in all of the jurisdictions surveyed, including in Manatee County. We found impact fee information in Manatee County is fragmented among different departments, none of which have been assigned the responsibility to summarize the information in the form of public reporting. Internal Audit also found that while Manatee County has a high level of accountability for these funds, we believe reporting of impact fee activity to the public could be improved.

Management Action Plan:

Management realizes that improvements can be made in reporting of impact fee activity to the public and is reviewing options for assignment of the reporting responsibility. We support management in developing consolidated and comprehensive reporting of collections, expenditures, credits, and commitments to future projects for impact fees assessed and collected in Manatee County. Providing comprehensive and meaningful reporting of impact fee activity would help advertise the positive accomplishments of Manatee County in mitigating growth through planned development of the necessary infrastructure needed to improve the quality of life for all citizens in Manatee County.

AUDIT FINDING #4

The Impact Fee Ordinances include methodology for calculating refunds of impact fees paid if those fees are not used within a certain time frame. Internal Audit found the language specifying the methodology for the calculation of the time frame for receiving a refund presents an unreasonable calculation burden. The language in the Impact Fee Ordinances regarding refunds states that the time limitation for expending impact fees collected must be made by:

"...the end of the calendar quarter immediately following seven (7) years from the date on which the final Certificate of Occupancy for the applicable phase of the development was issued..."

Instead of a seven year time period beginning with the collection of impact fees, this language would require a calculation based on review of all other subdivisions and their phases in Manatee County in order to determine when any impact fee paid needs to have been spent. This language has the effect of extending the time period in which funds need to be spent, sometimes significantly beyond the seven years.

Internal Audit surveyed eight of Manatee County's surrounding counties and found the language included in Manatee County's refund policy to be unique. All other counties surveyed required impact fees collected to be spent prior to a number of years, ranging from five to ten, from the date that the impact fees were collected. Changing Manatee County's refund methodology to a number of years from the date of collection would allow an easier calculation of whether an impact fee paid was eligible for refund.

While impact fee funds generally appear to be spent timely, the methodology for calculating the seven year expiration date needed for refunds could be improved.

Management Action Plan:

We recommend the language for the refund timing calculation methodology be changed in the next future amendment to the Impact Fee Ordinances to allow an easier calculation based exclusively on the date of payment of impact fees. Prior to the release of this Audit Report we have viewed a simplified methodology drafted by the County Attorney's Office that makes the methodology for calculating the refund period much easier and we encourage adoption of such a method.