



Office of Missouri State Auditor
Nicole Galloway, CPA

**North Oaks Plaza Shopping Center
Community Improvement District**



Nicole Galloway, CPA
Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of North Oaks Plaza Shopping Center Community Improvement District

Background	The North Oaks Plaza Shopping Center Community Improvement District (CID) is located in the City of Northwoods. The CID is governed by a five member Board of Directors. The CID was formed for the purpose of maintaining the district including repair, maintenance and upkeep of district improvements and property for the duration of the existence of the district. Bonds with a principal amount of \$1,565,000 were issued to fund district projects. In June of 2007, the qualified voter of the CID (the property owner) approved the imposition of a sales tax of up to 1 percent on all taxable transactions within the boundaries of the district for 20 years.
Expenditures	The Board did not review or approve cost certificates for project costs. The property owner/Board Chairman approved the reimbursement of cost certificates totaling approximately \$1.6 million to his own company. Such an arrangement represents a significant conflict of interest, and circumvents the Board's primary responsibility of providing oversight of district expenses. Additionally, the district violated state law by paying a board member's company for services performed without competitively procuring the services.
Financial Condition	The CID has been unable to meet its annual debt service requirements. CID sales tax revenues have been insufficient to cover interest payments on the debt and no payments have been made toward bond principal.
Reporting and Budgets	The CID Board failed to submit financial and performance reports to the city, the Department of Economic Development (DED), and the State Auditor's Office in accordance with state law. The board has repeatedly failed to submit the required annual performance report to the city and the DED as required by state law. The CID Board failed to submit its annual budgets for the years ended December 31, 2016, and December 31, 2017, to the city as required by state law.

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

*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.

North Oaks Plaza Shopping Center Community Improvement District Table of Contents

State Auditor's Report	2
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Introduction	
Background	3
Scope and Methodology	4

Management Advisory Report - State Auditor's Findings	
1. Expenditures	5
2. Financial Condition	6
3. Reporting and Budgets	7

Appendixes	
A Statement of Receipts, Disbursements, and Changes in Cash Balance	9
B Statement of Disbursement of Project Funds by Type	10



NICOLE GALLOWAY, CPA **Missouri State Auditor**

Gregory Sansone, Chairman
and
Board of Directors
North Oaks Plaza Shopping Center Community Improvement District
City of Northwoods, Missouri

We have audited certain operations of the North Oaks Plaza Shopping Center Community Improvement District as authorized under Section 67.1471.5, RSMo. The scope of our audit included, but was not necessarily limited to, the year ended December 31, 2016. 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.

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.

For the areas audited, we identified significant deficiencies in internal controls, noncompliance with legal provisions, and the need for improvement in management practices and procedures.

The accompanying Management Advisory Report presents our findings arising from our audit of the North Oaks Plaza Shopping Center Community Improvement District.

Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

Director of Audits:	Robert E. Showers, CPA, CGAP
Audit Managers:	Dennis Lockwood, CPA Wayne Kauffman, MBA, CPA
Audit Staff	Michelle Pummill Mariyam Raziyeva

North Oaks Plaza Shopping Center Community Improvement District

Introduction

Background

The North Oaks Plaza Shopping Center Community Improvement District (CID) is located in the City of Northwoods. The CID was organized in May 2007 by an ordinance passed by the Northwoods City Council. The CID is governed by a five member Board of Directors. Pursuant to the petition filed requesting the formation of the district, three of the five members are elected by the sole property owner and the two remaining members are appointed by the city.

The CID was formed for the purpose of maintaining the district including repair, maintenance, and upkeep of district improvements and property for the duration of the existence of the district. The CID was designated a blighted area by the city. The CID only includes one property owner who is the operator of the North Oaks Plaza Shopping Center. The CID has a fiscal year end of December 31. The CID has not received an independent audit of its financial statements.

Obligations

Bonds with a principal amount of \$1,565,000 were issued to fund district projects. The bonds are term bonds maturing on December 1, 2027, with an interest rate of 7 percent. Interest payments are due semi-annually.

Revenues

In June of 2007, the qualified voter of the CID (the property owner) approved the imposition of a sales tax of up to 1 percent on all taxable transactions within the boundaries of the district for 20 years. The Board of Directors subsequently passed a resolution that set the sales tax rate 1-cent (1 percent), effective October 1, 2007.

Businesses within the district include Aaron's, Citi Trends, McDonald's, and Save-A-Lot.

Governance

Board members serve 4 year terms and serve without compensation. Board members at December 31, 2016, were:

Name	Term Expires
Greg Sansone (1) (3)	May 21, 2015 (5)
Edna McGowen (2) (3)	May 21, 2015 (5)
John Kane (3)	May 21, 2015 (5)
Patricia Davis (4)	February 21, 2020
William Humphreys (4)	February 21, 2020

- (1) Chairman
- (2) Vice Chairman, Treasurer and Secretary
- (3) Representative of the property owner
- (4) Representative of the city
- (5) Serving pursuant to Section 67.1451.4, RSMo. until a successor is appointed



North Oaks Plaza Shopping Center Community Improvement District Introduction

Scope and Methodology

The scope of our audit included, but was not necessarily limited to, the year ended December 31, 2016.

We reviewed relevant laws, regulations and CID agreements; including state statutes,¹ the petition to form the CID, the ordinance forming the CID, the development agreement between the district and the property owner, and the bylaws of the CID. Our review of these statutes and agreements covered the legal responsibilities of the district and the CID Board. In addition, we reviewed the trust indenture for the bonds issued to fund the project to obtain an understanding of the terms of the obligations and the requirements imposed on the district. We also reviewed Board meeting minutes to obtain an understanding of actions taken by the Board and to determine the attendance and the oversight provided by both the property owner representatives and the city representatives.

We held discussions with a CID Board member, legal counsel representing the district, and certain city officials. The purpose of these conversations was to obtain an understanding of the district's operations and decisions made by the district's Board of Directors as well as obtaining evidence of compliance with certain legal requirements. We obtained and reviewed available invoices and canceled checks from the property owner to obtain assurance the costs reimbursed to the property owner were appropriate.

We obtained an understanding of the 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 also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed risk that illegal acts, including fraud, and violation of applicable contract or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instance of noncompliance significant to those provisions.

¹ Including Section 67.010, Sections 67.1401 through 67.1571, and Section 105.145, RSMo.

North Oaks Plaza Shopping Center Community Improvement District Management Advisory Report State Auditor's Findings

1. Expenditures

The North Oaks Plaza Community Improvement District (CID) Board did not review or approve the cost certificates prepared by the property owner, who also serves as the Board Chairman. Additionally, the district violated state law by paying a Board member's company for services performed without competitively procuring the services. The property owner/Board Chairman approved the reimbursement of cost certificates totaling approximately \$1.6 million to his own company for district project costs. While these cost certificates were paid as part of the project, such an arrangement represents a significant conflict of interest, and circumvents the Board's primary responsibility of providing oversight of district expenses. See Appendix B for a breakdown of the disbursement of project funds by type.

The Board granted the authority to approve the cost certificates, which are used to reimburse the property owner for project expenses, to either the Chairman, Vice Chairman, or the Board Secretary during the June 2, 2008, Board meeting. Neither of the city representatives on the Board were present. Therefore, this meeting only included the property owner and the representatives of the property owner. As a result, the cost certificates and supporting documentation were not provided to the full Board for review and approval. The Board Chairman/property owner approved all CID payments for project expenses.

During our review of the supporting documentation for the project expenses, we identified the following payments of project funds that benefited the property owner or a Board member without proper Board oversight:

- Payments totaling \$84,851 were made to a company owned by a Board member for parking lot repairs without soliciting bids, which violates Section 105.454.1, RSMo.
- The CID paid utility expenses (electric, water, gas, and wastewater) of the shopping center, totaling \$46,222. These expenses had formerly been the responsibility of the Board Chairman/property owner's company.
- The CID paid cleaning and janitorial expenses of the shopping center totaling \$36,210. These expenses had formerly been the responsibility of the Board Chairman/property owner's company.
- Payments totaling \$1,005 were made to the Board Chairman/property owner for reimbursing certain expenses related to a retaining wall and a meal for \$23.

Section 105.454, RSMo, prohibit financial transactions between the district and elected or appointed officials or employees that involve more than \$500



North Oaks Plaza Shopping Center Community Improvement District
Management Advisory Report - State Auditor's Findings

per transaction or \$5,000 per annum, unless there has been public notice to solicit proposals and competitive bidding, provided the bid or offer accepted is the lowest received. While the purpose of the remaining expenditures are allowable per state law, additional oversight by the full Board would provide better assurance of their propriety, particularly since these expenses represent a clear conflict of interest for the Board Chairman/property owner.

Recommendation

The CID Board refrain from entering into business transactions with related parties unless such services or transactions are properly bid in accordance with state law and the selection process is documented. Additionally, the CID Board should approve cost certificates for any future projects and obtain and review documentation of the project costs to ensure costs are proper, reasonable, and an allowable use of district funds.

Auditee's Response

The cost certificate reimbursement procedures were created by a trust indenture and approved by bond counsel, counsel for the bondholder, and counsel for the CID. The expenses outlined in Section 1 were all approved by both the bondholder and the bond trustee as proper expenditures for the benefit of the Shopping Center that is the subject of the CID. They were also approved by the Chairman of the Board in compliance with the procedures of this CID and the CID Act. These procedures were all approved by legal counsel for the CID as being proper under the CID Act.

We agree to have the Board approve all cost certificates and review all supporting documentation of expenditures in the future.

We agree to bid any transactions in the future where we are considering providing a contract to a member of the CID Board.

2. Financial Condition

The CID has been unable to meet its annual debt service requirements. CID sales tax revenues generated by the businesses in the district have not been sufficient to cover interest payments on the debt and no payments have been made toward the bond principal.

The CID issued \$1,565,000 in revenue bonds in 2008 to fund the district's projects. The bonds are term bonds maturing on December 1, 2027, bearing interest at 7 percent. Interest is payable semiannually on June 1 and December 1 of each year. Unpaid interest on these bonds is not capitalized and therefore does not add to the principal amount due. The CID has been unable to make the full interest payment on the bonds due to inadequate sales tax revenues. According to district personnel, from 2011 through 2016 the district paid interest of approximately \$468,000, but could not pay approximately \$179,000.

Before the bonds were issued, a revenue study was performed and projected the CID would have sufficient revenues annually to pay for the



North Oaks Plaza Shopping Center Community Improvement District
Management Advisory Report - State Auditor's Findings

administration of the district and meet the annual debt service requirements with additional remaining funds. Over the years, several tenants of the shopping plaza have closed. A significant number of the other businesses located in the district are service type businesses that do not collect or only collect small amounts of sales taxes. CID revenues have shown some recent improvement; however, revenues are still not sufficient to meet the annual interest requirements of the bonds. Legal counsel for the district indicated the district has attempted to attract new retail sales tenants, but have been unable to do so. It is likely the CID will not be able to fully meet future annual interest payments or make any principal payments on the bonds. Legal counsel also indicated the CID obligations to the bond holders, including any unpaid interest and principal, would cease at bond maturity.

Recommendation

The CID Board continue to monitor the financial condition of the district and work with the property owner and the City of Northwoods to improve CID revenues.

Auditee's Response

We agree and will continue to monitor the financial condition of the District and work with the property owner and the City of Northwoods to improve CID revenues.

3. Reporting and Budgets

The CID Board failed to submit financial and performance reports to the City of Northwoods, the Department of Economic Development (DED), and the State Auditor's Office (SAO) in accordance with state law. In addition, the Board did not include all required elements in annual district budgets and failed to submit annual budgets to the city in accordance with state law.

3.1 Reporting

The Board has repeatedly failed to submit the required annual performance report to the city and the DED as required by state law. In addition, the Board has repeatedly failed to submit the required annual financial report to the SAO as required by state law.

The Board had not submitted the required annual performance report to the city until the fiscal year 2016 annual report was submitted on May 1, 2017, which occurred after we questioned the district regarding reporting compliance. The Board also has not submitted that report to the DED since May 2010 when the fiscal year 2009 report was submitted. Similarly, the Board has not submitted the required financial report to the SAO since April 2009 when the fiscal year 2008 financial report was submitted. The legal counsel for the CID indicated the Board had prepared the annual financial reports for the SAO, but failed to submit them. Legal counsel did not provide a reason for the failure to submit the required reports to the city or the DED.

Section 67.1471.4, RSMo, requires the CID to submit its annual performance report to the municipal clerk and the DED within 120 days



North Oaks Plaza Shopping Center Community Improvement District
Management Advisory Report - State Auditor's Findings

after the end of the fiscal year. Section 105.145, RSMo, requires all political subdivisions, including CIDs, to file annual financial statements with the SAO.

3.2 Budgets

The CID Board failed to submit its annual budgets for the years ended December 31, 2016, and December 31, 2017, to the city as required by state law. In addition, the district's budgets for calendar years 2015, 2016, and 2017, did not contain all the elements required by state law. These budgets did not include a budget message and budget summary to describe a general overview, important features, and major changes of the budget.

Section 67.1471.2, RSMo, requires the CID to submit their proposed budget to the governing body of the city between 180 and 90 days prior to the first day of the fiscal year and Section 67.010.1, RSMo, requires the Board to present a budget with a complete financial plan to include a general budget summary and a budget message describing the important features of the budget and major changes from the preceding year.

Recommendations

The CID Board:

- 3.1 Ensure annual performance reports, and annual financial reports are filed with the appropriate entities within the time frames established by state law.
- 3.2 Ensure compliance with state law by submitting the budgets timely to the city and including a budget message describing the important features of the budget and major changes from the preceding year along with a general budget summary in the district's budgets.

Auditee's Response

We agree and will implement. There were no discretionary CID funds available to spend since the CID project was completed in 2010. However, we agree to implement the recommendations of the Auditor regarding reporting. In the past, reports were completed on an annual basis. A compliance calendar has been prepared and all reports will be filed with the correct entities in the future.

North Oaks Plaza Shopping Center Community Improvement District Statement of Receipts, Disbursements, and Changes in Cash Balance Year Ended December 31, 2016

RECEIPTS

Sales taxes	\$	109,609
Interest income		<u>2</u>
Total Receipts		<u>109,611</u>

DISBURSEMENTS

Debt service interest		100,556
Legal services		12,673
Trustee fees		<u>2,544</u>
Total Disbursements		<u>115,773</u>

RECEIPTS OVER (UNDER) DISBURSEMENTS

		(6,162)
Cash balance, beginning of year		<u>19,443</u>
Cash balance, end of year	\$	<u>13,281</u>

North Oaks Plaza Shopping Center Community Improvement District Statement of Disbursements of Project Funds by Type

Disbursement Type	Amount
Improvements	\$ 1,115,882
Services:	
Cleaning and maintenance	101,180
Security	106,155
Legal	90,971
Subtotal Services	298,306
Signage	62,233
Utilities	46,222
Debt service payment	20,595
Miscellaneous (1)	22,394
Total	\$ 1,565,632

(1) Miscellaneous disbursements include publications, revenue projections, mailing fees, and trustee fees.