

**STATE BOARD OF ACCOUNTS**  
**302 West Washington Street**  
**Room E418**  
**INDIANAPOLIS, INDIANA 46204-2765**

EXAMINATION REPORT

OF

TOWN OF KOUTS

PORTER COUNTY, INDIANA

January 1, 2004 to December 31, 2005



**FILED**  
11/21/2006



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OFFICIALS

Office

Official

Term

Clerk-Treasurer

Gregory S. Frame

01-01-04 to 12-31-07

President of the Town Council

David Brooks

01-01-04 to 12-31-06



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

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INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF THE TOWN OF KOUTS, PORTER COUNTY, INDIANA

We have examined the schedules of receipts, disbursements, and cash and investment balances of the Town of Kouts (Town), for the period of January 1, 2004 to December 31, 2005. The Town's management is responsible for the schedules. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the schedule of receipts, disbursements, and cash and investment balances and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the schedules referred to above present fairly, in all material respects, the cash transactions of the Town for the years ended December 31, 2004 and 2005, based on the criteria set forth in the uniform compliance guidelines established by the Indiana State Board of Accounts.

STATE BOARD OF ACCOUNTS

October 11, 2006

TOWN OF KOUTS  
SCHEDULES OF RECEIPTS, DISBURSEMENTS, AND CASH AND INVESTMENT BALANCES  
ALL GOVERNMENTAL, PROPRIETARY AND FIDUCIARY FUND TYPES  
As Of And For The Years Ended December 31, 2004 And 2005

	Cash and Investments 01-01-04	Receipts	Disbursements	Cash and Investments 12-31-04
<b>Governmental Funds:</b>				
General	\$ 122,702	\$ 382,853	\$ 376,503	\$ 129,052
Motor Vehicle Highway	32,563	55,263	45,353	42,473
Local Road and Street	56,951	20,720	26,403	51,268
Park and Recreation	4,083	14,561	8,969	9,675
Law Enforcement Continuing Education	8,362	3,451	4,479	7,334
Riverboat	10,737	10,707	-	21,444
Police Donation	3,696	6,300	7,214	2,782
Cumulative Capital Improvement	9,434	6,336	6,352	9,418
Cumulative Capital Development	55,549	25,354	14,033	66,870
Cumulative Building and Fire Fighting Equipment	41,716	21,116	-	62,832
County Economic Development Income Tax	35,731	48,342	35,719	48,354
Garbage	(1,233)	65,805	66,506	(1,934)
Leaf	14,860	18,495	29,588	3,767
Stormwater	116,866	95,659	56,560	155,965
Park Deposit	650	700	650	700
Park Donation	375	60	60	375
Craig King Payment	200	-	75	125
Town Donation	2,992	-	550	2,442
Debt Service	14,377	11,316	22,680	3,013
<b>Proprietary Funds:</b>				
Water Utility - Operating	56,955	907,576	970,705	(6,174)
Water Utility - Bond and Interest	27,533	-	-	27,533
Water Utility - Customer Deposit	55,675	8,147	6,647	57,175
Water Utility - Drinking Water SRF Loan	24,000	24,000	23,695	24,305
Water Utility - Tank Painting	18,000	18,000	-	36,000
Wastewater Utility - Operating	730,642	572,937	509,298	794,281
Wastewater Utility - Bond and Interest	109,443	150,000	143,851	115,592
Wastewater Utility - Depreciation	22,510	-	-	22,510
<b>Fiduciary Fund:</b>				
Payroll	-	270,168	269,437	731
<b>Totals</b>	<b>\$ 1,575,369</b>	<b>\$ 2,737,866</b>	<b>\$ 2,625,327</b>	<b>\$ 1,687,908</b>

	Cash and Investments 01-01-05	Receipts	Disbursements	Cash and Investments 12-31-05
<b>Governmental Funds:</b>				
General	\$ 129,052	\$ 415,027	\$ 368,233	\$ 175,846
Motor Vehicle Highway	42,473	53,974	49,172	47,275
Local Road and Street	51,268	21,129	55,526	16,871
Park and Recreation	9,675	8,513	11,368	6,820
Law Enforcement Continuing Education	7,334	5,501	5,301	7,534
Riverboat	21,444	10,707	-	32,151
Police Donation	2,782	2,358	2,935	2,205
Cumulative Capital Improvement	9,418	5,249	4,061	10,606
Cumulative Capital Development	66,870	23,903	23,760	67,013
Cumulative Building and Fire Fighting Equipment	62,832	17,839	-	80,671
County Economic Development Income Tax	48,354	84,072	54,152	78,274
Garbage	(1,934)	67,304	66,403	(1,033)
Leaf	3,767	19,534	21,000	2,301
Stormwater	155,965	106,926	103,029	159,862
Park Deposit	700	700	700	700
Park Donation	375	-	-	375
Craig King Payment	125	-	125	-
Town Donation	2,442	-	323	2,119
Debt Service	3,013	18,097	21,600	(490)
Redevelopment Bonds	-	495,000	68,276	426,724
College Avenue	-	32,000	62,634	(30,634)
<b>Proprietary Funds:</b>				
Water Utility - Operating	(6,174)	903,339	947,011	(49,846)
Water Utility - Bond and Interest	27,533	-	-	27,533
Water Utility - Customer Deposit	57,175	9,078	6,024	60,229
Water Utility - Drinking Water SRF Loan	24,305	24,000	23,241	25,064
Water Utility - Tank Painting	36,000	18,000	-	54,000
Wastewater Utility - Operating	794,281	550,474	419,239	925,516
Wastewater Utility - Bond and Interest	115,592	150,000	150,714	114,878
Wastewater Utility - Depreciation	22,510	-	-	22,510
<b>Fiduciary Fund:</b>				
Payroll	731	278,877	278,824	784
<b>Totals</b>	<b>\$ 1,687,908</b>	<b>\$ 3,321,601</b>	<b>\$ 2,743,651</b>	<b>\$ 2,265,858</b>

The accompanying notes are an integral part of the schedules.

TOWN OF KOUTS  
NOTES TO SCHEDULES

Note 1. Introduction

The Town was established under the laws of the State of Indiana. The Town provides the following services: public safety, health and social services, culture and recreation, general administrative services, water distribution and wastewater treatment.

Note 2. Fund Accounting

The Town uses funds to report on its cash and investments and the results of its operations on a cash basis. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain governmental functions or activities.

Note 3. Budgets

The operating budget is initially prepared and approved at the local level. In addition, funds for which property taxes are levied or highway use taxes are received are subject to final approval by the Indiana Department of Local Government Finance.

Note 4. Property Taxes

Property taxes levied are collected by the County Treasurer and are distributed to the Town in June and December. State statute (IC 6-1.1-17-16) requires the Indiana Department of Local Government Finance to establish property tax rates and levies by February 15. These rates were based upon the preceding year's March 1 (lien date) assessed valuations adjusted for various tax credits. Taxable property is assessed at 100% of the true tax value (determined in accordance with rules and regulations adopted by the Indiana Department of Local Government Finance). Taxes may be paid in two equal installments which become delinquent if not paid by May 10 and November 10, respectively.

Note 5. Deposits and Investments

Deposits, made in accordance with Indiana Code 5-13, with financial institutions in the State of Indiana at year end were entirely insured by the Federal Depository Insurance Corporation or by the Indiana Public Deposit Insurance Fund. This includes any deposit accounts issued or offered by a qualifying financial institution.

State statute (IC 5-13-9) authorizes the Town to invest in securities including, but not limited to, federal government securities, repurchase agreements, and certain money market mutual funds. Certain other statutory restrictions apply to all investments made by local governmental units.

Note 6. Long-Term Debt

The Town has entered into various debts such as bonds for improvements to the water system, loans for water and wastewater plant improvements and a capital lease for a dump truck. The outstanding principal at December 31, 2005, was \$ 495,000, \$ 1,517,779, and \$ 37,066, respectively.

TOWN OF KOUTS  
EXAMINATION RESULTS AND COMMENTS

OVERDRAWN CASH BALANCES

The cash balances of the following funds were overdrawn at year-end:

<u>Fund</u>	<u>2004</u>	<u>2005</u>
Garbage	\$ 1,934	\$ 1,033
College Avenue	-	30,634
Debt Service	-	490
Water Operating	6,174	49,846

The cash balance of any fund may not be reduced below zero. Routinely overdrawn funds could be an indicator of serious financial problems which should be investigated by the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

CUSTOMER DEPOSIT REGISTER

The detailed customer deposit register does not reconcile with the customer deposit amount recorded on the general ledger.

At all times, the manual and computerized records, subsidiary ledgers, control ledger, and reconciled bank balance should agree. If the reconciled bank balance is less than the subsidiary or control ledgers, then the responsible official or employee may be held personally responsible for the amount needed to balance the fund. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

ORDINANCES AND RESOLUTIONS

The Town has a personnel policy concerning sick leave. However, officials did not comply with the approved policy. The Town's sick leave policy states that full-time and salaried employees shall be granted 1 day per month of continuous service and that they are able to accumulate 10 days of such leave. Instead, the Town is granting eligible employees 10 sick days at the beginning of each year and not carrying over any unused balances.

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

DELINQUENT WASTEWATER UTILITY ACCOUNTS

Our audit of the Wastewater Utility revealed that sewage liens were filed incorrectly with the County Recorder. The liens filed included past-due amounts for other utility services, such as water, sanitation, and drainage. The amounts filed were in excess of what is allowed by statute.

Indiana Code 36-9-23-33 applies to Municipal Sewage Works states, in part:

"(b) Except as provided in subsection (l), the officer charged with the collection of fees and penalties assessed under this chapter shall enforce their payment. As often as the officer determines is necessary in a calendar year, the officer shall prepare:

TOWN OF KOUTS  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

- (1) a list of the delinquent fees and penalties that are enforceable under this section, which must include the:
  - (A) name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;
  - (B) description of the premises, as shown by the records of the county auditor; and
  - (C) amount of the delinquent fees, together with the penalty; or
- (2) an individual instrument for each lot or parcel of real property on which the fees are delinquent."

"(c) The officer shall record a copy of each list or each individual instrument with the county recorder. . ."

"(e) Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), after September 1 of the preceding calendar year and before September 1 of the current calendar year, the officer shall before December 15 of each year certify to the county auditor a list of the liens that remain unpaid for collection in the next May."

UTILITIES - COLLECTION POLICY

There was no written policy for the collection of past-due utility accounts.

The governing board over a water, gas, or electric utility should adopt written policies dealing with unclaimed meter deposits, bad debts, due dates, write-offs, NSF checks, etc. The governing body over a sewage utility should also adopt written collection policies for those areas not covered by statute. (Accounting and Uniform Compliance Guidelines Manual for Cities of Towns, Chapter 7).

INTERNAL CONTROLS

Controls for receipts and ordinance violation tickets issued by the Police Department are insufficient. Log books are not maintained to track which receipt books or packs of tickets are issued to police officers. In addition, ordinance violation tickets are not filed or recorded numerically to ensure that all were accounted for.

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

ORDINANCE VIOLATIONS BUREAU

The Kouts Police Department is issuing tickets for moving traffic violations which are then enforced as ordinance violations. The fines are paid to the Town of Kouts and the violation is not heard in any court as required by Indiana Code 34-28-5.

TOWN OF KOUTS  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

Indiana Code 36-1-6-3 states in part: "(a) Certain ordinances may be enforced by a municipal corporation without proceeding in court . . . (c) An ordinance defining a moving traffic violation may not be enforced under IC 33-36 and must be enforced in accordance with IC 34-28-5.

CAPITAL ASSET RECORDS

As stated in previous audit reports, capital asset records for the Town and the Utilities were not presented for examination.

Every governmental unit should have a complete inventory of all capital assets owned which reflect their acquisition value. Such inventory should be recorded in the Capital Assets Ledger. A complete inventory should be taken every year for good internal control and for verifying account balances carried in the accounting records. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

TOWN OF KOUTS  
EXIT CONFERENCE

The contents of this report were discussed on October 11, 2006, with Gregory Frame, Clerk-Treasurer; and Laurie Tribble, Deputy Clerk-Treasurer. The official response has been made a part of this report and may be found on pages 10 and 11.

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October 16, 2006

Greg Frame, Clerk Treasurer  
**Town of Kouts**  
210 S. Main Street  
P.O. Box 93  
Kouts, IN 46347

**Re: State Board of Accounts**

Dear Mr. Frame:

In response to your comments that the auditor for the State Board of Accounts takes the position that the Town is assessing fines for speeding and other moving violations improperly. This conclusion on the part of the auditor is based on the auditor's interpretation of I.C. 34-28-5 and I.C. 33-6-3. Under these statutes, the auditor's position is that state law requires that all moving violation cases (whether brought under state statute or town ordinance) be heard in a circuit, superior, county, city or town court or traffic violations bureau designated by one of these courts and that a moving traffic violation may not be brought before or disposed of by a town violations bureau pursuant to an enabling ordinance.

After reviewing I.C. 34-28-5 and I.C. 33-6-3, it is my opinion that the State Board of Accounts on this matter is incorrect. Contrary to the audit comment, I.C. 34-28-5 makes no mention of a specific jurisdiction for moving traffic violations. In Section 1 of this statute, sub-section (a) provides that an action to enforce a statute defining an infraction (e.g. speeding) shall be brought in the name of the State of Indiana by the prosecuting attorney for the judicial circuit for which the infraction took place. Obviously sub-section (a) contemplates that statutory law (state statute) enforcement by prosecuting attorneys will occur in one of these courts. However, sub-section (b) of Section 1 of this statute specifies that an action to enforce an ordinance shall be brought in the name of the municipal corporation. Sub-section (b) does not provide that the action will be prosecuted by a prosecuting attorney and, like all municipal ordinance violations, can be prosecuted by the town attorney. Sub-section (b) also does not require that the enforcement of an ordinance be brought in a circuit, superior, county, city or town court or traffic violations bureau designated by one of these courts. Since the Town of Kouts has specifically created a Violations Bureau as permitted by I.C. 33-6-3, these town ordinance violations, including moving violations such as speeding, may be brought before the Violations Bureau and resolved at that level without the necessity of being filed in one of the courts

Town of Kouts  
October 16, 2006

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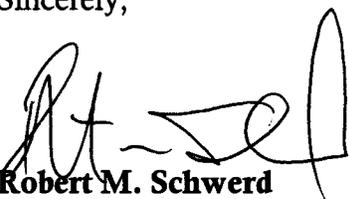
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enumerated by the auditor's comment. Of course, if the ordinance violation is not resolved in a timely fashion through the use of a town violation bureau, the matter would then be referred to one of the above-mentioned courts.

The Kouts Violations Bureau Ordinance complies with the state law in that it lists a number of ordinance violations which may be handled through the creation of the Violations Bureau. Those violations include traffic moving violations. Nowhere in I.C. 33-6-3 is it suggested that ordinance violations involving moving traffic violations may not be handled through a Town Violations Bureau. The Town of Kouts has ordinances with respect to moving traffic violations on its town roads and the disposition of those ordinance violations before the Town Violations Bureau is permitted, and indeed contemplated, by the creation of the violation bureau statute. For that reason, it is my opinion that I.C. 34-28-5-1(b) in combination with I.C. 33-6-3 and the Kouts Ordinance creating the Violations Bureau, specifying the infractions which may be handled by that bureau, permit the Town of Kouts to dispose of traffic moving violations on town roads, through the Violations Bureau of the Town.

Please feel free to provide the auditor with a copy of this opinion. If further discussion or review of this matter is needed, please call me.

Sincerely,



Robert M. Schwerd

RMS/aac