

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

AUDIT REPORT
OF

TOWN COURT
TOWN OF WHITESTOWN
BOONE COUNTY, INDIANA

January 1, 2009 to December 31, 2010



FILED
08/15/2011

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TOWN OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Debra Zachlemeyer	01-01-04 to 12-31-11
Court Judge	Sandra Vogt	01-01-08 to 12-31-11
Clerk of the Court	Johnetta Wills	03-01-08 to 12-31-11
President of the Town Council	Jason Tribby Dawn Semmler	01-01-09 to 12-31-09 01-01-10 to 12-31-11



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE TOWN OF WHITESTOWN

We have audited the records of the Town Court for the period from January 1, 2009 to December 31, 2010, 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 Result(s) and Comment(s). The financial transactions of this office are reflected in the Regulatory Report of the Town of Whitestown for the years 2009 and 2010.

STATE BOARD OF ACCOUNTS

April 18, 2011

TOWN COURT
TOWN OF WHITESTOWN
AUDIT RESULT(S) AND COMMENT(S)

ORDINANCES AND RESOLUTIONS

The Town has an ordinance concerning traffic regulations under the jurisdiction of the Town of Whitestown; however, the Town did not follow the fine schedule included in the ordinance. This resulted in undercharging on some offenses and overcharging on others. Specifically, the tickets issued for speeding 21 to 30 miles per hour over the posted speed limit were charged either \$360 or \$360.50 instead of the ordinance amount of \$310. There were 68 tickets issued for local ordinance violations and 32 issued by State Police for state violations resulting in the overcharging of ticketed individuals by \$5,342.

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)

The Court Officials were requested to contact and refund the overcharged amounts to the applicable individuals.

BANK ACCOUNT RECONCILIATIONS

Depository reconciliations of the fund balances to the bank account balances were incorrect. For both years the record balance was less than the adjusted bank account balance. At December 31, 2010, there was an unidentified cash long balance of \$3,109.23.

During the audit, it was discovered that the software was posting any fines that didn't contain listed account coding contained in the software to an exception file. The exception file had accumulated a balance of \$3,109.23 and had not been identified or remitted to the proper authority or authorities. After our observation that this amount needed to be identified, the Court Clerk was able to identify \$1,901.75 of this amount and was preparing to distribute the \$1,901.75 to the proper authority. The remaining balance, \$1,207.48, was still being researched for proper distribution.

TOWN COURT
TOWN OF WHITESTOWN
AUDIT RESULT(S) AND COMMENT(S)
(Continued)

Indiana Code 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 Cities and Towns, Chapter 7)

At the close of each week, the clerk shall make out and deliver to the city controller of a second class city, clerk-treasurer of a third class city or clerk-treasurer of a town a written report of all cases in which the clerk has received or collected any fines or forfeitures due the city or town. The clerk shall then pay over the money to the controller or clerk-treasurer and take a receipt for the payment. At the end of each month the clerk shall make out and deliver to the county treasurer of the county in which the city or town is located a written report of all cases in which the clerk has received or collected any fines or forfeitures due the state during the month and then pay to the county treasurer all fines or forfeitures collected, taking a receipt for the payment. In those cities where the county treasurer rather than the city controller receives city money for deposit, the clerk shall report and deliver the money to the county treasurer.

The clerk shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The clerk shall distribute the state and county share of court costs collected in accordance with IC 33-37-7-8. (Accounting and Compliance Manual for City and Town Courts, Chapter 4)

TOWN COURT
TOWN OF WHITESTOWN
EXIT CONFERENCE

The contents of this report were discussed on April 27, 2011, with Sandra Vogt, Court Judge; Debra Zachelmeyer, Clerk-Treasurer; Thomas Combiths, Town Manager; Dawn Semmler, President of the Town Council; and Johnetta Wills, Clerk of the Court. The official response has been made a part of this report and may be found on pages 7 through 11.

The contents of this report were discussed on April 28, 2011, with Debra Zachelmeyer, Clerk-Treasurer; Thomas Combiths, Town Manager; Dawn Semmler, President of the Town Council; Susan Austin, Council member; Steve C. Unger, Town Attorney; and Linda Bell, Financial Consultant.



Whitestown Town Hall
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May 6, 2011

“OFFICIAL RESPONSE”

State Board of Accounts
302 West Washington Street
Room E418
Indianapolis, IN 46204-2765

Re: Town of Whitestown Response to 2009 and 2010 Examination Results and Audit Comments as Presented by the State Board of Accounts (“SBOA”) in Exit Interview

To Whom It May Concern:

The Town of Whitestown (“Town”) wishes to formally respond to the audit comments presented to the Town at an April 28, 2011 meeting with SBOA auditors.

The Town notes at the outset that it is pleased to learn that, for the second consecutive audit, the SBOA has found no problems or exceptions with the Town’s financial statements, and the Town has received an unqualified opinion report. This type of report is issued by an auditor when the financial statements presented are free of material misstatements and are represented fairly in accordance with General Accounting Principles (GAAP), and it is the best type of report the Town may receive from an auditor. The Town has taken significant steps over the past several years to rectify irregularities that had previously been identified by the SBOA in prior financial audits of the Town – including at times retracing many years of receipts and expenditures to recreate the proper historical record of finances. This sizeable undertaking has not only been confirmed in the results of the two most recent financial audits, but has also resulted in a more transparent Town government.

As was explained to the Town by the SBOA auditors during the exit interview, because the condition of the Town’s financial statements has improved significantly in the past two audits, there was more opportunity for the auditors to review general internal controls of the

Town's financial structure and provide feedback on ways in which the Town may improve its system. The auditors noted that the issues they have identified had not resulted in financial problems for the Town, but are the types of concerns that could allow discrepancies to occur in the future. The Town considers each such comment seriously, and is committed to putting appropriate resources and controls in place to help avoid unnecessary financial issues in the future.

There were three comments provided by the SBOA that the Town believes may be incorrect, and the Town will withhold acting on those two comments unless additional clarification/verification is provided from the SBOA. First, the SBOA indicated that some of the judgments from the Town Court relating to traffic regulations were above and/or below the fine amounts set forth in the then applicable Town ordinances. The SBOA therefore requested that the town court refund any "overcharges." However, the Town believes any such payments from the Town resulting from final judgments of a court may violate Indiana law. Under IC 33-35-5-9, any appeal from a judgment of a town court must be made "within thirty (30) days after the rendition of the judgment." The Town Court's records indicate that none of the referenced judgments were appealed, and they cannot be collaterally questioned now. Any of the identified fees therefore were not overpayments, but were in accordance with a final, non-appealable court order (just as there would be no underpayments, but only payments made in accordance with a final court order). The Town does not believe that money from a judgment that was not appealed could be properly due and owing, and the Town may not issue payments for items not legally due. The Town therefore does not believe that it is proper to require that any such payments be made. The Town Court's staff has already taken steps to identify most of the individuals, but does not wish to make illegal payments that are not required. The Town also notes that all current fines and schedules are in accordance with now applicable state amounts.

Second, the SBOA identified as an Errors on Claims automatic debt payments that "were made by electronic transfer from the bank account without approval of the Council." The Town believes that this statement is in error. The Town Council has approved all payments on its debt obligations pursuant to the authorizing ordinances and resolutions of the Town with respect to each respective debt obligation of the Town from the sources described in such approving ordinances and resolutions. Attached hereto is a complete Schedule of the Town's outstanding debt obligations with corresponding approvals of the Town Council for each such debt obligation. Pursuant to such approvals the Clerk-Treasurer, as the fiscal officer of the Town, is authorized to make payments on the debt obligations without further approval of the Town Council. Copies of the complete transcript of proceedings for each of the debt obligations referred to in the attached Schedule are available upon request.

Third, the audit comments state "the Town did not comply with directives of the State by failing to distribute to the county auditor the county's share of court costs. The Town Court remitted, to the Town, \$7,999.85 in 2009, \$30,607 in 2010 and \$2,324 for the first two months of 2011 that represented court fees due to the county. These court fees have been distributed to the County on April 18, 2011." Further review by the Town found court fees remitted to the Town as detailed in the attached schedule. As shown, the amount of court fees due to the County in

2010 was \$24,486. The amount stated by the auditor of \$30,607 was the Town portion of court fees in 2010. Also found to be in question are the court fees due to the County for the first two months of 2011. The amount stated by the auditor was \$2,324 and records indicate the amount of fees due the County to be \$3,738. Since the Town had already forwarded the court fees to the County per the amount cited by the Auditor, the Town will now request a refund of \$4,707 for the years 2010 and 2011. Due to the restricted time period within which to respond to the audit, the Town has yet been unable to confirm the amount of fees due the County for 2009.

In regard to Overdrawn Fund Balances, the Town notes the final 2009 property tax distribution was not receipted to the books until January 4, 2010. The Motor Vehicle Highway Fund received \$63,316.99 and the Cumulative Capital Development Fund received \$9,238.16.

The Town believes that many, if not all, of the remaining comments identified by the SBOA are the result of staffing needs and employee turnover in its financial department. Since its last audit, the Town has hired and lost a full-time certified public accountant for Town and Utility finances and has lost its utility bookkeeper. Even prior to the SBOA audit, the Town had developed and is moving forward with a plan to hire two financial clerks to work in conjunction with the Clerk-Treasurer and Town Council to develop and implement the proper controls and chains-of-custody for receipts and expenditures. The Town believes that the decision to hire two clerks as opposed to a single accountant will not only help alleviate staffing needs that can result in delays in recordkeeping – which often materialize in the form of late deposits, incomplete claim vouchers and untimely invoices, and corrective/adjusted postings to records as is reflected in the SBOA comments – but will also provide still more transparency of Town finances by keeping the functions of incoming and outgoing public funds separate. Finally, the Town has also already taken steps to ensure that the proper reconciliations and disbursements outlined in the SBOA comments are identified and made.

Sincerely,


Debra Zachelmeyer
Clerk-Treasurer

Dawn Semmler
Town Council President

cc: Whitestown Town Council
Tom Combiths, Town Manager
Steve Unger, Town Attorney
Reedy Financial Consultants

TOWN OF WHITESTOWN, INDIANA

*Schedule of Outstanding Bond Obligations w/corresponding Town Council Approvals**

1. \$1,510,000** Whitestown Municipal Facilities Building Corporation (the "Building Corporation") First Mortgage Bonds, Series 2010, dated June 22, 2010, secured under a Trust Indenture and Mortgage dated June 1, 2010, between the Building Corporation and Wells Fargo Bank, N.A., as Trustee, payable from lease rental payments under a Lease between the Town and the Building Corporation dated April 14, 2010, as amended by an Addendum to Lease dated June 1, 2010; **Approvals:** Lease approved April 13, 2010 pursuant to Resolution No. 2010-04; the Bonds, the Addendum to Lease, Indenture and other financing documents approved May 11, 2010 pursuant to Resolution No. 2010-05.
2. \$10,475,000 Economic Development Tax Increment Revenue Bonds, Series 2010A (Perry Industrial Park and Whitestown Crossing Projects); \$5,000,000 Taxable Economic Development Tax Increment Revenue Bonds, Series 2010B (Perry Industrial Park and Whitestown Crossing Projects); \$5,525,000 Taxable Economic Development Tax Increment Revenue Bonds, Series 2010A (Perry Industrial Park and Whitestown Crossing Projects), dated May 27, 2010, secured under a Trust Indenture dated May 1, 2010, between the Town and UMB Bank, N.A., payable from tax increment revenues from the Town's Perry Industrial Park Economic Development Area; **Approvals:** the Bonds, the Indenture and other financing documents were approved February 9, 2010 pursuant to Ordinance No. 2010-04.
3. \$1,400,000 Waterworks Revenue Bonds, Series 2010; \$1,400,000 Taxable Waterworks Bond Anticipation Notes, Series 2010 (ARRA), dated January 12, 2010, payable from the net revenues of the Town's waterworks; **Approvals:** Bonds approved May 12, 2009 pursuant to Ordinance No. 2009-01, as amended by Ordinance No. 2009-27, adopted December 8, 2009.
4. \$3,310,000 Sewage Works Refunding Revenue Bonds, Series 2009, dated June 1, 2009, payable from the net revenues of the Town's sewage works; **Approvals:** Bonds approved May 12, 2009 pursuant to Ordinance No. 2009-02.
5. \$3,255,000 Waterworks Revenue Bonds, Series 2009, dated June 1, 2009, payable from the net revenues of the Town's waterworks; **Approvals:** Bonds approved May 12, 2009 pursuant to Ordinance No. 2009-01.
6. \$1,881,000 Sewage Works Revenue Bonds, Series 2005, dated December 29, 2005, payable from the net revenues of the Town's sewage works; **Approvals:** Bonds approved December 20, 2005 pursuant to Amended and Restated Ordinance No. 2005-17.
7. \$1,212,000 Waterworks Revenue Bonds, Series 2005, dated December 29, 2005, payable from the net revenues of the Town's waterworks; **Approvals:** Bonds approved December 20, 2005 pursuant to Amended and Restated Ordinance No. 2005-16.

* Reflects bond obligations issued since December 1, 2005. The Town also has certain 2001 waterworks and sewage works bonds outstanding which are held by the State of Indiana, through the Indiana Finance Authority.

** Par amounts of bonds listed in this Schedule reflect the par amounts as of the date of issuance of the respective bonds.

Town of Whitestown, Indiana

Schedule of Court Fees remitted by Town Court

Month Received to Town	Town Court Costs	County Court Costs	Fines	Late Payments	Judicial Salary Fee
Jan-10					
Feb-10	\$ 612.00	\$ 490.00	\$ 1,414.00		\$ 80.75
1-Mar	\$ 1,522.50	\$ 1,218.00	\$ 4,012.75		\$ 199.75
Apr-10	\$ 2,012.50	\$ 1,610.00	\$ 7,690.25	\$ 100.00	\$ 327.25
May-10	\$ 3,167.50	\$ 2,534.00	\$ 7,229.25	\$ 175.00	\$ 500.50
Jun-10	\$ 4,707.50	\$ 3,766.00	\$ 10,305.25	\$ 75.00	\$ 753.25
Jul-10	\$ 4,287.50	\$ 3,430.00	\$ 9,294.75	\$ 50.00	\$ 688.50
Aug-10	\$ 4,182.50	\$ 3,346.00	\$ 7,829.10	\$ 150.00	\$ 633.25
Sep-10	\$ 2,852.50	\$ 2,282.00	\$ 5,763.50	\$ 175.00	\$ 493.00
Oct-10	\$ 2,677.50	\$ 2,142.00	\$ 2,329.50	\$ 75.00	\$ 459.00
Nov-10	\$ 2,450.00	\$ 1,960.00	\$ 1,934.50	\$ 25.00	\$ 471.75
Dec-10	\$ 2,135.00	\$ 1,708.00	\$ 1,339.50	\$ 25.00	\$ 433.50
Total 2010	\$30,607.00	\$ 24,486.00	\$59,142.35	\$ 850.00	\$ 5,040.50
Jan-11	\$ 2,922.50	\$ 2,338.00	\$ 1,643.75	\$ 25.00	\$ 488.75
Feb-11	\$ 1,750.00	\$ 1,400.00	\$ 1,046.50	\$ 25.00	\$ 306.00