



Clerk of the Circuit Court
Board of County Commissioners
Marion County
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Internal Audit Division

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MEMORANDUM

TO: David R. Ellspermann, Clerk of the Circuit Court

FROM: Wallace K. Watford, Internal Auditor

DATE: February 6, 2002

RE: REVIEW OF COUNTY TRANSPORTATION FUNDING AND GAS TAX ISSUES

As you requested, I have researched certain County transportation funding issues. This memorandum report is to inform you of the results of my activities.

In summary, there have been assertions that gas tax dollars should only be used for roads maintenance and construction projects, and that there have been significant expenditures for non-transportation related activities and projects. These assertions have merit, but the facts and circumstances are more complicated and there are mitigating factors which are later described.

While performing this review and analysis, I met with the County Administrator and the County Engineer and his staff, prepared various financial analyses, reviewed documentation prepared by others and reviewed the project system maintained by the Road Division. I also contacted a consultant used by Marion County and two other counties to discuss their treatment of revenues and expenditures of similar funds.

Background

Marion County has created three County-wide funds to provide for the construction and maintenance of roads, bridges and transportation-related projects. Revenues in these funds are primarily from state and local gas taxes, but also include licenses and fees for services, local road assessments, interest on investments and numerous other sources. In the past, one of the funds included ad valorem taxes for the transportation system.

Within Funds #103 and #104, the County receives from the State its share of the Constitutional Fuel Tax as provided by Florida Statutes (FS) 206 and 336. According to FS 206.47, any surplus not used for certain debt service "...shall be used for the acquisition, construction, and maintenance of roads." Further, "... 'maintenance' includes periodic maintenance and routine maintenance...and may include the construction and installation of traffic signals, sidewalks, bicycle paths, and landscaping." The County

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accounts for contracted road construction in the 80% Gas Tax Construction Fund (#103) and accounts for materials and supplies used in road and bridge maintenance in the 20% Gas Tax Construction Fund (#104). However, roads maintenance materials and supplies are also purchased from Fund #105, as explained later.

The County Transportation Maintenance Fund (#105) was created pursuant to the provisions of FS 129.02 to account for transportation related revenues and expenditures. This includes annual contributions to the Marion County Transit System. As Attachment A shows, the County Transportation Maintenance Fund is significantly funded by local gas taxes. These taxes are restricted by FS 206.60 and FS 336.025 for certain purposes, much of which are directly related to the mission of the Road Division. The Fund also has numerous other revenue sources which fund the Engineering department's other activities and include special assessments, user fees, license and permits and interest. Further, for several years, through FY1997, Fund 105 had an ad valorem tax as a revenue source.

Two operating departments are presently funded from Fund 105: County Engineer (dept. 4110) and Road and Bridge (dept. 4120). The departments were independent until FY1999, during which Road and Bridge was reorganized as a division of the County Engineer Department. The following department descriptions are excerpted from the FY2002 Proposed Budget.

The County Engineer department (Engineering) is responsible for the design and construction of streets and highways in the County road system. The department has several divisions: Design Engineering; Stormwater Management; Traffic Engineering (signs and signals); Right-of-way Permitting; Surveying; Development Plan Review; and the Road and Bridge department, commonly referred to as the Road Division. The Road Division is responsible for: routine roadway and bridge maintenance; preservation of the roadway and bridge infrastructure; inspection of public rights-of-way and correction of deficiencies (pot holes, drop-offs, foliage sight obstructions); and response to roadway related emergency situations.

In addition to the above two departments, Fund 105 over the years has funded other departments: the Fleet Management department (through FY1996) and the Property Management and MSTU/Assessments departments through FY1999. Fleet Management's responsibility was for maintenance of County vehicles and equipment, most of it belonging to the Road Division, and charged all departments for the services performed. Property Management provided services related to obtaining real property for roads rights-of-way, while MSTU provided assistance to implement and administer all road assessments.

Findings

I found no obvious violations in usage of the Constitutional Fuel Tax in Fund 103 and Fund 104. Fund 103 was used for road construction and Fund 104 acquired materials and supplies for road and bridge maintenance. No equipment or vehicles were purchased from either fund.

Only Fund 105 has personnel or equipment, which are required to perform the mission of the Road Division. It is possible that some of the roads materials and supplies acquired in Fund 104 may have been used in non-roads projects of Fund 105. This is because such materials and supplies are first expended from Fund 104 until the budgeted amount is used up, then expenditures are charged against Fund 105. These materials and supplies are fungible; therefore, any non-roads project exceptions would be

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attributable to Fund 105 (County Transportation Maintenance Fund) when used by and with that fund's personnel and equipment.

To determine any such exceptions, I reviewed the records and documentation of the Road Division. The Road Division records its activities in the Road & Engineering Bridge Application (REBA), a stand-alone project system that accounts for labor hours and rates, quantities and cost of materials used and identifies the work activities as routine (roads-related) or special projects (some of which can be roads-related). Much of the documentation that I reviewed was obtained from the REBA system. REBA is comprehensive, but is intended as a management tool, for which it seems effective. REBA was not intended to be used as a project accounting system or work billing system. Work order charges are based on equipment rates which were established several years ago, materials are not directly tied to the accounts payable processing system and the labor hours information (per employee, per project) is input by a district employee and is not verified by another employee. The special project codes and other activity codes may encompass several years and do not readily identify each specific project or purpose of each work order.

There have been numerous projects and activities that do not specifically relate to routine roads and drainage projects that have been expended from Fund 105. Most of these were for General Fund projects which were not charged to that fund and included special projects such as several Parks projects and the Veterans Park. Engineering has researched and prepared documents and analyses on the non-roads projects. I have been able to review much of these and have prepared certain analyses as part of this review.

Most of the non-roads expenditures were made by the Road Division. I prepared an analysis (Attachment **D**) of Road Division special projects identified in the listing of FY2001 accomplishments prepared by Engineering. According to Road Division records, the majority of those expenditures are related to Parks and Recreation, Airport and other authorized County projects, such as the Veterans Park. Usage of the Transportation Maintenance Fund for one of these projects (replacing fencing at Rainbow River bridge) was approved by the Board of County Commissioners. I did not find any appearance of attempts to hide these types of transactions from the Board, but there was no formalized reporting to BCC to clearly inform the Board of these activities.

Much of the non-roads usage seems to have resulted from County Administration designating work to the department that does similar work. For example, patching pot holes and paving parking lots on County property is similar to other activities of the Road Division maintaining the roadway system. A further example is clearing trees that are not a road safety issue, since the Road Division performs tree trimming and removal as part of routine maintenance of the roadway system. The County Administrator stated that he assigns some projects, especially of immediate need, to the department which normally does similar work. Such assignment of duties may be consistent with County Code Section 2-48, which enumerates the powers and duties of the County Administrator.

Some of the projects appeared to have had some relationship to roads and drainage activities, but others did not. According to the County Engineer, whenever these requests would be received from the County Administrator, he would determine whether it should be a regular project or a non-roads project. If evaluated as not a regular project, the County Engineer would inform the County Administrator of the

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reasons why not. If subsequently instructed, the project would proceed, but would be identified in department records as a special project.

The Road Division has provided documentation of special projects that were designated as on behalf of Parks and Recreation department for 10/01/93 to 11/27/01, as shown in Attachment **B**. (Examples of special projects provided for other departments are identified in Attachment **D**.) The total for this period, \$382,997, would have come from Fund 105 and includes amounts for Veterans Park, Dunnellon Airport, Ocala Airport, Fairgrounds and Livestock Pavilion. Because there were more than eight fiscal years in this period, this amount does not appear to be as material when compared to total Road Division (dept. 4120) expenditures of \$49,191,874 or the total Fund 105 expenditures of \$136,996,873 during the same period. The same is true when comparing average annual expenditures for these projects (\$46,898) with the average annual total expenditures for Road Division (\$6,148,984) or total expenditures for Fund 105 (\$17,124,609). In addition, during much of this time frame, there was an ad valorem tax in Fund 105 that generated \$1,493,370 which could have been available for some of these projects. Therefore, it is difficult to identify all of the projects that could be reasonably construed as transportation related (e.g., patching and paving of existing interior roads at the Dunnellon Airport) from those projects that clearly are not. This would require an even more expenditure of time to examine each REBA project to make this determination. However, I could not determine any transportation-related link for the Veterans Park project, which had a total of \$20,190.45 of services provided by the Road Division, per Attachment **B**.

The Road Division has prepared invoices in the past for some of the non-roads projects that pertained to other County departments or other entities. Those invoices to Solid Waste (an enterprise fund) were billed to and paid by that department. The same was true for invoices to outside entities such as City of Ocala. Invoices were prepared only for certain projects. Most work on behalf of County departments were identified within the Road Division project system, but were not specifically invoiced. Many of the small amounts were reasonably considered immaterial for billing. In other instances, Engineering invoicing had not occurred because BCC had not been requested to approve, during the budget process, the necessary budget accounts to transfer amounts between two separate funds. County Administration also seemed to have applied an unwritten, but understood, procedure (i.e., to not bill other departments within governmental funds, particularly the General Fund) to this special revenue fund, when such billing would have been appropriate. For example, Facilities Management, a General Fund department, does not bill other General Fund departments, but does bill enterprise and MSTU funds if such services are included in the benefitting department's expenditure budget. An exception is Fleet Management, a General Fund department, which bills all user departments in any fund for services performed since these services are routinely included in the expenditure budgets of the benefitting departments.

Two other divisions of the Engineering department (Design Engineering and Surveying) also provided significant services to other County departments and projects that were not billed. Although funded in the County Transportation Maintenance Fund, these divisions have revenues other than

gas taxes, such as charges for services and licenses and permits. Engineering has prepared information on the time spent on these special projects, which are summarized in Attachment **D**.

The Surveying Division time incurred on behalf of Parks projects appears to have been built into the activities of the surveying crews. Parks determined during FY1999 that it needed its own survey crew

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because of its numerous projects planned and in process, its inability to continue using Engineering's existing survey crew and the expense of contracting with outside survey consultants. This survey crew was approved by BCC for FY2000, but was instead added to the Engineering department. According to the County Engineer, it had been determined that such a crew had to operate under direction of a certified supervisor. This crew therefore became Engineering employees and Parks continued to use Engineering's Surveying Division services. For both FY2000 and FY2001 the Survey Division has documented \$86,144.20 in special projects, as shown in Attachment **D**. Of this amount, Parks-related projects accounted for \$56,015.20 and the Veterans Park project accounted for \$5,152.50. The remaining balance was expended on drainage projects and small projects for other agencies. These amounts were not billed to Parks and Recreation, Veterans Service Office or other departments.

An additional finding is that the County Transportation Maintenance Fund has never been charged for its share of Full Cost Allocation. This is not unexpected since it has been County practice since FY1999 to charge only certain funds, such as enterprise funds and funds that provide services to only specific areas within the County. Exempted were County-wide funds, such as Fund 105, and General Fund departments that provide services to all areas within the County. As shown in Attachment **C**, general government departments have provided services to Fund 105 in an annual amount greater than \$700,000.

I contacted the consultant (DMG-Maximus) that the County uses for its Cost Allocation study to determine if there was any statutory restriction on charging Full Cost Allocation to Fund 105. The consultant provided information on a non-transportation, but similar, fund in another county which showed that cost allocation is allowable. I contacted budget representatives of two counties (Lake and Orange). I found that both counties use cost allocation and neither had any statutory concerns about applying such costs to the transportation fund. Lake County annually allocates general fund costs to its transportation fund. Orange County would like to, but presently does not because of the county's wish to keep as much of its transportation funding resources within the transportation fund. This is similar to Marion County.

Conclusions

There has been no apparent violation of the statutory requirements for the use of constitutional fuel tax revenues in Fund 103 and Fund 104.

As for Fund 105, individual cases could be made that many of the special projects were related to the routine mission of the Road Division. For example, the paving and maintaining of driveways and parking areas at the Government Complex by Road Division could be reasonably construed as part of maintaining the County's transportation system. However, in any potentially questionable project, it is better to apply strict construction to the applicable Florida Statutes to reduce the risk of violations.

The County Transportation Maintenance Fund presently has, and has had, many sources of revenues which, although not statutorily required, have been designated by the Board, through the budget process, as being for the benefit of the transportation system. There is some basis to argue that some of the revenue sources have been available for any use as the Board sees fit. For example, as shown in Attachment **A**, FY2001 interest on investments was \$584,854 and federal payments in lieu of taxes was \$230,834. Of the total interest earnings for the years listed on this attachment, a portion was related to revenues other than gas taxes and could have been used for non-roads projects. An extensive evaluation would be needed

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to determine the actual allocation.

Because of the many different funding sources and departments included in Fund 105 in past years, it can be difficult to determine the level that funds were not appropriately used. However, if based solely on the special projects during FY2001 (as identified in the Engineering Department's list of departmental accomplishments), it is obvious that some project expenditures were not roads-related. In particular, the Road Division's work on the Veterans Park was for tree removal, excavation and hauling materials (among others) that seems to have no relationship to transportation. None of the special projects identified by Engineering had been specifically budgeted as part of the budget process.

One of the results of not billing other departments is that the total actual cost of certain projects may not be accurately stated since these Fund 105 expenditures were not included in any project accounting.

The non-roads usage of funds within the County Transportation Maintenance Fund (105) has been more than offset by the General Fund not charging Fund 105 for its allocated share of Full Cost Allocation.

I have found no reason to believe that there was any willful attempt to circumvent state law. Instead there were management decisions made to perform certain tasks (routine, special and emergency projects) which could have been better accomplished using other procedures and methods. These could have included direct billings from Engineering to the benefitting department or the benefitting department could have used outside contractors to be paid from its own budgeted funds.

Recommendations

- 1) Require that all special projects (of the types discussed in this report) be included in the approved budget of the benefitting department within the appropriate fund.
- 2) Determine whether County Engineer/Road Division should perform the same services (such as paving, tree trimming, pot hole repairs, surveying and project design) to County departments as in the past. If not, the department will have to use outside vendors and contractors. This determination should address the "lost opportunity costs" problem that can result if County Engineer/Road Division is unable to timely or completely perform its critical mission activities while performing services for other departments. This process will require the requesting departments to re-examine their project or maintenance budgets and make changes accordingly.
- 3) Require that any request for special projects to County Engineer/Road Division must be submitted in writing by the requesting department head and must have the written approval of the County Administrator. Each request should include the written understanding of requestor's ability to "pay" for such services and that the projects have been budgeted.
- 4) Timely identify and bill those services provided by County Engineer/Road Division to the respective projects and departments. This also would be important for projects that have grants monies available for which such services pertain. To accomplish this, County Administration, with the assistance of the Clerk's Finance and Budget divisions, should establish a billing system and procedures for County departments to follow.

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- 5) Consider applying Cost Allocation to more County-wide funds, including special revenue funds. This could include obtaining information on implementation from the present consultant.

- 6) Management of all departments should be made aware the Clerk's Finance Division has a project accounting system that is available to track all costs of designated projects. This system can be used whether or not the benefitting department reimburses the expending department. The system is also beneficial for use on any project for which two or more departments are responsible to perform portions of the project.

- 7) Engineering management should review the information contained in the internally used REBA system to determine if accurate information is entered into and reported from the system and if the system can provide routinely reliable information for billing purposes. The REBA system is used to record expenditures by projects, but the information is used for internal purposes only. For example, the charges for vehicles and equipment used on work projects have not been revised in years. Engineering should work with Fleet to evaluate the appropriateness of the hourly rates based on actual operating costs and equipment acquisition or replacement costs. These could be compared to relevant industry guides. Another example is the cost of materials used in a project. Such information is entered into REBA by a district employee and is not obtained from the accounts payable process; therefore, there is less assurance that the actual amounts entered are correct. For REBA to be routinely used for billing purposes, management will have to evaluate the required level of assurance in order to determine whether additional staffing or other resources would be needed.

Attachments

- c: John W. Garri, Finance Director
 Michael E. Tomich, Budget Director
 Gordon B. Johnston, County Attorney