

AUDIT REPORT

DUNNELLON AIRPORT AUTHORITY

SPECIAL REVIEW



Internal Audit Division

DAVID R. ELLSPERMANN
CLERK OF THE CIRCUIT COURT
MARION COUNTY, FLORIDA

Wallace K. Watford, Internal Auditor

OCTOBER 1999
AUDIT REPORT NO. 99-06



Clerk of the Circuit Court
Board of County Commissioners
Marion County

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October 29, 1999

The Honorable Board of County Commissioners

RE: AUDIT REPORT: REVIEW OF THE DUNNELLON AIRPORT AUTHORITY

The Internal Audit Division has performed a special review of the Dunnellon Airport Authority. The findings and results of this review are contained within the following report.

We would like to express our appreciation to the Parks and Recreation Director, the Airport Supervisor and many others for their assistance and cooperation during this review.

David R. Ellspermann
Clerk of the Circuit Court

Wallace K. Watford
Internal Auditor

c: James L. Lowry, County Administrator
Edwin L. Smith, Assistant County Administrator
Janet Y. Tutt, Assistant County Administrator
Gordon B. Johnston, County Attorney
Richard A. Noyes, Parks and Recreation Director

DUNNELLON AIRPORT AUTHORITY

BACKGROUND

The Dunnellon Airport Authority (Airport) is a political subdivision of the State of Florida created in 1985 pursuant to Chapter 81-436, Laws of Florida, and Marion County Code, Article III, Section A3. It is a dependent special district that is governed by the Marion County Board of County Commissioners (BCC). A citizen advisory board meets periodically and provides input to the BCC on airport and aviation issues.

Since its inception the Airport has employed consultants to prepare and/or update the Airport Master Plan, the Airport Management and Operations Plan and the Airport Layout Plan. Management has asserted that presently there are 46 aircraft based at the Airport and that the creation of 48 non-governmental, aviation-related jobs are attributable to the Airport.

The Airport is licensed by the Florida Department of Transportation and operates under the name Dunnellon/Marion County Airport and Park of Commerce. The physical facility of the Airport comprises **1,701 acres** and has a **current appraised value of \$5,840,396**. The Airport is part of the Parks and Recreation Department and Airport revenues and expenditures are accounted for in a special revenue fund (Fund #106) for financial reporting purposes.

THE ISSUES

The Clerk of the Circuit Court initiated this review because of comments that principally arose from a recent lease of non-aeronautical use Airport property to the Big Sun Shooting Complex, Inc. The following summarizes the most relevant issues.

Big Sun Shooting Complex lease opponents have asserted:

- Airport was acquired as Federal Surplus Property subject to Federal Aviation Administration (FAA) regulations concerning approved uses of such property and derived revenues.
- Possible violation of FAA regulations and U. S. Code, essentially concerning improper use of federal surplus property and expenditures of airport revenues.
- Airport property leases must be for fair market value, which the Big Sun lease is not.

Big Sun Shooting Complex representatives have asserted:

- Airport was not acquired as Federal Surplus Property and therefore is not subject to fair market value requirements for leasing.
- There are no FAA impediments to the Big Sun lease.
- Airport is not eligible for federal Airport Improvement Program grants.

County management has also expressed interest in proper expenditures of Airport revenues and alternatives to County ownership and operation of the Airport. These issues have been included in this review. The Internal Audit Division is now completing a concurrent review of the Parks and Recreation Department, which includes the Airport, and will soon issue its report on the department. Certain other Airport-related issues may be included in that report.

INTERNAL AUDIT RESEARCH

In order to conduct this research, the Internal Audit Division utilized the files of the Parks and Recreation Director and the Airport Supervisor, official BCC minutes and documents in the Commission Records Division of the Clerk of the Circuit Court, financial records and grants documentation in the Clerk's Finance Division, Airport lease agreements, reports from previous consultants, records of the County's Property Management section, and the Marion County Property Appraiser's database.

We reviewed applicable Federal Aviation Administration (FAA) regulations and publications, met with a representative of the FAA Orlando Airports District office and held telephone conversations with representatives in the FAA Washington DC and Southern Region offices. Further, we held a telephone conversation with a representative of the Florida Department of Transportation to discuss State grant requirements and obligations.

Airport Property Acquisitions:

The current Airport property has been acquired over the years of 1941 through 1991. Research showed that County owned much of the property before any transactions with the Federal government. As shown in Attachment A, Airport Acquisition Time Line, the first property (approximately 700 acres) was purchased in 1941 from private parties for the specific purpose of developing an airport. In 1942, another 119 acres were acquired for airport purposes. No Federal surplus property was involved.

The County entered into an agreement in 1941 with the Federal government (and a subsequent lease in 1942) to develop the airport for use by the Army in the national defense. That agreement (known as an AP-4 agreement) expired long ago with one remaining obligation on the County's part, the "exclusive rights prohibition" of the Federal Aviation Act. This prohibition is to prevent an airport owner from granting any special privilege or monopoly concerning the use of public use airport facilities.

Research further disclosed that 692 acres were acquired in 1948 from the Federal government by quit claim deed. This property is contiguous to the original property purchased in 1941 and includes the land and buildings of the "commerce" portion of the current airport and the land proposed to be leased to Big Sun Shooting Complex. The Federal government had acquired most of that property through judgment liens.

The quit claim deed to the County referenced the Surplus Property Act of 1944; however, this transaction was treated as a **sale** of non-aeronautical use surplus property. The land was not donated to the County. Further, the Federal agency involved in the sale was not the predecessor to the Federal Aviation Administration; instead it was the Federal Farm Mortgage Corporation, then related to the U. S. Department of Agriculture. The sale agreement referenced that the land was needed for the County Farm System and the land was, in fact, subsequently leased for agricultural purposes for many years. This transaction is not considered to be Federal assistance for airport purposes and there is no associated obligation to obtain fair market values for either sale or lease.

DUNNELLON AIRPORT AUTHORITY

Research also disclosed that the County acquired in 1990 and 1991 the remaining 190 acres that comprise the current Airport facility. None of the properties were obtained from the Federal government or were purchased using Federal funds.

Federal Aviation Administration (FAA) Position:

Internal Audit's initial examination of County file documents disclosed that previous FAA correspondence with County management either stated or implied that the Airport formerly was Federal surplus property requiring FAA approval for leasing non-aeronautical property at less than fair market value. But as our research continued on other files and official records, especially FAA internal documents, the complete picture became apparent. Our review led to this conclusion: if aviation safety is not compromised, the County is not federally restricted, due to the manner in which the property was acquired, in its use of Dunnellon Airport Authority property and its derived revenues.

Our conclusion was confirmed by representatives of the FAA's Washington DC office, who stated that the FAA does not consider the Dunnellon Airport to be a "grant-agreement" or "surplus property" airport. This was reinforced by our conversation with a representative of the FAA Orlando District office and our on-site review of the agency's file pertaining to Dunnellon Airport. The FAA representatives and file documentation were very clear: Marion County and the Dunnellon Airport Authority have no use restrictions or obligations to the FAA regarding Airport property leasing or sale, except for the "exclusive rights prohibition" remaining from the expired AP-4 agreement.

Federal Grants:

Internal Audit researched the requirements of Federal airport grants the County may have received in the past. The research disclosed that no funds have been awarded for airport construction, operation or maintenance. Therefore, there are no grant-related obligations that restrict the County's use of Airport property and revenues. FAA representatives in Washington DC and Orlando confirmed that there has been no financial assistance through Federal grants on behalf of the Dunnellon Airport and, accordingly, no grant-related obligations of the County.

Research did disclose that the County applied in 1987 for a Federal Airport Improvement Program (AIP) grant. The County submitted the required Airport Improvement Project Grant Pre-Application to obtain funding principally to rehabilitate a runway and a taxiway. No funds were received and Internal Audit found no record of why the AIP grant was not approved. It is probable that the grant was not approved because the required Airport Layout Plan had not been finalized and submitted to, or approved by, the FAA.

We did determine that Marion County is currently eligible to apply for future AIP grants. The Airport meets the minimum qualifications, but the probability of being highly prioritized for funding is subject to certain variables. The principal criteria among them is working through the Florida Department of Transportation, as part of the Joint Automated Capital Improvement Plan, to ensure that FAA requirements are met and the requested projects are viable. An FAA representative stated that presently it could take two years before funds were available for distribution. In order to accept an AIP grant, the Airport would have to provide the thirty-seven grant assurances and certifications presented as Attachment B.

If the County were to apply for Federal grants in the future, the FAA would scrutinize closely the County's airport leasing policies, including terms and rental rates. The FAA is especially concerned whether the fair market value of non-aeronautical use property has been determined and is used as the basis for all leases. Any leases for less than fair market value should have clear reasoning for this deviation and how such would benefit the airport as a whole.

The FAA would also consider the County's development of, and adherence to, a comprehensive marketing and leasing plan that clearly shows the County's long term direction for the Airport. In addition, the FAA would be concerned with, among others, compliance with minimum airport standards and the County's encouragement of public aviation use of airport facilities.

State Grants:

As shown in Attachment C, Marion County has received significant funding from the State of Florida since the Airport was created in 1985. Internal Audit researched the requirements of several Joint Participation Agreements with the Florida Department of Transportation (FDOT) for airport development and airport land acquisition. Many of these requirements are similar to or directly reference particular FAA regulations.

In obtaining these state funds, the County made several assurances that have an impact upon the current and future uses of the airport property. Following are some of the important conditions and assurances that are in effect for at least 20 years:

- Funded project (e.g., T-hangars, fuel farm) must produce revenue at fair market value of the project's improvements.
- If project proceeds are used for non-airport purposes, full amount of the State grant must be immediately repaid.
- County must make the airport available as an airport for public use on fair and reasonable terms, and must permit no exclusive rights for use of the airport.
- All revenues generated by the airport will be expended for capital or operating costs, the local airport system or other County facilities directly related to actual aerial transportation.
- If management and operation of the airport is contracted outside of County government, the County must ensure the airport will be operated and maintained in accordance with all applicable FAA regulations.
- If funded facility or equipment is disposed of before the end of its useful life, the County must remit to the State a proportional amount of the proceeds.
- Proceeds from sale of land acquired with State funds must be shared with the State on a proportional basis.
- For land purchase, the County will apply for a Federal AIP grant and, when Federal funds become available or within ten years from property acquisition, will reimburse the State to its normal statutory share.

We found no evidence of violations of any FDOT grant obligations. This is further assured because the independent external auditors who annually review State grants have not reported instances of noncompliance.

DUNNELLON AIRPORT AUTHORITY

The grant conditions and assurances have little material effect upon the County's ability to legally operate the Airport. The FDOT is interested in the County's compliance with grant provisions. Generally, FDOT's position is that it does not tell a local government how to run an airport, nor what are the best business practices it must utilize.

There is no grant-related prohibition against leasing for less than fair market value **unless** the property is acquired with State money **and** the grant agreement specifically states such a requirement. (The portion of Airport property pertaining to the Big Sun lease does not fall under that category.) Further, the State probably would not prohibit the sale of any or all of the Airport property, but would require reimbursement for any related grants. The State should be given sufficient advance notice of a pending sale in order to make the determination whether a reimbursement is appropriate.

Airport Leases:

Our review included an examination of Airport lease terms and obligations to determine what contractual requirements affect the County's utilization of Airport property. The Airport presently has a total of sixteen property leases, as shown in Attachment D. In addition, all of the twenty-eight available spaces in the two T-Hangar buildings are rented.

The property leases have numerous conditions, requirements, assurances and covenants by both the tenant and County. Some leases are long term and contain assurances and warranties, such as: tenant's "quiet enjoyment" right to use the leased property without interference; and the lessor's restriction from entering into leases or contracts that affect the leased premises during the lease period. These examples presume that the use of the leased premises will remain unchanged and that the lessor will not damage the tenant's leasehold rights. To sell any of the leased property would likely require individual negotiation with the tenants, many of whom have constructed valuable leasehold improvements, and/or invoking the County's power of eminent domain.

As previously stated, leasing of non-aeronautical use property at fair market value is one of the criteria of Federal AIP grants. Before any grants would be approved, the FAA would closely scrutinize how the County's leasing policies affect the viability and purpose of the Airport. A grant application could be rejected over this issue.

We noted that market rental rates were recommended in the 1988 Management and Operations Plan. In 1994, the Economic Development Council (EDC) presented its Dunnellon Airport Task Force report. The report, which was requested by the BCC and the City of Dunnellon, concentrated on the marketing of the Airport. Based on its experiences showing the Airport property to clients, EDC expressed the opinion that the property could not be leased or sold at fair market value and the initial projects would require discounted rates to induce Airport development. The EDC recommended, among others, the establishment of a policy permitting the sale of Airport property and a sliding scale price range for sale or lease of acreage.

INTERNAL AUDIT CONCLUSIONS

1) The Federal Aviation Administration has only one restriction on the leasing or sale of Dunnellon Airport Authority property.

The only restriction is that Marion County cannot grant any special privilege or monopoly concerning the use of the Airport while it remains a public use airport. Airport property was not acquired from the FAA or its predecessor and is not considered surplus property subject to FAA regulation. Consequently, any portion of Airport property can be leased for less than fair market value. Further, as long as aviation safety is maintained, the Airport could be used for non-aviation purposes and even be sold to private parties. These options would no longer be available if the County were to receive Federal funding in the future.

2) The Florida Department of Transportation grants contain numerous restrictions on the use of Dunnellon Airport Authority property.

The County has obtained several State grants for Airport improvements. The County is in current compliance with the grants. Each grant has numerous requirements which must be considered in determining the present and future uses of Dunnellon Airport property. However, there does not appear to be any present prohibition against: leasing property for less than fair market value; and selling part or all of the Airport property.

3) Marion County is currently eligible to apply for Federal airport grants

The County is not in violation of any Federal airport-related obligations and, according to the FAA, is eligible to apply for Airport Improvement Program grants. To be considered, the FAA requires Florida applicants to work closely with the FDOT as part of the Joint Automated Capital Improvement Plan. To be approved, the County's airport operations and non-aeronautical leasing policies would be closely scrutinized by the FAA.

4) Marion County has certain options available concerning the future of Airport property.

The County currently has several options and alternatives concerning the Dunnellon Airport. Among these, the County can:

- (a) Continue to operate and maintain the Airport with County employees and resources.
- (b) Privatize the Airport operation and maintenance by contract with a Fixed Base Operator.
- (c) Privatize the Airport by selling it to private investors for aviation purposes.
- (d) Discontinue Airport operation and sell all or part of property for non-aviation purposes.

Options (b), (c) and (d) would not require FAA approval, but the FAA should be notified to ensure airport operation regulations are followed. Options (c) and (d) would require notice to, and negotiation with, the FDOT to ensure all grant requirements are fulfilled and the State is properly reimbursed. Option (d) would require tenant leases to be negotiated and compensated.

5) **Standardized Airport leasing policies should be developed and implemented.**

Standardized leasing policies are important to overall Airport marketing and development strategies. Some current leases for similar properties have different lease periods, annual rental amounts and lease credits. Such differences appear to be the result of the County's previous efforts to develop the Airport's airside and commercial facilities. Standard leasing policies should include property categories for aviation and non-aeronautical properties, with corresponding rental amounts and other leasing terms. Deviations from these standards would be allowable, but should clearly disclose the reasoning for the deviation and how the deviation would benefit the Airport as a whole. Standard leasing policies could be accomplished by revisiting the management philosophies and leasing criteria contained in the 1988 Airport Management and Operations Plan and the 1994 EDC/Dunnellon Airport Task Force report. To increase the likelihood of receiving future Federal grants, the Airport should follow FAA guidelines on property leasing to the extent practicable.

6) **Airport revenues and expenditures are appropriately accounted for in the Dunnellon Airport Authority Fund.**

Our review of the current fiscal year 1999 and previous fiscal year 1998 disclosed that Airport revenues from grants, leases, fuel sales and other sources were properly classified and recorded in Fund #106. Expenditures were for appropriate airport-related purposes and did not appear to be unusual or excessive. Further, the independent external auditors for fiscal years 1998 and 1997 did not report any questionable revenue or expenditure items.

Attachment A
DUNNELLON AIRPORT AUTHORITY
AIRPORT ACQUISITION TIME LINE

Events:

1941

- < **620 acres** (actually 618.5) **purchased from Florida Ridge Plantations**
- < **80 acres purchased from Townsend**
- < *Agreement with Federal government for operation and maintenance of airport*

1942

- < **79 acres purchased from Townsend**
- < **40 acres purchased from Brassell**
- < *Land (above 817.5 acres) leased to Federal government*

1947

- < *Federal government lease canceled; all leased land returned to County*
- < *Land (700 of above 817.5 acres) subsequently leased to Folks for farming*

1948

- < **692 acres purchased from Federal government** (surplus property for County Farm System)

1949

- < *Land (600 of the above 692 acres) leased to Folks for farming*

1990

- < **80 acres purchased from Smith** using State grant funds

1991

- < **110 acres purchased from Tamposi/Nash** using State grant funds

TOTAL PROPERTY - 1,701 ACRES (per Property Appraiser Database)

TOTAL PROPERTY VALUE - \$5,840,396 (per Property Appraiser Database)

Attachment B
DUNNELLON AIRPORT AUTHORITY
AIRPORT IMPROVEMENT PROGRAM GRANTS

Excerpts from TERMS AND CONDITIONS OF ACCEPTING AIRPORT IMPROVEMENT PROGRAM GRANTS - Effective September 1, 1999 (Published by the U.S. Department of Transportation, Federal Aviation Administration)

“This document contains the terms and conditions of accepting Airport Improvement Program (AIP) grants from the Federal Aviation Administration (FAA) for the purpose of carrying out the provisions of Title 49, United States Code. These terms and conditions become applicable when the sponsor accepts a Grant Offer from the FAA that references this document. The terms and conditions may be unilaterally amended by the FAA, by notification in writing, and such amendment will only apply to grants accepted after notification.”

- I. DEFINITIONS
- II. CERTIFICATIONS
- III. GENERAL CONDITIONS
- IV. ASSURANCES (***SEE THE FOLLOWING 13 PAGES. SECTION C CONTAINS 37 ASSURANCES AND CERTIFICATIONS REQUIRED OF MARION COUNTY.***)

Attachment D
DUNNELLON AIRPORT AUTHORITY
CURRENT LEASES

	Lease Period		
	Current	Expires	Extensions
<u>Aviation Leases</u>			
Graybird Airsports, Inc.	5 years	12/31/03	None
National Parachute Test Center	5 years	2/28/01	None
Triad EDM, Inc.	5 years	4/30/00	None
ASA MFG, Inc	10 years	2/28/08	None
Liquidation Results, Inc.	30 years	4/30/28	20 years
Boll Air, Inc.	5 years	3/1/01	None
Gator Freightways, Inc.	5 years	3/24/02	20 years
James L. Smith (subleased)	5 years	4/30/01	None
Earl Meredith/Arnold Schonberg	10 years	6/30/07	None
Jim Martin	5 years	11/30/04	5 years
Pratt Aviation, Inc.	30 years	11/30/27	None
T-Hangars (28 leases)	1 year	12/31/00	None
<u>Commercial/Land Leases</u>			
Flowmatic Systems, Inc.	20 years	7/31/16	79 years
Big Sun Shooting Complex	25 years	8/17/23	None
ITEC	20 years	5/31/19	79 years
Dunnellon High School FFA	1 year	9/30/00	1 year
Gainesville Disc Golf Club	Monthly	N/A	None