

**CITRUS COUNTY
CLERK OF THE CIRCUIT COURT AND COMPTROLLER**

**Follow-Up Audit of the
Citrus County Impact Fee Program**

FINAL REPORT

April 12, 2016

TABLE OF CONTENTS

| | <u>Page</u> |
|---------------------------------|-------------|
| COVER LETTER | 1 |
| I. SCOPE AND METHODOLOGY | 3 |
| II. SUMMARY OF RESULTS | 4 |
| III. IMPACT FEE PROGRAM SUMMARY | 7 |
| IV. STATUS OF RECOMMENDATION | 8 |



CliftonLarsonAllen

April 12, 2016

Ms. Angela Vick
Clerk of the Circuit Court and Comptroller
Citrus County, Florida
110 N. Apopka Ave.
Inverness, Florida 34450

Dear Ms. Vick:

We have conducted a follow-up audit of the Citrus County (the County) Board of County Commissioners' (the BOCC) Impact Fee Program. The purpose of the follow-up audit was to determine the implementation status of recommendations included in the original audit report dated August 1, 2014.

Of the 14 recommendations included in our audit report, we determined that 12 were implemented, 1 was implemented through an acceptable alternative, and 1 was not implemented.

We appreciate the cooperation of the County's Division of Planning and Development (DPD) Director and staff during follow-up audit procedures.

Respectfully submitted,

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I. SCOPE AND METHODOLOGY

CLA conducted the follow-up audit of the County's Impact Fee program (the Program), the purpose of which is to determine the implementation status of the recommendations of the audit report dated August 1, 2014.

The objectives of the original audit were to:

- Verify that internal controls over the Impact Fee Program are adequate and effective.
- Ascertain whether the means used to identify, determine, and record impact fee revenue, including exceptions and credits (offsets), result in accurate, complete and timely information.
- Ascertain whether impact fees collected are properly and timely transferred to the County.
- Verify that recording of and accounting for key transactions within the Impact Fee Program follows applicable laws and regulations.
- Ascertain whether the impact fee proceeds are expended in accordance with applicable laws, and only used on capacity-adding capital projects.
- Report on the adequacy of internal controls and make recommendations for strengthening any inadequate controls and/or for improving operations going forward.

CLA interviewed management to determine the current status of our recommendations. We documented the specific actions taken to: 1) improve the conditions identified in the audit and 2) implement the recommendations for improvement of those conditions. As applicable, CLA performed necessary walk-throughs and observations to verify the changes made to the processes.

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II. SUMMARY OF RESULTS

Overall, CLA commends management for the actions taken, and changes made, to strengthen existing control surrounding the assessment and use of impact fees. Effective July 29, 2015, the County's Impact Fee Ordinance was amended (via Ordinance No. 2015-A07) to add language that addressed the constitutionality of impact fee use as suggested in the original audit. This update maintained a "temporary suspension of impact fees" for residential and non-residential building permits which had been enacted on January 13, 2105 (via Ordinance No. 2015-A02) and set to automatically sunset on January 13, 2017.

Despite the temporary suspension of impact fees in effect, and in an effort to be proactive, management made the changes suggested in the original audit report to have the right procedures and mechanisms in place when the assessment of impact fees reinitiates. Most importantly, management embarked in communications with the Cities and the School Board to update the pertinent interlocal agreements for impact fees, and the County is in the last phase of this update. Management also coordinated the update of other governing documents including the County Impact Fee Ordinance and the Impact Fee administrative regulation to reflect suggestions made in the original audit.

With the purpose of verifying accuracy of impact fees assessed and credits applied, management also implemented a process whereby an independent party, a DPD Supervisor, reviews the determinations made by the Planner. Further, management changed the procedure to ensure that final square footage values in Hansen are accurate, especially for living space square footage. Both actions increase confidence in the accuracy of impact fee calculation.

The amended Impact Fee Ordinance reflected an additional significant change. The Ordinance and other governing documents were revised to address the constitutionality of impact fee use, including:

- The nexus between the project and the impact caused by the new development.
- The fair share of the cost of public facilities necessary to accommodate any impacts attributable to the proposed development.
- The benefit realized from the new development.

In summary, of the 14 recommendations included in the August 1, 2014 audit report, we determined that 12 were implemented, 1 was implemented through an acceptable alternative, and 1 was not implemented.

III. STATUS OF MANAGEMENT ACTION PLAN

The following table presents a summary of the implementation status documented during the follow-up audit.

Implementation Status

| Number | Recommendation | Implemented | Acceptable Alternative | Partially Implemented | Not Implemented | No Longer Applicable |
|--------|--|-------------|------------------------|-----------------------|-----------------|----------------------|
| 1 | Undertake the following actions to improve coordination related to the Impact Fee program: | | | | | |
| 1a | The County should work in coordination with the Cities to amend the interlocal agreements to revise the procedure that provides for periodic detailed reports of all revenue and expenses associated with the impact fee fund, in order to make the procedure reflect current operational practices and be consistent with Florida Statutes. Existing OMB analyses should provide an adequate basis for the summary report. At the Cities’ discretion, a periodic reconciliation of the collections with County records can also be beneficial. | X | | | | |
| 1b | As the center of the Ordinance and the Program, the County can contribute to overall program effectiveness by creating communication opportunities with the Cities for exchanging ideas for process improvement and best practices, statutory updates, and use of technology, among others. Once the reporting procedure is implemented, the County and the Cities can use the opportunity to discuss other aspects, including ideas to enhance the Program and best practices. This communication can also include a reminder to submit any outstanding impact fee remittals. | X | | | | |
| 1c | The County should also consider the benefit of a periodic reconciliation between the information in Hansen and the Clerk’s financial information. | | X | | | |
| 1d | The County should develop a more interactive partnership with the developer community, whereby, beyond the tri-annual impact fee update, the County proactively meets with the developers to discuss matters that affect both parties, gradually building a stronger relationship, and working together on the economic growth of the County. | X | | | | |
| 2 | The County should undertake the following actions related to the existing impact fee interlocal agreements – | | | | | |
| 2a | Update the impact fee interlocal agreements with the administrative cost methodology described in Florida Statutes. | X | | | | |
| 2b | Amend the Crystal River interlocal agreement to reflect that the City stopped collecting Roads and Fire impact fees previously levied by the County. | X | | | | |

| Number | Recommendation | Implemented | Acceptable Alternative | Partially Implemented | Not Implemented | No Longer Applicable |
|--------|---|-------------|------------------------|-----------------------|-----------------|----------------------|
| 2c | In addition to changes to comply with Section 3 of the interlocal agreement (procedure to provide the Cities with a detailed report of all revenue and expenses associated with the impact fee fund] to reflect current operational practices (Recommendation 1a), develop any relevant procedures to ensure that interlocal agreement requirements are carried out. | X | | | | |
| 2d | Revise the School Board agreement to ensure all clauses are current and updated. | X | | | | |
| 3 | The County should implement a review process whereby an independent party reviews the determinations made by the Planner, with the purpose of verifying accuracy of impact fees assessed and credits applied. | X | | | | |
| 4 | The County should change the procedure to ensure that final square footage values in Hansen are accurate, especially for living space square footage, which is essential for impact fee calculation. Currently there are two values – one is the initial square footage value entered in the system during application in-take, and another final value resulting from expert plan review. Tests showed that, in some cases, the initial (incorrect) square footage was used in the impact fee determination. | X | | | | |
| 5 | The County should update the interlocal agreements to reflect impact fee administrative fees at actual costs, not at 3 percent. | X | | | | |
| 6 | The County, in coordination with the Cities, should develop a procedure by which impact fees collected are remitted by the 5th of the month. The County should also change the current procedure to verify timely transfer by requesting supporting documentation of the payment to the City, and comparing to the date the money is received at the County. The periodic communication described in Recommendation 1b would include a reminder to the Cities to submit any outstanding impact fee remittals. | | | | X | |
| 7 | At minimum, the Land Development Division should transfer impact fee coding responsibility to another division to achieve adequate segregation of duties. | X | | | | |

| Number | Recommendation | Implemented | Acceptable Alternative | Partially Implemented | Not Implemented | No Longer Applicable |
|--------|---|-------------|------------------------|-----------------------|-----------------|----------------------|
| 8 | <p>The County’s legal counsel, in coordination with the County’s Planning and Development Department and County management, should conduct additional research and benchmarking efforts related to the mechanisms used to determine the nexus between proposed impact fee-bearing projects, and to develop a standard process for calculating the proportionate share of the cost of capital facilities. Based on the results of this research, the County should consider revising the Ordinance to address the methodologies to be used going forward, which can consist of various types of tests, which address the constitutionality of impact fee use –</p> <ul style="list-style-type: none"> ▪ The nexus between the project and the impact caused by the new development. ▪ The fair share of the cost of public facilities necessary to accommodate any impacts attributable to the proposed development. ▪ The benefit realized from the new development. <p>Additionally, the County should consider adding language to the Ordinance to address specific Florida Supreme Court rulings related to impact fees, as is included in the Polk County Ordinance.</p> | X | | | | |

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III. IMPACT FEE PROGRAM SUMMARY

Impact fees are imposed by a local government on new or proposed development projects to help fund the costs of providing public services such as roads, schools, parks, or law enforcement to the new development. On February 22, 2011, the BOCC adopted Ordinance 2011-A03 (the Ordinance), which amended Chapter 54, *Impact Fees*, of the Citrus County Code of Ordinances to implement updated impact fees. Effective July 29, 2015, the County's Impact Fee Ordinance (Ordinance No. 2015-A07) enacted a "temporary suspension of impact fees" for residential and non-residential building permits.

The Citrus County Impact Fee Program (the Program) has eight impact fee components: Roads, Schools, Parks, Library, Fire, Emergency Management Services (EMS), Law Enforcement and Public Buildings. The land use, the zone of the County where the development project occurs, and the square footage subject to assessment, determine the impact fee components that are applicable to a development project. Assessment of impact fees is a step of the building application process for a new construction project and is part of the project's land use review. Once the land use is verified, the impact fee follows the impact fee schedule, and/or is apportioned according to square footage. The Program establishes developer credits to recognize the value of existing buildings within the new development for impact fees previously paid to the County.

Participating entities

The Citrus County School Board (the School Board) and the two incorporated cities, the City of Inverness and the City of Crystal River (the Cities), participate in the collection and expenditure of impact fees from impact-generating developments within the Cities' incorporated areas via interlocal agreements with the County. In September 2008, the interlocal agreement between the City of Inverness and the County was amended to terminate the collection of impact fees levied by the County for the Parks and for Roads components. Similarly, the City of Crystal River does not collect impact fees levied by the County for Roads, nor for Fire components. The School Board only participates on the expenditure side of the fees collected under the Schools component.

Uses of impact fees

According to the Ordinance, impact fees collected for County facilities shall be spent only on capacity-adding capital facilities. They are not to be spent on operations or maintenance costs, costs to correct existing deficiencies, or needs not created by the new development. The Ordinance also establishes that impact fees must be used to fund capital improvements for the same type of facility for which they were paid and within the same benefit district for which they were collected (i.e., the construction of a library would be paid with monies collected under the Library component of the impact fee).

IV. STATUS OF RECOMMENDATIONS

This section of the report includes a detailed description of the actions taken by management to improve the conditions identified during the original audit by adopting the recommendations for improvement. The recommendations herein are those included in the original audit, followed by the status of the recommendations.

Observation A

The County and the participating Cities operate rather separately with respect to the Program, and communication is limited to resolution when issues arise. Additionally, an interactive communication between the County and private developers is not evident.

Recommendation 1

The County should undertake the following actions to improve coordination related to the Impact Fee Program

Recommendation 1a

The County should work in coordination with the Cities to amend the interlocal agreements to revise the procedure to provide periodic detailed reports of all revenue and expenses associated with the impact fee fund to make it reflect current operational practices and be consistent with Florida Statutes. Existing OMB analyses should provide an adequate basis for the summary report. At the Cities' discretion, a periodic reconciliation of the collections with County records can also be beneficial.

Status: IMPLEMENTED

During fiscal year 2015, the DPD coordinated independent meetings with the City of Inverness, the City of Crystal River and the Citrus County School District to review and update the interlocal agreements to reflect current practices and align content to Florida Statutes. As of April 12, 2016 all three documents had been approved by the BOCC.

Notably, effective July 29, 2015 County's Ordinance No. 2015-A07, Citrus County Impact Fee Ordinance, enacted a "temporary suspension of impact fees" for residential and non-residential building permits. Nonetheless, the County considered it necessary to continue the interlocal agreements' update efforts.

Recommendation 1b

As the center of the Ordinance and the Program, the County can contribute to overall program effectiveness by creating communication opportunities with the Cities for exchanging ideas for process improvement and best practices, statutory updates, and use of technology, among others. Once the reporting procedure is implemented (Recommendation 1a), the County and the Cities can use the opportunity to discuss other aspects, including ideas to enhance the Program and best practices. This communication can also include a reminder to submit any outstanding impact fee remittals (see Recommendation 6).

Status: IMPLEMENTED

The update of the interlocal agreements created an important opportunity for the County to communicate with the Cities. The fact that the Cities and now the County have temporarily suspended the collection of impact fees minimizes the need for communication among the jurisdictions. Upon reactivation of impact fee collection, the County will continue to provide opportunities for additional communication channels.

Recommendation 1c

The County should also consider the benefit of a periodic reconciliation between the information in Hansen and the Clerk's financial information.

Status: ACCEPTABLE ALTERNATIVE

Since DPD management has established an alternative procedure, management considers that conducting periodic reconciliations between the information in Hansen and the Clerk's financial information does not further enhance DPD's internal controls. The established procedure for commercial permits includes supervisory review (by the Principal Planner) of the determinations made by the Planner in order to verify accuracy of the impact fees assessed and the credits applied. Additionally, DPD internal policy now requires that the Planner coordinate with the Plans Examiner to identify the accurate square footage for assessment and data entry into system. See Recommendations 3 and 4.

Recommendation 1d

The County should develop a more interactive partnership with the developer community, whereby, beyond the tri-annual impact fee update, the County proactively meets with the developers to discuss

matters that affect both parties, gradually building a stronger relationship, and working together on the economic growth of the County.

Status: IMPLEMENTED

According to management, the County maintains an open door policy to discuss impact fee matters that affect stakeholders, including private developers and builders. DPD uses roundtable meetings, emails and phone calls to share information.

Observation B

Several deficiencies were noted with respect to the impact fee interlocal agreements.

Recommendation 2

The County should undertake the following specific actions related to the existing impact fee interlocal agreements –

Recommendation 2a

Update the impact fee interlocal agreements with the administrative cost methodology described in Florida Statutes.

Status: IMPLEMENTED

Language in the interlocal agreements was changed to reflect the accurate procedure for calculating the impact fee administrative cost from 3 percent of the assessment to the actual cost, thus making it consistent with Section 163.31801(3)(C) Florida Statutes. As of April 12, 2016 the three interlocal agreements had been approved by the incumbent governing bodies.

Recommendation 2b

Amend the Crystal River interlocal agreement to reflect that the City stopped collecting Roads and Fire impact fees previously levied by the County.

Status: IMPLEMENTED

Language in the City of Crystal River interlocal agreement now reflects that the City stopped collecting Roads and Fire impact fees previously levied by the County. This interlocal agreement was approved by the BOCC on April 12, 2016.

Recommendation 2c

In addition to changes to comply with Section 3 of the interlocal agreement (procedure to provide the Cities with a detailed report of all revenue and expenses associated with the impact fee fund) to reflect current operational practices (Recommendation 1a), develop any relevant procedures to ensure that interlocal agreement requirements are carried out.

Status: IMPLEMENTED

Both Cities stopped Road impact fee collection and only one city has unexpended funds. Management deems that the monthly remittance to the County of the amount of impact fees plus any interest earnings collected, and the annual memo documenting the year of collection, balance, and disbursement deadlines to the Cities are appropriate. Therefore, no additional procedures are needed to ensure that interlocal agreement requirements are carried out.

Recommendation 2d

Revise the School Board agreement to ensure all clauses are current and updated.

Status: IMPLEMENTED

Language in the School Board interlocal agreement was amended to ensure all clauses are current. This interlocal agreement was approved by the BOCC on March 22, 2016.

Observation C

Impact fee revenue was properly identified and assessed wherever applicable, both at the County and at the participating Cities. NO RECOMMENDATIONS WERE MADE.

Observation D

Impact fee determinations are carried out by a single individual with no independent review to verify calculations.

Recommendation 3

The County should implement a review process whereby an independent party reviews the determinations made by the Planner, with the purpose of verifying accuracy of impact fees assessed and credits applied.

Status: IMPLEMENTED

The DPD has established an internal policy for commercial permits whereby a supervisor (the Principal Planner) reviews the determinations made by the Planner in order to verify accuracy of the impact fees assessed and the credits applied. This review is considered internal policy therefore it is not documented in a formal procedure. CLA was unable to obtain an example that demonstrated the implementation of this policy due to the lack of impact fee activity resulting from the current suspension of County assessments.

Recommendation 4

The County should change the procedure to ensure that final square footage values in Hansen are accurate, especially for living space square footage, which is essential for impact fee calculation. Currently there are two values – one is the initial square footage value entered in the system during application in-take, and another final value resulting from expert plan review. Tests showed that, in some cases, the initial (incorrect) square footage was used in the impact fee determination.

Status: IMPLEMENTED

The DPD has developed internal policy whereby the Planner coordinates with the Plans Examiner to identify the accurate square footage for assessment and data entry into Hansen. Management also plans to process a refund for overpayment of \$857 received on one payment, which had been identified during the audit as an error due to incorrect selection of dwelling, the error was possibly based on the initial, and not the final (correct), square footage. CLA was unable to obtain an example that demonstrated the implementation of this policy due to the lack of impact fee activity resulting from the current suspension of County assessments.

Recommendation 5

The County should update the interlocal agreements to reflect impact fee administrative fees at actual costs, not at 3 percent.

Status: IMPLEMENTED

Language in interlocal agreements changed to reflect the accurate procedure for calculating the impact fee administrative cost from 3 percent of the assessment to the actual cost, thus making it consistent with Section 163.31801(3)(C) Florida Statutes.

Observation E

Impact fees collected by the City of Inverness were timely transferred to the County. However, impact fees associated to one project at the City of Crystal River were transferred to the County 18 months after the money was collected.

Recommendation 6

The County, in coordination with the Cities, should develop a procedure by which impact fees collected are remitted by the 5th of the month. The County should also change the current procedure to verify timely transfer by requesting supporting documentation of the payment to the Cities, and comparing to the date the money is received at the County. The periodic communication described in Recommendation 1b would include a reminder to the Cities to submit any outstanding impact fee remittals.

Status: NOT IMPLEMENTED

The County's OMB, responsible for processing and recording impact fees collected by the Cities, has not implemented new procedures to minimize the risk of late impact fee remittances from the Cities to the County. However, for several years, OMB management has issued an annual memorandum to the Cities, which they believe helps identify any fees collected that have not been transferred to the County. The memorandum is provided to the Cities at the end of each fiscal year and includes the balance in each impact fee fund.

Observation F

Accounting for impact fee transactions in the general ledger follows applicable laws and regulations.

NO RECOMMENDATIONS WERE MADE.

Observation G

Segregation of duties with regard to changes to Hansen could be enhanced.

Recommendation 7

At minimum, the Land Development Division should transfer impact fee coding responsibility to another division to achieve adequate segregation of duties.

Status: IMPLEMENTED

DPD has assigned the Hansen coding task to Geographic Information Systems (GIS Division, formerly GRCP), who is independent from making impact fee assessments.

Observation H

The auditor did not find a procedure or methodology followed by the County to clearly illustrate the reasonable connection or rational nexus between the proposed new capital facilities expenditures and the growth in population caused by new development, as established by applicable laws.

Recommendation 8

The County's legal counsel, in coordination with the DPD and County management, should conduct additional research and benchmarking efforts related to the mechanisms used to determine the nexus between proposed impact fee-bearing projects, and to develop a standard process for calculating the proportionate share of the cost of capital facilities. Based on the results of this research, the County should consider revising the Ordinance to address the methodologies to be used going forward, which can consist of various types of tests, which address the constitutionality of impact fee use—

- The nexus between the project and the impact caused by the new development.
- The fair share of the cost of public facilities necessary to accommodate any impacts attributable to the proposed development.
- The benefit realized from the new development.

Additionally, the County should consider adding language to the Ordinance to address specific Florida Supreme Court rulings related to impact fees, as is included in the Polk County Ordinance.

Status: IMPLEMENTED

During fiscal year 2015, DPD coordinated with County legal counsel to review the Impact Fee Ordinance for adherence to the dual rational nexus test (page 3, Section 54-2 and pages 15-16, Section. 54-8 of the Ordinance.) DPD also updated Administrative Regulations to include guidelines and procedures for calculating the proportional share of the cost of capital facilities as it relates to capacity expansion.

Observation I

Impact fee proceeds are only used on capacity-adding capital projects, as indicated in the Ordinance.

NO RECOMMENDATIONS WERE MADE.

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