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Missouri State Auditor

Forsythe Road Transportation Development District



June 2012

Report No. 2012-42

<http://auditor.mo.gov>



CITIZENS SUMMARY

Findings in the audit of the Forsythe Road Transportation Development District

Background	The Forsythe Road Transportation Development District (TDD) is located in the City of Branson. The TDD was organized in June 2008. The City of Branson had jurisdiction over this project, was responsible for overseeing the project construction, and was responsible for reviewing and approving the transportation project costs incurred. The city accepted dedication of the completed project.
Financial Condition	The Forsythe TDD has been unable to attract any businesses to locate within the TDD and has not generated any revenues. It is unclear if the TDD is currently liable for the remaining financial obligations for development costs. No sales taxes have been collected, and the TDD has been unable to provide any reimbursement to the developer. In 2010, the bank that had provided the financing for the project purchased the property at foreclosure, and has indicated it is considering several options regarding the property. The TDD had a zero cash balance at December 31, 2011. If the TDD has no outstanding obligations, the TDD should consider seeking abolishment under state law.
Board Meetings	The Board failed to hold meetings at least annually, as required by district by-laws.

In the areas audited, the overall performance of this entity was **Fair**.*

American Recovery and Reinvestment Act (Federal Stimulus)	The Forsythe Road Transportation Development District did not receive any federal stimulus monies during the audited time period.
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*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

Forsythe Road Transportation Development District Table of Contents

State Auditor's Report	2
------------------------	---

Management Advisory Report - State Auditor's Findings	1. Financial Condition4 2. Board Meetings4
---	---

Organization and Statistical Information	6
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THOMAS A. SCHWEICH

Missouri State Auditor

Greg Baker, Chairman
and
Board of Directors
Forsythe Road Transportation Development District
Branson, Missouri

We have audited certain operations of the Forsythe Road Transportation Development District in fulfillment of our duties under Section 238.272, RSMo. The scope of our audit included, but was not necessarily limited to, the 2 years ended December 31, 2011. The objectives of our audit were to:

1. Evaluate the district's internal controls over significant management and financial functions.
2. Evaluate the district's compliance with certain legal provisions.
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing minutes of meetings, written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the district, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our 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 obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the district's management and was not subjected to the procedures applied in our audit of the district.

For the areas audited, we identified (1) no significant deficiencies in internal controls, (2) no significant noncompliance with legal provisions, and (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our findings arising from our audit of the Forsythe Road Transportation Development District.

A handwritten signature in black ink, reading "Thomas A. Schweich". The signature is fluid and cursive, with the first name "Thomas" and last name "Schweich" clearly legible.

Thomas A. Schweich
State Auditor

The following auditors participated in the preparation of this report:

Deputy State Auditor:	Harry J. Otto, CPA
Director of Audits:	Alice M. Fast, CPA, CIA
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In-Charge Auditor:	Michelle Crawford, M.Acct.

Forsythe Road Transportation Development District Management Advisory Report - State Auditor's Findings

1. Financial Condition

The Forsythe Road Transportation District (TDD) has been unable to attract any businesses to locate within the TDD and has not generated any revenues. In addition, it is not clear if the TDD is currently liable for the remaining financial obligations related to development costs. The TDD was formed by a developer/property owner, and the initial costs of the TDD project were funded by the developer. In June 2008, the TDD Board passed a 1-cent (1 percent) sales tax and in July 2008, the TDD passed a resolution accepting a certificate of reimbursable expenses from the developer totaling approximately \$5 million. The rights to any sales taxes that might be collected were assigned to the bank financing the project.

The public infrastructure sections of the project were completed; however, the developer was unable to attract any businesses to locate in the TDD and no buildings were erected. No sales taxes have been collected, and the TDD was unable to provide any reimbursement to the developer. In 2010, the property was purchased at foreclosure by the bank that had provided financing for the project. The bank, as sole property owner, elected a new TDD Board in June 2011. The bank indicated it was considering several options regarding the property. The TDD had a zero cash balance at December 31, 2011, and is not generating revenues. It is unclear if the obligation of the TDD for developer costs remains an obligation of the TDD due to the change in ownership.

Section 238.275, RSMo, provides for the abolishment of a TDD once its projects are completed, ownership of the projects has been transferred to the local transportation authority, and the district has no outstanding obligations.

Recommendation

The TDD Board determine whether it has any outstanding obligations. If no obligations exist, the TDD should consider seeking abolishment pursuant to the Missouri Transportation Development District Act, Sections 238.200 to 238.275, RSMo.

Auditee's Response

At the present time, the District is in a state of transition due to the bank taking ownership of the land. The District is in agreement with evaluating this issue at the time of sale of the property.

2. Board Meetings

The Board failed to hold meetings as required. The property owners held an initial meeting on June 18, 2008, and the Board met in July 2008. The property owners and Board did not meet in 2009 or 2010. During this time period, the TDD appeared to cease functioning as a going concern (see MAR finding number 1). Section 3.7 of the district by-laws requires an annual property owners meeting. Annual meetings are necessary to meet the requirements of the by-laws and allow the district to conduct necessary business.



Forsythe Road
Transportation Development District
Management Advisory Report - State Auditor's Findings

Recommendation

The TDD Board conduct a meeting at least annually, as required by district by-laws.

Auditee's Response

The District agrees annual meetings should be conducted. Efforts to comply with this provision in prior years were complicated by the inability to obtain a quorum of board members. In 2011, new board members were appointed and an annual meeting held in accordance the statutory requirements. At a minimum, the new board intends to meet annually.

Forsythe Road

Transportation Development District

Organization and Statistical Information

The Forsythe Road Transportation Development District (TDD) is located in the City of Branson. The TDD was organized in June 2008 by petition of the owner/developer of property within the proposed district. The qualified voters of the TDD, in this case the property owner, approved the imposition of a 1-cent (1 percent) sales tax within the boundaries of the district on June 18, 2008. The public infrastructure sections of the project were completed; however, no retail establishments have been located in the development and no sales taxes have been collected. The developer encountered financial difficulties and the bank foreclosed on the property. The bank, as the sole property owner, elected a new board in June 2011.

The TDD was formed in conjunction with a Community Improvement District (CID) which was to fund the remaining portions of the project not eligible for TDD funding.

The City of Branson had jurisdiction over this project, was responsible for overseeing the project construction, and was also responsible for reviewing and approving the transportation project costs incurred. The city accepted dedication of the completed project.

The TDD has a year end of December 31 and did not have independent audits performed during the 2 years ended December 31, 2011.

District Board

An elected board acts as the policy-making body for the district's operations. The board's five members serve 3-year terms without compensation. Members of the board at December 31, 2011, were:

Greg Baker, Chairman
Marcia Hickenbottom, Vice-Chairperson
Chad Buckwalter, Secretary/Treasurer
Millie Bradley, Director
Keran Lemons, Director

Selected Information on the District

Estimated Project Costs	\$5.25 million
Estimated TDD Duration	25 years
Total Estimated Revenues	\$7 million
Sale Tax Rate	1 percent
TDD is within a TIF District?	No



Forsythe Road
Transportation Development District
Organization and Statistical Information

American Recovery and
Reinvestment Act 2009
(Federal Stimulus)

The Forsythe Road Transportation Development District did not receive any federal stimulus monies during the 2 years ending December 31, 2011.

Financial Activity

A summary of the district's financial activity for the 2 years ended December 31, 2011 follows:

	Year Ended December 31,	
	2011	2010
Receipts:		
Sales taxes	\$ 0	0
Total Receipts	0	0
Disbursements:		
Administrative	60	0
Total Disbursements	60	0
Revenues Over (Under) Disbursements	(60)	0
Beginning Cash Balance	60	60
Ending Cash Balance	\$ 0	60