Audit Report 2003 – 7

Community Development Fund 113

County of Collier

CLERK OF THE CIRCUIT COURT
October, 17, 2003

Honorable Tom Henning, Chairman
And Members of the Board of County Commissioners
3301 Tamiami Trail East
Naples, Florida 34112

Audit of Community Development and Environmental Services Fund #113
(Report No. 2003-7)

Dear Mr. Chairman and Commissioners:

The enclosed report discusses the findings and recommendations of the above captioned audit performed by the Internal Audit Department. We thank the Community Development and Environmental Services Division as well as members of the Collier Building Industry Association for their assistance and cooperation in the performance of this audit.

If you have any questions about this report, please feel free to contact the auditor Ilonka E. Washburn at 774-8412

Sincerely,

Dwight E. Brock
Clerk of the Circuit Court

Enclosure

cc: James V. Mudd, County Manager
cc: Joe Schmidt, Administrator
Memo

To: The Honorable Dwight E. Brock, Clerk of the Circuit Courts
From: Patrick Blaney, CFE, CPA
Date: October 17, 2003
Re: Audit of Community Development Fund 113

Please find attached our audit report of the Community Development Fund 113. This report includes the Community Development and Environmental Services responses to our findings & recommendations.

Internal Audit gratefully acknowledges the cooperation and assistance of Community Development and Environmental Services and other Board of County Commissioners employees.

If you have any questions about this report, kindly contact Ilonka Washburn at 774-8412 or me.
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Section 1

Community Development Fund 113

Background Information

Audit Purpose, Objectives, & Scope

The purpose of this audit is to review Community Development and Environmental Services (CDES) Fund 113. The audit objective is to determine if expenditures from Fund 113 are consistent with Florida law and any other applicable policies. The scope of the audit is limited to the determination of compliance of Fund 113 expenditures with applicable statutes and policies.

Audit Methodology & Procedures

This audit was performed in accordance with generally accepted government auditing standards. The Internal Audit Department interviewed the appropriate Community Development and Environmental Services Division staff and appropriate Collier Building Industry Association members. The auditor reviewed the applicable statutes, proposed budget changes, and applicable building fee determinants for accuracy and compliance.
Background

In March 2003, the Collier Building Industry Association (CBIA) asked the Clerk of the Circuit Court to determine the propriety of expenditures from Fund 113.

The Community Development and Environmental Services (CDES) Division is responsible for information and services associated with building permits, inspections, investigations, development plans, and land use petitions for properties located in Collier County. The Division provides guidance for the long-term use of land and public facilities to assure quality growth and enhance the community’s quality of life, pursuant to local ordinances and Florida growth management laws.

The Division's services are provided by the following primary departments: Administration, Financial Administration and Housing, Environmental Services, Planning Services, Building Review and Permitting, Code Enforcement, CDES-Operations, and Engineering Services.

Historically, Fund 113 was established to include all activities and fees for Building Review and Permitting, Planning Services, Environmental Services, and Engineering Services without explicit departmental segregation for revenue and expenditures. This enabled overcharging the Permitting fees and subsidizing Planning and Engineering fees. Through this custom the majority of the fees were assessed during the permitting of the actual construction phase rather than at the planning stages of a development.

Community Development and Environmental Services and the Collier Building Industry Association agreed that while the historical use of said permit fees was recognized there were now concerns with the collection and use of building permit fees.

In April 2003 CDES implemented a time planner to determine specific times required to complete various functions of CDES fees. The time planner required all personnel to track their time by function, which was then used to update each fee by applying the necessary time with the present cost factor. The updated fee schedule aided in the creation of Fund 131 separating the fees established and expended for Planning Services and Engineering Services and estimating the cost of newly implemented fees.
Community Development Fund 113

Findings

Use of Fund 113 not supported by section 553.80, Florida Statutes

Building Review and Permitting fees subsidize Planning and Engineering fees

Presently Fund 113 includes Building Review and Permitting, Planning Services, Environmental Services, and Engineering Services. This facilitates overcharging the Permitting fees in order to subsidize Planning and Engineering fees. Through this custom the majority of the fees are assessed during the permitting of the actual construction phase rather than at the planning stages of a development. Building Review and Permitting fees exceed required expenses, while corresponding planning and engineering fees are well below their costs.

As stated in Florida Statutes, Sections 125.56(2), and 553.80, the board of county commissioners may provide a schedule of reasonable inspection fees in order to defer the costs of inspection and enforcement of the provisions of this act, and of the Florida Building Code and the Florida Fire Prevention Code but such fees shall be used solely for carrying out the local government’s responsibilities in enforcing the Florida Building Code.

Community Development and Environmental Services (CDES) and the Collier Building Industry Association (CBIA) previously established that the historic collection of fees would no longer be supportable. CDES is considering a balanced budget, in which actual revenues (fees) equal actual expenses, and the functions are separated as required by statute. CDES agreed to split Fund 113 operations into two separate funds, 113 and 131. Fund 113 will continue to service Building Review and Permitting, Addressing and Records, Cash Management, and applicable portions of CDES Administration. Fund 131 will resume Planning Services, Environmental Services, Engineering Services, and portions of Financial Administration and Housing, CDES Administration and CDES Operations. To ensure that future tasks would balance fees with costs, February through July 2003 fees were tracked and increased by an expected growth factor of 17% to determine expected annual revenue. This was compared with the same time period costs, facilitating the fact that fees could be reduced for Building Review and Permitting, but needed to be increased for Planning Services, Environmental Services, and Engineering Services. To determine the rate of increase and decrease CDES utilized their time tracking data by averaging the time for each fee-related activity, and multiplying it with an established hourly rate of $100.00 employee cost. A workload analysis aided in the establishment of new fees, which reduced most
Building Review and Permitting fees by 24% (through adjustment of the valuation tables). Planning and Engineering fees increased, however, in some cases by three digits.

CBIA was concerned about the establishment of the present reserve fund of over $6 million and the corresponding transfer of $1.67 million to Fund 131. While it is vital to have reserves for expenditures in anticipation of reduced revenues, reserve limitations should be clearly established. Presently the reserve in Fund 113 continued to grow unregulated. To aid in the creation of Fund 131 CDES is planning to transfer approximately $1.66 million from Fund 113 to set up the necessary reserve. When initially asked about the reason for transferring the amount from Fund 113, CDES' premise was based on the historical split of costs, 80% to 20%, which has been contrary to state legislation. While it is true that funds from building permits, planning and other sources were placed in fund 113, CDES' own presentation for FY 2003 portrays revenue for building review and permitting at $12.88 million compared to costs of $9.27 million. In contrast engineering and planning generated revenue of $3.81 million compared to costs of $7.42 million. As CDES and CBIA both agreed that this was a historic pattern and we have not been provided with any information contrary to these statements there is no reserve available for fund 131.

Another question raised by CBIA included the establishment and allocation of rent payments to Fund 113 for new construction enabled through the use of its monies. The money used for construction of new buildings often enables tenants to participate in what is statutorily reserved for all permitting related tasks. This therefore gives rise to the question of rental fees or repayment of construction fees – whichever is applicable and the applicable rate of such rental fees.

RECOMMENDATIONS:

Florida Statutes, Sections 125.56(2), and 553.80, pertain to the collection of fees and enforcement of the building code. Section 125.56 states, in part, that, “the board of county commissioners…may provide a schedule of reasonable inspection fees in order to defer the costs of inspection and enforcement of the provisions of this act, and of the Florida Building Code and the Florida Fire Prevention Code.” Section 553.80 states in part, “the governing bodies of local governments may provide a schedule of fees, as authorized by statute 125.56 or statute 166.222, and this section, for the enforcement of the provisions of this part. Such fees shall be used solely for carrying out the local government’s responsibilities in enforcing the Florida Building Code.”

As stated in above statutes Building Review and Permitting fees are to be used solely to carry out the enforcement of the building code including all necessary tasks.

CDES should continue with its strategy and implement Fund 131 for Planning Services, Environmental Services and Engineering Services thereby ensuring that Fund 113 is freed from all unsupported cost allocations and further ensure uniform and constant monitoring of systems for cost allocation and revenue generation in order to begin compliance with applicable laws.

As stated by CDES and agreed to by CBIA, building review and permitting fees historically generated most of the revenue and all of the reserves, thereby subsidizing planning and engineering. In order to avoid perpetuating past “wrongs”, and to facilitate compliance with
Florida Statutes, Sections 125.56(2), and 553.80, any money transferred from fund 113 to fund 131 can only be considered a credit. We therefore recommend that all monies used to establish a reserve for fund 131 be considered a loan with specific reasonable terms for repayment made to fund 113.

Furthermore, CDES has stated that reserves for both funds respectively should be at a minimum of four months expenditures and at a maximum of six months expenditures. Continuously monitoring both funds should ensure the proper reserve, if monies exceed the six-month reserve a reduction in fees should be considered and likewise if the reserve drops below the four-month level an increase in fees should be considered. The present reserve for Fund 113 should be reduced to keep within those acceptable limits.

Finally, rental fees for non-Fund 113 activities should be based on actual construction, financing, and renovation costs and should include all utilities and building-related costs and repaid as such.

Response:

Community Development Response: (Exhibit 1)

Response to Audit Report 2003-7: Community Development Fund 113.

CDES management is committed to operate within full compliance with all applicable regulations and statutes concerning the financial management of this Division.

We decided in the spring of this year as we prepared the 04 budget; to establish a new enterprise fund to financially account for the Planning and Engineering functions. This action removed the commingling of financial activity of these departments with the Permitting activities (Fund 113). This separation now requires each functional area to charge fees to cover their complete operating expenses thereby providing a much clearer nexus between fees and operating expenses. Out actions have been designed to insure complete compliance with both the letter of the regulations and their intent.

We agree with your audit recommendations and will coordinate with our Budget Office to set up a repayment of the Fund 131 opening balance that is being transferred from Fund 113. We will begin a repayment program to Fund 113 beginning with the 05 fiscal year.

We will also develop a reasonable basis for the amount of reserves for both funds, with a floor and ceiling so that we can financially manage this division to operate within the range of these two constraints. Adjustments to individual fund fees and rental rates will be monitored and adjusted as required to assure a strong nexus to expenses and reserve constraints.

Finally, we will ensure our rental rates for non-Fund 113 occupants of CDES facilities give full consideration to actual construction costs, financing, renovation, utilities, and building-related expenses.

Our goal is to create financial budgeting and management structures which best meet the needs of all of CDES’s clients. On one level, those clients are the development community, which pays the various fees that fund CDES’s operations. On a broader level, those clients are the entire citizenry of Collier Country, which depends on CDES to stand watch over and enforce community regulations.
designed to protect and enhance the quality of life for everyone. While there are varying opinions about methods, we recognize that we all share the same goal, ensuring a positive future for Collier County.

We've welcomed the involvement of the Clerk's Audit Department in this process, and we greatly appreciate their guidance as outlined in the recommendations of Audit Report 2003-7. We would like to acknowledge the professional manner in which the Clerk's Audit Department reviewed this matter. We look forward to working with any and all interested parties in continuing the process of making Collier County's Community Development and Environmental Services Division the best organization possible.
Conclusions

Considering that section 553.80, F.S., has been in effect and not abided by, a revision seems immediate. This raises the question of the historic use of Building Review and Permitting fees and their allocation. While any repayment of previous non-applicable expenditures is beyond the scope of this audit, it is well within the scope to recommend immediate compliance with the applicable statute.

The Collier Building Industry Association (CBIA) and Community Development and Environmental Services (CDES) have been able to come to agreement on many issues raised prior to and during the course of this audit. Through the creation of Fund 131 and in keeping with the provisions created by statute for Fund 113 CDES should continuously update applicable fees and analyze any reserves established as well as any rent payments due based on actual use of allocation.

Finally, to aid in the coexistence of CBIA and CDES and improve communications, mutually agreed upon financial reports addressing existing concerns would alleviate misconceptions regarding the creation of revenues and applicable expenditures.
Memorandum

To: Dwight E. Brock, Clerk of the Circuit Court
   Internal Audit Department

From: Joseph K. Schmitt, Division Administrator
       Community Development and Environmental Services

Date: October 11, 2003

Subject: Response to Audit Report 2003-7: Community Development and Environmental Services

Community Development and Environmental Services (CDES) management is committed to operate within full compliance with all applicable regulations and statutes concerning the financial management of this Division.

We decided in the spring of this year, as we prepared the 04 budgets, to establish a new enterprise fund to financially account for the planning and engineering functions. This action removed the co-mingling of financial activity of these departments with the permitting activity (Fund 113). This separation now requires each functional area to charge fees to cover their complete operating expenses, thereby providing a much clearer nexus between fees and operating expenses. Our actions have been designed to ensure complete compliance with both the letter of the regulations and their intent.

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Community Development and Environmental Services
Office of the Administrator
We've welcomed the involvement of the Clerk's Audit Department in this process, and we greatly appreciate their guidance as outlined in the recommendations of Audit Report 2003-7. We would like to acknowledge the professional manner in which the Clerk's Audit Department reviewed this matter. We look forward to working with any and all interested parties in continuing the process of making Collier County's Community Development and Environmental Services Division the best organization possible.

Cc: James V. Mudd, County Manager
    Leo Ochs, Deputy County Manager
    Denny Baker, Director, Financial Administration and Housing