

# STATE OF NORTH CAROLINA

**SPECIAL REVIEW**

**DEPARTMENT OF TRANSPORTATION  
DIVISION OF AVIATION**

**RALEIGH, NORTH CAROLINA**

**JULY 2001**

**OFFICE OF THE STATE AUDITOR**

**RALPH CAMPBELL, JR.**

**STATE AUDITOR**

**SPECIAL REVIEW**

**DEPARTMENT OF TRANSPORTATION  
DIVISION OF AVIATION**

**RALEIGH, NORTH CAROLINA**

**JULY 2001**





Ralph Campbell, Jr.  
State Auditor

STATE OF NORTH CAROLINA  
**Office of the State  
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**LETTER OF TRANSMITTAL**

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July 20, 2001

The Honorable Michael F. Easley, Governor  
Mr. Lyndo Tippett, Secretary  
Department of Transportation  
Members of the North Carolina General Assembly

Ladies and Gentlemen:

Pursuant to General Statute §147-64.6(c)(16), we have completed our special review into allegations concerning the Department of Transportation's Division of Aviation. The results of our review, along with recommendations for corrective actions, are contained in this report.

General Statute §147-64.6(c)(12) requires the State Auditor to provide the Governor, the Attorney General, and other appropriate officials with written notice of apparent instances of violations of penal statutes or apparent instances of malfeasance, misfeasance, or nonfeasance by an officer or employee. In accordance with that mandate, and our standard operating practice, we are providing copies of this special review to the Governor, the Attorney General and other appropriate officials.

Respectfully submitted,

A handwritten signature in cursive script that reads "Ralph Campbell, Jr.".

Ralph Campbell, Jr., CFE  
State Auditor



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## INTRODUCTION

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We received an allegation through the State Auditor's Hotline that the Department of Transportation's Division of Aviation awarded a grant to correct a construction error for which the Division was not responsible. We also received an allegation that a Division of Aviation Aeronautics Council Member's company received payment from a grant awarded by the Division of Aviation.

We used the following procedures to conduct our special review:

- ◆ Interviews with current and prior employees of the Department of Transportation.
- ◆ Interviews with individuals outside of the Department of Transportation.
- ◆ Examination of internal records of the Division of Aviation.
- ◆ Examination of the minutes of the Aeronautics Council and Grants Review Committee.
- ◆ Examinations of records external to the Division of Aviation.

This report presents the results of our Special Review. The review was conducted pursuant to G.S. §147-64.6(c)(16) rather than a financial audit. The Department of Transportation's annual audit is accomplished through the audit of the State Comprehensive Annual Financial Report.

The North Carolina Department of Transportation, Division of Aviation (Division) participates in the promotion and development of statewide airport and aviation safety programs. The Division oversees 74 public use airports. Fourteen of these airports provide regularly scheduled commercial service.



## **INTRODUCTION (CONTINUED)**

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The Division has five sections: Administrative, Aviation System Development, Aircraft Services, Aircraft Maintenance, and Aviation Safety and Education. Each section head reports directly to the Director of Aviation. The Division has a total of twenty-three employees.

The Division of Aviation administers the Federal Aviation Administration (FAA) Block Grant Program along with the State Aid to Airports Program. According to the Division of Aviation's contract guidelines, "State Aid to Airports, including the federal State Block Grant Program, is limited to airports which (1) are owned by a unit of local government, (2) are open to the general public without unfair discrimination, and (3) have signed a Grant Agreement with the Department of Transportation and are willing to abide by the terms of that agreement." State Aid to Airports is the basic airport aid program of the Department of Transportation. Under the terms of North Carolina General Statutes §63-65, "the Department of Transportation is hereby authorized to provide State aid in the forms of loans and grants to cities, counties, and public airport authorities for the purpose of planning, acquiring, constructing, or improving municipal, county, and other publicly owned or controlled airport facilities, and to authorize related programs of aviation safety, promotions, and long-range planning".

The Aeronautics Council (Council) is the state's aviation advisory body. The Council consists of 14 members serving four-year staggered terms, with a representative from each of North Carolina's 12 Congressional Districts and two at-large members. The Aeronautics Council

## **INTRODUCTION (CONTINUED)**

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provides recommendations to the Secretary of Transportation on aviation grants as well as other issues referred to them.

The Transportation Improvement Program (TIP) is the multi-year capital improvement program of the North Carolina Department of Transportation. The TIP is updated annually and typically covers a seven-year period. Due to the uncertainties of federal funding, the Aviation Element of the TIP has historically been approved for a five-year period.

According to the “State Aid to Airports Guidance Handbook” the grant process is as follows:

- 1) The Sponsor identifies the need for a project.
- 2) The Sponsor and the Project Manager assigned to the airport discuss potential scope, costs and timetable of project.
- 3) The Sponsor selects consulting engineer/planner to develop preliminary scope and cost estimates.
- 4) The Sponsor/consultant/NCDOT hold a TIP work session to review airport needs and proposed projects.
- 5) The Sponsor submits proposed projects as part of the annual TIP update process.
- 6) The NCDOT staff analyzes projects, assigns priority, and submits projects into the TIP formulation package. The Aeronautics Council reviews the TIP formulation package and based upon expected funds and staff input develops a draft TIP.
- 7) The draft TIP as recommended by the Aeronautics Council goes to the Secretary of Transportation detailing projects included in the TIP.
- 8) Upon passage of the state budget and the final TIP, the Sponsor receives an award letter from the Secretary of Transportation.
- 9) The Director of Aviation sends an aviation award letter. The grant agreement and package is sent to the Sponsor and signed.
- 10) The Project is started.

The grant process for the FAA Block Grant is similar; however, project eligibility requirements may differ from the State Aid to Airports Program.

Although not stated in the “State Aid to Airports Program Guidance Handbook”, in July 1999, the Division implemented a Grant Allocation Oversight Committee. According to the Director of the Aviation Division, the committee presents the staff’s funding recommendations to the Aeronautics Council as a part of the grant process.

For the 1999-2000 fiscal year, the Division received approximately \$12 million in the State Aid to Airports Program and \$8 million in the FAA Block Grant Program. Approximately \$20 million was awarded in grants and programs through the Division of Aviation.

## **FINDINGS AND RECOMMENDATIONS**

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**1. A GRANT AGREEMENT BETWEEN THE DIVISION AND THE TOWN OF OCEAN ISLE WAS VIOLATED AND UNAUTHORIZED SERVICES WERE PERFORMED. FURTHERMORE, THE DIVISION AWARDED A GRANT TO PAY FOR THE UNAUTHORIZED SERVICES.**

In January 1996, the Town of Ocean Isle was awarded a State Aid to Airports Grant in the amount of \$350,000, with 90% or \$315,000 provided by the State and 10% or \$35,000 provided by local matching funds. According to the Grant Agreement, the funds were to be used for “Land Acquisition to Clear Flight Approach” at the Ocean Isle Airport. However, not all the funds were used for land acquisition. The former Town Administrator said he thought the unexpended balance of \$85,789 could be used for paving the runway based on his conversations with an Aeronautics Council Member and the Division’s former Project Manager. However, all three parties recollection of the events associated with paving the runway differ. We are presenting the testimony of the parties involved as well as any documentation we located that supported or contradicted the testimony.

Former Town Administrator

According to the former Ocean Isle Town Administrator (former Town Administrator), the Town attempted to purchase four parcels of land from two property owners. The Town Administrator stated that originally both property owners agreed to the sale. The Town purchased two parcels from one of the property owners for \$177,900. However, the

former Town Administrator stated that the remaining property owner would not agree to

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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the Town's offer. Rather than proceed with condemnation, the former Town Administrator said the Town elected to remove the trees from the unpurchased property to clear the flight approach. Consequently, the remaining two parcels were not purchased.

The former Town Administrator stated that during negotiations, he requested a partial payment of \$283,000 from the Division of Aviation for the purchase of the land. On February 17, 1998, the Division awarded a partial payment in the amount of \$283,000 to the Town of Ocean Isle as requested. According to the former Town Administrator, the Town paid \$219,123 (\$197,211 in state funds and \$21,912 in local funds) for the purchase of the two parcels of land and the clearing of the trees. The unexpended portion of the grant, \$85,789 (\$283,000-\$197,211), remained in the possession of the Town and was not returned to the Division.

According to the former Town Administrator, the Division's former Project Manager assigned to the Ocean Isle Airport (former Project Manager), authorized the Town to use the unexpended grant funds for construction projects rather than land acquisition. The former Town Administrator said the former Project Manager provided him an estimate for the proposed construction projects. The estimate included the cost of \$146,000 for resurfacing and extending the airport's runway along with other construction projects. The former Town Administrator said a paving company owned by a member of the Aeronautics Council prepared the resurfacing estimate. He said the Council Member was aware the

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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grant funds were originally intended for land acquisition, but agreed the unexpended funds could be used for construction projects (refer to Exhibit 1).

Based on the approval of the former Project Manager, the former Town Administrator said no bids were received for any of the construction projects proposed. The former Town Administrator said that it is the Town's policy to bid all jobs regardless of cost; however, the policy was not followed in this case. The former Town Administrator said that although he received estimates for the construction projects, at no time did he request the paving company to commence work. Furthermore, the former Town Administrator said the Town never entered a contractual agreement with the paving company to perform any services. The former Town Administrator said that in May 2000, he was notified by the Town's Mayor that construction projects were underway at the Ocean Isle airport. He said he contacted the former Project Manager at that time and was assured the unexpended grant funds could be used to pay for the construction projects. He said that on May 31, 2000, the paving company submitted an invoice in the amount of \$137,500 for the resurfacing and extending the runway (refer to Exhibit 2).

The former Town Administrator said that in May 2000, he was notified by the Division's Manager of Airport Projects Development that no written modification requesting the approval of any construction projects had been received nor approved by the Division. The former Town Administrator said he explained that the former Project Manager verbally approved the modification. Shortly thereafter, the former Town Administrator said he

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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received correspondence from the Director of the Aviation Division (Director) requesting the unexpended grant funds be returned to the Division. He said that on November 20, 2000, \$85,789, the remaining portion of the unexpended grant funds was returned to the Division (refer to Exhibit 3). He said that at the time he left his employment in March 2001, the paving company had not been paid for resurfacing the runway.

### The Former Project Manager

The former Project Manager said he informed the former Town Administrator that the unexpended grant funds may be used on eligible construction projects. However, the former Project Manager said he clearly explained that the process for a grant modification must be in the form of a written request by the sponsor and approved in writing by the Division. The former Project Manager said he did not have the authority to approve a grant modification. He said that sometime in 1999, he told the former Town Administrator that unless a written modification was submitted to the Division, all unexpended grant funds must be returned. Neither the Town of Ocean Isle nor the Division were able to provide any correspondence from the former Project Manager requesting the unexpended grant funds be returned to the Division. However, we did locate a correspondence dated November 16, 1999, from the former Town Administrator requesting a modification to the original grant (refer to Exhibit 4). We were unable to locate any correspondence from the Division or any representative of the Division, approving the modification.



## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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The former Project Manager said he discussed the modification with his supervisor, the Manager of Airport Projects Development, and that he was aware the Town was submitting a written request to modify the original grant. The former Project Manager said the former Town Administrator obtained the estimates and at no time did he verbally authorize any construction projects. The former Project Manager said that he was not aware the resurfacing of the runway had taken place until after he was dismissed from the Division in June 2000.

### The Division Manager

According to the Division's Manager of Airport Projects Development, he was not aware the Town intended to use grant funds for construction projects. He said that on May 17, 2000, he received a phone call from the FAA stating that the Ocean Isle airport had not issued a flight advisory warning pilots of potential obstructions on the runway created by the resurfacing. He said at that time, he contacted the former Town Administrator and was told the former Project Manager authorized the modification to the original grant. He said he immediately scheduled a meeting with all parties concerned and verified that the grant awarded to Ocean Isle was for land acquisition only.

The Manager of Airport Projects Development stated the process for a scope modification to a grant is as follows: The Project Manager submits a written request prepared by the Sponsor and presents a formal recommendation to the Grants Review Committee. If in agreement, the Grants Review Committee presents the recommendation to the Director of

## FINDINGS AND RECOMMENDATIONS (CONTINUED)

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the Division, who ultimately approves the modification. If the modification includes any changes to the amount awarded, the modification must be presented before the Aeronautics Council. In this case, the Town did not request any additional funds. The Manager of Airport Projects Development, who is additionally a member of the Grants Review Committee, stated at no time was a scope modification presented to the Committee or recommended to the Director. Furthermore, the Manager of Airport Projects Development stated he was not aware that a paving company owned by a member of the Aeronautics Council performed the resurfacing.

### The Division Director

The Director of the Division stated he never approved any such modification. Therefore, he requested the unexpended grant funds be returned. After examining the Grants Review Committee's minutes during this time period, we were unable to locate any recommendations presented concerning the Ocean Isle airport.

### The Aeronautics Council Member

The Aeronautics Council Member (Council Member) who was a stockholder in the paving company, stated that the former Town Administrator, the former Project Manager, the Manager of Airport Projects Development, as well as the Director, were all aware his company was resurfacing the runway and approved the modification prior to the work commencing. He said the former Town Administrator contacted him requesting an estimate to resurface the runway. He said that at the March 2, 2000, Aeronautics Council

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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meeting, a proposal that permitted the Division to approve scope modifications without presentation to the Council was submitted specifically because of the situation at the Ocean Isle airport. The Council Member stated at that meeting, it was discussed that several airports had unexpended grant funds for various reasons and were proposing to use these funds for projects not included in the original grant agreement. As a result, the Council approved the Division's authority to authorize scope modifications only. He said he assumed at that time, his paving company was authorized to perform the services which he said had been requested by the former Town Administrator. He said the company completed resurfacing the runway in May 2000 and submitted an invoice to the Town in the amount of \$137,500. At the time we questioned the Council Member, his company had not received payment from the Town of Ocean Isle.

### DOT Auditors

At the Division's request, the Department of Transportation's External Auditors reviewed the events that transpired regarding the Ocean Isle Grant Agreement. Their report states, "In the absence of low bids, this office and the Division of Aviation concur with the recommendation by the NC Institute of Governments that only the contractor's actual costs for material, labor, equipment and home office overhead be eligible for reimbursement. Per the contractor's records, total job costs were \$104,039.73. None of the contractor's profit of \$33,460.27 is eligible for reimbursement" (refer to Exhibit 5).

### The Aeronautics Council

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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In the May 4, 2001, Aeronautics Council meeting, a proposed grant in the amount of \$190,656 to cover the cost incurred by the paving company as well as other construction projects that were completed at the Ocean Isle Airport was recommended to the Secretary of Transportation for approval. On May 11, 2001, the Director of the Division informed the Mayor of Ocean Isle that a grant in the amount of \$190, 656 would be awarded.

### Conclusion

Although we do not dispute that resurfacing the runway added value to the life of the airport, the Grant Agreement specifies that “work performed under this Agreement shall conform to the approved project description. Any amendments to, or modification of, the scope and terms of this Agreement shall be in the form of a Modified Agreement mutually executed by the Sponsor and the Department, except that an extension of time may be granted by the Department by written notice to the Sponsor.” Furthermore, the Grant Agreement states, “Bids will be taken in accordance with N.C.G.S. §143-129”, which states, “No Construction or repair work requiring the estimated expenditure of public money in the amount equal to or more than \$100,000 shall be performed, nor shall any contract be awarded therefore, by any board or governing body of the State, or of any institution of the State government, or of any county, city, town, or other subdivision of the State, unless the provisions of this section are complied with.”

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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In this instance, the failure to obtain competitive bids by the Town of Ocean Isle violated both the Grant Agreement, as well as NCGS §143-129. In addition, the Division awarded a grant to pay for the unauthorized services.

### **RECOMMENDATION**

We recommend the Division consult the Attorney General's Office to determine the potential legal liabilities of the former Project Manager's alleged verbal authorization, as well as the violation of both NCGS §143-129 and the Grant Agreement by the Town of Ocean Isle, prior to disbursing grant funds.

**2. A COMPANY OWNED BY A MEMBER OF THE AERONAUTICS COUNCIL WAS PAID FROM A GRANT AWARDED BY THE DIVISION CREATING THE APPEARANCE OF A CONFLICT OF INTEREST.**

According to NCGS §143B-356, the role of the Aeronautics Council is "to advise the Secretary of Transportation in the issuance of loans and grants to the cities, counties, and public airport authorities of North Carolina . . ." The Director of the Board of Ethics stated that the Aeronautics Council is deemed an advisory board; therefore, the members do not have to comply with the Board of Ethic's regulations. Consequently, the Board has no authority to require compliance disclosures from the Aeronautics Council Members, compared to other Public Officials.

The rules of conduct for Public Officials states, "Public Officials should avoid even the appearance of a conflict of interest" and a "conflict of interest" exists when "A Public

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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Official shall knowingly use his or her position in any manner which will result in financial benefit, direct or indirect, to the Public Official, the Official's family, or an individual with who or business, organization, or group with which the Public Official is associated. . ." In addition, ". . . an appearance of conflict exists when a reasonable person would conclude from the circumstances that the Public Officials' ability to protect the public interest, or perform public duties, is compromised by familial, personal or financial interests..."

As stated in Finding 1, a member of the Aeronautics Council is additionally a stockholder of the paving company that resurfaced the airport runway for the Town of Ocean Isle. The Council Member was aware the paving company would be paid with grant funds that were recommended by the Council.

The Council Member stated he was appointed to the Council in 1996, and during his tenure, his paving company has performed services two additional times at various airports. The Council Member did not dispute the "perception of a conflict of interest", however, he stated the Aeronautics Council was an advisory board and members were not required to comply with the Board of Ethics rules of conduct. When questioned, the Council Member stated he was not clear on the role of the Aeronautics Council.

According to the Director, 100% of the Aeronautics Council's recommendations are approved for funding by the Secretary of Transportation. Consequently, the Aeronautics Council is perceived to have influence and decision-making authority rather than an advisory body only.

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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Therefore, at the very least, the appearance of a conflict of interest existed when the Council Member's company performed services at the Ocean Isle airport, as well as the additional services provided by his company at other airports. Based on the Council being classified as an Advisory Council, members did not have to comply with the Board of Ethics rules of conduct. However, it appears the Council did more than advise.

According to the Director, the Aeronautics Council recently voted to conduct themselves as a "non-advisory" board, therefore, requiring the members to conduct themselves in accordance with the Board of Ethics rules of conduct.

### **RECOMMENDATION**

We recommend that the Department of Transportation clearly define the role of the Aeronautics Council. We additionally recommend that members of the Council comply with the Board of Ethics rules of conduct. Members with business affiliations should refrain from contracting with any government body that has received grant funds awarded through the Division of Aviation.

### **3. THE DIVISION FAILED TO REQUEST THE RETURN OF UNEXPENDED GRANT FUNDS IN A TIMELY MANNER.**

According to the Airport Projects Development Manager, he was not aware of any problems with the grant awarded to the Town of Ocean Isle. He stated it was the responsibility of the former Project Manager to alert him of any problems that arose.

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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However, from January 1996 to May 2000, we were provided only one correspondence from the former Project Manager addressing the failure to purchase the land. We could not locate any correspondence from other Division employees questioning why the land purchased had not been completed. Rather, each year the Division awarded an extension, although no progress was made in the completion of the land purchase.

As stated in Finding 1, on February 17, 1998, the Division disbursed a partial payment in the amount of \$283,000 to the Town of Ocean Isle. On November 16, 1999, it was duly noted in the Ocean Isle file maintained at the Division, that the land purchase was unsuccessful (refer to Exhibit 4). It was not until September 28, 2000, almost a year later, that the Director requested the return of the unexpended grant funds.

Quarterly progress reports completed by the former Town Administrator indicated the failure to purchase the land. Therefore, we question why the Division did not request the return of the unexpended grant funds after negotiations failed.

### **RECOMMENDATION**

We recommend the Manager of Airport Projects Development conduct periodic status meetings with all Project Managers; in order to stay informed with the progress of each grant awarded. Further, we recommend the Division play a more active role in monitoring the completion of grants.



## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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**4. THE DIVISION AWARDED A \$430,000 GRANT TO CORRECT A CONSTRUCTION DEFECT PRIOR TO DETERMINING WHO WAS RESPONSIBLE.**

On July 16, 1998, the Sanford Lee County Airport was awarded a grant in the amount of \$4,380,000 [\$3,504,000 (80%) in federal funds, \$700,800 (16%) in state funds and \$175,200(4%) in local funds] to construct a new airport. The airport was responsible for hiring a consultant for engineering and planning services as well as any additional engineers and contractors deemed necessary to complete the airport. In September of 1998, construction began on the airport.

In the fall of 1999, water began appearing on the airport runway. An engineering firm performed tests that determined the runway had permeability problems or water seepage. The engineering firm submitted their results in a report dated November 8, 1999. Their review stated that “the source of water surfacing at random locations along the joints and within the asphalt mat is most likely a result of surface water runoff infiltrating into the pavement section. On dry days the water expands from the heat radiating into the asphalt pavement causing the trapped water to flow to the surface.” Additionally, the report stated the problem of large air voids was “caused by a combination of a coarse gradation of the asphalt mixture and an unsealed surface during the placement of the asphalt pavement. The coarseness evident in the core samples was most likely caused by segregation during hauling and/or placement of the asphalt.”

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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The Division of Aviation and DOT began their own tests in March 2000. These studies concluded that the best course of action was to apply a slurry seal to the top of the pavement during the dry summer months. However, responsibility for the permeability problems was not determined.

In a letter dated June 15, 2000 to the Director, the Manager of Airport Projects Development stated that the additional cost of correcting the permeability problems would

## **FINDINGS AND RECOMMENDATIONS (CONCLUDED)**

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be \$430,000. The letter also stated that the Chairman of the Aeronautics Council said the “common sense thing to do was to get the airport open”.

In another letter dated June 19, 2000, the Director informed the Deputy Secretary of Transportation that once the permeability problem was corrected, the airport would open to the general aviation public. The letter also stated that “possible cost recovery from the Consultant and other responsible parties will be diligently pursued once the problem is corrected.” The Deputy Secretary approved correcting the permeability problem. Sanford Lee County Airport applied for an additional grant in the amount of \$430,000 [\$344,000(80%) in federal funds, \$68,800(16%) in state funds, and \$17,200(4%) in local funds] on June 27, 2000 to correct the pavement and the original grant was modified to include the additional work. The pavement seal coat was applied near the end of July 2000. The airport opened to the general aviation public in the fall of 2000.

We spoke to the Special Deputy Attorney General for the Department of Transportation who stated his office is not active in any way with assisting the Division of Aviation in determining liability for the pavement problems. The Special Deputy Attorney General said the Director alerted him of the situation, but has not requested assistance.

### **RECOMMENDATION**

We recommend in the future, the Division obtain legal counsel prior to disbursing grant funds to correct construction defects when another party may be at fault.

## *Statement of Questioned Costs*

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The following schedule represents a quantification of the items examined during our special review. We are noting the areas where the system of internal controls has been either circumvented or should be enhanced, or where, in our judgement, questionable activities or practices occurred.

1. The Division awarded a grant to pay for unauthorized services.	\$190,656
2. The Division awarded a grant to correct a construction defect prior to determining who was responsible.	<u>430,000</u>
Total Questioned Costs	<u>\$620,656</u>

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OCEAN ISLE  
BEACH

January 14, 2000

Mr. Mark Esposito  
North Carolina Department of Transportation  
Division of Aviation  
P.O. Box 25201  
Raleigh, N.C. 27611

Re: Project #9-9923960

Dear Mark:

Thank you for meeting with Daisy Ivey and me to discuss the current status of our existing grant and the upcoming TIP request from the Town of Ocean Isle Beach. As we discussed, Mr. W.J. McLamb has provided the following cost projections for the needed improvements at our facility:

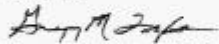
Engineering \$3000.00, Clearing Trees and Limbs \$18,000.00, Excavate Drainage Swales \$9700.00, Resurface Runway \$126,000.00, Replace Lights and Electronics \$55,000 and Runway Painting \$7,800.00

Through conversation with both yourself and Mr. McLamb, it is our understanding that your office is in agreement to go forward with these improvements, which will be funded with the remaining grant funds of approximately \$210,000. These funds are remaining due to many unsuccessful attempts with Mr. John Sheffield to purchase his property in the clear zone of our runway. The Town of Ocean Isle Beach was successful in negotiations with Mr. Odell Williamson for his property located at the west end of the existing runway and a small tract located adjacent to the runway on the west side of Four-Mile Road.

I have also discussed this matter with our Board of Commissioners and they are in complete agreement with the projected work and wish to express their sincere appreciation with you and your office for your willingness to assist the Town in our efforts.

I will also enclose a copy of the draft sheet that I faxed you with the check marks that we discussed by telephone. Thanks again for your assistance in this matter and we look forward to working with you on this project and our TIP request. If you need further assistance, please do not hesitate to call our office.

Sincerely,



Gregrey M. Taylor, Administrator  
Town of Ocean Isle Beach

enc.

**OCEAN ISLE BEACH AIRPORT 60J**  
**Projected Cost Estimate for Improvements**

1.	Engineering	3,000.00
2.	Clearing Trees – Runway 24 Approach	5,000.00
ok →	3. Clearing Trees – Runway 6 Approach	10,000.00
4.	Trimming Tree Limbs Beside Taxiway	3,000.00
5.	Excavate Drainage Swells	
	a. Install 40' of 18" Pipe	9,700.00
6.	Resurface Runway – 4000 ft. X 75 ft.	126,000.00
Apply to top	7. Extend Runway 6 Approach – 200 ft. X 75 ft.	20,000.00
	8. Extend Runway 24 Approach – 400 ft. X 75 ft.	103,000.00
	a. Install 80 ft. of 24" C.M. Pipe	
	b. Fill Dirt – 12,000 CY	
need new proposal w/ drawing & specs.	9. Runway Lights with Electrical Control and Lighted Wind Sock	55,000.00
10.	Paint Line and Numbers	7,800.00

Page 4

MAC CONSTRUCTION COMPANY  
P O BOX 777  
SHALLOTTE, NC 28459

Invoice Date  
5-31-2000

Customer ID  
OCEISL

Invoice ID  
1300

To:  
TOWN OF OCEAN ISLE BEACH  
ATTN: GREGREY M. TAYLOR, ADM.  
THREE WEST THIRD STREET  
OCEAN ISLE BCH, NC 28469

	Description	Quantity	Unit	Unit Price	Amount
	RE: OCEAN ISLE BEACH AIRPORT				
1.	GRADING AND PIPE				9,500.00
2.	PAVING RUNWAY				118,000.00
3.	EXTEND RUNWAY				10,000.00

Amount Billed	\$137,500.00
Total Tax	
Retainage Held	
<b>AMOUNT DUE:</b>	<b>\$137,500.00</b>



**OCEAN ISLE  
BEACH**

November 20, 2000

Mr. Richard Barks  
Manager, Airport Development  
Department of Aviation  
1560 Mail Service Center  
Raleigh, North Carolina 27699-1560

RE: Town of Ocean Isle Beach Airport  
Clear Zone Acquisition Project #9.9923960

Dear Mr. Barks:

Enclosed please find a check in the amount of \$85,788.63 which represents total funds not expended under the original scope of the above referenced clear zone acquisition project. This reimbursement is in accordance with your letter dated September 28, 2000 and as per the verbal agreement between Mr. Bill Williams and Mayor Betty Williamson on this same date.

Also enclosed, please find a detailed listing of all revenues and expenditures pertaining to this project and the necessary AC-8 and AC-9 Project Completion forms. Please note that although the original grant amount due to the Town was \$315,000, our records indicate that only \$283,000 of this amount was advanced to the Town.

We appreciate your cooperation and assistance in this matter and look forward to working with you on our many upcoming projects.

Sincerely,

TOWN OF OCEAN ISLE BEACH

  
Gregrey M. Taylor  
Town Administrator

GMT:di

enc.

OCEAN ISLE  
BEACH

November 16, 1999

Mr. Mark Esposito, P.E.  
North Carolina Department of Transportation  
Division of Aviation  
Post Office Box 25201  
Raleigh, North Carolina 27611

RE: Ocean Isle Beach Airport  
Grant Funds – Clear Zone Acquisition

Dear Mr. Esposito:

Thank you for taking time to meet with us recently in regards to an inspection of our airport facilities. As you are aware, the Town was unsuccessful in acquiring a portion of the Sheffield property located in the clear zone area on the West Side of the airport runway.

Therefore, we would like to request that the Division of Aviation allow the Town to use the unexpended portion of this grant to fund much needed improvements to our existing airport. Attached please find a projected cost estimate for these improvement projects.

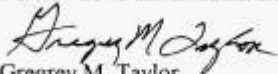
As you can see from your inspection, many of these projects are necessary from a safety standpoint. We have also received several complaints from pilots requesting these areas be addressed.

Ocean Isle Beach Airport (Cont.)  
Page 2.

We would appreciate any assistance that you could offer in regards to this matter. If you have any questions or need additional information, please feel free to contact our office at your earliest convenience.

Sincerely,

TOWN OF OCEAN ISLE BEACH

  
Gregrey M. Taylor  
Town Administrator

GMT:di

enc.

cc: Mr. W.J. McLamb



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY  
GOVERNOR

LYNDO W. TIPPETT  
SECRETARY

April 18, 2001

Mr. David King  
Deputy Secretary for Transportation  
1501 Mail Service Center  
Raleigh NC 27699-1501

Dear Mr. King:

Per your request the External Audit Branch has reviewed the charges to the Town of Ocean Isle Beach for work done at its airport which was beyond the scope of the 1996 grant agreement for land acquisition for clear zone.

**1. Background**

The original grant, 9.9923960 dated January 19, 1996, for land acquisition for clear zone was estimated to be \$350,000 (\$35,000 local). The Town was unable to acquire some of the properties and therefore only incurred costs of \$219,123.75. The Town was under the impression that it could expand the original scope of grant 9.9923960 for additional runway improvements and expend the remaining funds. However, it could not do so in the absence of an approved grant application and an executed grant agreement between the Town and the Department.

As of this date the Department has not participated in any of the additional costs for runway improvements.

MAILING ADDRESS:  
NC DEPARTMENT OF TRANSPORTATION  
EXTERNAL AUDIT BRANCH  
1514 MAIL SERVICE CENTER  
RALEIGH, NC 27699-1515

CONTACT BY:  
TELEPHONE: 919-753-3624 x5113  
FAX: 919-715-5888  
bdillard@dot.state.nc.us

LOCATION:  
TRANSPORTATION BUILDING  
1 SOUTH WILMINGTON STREET  
RALEIGH NC

## 2. Scope

The additional runway work consisted of four items and the following contractors billed the Town the amounts indicated:

1. Lighting	Coastal Carolina Electric, Inc.	\$ 74,612.87
2. Markings	Speidel Construction	\$ 7,517.20
3. Grading/seeding	McArthur Construction Company	\$ 25,670.00
4. Resurfacing	Mac Construction Company	\$ <u>137,500.00</u>
		\$ 245,300.07

This office reviewed the procurements for these services, contractor invoices, and payments by the Town. Where appropriate or necessary, a review was made to determine the reasonableness of the amount invoiced or the contractor's actual cost.

## 3. Results

### Items 1, 2, and 3 - Lighting, Markings and Grading/Seeding

The Town procured these items of work via informal quotes as required by NC General Statute (NCGS) 143-131. Contractor invoices document all charges and all contractors have been paid in full except for the final invoice from the lighting contractor in the amount of \$ 13,554.25. The Town has been requested to send the Department a copy of its check when the balance is paid.

### Item 4 - Resurfacing

This construction work was not procured via formal low bids in accordance with NCGS 143-129 for construction in excess of \$100,000.00. Also there was not a written agreement between the Town and the contractor, Mac Construction Company.

In the absence of low bids, this office and the Division of Aviation concur with the recommendation by the NC Institute of Governments that only the contractor's actual costs for material, labor, equipment and home office overhead be eligible for reimbursement. Per the contractor's records, total job costs were \$104,039.73. None of the contractor's profit of \$ 33,460.27 is eligible for reimbursement.

As of this date the Town has not made any payments to Mac Construction Company for the runway resurfacing and extension. Verification of payment will be requested if the Department approves a grant application for this work.

**4. Conclusion**

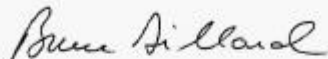
Under an approved project grant the eligible costs for the additional runway improvements at the Town of Ocean Isle Beach Airport are as follows:

1. Lighting	Coastal Carolina Electric, Inc.	\$ 74,612.87 - no adjustment
2. Markings	Speidel Construction	\$ 7,517.20 - no adjustment
3. Grading/seeding	McArthur Construction Company	\$ 25,670.00 - no adjustment
4. Resurfacing	Mac Construction Company	\$ <u>104,039.73</u> - adjusted
		\$ 211,839.80

**5. Recommendations**

- A. That in all regional and statewide workshops with airports, the Division of Aviation promote and stress to them the importance of 1.) adhering to established guidelines for application of funds for airport assistance and 2.) adhering to NC General Statutes regarding procurement of equipment and construction.
- B. That the Division of Aviation ensure that all its airport project managers, engineers and planners have a thorough working knowledge of the Division's grant application procedures and NC General Statutes governing procurements by local governments and airport authorities.

Please advise if you need additional information regarding the review by the External Audit Branch.



Bruce Dillard, CPA  
External Audit Branch

c: Bill Williams  
Wayne Stallings

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*Response from Department of Transportation*



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY  
GOVERNOR

1501 MAIL SERVICE CENTER, RALEIGH, N.C. 27699-1501

LYNDO TIPPETT  
SECRETARY

July 13, 2001

The Honorable Ralph Campbell, Jr.  
State Auditor  
Old Revenue Building  
20601 Mail Service Center  
Raleigh, North Carolina 27699-0601

Dear Auditor Campbell:

Thank you for the opportunity to review and comment on the draft special review of the Division of Aviation. We appreciate the professional, courteous and straightforward approach taken by your staff in conducting this review.

Our response to the report restates each recommendation and then provides our reply to that recommendation.

1. Recommendation: We recommend that the Division consult the Attorney General's office to determine the potential legal liabilities of the former Project Manager's alleged verbal authorization, as well as the violation of both NCGS §143-129 and Grant Agreement by the Town of Ocean Isle, prior to disbursing grant funds.

Answer: We agree. The Division has involved the Attorney General's office extensively in matters pertaining to the Town of Ocean Isle and the former staff member's involvement.

2. Recommendation: We recommend that the Department of Transportation clearly define the role of the Aeronautics Council. We additionally recommend that the members of Council comply with the Board of Ethics rules of conduct. Members with business affiliations should refrain from contracting with any government body that has received grant funds awarded through the Division of Aviation.

Answer: We concur with your recommendation. At the February 28, 2001 meeting, the Aeronautics Council was briefed by Perry Newson, Executive Director of the North Carolina Board of Ethics, regarding the responsibilities of the council members. The Aeronautics Council voted unanimously that its members will conduct



## *Response from Department of Transportation*

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The Honorable Ralph Campbell, Jr.  
July 13, 2001  
Page Two

themselves in accordance with Governor Easley's executive order on ethical behavior. New council members will be briefed on their responsibilities. At the outset of each council meeting, the council will be reminded of their obligations as council members to conduct themselves in a manner which precludes conflicts of interest or the appearance of conflict.

3. Recommendation: We recommend the Manager of Airport Development conduct periodic status meetings with all Project Managers in order to stay informed with the progress of each grant awarded. Further, we recommend the Division play a more active role in monitoring the completion of grants.

Answer: We agree with your recommendation. Regular meetings and briefings are now being held to examine project status and potential problems. In addition, the Manager of Development is required to make quarterly reports on the status of all projects.

4. Recommendation: We recommend in the future, the Division obtain legal counsel prior to disbursing grant funds to correct construction defects when another party may be at fault.

Answer: We concur with your recommendation. We are in consultation with the Attorney General's office in order to determine the most appropriate and equitable means for recovery of part of the funds used to correct the deficiency at the Sanford - Lee County Airport.

Please let me know if you require additional information.

Sincerely,



Lyndo Tippet

LT/dw

cc: Gene Conti, Chief Deputy Secretary  
David King, Deputy Secretary

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In accordance with G.S. §147-64.5 and G.S. §147-64.6(c)(14), copies of this report have been distributed to the public officials listed below. Additional copies are provided to other legislators, state officials, the press, and the general public upon request.

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Mr. David T. McCoy	State Budget Officer
Mr. Robert L. Powell	State Controller
Mr. Lyndo Tippett	Secretary, Department of Transportation

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Majority Leader of the N.C. Senate  
Minority Leader of the N.C. Senate  
Minority Leader of the N.C. House of Representatives  
N. C. House Speaker Pro-Tem  
Director, Fiscal Research Division

July 20, 2001

## ORDERING INFORMATION

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Copies of this report may be obtained by contacting the:

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State of North Carolina  
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