

Internal Audit Report

**FOREST CONSERVATION FUND
MARCH 2015**

Office of the County Auditor





OFFICE OF THE COUNTY AUDITOR

Craig Glendenning, CPA
County Auditor

March 2015

The Honorable Members of the County Council
The Honorable Allan Kittleman, County Executive

Pursuant to Section 212 of the Howard County Charter and Council Resolution 22-1985, we have conducted an audit of the Forest Conservation Fund (Fund). The body of our report presents our findings and recommendations.

Our audit disclosed that disbursements from the Fund were not always made for the purpose of forest conservation, including certain employee salaries and related fringe benefits. We also found that certain revenues not specifically mentioned in the Code were deposited into that Fund. The audit found that the Forest Conservation Manual should be updated. The Fund had not reimbursed a capital project for expenditures used to purchase private forest conservation easements.

Our findings have been reviewed with the Chief Administrative Officer and we have included the Administration's responses. We wish to express our gratitude to the Departments of Planning and Zoning and Recreation and Parks for the cooperation and assistance extended to us during the course of this engagement.

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EXECUTIVE SUMMARY

We conducted a performance audit of the Forest Conservation Fund (Fund). The objectives of our audit were to:

1. Ensure the County's Forest Conservation Program complies with certain State requirements.
2. Ensure that controls over revenues deposited into the Fund are adequate and that the revenues are in compliance with approved County rates and rules.
3. Determine that disbursements made from the Fund are appropriate and within the approved uses of the Fund.

Conclusions

- For our first objective, we found that the County was operating its forest conservation program in compliance with State requirements. However, we did find that the Department of Planning and Zoning's (DPZ) Forest Conservation Manual had not been updated since 1999.
- With regards to our second objective, the audit disclosed that DPZ and the Department of Recreation and Parks (DRP) have instituted appropriate procedures and controls over the receipt and processing of Fund related revenues. Our testing did disclose, however, that DPZ failed to properly assess and collect inspection fees for 1 item out of 11 tested. We also found that revenues other than those specified in the County Code were being deposited into the Fund.
- Regarding our third objective, our review of disbursements made from the Fund found that:
 - disbursements made from the Fund often did not benefit forest conservation but instead benefitted other programs within DRP.
 - employee salaries and fringe benefits charged to the Fund included amounts for employees whose job duties did not always relate to forest conservation.
 - the Fund had not reimbursed a capital project for expenditures used to purchase private forest conservation easements although the funding source for the capital project was developer in-lieu-of fees paid into the Fund.
 - DRP had not taken steps to ensure that certain capital equipment items had been recorded in the County's fixed asset records.

BACKGROUND

The Forest Conservation Fund (Fund) was established by the County in 1992. According to the County Code, sources of monies recorded in the Fund include fees paid in-lieu-of reforestation (planting on site) or afforestation (planting at another site), non-compliance fees and any related interest. The Fund may be used for reforestation or afforestation within the County, acquisition of forest retention easements with private parties, and any other purpose related to the implementation of the County's Forest Conservation Program. Revenues and expenditures of the Fund from fiscal year 2010 through 2014 are shown below.

Table 1					
Forest Conservation Fund Revenues					
Fiscal Year 2010 to 2014					
	Fiscal Year				
Source	2010	2011	2012	2013	2014
Inspection Fees	\$ 27,044	\$ 20,281	\$ 10,946	\$ 19,514	\$ 31,591
In-Lieu-Of Fees	620,091	403,368	183,972	353,017	300,905
Fines/Forfeitures	19,905	34,015	75,252	32,449	31,932
Interest	18,214	10,659	6,787	7,051	5,368
Total Before Fund Transfer	\$ 685,524	\$ 468,322	\$ 276,958	\$ 412,032	\$ 369,796
Fund Balance Transfer		132,284	238,298		156,529
Total	\$ 685,254	\$ 600,606	\$ 515,256	\$ 412,032	\$ 526,325

Note: Totals may not equal the sum of the individual components due to rounding.

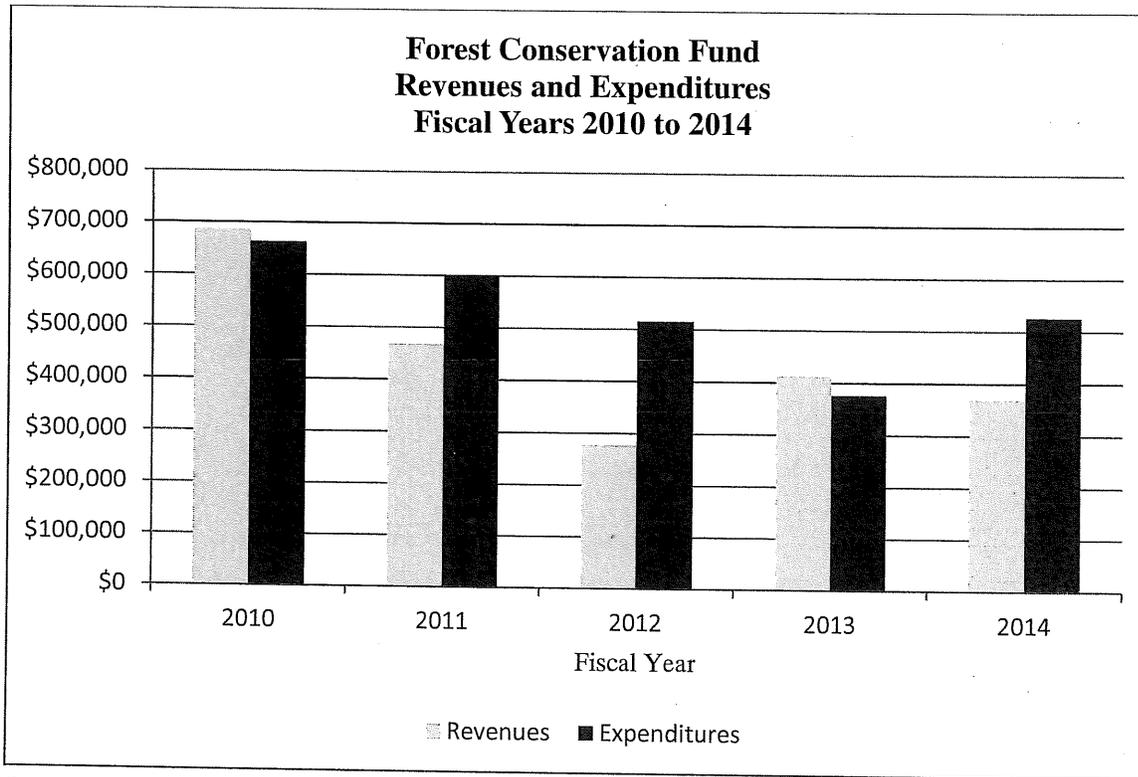
Source: SAP

Table 2					
Forest Conservation Fund Expenditures					
Fiscal Years 2010 to 2014					
	Fiscal Year				
Source	2010	2011	2012	2013	2014
Salaries, Wages, Fringes	\$ 448,976	\$ 471,885	\$ 412,442	\$ 328,311	\$ 369,656
Contractual Services	84,898	84,484	63,937	(12,300)	56,571
Supplies	128,646	44,736	38,877	60,481	73,725
Capital Outlay					26,393
Total	\$ 662,520	\$ 601,105	\$ 515,256	\$ 376,493	\$ 526,345

Note: Totals may not equal the sum of the individual components due to rounding.

Source: SAP

As shown in the above tables, Fund expenditures frequently exceed revenues. See the chart on page 3.



Source: SAP

Note: Revenues do not include any transfers from fund balance.

According to the audited financial statements, as of June 30, 2014, the Fund has a balance of \$4.1 million. This balance has not appreciably changed since fiscal year 2007 (the first year the Fund was reported as a separate component on the County's financial statements).

The County Code authorizes the use of the Fund to acquire forest conservation easements. These are agreements with private landowners to maintain forested acreage in perpetuity in return for payment by the County. DRP uses the Private Forest Conservation Establishment Program for these easements. The Program is funded through fee in-lieu-of payments and is accounted for as a capital project. For fiscal year 2015, the related capital project has an authorized appropriation of \$3.1 million. As of December 12, 2014, the capital project had revenue totaling \$475,000 and expenditures of \$1.7 million.

FINDINGS AND RECOMMENDATIONS

Objective 1 – Compliance with State Requirements

Finding 1

The Forest Conservation Manual has not been updated since 1999.

The Forest Conservation Manual, first issued in 1993, has not been updated by DPZ since 1999. The Manual presents the Howard County program for implementing the State's forest conservation law. It provides guidance to developers and their consultants in complying with the County program. Changes in forest conservation policy are communicated to interested parties in periodic newsletters issued by DPZ. DPZ estimated that it has issued between 25 and 30 policy bulletins since the last Manual update but cautioned that not all bulletins would impact requirements contained in the Manual.

We recommend that DPZ periodically revise the Forest Conservation Manual to reflect the most current guidance on the Program.

Administration's Response:

The Administration concurs with the recommendation and is aware that State law governing local Forest Conservation Programs has been amended several times. These are relatively minor amendments, which we are adhering to in implementing the Forest Conservation Program. A couple of years ago the County drafted legislation to update both the County Forest Conservation regulations and the Forest Conservation Manual; however, due to competing legislative priorities, these amendments did not get filed. The Administration will move forward with such amendments, review the draft to confirm it is fully up to date, and engage the Department of Planning and Zoning and the Department of Recreation and Parks in the review, as well as other stakeholder groups.

Objectives 2 and 3 – Forest Conservation Fund Revenues and Expenditures

Finding 2

Certain revenues placed into the Fund do not appear to be consistent with the County Code.

The audit disclosed that certain revenues of the Fund do not appear to be consistent with the County Code. We found that revenues deposited to the Fund included inspection fees, sewer easement payments and sign sales in addition to in-lieu-of fees and non-compliance penalties

specified in the Code. According to DRP staff, DRP began depositing these revenues into the Fund beginning in fiscal year 2007.

We recommend that DRP discontinue depositing revenue into the Fund that is not specifically mentioned in the County Code.

Administration's Response:

The Administration agrees with the Auditor's finding and will research whether provisions of the Natural Resources Article of the Annotated Code of Maryland, Section 5-1610, regarding use of the forest conservation fund, can be incorporated into the Howard County Code. We will consider whether such legislative changes will result in a more appropriate place for revenues. This will involve looking into legislative history and the intent behind the state law.

Finding 3

Certain expenditures from the Fund do not appear to be consistent with the County Code.

The County Code specifies that disbursements from the Fund will be for purposes related to forest conservation. However, our testing found that the Fund was used to pay for numerous items not related to forest conservation. These items included deer management tools (such as a rifle and a thermal imaging camera) as well as other miscellaneous items (such as decals and computers for park ranger cars and bandanas for dogs). Our test of 20 disbursements from fiscal years 2013 to 2015 totaling \$108,216 found that 13 payments totaling \$62,970 (63%) were for items not related to forest conservation. Specifically, 5 payments totaling \$26,728 related to deer management and another 8 disbursements totaling \$36,242 were for other miscellaneous items not related to forest conservation.

DRP stated that it believes that with the deposit of additional sources of revenues not specifically mentioned in the Code into the Fund (see Finding 2), the Fund could be used for other purposes not specifically included in the Code. We contacted the Office of Law which advised us that monies from the Fund should only be spent for the purposes contained in the Code.

We recommend that DRP use the Forest Conservation Fund exclusively for forest conservation consistent with the current language contained in the County Code.

Administration's Response:

The Administration agrees with the Auditor's finding and will research whether provisions of the Natural Resources Article of the Annotated Code of Maryland, Section 5-1610, regarding use of the forest conservation fund, can be incorporated into the Howard County Code. We will consider whether such legislative changes will result in a more appropriate place for expenditures. This will involve looking into legislative history and the intent behind the state law.

Finding 4

Certain salary and fringe benefit costs should not be charged to the Fund.

The appropriateness of salary and fringe benefit costs charged to the Fund is questionable. Our review found that salaries and fringe benefit costs for five DRP employees were charged to the Fund. These costs totaled \$370,000 in fiscal year 2014. Based on our review of job descriptions and interviews with these five employees, we concluded that two of the employees had extensive job duties other than forest conservation. We also question the placement of full time positions into a fund that does not have a guaranteed revenue stream from year to year. For the fiscal years from 2010 to 2014, salary and fringe benefit costs exceeded total revenues collected in two of the five years. In one other year total revenues exceeded these costs by only \$200. As we previously stated, the County Code states that the Fund shall be used for purposes relating to the forest conservation program.

We recommend that DRP review the jobs of each current employee charged to the Fund and discontinue using the Fund for those positions whose job responsibilities do not specifically benefit forest conservation. We also recommend given the Fund's revenue stream, DRP consider moving all positions to the general fund.

Administration's Response:

The Administration agrees with the Auditor's finding and will research whether provisions of the Natural Resources Article of the Annotated Code of Maryland, Section 5-1610, regarding use of the forest conservation fund, can be incorporated into the Howard County Code. We will consider whether such legislative changes will result in a more appropriate place for salary and fringe benefit costs. This will involve looking into legislative history and the intent behind the state law.

Finding 5

The Fund had not reimbursed a capital project for expenditures made for forest conservation easements.

The Fund had not reimbursed the capital project used to pay for private forest conservation easements. As of December 12, 2014, the capital project had revenue totaling \$475,000 and expenditures totaling \$1.7 million. Since the revenue source for the capital project is the in-lieu-of fees collected from developers, additional revenues to meet expenditures must be transferred from the Fund to the capital project through the budget process. Currently, the Fund's balance is adequate to cover these costs.

We recommend that DRP, in conjunction with the Office of Budget and the Department of Finance, transfer funds used to purchase private forest conservation easements from the Fund to the capital project.

Administration's Response:

The Administration agrees with this finding. In conjunction with the Office of Budget and the Department of Finance, DRP will request the transfer of funds that were used to purchase Private Forest Conservation Easements from the Fund to the Capital Project N3971.

Finding 6

The Fund did not reimburse the General Fund for services rendered.

Although the Fund benefits from certain services provided by General Fund operations such as administrative support, the Fund has not reimbursed the General Fund for the value of these services. Other non-general funds, such as the Recreation Program and the Agricultural Preservation and Promotion Fund properly budget amounts to reimburse the General Fund.

We recommend that the Fund work with the Office of Budget to determine the amount of support provided by General Fund departments to the Fund. We also recommend that Fund reimburse the General Fund for this amount.

Administration's Response:

Howard County DRP will work with Budget Office to look into this issue in the future.

Finding 7**Not all capital assets were recorded in the County's fixed asset records.**

As a result of our test of Fund expenditures, we found that six rifles purchased with Fund monies and owned by DRP were not included in the County records. The County's Fixed Asset Policy requires that the fixed asset records include all weapons regardless of price. The rifle included in our test of disbursements cost \$2,999.

We recommend that DRP take appropriate action to report all weapons owned to the Department of Finance for inclusion in the County's fixed asset records.

Administration's Response:

The Administration agrees with this finding. DRP is currently working with the Department of Finance to have all firearms under the control of the Department added to the County's fixed asset record.

Finding 8**DPZ did not collect all required fees.**

Although our testing disclosed that DPZ generally collected and deposited fees, our test of 11 in-lieu-of and inspection fees assessed by DPZ in fiscal year 2014 and 2015 disclosed that one inspection fee totaling \$400 was not assessed to or paid by the developer. Documentation in the file supported that the property had been inspected by DRP in accordance with County policy and Forest Conservation Program requirements.

We recommend that DPZ pursue collection of the required inspection fee from the property developer.

Administration's Response:

The Administration concurs with the recommendation. The Department of Planning and Zoning has confirmed the payment of \$400 for the inspection fee has been paid in full. The documentation is on file for the Forest Conservation Inspection Fee.

Additional Comments

We commend DPZ and DRP for implementing certain processes and procedures to ensure the propriety of the Fund's operations as detailed below:

- DRP and DPZ complied with State forest conservation program requirements. State law and regulations for local forest conservation programs require that local programs be at least as stringent as the model State program. Local programs must undergo biennial reviews and submit annual reports of certain forest conservation information. We reviewed the County's compliance with appropriate State officials who stated the County was in compliance with each of these requirements.
- DRP has taken efforts to carry out its forest conservation program. According to calculations prepared by DRP regarding the number of acres to be reforested or afforested under the Fund (based on in-lieu-of fees collected), as of June 30, 2014, the County should have planted approximately 320 acres since the inception of the Forest Conservation Program. Based on records of plantings and forest conservation easements entered into by the County (which we tested and found to be reasonable), the County has planted or protected approximately 400 acres.
- DPZ and DRP maintained adequate internal controls over the receipt and processing of cash receipts related to the Fund. DPZ collects and processes in-lieu-of and inspection fees while DRP receives and processes all other sources of revenues placed in the Fund. Our audit disclosed that both Departments had instituted procedures designed to ensure that all revenues received were subsequently deposited and properly accounted for.

AUDIT SCOPE, OBJECTIVES AND METHODOLOGY

We conducted a performance audit of the Forest Conservation Fund. We included all revenues and expenditures of the Fund from July 1, 2012 through October 29, 2014. Although the audit included a determination of compliance with certain State forest conservation program requirements, we did not perform a comprehensive review of the County's Forest Conservation Program.

We conducted our audit in accordance with generally accepted government auditing standards prescribed by the Comptroller General of the United States. Those standards require us to plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of our audit were to:

1. Ensure the County's Forest Conservation Program complies with certain State requirements.
2. Ensure that controls over revenues deposited into the Fund are adequate and that the revenues are in compliance with approved County rates and rules.
3. Determine that disbursements made from the Fund are appropriate and within the approved uses of the Fund.

To accomplish our objectives, we met with personnel from the County's Departments of Planning and Zoning and Recreation and Parks to document the internal controls and procedures over processing revenues and expenditures. We also tested compliance with established internal controls and procedures by reviewing planning documents, payroll records, disbursements and supporting documentation. We also reviewed data from the County's automated financial system. As data from the system was used primarily for informational purposes or as a source for selected test items, we did not perform additional tests to ensure the reliability of this data presented in this report.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

We conducted our field work from November to December 2014. The DPZ and DRP responses to our findings and recommendation are included in this report.

AUDIT TEAM

Edward L. Shulder, CPA
Deputy County Auditor