

B38097

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

EXAMINATION REPORT
OF
TOWN OF PORTER
PORTER COUNTY, INDIANA
January 1, 2008 to December 31, 2009



FILED
12/20/2010

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OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Carol Pomeroy	01-01-04 to 12-31-11
President of the Town Council	William Sexton	01-01-07 to 08-26-08
	Jon Granat	08-27-08 to 12-31-08
	Michele Bollinger	01-01-09 to 12-31-10



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 PORTER, PORTER COUNTY, INDIANA

We have examined the financial information presented herein of the Town of Porter (Town), for the period of January 1, 2008 to December 31, 2009. 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, 2008 and 2009, 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 13, 2010

TOWN OF PORTER
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, 2008 And 2009

	Cash and Investments 01-01-08	Receipts	Disbursements	Cash and Investments 12-31-08
Governmental Funds:				
General	\$ 289,528	\$ 2,559,563	\$ 2,439,038	\$ 410,053
Motor Vehicle Highway	37,349	874,511	724,164	187,696
Local Road and Street	59,332	62,686	111,289	10,729
Park and Recreation	21,756	211,016	189,310	43,462
Park & Police Donations	5,370	7,314	8,992	3,692
Law Enforcement Continuing Education	22,013	11,972	7,987	25,998
Rainy Day	81,943	221,336	16,400	286,879
Redevelopment Commission	241,210	2,435,298	1,120,852	1,555,656
Fire	24,654	273,547	245,126	53,075
Fire Grants	60	-	-	60
Fire DNR Grant	-	3,053	3,053	-
Police Grants	-	14,542	13,660	882
Debt Service	17,596	132,908	150,488	16
Cumulative Capital Improvement	58,866	16,169	-	75,035
Cumulative Capital Development	1,684	61,605	51,904	11,385
County Economic Development Income Tax (CEDIT)	335,119	331,063	591,914	74,268
Local Major Moves Construction	518,335	-	-	518,335
Proprietary Funds:				
Wastewater Utility - Operating	224,903	1,174,167	1,305,667	93,403
Wastewater Utility - Bond and Interest	142	97,777	97,875	44
Wastewater Utility - Depreciation	144,913	494	98,129	47,278
Wastewater Utility - Construction	135,276	12,844	26,964	121,156
Storm Water Utility - Operating	66,746	126,960	160,838	32,868
Fiduciary Funds:				
Park Hall Deposits	5,083	11,750	12,445	4,388
Police Officers' Pension	5,812	27,594	27,378	6,028
Sewer Payroll Transfer	6,688	230,725	230,725	6,688
Payroll	8,732	362,134	361,174	9,692
Totals	\$ 2,313,110	\$ 9,261,028	\$ 7,995,372	\$ 3,578,766

	Cash and Investments 01-01-09	Receipts	Disbursements	Cash and Investments 12-31-09
Governmental Funds:				
General	\$ 410,053	\$ 3,599,018	\$ 2,319,106	\$ 1,689,965
Motor Vehicle Highway	187,696	969,418	601,809	555,305
Local Road and Street	10,729	85,609	33,710	62,628
Park and Recreation	43,462	244,910	179,295	109,077
Park & Police Donations	3,692	7,173	5,604	5,261
Fire Donations	-	6,000	1,000	5,000
Town Hall Donations	-	950	945	5
Law Enforcement Continuing Education	25,998	9,716	6,898	28,816
Rainy Day	286,879	183,691	412,000	58,570
Redevelopment Commission	1,555,656	2,189,374	1,977,640	1,767,390
Fire	53,075	369,836	257,409	165,502
Fire Grants	60	-	-	60
Fire DNR Grant	-	1,933	1,933	-
Lake Michigan Marina Grant	-	15,000	-	15,000
Police Grants	882	23,081	-	23,963
Debt Service	16	157,802	81,500	76,318
Cumulative Capital Improvement	75,035	15,246	-	90,281
Cumulative Capital Development	11,385	71,274	27,174	55,485
County Economic Development Income Tax (CEDIT)	74,268	708,458	661,739	120,987
Local Major Moves Construction	518,335	-	324,954	193,381
Proprietary Funds:				
Wastewater Utility - Operating	93,403	1,434,480	1,375,053	152,830
Wastewater Utility - Bond and Interest	44	47,319	47,361	2
Wastewater Utility - Depreciation	47,278	36	47,308	6
Wastewater Utility - Construction	121,156	74,511	173,830	21,837
Storm Water Utility - Operating	32,868	116,652	75,279	74,241
Fiduciary Funds:				
Park Hall Deposits	4,388	15,125	14,050	5,463
Police Officers' Pension	6,028	28,674	28,458	6,244
Sewer Payroll Transfer	6,688	345,012	346,866	4,834
Payroll	9,692	391,494	389,975	11,211
Totals	\$ 3,578,766	\$ 11,111,792	\$ 9,390,896	\$ 5,299,662

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

TOWN OF PORTER
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, general administrative, wastewater and storm water 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.

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 PORTER
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

Bond Anticipation Notes

The Town received bond anticipation notes on January 28, 2010, in the amount of \$556,136, of which \$52,859 is due June 30, 2010, and \$503,277 is due December 31, 2010.

TOWN OF PORTER
 SUPPLEMENTARY INFORMATION
 SCHEDULE OF CAPITAL ASSETS
 For The Year Ended December 31, 2009

<u>Primary Government</u>	<u>Ending Balance</u>
Governmental activities:	
Capital assets, not being depreciated:	
Land	\$ 1,437,500
Infrastructure	6,825,465
Buildings	3,423,904
Machinery and equipment	<u>2,979,138</u>
Total governmental activities, capital assets not being depreciated	<u>\$ 14,666,007</u>
<u>Primary Government</u>	<u>Ending Balance</u>
Business-type activities:	
Wastewater Utility:	
Capital assets, not being depreciated:	
Infrastructure	<u>\$ 4,945,223</u>

TOWN OF PORTER
 SUPPLEMENTARY INFORMATION
 SCHEDULE OF LONG-TERM DEBT
 December 31, 2009

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 Station	\$ 510,000	\$ 82,000
Wheel Loader	31,815	31,815
Brush Chipper	18,520	9,260
2005 Silverado	5,328	5,703
Notes and loans payable	<u>70,886</u>	<u>19,738</u>
Total governmental activities debt	<u>\$ 636,549</u>	<u>\$ 148,516</u>

TOWN OF PORTER
EXAMINATION RESULTS AND COMMENTS

CONTRACTS

The Town of Porter has an agreement with Northern Indiana Public Service Company (NIPSCO) without a valid contract. The original contract between the Town of Porter and NIPSCO expired on December 31, 1990, and has not been renewed.

Payments made or received for contractual services should be supported by a written contract. Each governmental unit is responsible for complying with the provisions of its contracts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

APPRAISALS

The Town of Porter Redevelopment Commission purchased a 30 acre vacant lot known as the "Old Brickyard Property" on October 27, 2009, for \$350,000. Only one appraisal which valued the property at \$1,050,000 was procured.

IC 36-7-14-19 states in part:

"(a) If no appeal is taken or if an appeal is taken but is unsuccessful, the redevelopment commission shall proceed with the proposed project to the extent that money is available for that purpose.

(b) The redevelopment commission shall first approve and adopt a list of the real property and interests in real property to be acquired and the price to be offered to the owner of each parcel of interest. The prices to be offered may not exceed the average of two (2) independent appraisals of fair market value procured by the commission except that appraisals are not required in transactions with other governmental agencies. However, if the real property is less than five (5) acres in size and the fair market value of the real property or interest has been appraised by one (1) independent appraiser at less than ten thousand dollars (\$10,000), the second appraisal may be made by a qualified employee of the department of redevelopment. The prices indicated on the list may not be exceeded unless specifically authorized by the commission or ordered by a court in condemnation proceedings. The commission may except from acquisition any real property in the area if the commission finds that such an acquisition is not necessary under the redevelopment plan. Appraisals made under this section are for the information of the commission and are not open for public inspection."

TOWN OF PORTER
EXIT CONFERENCE

The contents of this report were discussed on October 13, 2010, with Michele Bollinger, President of the Town Council; Carol Pomeroy, Clerk-Treasurer; and Karen Spanier, Deputy Clerk. The official response has been made a part of this report and may be found on pages 11 through 13.

Town of Porter



On Beautiful Lake Michigan

October 15, 2010

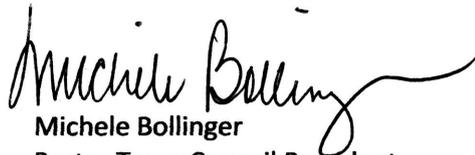
State Board of Accounts
302 West Washington Street
Room E 418
Indianapolis, IN 46204-2765

Re: Official Response to Town of Porter's Examination Results

To Whom It May Concern:

The Town of Porter was recently audited and during the exit conference, the Town was provided with the attached Officials' Response. The "Appraisals" review identified that the Town had one appraisal completed for the purchase of the "Old Brickyard Property" by the Redevelopment Commission. Attached is the Town's legal counsel's response. The Town proceeded with the purchase based on the Town Attorney's advice.

Sincerely,



Michele Bollinger
Porter Town Council President

Cc: file



BLACHLY, TABOR, BOZIK & HARTMAN, LLC

October 14, 2010

David L. Hollenbeck
Thomas F. Macke
Randall J. Zromkoski
Craig R. Van Schouwen
Patrick Eyp
Jeffrey S. Wrage

Michelle Bolinger, President
Porter Town Council
303 Franklin
Porter, Indiana 46304

Tracey S. Wetzstem
Ethan S. Love
Jason M. Denny
Scott R. Bozik

Re: Town of Porter- Examination Results and Comments

Dear Ms. Bolinger:

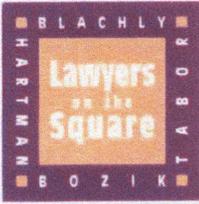
OF COUNSEL
Glenn J. Tabor
James S. Bozik
Duane W. Hartman
Kingsley G. Regnier

Matt Keiser has provided to me the draft comments of the State Board of Accounts as it relates to the purchase of real estate by the Town of Porter Redevelopment Commission. I have read the Auditor's notes and suggest the following response:

Quentin A. Blachly
(1934-1997)

Pursuant to Indiana Code 36-7-14-12.2(a)(1), a Redevelopment Commission "may acquire by purchase, exchange, gift, grant, condemnation or lease, or any combination of methods...real property needed for the redevelopment of areas needing redevelopment that are located within the corporate boundaries of the unit." As provided in Indiana Code 36-7-14-19(b), when purchasing real estate "the price to be offered may not exceed the average of two independent appraisals of fair market value procured by the commission...". On August 19, 2009, the Town of Porter Redevelopment Commission received appraisals prepared by Jason L. Harris (CG40700625) and Timothy Harris (CG49600086). Both are independent appraisers licensed to provide appraisal services within Indiana. Their independent conclusions was that the property were worth \$1,050,000. Copies of these appraisals were provided to the Auditor. The property owner approached the Town of Porter Redevelopment Commission and offered to sell the real estate for \$350,000- **a savings of \$700,000**. The Auditor has taken exception to the fact that the two separate independent licensed appraisers worked for the same appraisal firm. There is nothing under Indiana law that precludes two independent appraisers working for the same appraisal firm from providing independent appraisals. The decision of the Town of Porter Redevelopment Commission was not only appropriate under Indiana law, it saved the Redevelopment Commission the cost of paying another company to provide the same information. In fact, as noted by the Redevelopment Commission's attorney, even if the second appraisal determined that the real estate had no value, the

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Valparaiso, IN 46383
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219.464.0927 fax
Merrillville Office
219.738.2824
Fort Wayne Office
260.459.3288



BLACHLY, TABOR, BOZIK & HARTMAN, LLC

average of the two appraisals would still exceed the purchase price. The Town of Porter Redevelopment Commission respectfully disagrees with the Auditor's comment.

Very truly yours,

BLACHLY, TABOR, BOZIK & HARTMAN

Patrick Lyp
plyp@btbhlaw.com

PL/lmb
Cc: Matt Keiser (via facsimile)

[www.Lawyers Square.com](http://www.LawyersSquare.com)

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OCT 28 2010

STATE BOARD OF ACCOUNTS