



John A. Carey  
Inspector General

OFFICE OF INSPECTOR GENERAL  
PALM BEACH COUNTY



Inspector General  
Accredited

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*“Enhancing Public Trust in Government”*

**Audit Report**

**2024-A-0004**

**Town of Loxahatchee Groves -  
Expenditure of Gas Tax  
Revenue**

**July 1, 2024**

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Insight – Oversight – Foresight



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## AUDIT REPORT 2024-A-0004

DATE ISSUED: July 1, 2024



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## TOWN OF LOXAHATCHEE GROVES - EXPENDITURE OF GAS TAX REVENUE

### SUMMARY

#### WHAT WE DID

We conducted an audit of the Town of Loxahatchee Groves' (Town) expenditure of gas tax revenue. This audit was initiated because the Town did not respond to an Office of Inspector General, Palm Beach County (OIG) request for information regarding a complaint. While the audit was in process, we received a separate, related complaint. We performed an audit of the Town's expenditure of gas tax revenue as part of our Fiscal Year (FY) 2022 Annual Audit Plan.

We reviewed the allegations as follows:

**Allegation (1):** The Town misused the 5-cent local option fuel tax funds for maintenance of existing roads, in violation of Section 336.025, Florida Statutes.

**Allegation (2):** The Town purchased \$133,000.00 worth of rocks that were distributed on E Road and side roads prior to Council approval in violation of the Town's Procurement Code.

Our audit focused on (1) addressing the complainants' allegations and determining whether (2) internal controls were adequate related to the expenditure of gas tax revenues and (3) expenditures of gas tax revenues were in compliance with requirements, allocated to appropriate

activities, properly documented, and properly reviewed and approved.

The scope of the audit included gas tax revenue activities and related expenditures from October 1, 2018 through September 30, 2021.

#### WHAT WE FOUND

We found that the Town had generally adequate controls over the disbursement of the gas tax revenue funds. However, we found the Town had weaknesses with respect to compliance with its Code of Ordinances and Purchasing Policy & Procedures Manual; lacked sufficient, separate accountability for gas tax revenue sources; and lacked sufficient information technology (IT) controls.

Regarding the complainant's concerns, we found:

**Allegation (1) is not supported:** We reviewed the supporting documentation for a sample of 16 expenditure transactions totaling \$791,342.43 that were recorded in the Town's Capital Improvement Fund 305. We found that all 16 transactions were qualified uses of the 5-cent gas tax revenue in compliance with Section 336.025(1)(b), F.S. Although, we could not conclusively determine whether the transactions were funded by the 5-cent

gas tax revenue or another revenue source (refer to Finding #5 for additional details), the total amount of expenditures that we confirmed were qualified uses of the 5-cent gas tax revenue exceeded both the amounts of the 5-cent gas tax revenue that the Town received during the period of our audit of \$361,713.92 and the gas tax revenue transferred into the Capital Improvement Fund 305 of \$410,000.00.

**We found that the Town did not misuse the gas tax funds in violation of Section 336.025, F.S.**

**Allegation (2) is supported:** We compiled Town expenditures from January 1, 2019 through March 31, 2020, from vendor Palm Beach Aggregates, LLC, the Town's rock supplier, and identified four (4) purchases of rock for E Road between January 1, 2019 and March 31, 2020, totaling \$157,510.91. We found the Town lacked sufficient documentation to support that three (3) of the purchases totaling \$90,080.36 were approved by the Town Council or were purchased under an on-going contract, as required by the Town's Procurement Code.

Prior to these purchases, the Town Council approved a motion for administration to move forward with a pre-negotiated contract with the Palm Beach Aggregates, LLC; however, that contract was not included in the meeting agenda nor provided the OIG. As a result, we could not determine if the purchases totaling **\$90,080.36<sup>1</sup>** were applicable to an on-going contract and are considered a

questioned cost for lack of sufficient documentation.

**The Town maintains that the Town Council's motion included all purchases for the rest of the year.**

**The motion approved by the Council did not stipulate a number or approval amount for future purchases.**

**The Town's check signing process outlined in Resolution 2018-09 did not align with its Ordinance governing the payment of money**

We found six (6) checks totaling \$878,380.91 were not counter-signed by the Town Manager, as required by the Ordinance. The Town followed its Resolution which required the signature of two (2) council members. However, the Resolution conflicted with the Ordinance because the Ordinance requires the signature of the mayor, vice-mayor, director of financial management or the town controller, and counter signature of the manager. This resulted in questioned costs totaling **\$878,380.91** for noncompliance with the Ordinance.

**The Town did not always comply with its Purchasing Policy & Procedures Manual**

We reviewed a sample of 81 potential gas tax expenditure transactions, totaling \$1,270,286.95. We found 15 expenditures

<sup>1</sup> Questioned costs can include costs or financial obligations incurred pursuant to: a potential violation of a provision of a law, regulation, contract, grant, cooperative agreement, other agreement, policies and procedures, or document governing the expenditure of funds; a finding that, at the time of the OIG activity, such cost or financial obligation is not supported by adequate documentation; or, a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable. As such, not all questioned costs are indicative of potential fraud or waste.

totaling \$45,772.88<sup>2</sup> lacked a purchase order, and are considered questioned costs for noncompliance with the Purchasing Policy & Procedures Manual.

**The Town did not sufficiently provide for separate accountability of gas tax revenues by source**

We could not conclusively determine whether the expenditures we tested in the Capital Improvement Fund 305 and Roads and Drainage Fund 105 were funded by the gas tax revenues or another revenue source because the Town did not identify a revenue source. Gas tax revenues are only one source of funding for the Capital Improvement Fund 305 and Roads and Drainage Fund 105, in addition to contributions from the General Fund 001 and non-ad valorem assessments.

**The Town lacked sufficient controls over the vendor master file**

We found that four (4) employees with administrative rights had access to modify vendor information in the vendor Masterfile, and that no one was assigned to review changes to the vendor master file after additions and updates.

**The Town did not sufficiently restrict user access and lacked written policies**

**and procedures for information technology processes**

We found that the Town has processes with controls in place to ensure the reliability and integrity of information within the financial system; however, user access was not adequately restricted and there were no written policies and procedures for IT processes.

During the audit the Town restricted user access and implemented an Information Technology Policy.

**WHAT WE RECOMMEND**

Our report contains seven (7) findings and fourteen (14) recommendations. Implementation of the recommendations will assist the Town in strengthening internal controls and help ensure compliance with Town and statutory requirements.

The Town concurred with three of the findings, partially concurred with two of the findings, and disagreed with two of the findings. The Town accepted our recommendations.

We have included the Town’s management response as Attachment 1.

SUMMARY OF POTENTIAL FINANCIAL AND OTHER BENEFITS IDENTIFIED IN THE AUDIT		
Finding	Description	Questioned Costs
2	Lack of sufficient purchase approval documentation (Allegation #2)	\$90,080.36
3	Noncompliance with Ordinance – Check signing process	\$878,380.91
4	Noncompliance with Purchasing Policy Manual - Lack of purchase order	\$45,772.88
	<b>TOTAL QUESTIONED COSTS</b>	<b>\$1,014,243.15</b>

<sup>2</sup> To avoid duplication, this amount excludes a questioned cost of \$6,137.50 that was reported in Finding #3 for check signing not in compliance with Ordinance.

**BACKGROUND**

The Town of Loxahatchee Groves was incorporated in 2006. The Charter was approved by referendum on October 10, 2006. The Town is a rural-residential-agricultural community with a very limited commercial district primarily along SR-80 (Southern Boulevard) and encompasses 12.5 square miles. The Town of Loxahatchee Groves had a total estimated population of 3,426 in 2020.

The Town operates under a Council-Manager form of government. The Town Council is comprised of five members who are elected to three-year terms and vested with all legislative powers of the Town. The Town Council appoints annually one of its members as Mayor and Vice-Mayor. The Mayor is head of the Town government for all service of process, and execution of ordinances, contracts, deeds, bonds and other instruments.

The Town Manager serves as the Chief Administrative Officer of the Town and is responsible for carrying out the policies and ordinances of the Town Council, for overseeing day-to-day operations of the government, and for appointing the heads of departments.

**Gas Tax Revenues and Related Expenditures****Six Cent Local Option Gas Tax**

Section 336.025(1)(a), F.S., allows counties to levy a local option gas tax at a rate of one cent through six cents upon every gallon of motor fuel and diesel fuel sold in the county and taxed under the provisions of part I or part II of chapter 206, F.S.

Palm Beach County (County) originally levied this tax through Ordinance 83-14 at the rate of two cents. Ordinance 85-19 increased the rate to four cents; Ordinance 86-23 increased the rate to six cents effective August 1995; and Ordinance 95-23 extended the effective period through August 2025.

The County shares one-third of this tax among municipalities based on interlocal agreements. The County and the Town entered into an interlocal agreement on November 21, 2017 whereby the County agrees to distribute a portion of the gas tax proceeds to the Town based on a local distribution formula.

Section 336.025(1)(a)(2), F.S., restricts the use of the proceeds of the six cent local option gas tax to "transportation expenditures." "Transportation expenditures" are defined as expenditures by the local government from local or shared revenue sources, excluding the expenditures of bond proceeds, for the following programs:

- (a) Public Transportation operations and maintenance.



- (b) Roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment.
- (c) Roadway and right-of-way drainage.
- (d) Street lighting installation, operation, maintenance, and repair.
- (e) Traffic signs, traffic engineering, signalization, and pavement markings, installation, operation, maintenance, and repair
- (f) Bridge maintenance and operation.
- (g) Debt service and current expenditures for transportation of capital projects in the foregoing program areas, including construction or reconstruction of roads and sidewalks.

#### Five Cent Local Option Gas Tax

Section 336.025(1)(b), Florida Statutes (F.S.), allows counties to levy a local option gas tax at a rate of one cent through five cents upon every gallon of motor fuel sold in the county and taxed under the provisions of part I of chapter 206, F.S.

The County levied this tax by Ordinance 93-19 which was adopted by a majority plus one vote of the members of the Board of County Commissioners. The tax was effective January 1, 1994 at the rate of five cents.

The County shares 21% of this tax locally among municipalities based on interlocal agreements. The County and the Town entered into an interlocal agreement on November 21, 2017 whereby the County agrees to distribute a portion of the gas tax proceeds to the Town based on a local distribution formula.

Section 336.025(1)(b)(3), F.S., restricts the use of the proceeds of the five cent local option gas tax to transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan or for expenditures needed to meet immediate local transportation problems and for other transportation-related expenditures that are critical for building comprehensive roadway networks by local governments. Expenditures for the construction of new roads, the reconstruction or resurfacing of existing paved roads, or the paving of existing graded roads shall be deemed to increase capacity and such projects shall be included in the capital improvements element of an adopted comprehensive plan. Expenditures for purposes of this paragraph shall not include routine maintenance of roads.

This audit was added to the FY 2022 Annual Audit Plan because the Town did not respond to a management inquiry from the OIG regarding the use of gas tax revenue.

## OBJECTIVES, SCOPE, AND METHODOLOGY

The overall objectives of the audit were to:

- (1) Address the complainants' allegations;
- (2) Determine whether internal controls were adequate related to the expenditure of gas tax revenues; and
- (3) Determine whether the expenditures of gas tax revenues were in compliance with requirements, allocated to appropriate activities, properly documented, and properly reviewed and approved.

The audit scope included, but was not limited to, gas tax revenue activities and related expenditures from October 1, 2018 through September 30, 2021.

The audit methodology included but was not limited to:

- Completion of data reliability and integrity assessment of related computer systems;
- Review of policies, procedures, and related requirements;
- Completion of process walk-throughs;
- Review of internal controls related to gas tax related expenditures;
- Interview of appropriate personnel;
- Review of records, reports, contracts, and agreements; and
- Detailed testing of selected transactions.

As part of the audit, we completed a data reliability and integrity assessment for the computer system the Town used for recording gas tax revenue and related expenditures. We determined that the computer-processed data contained in the Town's financial system, Blackbaud, was sufficiently reliable for the purposes of the audit. However, we noted minor exceptions for a lack of written IT policies and procedures and weaknesses in user access control.

This audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we 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 obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## ALLEGATIONS - FINDINGS AND RECOMMENDATIONS

**Allegation (1):** The Town misused the 5-cent local option fuel tax funds for maintenance of existing roads in violation of Section 336.025, Florida Statutes. The allegation is **not supported**.

**Finding (1): The Town did not misuse the 5-cent local option fuel tax funds for maintenance of existing roads in violation of Section 336.025, F.S.**

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Section 218.33(3), F.S. (2019), states,

Each local government entity shall establish and maintain internal controls designed to:

- (a) Prevent and detect fraud, waste, and abuse as defined in s. 11.45(1).
- (b) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.
- (c) Support economical and efficient operations.
- (d) Ensure reliability of financial records and reports.
- (e) Safeguard assets.



Section 336.025(1)(b), F.S., states,

In addition to other taxes allowed by law, there may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-cent, 4-cent, or 5-cent local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provisions of part I of chapter 206. The tax shall be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.

...

3. County and municipal governments shall use moneys received pursuant to this paragraph for **transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan or for expenditures needed to meet immediate local transportation problems and for other transportation-related expenditures that are critical for building comprehensive roadway networks by local governments**. For purposes of this paragraph, expenditures for the construction of new roads, the reconstruction or resurfacing of existing paved roads, or the paving of existing graded roads shall be deemed to increase capacity and such projects shall be included in the capital improvements element of an adopted comprehensive plan. Expenditures for purposes of this paragraph **shall not include routine maintenance of roads**. [Emphasis added]

Section 336.025(7), F.S., states,

For the purposes of this section, “transportation expenditures” means expenditures by the local government from local or state shared revenue sources, excluding expenditures of bond proceeds, for the following programs:

- (a) Public transportation operations and maintenance.
- (b) Roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment.
- (c) Roadway and right-of-way drainage.
- (d) Street lighting installation, operation, maintenance, and repair.

- (e) Traffic signs, traffic engineering, signalization, and pavement markings, installation, operation, maintenance, and repair.
- (f) Bridge maintenance and operation.
- (g) Debt service and current expenditures for transportation capital projects in the foregoing program areas, including construction or reconstruction of roads and sidewalks.

Section 336.025(8), F.S., states,

In addition to the uses specified in subsection (7), the governing body of a county with a population of 50,000 or less on April 1, 1992, or the governing body of a municipality within such a county may use the proceeds of the tax levied pursuant to paragraph (1)(a) in any fiscal year to fund infrastructure projects, if such projects are consistent with the local government's approved comprehensive plan or, if the approval or denial of the plan has not become final, consistent with the plan last submitted to the state land planning agency. In addition, no more than an amount equal to the proceeds from 4 cents per gallon of the tax imposed pursuant to paragraph (1)(a) may be used by such county for the express and limited purpose of paying for a court-ordered refund of special assessments. Except as provided in subsection (7), such funds shall not be used for the operational expenses of any infrastructure. Such funds may be used for infrastructure projects under this subsection only after the local government, prior to the fiscal year in which the funds are proposed to be used, or if pledged for bonded indebtedness, prior to the fiscal year in which the bonds will be issued, has held a duly noticed public hearing on the proposed use of the funds and has adopted a resolution certifying that the local government has met all of the transportation needs identified in its approved comprehensive plan or, if the approval or denial of the plan has not become final, consistent with the plan last submitted to the state land planning agency. The proceeds shall not be pledged for bonded indebtedness for a period exceeding 10 years, except that, for the express and limited purpose of using such proceeds in any fiscal year to pay a court-ordered refund of special assessments, the proceeds may be pledged for bonded indebtedness not exceeding 15 years. For the purposes of this subsection, "infrastructure" has the same meaning as provided in s. 212.055.

Palm Beach County Ordinance No. 93-19, adopted on August 17, 1993, states,

**Section 1.** This ordinance, referred to as the "Interlocal Agreement Gas Tax Ordinance", is authorized by Section 336.025(1)(b), Florida Statutes.

**Section 2.** A five cent local option gas tax is hereby imposed upon every gallon of motor fuel sold in Palm Beach County and taxed under the provisions of chapter 206, Florida Statutes.

**Section 3.** The tax levy hereby made shall be effective January 1, 1994, and the tax shall be collected and remitted in accordance with the provisions of Chapter 336, Florida Statutes.

...

**Section 5.** County and municipal governments shall utilize the proceeds of the tax levied by this ordinance for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan as more specifically provided for in Section 336.025, Florida Statutes.

During the process walkthrough, the Town informed us it receives two sources of gas tax revenues: the 5-cent and 6-cent tax. The Town books the revenue to the Transportation Fund 101. We verified the Town received the following gas tax revenues from the State of Florida.

**Chart 1  
Gas Tax Revenues Received by Source**

<b>Fiscal Year</b>	<b>Fund</b>	<b>5-cent</b>	<b>6-cent</b>
<b>2019</b>	101 – Transportation Fund	\$128,921.09	\$277,889.23
<b>2020</b>	101 – Transportation Fund	\$114,603.88	\$249,237.37
<b>2021</b>	101 – Transportation Fund	\$118,188.95	\$259,547.93
	<b>Total</b>	<b>\$361,713.92</b>	<b>\$786,674.53</b>

In reviewing the Transportation Fund 101 general ledger, we found there were expenditures totaling \$56,926.75 and no transfers out for fiscal year 2019. In fiscal years 2020 and 2021, there were no gas tax related expenditures. In fiscal year 2020 there were transfers out totaling \$400,000.00, of which \$200,000.00 was transferred into Roads & Drainage Fund 105 and \$200,000.00 was transferred into Capital Improvement Fund 305. In fiscal year 2021, there were transfers out totaling \$707,500.00, of which \$210,000 was transferred into Roads & Drainage Fund 105 and \$497,500 was transferred into Capital Improvement Fund 305. We verified the transfers out were made to the Roads and Drainage Fund 105 and Capital Improvement Fund 305. The general ledger and trial balance did not indicate the amount of each revenue source (5-cent and 6-cent) that was transferred from Transportation Fund 101 to the Roads and Drainage Fund 105 and Capital Improvement Fund 305, and the Town did not provide documentation showing the amounts of 5-cent and 6-cent revenue transferred until our audit was substantially completed.

The Town stated it uses the Capital Improvement Fund 305 to record spending for the catch basins/swales, and that WBI Construction Company was the vendor used for gas tax revenue related expenditures in the Capital Improvement Fund 305.

We compiled the expenditures from the Capital Improvement Fund 305 for each fiscal year to equal or approximate the amounts that were transferred into the Capital Improvement Fund (See Chart 2 below). For fiscal year 2020, we selected 14 expenditure

transactions totaling \$157,742.43 for testing, which included all transactions from vendor WBI Construction. For fiscal year 2021, we selected the highest two (2) expenditure transactions totaling \$633,600.00.<sup>3</sup>

**Chart 2**  
**Sample of Potential Capital Improvement Expenditures**

Fiscal Year	Fund	Count	5-cent Gas Tax Revenue Transferred In	Sample Selected
2020	305 – Capital Improvement Fund	14	\$200,000.00	\$157,742.43 <sup>4</sup>
2021	305 – Capital Improvement Fund	2	\$210,000.00	\$633,600.00
	<b>Total</b>	<b>16</b>	<b>\$410,000.00</b>	<b>\$791,342.43</b>

We selected the following sample of expenditure transactions to determine whether the Town complied with Section 336.025, F.S., for the use of 5-cent gas tax revenue.

**Chart 3**  
**Sample of Potential 5-cent Gas Tax Revenue Capital Improvement Expenditures**

Posting Date	Vendor	Invoice Description	Amount
5/18/2020	WBI Contracting	South D Road Sketches, shop drawings	\$750.00
5/18/2020	WBI Contracting	South D Road Sketches, shop drawings	\$750.00
5/18/2020	WBI Contracting	South D Road Sketches, shop drawings	\$750.00
5/18/2020	WBI Contracting	South D Road Sketches, shop drawing	\$750.00
8/6/2020	WBI Contracting	3506 B Road Drainage installation.	\$24,944.00
8/20/2020	WBI Contracting	Drainage installation at 3120, 3254, & 3276 B Road	\$37,395.90
8/20/2020	WBI Contracting	Draw request for 2100 B Road Final Completion.	\$30,084.00
8/20/2020	WBI Contracting	Drainage installation 1800 D Road	\$3,466.60
8/20/2020	WBI Contracting	Drainage installation 1900 D Road.	\$3,084.10
9/14/2020	Pick It Fence Co.	Description- Job Cost approx. 191 Linneal (sic) Feet of 6 plus 1 chain link fence	\$8,151.50

<sup>3</sup> The total amount of gas tax revenue transferred to Fund 305 in fiscal year 2021 was \$497,500.00. The Town did not provide the breakout of revenue sources showing that the amount of 5-cent revenue transferred was \$210,000.00 and 6-cent revenue was \$287,500.00 until our audit was substantially completed. As a result, our sample amount was significantly higher than the amount of 5-cent gas tax revenue transferred to Fund 305.

<sup>4</sup> This sample includes all fiscal year 2020 expenditures made in fund 305 with the exception of three (3) transactions totaling \$19,449.23 that were subsequently reversed in fiscal year 2021.

9/14/2020	WBI Contracting	Final Draw for drainage install at 3120, 3254, & 3276 B Road.	\$28,167.10
9/20/2020	Keshavarz & Associates	Project "Town Footprint" for Road Right-of-way.	\$9,983.95
9/20/2020	Keshavarz & Associates	Sketch & Legal descriptions for easements	\$2,790.48
9/30/2020	Keshavarz & Associates	Drainage - Feeder Roads. Sketch & Legal descriptions for easements	\$ 6,674.80
6/14/2021	Hardrives Inc.	Paving A Road.	\$ 318,402.00
6/29/2021	Hardrives Inc.	Paving C Road from Okeechobee to North Road.	\$ 315,198.00
	<b>Total</b>	<b>16</b>	<b>\$791,342.43</b>

We reviewed supporting documentation for each sample expenditure transaction and found that all 16 transactions were qualified uses of the 5-cent gas tax revenue in compliance with Section 336.025(1)(b), F.S. We could not conclusively determine whether the transactions were funded by the 5-cent gas tax revenue or another revenue source (refer to Finding #5 for additional details); however, the total amount of expenditures that we confirmed were qualified uses of the 5-cent gas tax revenue exceeded both the amounts of the 5-cent gas tax revenue that the Town received during the period of our audit of \$361,713.92 and the gas tax revenue transferred into the Capital Improvement Fund 305 of \$410,000.00. Therefore, we conclude that the Town did not misuse the 5-cent local option fuel tax funds for maintenance of existing roads in violation of Section 336.025, F.S.

The allegation was not supported; therefore, there are no recommendations.

### Management Response Summary:

**The Town concurred and accepted the finding.**

**Allegation (2):** The Town purchased \$133,000.00 worth of rocks that were distributed on E Road and side roads prior to Council approval in violation of the Town's Procurement Code. The allegation is **supported**.

**Finding (2):** The Town lacked sufficient documentation to support that purchases of rocks distributed on E Road and side roads totaling \$90,080.36 were approved by Town Council or were applicable to an on-going contract, in compliance with the Town's Procurement Code.

### Town's Procurement Code

The Town's Code of Ordinances § 2-137, adopted on December 2, 2008, and effective through June 1, 2020 states,

(a) *Town Council Approval.*

- (1) An initial purchase of, or contract for, commodities or services in excess of \$10,000 shall require the approval of the town council, regardless of whether the competitive bidding or competitive proposal procedures were followed. However, emergency purchases as described in section 2-134, shall not require advance town council approval. In such emergency situations, the town manager may approve the purchase or contract, subject to later ratification by the town council. Emergency purchases are to be made only when the normal function and operation of the town would be hampered to such an extent by submittal of a requisition in the usual manner that it may affect the life, health or convenience of citizens.
- (2) Purchases exceeding the sum of \$30,000 in the aggregate shall not be purchased from the same person or entity during the course of any fiscal year, unless such purchases are first authorized by the town council. The above provision shall not apply to purchase of utilities or to on-going contracts.



(b) *Town manager approval.* A purchase of, or contract for, commodities or services in an amount of \$25,000 or less shall require the approval of the town manager.

We compiled Town expenditures from January 1, 2019 through March 31, 2020, from Palm Beach Aggregates, LLC (Palm Beach Aggregates) the Town’s rock supplier, and reviewed related purchase orders, invoices, and Town Council Meeting agendas and minutes to determine if expenditures incurred were properly approved by Town Council in advance of purchases and use.

We identified four (4) purchase orders of rock for E Road between January 1, 2019 and March 31, 2020, totaling \$157,510.91.

- The Town lacked sufficient documentation to support that the first three purchases (see Chart 4 below) under Purchase Order numbers 11087209, 11087208, and 110872091 totaling \$90,080.36 were approved by the Town Council or were purchased under an on-going contract.
- The Town Council properly approved the last purchase under Purchase Order number 234 at the meeting held on February 4, 2020

**Chart 4**  
**Rock Purchases for E Road between January 1, 2019 and March 31, 2020**

Purchase Order No.	PO Date	PO Description	PO Amount	Amount Expended
11087209	5/4/2019	North E Rd. From Okeechobee Blvd to North Rd	\$22,400.00	\$22,191.95
11087208	5/14/2019	North E Rd. From Okeechobee Blvd to North Rd	\$55,640.00	\$50,044.26
110872091	8/26/2019	E Road	\$33,808.32	\$17,844.15

234	2/4/2020	North E Road/Okeechobee Blvd	\$79,995.20	\$67,430.55
<b>Total</b>			<b>\$191,843.52</b>	<b>\$157,510.91</b>

During the audit, the Town provided us with the March 19, 2019 Town Council meeting agenda and minutes that included resolutions to ratify road rock purchases totaling \$30,189.79 from Palm Beach Aggregates and select a road material provider, one of which was for Palm Beach Aggregates; however, the resolution to ratify road rock purchases was pulled from the agenda during the meeting and the resolution to select a road material provider was not passed. The Town could not locate where the resolutions returned to an agenda. Although the Town informed us that the Town's Water Control District<sup>5</sup> had a contract with Palm Beach Aggregates in March 2019, the Town did not provide us with the contract.

At the audit exit meeting, the Town informed us that Public Works was using the District's Procurement and Contracting Policy which delegated procurement authority to the District Administrator. However, at the time of the rock purchases totaling \$90,080.36, the District was a dependent district of the Town, and its Procurement and Contracting Policy conflicted with the Town's Ordinance that required Town Council approval for the purchases. The Town is exposed to an increased risk for fraud, waste, and abuse when the written requirements for purchasing are not aligned.

After the draft report was issued to the Town for management responses, the Town informed us that the rock purchases totaling \$90,080.36 were approved by Council during the April 2, 2019 meeting. However, the motion approved by Council at that meeting was to approve payment for a past balance owed to Palm Beach Aggregates of \$30,000 and to move forward with a pre-negotiated contract with Palm Beach Aggregates. The motion did not stipulate any specific future purchases of rock (e.g. purchase orders, roads where rock was to be distributed, etc.) or approve the expenditure of funds to Palm Beach Aggregates. The pre-negotiated contract referenced in the discussion was not included in the meeting agenda package nor provided to the OIG. As a result, we could not determine if the purchases totaling \$90,080.36 were applicable to a contract.

### **April 2, 2019 Town Council Meeting**

The then-Public Works Director stated at the April 2, 2019 Town Council Meeting that Palm Beach Aggregates would like to enter in an agreement with the Town and provided prices for delivery of rock to specific areas by roads, e.g. A road, C road, as well as prices for the Town to pick up the rock. He stated those prices would be the back up to the agreement and asked for council approval contingent on review by the Town's attorney for legal sufficiency. Then-Vice Mayor Shorr asked if the goal was "to put together something for the next meeting for us to

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<sup>5</sup> Loxahatchee Groves Water Control District was dissolved on March 23, 2018, as an independent special district of the Town; and on June 26, 2018 became a dependent district of the Town. When Loxahatchee Groves Water Control District was dissolved as an independent special district, its procurement fell exclusively under the Town's Ordinance.

approve?" Then-Public Works Director stated, "That's my opinion that the attorney is going to do that." Discussion followed between then-Vice Mayor Shorr and the then-Public Works Director confirming that the new prices were better than what the Town had previously. Then-Vice Mayor Shorr stated, "Do we need the attorney to move forward and get this done?" The Town's attorney stated that he was out of the room during the discussion but he understood.

Following a discussion on a separate topic, the then-Public Works Director returned to the discussion regarding a contract with Palm Beach Aggregates. He stated the agreement for base rock that he's presenting for council approval is a tremendous savings. He stated the Town currently owes Palm Beach Aggregates \$30,000 and needs to be paid. The then-Town Manager stated the council needs to address this issue now, "So, it would be great if this council could consider this in a best interest of the Town type action to maybe go ahead and approve the negotiated contract, right, and let us move forward on buying rock and putting the rock on the road without the thresholds, the purchasing issues, the various things. Because I believe at this point in time, Mr. Peters has negotiated probably the best deal that we're going to get on this rock and the rest is in the details. But it's time for us to move forward and put lots of rock out there, and not get held up on technicalities." Then-Vice Mayor Shorr made a **motion to "move forward and we pay what we owe and move forward with this pre-negotiated agreement."** Councilmember Maniglia seconded the motion. The then-Town Manager stated that this agreement would be in place the remainder of the fiscal year. The then-Public Works Director stated it's a one-year contract. The then-Town Manager stated that as they go through the budgeting cycle for FY 20 which starts October 1, they can have additional discussions about quantity and duration but this action will free the Public Works Director "for the rest of the year to get the job done." Discussion followed between Councilmember Donowski and then-Public Works Director confirming that council was approving both proposals, 878 and 872, to be used as needed. Then-Mayor DeMarios asked for a motion. The then-Town Clerk stated, "We have a first and second." Then-Mayor DeMarios asked if there was any other discussion, and seeing none called for a vote on the motion. **The motion passed unanimously.**

**Based on the explanations provided by the Town and the fact that the Town did not provide us with the contract referenced in the April 2, 2019 council meeting, we could not determine if a contract between the Town and Palm Beach Aggregates existed during the period of April 2, 2019 through February 4, 2020.<sup>6</sup> If a contract did exist and was not retained by the Town, the Town may be in violation of Section**

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<sup>6</sup> During the audit, the Town provided us with a contract with Palm Beach Aggregates effective February 4, 2020 through September 30, 2020. The proposals (878 and 872) referenced in the April 2, 2019 meeting were included as Exhibit A of this contract. This contract was subsequently amended and reinstated to be effective through September 30, 2021.

**119.021(2)(b), F.S.<sup>7</sup> and Florida Administrative Code 1B-24.003<sup>8</sup> which require that municipal governments retain contracts for at least five fiscal years after the completion or termination of the contract. If a contract did not exist, the Town was exposed to unnecessary costs and legal fees because there were no contractual terms and conditions establishing requirements, limits, and safeguards related to doing business with a vendor, such as fees charged and invoicing, unsatisfactory work or products, or damage to persons or property by the vendor.**

The rock purchases for E Road and side roads totaling **\$90,080.36** are considered questioned costs because the Town lacked sufficient documentation to show that they were approved by Town Council or were applicable to an on-going contract in compliance with the Town's Procurement Code.

Effective October 2020, the Town established an Administrative Purchasing Policy & Procedures Manual which requires Town Council approval for all purchases of \$25,000 and over, as well as written agreements for all acquisitions of non-real property, goods or services where the total expenditure by the Town is estimated to be \$10,000 or greater.

### **Recommendations:**

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- (1) The Town review and update the District's Procurement and Contracting Policy to ensure that it aligns with the Town's Ordinance governing the approval of purchases.**
- (2) The Town implement a review and oversight process to ensure that purchases of \$25,000 or more have sufficient documentation to show that they are approved by the council and purchases of \$10,000 or more utilize a written agreement in compliance with the Town's Procurement Code and Administrative Purchasing Policy & Procedures Manual.**

### **Management Response Summary:**

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**The Town did not concur with the finding but accepted the recommendations. Attachment 1 contains the Town's full management response.**

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<sup>7</sup> Section 119.021(2)(b), F.S. states that each agency (to include municipalities) shall comply with the rules establishing retention schedules and disposal processes for public records which are adopted by the records and information management program of the Division of Library and Information Services of the Department of the State (Division).

<sup>8</sup> Florida Administrative Code 1B-24.003(1) states the Division issues General Records Schedules which establish minimum retention requirements for record series common to all agencies or specified types of agencies based on the legal, fiscal, administrative, and historical value of those record series to the agencies and to the State of Florida. Section (1)(a) provides the General Records Schedule GS1-SL for State and Local Government Agencies: <https://www.flrules.org/Gateway/reference.asp?No=Ref-15394>

**FINDINGS AND RECOMMENDATIONS**

**Finding (3): The Town’s check signing process outlined in Resolution 2018-09 did not align with its Ordinance governing the payment of money.**

The Town’s Code of Ordinances Sec. 2-111, adopted on July 1, 2008, states,

Sec. 2-111. – Payment of money.  
 Money shall be paid out of the town treasury only on warrants, checks and electronic fund transfers signed by the mayor, vice-mayor, director of financial management or the town controller, **and countersigned by the manager.** [Emphasis added]



The Town’s Resolution No. 2018-09, adopted on March 20, 2018, states,

**Section 2.** Money shall be paid out by the Town only on checks and electronic transfers signed by two (2) authorized Town Officials. Any financial institution authorized by law and by the Charter of the Town of Loxahatchee Groves in accordance therewith, are hereby designated as the official depositories of the Town of Loxahatchee Groves, Florida, and that any [sic] all funds therein contained shall be subject to withdrawal upon checks, notes, drafts, bills of exchange, acceptances, undertakings, or other orders for the payment of money by said Town, **signed by any of the two (2) of the following Town Officials, to wit:**  
**Mayor**  
**Council Members** [Emphasis added]

To verify if checks were properly signed in compliance with the Town’s Code of Ordinances, we selected a sample of 22 potential gas tax expenditure transactions, and obtained the related payment documentation. The sample of gas tax expenditure transactions was supported by 16 checks totaling \$1,209,591.91.

We found six (6) checks totaling \$878,380.91 were not counter-signed by the Town Manager, as required by the Ordinance. Each check was signed by the Mayor and a Council Member in accordance with Resolution No. 2018-09.

**Chart 5  
 Checks Not Counter-Signed by the Town Manager**

Check No.	Check Date	Vendor	Check Amount
10212	7/8/2021	Hardrives, Inc.	\$695,210.00
9924	12/14/2020	Palm Beach Aggregates	\$1,428.26
10287	9/29/2021	Palm Beach Aggregates	\$92,445.61
10313	11/9/2021	Palm Beach Aggregates	\$2,606.01
10010	2/18/2021	J.W. Cheatham, LLC	\$6,137.50
9943	12/29/2020	Keshavarz & Associate	\$80,553.53

		<b>Total</b>	<b>\$878,380.91</b>
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The Town's check signing process was based on Resolution 2018-09, which required the signature of any two (2) council members. However, the Resolution conflicted with the Ordinance because the Ordinance requires the signature of the mayor, vice-mayor, director of financial management or the town controller, and counter signature of the manager.

The checks totaling **\$878,380.91** that were not counter-signed by the Town Manager, as required by the Ordinance are considered questioned costs for noncompliance with the Ordinance.

The Town is exposed to an increased risk for errors and fraud when the written requirements are not aligned.

### Recommendation:

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- (3) The Town review its current resolution updating the payment of money authority and signature authority, and if in conflict with its Ordinance governing the payment of money, update the resolution or the Ordinance to resolve the conflict.**

### Management Response Summary:

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**The Town partially concurred with the finding and accepted the recommendation. Attachment 1 contains the Town's full management response.**

### Finding (4): The Town did not always comply with its Purchasing Policy & Procedures Manual.

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The Town's Purchasing Policy & Procedures Manual, effective October 1, 2020, states,

#### **Section IV Contracts**

##### **A. FORM OF CONTRACT**

1. Written agreements. Written agreements shall be utilized for all acquisitions of non-real property, goods or services where the total expenditure by the Town (including expenditures during renewal periods, but not expenditures relating to Change Orders) is estimated to be \$10,000 or greater. The Town may utilize a written agreement for any acquisition of less than \$10,000 that the Town deems appropriate. All written procurement agreements must be approved as to form and legality by the Town Attorney.



2. Purchase orders. Where no other form of contract exists, purchase orders, in a preapproved format, shall be utilized for acquisitions of non-real property, goods or services where the total expenditure by the Town is estimated to be greater than \$1,000. The Town may utilize a purchase order for any acquisition of \$1,000 or less that the Town deems appropriate.

...

## **Section VII Purchase Orders and Payments for Goods and Services**

### **A. PURCHASE ORDERS**

Purchase orders are to be used for all procurement except as provided herein. A fully executed purchase order (PO) is the user department's authority to purchase goods or services. In addition to authorization, purchase orders also provide budgetary control as well as a means to monitor compliance and performance or original specifications including volumes, pricing, timing and receipt. A purchase order must reflect the anticipated total amount of business to be done with a vendor for the year. The total shall not be broken into smaller amounts to keep from crossing a dollar threshold with additional approval requirements, including the requirement for formal competitive vendor selection. Without exception, all PO's must be fully approved before the issuing department may place the order. This is true even when a contract with the vendor has been fully executed. Supporting documentation must be maintained for all purchases and forwarded, as discussed below.

A purchase order is the vendor's authorization to ship goods or perform services as specified. The purchase order constitutes a contract (in some instances a second contract if a more formal contract is also being utilized) between the Town and the vendor, and as such, is a legal document. The purchase order also reserves (encumbers) the funds within the financial system so the funds cannot be allocated for other purposes before the transaction has been completed and the purchase order fully closed out.

...

Purchase orders are not required for certain vendors where there is no procurement process. For instance, utilities and phone service.

The PO preparer will use the financial system to prepare a PO, including requesting authorization to purchase goods or services. The preparer will enter sufficient information to convey the need for the purchase and include supporting documentation, which varies, depending on the basis of the purchase order. All information related to the purchase order, including but not limited to items listed in Table 3 below, will be scanned into system and maintained in vendor and contract files

### **B. INVOICES**

Invoices are itemized statements of goods or services provided and are a means of settlement of financial obligations. The timeliness of processing invoices may

affect the relationship between the Town and its vendors and must be processed within 30 days of receipt (20 days in the case of construction services), per State Statute 218.70, Local Government Prompt Payment Act. Invoices should contain the following basic information:

- Purchase order number (if applicable)
- Itemized listing of materials or services rendered
- Quantity of each item
- Unit price with extensions
- Discount terms if applicable
- Services provided, including hours and billing rates where applicable

...

**D. PAYMENT**

1. **Payment on Purchase Order.** The PO instructs vendors to send invoices directly to the user department. The user department should hold the PO while waiting for an invoice. The Town will pay only from an original invoice and not a fax copy or photocopy. The user department will follow the PO “receiving” procedures [as required by the financial system upon completion of implementation] and will then forward the original invoice, with the required approval signatures, and a copy of the PO for payment. Only individuals authorized to normally receive goods or services may do so. The receiving individual must certify that the quantity, brand name, or model ordered is received or that the required services have been provided.
  
2. **Payment on Check Request.** Check requests should be used only in exceptional situations.

We selected a sample of 81 potential gas tax expenditure transactions, totaling \$1,270,286.95, to determine if expenditures were in compliance with requirements, allocated to appropriate activities, properly documented, and properly reviewed and approved. Refer to Finding #5 for details on how this sample was selected.

Of the 81 sampled expenditure transactions selected, we found thirteen (13) transactions totaling \$51,910.38 were not supported by purchase orders, as required by the Town’s Purchasing Policy & Procedures Manual. See Chart 6 below.

**Chart 6  
Expenditures Lacking Purchase Orders**

Invoice Date	Invoice Number	Vendor	Amount	Questioned Cost
12/14/2020	189058330-001	United Rentals	\$850.00	\$850.00
12/31/2020	20063	J.W. Cheatham, LLC	\$6,137.50	\$ -
3/15/2021	52A	Keshavarz & Associates	\$3,838.12	\$3,838.12
4/23/2021	192548776-001	United Rentals	\$4,672.00	\$4,672.00
4/23/2021	053A	Keshavarz & Associates	\$3,097.50	\$3,097.50

5/28/2021	54	Keshavarz & Associates	\$3,925.00	\$3,925.00
6/2/2021	193915944-002	United Rentals North	\$3,803.58	\$3,803.58
6/19/2021	194485762-001	United Rentals North	\$3,225.94	\$3,225.94
7/12/2021	55	Keshavarz & Associates	\$3,187.50	\$3,187.50
8/5/2021	572774	AAA Garden	\$4,311.00	\$4,311.00
8/19/2021	196603195-001	United Rentals North	\$3,904.74	\$3,904.74
9/16/2021	196603195-002	United Rentals North	\$3,570.00	\$3,570.00
9/28/2021	58	Keshavarz & Associates	\$7,387.50	\$7,387.50
		<b>Total</b>	<b>\$51,910.38</b>	<b>\$45,772.88</b>

The Town's procurement process was not always in compliance with the Purchasing Policy & Procedures Manual. During the process walk-through, the Town informed us that purchases of \$25,000 or more are initiated with a purchase order and competitive selection process. Purchase requisitions are used for purchases under \$25,000 and are initiated at the public works office or town administration office. Purchases between \$1,000 and \$9,999 require three (3) quotes but not always a requisition.

The expenditures lacking a purchase order are considered questioned costs totaling **\$45,772.88<sup>9</sup>** for noncompliance with the Purchasing Policy & Procedures Manual or lack of sufficient documentation.

The Town is exposed to increased risk for errors, fraud, waste, and abuse when processes do not comply with written requirements. The lack of a purchase order could result in missing or unclear purchase, delivery, and payment terms (e.g. volumes, pricing, timing and receipt) that may lead to disputes by the vendor or the Town being liable for purchases it did not authorize. Without the issuance of a purchase order in the financial system, funds may not be available for the purchase after the transaction is completed.

### Recommendations:

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- (4) The Town issue purchase orders for purchases, as required by its Purchasing Policy & Procedures Manual.**
- (5) The Town implement a review and oversight process to help ensure that expenditures are supported by a purchase order, where applicable, and that purchase order documentation is appropriately retained.**

### Management Response Summary:

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**The Town partially concurred with the finding and accepted the recommendations. Attachment 1 contains the Town's full management response.**

<sup>9</sup> To avoid duplication, this amount excludes questioned cost of \$6,137.50 that was reported in Finding #3 for check signing not always in compliance with Ordinance.

**Finding (5): The Town did not sufficiently provide for separate accountability of gas tax revenues by source.**

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Section 218.33(3), F.S. (2019), states:

Each local government entity shall establish and maintain internal controls designed to:

- a) Prevent and detect fraud, waste, and abuse as defined in s. 11.45(1).
- b) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.
- c) Support economical and efficient operations.
- d) Ensure reliability of financial records and reports.
- e) Safeguard assets.

Section 336.025(1)(a), F.S., states,

In addition to other taxes allowed by law, there may be levied as provided in ss. 206.41(1)(e) and 206.87(1)(c) a 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option fuel tax upon every gallon of motor fuel and diesel fuel sold in a county and taxed under the provisions of part I or part II of chapter 206.

...

2. County and municipal governments shall utilize moneys received pursuant to this paragraph only for transportation expenditures.

Section 336.025(1)(b), F.S., states,

In addition to other taxes allowed by law, there may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-cent, 4-cent, or 5-cent local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provisions of part I of chapter 206. The tax shall be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.

...

3. County and municipal governments shall use moneys received pursuant to this paragraph for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan or for expenditures needed to meet immediate local transportation problems and for other transportation-related expenditures that are critical for building comprehensive roadway networks by local governments. For purposes of this paragraph, expenditures for the construction of new roads, the reconstruction or resurfacing of existing paved roads, or the paving of existing graded roads shall be deemed to increase capacity and such projects shall be included in the capital improvements element of an adopted comprehensive plan. Expenditures for purposes of this paragraph shall not include routine maintenance of roads.

Section 336.025(7), F.S., states,

For the purposes of this section, “transportation expenditures” means expenditures by the local government from local or state shared revenue sources, excluding expenditures of bond proceeds, for the following programs:

- (h) Public transportation operations and maintenance.
- (i) Roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment.
- (j) Roadway and right-of-way drainage.
- (k) Street lighting installation, operation, maintenance, and repair.
- (l) Traffic signs, traffic engineering, signalization, and pavement markings, installation, operation, maintenance, and repair.
- (m) Bridge maintenance and operation.
- (n) Debt service and current expenditures for transportation capital projects in the foregoing program areas, including construction or reconstruction of roads and sidewalks.

Section 336.025(8), F.S., states,

In addition to the uses specified in subsection (7), the governing body of a county with a population of 50,000 or less on April 1, 1992, or the governing body of a municipality within such a county may use the proceeds of the tax levied pursuant to paragraph (1)(a) in any fiscal year to fund infrastructure projects, if such projects are consistent with the local government’s approved comprehensive plan or, if the approval or denial of the plan has not become final, consistent with the plan last submitted to the state land planning agency. In addition, no more than an amount equal to the proceeds from 4 cents per gallon of the tax imposed pursuant to paragraph (1)(a) may be used by such county for the express and limited purpose of paying for a court-ordered refund of special assessments. Except as provided in subsection (7), such funds shall not be used for the operational expenses of any infrastructure. Such funds may be used for infrastructure projects under this subsection only after the local government, prior to the fiscal year in which the funds are proposed to be used, or if pledged for bonded indebtedness, prior to the fiscal year in which the bonds will be issued, has held a duly noticed public hearing on the proposed use of the funds and has adopted a resolution certifying that the local government has met all of the transportation needs identified in its approved comprehensive plan or, if the approval or denial of the plan has not become final, consistent with the plan last submitted to the state land planning agency. The proceeds shall not be pledged for bonded indebtedness for a period exceeding 10 years, except that, for the express and limited purpose of using such proceeds in any fiscal year to pay a court-ordered refund of special assessments, the proceeds may be pledged for bonded indebtedness not exceeding 15 years. For the purposes of this subsection, “infrastructure” has the same meaning as provided in s. 212.055.

Palm Beach County Ordinance No. 93-19, adopted on August 17, 1993, states,

**Section 1.** This ordinance, referred to as the “Interlocal Agreement Gas Tax Ordinance”, is authorized by Section 336.025(1)(b), Florida Statutes.

**Section 2.** A five cent local option gas tax is hereby imposed upon every gallon of motor fuel sold in Palm Beach County and taxed under the provisions of chapter 206, Florida Statutes.

**Section 3.** The tax levy hereby made shall be effective January 1, 1994, and the tax shall be collected and remitted in accordance with the provisions of Chapter 336, Florida Statutes.

Palm Beach County Ordinance No. 95-23, adopted on June 20, 1995, states,

Section 2. A six (6¢) cent local option gas tax is hereby re-imposed upon every gallon of motor fuel and special fuel sold in Palm Beach County and taxed under the provisions of chapter 206, Florida Statutes.

Section 3. The six (6¢) cent tax levy hereby made shall be effective from September 1, 1995 to August 31, 2025, both inclusive.

During the process walkthrough, the Town informed us it receives two sources of gas tax revenues, the 5-cent and 6-cent tax. The Town books the revenue to the Transportation Fund 101. The Town stated it uses the Capital Improvement Fund 305 to record spending for the catch basins/swales and the Roads and Drainage Fund 105 to record spending for roads and drainage work and road materials and supplies. We verified the gas tax revenues received from the State of Florida were posted to the Transportation Fund.

In reviewing the Transportation Fund 101 general ledger, we found there were expenditures totaling \$56,926.75 and no transfers out for fiscal year 2019. In fiscal years 2020 and 2021, there were no expenditures in Transportation Fund 101, and there were transfers out totaling \$400,000.00 and \$707,500.00, respectively. We verified the transfers out were made to the Roads and Drainage Fund 105 and Capital Improvement Fund 305 for fiscal years 2020 and 2021. The general ledger and trial balance did not indicate the amount of each revenue source (5-cent and 6-cent) that was transferred from Transportation Fund 101 to the Roads and Drainage Fund 105 and Capital Improvement Fund 305, and the Town did not provide documentation showing the amounts of 5-cent and 6-cent revenue transferred (see Chart 7 below) until our audit was substantially completed.

**Chart 7**  
**Transfer of Gas Tax Revenue from Transportation Fund 101**

Fiscal Year	Fund	5-cent	6-cent	Total
2020	105 – Roads and Drainage Fund	-	\$200,000.00	\$200,000.00
2020	305 – Capital Improvement Fund	\$200,000.00	-	\$200,000.00
	<b>FY 2020 Total</b>	<b>\$200,000.00</b>	<b>\$200,000.00</b>	<b>\$400,000.00</b>
2021	105 – Roads and Drainage Fund	-	\$210,000.00	\$210,000.00
2021	305 – Capital Improvement Fund	\$210,000.00	\$287,500.00	\$497,500.00
	<b>FY 2021 Total</b>	<b>\$210,000.00</b>	<b>\$497,500.00</b>	<b>\$707,500.00</b>
	<b>Grand Total</b>	<b>\$410,000.00</b>	<b>\$697,500.00</b>	<b>\$1,107,500.00</b>

We reviewed expenditure transactions recorded in the general ledger for the Capital Improvement Fund 305 and Roads and Drainage Fund 105. The expenditure transactions did not indicate a revenue source; therefore, we could not conclusively determine which transactions were funded using gas tax revenues. The Town informed us that any expenditure in Fund 105 would meet the definition of the use of the gas tax revenue. Therefore, we selected a sample of expenditure transactions from Funds 105 and 305 that could potentially be eligible for funding from the gas tax revenue based on the vendor and transaction description.

We selected the following sample of potential transportation related expenditures<sup>10</sup> to determine whether the Town complied with Section 336.025, F.S., for the use of gas tax revenue.

**Chart 8**  
**Sample of Potential Transportation Related Expenditures**

Fiscal Year	Fund	Count	Amount
2019	101 – Transportation Fund	5	\$56,926.75
2020	105 – Roads and Drainage Fund	12	\$211,413.97
	305 – Capital Improvement Fund	14	\$157,742.43 <sup>11</sup>
2021	105 – Roads and Drainage Fund	48	\$210,603.80
	305 – Capital Improvement Fund	2	\$633,600.00
	<b>Total</b>	<b>81</b>	<b>\$1,270,286.95</b>

We reviewed supporting documentation (e.g. invoices/receipts, contracts, purchase orders, resolutions, council meeting minutes/agendas) for each sample expenditure. We found all five (5) expenditures sampled in Transportation Fund 101 were qualified uses of the 6-cent gas tax revenue in compliance with Section 336.025(1)(a)(2), F.S. Charts

<sup>10</sup> The sample of potential transportation related expenditures was made up of expenditures for goods and services provided to the Town by outside vendors and contractors. The sample did not include any Town payroll expenditures.

<sup>11</sup> This sample includes all fiscal year 2020 expenditures made in fund 305 with the exception of three (3) transactions totaling \$19,449.23 that were subsequently reversed in fiscal year 2021.

10 and 11 below summarize the results of our testing of expenditures in the Roads and Drainage Fund 105 and Capital Improvement Fund 305.

**Chart 9**  
**Roads and Drainage Fund 105 Testing Results**

Fiscal Year	Revenue Source	Transferred In	Expenditures Eligible for Use <sup>12</sup>		Ending Balance Forward
			Count	Amount	
2020	6-cent	\$200,000.00	12	\$211,413.97	\$0.00
2021	6-cent	\$210,000.00	41	\$169,407.25	\$40,592.75
	<b>Total</b>	<b>\$410,000.00</b>	<b>53</b>	<b>\$380,821.22</b>	<b>\$40,592.75</b>

**Chart 10**  
**Capital Improvement Fund 305 Testing Results**

Fiscal Year	Revenue Source	Transferred In	Expenditures Eligible for Use <sup>13</sup>		Ending Balance Forward
			Count	Amount	
2020	5-cent	\$200,000.00	14	\$157,742.43	\$42,257.57
2021	5-cent	\$210,000.00	1	\$318,402.00	\$0.00 <sup>14</sup>
2021	6-cent	\$287,500.00	1	\$315,198.00 <sup>15</sup>	\$0.00
	<b>Total</b>	<b>\$697,500.00</b>	<b>16</b>	<b>\$791,342.43</b>	<b>\$0.00</b>

We selected an additional sample of payroll expenditures from Fund 105 in fiscal year 2021 for the months of October 2020 – January 2021 totaling \$87,238.86 to determine if payroll expenditures were eligible for the use of the remaining 6-cent gas tax revenue. We reviewed the supporting payroll registers and employees' job descriptions and found \$65,361.06 in payroll expenditures were qualified uses of the 6-cent gas tax revenue for that four (4) month period in fiscal year 2021.

Overall, the total amount of expenditures that we confirmed as qualified uses of the 5-cent and 6-cent gas tax revenues, respectively, exceeded the amounts the Town received during the audit period for Transportation Fund 101 and the gas tax revenue transferred into the Roads and Drainage Fund 105 and Capital Improvement Fund 305.

However, we could not conclusively determine whether the expenditures we tested were funded by the gas tax revenues or another revenue source because the Town did not identify a revenue source. Gas tax revenues are only one source of funding for the Capital

<sup>12</sup> In compliance with Section 336.025(1)(a), F.S. (6-Cent gas tax revenue).

<sup>13</sup> In compliance with Section 336.025(1)(a)(2), F.S. for 6-cent gas tax revenue or Section 336.025(1)(b)(2), F.S. for 5-cent gas tax revenue, respectively.

<sup>14</sup> Eligible expenditure of \$318,402.00 exceeded fiscal year 2020 ending balance forward of \$42,257.57 + fiscal year 2021 transfer in of \$210,000.00 = \$252,257.57.

<sup>15</sup> Expenditure of \$315,198.00 was an eligible expenditure for use under both the 5-cent and 6-cent gas tax revenues.

Improvement Fund 305 and Roads and Drainage Fund 105, in addition to contributions from the General Fund 001 and non-ad valorem assessments.

The Town's method for providing accountability was to expend the gas tax revenues through either the Capital Improvement Fund 305 or the Roads and Drainage Fund 105, rather than tracking each gas tax revenue source (6-cent or 5-cent) used by individual expenditures using a separate designated general ledger code or project, or by other means. The lack of separate accountability of revenue sources expended may result in funds not being expended in compliance with the separate requirements of the Sections 336.025(1)(a)(2) and 336.025(1)(b)(2), F.S.

Additionally, the Town did not have any policies or procedures for reviewing, recording or reconciling 5-cent and 6-cent gas tax monies expended in the Transportation Fund 101 or transferred to and expended in the Capital Improvement Fund 305 or the Roads and Drainage Fund 105 to ensure compliance with the Section 336.025, F.S. The lack of written guidance accompanying the review, recording, and reconciliation of transfers and expenditures of gas tax revenues increases the risk that expenditures of the gas tax revenues are not in compliance with Section 336.025, F.S.

### Recommendations:

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- (6) The Town implement a process that provides for sufficient, separate accountability for the use of gas tax revenues by source (6-cent or 5-cent).**
- (7) The Town establish and maintain a written review and oversight process for reviewing, recording, and reconciling gas tax revenues transferred and expended to ensure they are in compliance with Section 336.025, F.S.**

### Management Response Summary:

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**The Town did not concur with the finding but accepted the recommendations. Attachment 1 contains the Town's full management response.**

### Finding (6): The Town lacked sufficient controls over the vendor master file.

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Section 218.33(3), F.S., states:

Each local government entity shall establish and maintain internal controls designed to:

- f) Prevent and detect fraud, waste, and abuse as defined in s. 11.45(1).
- g) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.
- h) Support economical and efficient operations.
- i) Ensure reliability of financial records and reports.
- j) Safeguard assets.

Internal control objectives for information systems and technology include:

- Master files are monitored for integrity;
- Segregation of duties exists in functions related to the information systems;
- Performance of information system functions is independently verified; and
- System users are granted only the access needed to perform their duties.<sup>16</sup>

Segregation of duties is a control activity whereby management divides or segregates key duties and responsibilities among different people to reduce the risk of error, misuse, or fraud. This includes separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions and handling any related assets so that no one individual controls all key aspects of a transaction or event. If segregation of duties is not practical within an operational process because of limited personnel or other factors, management can design alternative control activities to address the risk of fraud, waste, or abuse in the operational process.<sup>17</sup>

During the process walkthrough, the then-Public Works Coordinator informed us that she is responsible for performing various accounts payable functions, including:

- (1) Add new vendors and update and manage the vendor master file in the financial system.
- (2) Create purchase orders; receive, enter, and post invoices to the financial system.
- (3) Generate checks to pay invoices.

We were also informed that anyone with administrative rights can edit/modify vendor information in the vendor master file, and that no one is assigned to review changes to the vendor master file after additions and updates. We found that four employees; the then Town Manager, the then-Assistant Town Manager, the Town Administrator, and the then Public Works Coordinator, had administrative rights in the system.

The number of Finance personnel is limited, which poses a challenge for implementing adequate segregation of duties. The Town has adequate compensating controls over the accounts payable function to include that the Town Manager reviews and approves purchase orders (POs); the Town Clerk reviews the check run file before checks are generated; and dual Council member signatures on checks. Additionally, effective October 2020, the Town's Administrative Purchasing Policy and Procedures Manual requires a three-way match of the PO, receiving document, and invoice prior to issuing a payment. However, there is not sufficient segregation between the accounts payable function and updating the vendor master file.

Additionally, the Town did not sufficiently restrict access to the vendor master file and lacks sufficient vendor master file review and oversight activities to prevent and detect erroneous, unauthorized, and potentially fraudulent vendor information in the financial

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<sup>16</sup> This best practice is provided by the Association of Government Accountants, Internal Controls - Information Systems & Technology: <https://www.agacqfm.org/Tools-Resources/intergov/Internal-Controls/Tools-by-Business-Process/Information-Systems-Technology.aspx>

<sup>17</sup> This practice is provided by the United States Government Accountability Office (GAO) Standards for Internal Control in the Federal Government: <https://www.gao.gov/assets/670/665712.pdf>

system. The Town did not have a policy or procedures to provide guidance for making modifications to and review and oversight of the vendor master file.

The lack of controls over the vendor master file increases the risk that errors and unauthorized modifications to vendor information could go undetected, which could result in improper or fraudulent cash disbursements.

We did not find any improper or fraudulent cash disbursements in our audit testing of gas tax revenue expenditures.

### Recommendations:

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- (8) The Town separate the accounts payable and vendor master file duties of the Public Works Coordinator or implement alternative control activities to prevent and detect erroneous or unauthorized modifications to the vendor master file.**
- (9) The Town restrict access to the vendor master file to only personnel who need access to perform their duties.**
- (10) The Town implement review and oversight activities over the vendor master file to ensure additions and modifications are accurate and authorized.**
- (11) The Town develop and implement written guidance for management and oversight of the vendor master file.**

### Management Response Summary:

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The Town concurred with the finding and accepted the recommendations. Attachment 1 contains the Town's full management response.

### Finding (7): The Town did not sufficiently restrict user access and lacked written policies and procedures for information technology processes.

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Section 218.33(3), F.S. (2019), states:

Each local government entity shall establish and maintain internal controls designed to:

- a) Prevent and detect fraud, waste, and abuse as defined in s. 11.45(1).
- b) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.
- c) Support economical and efficient operations.
- d) Ensure reliability of financial records and reports.
- e) Safeguard assets.

Basic computer system controls include:

- Written IT policies, procedures, and definitions that are clearly communicated;
- Access to and use of the system assets and records are reasonable and restricted to authorized individuals; and
- System users are granted only the access needed to perform their duties.<sup>18</sup>

We found that the Town has processes with controls in place to ensure the reliability and integrity of information within Blackbaud; however, user access was not adequately restricted and there were no written policies and procedures for the IT processes. The Town stated that there are no written policies and procedures. During an interview with senior Town personnel, they informed us that employees in the Finance department were sharing username and passwords to Blackbaud. In a separate interview with Town personnel regarding Blackbaud system internal controls, one employee stated she was using the user account of a former employee who separated from the Town three months prior. Additionally, a follow-up with the Town on February 2, 2023, disclosed that a user account for a contractor who had terminated relations with the Town on September 30, 2022, was still active in the Blackbaud system with a role of “FAAC” (Finance Advisory and Audit Committee), which is read-only user access. The contractor’s user access was terminated on February 2, 2023.

The Town was previously managed by Underwood Management Services Group, LLC; the Town Council terminated the contract with Underwood Management on March 18, 2019 and appointed a Town Manager to take over Town operations. During our kick-off meeting with the then-Town Manager and then-Assistant Town Manager/current Town Manager in February 2022, they stated that a lack of policies and procedures was a recurring audit comment, and that the Town was in the process of writing standard operating procedures.

The then-Assistant Town Manager also informed us that the Finance Department shared usernames and passwords due to the frequent changes in personnel.

A lack of written policies and procedures increases the risk of inconsistent operations and unauthorized access to system records. Sharing user accounts increases the risk of unauthorized persons accessing the system because it is difficult to ensure the password is properly safeguarded. Additionally, sharing user accounts limits the ability to track and monitor changes to the system and modifications to data.

### **Corrective Action**

The Town deactivated the separated employee’s access and created a unique username and password for each employee in the finance department several weeks after our initial discussion of Blackbaud’s user access. The Town deactivated the former Town contractor’s access after we inquired about that user’s access level.

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<sup>18</sup> This best practice is provided by the Association of Government Accountants, Internal Controls - Information Systems & Technology: <https://www.agacgfm.org/Tools-Resources/intergov/Internal-Controls/Tools-by-Business-Process/Information-Systems-Technology.aspx>

During the audit the Town implemented an Information Technology Policy, effective December 5, 2022, which generally addresses the risk areas identified, such as assigning unique user IDs and passwords, restricting user access, and removing user access to the Town’s information upon termination/departure from the Town.

**Recommendations:**

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- (12) The Town develop and implement written IT policies and procedures that provide guidance, at a minimum, for how to:
  - a. Perform IT processes in place,
  - b. Assign and remove user rights and a reasonable time for completion,
  - c. Authorize user access,
  - d. Limit system access requiring unique user IDs and passwords, and
  - e. Provide for user change management (new and terminated employees).
  
- (13) The Town provide staff training for the IT policies and procedures, as needed.
  
- (14) The Town create individual user accounts for each employee that requires access to the Blackbaud system.

**Management Response Summary:**

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The Town concurred with the finding and accepted the recommendations. Attachment 1 contains the Town’s full management response.

**SUMMARY OF POTENTIAL FINANCIAL AND OTHER BENEFITS IDENTIFIED IN THE AUDIT**

**Questioned Costs**

Finding	Description	Questioned Costs
2	Lack of sufficient purchase approval documentation (Allegation #2)	\$90,080.36
3	Noncompliance with Ordinance – Check signing process	\$878,380.91
4	Noncompliance with Purchasing Policy Manual - Lack of purchase order	\$45,772.88
<b>TOTAL QUESTIONED COSTS</b>		<b><u>\$1,014,243.15</u></b>

**ACKNOWLEDGEMENT**

The Inspector General's staff would like to extend our appreciation to the Town of Loxahatchee Groves' staff for their assistance and support in the completion of this audit.

*This report is available on the OIG website at: <https://www.pbcgov.com/OIG>. Please address inquiries regarding this report to the Director of Audit by email at [inspector@pbc.org](mailto:inspector@pbc.org) or by telephone at (561) 233-2350.*

**ATTACHMENT**

Attachment 1 – Town of Loxahatchee Groves' Management Response

**ATTACHMENT 1 –TOWN OF LOXAHATCHEE GROVES' MANAGEMENT  
RESPONSE**

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155 F Road • Loxahatchee Groves, Florida 33470 • Telephone (561) 793-2418 • Fax (561) 793-2420  
[www.loxahatcheegrovesfl.gov](http://www.loxahatcheegrovesfl.gov)

**Date:** June 28, 2024

**To:** Hillary Bojan, Director of Audit  
Office of Inspector General

**From:** Francine L. Ramaglia, Town Manager  
Town of Loxahatchee Groves

**CC:** John A. Carey, Inspector General

**Subject:** Response to OIG Draft Audit Report, Town of Loxahatchee Groves – Expenditure of Gas Tax Revenue

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The Town would first like to thank the Office of Inspector General (OIG) for the hard work and diligent efforts they have made in preparing the audit report for the Town along with the guidance and assistance contained therein to assist the Town as we continue our progress from a non-traditional to a traditional small government model. We have thoroughly enjoyed working with the audit team: they are thoughtful, patient and professional. *Overall, we were very pleased that the allegations raised regarding possible misuse of gas tax funds were unfounded.*

At our exit interview, we expressed a number of concerns with the wording and presentation of the administrative findings throughout the report as they speak to a past that does not represent the organization as it has been restructured today. However, we acknowledge that the audit team highlighted long-standing incongruencies between ordinances, resolutions, policies, and practices dating back to incorporation. We are committed to swiftly addressing these issues.

The OIG summary report includes two allegations, seven findings, and thirteen recommendations. We have attempted to address related findings and recommendations together wherever possible. Again, the thoroughness of your work resulted in a number of findings and recommendations unrelated to the use of gas tax funds that have already been addressed by the Town or are currently in process. Your support for these Town initiatives is greatly valued.

Please find below the Town's responses for your consideration. We hope that you will also consider rewording certain areas of the report summary and detail based on our feedback.

**Allegation (1):** The Town misused the 5-cent local option fuel tax funds for maintenance of existing roads, in violation of Section 336.025, Florida Statutes.

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**Finding (1): Allegation (1) is not supported. The Town did not misuse the 5-cent local option fuel tax funds for maintenance of existing roads in violation of Section 336.025, F.S.**

**Response:** *The Town concurs with the OIG’s finding that the Town complied with Section 336.025, F.S. and used the 5-cent local option fuel tax funds appropriately.*

**Allegation (2):** The Town purchased \$133,000.00 worth of rocks that were distributed on E Road and side roads prior to Council approval in violation of the Town’s Procurement Code.

**Response:** *The Town did not purchase \$133,000 of rock without prior Council approval. The pricing arrangement with Palm Beach Aggregates for purchases of rock was presented for Council approval on March 19, 2019, and again on April 2, 2019 when the pricing arrangement for the purchase of rock was ultimately approved. Of the \$133,000 alleged, only purchases totaling \$90,080.36 are listed by as a financial finding; however, all of the \$90,080.36 of rock expenditures were made pursuant to Council approval of existing District pricing arrangement and did not take place until May 2019. Therefore, we believe the accurate finding relative to this allegation is:*

**Allegation (2) is not supported. The Town did not purchase \$133,000.00 worth of rocks that were distributed on E Road and side roads prior to Council approval in violation of the Town’s Procurement Code.**

The questions raised by the second allegation are (1) whether the Town Council approved the purchase of rock from Palm Beach Aggregates and (2) the amount of the rock purchases made (\$133,000) for E Road.

The OIG report, spanning pages 15 through 17, outlines the discussion and direction provided by the Town Council on April 2, 2019, regarding the purchase of rock from Palm Beach Aggregates. The report acknowledges that on that date, the Council considered and approved an agreement in the best interest of the Town/District based on proposals 878 and 872. Footnote 6 confirms that the OIG has copies of these proposals. During the April 2, 2019 meeting, the Council approved rock purchases from Palm Beach Aggregates, emphasizing the need to proceed efficiently and pragmatically. The Council approval at that meeting was clearly based on statements made by the then Town Manager relative to the amount of rock to be acquired and the process which included “lots of rock” and “not to get held up on technicalities” and “for the rest of the year, to get the job done”. The approval covered at least the remainder of the fiscal year, if not the entire year, and certainly included the time period during which the three questioned purchase orders occurred.

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The Council's decision is clearly documented in the video of the Council Meeting, accessible at this link: <https://www.dropbox.com/scl/fi/5z6eaje9w4wboy03tjo56/040219-TC-Meeting-Video.mp4?rlkey=jzvs7v9hky0zvhdnz996b8dd&dl=0>. Please also see additional discussion below including in the response to the next finding which provides in more detail time stamps and statements made during the meeting relative to the purchases and their approval.

With respect to the amount of rock purchases, the OIG found that there was \$157,510.91 (not \$133,000 as alleged) spent on rock provided by Palm Beach Aggregates for use on E Road. While the OIG did not question \$67,430.55 of that amount, they did question three purchase orders dated from May 4, 2019 to August 26, 2019, totaling \$90,080.36. These three purchase orders were made after the Town Council's approval on April 2, 2019, which occurred prior to the payment of any invoices questioned by the OIG.

The purchases were supported by written purchase orders and invoices consistent with pricing terms set forth in the approved proposals 878 and 872. Although the contract terms could have been more detailed, it's important to recognize that no contractual relationship is perfect, and this was not the primary focus of the audit.

Whether the contract was memorialized in a separate written agreement, the fact remains that the Council approved the purchase of rock on April 2nd at the prices specified in proposals 878 and 872, covering at least the remainder of the fiscal year. The Council's unanimous approval is evident from the discussion surrounding the motion during the meeting. One need only listen to the discussion surrounding their motion (see detailed description and video time references of discussion below) to conclude that the Council absolutely approved the rock being purchased from PB Aggregates at the prices contained in proposals 878 and 872. The OIG did not identify any deviation from the pricing contained in proposals 878 and 872 in their review of these three purchase orders. Consequently, the Town disagrees with the OIG's determination that the rock purchases for E Road and side roads totaling \$90,080.36 should be considered questioned costs due to insufficient documentation regarding Town Council approval or compliance with the Town's Procurement Code.

*The question raised by the allegation was whether the Council approved purchases from Palm Beach Aggregates and not the form or sufficiency of the agreement. Therefore, we believe the accurate finding relative to this allegation is:*

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**Allegation (2) is not supported. The Town did not purchase \$133,000.00 worth of rocks that were distributed on E Road and side roads prior to Council approval in violation of the Town's Procurement Code.**

**Finding (2): The Loxahatchee Groves Water Control District Procurement and Contracting Policy did not align with the Town's Ordinance governing the approval of purchases.**

**Response:** The Town concurs with the OIG's finding that the Loxahatchee Groves Water Control District (LGWCD) Procurement and Contracting Policy did not align with the Town's Ordinance governing the approval of purchases. At the time of consolidation of the dependent district to the Town in 2018, two distinct policies did in fact exist and were employed as applicable to the various activities and, in particular, to existing agreements and pricing arrangements of the district. Further, the Town's purchasing manual was in the process of being updated in part due to a previous OIG report. The two separate policies were ultimately consolidated into a single procurement code with an updated ordinance and related purchasing manual adopted in October of 2020.

However, while the Town agrees that from an administrative point of view that the policies and the code did not align, the Town also believes that the LGWCD Procurement and Contracting Policy was indeed followed with respect to the questioned purchase of rocks, and that it is and was legally permissible for the District and the Town to have differing purchasing policies, and that further that there was no violation of state law or any question of the legitimate public purpose in the acquisition of the questioned purchases of rock.

In addition to original approval under LGWCD purchasing policy as noted above, the Town in fact sought to have the District-approved pricing arrangements with Palm Beach Aggregates approved in the best interest of the Town based on provisions of the Town's procurement code or ordinance at the very first meeting with its first traditional Town Manager on March 19, 2019. Although the three related items were pulled from the agenda, these purchases from Palm Beach Aggregates were in fact discussed at that March 19, 2019 Council meeting. While the contract was not ratified at that meeting, there was a motion wherein Council directed the Town Manager to work with the Public Works Director to resolve the contracting issues with Palm Beach Aggregates and bring back the item to the next meeting. (see item 10h.on page 5 of 3/19/19 minutes).

On April 2, 2019, the Palm Beach Aggregates pricing information was brought back to Council by the Public Works Director who reviewed the same detail that was provided at the previous meeting and confirmed that the

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pricing was more advantageous to the Town than that of other local governments. Although a motion to approve the resolution and other agenda items presented at the March 19, 2019 meeting was not specifically motioned for approval, the April 2, 2019 Town Council meeting minutes reflect the unanimous vote by the Council approving the contract with Palm Beach Aggregates (see item 25 on page 8 of April 2, 2019 minutes, attached hereto for your ready reference).

In addition to the attached minutes, below is the link to the video of the April 2, 2019 Town Council meeting:

<https://www.dropbox.com/scl/fi/5z6eaje9w4wboy03tjo56/040219-TC-Meeting-Video.mp4?rlkey=jzvs7v9hky0vzvhdnz996b8dd&dl=0>

The Town's Public Works Director begins his report at the 3-hour 37 minute and 30 second mark of the video and the Council discusses the pricing arrangement with Palm Beach Aggregates for 3 minutes. Then at the 3-hour 47 minute and 12 second mark, the Public Works Director brings the issue of the purchase back up and the matter is approved by motion of the Town Council concluding at the 3-hour fifty minute and 16 second mark. The direction given by Council helps to explain why the formal contract did not have to be presented to the Council until the next fiscal year. We have not attached that subsequent Master Agreement with Palm Beach Aggregates as we believe you already have it.

*Based on the aforementioned minutes and meeting video, there was clearly Council approval of the pricing agreement or contract Palm Beach Aggregates supporting the three purchases totaling \$90,080.36 shown in the OIG report (as opposed to the \$133,000 as alleged on page 13 of 36 of the OIG report). That approval by the Council in April preceded the purchases identified and as stated by Council covered the rest of the year. Accordingly, the Town did not lack either prior approval by Council or sufficient documentation for those attendant costs and therefore they should be removed from the audit report's list of questioned costs.*

**Recommendation (1): The Town review and update the District's Procurement and Contracting Policy to ensure that it aligns with the Town's Ordinance governing the approval of purchases.**

**Response:** As noted above, the Town completed a full revision and update to its procurement code and related purchasing manual in October 2020. All procurement is done through the Town and/or under the Town's procurement and contracting Ordinance and policies. The Ordinance and related policies are scheduled for another full review, revision and update in the coming fiscal

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year and will incorporate any and all policy amendments, and our interlocal agreements.

**Finding (3): The Town’s check signing process outlined in Resolution 2018-09 did not align with its Ordinance governing the payment of money.**

**Response:** The Town concurs with the OIG’s finding that the check signing process outlined and followed in Resolution 2018-09 did not align with the Ordinance governing the payment of money. The process outlined in the Resolution arguably provided higher standards of security with respect to the check signing processing as it required not only management review in the preparation of the check, but two Council member signatures rather than the one council member signature required by the Ordinance. Therefore, none of the questioned costs resulted in an improper expenditure as all the costs were for a lawful public purpose and for purchases that complied with the statutory requirement for the use of gas tax, which was the underlying predicate for the audit. It should be noted that the practice of councilmember signatures rather than management signatures has been in place and adopted by multiple similar resolutions throughout the history of the Town. The ordinance will be revised by the Town as noted below.

Because the Town’s practice of review payment by management with dual signatures by Council is more restrictive and provides additional control than the ordinance provides for, the Town believes it is misleading to the public and inappropriate to identify such payments as questioned costs. *Therefore, the Town does not believe that it is reasonable or appropriate to consider the dually signed checks totaling \$797,827.38 as questioned costs.*

**Recommendation (2): The Town Review its current resolution updating the payment of money authority and signature authority, and if in conflict with its Ordinance governing the payment of money, update the resolution or the Ordinance to resolve the conflict.**

**Response:** The Town concurs with the recommendation and will work with its banking partners and take into consideration their suggestions, if any, as to what the best practices are for check signing and aligning the resolution and Ordinance, accordingly.

**Finding (4): The Town did not always comply with its Purchasing Policy & Procedures Manual.**

**Response:** The Town concurs that it did not consistently use purchase orders despite its stated practice and desire to do so. We were challenged by limited staffing and resistance to change during transition. Turnover along with training has

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enabled the Town to institute better controls to ensure compliance with its Purchasing Policy and Procedures Manual. It should also be noted that the Town has a completely different management team and staff than was in place at the time these issues arose. The Town’s new management outsourced much of its financial accounting and finance department operations as part of a turn-key contract to not only provide consistency and stability to the function, but to perform compliance routines and to better and more cost effectively manage the financial operations of the Town.

We believe it should be pointed out that all of the purchases alleged to have been made without purchase orders were lawful for a proper public purpose and in compliance with the appropriate use of gas tax funds, which was the original predicate of the audit. The discussion below speaks to specific items identified in Chart 6 of the OIG report as questioned costs in the amount of \$45,772.88. These questioned costs represent less than 4% of the \$1,270,286.95 of sampled expenditures. The costs are not being questioned because they were for an improper purpose or because they are not a proper expenditure of gas tax revenue (which was the original purpose of the audit). Rather they are being questioned because the report alleges they were not supported by a purchase order.

The Town agrees there is one invoice from AAA Garden in the amount of \$4,311.00 for which a purchase order should have existed and the Town has not been able to verify that a purchase order exists. The purchase was for a legitimate and proper expense and use of gas tax monies as it was for the installation of sod along the roadway construction at 145th Avenue and 43rd Road North.

The Town however does not concur that the back-up was insufficient with respect to the \$41,461.88 contained in the invoices which involve 5 invoices from the Town’s Engineer, Keshavarz & Associates (Keshavarz) and 6 equipment rental charges from United Rentals North (United) based on a contract through Sourcewell.

The following is a breakdown of the Keshavarz invoices:

<u>Invoice Number</u>	<u>Invoice Amount</u>	<u>Questioned by OIG</u>
52A	\$7,676.25	\$3,838.12
53A	\$6,195.00	\$3,097.50
54	\$7,850.00	\$3,925.80
55	\$6,375.00	\$3,187.50
58	\$9,407.50	\$7,387.50

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It is not apparent from the report why a portion of the invoiced costs were questioned while another portion was not questioned nor is it clear which charges on the invoice are being questioned. Town management is only left to speculate as to what the issues are. It does not seem to be a lack of a purchase order, as for example, when looking at PO # 272, it is evident in the breakdown of payments for that PO that 100% of the charges associated with the above invoices 52A, 53A and 54A were charged to that PO. In looking at the invoices and the approval notes thereon, there seems to be a connection between the amount questioned and a notation of “50/50” referring to the allocation of the payment between two general ledger (GL) account numbers. Likewise, on the two invoices in which questioned charges were not 50 percent of the invoiced amounts, the questioned charges appear to be related to the breakdown in the allocation of payment between the two GL accounts. Town management can only surmise that the OIG misunderstood the meaning of those notes, as there is no discussion in the report nor does Town management believe that it is improper or unusual for a purchase order and/or invoice to be split between more than one GL account.

Moreover, to the extent that some of the charges may not be directly associated with a PO, one must take into account, that at the time in question Keshavarz was under a continuing contract with the Town to act as its engineer. The Town did not have an “in house” Town Engineer, which meant regular and routine engineering questions and issues would be addressed by Keshavarz on the basis and in accordance with their underlying contract.

Similarly, with respect to the United Rental invoices, those charges were for equipment rental under the terms of an ongoing contract through Sourcewell, a cooperative purchasing and governmental contracting organization. The contract terms as per Sourcewell did not require the issuance of a PO. Rather than through purchase orders, the contract authorized users to make requests by email or phone for the delivery and use of the equipment which was supported by documentation evidencing the delivery and acceptance of the equipment. The invoices were then paid in accordance with the contract.

Finally, as with all costs questioned by the OIG, the expenses described above were indeed a proper and eligible use of gas tax revenues.

**Recommendations (3): The Town issue purchase orders for purchases, as required by its Purchasing Policy & Procedures Manual.**

**Response:** The Town concurs and currently does so in accordance with the manual. Please see above comments.

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**Recommendation (4):** The Town implement a review and oversight process to help ensure that expenditures are supported by a purchase order, where applicable, and that purchase order documentation is appropriately retained.

**Response:** The Town concurs and has implemented compliance reviews. Please see above comments.

**Finding (5):** The Town did not sufficiently provide for separate accountability of gas tax revenues by source.

**Response:** The Town disagrees with the finding that it does not provide adequate separate accountability as:

- The Town currently budgets and accounts for gas tax monies in a separate special revenue fund and within that fund, each source of gas tax is recorded in separate general ledger accounts based on the statutory source of the tax (either for maintenance or capital spending);
- The Town's external financial statement audits have included and reported on audited revenues, expenditures and fund balances by type of gas tax with no exceptions found since the Town's inception; and
- Considerable conclusive information, both as part of the Town's external financial audits and as provided to your office, demonstrates that expenditures for qualified gas tax funds greatly exceeded the amount of gas tax revenues that were available to the Town—either for maintenance or for capital. The Town's total operating and maintenance costs greatly exceed the annual distribution of the 6-cent gas tax with the road & drainage fund expenditures averaging at least \$2 million dollars annually with only around 10% of that coming from eligible gas tax. The Town's capital expenditures also run towards millions annually while the 5-cent gas tax is just over \$100,000 annually. Municipalities and districts often cobble together funds from various sources to do projects and, in doing so, the monies become fungible which suggests the relevant question is whether the expenditures exceed the restricted funds. In the case of the Town's gas tax monies, all the maintenance spending and capital project spending had to be supplemented with other unrestricted funds in order for the maintenance and capital projects to be completed.

In summary, the Town has demonstrated that there was no question that more monies were spent on gas tax eligible projects and services than were received from gas taxes; further the financial audits support that fact as well as report separate accounting with no findings. Nonetheless, the Town will consider a policy which states that the first dollars spent on any gas tax

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eligible expenditure will be sourced from gas tax revenues until such revenues are exhausted.

**Recommendation (5):** The Town implement a process that provides for sufficient, separate accountability for the use of gas tax revenues by source (6-cent or 5-cent)

**Response:** The Town does not concur with the finding as noted above; however, it will consider a statement in its fiscal policies which states that the first dollars spent on any gas tax eligible expenditure will be sourced from gas tax revenues until such revenues are exhausted.

**Recommendation (6):** The Town establish and maintain a written review and oversight process for reviewing, recording, and reconciling gas tax revenue transferred and expended to ensure they are in compliance with section 336.025, F.

**Response:** The Town does not concur with the finding as noted above; however, it will consider a statement in its fiscal policies which states that the first dollars spent on any gas tax eligible expenditure will be sourced from gas tax revenues until such revenues are exhausted.

**Finding (6):** The Town lacked sufficient controls over the vendor master file.

**Response:** The Town agrees that at that time with its limited staff there was insufficient segregation of duties and responsibilities which led to problematic sharing of passwords and other applicable controls. This has been corrected and is addressed in the Town's current policies.

**Recommendation (7):** The Town separate the accounts payable and vendor master file duties of the Public Works Coordinator or implement alternative control activities to prevent and detect erroneous or unauthorized modifications to the vendor master file.

**Response:** The Town has separated those duties.

**Recommendation (8):** The town restrict access to the vendor master file to only personnel who need access to perform their duties.

**Response:** The Town has restricted access to the vendor master files.

**Recommendation (9):** The Town implement review and oversight activities over the vendor master file to ensure additions and modifications are accurate and authorized.

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**Response:** The Town’s turnkey outsourced finance department is in the process of establishing such controls.

**Recommendation (10):** **The Town develop and implement written guidance for management and oversight of the vendor master file.**

**Response:** The Town is in the process of revising its Accounting Manual and such guidance will be included in the adoption of the Manual. The Town’s external auditors are currently reviewing the staff prepared manual and policies with expected comments to be provided in August, 2024.

**Finding (7):** **The Town did not sufficiently restrict user access and lacked written policies and procedures for information technology processes.**

**Recommendation (11):** **The Town develop and implement written IT policies and procedures that provide guidance, at a minimum, for how to:**

- DRAFT
- a. Perform IT processes in place,
  - b. Assign and remove user rights and a reasonable time for completion,
  - c. Authorize user access,
  - d. Limit system access requiring unique user IDs and passwords, and
  - e. Provide for user change management (new and terminated employees).

**(12):** **The Town provide staff training for the IT policies and procedures, as needed.**

**(13):** **The Town create individual user accounts for each employee that requires access to the Blackbaud system.**

**Response:** This response is provided for Finding 7 as well as Recommendations 11, 12 & 13 above. As noted in the audit report, the Town has implemented an Information Technology Policy effective December 5, 2022, which generally addresses the risk areas identified. As with all policies, the IT policy is reviewed regularly and will be reviewed in light of the OIG’s recommendations, to determine whether the concerns are adequately addressed in the existing policy or whether modifications to the policy are necessary.

In conclusion, the Town once again wishes to thank the OIG for the thoughtful consideration of the Town’s desire for continuous improvement in bringing forth the above findings and

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Town of Loxahatchee Groves  
Response to OIG Draft Audit Report– Expenditure of Gas Tax Revenue  
June 28, 2024

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recommendations. We are also very pleased by the primary finding of the audit that **there was no misuse of gas tax revenues.**

None of the questioned costs, not a single dime of them, were questioned on the basis of not being spent for public purpose or for an expenditure that would be inappropriate for the use of gas tax revenues. Neither were the items identified as questioned costs without oversight and approval. There was compliance with the governing statutory authority. The level of audit performed by the OIG appears to be the same as the Town's independent auditors and we have not had an audit adjustment or finding for any of the items noted by the OIG except that we need to update our policy manuals, which as noted above we have done and are having reviewed by external auditors prior to final implementation.

We do appreciate that the current vernacular or terminology employed by the OIG does not have sufficient range of language or categories with respect to items of note and must default to the term "questioned costs" despite that the use of such term is misleading to the public at best.

The shortcoming associated with categorizing a wide variety of items as questioned costs is it makes it difficult for the public to assess if there is any negative impact of the actual deviation from policy. For example, the Town employed **more restrictive review and approval procedures** for nearly \$1 million of disbursements than required by ordinance yet these costs are reported as questioned. When have stronger controls and oversight been a problem? Is the additional hand signature by a councilmember an unnecessary cost burden? Is a signature by the manager and/or CFO on check register rather than on a check a lesser control? The more stringent review requirement was adopted officially by Council and is clearly the essence of the Town's elected officials purview to make policy that meet or exceed code requirements.

With respect to the timing of the implementation of the recommendations to which Town management has concurred with the OIG, ***to the extent they have not already been implemented,*** it is anticipated the actions will be completed and/or presented to the governing bodies of the Town and Water Control District by the end of this calendar year.

**Nicole Spence**

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**From:** Francine Ramaglia <FRamaglia@loxahatcheegrovesfl.gov>  
**Sent:** Friday, June 28, 2024 1:47 PM  
**To:** Hillary Bojan M.  
**Cc:** Nicole Spence; John Carey A.; Project Coordinator; Valerie Oakes  
**Subject:** Re: Lox Groves

**This Message Is From an External Sender**

This message came from outside your organization.

Sorry---didn't even remember that one! The Town does have all items over 25K approved by Council and reports all items over 10K to council as a regular agenda item. Further, the Town includes the over 10K and over 25K report in its regular meetings of the Financial Audit and Advisory Committee (FAAC). In fact, we even have even gone beyond the requirements of that threshold for reporting and have reported items approved by continuing contract such as FRS or FLC insurance to err on the side of conservatism.

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**From:** Hillary Bojan M. <HBojan@pbc.gov>  
**Sent:** Friday, June 28, 2024 1:37 PM  
**To:** Francine Ramaglia <FRamaglia@loxahatcheegrovesfl.gov>  
**Cc:** Nicole Spence <NSpence@pbc.gov>; John Carey A. <JCarey@pbc.gov>; Project Coordinator <projectcoordinator@loxahatcheegrovesfl.gov>; Valerie Oakes <voakes@loxahatcheegrovesfl.gov>  
**Subject:** RE: Lox Groves

Good afternoon Francine,

We received your response. I noticed it does not address Finding 2 Recommendation 2 (see below). Does the Town accept this recommendation?

- (2) The Town implement a review and oversight process to ensure that purchases of \$25,000 or more have sufficient documentation to show that they are approved by the council and purchases of \$10,000 or more utilize a written agreement in compliance with the Town's Procurement Code and Administrative Purchasing Policy & Procedures Manual.

Thank you,  
Hillary