

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

EXAMINATION REPORT  
OF  
CITY OF CHARLESTOWN  
CLARK COUNTY, INDIANA  
January 1, 2008 to December 31, 2009



**FILED**  
04/12/2011



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OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Donna Coomer	01-01-08 to 12-31-11
Mayor	G. Robert Hall	01-01-08 to 12-31-11
President of the Common Council	Jeff Aaron Mark Goodlett Scott McKechnie	01-01-08 to 12-31-08 01-01-09 to 11-02-09 11-03-09 to 12-31-11
President of the Board of Public Works	G. Robert Hall	01-01-08 to 12-31-11
City Court Judge	George Waters	01-01-08 to 12-31-11
Water Utility Superintendent	Allan Lesnet	01-01-08 to 12-31-11
Wastewater Utility Superintendent	Mike Perry	01-01-08 to 12-31-11



**STATE OF INDIANA**  
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INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF THE CITY OF CHARLESTOWN, CLARK COUNTY, INDIANA

We have examined the financial information presented herein of the City of Charlestown (City), for the period of January 1, 2008 to December 31, 2009. The City'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 City 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

January 12, 2011

CITY OF CHARLESTOWN  
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
<b>Governmental Funds:</b>				
General	\$ 247,425	\$ 3,427,344	\$ 3,674,719	\$ 50
Riverboat Wagering Revenue	27,513	37,594	15,000	50,107
Shop With A Cop	6,160	7,950	9,094	5,016
Local Roads and Streets	43,302	73,141	61,628	54,815
Motor Vehicle Highway	76,788	352,617	366,428	62,977
Police Grant DUI	973	13,700	13,728	945
Police Miscellaneous Revenue	82	7,458	7,511	29
Police Equipment	-	10,000	5,027	4,973
Neighborhood Block Watch	-	15,000	8,908	6,092
TIF	-	959,589	200,262	759,327
Rainy Day	534,418	127,663	539,819	122,262
<b>Nonreverting Planning and Zoning Review and Development Fees</b>				
	1,747	49,558	34,500	16,805
Local Law Enforcement Continuing Education	1,677	9,907	10,517	1,067
Clerk's Record Perpetuation	4,883	746	-	5,629
City Parks Capital	52,765	7,686	21,321	39,130
City Parks Improvement	7,604	20,298	16,271	11,631
Park Grant	11,753	-	-	11,753
Youth Coalition	-	3,185	3,142	43
Police K-9 Division	4,861	8,765	12,818	808
Police SRT NRF	1,033	-	370	663
Police Grant NRF	4	19,338	19,342	-
Police Port Radios Grant	-	8,712	8,712	-
Nonreverting Capital Trust	32,260	751,264	5,157	778,367
Vehicle Tow-In Fees	625	1,700	850	1,475
Cumulative Capital Improvement	36,296	19,490	36,507	19,279
Charlestown City Court Nonreverting Deferral	9,225	1,550	475	10,300
EDIT	526,560	238,757	160,665	604,652
Economic Development Reuse Authority	43,718	4,724	48,432	10
Beautification	42,395	95,087	112,466	25,016
Mayor's Christmas Awards Dinner	482	1,500	1,029	953
Sanitation	15	6,259	-	6,274
Pleasant Ridge Revitalization	3,095	-	-	3,095
<b>Proprietary Funds:</b>				
Water Utility - Operating	54,377	778,503	786,129	46,751
Water Utility - Bond and Interest	(9,073)	141,378	141,378	(9,073)
Water Utility - Debt Service Reserve	37,550	28,476	-	66,026
Water Utility - Construction (Plant)	(114,968)	173,041	58,073	-
Water Utility - Construction (Tank)	339,678	36,701	212,544	163,835
Water Utility - Customer Deposit	55,565	12,838	12,176	56,227
Wastewater Utility - Operating	514,646	1,384,109	1,624,880	273,875
Wastewater Utility - Bond and Interest	130,597	428,034	423,300	135,331
Wastewater Utility - Debt Service Reserve	248,440	60,720	-	309,160
Wastewater Utility - Construction (HVLV)	(224,590)	224,590	-	-
Wastewater Utility - Construction (2005 Bond)	(7,507)	14,880	7,373	-
<b>Fiduciary Funds:</b>				
Police Pension	51,527	94,688	90,605	55,610
Payroll	21,909	1,953,075	1,950,475	24,509
User Fees	6,800	35,764	42,189	375
County Court Cost	-	7,360	7,278	82
City Court	22,028	103,863	88,416	37,475
<b>Totals</b>	<b>\$ 2,844,638</b>	<b>\$ 11,758,602</b>	<b>\$ 10,839,514</b>	<b>\$ 3,763,726</b>

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

CITY OF CHARLESTOWN  
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  
(Continued)

	Cash and Investments 01-01-09	Receipts	Disbursements	Cash and Investments 12-31-09
<b>Governmental Funds:</b>				
General	\$ 50	\$ 3,617,343	\$ 3,482,950	\$ 134,443
Riverboat Wagering Revenue	50,107	37,504	50,107	37,504
Shop With A Cop	5,016	10,479	8,358	7,137
Local Roads and Streets	54,815	70,934	20,371	105,378
Motor Vehicle Highway	62,977	422,491	277,280	208,188
Police Grant DUI	945	36,715	16,147	21,513
Police Miscellaneous Revenue	29	8,952	8,405	576
Police Equipment	4,973	1,933	2,839	4,067
Neighborhood Block Watch	6,092	-	3,407	2,685
TIF	759,327	377,138	390,938	745,527
Rainy Day	122,262	778,168	152,193	748,237
<b>Nonreverting Planning and Zoning Review and Development Fees</b>				
	16,805	63,346	51,808	28,343
Local Law Enforcement Continuing Education	1,067	13,389	7,713	6,743
Clerk's Record Perpetuation	5,629	1,174	-	6,803
City Parks Capital	39,130	168,208	134,289	73,049
City Parks Improvement	11,631	5,959	15,940	1,650
Park Grant	11,753	-	11,753	-
Parks Department NRF	-	15,641	100	15,541
Youth Coalition	43	6,240	5,740	543
Police K-9 Division	808	180	-	988
Police SRT NRF	663	-	585	78
Police Grant NRF	-	29,622	28,622	1,000
Nonreverting Capital Trust	778,367	295,588	146,083	927,872
Vehicle Tow-In Fees	1,475	275	-	1,750
Cumulative Capital Improvement	19,279	18,377	27,588	10,068
Charlestown City Court Nonreverting Deferral	10,300	10,230	2,200	18,330
EDIT	604,652	310,821	146,039	769,434
Economic Development Reuse Authority	10	-	-	10
Beautification	25,016	13,907	38,923	-
Mayor's Christmas Awards Dinner	953	-	103	850
Beautification/Festivals	-	71,868	38,834	33,034
Sanitation	6,274	-	-	6,274
Pleasant Ridge Revitalization	3,095	-	3,095	-
<b>Proprietary Funds:</b>				
Water Utility - Operating	46,751	1,092,354	1,006,074	133,031
Water Utility - Bond and Interest	(9,073)	150,251	138,693	2,485
Water Utility - Debt Service Reserve	66,026	30,849	-	96,875
Water Utility - Construction (Tank)	163,835	-	163,835	-
Water Utility - Customer Deposit	56,227	11,618	11,474	56,371
Wastewater Utility - Operating	273,875	1,491,133	1,534,544	230,464
Wastewater Utility - Bond and Interest	135,331	428,094	423,360	140,065
Wastewater Utility - Debt Service Reserve	309,160	60,720	-	369,880
<b>Fiduciary Funds:</b>				
Police Pension	55,610	137,166	91,871	100,905
Payroll	24,509	2,171,204	2,165,158	30,555
User Fees	375	23,344	23,182	537
County Court Cost	82	9,606	9,606	82
City Court	37,475	147,284	127,342	57,417
<b>Totals</b>	<b>\$ 3,763,726</b>	<b>\$ 12,140,105</b>	<b>\$ 10,767,549</b>	<b>\$ 5,136,282</b>

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

CITY OF CHARLESTOWN  
NOTES TO FINANCIAL INFORMATION

Note 1. Introduction

The City was established under the laws of the State of Indiana. The City provides the following services: public safety, highways and streets, sanitation, culture and recreation, economic development, public improvements, planning and zoning, water and wastewater services, and general administrative services.

Note 2. Fund Accounting

The City 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 City 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 City 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.

CITY OF CHARLESTOWN  
NOTES TO FINANCIAL INFORMATION  
(Continued)

Note 6. Pension Plans

A. Agent Multiple-Employer and Single-Employer Defined Benefit Pension Plans

1. Public Employees' Retirement Fund

Plan Description

The City 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 City 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.

2. 1925 Police Officers' Pension Plan

Plan Description

The City contributes to the 1925 Police Officers' Pension Plan, which is a single-employer defined benefit pension plan. The plan is administered by the local pension board as authorized by state statute (IC 36-8-6). The plan provides retirement, disability, and death benefits to plan members and beneficiaries. The plan was established by the plan administrator, as provided by state statute. The plan administrator does not issue a publicly available financial report that includes financial statements and required supplementary information of the plan.

Funding Policy and Annual Pension Cost

The contribution requirements of plan members for the 1925 Police Officers' Pension Plan are established by state statute.

CITY OF CHARLESTOWN  
NOTES TO FINANCIAL INFORMATION  
(Continued)

B. Cost-Sharing Multiple-Employer Defined Benefit Pension Plan

1977 Police Officers' and Firefighters' Pension and Disability Fund

Plan Description

The City contributes to the 1977 Police Officers' and Firefighters' Pension and Disability Fund, a cost-sharing multiple-employer defined benefit pension plan administered by the Indiana Public Employees' Retirement Plan (PERF) for all police officers and firefighters hired after April 30, 1977.

State statute (IC 36-8-8) regulates the operations of the system, including benefits, vesting and requirements for contributions by employers and by employees. Covered employees may retire at age 55 with 20 years of service. An employee with 20 years of service may leave service, but will not receive benefits until reaching age 55. The plan also provides for death and disability benefits.

PERF 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 Costs

Plan members are required to contribute 6% of the first-class police officers' and firefighters' salary and the City is to contribute at an actuarially determined rate. The current rate, which has not changed since the inception of the plan, is 21% of the first-class police officers' and firefighters' salary. The contribution requirements of plan members and the City are established by the Board of Trustees of PERF.

Note 7. Capital Trust Fund Loans

During the years 2006 and 2007, loans totaling \$1,492,126.84 were made from the City's Capital Trust Fund to the General Fund. On August 13, 2009, \$392,988.84 of this total was forgiven in accordance with City of Charlestown common council resolution 2009-R-08. The balance at December 31, 2009, of \$50,000 was repaid February 2, 2010.

On October 26, 2007, a loan of \$400,000 was made from the City's Capital Trust Fund to the Wastewater Utility's Highview/Lakeview Sewer Construction Phase I Fund. Beginning in 2008, annual payments of \$40,000 per year are being made from the Economic Development Income Tax (EDIT) Fund to repay this loan on behalf of the Wastewater Utility. The balance at December 31, 2009, was \$320,000.

CITY OF CHARLESTOWN  
NOTES TO FINANCIAL INFORMATION  
(Continued)

Note 8. Subsequent Events

On January 4, 2010, the City awarded a contract for \$910,200 to Temple and Temple Excavating and Paving, Inc., for construction of the Highview/Lakeview Sanitary Sewer Project. This project is to be funded by federal ARRA stimulus monies expected to be received during 2010.

On January 3, 2011, the City awarded a contract for \$636,846 to Mitchell & Stark Construction Co., Inc., for construction of the Spring Street Interceptor Project. This project is to be primarily funded by grant proceeds.

CITY OF CHARLESTOWN  
 SUPPLEMENTARY INFORMATION  
 SCHEDULE OF CAPITAL ASSETS  
 December 31, 2009

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.

General infrastructure assets (those reported by governmental activities) are included regardless of their acquisition date or amount. The government was able to estimate the historical cost for the initial reporting of these assets through backtrending (i.e., estimating the current replacement cost of the infrastructure to be capitalized and using an appropriate price-level index to deflate the cost to the acquisition year or estimated acquisition year). As the government constructs or acquires additional capital assets each period, including infrastructure assets, they are reported at historical cost.

<u>Primary Government</u>	<u>Ending Balance</u>
Governmental activities:	
Capital assets, not being depreciated:	
Land	\$ 169,870
Infrastructure	8,199,445
Buildings	860,744
Improvements other than buildings	105,434
Machinery and equipment	3,953,327
Construction in progress	<u>222,000</u>
 Total governmental activities, capital assets not being depreciated	 <u>\$ 13,510,820</u>

<u>Primary Government</u>	<u>Ending Balance</u>
Business-type activities:	
Water Utility:	
Capital assets:	
Land	\$ 2,725
Construction in progress	132,340
Buildings	8,995
Improvements other than buildings	7,518,742
Machinery and equipment	<u>435,997</u>
 Total Water Utility capital assets	 <u>8,098,799</u>
Wastewater Utility:	
Capital assets:	
Land	74,559
Construction in progress	216,139
Buildings	2,928,683
Improvements other than buildings	6,071,706
Machinery and equipment	<u>2,536,383</u>
 Total Wastewater Utility capital assets	 <u>11,827,470</u>
 Total business-type activities capital assets	 <u>\$ 19,926,269</u>

CITY OF CHARLESTOWN  
SUPPLEMENTARY INFORMATION  
SCHEDULE OF LONG-TERM DEBT  
December 31, 2009

The City has entered into the following debt:

Description of Debt	Ending Principal Balance	Principal and Interest Due Within One Year
Governmental activities:		
Capital leases:		
Lighting loader	\$ 14,994	\$ 15,627
Side loader	32,152	33,351
Police cars	93,700	34,314
Bonds payable:		
Revenue bonds:		
2006 TIF bonds industrial park waterworks improvements	<u>540,000</u>	<u>65,122</u>
Total governmental activities debt	<u>\$ 680,846</u>	<u>\$ 148,414</u>
Business-type activities:		
Water Utility:		
Contract payable		
Purchase of pump station	\$ 75,000	\$ 25,000
Revenue bonds		
2006 Water construction	<u>1,675,000</u>	<u>35,504</u>
Total Water Utility	<u>1,750,000</u>	<u>60,504</u>
Wastewater Utility:		
Capital lease:		
Vector truck	259,103	44,301
Revenue bonds:		
1993 Wastewater refunding	530,000	110,370
2005 Wastewater construction	<u>3,670,000</u>	<u>211,105</u>
Total Wastewater Utility	<u>4,459,103</u>	<u>365,776</u>
Total business-type activities debt	<u>\$ 6,209,103</u>	<u>\$ 426,280</u>

CITY OF CHARLESTOWN  
EXAMINATION RESULTS AND COMMENTS

EXPENDITURES FROM TAX INCREMENT FINANCING FUND (Applies to Redevelopment Commission)

The City paid for the following items from the Tax Increment Financing Fund during the years 2008 and 2009:

Descriptions	Year 2008	Year 2009	Notes
Director's salary and expenses	\$ 23,595	\$ 101,290	(1)
2004 Ford Taurus	6,700	-	(1)
Other operating expenses	6,060	32,202	(2)
City Hall Renovation	43,222	-	
Christmas Decorations	46,463	17,577	(3)
One to one computer project	-	28,990	(4)
Totals	<u>\$ 126,040</u>	<u>\$ 180,059</u>	

Notes to Schedule:

- (1) Department of Redevelopment operating expenses.
- (2) These expenditures represent other Department of Redevelopment operating expenditures consisting of such items as accounting services, attorney fees, office supplies, cell phone services, travel, etc.
- (3) These expenditures were for Christmas decorations attached to the City Hall.
- (4) These expenditures represent the purchases related to an interlocal agreement between the City and Greater Clark School Corporation to provide computers for students at a local school consisting of items such as personal computers, expenditures for technology specialists, travel costs, etc. The City considers these expenditures as being for an "eligible efficiency project" under IC 36-9-41-1.5.

Powers of Commission

IC 36-7-14-12.2(a) states in part:

"The redevelopment commission may do the following:

- (1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal property or interest in real property needed for the redevelopment of areas needing redevelopment that are located within the corporate boundaries of the unit . . .
- (7) Repair and maintain structures acquired for redevelopment purposes . . ."

CITY OF CHARLESTOWN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

Statutes Regarding Use of Tax Increment Financing

IC 36-7-14-39(b)(2) states in part the following:

"(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.

(D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.

(G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.

(I) For property taxes first due and payable before January 1, 2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission . . .

(J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.

(K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

CITY OF CHARLESTOWN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance . . .

(L) Pay the costs of carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the unit that established the redevelopment commission. . . .

The allocation fund may not be used for operating expenses of the commission."

IC 36-7-14-25.1(a) states in part:

"In addition to other methods of raising money for property acquisition or redevelopment in a redevelopment project area, and in anticipation of the special tax to be levied under section 27 of this chapter, the taxes allocated under section 39 of this chapter, or other revenues of the district, or any combination of these sources, the redevelopment commission may, by resolution . . . issue the bonds of the special taxing district in the name of the unit. The amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including:

- (1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped;
- (2) all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance of bonds;
- (3) capitalized interest permitted by this chapter and a debt service reserve for the bonds to the extent the redevelopment commission determines that a reserve is reasonably required; and
- (4) expenses that the redevelopment commission is required or permitted to pay under IC 8-23-17."

IC 36-9-41-1 states:

"This chapter applies to the following:

- (1) A public work project that will cost the political subdivision not more than two million dollars (\$2,000,000).
- (2) An eligible efficiency project that will cost not more than three million dollars (\$3,000,000)."

IC 36-9-41-1.5 states

"As used in this chapter, 'eligible efficiency project' means:

- (1) a project necessary or useful to carrying out an interlocal cooperation agreement entered into by two (2) or more political subdivisions or governmental entities under IC 36-1-7; or
- (2) a project necessary or useful to the consolidation of local government services.

CITY OF CHARLESTOWN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

IC 8-23-17 authorizes certain expenses related to relocation assistance.

IC 36-1-10 authorizes the acquisition of buildings and other structures by means of lease or lease- purchase.

CUMULATIVE CAPITAL IMPROVEMENT FUND USES (Applies to City Council and Clerk-Treasurer)

Funds were disbursed from the Cumulative Capital Improvement Fund during the year 2008 totaling \$24,835 to purchase motor vehicles, mobile radios, and installation of automotive accessories. In addition, a \$5,000 insurance deductible was paid in the year 2008 in regards to a law enforcement liability claim. During the year 2009, \$19,279 was transferred to the City's Park Capital Fund and also \$7,789 in employee bonuses was paid.

IC 6-7-1-31.1 states as follows:

"(a) The fiscal body of each city and the fiscal body of each town shall, by ordinance or resolution, establish a cumulative capital improvement fund for the city or town. Except as otherwise provided in subsection (c), the city or town may only use money in its cumulative capital improvement fund to:

- (1) purchase land, easements, or right-of-way;
- (2) purchase buildings;
- (3) construct or improve city owned property;
- (4) design, develop, purchase, lease, upgrade, maintain, or repair;
  - (A) computer hardware;
  - (B) computer software;
  - (C) wiring and computer networks; and
  - (D) communications access systems used to connect with computer networks or electronic gateways;
- (5) pay for the services of full-time or part-time computer maintenance employees;
- (6) conduct nonrecurring in-service technology training of unit employees;
- (7) undertake Internet application development; or
- (8) retire general obligation bonds issued by the city or town for one (1) of the purposes stated in subdivision (1), (2), (3), (4), (5) or (6)."

"(c) A city or town may at any time, by ordinance or resolution, transfer to:

- (1) its general fund; or

CITY OF CHARLESTOWN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

- (2) an authority established under IC 36-7-23;

Money derived under this chapter that has been deposited in the city's or town's cumulative capital improvement fund."

The Attorney General in Official Opinion No. 32 of 1965 held the term "capital improvement," as used and defined in the Cigarette Tax Act, does not contemplate the purchase of "major movable equipment" or any other personal property, and the use of such fund for such purposes would be contrary to the express restrictive authority of the act. (Cities and Towns Bulletin and Uniform Compliance Guidelines, March 2005)

WASTEWATER OPERATING FUND USES (Applies to Wastewater Utility)

Funds were disbursed from the Wastewater Operating Fund on December 19, 2008, in the amount of \$25,000 for the annual payment on a Water Utility contract purchase of a pump station from D.A., Inc. Resolution 2006-R-9 and the agreement between the City and D.A. Inc., provide for the annual payments to be made from TIF revenues, EDIT revenues or the Water Utility.

Sources and uses of funds should be limited to those authorized by the enabling statute, ordinance, resolution, or grant agreement. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

FINANCIAL ASSISTANCE TO CITY RESIDENTS (Applies to City Council, Clerk-Treasurer, and Mayor)

Following the wind storm which occurred on September 14, 2008, Clark County was declared a disaster area. In order to assist residents of the City of Charlestown, the City purchased \$20,000 in gift cards from Jay-C Food Store and distributed them to City residents. We noted the following regarding the financial assistance provided to City Residents:

1. A total of 1,000 gift cards of \$20 denomination were purchased. The invoices indicated 500 cards were received by Clerk-Treasurer Donna Coomer and 500 cards were received by Ruthie Jackson, Mayor's Assistant. Those received by the Clerk-Treasurer were subsequently given to Ruthie Jackson.

We requested documentation showing the names of the various persons helping distribute the cards, and how many cards were given to each for distribution to City residents. No documentation was presented for examination. We further requested documentation identifying the actual City residents who received a gift card. The Clerk-Treasurer presented a list containing 50 signatures of residents acknowledging receipt of a \$20 debit card. No documentation was presented of those receiving the remaining 950 cards.

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)

CITY OF CHARLESTOWN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

2. Documentation was not presented to indicate the City has adopted an ordinance under home rule to provide this type of assistance to City residents.

IC 36-1-3-6(b) states in part:

"If there is no constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must either: (1) if the unit is a county or municipality, adopt an ordinance prescribing a specific manner for exercising the power . . ."

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)

CASH PRIZES (Applies to Clerk-Treasurer and City Council)

Prize monies totaling \$3,225 for a balloon race sponsored by the City was awarded in the year 2008. We noted the following regarding the payment of cash prizes:

1. A home rule ordinance authorizing the payment of cash prizes was not presented for examination.

IC 36-1-3-6(b) states in part:

"If there is no constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must either: (1) if the unit is a county or municipality, adopt an ordinance prescribing a specific manner for exercising the power . . ."

2. The prize monies were paid out in cash rather than by check.

Disbursements, other than proper petty cash disbursements, shall be by check or warrant, not by cash or other methods unless specifically authorized by statute, federal or state rule. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

PUBLIC WORKS PROJECT (Applies to Board of Public Works)

The City of Charlestown, during the year 2008, solicited two quotes for a Mitsubishi HVAC system to be installed at City Hall. Only one quote was received in the amount of \$32,025. In regards to this project, we noted the following:

1. Only two quotes were solicited.
2. The minutes presented for examination did not note the quote was opened at a public meeting.

CITY OF CHARLESTOWN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

Donna Coomer, Clerk-Treasurer, stated that to her knowledge the above quote was not opened at a public meeting.

3. The minutes presented for examination did not note the acceptance of the quote or award of contract and no contract was presented for examination.

Donna Coomer, Clerk-Treasurer, stated that to her knowledge the acceptance or award of the above quote was not done at a public meeting.

IC 36-1-12-4.7 states in part the following:

"(a) This section applies whenever a public work project is estimated to cost . . . at least twenty-five thousand dollars (\$25,000) and less than fifty thousand dollars (\$50,000) . . ."

"(b) The board must proceed under the following provisions:

- (1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.
- (2) The board may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before.
- (3) The board shall award the contract for the public work to the lowest responsible and responsive quoter. . . ."

IC 5-14-1.5-2 states the following:

"(d) 'Official action' means to:

- (1) receive information;
- (2) deliberate;
- (3) make recommendations;
- (4) establish policy;
- (5) make decisions; or
- (6) take final action."

"(e) 'Public business' means any function upon which the public agency is empowered or authorized to take official action."

"(g) 'Final action' means a vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance, or order."

CITY OF CHARLESTOWN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

IC 5-14-1.5-4 (b) states the following:

"As the meeting progresses, the following memoranda shall be kept . . . (3) The general substance of all matters proposed, discussed, or decided.

CONFLICT OF INTEREST (Applies to Redevelopment Commission Member)

Steve Allen, Redevelopment Commission Board member, is a partial owner of Allen's Heating and Air, Inc., (Company). The Company performed various heating, air conditioning, and electrical repair services for the City of Charlestown during the years 2008 and 2009 in the amounts of \$31,605 and \$27,461, respectively. No Uniform Conflict of Interest Disclosure Statement was presented for examination.

IC 35-44-1-3 states in part:

"(a) A public servant who knowingly or intentionally: (1) has a pecuniary interest in; or (2) derives a profit from; a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Class D felony. . . ."

"(c) This section does not prohibit a public servant from having a pecuniary interest in or deriving a profit from a contract or purchase connected with the governmental entity served . . . (4) If the public servant: (A) was appointed by an elected public servant . . . and (B) makes a disclosure under subsection (d)(1) through (d)(7)."

"(d) A disclosure required by this section must: (1) be in writing; (2) describe the contract or purchase to be made by the governmental entity; (3) describe the pecuniary interest that the public servant has in the contract or purchase; (4) be affirmed under penalty of perjury; (5) be submitted to the governmental entity and be accepted by the governmental entity in a public meeting of the governmental entity prior to final action on the contract or purchase; (6) be filed within fifteen (15) days after final action on the contract or purchase with: (A) the state board of accounts; and (B) . . . the clerk of the circuit court in the county where the governmental entity takes final action on the contract or purchase. . . ."

"(g) A public servant has a pecuniary interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of: (1) the public servant . . ."

PAVING PROJECT BIDS (Applies to Board of Public Works)

The City of Charlestown solicited bids for repaving of Charlestown Landing Road project on July 6, 2009. The invitation to bidders stated: "Bids are due by 3:00 PM August 3, 2009 at City Hall (2nd floor) 304 Main Cross Street, Charlestown, IN." We noted the following regarding the bid process:

1. The Board of Public Works met at 9:00 am on August 3, 2009, for a regularly scheduled Board of Works meeting. One bid from Clark Nickles on this project was opened and read at this meeting.

Also on August 3, 2009, there was a special called Board of Works meeting at 3:00 pm to open bids on the Charlestown Landing Road project.

CITY OF CHARLESTOWN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

City officials stated the bid received from Clark Nickles was opened in error at the August 3, 2009, 9:00 am meeting and should not have been opened until the August 3, 2009, 3:00 pm meeting.

2. The notice of award of contract to Libs Paving was dated August 26, 2009. No minutes dated August 26, 2009, were presented for examination.

Donna Coomer, Clerk-Treasurer, stated that to her knowledge the above contract award was not made at a public meeting.

3. The bid amount reported in the minutes dated August 3, 2009, for Libs Paving was \$27,150; however, the contract amount was \$25,000.

IC 36-1-12-4.7 states in part the following:

"(a) This section applies whenever a public work project is estimated to cost . . . at least twenty-five thousand dollars (\$25,000) and less than fifty thousand dollars (\$50,000) . . ."

"(b) The board must proceed under the following provisions:

- (1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.
- (2) The board may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before.
- (3) The board shall award the contract for the public work to the lowest responsible and responsive quoter. . . ."

IC 5-14-1.5-4 (b) and (c) states the following:

"(b) As the meeting progresses, the following memoranda shall be kept:

- (1) The date, time, and place of the meeting.
- (2) The members of the governing body recorded as either present or absent.
- (3) The general substance of all matters proposed, discussed, or decided.
- (4) A record of all votes taken, by individual members if there is a roll call.
- (5) Any additional information required under IC 5-1.5-2-2.5."

"(c) The memoranda are to be available within a reasonable period of time after the meeting for the purpose of informing the public of the governing body's proceedings. The minutes, if any, are to be open for public inspection and copying."

CITY OF CHARLESTOWN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

DISBURSEMENT PROCEDURES (Applies to Clerk-Treasurer)

Certification that goods or services were received was not documented for 31% of the disbursements reviewed.

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: . . .

- (2) the invoice or bill is approved by the officer or person receiving the goods and services;

APPROPRIATION OF RAINY DAY FUND (Applies to City Council and Clerk-Treasurer)

We noted the following regarding the approval of appropriations of the Rainy Day Fund:

1. Formal budgets and appropriations for the Rainy Day Fund were not presented for examination showing that the City prepared and submitted the required budget forms to the Indiana Department of Local Government Finance for approval. Total disbursements from the Rainy Day Fund during 2008 and 2009, were \$253,271 and \$152,193, respectively.

IC 6-1.1-18-4 states in part:

". . . the proper officers of a political subdivision shall appropriate funds in such a manner that the expenditures for a year do not exceed its budget for that year as finally determined under this article."

IC 36-1-8-5.1(c) states:

"The rainy day fund is subject to the same appropriation process as other funds that receive tax money."

2. Disbursements were made from the City's Rainy Day Fund in excess of appropriations approved by the City Council during the years 2008 and 2009 in the amounts of \$62,370 and \$44,788, respectively. After this was brought to the attention of City officials, a reimbursement was made to the Rainy Day Fund for the amounts expended in the year 2008 without appropriation.

IC 36-4-8-2 states in part:

". . . Unless a statute provides otherwise, the fiscal officer may draw a warrant against a fund of the city only if:

- (1) an appropriation has been made for that purpose and the appropriation is not exhausted . . ."

CITY OF CHARLESTOWN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

ANNUAL FINANCIAL REPORTS (Applies to Clerk-Treasurer)

The Annual City and Town Financial Report (CTAR-1) for the year 2008 contained errors as described below:

1. In Part 1 for the Capital Trust Fund, investments in the amount of \$41,913 was reported; however, the Capital Trust Fund actually had investments in the amount of \$640,000 at December 31, 2008.
2. In Part 1, Transfers In did not agree with the Transfers Out. There was a variance of \$1,977,259.
3. Receipts and disbursements were not always appropriately classified in order to properly identify the transactions. Examples of the misclassifications were as follows:
  - (a) In Part 2, a receipt for payment of a temporary loan from the General Fund to the Capital Trust Fund of \$600,000 was described as "CD cashed"; and
  - (b) In Part 3, the original temporary loan from the Capital Trust Fund to the General Fund was classified as "unappropriated expenses".

Officials and employees are required to use State Board of Accounts prescribed or approved forms in the manner prescribed. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

CONTRACTS (Applies to Redevelopment Commission)

A payment in the amount of \$3,500 was paid to Umbaugh Certified Public Accountants in the year 2008 without a written contract. The payment was approved by the Redevelopment Commission and paid from the Tax Increment Financing Fund.

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)

BANK ACCOUNT RECONCILIATIONS/INTERNAL CONTROLS (Applies to City Court)

We noted the following deficiencies and errors regarding the reconciliations prepared by the City Court:

1. The court computer program does not adequately record disbursements activity. The program does not provide detailed information regarding the disbursements (i.e., the payee, check date, check number) and the program assumes that all city and county fees collected will be paid at the end of the month and all state fees collected will be paid every six months. The program automatically shows the disbursements at the end of each month and six month period to match what the program has for the balances of the fees collected, instead of providing information on how much was actually disbursed and when it was disbursed. Since the Court did not make timely remittance of the court cost and fees collected (See Examination and Result titled "Distribution of Court Fees"),

CITY OF CHARLESTOWN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

the cash book record balance did not present the actual record balance. The program automatically shows the court cost and fees collected as disbursed; however, these items were not yet actually remitted. In order to arrive at the actual cash book balance on hand at the end of the month, the amounts disbursed had to be added back to the cash book balance shown. The calculated record balance would then be used to reconcile with the bank balance.

2. The outstanding checks lists presented for examination did not include the check number and check date issued. Outstanding checks that were listed on the December 31, 2008, reconciliation were actually dated February 21, 2009; and outstanding checks that were listed on the December 31, 2009, reconciliation were dated January 13 and 14, 2010.
3. We noted that deposits to the Court's bank account exceeded receipts recorded in the computerized cash book by \$3,140 during the year 2009. Court officials stated the computer system did not properly record the receipt amounts and they made a manual adjustment to correct the cash balance.

IC 5-13-6-1(e) states in part:

"All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories."

At all times, the manual and/or 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 City and Town Courts, Chapter 4)

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 City and Town Courts, Chapter 4)

DISTRIBUTION OF COURT FEES (Applies to City Court)

Court fees collected were not being distributed timely as described below:

1. Court fees required to be distributed monthly were distributed one to two months late.

IC 33-37-7-8(b) states:

"The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) C 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).

CITY OF CHARLESTOWN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

(4) IC 33-37-4-6(a) (1)(A) (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

IC 33-37-7-8(e) states:

"The clerk of a city or town court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5)."

For fees retained on behalf of the City under IC 33-37-7-8(c), IC 33-37-7-12 states in part:

". . . not later than thirty (30) days after the clerk collects a fee, the clerk shall forward the fee . . . to the city or town fiscal officer if the clerk is the clerk of a city or town court."

2. Court fees required to be distributed semiannually (June 30<sup>th</sup> and December 31<sup>st</sup>) were distributed one to two months late.

IC 33-37-7-8(d) states:

"The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-37-9 the following fees:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the highway worksite zone fees collected under IC 33-37-4-1 and IC 33-37-4-2.
- (4) One hundred percent (100%) of the safe schools fees collected under IC 33-37-5-18.
- (5) One hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21."

These fees shall be retained by the court clerk and transmitted semiannually to the Auditor of State along with the 55% of the court costs due the state, public defense administration fees, DNA sample processing fees, domestic violence fees, judicial insurance adjustment fees, court administration fees automated record keeping fees, automated record keeping – deferral/diversion fees, and seventy-five percent (75%) of the judicial salaries fees. (Accounting and Uniform Compliance Guidelines Manual for City and Town Courts, Chapter 3)

CITY OF CHARLESTOWN  
EXIT CONFERENCE

The contents of this report pertaining to the City Court were discussed on May 25, 2010, with George Waters, City Court Judge. The official concurred with our findings.

The contents of this report were discussed on January 12, 2011, with G. Robert Hall, Mayor; and Donna Coomer, Clerk-Treasurer. The official response has been made a part of this report and may be found on pages 26 through 35.

THE CITY OF CHARLESTOWN, INDIANA

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City Attorney

March 7, 2011

Ron Robertson, Field Supervisor  
Indiana State Board of Accounts  
348 Muriel Drive  
Scottsburg, IN 47170

Re: City of Charlestown Audit (2008, 2009)

Dear Mr. Robertson:

This letter comes as a response to the *Examination Results and Comments* (the "Comments") prepared by the Indiana State Board of Accounts (the "SBA") following the audit of the City of Charlestown, Indiana records for 2008 and 2009. It is noted that the Comments vary from the original Comments presented at an earlier exit conference. However, no additional exit conference is necessary or requested. This correspondence addresses the issues raised therein.

EXPENDITURES FROM TAX INCREMENT FINANCING FUND (Redevelopment Commission)

**Comment:** City made expenditures from Tax Increment Financing funds.

**Response:** TIF funds were expended. However, there is statutory authorization for most if not all of such expenditures.

City Hall renovations and Christmas decorations used throughout the City are considered local public improvements authorized per IC §36-7-14-39(b)(2)(J) because public and private meetings are often held in the renovated City Hall. Likewise, the majority of the Christmas decorations are merely accessories which are affixed to existing capital improvements, such as buildings, in parks, and on light standards.

Many expenses attributed to the Redevelopment Director are incurred in training employees of industrial facilities located in the allocation area. To that extent, the expenses were properly paid from TIF monies, per IC §36-7-14-39(b)(2)(K).

In addition, purposes permitted under IC §36-9-41-1.5 include "*carrying out an interlocal cooperation agreement entered into by two (2) or more political subdivisions or governmental entities under IC 36-1-7; or a project necessary or useful to the consolidation of*

*local government services.*” That portion of the funds expended for implementation of the interlocal agreement with the Greater Clark County Schools (the One-to-One computer project, Technology Specialists, and some of the meals and supplies) are considered to be in that category.

Some of the expenses described in the Comments came from the same account as, and were not clearly distinguished from, the salary of the Director. This should be structured differently in the future to better distinguish them from other expenses and will be corrected.

#### CUMULATIVE CAPITAL IMPROVEMENT USES (Clerk Treasurer and City Council)

**Comment:** Funds were dispersed directly from the cumulative capital improvement fund during years 2008 and 2009 for were made for items which, in a 1965 opinion of the Indiana Attorney General, do not constitute Capital Improvements.

**Response:** The Attorney General opinion cited in the Comments pertained to some of the uses to which *cigarette tax revenues* could be used. While instructive, that opinion is not necessarily binding the same way a ruling of a court of appeals would be.

Funds held in a cumulative capital improvement fund may be used for purposes for which property taxes may be imposed within the municipality under the authority of: IC 8-16-3 [Bridge Fund]; IC 8-22-3-25 [Air Transportation]; IC 14-27-6-48 [Levees]; IC 14-33-14 [Maintenance]; IC 16-23-1-40 [City Hospitals]; IC 36-8-14 [Firefighting Equipment and Buildings]; IC 36-9-4-48 [Transportation]; IC 36-9-16-2 [Buildings]; IC 36-9-16-3 [Computer hardware, software & networks, among other things]; IC 36-9-16.5 Right-of-ways, streets, etc...]; IC 36-9-17 [streets, alleys, sidewalks, curbs, gutters, and sewers]; IC 36-9-26 [Sewers]; IC 36-9-27-100 [Drains]; IC 36-10-3-21 [Parks and recreation facilities] or IC 36-10-4-36 [Parks].

It is appropriate for the Common Council to first transfer funds it wishes to expend from a cumulative capital investment fund to the general fund by resolution or ordinance before such funds are expended for purposes which are unrelated to the cumulative capital improvement fund from which those funds were taken. In the future, should funds from the cumulative capital improvement fund be used for other such unrelated purposes, the funds will first be transferred to the General Fund, then appropriated to the department needing to use the funds.

#### WASTE WATER OPERATING FUND USES (Waste Water Utility)

**Comment:** Funds were dispersed from wastewater operating fund for payment of a water utility contract purchase, contrary to a resolution adopted providing the payments would be made from TIF revenues, EDIT revenues or the water utility.

**Response:** This situation has been corrected and the expenditure paid/reimbursed from EDIT funds.

FINANCIAL ASSISTANCE TO CITY RESIDENTS (Clerk Treasurer, City Council and Mayor)

**Comment:** Concern was expressed that 1) that there was no documentation showing the names of the persons distributing the funds, and to whom the funds were distributed; and 2) that no ordinance was adopted specifically authorizing emergency relief to city residents.

**Response:** 1) It is the opinion of the City Attorney that providing life sustaining emergency relief to city residents after a natural disaster is a vital and appropriate function of city government which does not require a separate enabling ordinance. In the instant situation, a natural disaster left much of the City without power, impassable to traffic and without access to food. The City Council held an emergency meeting before power was restored and authorized the provision of financial relief to city residents. This expenditure was later ratified by ordinance at a regularly advertised public meeting, when claims for the relief were approved.

During distribution of the assistance funds, the City representatives took special care to document both the names of the persons distributing the relief and each of the persons receiving the relief. Indeed, written records were kept. Signed receipts received from those receiving relief from those disbursing relief, as required. Unfortunately, those records cannot presently be located. Whether because of the frenetic and chaotic emergency circumstances which prevailed at the time or because the records were accidentally misfiled or discarded during a subsequent relocation of the offices of the Mayor's staff to different facilities, those records cannot be located at this time.

2) Contrary to the Comments in the preliminary examination results, the funds expended were appropriated by ordinance #2008-OR-24 (see "**Exhibit A**", attached hereto and incorporated by reference herein). A copy of this ordinance appears in the City's records, but was apparently not requested by or provided to the field agent at the time of the audit.

CASH PRIZES (Clerk Treasurer and City Council)

**Comment:** Regarding prize monies for a balloon race awarded in 2008, exceptions were noted because no home rule ordinance authorized the payment of cash and prizes was presented at the time of audit, and the prize monies were paid out in cash rather than by check.

**Response:** The *Charlestown Beautification Committee*, (the *Committee*), is an unincorporated association organized for benefitting the community of Charlestown, Indiana. The Committee provides service and raises money for community related events. Committee funds are not derived from City revenues, but are raised by the Committee, then held and distributed by the Clerk Treasurer at the request of the Committee, after approval by the Common Council, for purposes that generally benefit the City. There is nothing questioned about this process.

The concern regarding disbursement of the prize monies is misleading, as it is not factually correct. The only time funds were dispersed by the City it was in the form of a single check payable to a representative of the Committee, Mr. Bill Resch. That check was subsequently cashed and the proceeds were later divided and awarded as prizes *by the Committee* to the several contestants who qualified for a prize. No cash was distributed by the City, but a single check was issued to the member of the Committee who was the organizer of the balloon race.

The check issued to Mr. Resch was approved by the City Council, as required. It is also noteworthy that each of the individual recipients of prize monies awarded *by the Committee* signed a receipt for the cash received. The City was within its rights to issue a check to the organizer of the balloon race.

#### PUBLIC WORKS PROJECT (Board of Public Works)

**Comment:** Approval of purchase of a HVAC system to be installed at city hall was not properly documented because 1) only two quotes were solicited; 2) the minutes presented for examination did not note the quote was opened at a public meeting, and 3) the minutes presented did not note the acceptance of the quote or award.

**Response:** 1) Contrary to the indication in the Comments, more than two quotes were "solicited". However, since most companies did not sell that type of equipment. Unfortunately, the solicitations were first by telephone, followed up in writing to the two bidders. Only those companies were sent written requests for quotes. In the future, written requests will be sent to at least three companies.

2 & 3) Inasmuch as only one quote was received from the two solicited in writing it was apparently not opened at a public meeting. This was an oversight which will not reoccur. Likewise, the award of the contract which is not documented in the minutes of the Board of Public Works will be ratified, on the record, after the fact.

#### CONFLICT OF INTEREST (Redevelopment Commission)

**Comment:** A member of the Redevelopment Commission owned an interest in a corporation that performed services for the City of Charlestown during years 2008 and 2009. No *Uniform Conflict Of Interest Disclosure Statement* executed by that member was presented for examination to the field agent.

**Response:** The City is not prohibited from making a payment to someone who might be considered a public servant who has a pecuniary interest in a City contract even if a *Uniform Conflict Of Interest Disclosure Statement* might be required to be signed and filed by the public servant. It is not inappropriate for the Board of Public Works to pay such a claim.

If the comment made and the laws cited are taken to their logical conclusion, any city employees or officials having stock portfolios containing stocks of corporations that manufacture products used by the City, or the companies selling, transporting or distributing those products, are technically required to disclose those corporate ownership interests by filing a *Uniform Conflict Of Interest Disclosure Statement*. Given the diversity of many mutual funds, that is, as a practical matter, some common sense needs to be used in application of the law. There is no statement clarifying what constitutes a pecuniary interest of this type.

It does not appear to be clear at what point the Commissioner in question would be required to file a *Uniform Conflict Of Interest Disclosure Statement* considering: 1) the payment was not made to the Commissioner; 2) the contract for services was not to the Commissioner; 3) approval of the claim for payment was unrelated to the member's position or function as a member of the Redevelopment Commission; 4) during a Redevelopment Commission meeting the Commissioner in question publicly acknowledged his interest in the company that provided services in question for the City; 5) the Commissioner relied upon and was never advised by the Commission's attorney that he was required to file a *Uniform Conflict Of Interest Disclosure Statement*; 6) the claim for payment to the corporation in which the Commissioner had an interest was not even approved by the Redevelopment Commission, but rather the City's Board of Public Works and Safety, which the Redevelopment Commission member had no connection with; and 7) The extent of the Commissioner's ownership interest in the corporation was never determined.

Regardless of the opinion expressed above, in the future legal counsel for the Redevelopment Commission will recommend that any persons who do business with the City, or who have a "significant" ownership interest in corporations known to do business with the City, disclose those interests by completing a *Uniform Conflict Of Interest Disclosure Statement*. However, that is an ambiguous standard. Retirement stock portfolios will not be examined, as might be suggested by the logic of the Comments.

#### PAVING PROJECT BIDS (Clerk Treasurer and Board of Public Works)

**Comment:** Regarding bids for repaving Charlestown Landing Road, exceptions were noted because 1) bids were opened in an manner different than normal; 2) there were no minutes of the meeting where the Notice of Award was approved; and, 3) the amount paid by the City was different than the bid.

**Response:** 1) It is acknowledged that there was confusion about the time that bids were to be opened and that one bid was opened prematurely because of this. Rather than reject all bids and rebid the project after only one bid had been opened, the other bids were simply opened at the advertised time. The affected bidder has not objected to that process. It was the logical way to address the confusion that resulted from a misunderstanding.

2) There was no Board of Public Works meeting scheduled on August 26, 2009. Hence, there were no minutes showing approval of a contract on that date. However, that is the date

when the contract was apparently signed, presumably after the earlier approval. However, whether approved on that date or before, the Board of Public Works subsequently ratified that contract by approving payment of a claim for the services performed.

3) The difference in the contract amount and payment was due to a field change which required additional materials and labor. These additional services and materials were provided by the contractor at the same pro-rata rate as the original bid. This field change is documented by correspondence from the city's consulting engineer, Saegesser Engineering. Nevertheless, it is acknowledged that the change order should have been approved at a meeting prior to or at the time of payment of the claim. However, the Board of Public Works subsequently ratified that change in the contract by approving payment of a claim for the additional services performed.

#### DISBURSEMENT PROCEDURES (Clerk Treasurer)

**Comment:** An exception was noted because it was noted that there was, in some cases, no written certification that goods or services were received by the City prior to paying those claims.

**Response:** City Department Heads that are responsible to approve and turn invoices in for payment are instructed not to submit such invoices unless the Department Heads are certain the goods and services have been received. Likewise, those department heads (or their designees) are typically present at Board of Public Works meetings to answer questions if there is any doubt about validity of claims.

IC §5-11-10-1.6(c)(2) requires that all invoices or bills be approved by the officer or person receiving the goods and services. However, neither the statute, nor any court decision interpreting it, requires that the approval specifically be in writing. *Written* acknowledgement is not specifically required by the statute. Having Department Heads review such claims and bills to verify their accuracy and legitimacy would seem to satisfy this requirement. However, in order to improve accountability in the claim approval process, appropriate City employees have again been reminded to initial *all* invoices or receipts prior to turning them in to be paid as acknowledgement that the goods or services have been received.

#### APPROPRIATION OF RAINY DAY FUND (Clerk/Treasurer and City Council)

**Comment:** 1) Formal budgets and appropriations for the rainy day fund were not presented for examination showing that the city prepared and submitted the required budget forms to the Indiana Department of Local Government Finance for approval and 2) Disbursements were made from unappropriated funds.

**Response:** 1) The budgets and appropriations in question were approved by the City Council. Prior thereto, the office of the City Clerk/Treasurer had contacted field representatives of the Indiana State Board of Accounts, requesting direction on how to

appropriate funds from the Rainy Day Fund and was advised that presentment of budgets and appropriations for the Rainy Day Fund to the Indiana Department of Local Government Finance was not required. This advice was followed. However, because this does not seem to be correct such budgets and appropriations from the Rainy Day Fund will be sent to the Indiana Department of Local Government Finance for approval in the future.

2) The Rainy Day Fund was reimbursed.

#### ANNUAL FINANCIAL REPORTS (Clerk/Treasurer)

**Comment:** The *Annual City and Town Financial Report* (CTAR-1) for the year 2008 contained errors.

**Response:** The errors noted were due to software problems. *Keystone*, the City's software vendor, was contacted and the relevant codes corrected. Afterwards (and currently) those financial reports are in balance.

#### CONTRACTS (City Council)

**Comment:** Payment was made for accounting services without a written contract.

**Response:** Contracts for professional services, such as accounting services, need not be bid. Prior to the time that the accounting services in question were performed, the services and the cost of those services, were discussed at a public meeting, which fact is documented by minutes of the meeting. Furthermore, after the services were performed the claim for services was subsequently approved by the city's Board of Public Works and Safety.

Despite the fact that the accounting services were provided for the agreed upon amounts, it is acknowledged that the standard practice is to have a written contract memorializing obligations for professional services. This is normally done, and will be done in the future.

#### BANK ACCOUNT RECONCILIATION/INTERNAL CONTROLS (City Court)

**Comment:** 1) The Court computer program does not provide sufficient details of disbursement activity 2) Outstanding checks lists did not include check number and check date issued 3) Deposits to the court's bank account was not consistent with the court's computerized cash book.

**Response:** Corrective action is being undertaken. Greater controls over the receipting, disbursement, recording and accounting for financial activities of the court are being implemented. It is noted that as of December 31, 2011, the City Court will be dissolved.

DISTRIBUTION OF COURT FEES (City Court)

**Comment:** Court fees required to be distributed monthly were distributed one to two months late.

**Response:** Corrective action is being taken by insuring that required distributions will be made in a timely manner. It is noted that as of December 31, 2011, the City Court will be dissolved.

Please include this response with the Comments. As always, please contact me if you have questions, comments, or concerns.

Michael A. Gillenwater  
City Attorney

Seen and Approved by:

  
\_\_\_\_\_  
G. Robert Hall, Mayor

  
\_\_\_\_\_  
Donna Coomer, Clerk/Treasurer

ORDINANCE NO. 2008-OR-24

APPROPRIATION ORDINANCE

WHEREAS, It has been determined it is now necessary to appropriate money in the Rainy Day fund, now, therefore:

Sec 1. Be it ordained by the Common Council of the City of Charlestown, Clark County, Indiana, that for the expense of the taxing unit the following sums of money are hereby appropriated of the funds named and for the purpose specified, subject to the laws governing the same:

	AMOUNT REQUESTED	AMOUNT APPROPRIATED
FUND NAME: RAINY DAY FUND		
USE: CITY HALL CONSTRUCTION	\$30,665.00	\$30,665.00
USE: WATER PLANT-TEAM CONTRACTING	\$48,640.97	\$48,640.97
USE: STORM DAMAGE	\$103,719.38	\$103,719.38
USE: ANNEXATION SERVICES	\$12,875.00	\$12,875.00
TOTAL APPROPRIATION:	\$190,900.35	\$190,900.35

Adopted this 17th day of November 2008

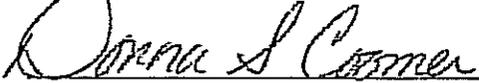
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
_____ JEFF AARON, PRESIDENT				✓
<u>Terry Pierce</u> TERRY PIERCE	✓			
<u>Dan Roberts</u> DAN ROBERTS	✓			
<u>Scott McKechnie</u> SCOTT MCKECHNIE	✓			
_____ MARK GOODLETT				✓



In witness, Whereof, I have set my hand:

  
\_\_\_\_\_  
G. Robert Hall, Mayor

Attest

  
\_\_\_\_\_  
Donna Coomer, Clerk-Treasurer