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

AUDIT REPORT
OF

CITY CLERK
CITY OF EAST CHICAGO
LAKE COUNTY, INDIANA

January 1, 2009 to December 31, 2009



FILED
10/06/2010

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CITY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
City Clerk	Mary Morris Leonard	01-01-08 to 12-31-11
Mayor	George Pabey	01-01-08 to 12-31-11
City Controller	Charles Pacurar	01-01-09 to 12-31-10
President of the Common Council	Richard Medina	01-01-09 to 12-31-10



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
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TO: THE OFFICIALS OF THE CITY OF EAST CHICAGO

We have audited the records of the City Clerk for the period from January 1, 2009 to December 31, 2009, and certify that the records and accountability for cash and other assets are satisfactory to the best of our knowledge and belief, except as stated in the Audit Results and Comments. The financial transactions of this office are reflected in the Annual Report of the City of East Chicago for the year 2009.

STATE BOARD OF ACCOUNTS

July 15, 2010

CITY CLERK
CITY OF EAST CHICAGO
AUDIT RESULTS AND COMMENTS

CLERK'S RECORD PERPETUATION FUND

The Clerk collects fees for document storage and late payments. The collections are remitted to the City Controller and are receipted to the General Fund. Per Indiana Code 33-37-5-2, these fees should be deposited into the Clerk's Record Perpetuation Fund.

IC 33-37-5-2 states:

"(a) Each clerk shall establish a clerk's record perpetuation fund. The clerk shall deposit all the following in the fund:

- (1) Revenue received by the clerk for transmitting documents by facsimile machine to a person under IC 5-14-3.
- (2) Document storage fees required under section 20 of this chapter.
- (3) The late payment fees imposed under section 22 of this chapter that are authorized for deposit in the clerk's record perpetuation fund under IC 33-37-7-2. [Applies to County Courts]
- (4) The fees required under IC 29-1-7-3.1 for deposit of a will. [Applies to County Courts]

(b) The clerk may use any money in the fund for the following purposes:

- (1) The preservation of records.
- (2) The improvement of record keeping systems and equipment."

DONATIONS FROM PROMOTIONAL FUNDS

For most donations directed by elected officials, checks are made payable to the organization, group, or individual who will benefit from the donation; however, the City Clerk is reimbursed for donations. The reimbursements included in purchases made by the City Clerk of fundraising goods such as flowers, cookie dough, or tickets to events - such as a fashion show. It cannot be determined as to who benefited from these purchased items.

City Ordinance 06-0005, section 3.04.230 establishes the City promotional fund and states: "The city promotional fund is established. The common council is authorized to budget and appropriate funds from the general fund or from other funds to pay the expenses incurred in promoting the betterment of the municipality."

Section 3.04.240 regarding expenditures states: "Expenditures from this fund may include, but are not necessarily limited to the following:

- A. Membership dues in local, regional, state and national associations of a civic, educational, or governmental nature, which have as their purpose the betterment and improvement of municipal operations;
- B. Direct expenses for travel, meals and lodging in conjunction with municipal business or meetings, or organizations to which the municipality belongs;

CITY CLERK
CITY OF EAST CHICAGO
AUDIT RESULTS AND COMMENTS

- C. Expenses incurred in the promotion of economic, industrial and civic development for the municipality, including meeting room rental, decorations, parades, floats, nominal gifts, meals and travel;
- D. Commemorative plaques, certificates, or objects such as commemorative keys;
- E. Other purposes which are deemed by the mayor and/or the common council to directly relate to promotion or betterment of the city.
- F. Donations to non-for-profit organizations, church sponsored secular, civic or social activity or other civic or fraternal organizations, where such donation is deemed to be of benefit to the citizens of the City of East Chicago."

Governmental funds should not be donated or given to other organizations, individuals, or governmental units unless specifically authorized by statute. IC 36-10-2-4 and 5 allow cities and towns to establish, aid, maintain, and operate libraries museums, cultural historical and scientific facilities and programs, community service facilities and programs, neighborhood centers, community centers, civic centers, convention centers, auditorium, arenas, and stadiums. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

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)

Any compensation, premium, bonus, or product earned as a result of the purchase of goods or services by the governmental unit becomes the property of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

ADDITIONAL COMPENSATION

Resolution 150 dated December 28, 1973, stated in part:

"Whereas, further, pursuant to statute, the Board has found need for the services to the East Chicago Water Works Department of the Mayor Robert Pastrick; City Controller James Knight; City Clerk Jean Brozovic; City Attorney Jeffrey Martin, and of the acting City Engineer John Dobay, for the efficient and full operation of the Board of Water Works, and

Whereas, such statute authorizes pay for said services of the above-named individuals . . . all of them paid in the sum of two hundred dollars (\$200.00) per month."

It is based upon this resolution that the current City Clerk, who is not Jean Brozovic, continues to receive \$200 per month. The monthly payment is paid through the City's claim process and not payroll process. An IRS Miscellaneous Income Form 1099 is issued at the end of the year.

IC 36-4-7-2 states in part:

"(a) As used in this section, "compensation" means the total of all money paid to an elected city officer for performing duties as a city officer, regardless of the source of funds from which the money is paid.

(b) The city legislative body shall, by ordinance, fix the annual compensation of all elected city officers."

CITY CLERK
CITY OF EAST CHICAGO
EXIT CONFERENCE

The contents of this report were discussed on August 24, 2010, with Mary Morris Leonard, City Clerk; and Oralia C. Santos, City Clerk Bookkeeper. The official response has been made a part of this report and may be found on pages 7 through 12.

**OFFICIAL RESPONSE
AUDIT OF CITY CLERK
CITY OF EAST CHICAGO**

CLERK'S RECORD PERPETUATION FUND

Thank you for bringing this to my attention because we have made numerous attempts to create this fund in the past. Our first attempt was back in March 2001. At that time we brought this issue up in a meeting when the inception of the public safety building was being discussed. City Attorney Jimmy Fife and Dr. Timothy Raykovich put this issue to the side in light of the city financial conditions. We have made attempts under the new administration to create this account, particularly several conversations with Attorney Joseph Allegretti who was formerly the Common Council Attorney. Our last discussion with Attorney Joseph Allegretti was in November 2009.

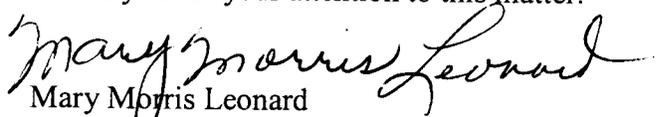
DONATIONS FROM PROMOTIONAL FUNDS

I have been the Clerk of East Chicago since January 1992. During that time, I have made donations to several organizations sponsoring community projects. In your report you cited that it cannot be determined as to who benefited from these purchased items. One of my objectives has always been to assist the citizens of East Chicago. If items were purchased they were donated back to those organizations or given to citizens of East Chicago, some of who are on fixed income for example our senior citizens. Our City Controller takes up to six to eight weeks to cut and mail a check. The procedure that I have followed over the years was put in **place by the East Chicago City Controller**. I was told in order for funds to be received in a timely manner to the organizations for their various community projects I had to write a personal check, make a copy and submit it along with a claim, and documentation from the organization to the City Controller. I would then receive a reimbursement check from the City of East Chicago. (See attached copy of email)

ADDITIONAL COMPENSATION

In 1992, I questioned why I was receiving a separate check monthly from the Department of Water Works in the amount of \$200.00. I received documentation from City Attorney James Fife III who assured me that appropriate authorization exists confirming that I am entitled to the above mentioned funds. (See attached IC 36-4-7-4). In 2010, the procedure in which I receive the funds has changed. I no longer receive a separate check, the \$200.00 is now included as part of my payroll check. I have been assured by Attorney Joseph Allegretti that a new resolution will be presented during the September 2010 Board of Public Works meeting naming the City Clerk of East Chicago entitlement to this compensation. (See attached copy of the Resolution)

Thank you for your attention to this matter.


Mary Morris Leonard
East Chicago City Clerk

Donations from Promotional Funds

Mary Hagler

From: Melissa Martinez

Sent: Wednesday, November 18, 2009 2:41 PM

To: Mary Hagler

Subject: Accounts Payable Memo

Good Afternoon Mary,

Attached is what all claims must have from now on before submitting in for payment. Please make sure all or if any apply for you.

Thanks,
Missy

Interoffice Memo

To: Accounts Payable Clerk

From: Accounts Payable/Controller's Office

Date: _____

All claims must have the following:

- Original invoice (s)
- Invoice number (s)
- Matching totals on claim and P.O.
- Submit signed packing/shipping slip
- Attach travel expense form
- Attach proof of attending seminar/class **ex: badges/brochures/ date of attendance**
- Attach copy of personal check for reimbursement **ex: donations/cell phone/supplies**
- Make sure P.O. address and invoice address do match
- Appropriation does not exceed over **10%** budget amount
- Appropriation numbers are correct
- Vendor and appropriation number are listed on claim

Additional Compensation

A RESOLUTION AMENDING RESOLUTION NO. WD-09-013 BEING RESOLUTION ESTABLISHING A SALARY AND WAGE SCHEDULE FOR EMPLOYEES OF THE EAST CHICAGO WATER DEPARTMENT FOR FISCAL YEAR 2010

WHEREAS, on December 17, 2009A the Board of Directors of the East Chicago Water Department adopted Resolution WD-09-013 establishing a salary and wage schedule of all employees of the East Chicago Water Department for calendar year 2010, and

WHEREAS, said Board now desires to amend such salary and wage schedule.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the City of East Chicago Water Department, that Resolution WD-09-013 be amended by adding an additional salaried personnel in Section One of said Resolution as follows:

SECTION ONE:

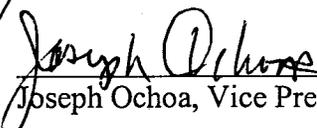
Salaried Personnel (Bi-Weekly)

1364	City Clerk	\$92.31
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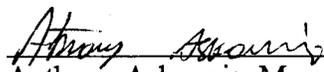
Adopted this 18th day of February, 2010, by the Board of Directors of the East Chicago Water Department.



John Bakota, President



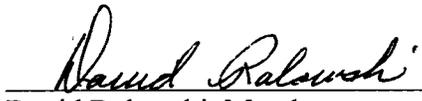
Joseph Ochoa, Vice President



Anthony Askounis, Member



Raymond Lopez, Member



David Ralowski, Member

Attest:

Al Velez, Secretary

CITY OF EAST CHICAGO

DEPARTMENT OF LAW

Robert A. Pastrick

Mayor

Additional Compensation
IC 36-4-7-4

4525 Indianapolis Boulevard
East Chicago, Indiana 46312-3227
219-391-8291

June 10, 1992

Mrs. Mary Morris Leonard
East Chicago City Clerk
151st & Railroad Avenue
East Chicago, IN 46312

RE: Compensation from Department of Water Works

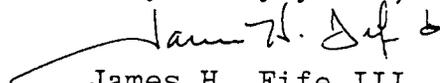
Dear Mrs. Leonard,

Per your request I am enclosing a copy of I.C. 36-4-7-4 pertaining to additional compensation for city officers; namely the City Clerk.

The appropriate authorization exists and the sum of \$200.00 per month is authorized in the Department of Water Works Budget and paid from the revenues of the utility.

Should you have further questions please do not hesitate to call me.

Very truly yours,



James H. Fife III
Attorney

Department of Water Works

Michael E. Connelly, Corporation Counsel

Estelle Powell, City Attorney

9. Vacancy in office

Where vacancy to office of a municipal employee occurs during calendar year and new appointment is contemplated, under former statute [see, now, this section] relating to salaries of appointive officers and employees, mayor, with approval of common council, is not prohibited from fixing new salary schedule for such position at reduced amount from that paid to former appointee to such position. 1943 Op. Atty.Gen. p. 477.

10. Excess appropriation

Where the total sum of the salary appropriation for employees, or assistants of a city, whose salaries are to be set by the mayor subject to the approval of the common council, and whose salaries are paid from two or more funds or appropriations, is in excess of the salaries of such employees or assistants as fixed by the mayor with the approval of the common council, such employees' salaries remain at the amount fixed by the mayor regardless of any excessive appropriation therefor by the common

council, in the absence of a special statute controlling in any particular case. 1945 Op.Atty.Gen. No. 14.

11. Mandamus

Mandamus would not lie to compel the city council to increase the city marshal's salary, though grossly inadequate. State ex rel. Barnett v. City of Noblesville, 1901, 60 N.E. 453, 156 Ind. 590.

12. Criminal actions

Where state based charges of malconduct and misfeasance and official malconduct upon alleged violations by ex-officials of city of sections 18-1-6-13 and 18-2-1-10 [repealed; see, now, this section] providing that salary provided for city attorney shall be in full for all his services and that salaries of elective and appointive officials shall not be increased during fiscal year, trial court properly dismissed counts of information on ground that facts alleged did not constitute stated criminal offenses. State v. Pickett, App.1981, 424 N.E.2d 452.

36-4-7-4 City officers and employees connected with operation of municipally owned utility or function; additional compensation

Sec. 4. (a) Subject to the approval of the city legislative body, the city executive may provide that city officers and employees receive additional compensation for services that:

- (1) are performed for the city;
- (2) are not governmental in nature; and
- (3) are connected with the operation of a municipally owned utility or function.

(b) Subject to the approval of the executive and legislative body, the administrative agency operating the utility or function shall fix the amount of the additional compensation, which shall be paid from the revenues of the utility or function. *As added by Acts 1980, P.L.212, SEC.3.*

Historical Note

Formerly:

- IC 18-2-1-12.
- IC 19-3-28-1.
- IC 19-3-30-1.
- IC 19-3-30-2.
- Acts 1933, c. 233, s. 21.
- Acts 1941, c. 19, s. 1.

- Acts 1943, c. 131, s. 1.
- Acts 1945, c. 239, s. 1.
- Acts 1945, c. 271, s. 1.
- Acts 1947, c. 247, ss. 1, 2.
- Acts 1947, c. 324, s. 1.
- Acts 1953, c. 271, s. 1.
- Acts 1959, c. 107, s. 8.

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