

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

EXAMINATION REPORT
OF
TOWN OF GASTON
DELAWARE COUNTY, INDIANA
January 1, 2007 to December 31, 2008



FILED
12/14/2009

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OFFICIALS

Office

Official

Term

Clerk-Treasurer

Jennifer Shell
Mary Jo Barker

01-01-04 to 08-17-09
08-18-09 to 12-31-11

President of the Town Council

Theodore Brown
Audra Koontz

01-01-05 to 12-31-07
01-01-08 to 12-31-12



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
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INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF THE TOWN OF GASTON, DELAWARE COUNTY, INDIANA

We have examined the financial information presented herein of the Town of Gaston (Town), for the period of January 1, 2007 to December 31, 2008. The Town's management is responsible for the financial information presented herein. 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 financial information presented herein 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 financial information referred to above presents fairly, in all material respects, the financial information of the Town for the years ended December 31, 2007 and 2008, based on the criteria set forth in the uniform compliance guidelines established by the Indiana State Board of Accounts.

The Schedule of Capital Assets and Schedule of Long-Term Debt, as listed in the Table of Contents, are presented for additional analysis and are not required parts of the basic financial information. They have not been subjected to the examination procedures applied to the basic financial information and, accordingly, we express no opinion on them.

STATE BOARD OF ACCOUNTS

October 19, 2009

TOWN OF GASTON
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, 2007 And 2008

	Cash and Investments		Cash and Investments	
	01-01-07	Receipts	Disbursements	12-31-07
Governmental Funds:				
General	\$ 143,336	\$ 243,412	\$ 282,194	\$ 104,553
Motor Vehicle Highway	33,512	41,052	37,191	37,373
Local Road and Street	12,817	9,515	5,599	16,733
Law Enforcement Continuing Education	975	861	109	1,728
Riverboat	13,211	6,369	-	19,579
Rainy Day	821	4,009	-	4,830
Donation	17	-	-	17
Cumulative Capital Improvement	7,147	3,548	-	10,694
Community Center Fund	1,437	1,275	7	2,706
County Economic Development Tax	18,679	8,676	-	27,355
Levy Excess	14,747	4,316	14,747	4,316
Proprietary Funds:				
Water Utility - Operating	63,468	188,706	179,251	72,924
Water Utility - Bond and Interest	5,806	-	-	5,806
Water Utility - Depreciation	2,544	1,200	-	3,744
Water Utility - Customer Deposit	16,080	3,750	2,585	17,244
Water Utility - Backhoe	5,471	3,400	1,342	7,529
Water Utility - Non-sufficient Fund Clearing	487	446	557	376
Water Utility - Grant	-	29,880	29,880	-
Wastewater Utility - Operating	27,329	175,816	164,655	38,491
Wastewater Utility - Bond and Interest	17,212	15,084	2,788	29,508
Wastewater Utility - Depreciation	6,123	1,200	4,630	2,693
Wastewater Utility - Backhoe	5,471	3,400	1,342	7,529
Wastewater Utility - Repayment of Water Loan	-	2,888	2,888	-
Fiduciary Fund:				
Payroll	3,106	207,857	208,644	2,320
Totals	\$ 399,796	\$ 956,660	\$ 938,408	\$ 418,048

	Cash and Investments		Cash and Investments	
	01-01-08	Receipts	Disbursements	12-31-08
Governmental Funds:				
General	\$ 104,553	\$ 201,851	\$ 277,515	\$ 28,889
Motor Vehicle Highway	37,373	29,098	41,257	25,214
Local Road and Street	16,733	8,998	5,696	20,035
Law Enforcement Continuing Education	1,728	822	620	1,930
Riverboat	19,579	6,336	6,000	19,915
Rainy Day	4,830	1,817	2,000	4,647
Donation	17	-	-	17
Cumulative Capital Improvement	10,694	3,285	5,000	8,979
Community Center Fund	2,706	1,318	1,338	2,686
County Economic Development Tax	27,355	39,866	30,000	37,221
Levy Excess	4,316	-	-	4,316
Proprietary Funds:				
Water Utility - Operating	72,924	170,029	157,796	85,157
Water Utility - Bond and Interest	5,806	-	-	5,806
Water Utility - Depreciation	3,744	1,200	-	4,944
Water Utility - Customer Deposit	17,244	5,113	4,206	18,151
Water Utility - Backhoe	7,529	3,400	-	10,929
Water Utility - Non-sufficient Fund Clearing	376	1,222	698	900
Wastewater Utility - Operating	38,491	263,564	270,454	31,601
Wastewater Utility - Bond and Interest	29,508	3,816	33,324	-
Wastewater Utility - Depreciation	2,693	1,200	-	3,893
Wastewater Utility - Backhoe	7,529	3,400	-	10,929
Wastewater Utility - Repayment of Water Loan	-	1,444	1,444	-
Wastewater Utility - Loan to Bank	-	13,067	9,800	3,267
Fiduciary Fund:				
Payroll	2,320	186,607	186,625	2,302
Totals	\$ 418,048	\$ 947,451	\$ 1,033,773	\$ 331,726

The accompanying notes are an integral part of the financial information.

TOWN OF GASTON
NOTES TO FINANCIAL INFORMATION

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, and general administrative services.

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. Property tax collections were delayed in 2008 due to reassessment delays resulting in the second installment for 2008 not payable until January 10, 2009, and not distributed until March 31, 2009.

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.

TOWN OF GASTON
NOTES TO FINANCIAL INFORMATION
(Continued)

Note 6. Pension Plan

Public Employees' Retirement Fund

Plan Description

The Town contributes to the Indiana Public Employees' Retirement Fund (PERF), a defined benefit pension plan. PERF is an agent multiple-employer public employee retirement system, which provides retirement benefits to plan members and beneficiaries. All full-time employees are eligible to participate in this defined benefit plan. State statutes (IC 5-10.2 and 5-10.3) govern, through the PERF Board, most requirements of the system, and give the Town authority to contribute to the plan. The PERF retirement benefit consists of the pension provided by employer contributions plus an annuity provided by the member's annuity savings account. The annuity savings account consists of members' contributions, set by state statute at 3% of compensation, plus the interest credited to the member's account. The employer may elect to make the contributions on behalf of the member.

PERF administers the plan and issues a publicly available financial report that includes financial statements and required supplementary information for the plan as a whole and for its participants. That report may be obtained by contacting:

Public Employees' Retirement Fund
Harrison Building, Room 800
143 West Market Street
Indianapolis, IN 46204
Ph. (317) 233-4162

Funding Policy and Annual Pension Cost

The contribution requirements of the plan members for PERF are established by the Board of Trustees of PERF.

Note 7. Subsequent Event

Two additional loans were obtained in 2009. The loans were for a police vehicle (\$10,100) and a police vehicle and a salt spreader (\$33,479). In addition, a loan was made from the Water Utility to the Wastewater Utility in the amount of \$30,000 and a loan was made from the County Economic Development Tax Fund to the General Fund in the amount of \$35,000. Outstanding loans as of December 31, 2008, for a police vehicle (\$6,767) and a backhoe (\$11,455), were paid off early.

TOWN OF GASTON
SUPPLEMENTARY INFORMATION
SCHEDULE OF CAPITAL ASSETS

For The Year Ended December 31, 2008

Capital assets are reported at actual or estimated historical cost based on appraisals or deflated current replacement cost. Contributed or donated assets are reported at estimated fair value at the time received. Capital assets are not separated between governmental activities and business-type activities.

<u>Primary Government</u>	<u>Ending Balance</u>
Governmental and business-type activities:	
Capital assets, not being depreciated:	
Land	\$ 5,501
Infrastructure	690,120
Buildings	410,000
Machinery and equipment	<u>866,074</u>
Total governmental and business-type activities, capital assets not being depreciated	<u>\$ 1,971,695</u>

TOWN OF GASTON
 SUPPLEMENTARY INFORMATION
 SCHEDULE OF LONG-TERM DEBT
 December 31, 2008

The Town has entered into the following debt:

Description of Debt	Ending Principal Balance	Principal and Interest Due Within One Year
Governmental Activities:		
Capital leases:		
Police Car	\$ 6,767	\$ 6,767
Backhoe	<u>11,455</u>	<u>11,455</u>
Total governmental activities debt	<u><u>\$ 18,222</u></u>	<u><u>\$ 18,222</u></u>
Business-type Activities:		
Wastewater Utility		
Notes payable	<u><u>\$ 158,010</u></u>	<u><u>\$ -</u></u>

TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS

DISPOSAL OF CAPITAL ASSETS

The following capital assets were disposed of:

- (1) The Town Board approved donating a street sweeper to an individual on February 14, 2008.
- (2) The Town Board approved allowing the Marshal to purchase a John Deere mower owned by the Town, for \$200 on April 10, 2008.
- (3) The Town Board approved the trade in of a police vehicle in exchange for a discount in the installation of lights for another police vehicle on July 10, 2008.

The value of the above assets was not obtained prior to disposing of the capital asset.

IC 5-22-22-4 states:

"(a) If the property to be sold is: (1) one (1) item, with an estimated value of one thousand dollars (\$1,000) or more; or (2) more than one (1) item, with an estimated total value of five thousand dollars (\$5,000) or more; the purchasing agency may engage an auctioneer licensed under IC 25-6.1 to advertise the sale and conduct a public auction. (b) The advertising by an auctioneer under this section must include a detailed description of the property to be sold. (c) The purchasing agency shall pay an auctioneer who conducts a sale under this section from the gross proceeds of the sale received before other expenses and liens are paid."

IC 5-22-22-4.5 states:

"(a) The purchasing agency may sell surplus property using an Internet auction site that satisfies both of the following: (1) The site is approved by the office of technology established by IC 4-13.1-2-1. (2) The site is linked to the electronic gateway administered under IC 4-13.1-2-2(a)(5) by the office of technology. (b) The purchasing agency's posting of the sale on the Internet auction site must include a detailed description of the surplus property to be sold. (c) The purchasing agency may pay the costs of conducting the auction on the Internet site as required by the person maintaining the auction site."

IC 5-22-22-5 states:

"(a) If: (1) an auctioneer is not engaged under section 4 of this chapter; or (2) the surplus property is not sold through an Internet auction site under section 4.5 of this chapter; the purchasing agency shall sell the property at a public sale or by sealed bids delivered to the office of the purchasing agency before the date of sale. (b) Advertisement of the sale shall be made in accordance with IC 5-3-1. (c) All sales shall be made to the highest responsible bidder."

TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS
(Continued)

CAPITAL ASSET RECORDS

A comparison of capital assets as of December 31, 2006, and December 31, 2008, indicated material decreases. Manual capital asset records were maintained through December 31, 2006. Computerized capital asset records were created during the examination period, but are not separated by Town, Water Utility, and Wastewater Utility. The amounts below indicate an overall decrease in the classifications of capital assets carried forward to the computerized capital asset records.

	<u>Amount</u>
Land	\$ 105,260
Buildings	198,178
Improvements	1,007,971
Machinery and equipment	<u>486,667</u>
Total	<u>\$ 1,798,076</u>

Every governmental unit should have a complete inventory of all capital assets owned which reflects 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)

FUEL PURCHASES - POLICE DEPARTMENT

A review of fuel purchases for the Police Department for May 2008 and June 2008 indicated the following deficiencies:

- (1) There were no individual fuel tickets on hand to support fuel purchases made.
- (2) On four occasions, the reserve officer noted as purchasing the fuel per the vendor statement was not working at the time of the fuel purchase according to a review of the Work Schedule provided.
- (3) On four occasions, the patrolman noted as purchasing the fuel per the vendor statement was not working at the time of the fuel purchase according to a review of time cards.
- (4) The Marshal indicated that pin numbers assigned to specific individuals for purchasing fuel were not always used by those specific individuals. Some pin numbers were used by more than one officer.
- (5) Fuel records noting the individual purchasing the fuel, gallons purchased, the vehicle, odometer readings, etc. were not maintained.

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. Among other

TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS
(Continued)

things, segregation of duties, safeguarding controls over cash and all other assets and all forms of information processing are necessary for proper internal control. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

SIGNATURE BY UNAUTHORIZED PURCHASER

In May 2009, the Marshal purchased supplies from a local vendor. The Town has an account with the vendor; however, the Marshal is not authorized to make purchases from the vendor because his name is not on the account. The Marshal signed the name of another Town employee with the verbal approval of the employee.

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. Among other things, segregation of duties, safeguarding controls over cash and all other assets and all forms of information processing are necessary for proper internal control. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

PERSONAL EXPENSES - MARSHAL

Personal cell phone calls were made by the Marshal which resulted in usage charges in the amount of \$404.80 being paid by the Town. The first claim paid during the examination period, which was for the period December 5, 2006 to January 4, 2007, detailed all calls made. Invoices for the period April 5, 2007 to May 4, 2007, only detailed long distance and roaming charges. Invoices after May 5, 2007, did not detail any calls. Minutes covered in the plan increased from 600 to 900 effective May 5, 2007 and then were increased to 1,350 effective June 5, 2007. The Marshal reimbursed the Town \$404.80 on October 27, 2009.

Public funds may not be used to pay for personal items or for expenses which do not relate to the functions and purposes of the governmental unit. Any personal expenses paid by the governmental entity may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Every effort should be made by the governmental unit to avoid unreasonable or excessive costs. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

IC 5-11-10-1.6 states in part:

"(b) As used in this section, 'claim' means a bill or an invoice submitted to a governmental entity for goods or services."

"(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;

TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS
(Continued)

- (3) the invoice or bill is filed with the governmental entity's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim."

CREDIT CARDS

The Town is using credit cards to purchase items without an approved credit card policy.

The State Board of Accounts will not take exception to the use of credit cards by a governmental unit provided the following criteria are observed:

- (1) The governing board must authorize credit card use through an ordinance or resolution, which has been approved in the minutes.
- (2) Issuance and use should be handled by an official or employee designated by the board.
- (3) The purposes for which the credit card may be used must be specifically stated in the ordinance or resolution.
- (4) When the purpose for which the credit card has been issued has been accomplished, the card should be returned to the custody of the responsible person.
- (5) The designated responsible official or employee should maintain an accounting system or log which would include the names of individuals requesting usage of the cards, their position, estimated amounts to be charged, fund and account numbers to be charged, date the card is issued and returned, etc.
- (6) Credit cards should not be used to bypass the accounting system. One reason that purchase orders are issued is to provide the fiscal officer with the means to encumber and track appropriations to provide the governing board and other officials with timely and accurate accounting information and monitoring of the accounting system.
- (7) Payment should not be made on the basis of a statement or a credit card slip only. Procedures for payments should be no different than for any other claim. Supporting documents such as paid bills and receipts must be available. Additionally, any interest or penalty incurred due to late filing or furnishing of documentation by an officer or employee should be the responsibility of that officer or employee.
- (8) If properly authorized, an annual fee may be paid.

(Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS
(Continued)

ERRORS ON CLAIMS

The following deficiencies were noted during a review of claims:

- (1) Claims were not adequately itemized. Supporting invoices were not attached to credit card statements and vendor statements. None of the fuel tickets were on hand to support police fuel purchases for May 2008 and June 2008. Hotel invoices were not detailed. Meal purchases were charged on hotel invoices; however, the supporting invoice was not attached.
- (2) The claims did not always show evidence that goods or services were received.

The Clerk-Treasurer expressed to the Town Board during public meetings on February 12, 2009, April 9, 2009, and May 14, 2009, that claims for fuel purchases were not properly supported by fuel tickets. The Town Board approved the claims despite the concern of the Clerk-Treasurer.

IC 5-11-10-1.6 states in part:

"(b) As used in this section, 'claim' means a bill or an invoice submitted to a governmental entity for goods or services."

"(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the governmental entity's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim."

PAYMENT FOR SERVICES IN ADVANCE

In February 2009 and September 2009, the Town Attorney submitted an invoice for payment in the amount of \$2,500 for each billing. The invoices simply stated, "Attorney retainer per Attorney Fee Agreement due. . . ." A fully itemized invoice detailing the services provided was not provided. The total contract amount according to the Attorney Fee Agreement is \$5,000, of which half is due January 31, 2009, and the remaining balance is due September 1, 2009.

IC 5-11-10-1.6 states in part:

"(b) As used in this section, 'claim' means a bill or an invoice submitted to a governmental entity for goods or services."

TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS
(Continued)

"(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the governmental entity's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim."

Compensation and any other payments for goods and services should not be paid in advance of receipt of the goods or services unless specifically authorized by statute. Payments made for goods or services which are not received may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

TOWN OF GASTON
EXIT CONFERENCE

The contents of this report were discussed on October 19, 2009, with Jennifer Shell, former Clerk-Treasurer; Mary Jo Barker, Clerk-Treasurer; and Audra Koontz, President of the Town Council. The official response has been made a part of this report and may be found on pages 16 through 23.

TOWN OF GASTON

OFFICE OF CLERK TREASURER
107 N. SYCAMORE • P.O. BOX 186
GASTON, INDIANA 47342

PHONE: (765) 358-4005

FAX: (765) 358-4355

12/8/09

Town of Gaston, Delaware County **Examination Results and Comments**

AMENDED RESPONSE BY AUDRA M. KOONTZ, COUNCIL PRESIDENT 2009

Disposal of Capital Assets:

The Council was unaware of violating any provision of the Indiana Code as the Council unanimously concluded that the “capital” items in question had no value.

- The street sweeper, which did not work, had been given to the Town to use for parts for the Town’s operating street sweeper. All usable parts of the donated sweeper had been used to repair the operating sweeper. The sweeper was given to a local resident who scrapped it and donated the funds back to the Town.
- The John Deere mower was physically damaged, mechanically past its useful life, and did not run properly. The Town sold it to James Oliver for \$200.00. Mr. Oliver has since spent nearly \$1,000.00 to get the mower into good running condition and he continues to put money into it.
- The Town did exchange a police vehicle for the installation of lights on a new police vehicle. It was believed that the vehicle did not value close to \$1000.00, and the Town received a discount of over \$900.00 on the installation of the lights for the new vehicle. The Town Marshal did submit a letter of appraisal from Lambert Auto Body, Muncie, IN,
- to the Clerk-Treasurer prior to this transaction indicating the value of the police vehicle.

Fuel Purchases:

This issue has been addressed with the SBOA examiner and the Marshal has started a new program for the officers to properly account for all fuel purchases. Although the records were not up to SBOA standards, the Council has examined the purchases and concluded that none of the involved funds were improperly spent.

Signature by Unauthorized Purchaser:

This was not an “unauthorized” signature. The Town employee whose name the Town Marshal signed had given the Marshal the authority to sign his name for the specific items he was purchasing. Further, the Marshal had been authorized by the Town Council to make purchases on the account in question and had to resort to getting authority from the other Town employee to sign the other employee’s name only because the store failed to record the Marshal’s authority to use the account. When he attempted to purchase an item and was told he was not on the account, he called another Town employee and received permission to sign his name.

Personal Expenses – Marshal:

The Marshal should not be penalized or charged. In 2007, the Town Council approved the claims for his cellular phone bills and approved the Marshal to have the number of minutes on his plan about which the SBOA now complains. In addition, the personal calls made on the cellular phone were to other AT&T customers and, therefore, were free of charge. Despite this, the Marshal has rectified this matter by paying the Town back any overage fees since 2007.

Credit Cards:

On November 10, 2005, the prior Town Council approved in an open meeting the obtaining of a credit card for the Clerk-Treasurer but to be used only for emergencies and travel ONLY with a credit limit of \$2,000.00. This card has since been destroyed and the account closed. Since the Town has no credit cards at present, a policy would seem to be superfluous. The Town will adopt an ordinance with regard to credit card usage prior to obtaining any new credit cards. (See attached minutes).

Errors on the Claims:

The Town cannot take too seriously the concern of the SBOA for claims being paid for fuel purchases “despite the concern of the Clerk-Treasurer.” At the time of the fuel claims questions, the Clerk-Treasurer was telling the Council President that she had never received fuel receipts. Nonetheless, numerous fuel receipts that had been turned in were observed to be placed on top of the Clerk-Treasurer’s paper shredder. Further, the Clerk-Treasurer had admitted to multiple individuals that she has told Council Members that she did not have claims, but then found them and was not going to advise the Council that they had been found.

Payment for Services in Advance:

The SBOA Cities and Towns Manual, at 53-1, provides that bills for goods and services “should not be paid in advance of receipt of the goods or services ***unless specifically authorized by statute.***” (emphasis added). There is a specific statute that authorizes

the payment of attorney fees in advance. That is Ind. Code § 36-5-4-12, which provides in pertinent part, that, regardless of Ind. Code 5-11-10, “a town fiscal officer may make claim payments in advance of a board allowance for the following types of expenses: . . . (7) . . . service agreements.” A contract for an attorney’s legal services is, by definition, a service agreement.

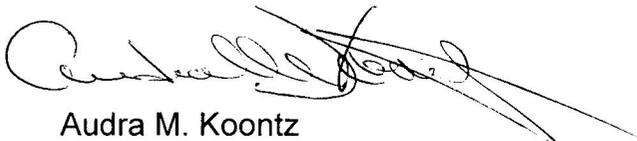
The Audit Report itself cites the other statutory authority for this payment. Under Ind. Code § 5-11-10-1.6, the Clerk-Treasurer may pay a claim if:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the governmental entity's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim.

All of these conditions were satisfied. An attorney’s retainer is the amount the attorney requires in payment before committing to make him/her self available to a client. In this case, a bill for a retainer of \$2,500.00 was “fully itemized” since there is no further itemization possible. The bill was approved by the Council, which was the “person” receiving the services. The bill was filed with the Clerk-Treasurer. The fiscal officer presumably certified the bill. And, finally, the Council approved payment of the claim in a regular meeting. Thus, pre-payment was authorized under this statute—even without the exception provided by § 36-5-4-12 discussed above.

Thus, the payment of the attorney’s retainer was lawful pursuant to SBOA regulations and at least two statutes. Statutes trump any SBOA guideline inconsistent with the statutes. Thus, the payment was perfectly proper.

Thank you.



Audra M. Koontz
Council President
TOWN OF GASTON

REGULAR MEETING

Nov. 10th, 2005

At 6:30pm

The Gaston Town Council met in regular session at 6:30pm. Present were Theodore Brown, Michael Dobbs and Vickie Oliver wasn't present.

Town patrons were Pam Miller, Bob Goth, Kevin McCormick, Hobart Morgan, Krista Harris, Carl Barber, Jim McCormick, Stew Salvak from Triad, Ken Richards, Ted Dobbs, and George Armstrong.

Theodore Brown made motion to accept minutes after correction is made. Michael Dobbs 2nd.

Krista Harris presented water adjustments.

Krista Harris mentioned that the new update allows us to take out leaks when doing estimates this winter.

The fire extinguishers have taken care of by Koorsen and they will be sending the board a contract to fill out for next year.

Friday Nov. 11th, the office will be closed for veteran's day, but Jennifer and Krista will be in the office for keystone training.

Nov. 22nd, 2005 the Board Health will be giving flu shots and possibly pneumonia shots at the Town Hall at 10am to 2pm. Shots are for adults only and they are \$12.00.

Krista Harris presented access to a public record form that the office will be requiring all individuals to fill out when requesting copies from the office. It will state on the form how much the copies will be.

Krista Harris presented cash postings for last month and this month.

Krista Harris talked with Ron Brown from triple a collection, but he mentioned to due collections we will need to have every one fill out a meter deposits sheets or they will keep 40% of the collection of our money. Jennifer asks Krista to find out who needs these forms filled out.

Krista Harris mentioned that we have applied several meter deposits and leak adjustments. Michael Dobbs mentioned that Krista has done a good job. Theodore Brown mentioned that they would get only 2 adjustments per meter on the trailer parks.

GUEST SPEAKERS

Stew Salvak from Triad, Associates talked about following up on planning grants. Presented major points of planning grant of 10% match. Need to check with SBA on using depreciation account.

Stew Salvak talked about a State Loan. There is no match to this loan.

Theodore Brown mentioned that we had a study done on well head protection and that they found we needed to find a new site for water source.

Stew Salvak mentioned that we need to hire a grant administrator to write grant and the pay would go to the 10% match. Michael Dobbs asked for a list of grant writers.

WATER AND SEWAGE DEPARTMENTS

For water IDEM reports passed.

Bob Goth said that the Generator that the board asked for is not on a 1st come, 1st serve basis, so bob got a phone number and cell phone to call if needed.

Reports sent to IDEM for wastewater has passed. Kevin Green was at the sewage plant and said everything was ok.

Bob Goth mentioned that they had to rent Jack hammers to repair the lines that broke when installing the bag system.

Bob mentioned that we will have to test three times a week for ecoli. We could buy the equipment for bob to do the work which will cost approx. \$6,000.00. To test thru HML will be around \$115.00 a week.

Pam Miller asked about the Fund report for the month on the sewage department why we spent more than we took in. Jennifer Shell explained that salaries, pension, Ins. and supplies come out of this fund.

STREET DEPARTMENT

George Armstrong mentioned he met Insurance demands on fixing write ups.

Theodore Brown mentioned send a letter to village green to have a meeting with the board about installing meters. George needs to find out the quotes for the meters.

POLICE DEPARTMENT

Michael Wooten is back and starting to work as a reserve officer.

Jimmy Olive would like to take his vacation in December 19th-31st, 2005. He also mentioned the Ford is back and ready to drive.

The Citizen for Kids Christmas party is on December 18th, 2005 from 2pm to 6pm.

Michael Dobbs made motion to accept Jimmy Oliver vacation, Theodore Brown 2nd.

Theodore Brown mentioned that we will be doing something different with the department heads coming to the board meetings. We need to have the departments give an update before the board meeting and the board members will present it at that board meeting.

Michael Dobbs mentioned that we need to call the Insurance company to have employees put on the policy only and the employees would have to pay the difference for family's. Michael Dobbs made motion that we insure employees only and offer the family plan at employee expense as of Jan1st, 2006. Theodore Brown 2nd.

The Board would like to change the next board meeting from Dec. 8th, 2005 to Dec. 27th, 2005 at 6:30pm.

Starting Jan 1st, 2006 we will be using agenda using time limits per Theodore Brown.

Michael Dobbs made motion to pay bills and all passed. Theodore Brown 2nd.

Carl Barber asked why we don't go to small claims court on person's that owe the town money. Theodore Brown mentioned that it would cost us and not be worth it according to Dave Wallace.

Next board meeting make a list of numbers for the Town Council to understand fund numbers on signing and pay bill voucher.

George Armstrong needs operator manual/service manual for backhoe.

Theodore Brown read quiet claim deed to give property to fire department for \$1.00.

Hobart Morgan asked if Yorktown Fire Department is taking Harrison Township out by meijers store. Michael Dobbs mentioned that was Mt. Pleasant Township.

Jennifer Shell asked for a Town Credit Card for traveling expenses and emergency situations. In an emergency situation she would at least contact two board members for approval and the clerk would try to use a check first. The Clerk will only get a \$2000.00 limit. Theodore Brown made motion to accept credit card for traveling expenses and stipulations on emergency's putting in write why they need the credit card, the clerk get approval from at least two board members and she try to use a check first. Michael Dobbs 2nd. *all approved*

Off-Road ordinance was present to the Town Council. Theodore Brown mentioned to turn over to Dave Wallace for legal description. Need to know were to put fines and how much to charge.

1st reading on Resolution 2005-13 to transfer in MVH. Michael Dobbs made motion to accept 1st reading on resolution 2005-13. Theodore Brown 2nd. *all approved*

2nd reading on Resolution 2005-13 to transfer in MVH. Michael Dobbs made motion to accept 2nd reading on resolution 2005-13. Theodore Brown 2nd. Theodore Brown made motion to wave 3rd reading on resolution 2005-13. Michael Dobbs 2nd. *all approved*

1st reading on Resolution 2005-14 to transfer to LRS. Michael Dobbs made motion to accept 1st reading on Resolution 2005-14. Theodore Brown 2nd. *all approved*

2nd reading on Resolution 2005-14 to transfer to LRS. Michael Dobbs made motion to accept resolution 2005-14. Theodore Brown 2nd. *all approved*
Theodore Brown made motion to wave 3rd reading on resolution 2005-14. Michael Dobbs 2nd. *all approved*

Jennifer Shell presented checks that were outstanding past two year deadline on cashing, that need added back to books.

Jennifer Shell presented IUPPS for digging. Theodore Brown made motion to sign up for IUPPS. Michael Dobbs 2nd. *all approved*

Theodore Brown said the deal with Mr. Walker has been turned over to the Town Attorney and he needs to deal with him.

Theodore Brown mentioned that if backhoe needs parked he will do it. If need to take out of water and sewage to fix backhoe we will.

No comments from the floor.

Michael Dobbs made motion to adjourn at 10:20pm. Theodore Brown 2nd. *all approved*

Theodore A. Brown
Theodore Brown, President

Attest:

Jennifer Shell
Jennifer Shell Clerk-Treasurer

To: State Board of Accounts

I am responding to all written comments of the Audit Report.

1. **The following capital assets were disposed of:** The individual that got the street sweeper donated to him gave the money back to the town that he made off of the street sweeper. As for the other asset we had residents question these, but they were told that the value was under \$1000.00 by Mrs. Koontz in a board meeting.
2. **Capital Asset Records.** I know we had sold some of the assets and when I set them up on computer I went by the records that were found from previous years. I am not sure how the software on the computer works to divide them out separate from Town, Water and Sewage, but the new Clerk-Treasurer mentioned she would try to figure this out and try to find the differences in price.
3. **Fuel purchases-Police Department:** I on several occasions brought to the Town Councils attention that there were no receipts on the claims and I mentioned in board meetings that they were improperly documented and they still approved the claim. If I would have know about personnel not being on duty at the time I would have brought that to their attention also, but I didn't see any of their schedules. On keeping records I would hope the Town Council would enforce this as a procedure for any department.
4. **Forged Signature.** I had questioned the street department on this item and who had purchased the item, because I had no receipt for that item and I was told by them they didn't purchase that item. I then called the company and ask them to send me a copy of the receipt, so I could figure out who signed for it. When I got the receipt it had the Street department's signature and so I showed him the receipt. The next day he came in and had mentioned that he forgot that he gave the marshal permission to sign his name. I would hope the Town Council will correct these issues and set up a policy for any employee that forges someone else signature.
5. **Personal Expenses- Marshal.** I as the prior Clerk-Treasurer feel they should have a policy set up and charge the employee for personal usage. I as the prior Clerk-Treasurer paid for my own cell phone and any calls pertaining to work, I would take off as tax deduction.

6. **Credit Cards.** I, on three occasions at the board meetings tried to get the board to adopt an ordinance on credit cards, but they never did. In my opinion I feel that any knowledge I gave the council, they wouldn't listen to me. I would hope now they will adopt an ordinance.

7. **Errors on claims.** I did state in board meetings several times that we did not have receipts for certain claims, like the fuel. As for the hotel claims those already have been changed do to the last audit. This practice was changed at the end of the year in 2007 after the audit was done.

8. **Payments for services in advance.** I had a disagreement with the Town Attorney over this in a board meeting of paying him in advance, but he tried to tell everyone he wasn't being paid in advance. I even got a call from Mrs. Koontz after the Jan. 2009 board meeting wanting his paycheck before it was put on a claim docket and approved. I told her that I would put it on Feb. 2009 claim docket and if approved by them then I would pay him, but we were still paying him way to early and I even gave them the code I was going by. In the past we paid the Town Attorneys in June and December and I did request invoices from all attorneys. Again in my opinion anything I would say to the council, they wouldn't take any of the knowledge I have learned from my schooling. I would hope now the Town Council will listen to the Clerk-Treasurer when she gives them an Indiana code to go by.

Thank You



Jennifer Shell, prior Clerk-Treasurer, IAMC, CMC