

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

FINANCIAL STATEMENT EXAMINATION REPORT

OF

BEN DAVIS CONSERVANCY DISTRICT

MARION COUNTY, INDIANA

January 1, 2011 to December 31, 2012



FILED
10/21/2013

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SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Secretary/Treasurer	Mary Ann Willoughby	01-01-11 to 12-31-13
Chairman of the Board	John Thurman	01-01-11 to 12-31-13



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF THE BEN DAVIS CONSERVANCY DISTRICT, MARION COUNTY, INDIANA

We have examined the accompanying financial statement of the Ben Davis Conservancy District (District), for the period of January 1, 2011 to December 31, 2012. The financial statement is the responsibility of the District's management. Our responsibility is to express an opinion on the financial statement 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 statement and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

As discussed in Note 1, the District prepares its financial statement on the prescribed basis of accounting that demonstrates compliance with the reporting requirements established by the State Board of Accounts as allowed by state statute (IC 5-11-1-6), which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The effects on the financial statement of the variances between these regulatory accounting practices and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

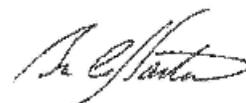
In our opinion, because of the matter discussed in the preceding paragraph, the financial statement referred to above does not present fairly, in conformity with accounting principles generally accepted in the United States of America, the financial position and results of operations of the District for the period of January 1, 2011 to December 31, 2012.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the financial position and results of operations of the District for the period of January 1, 2011 to December 31, 2012, on the basis of accounting described in Note 1.

Our examination was conducted for the purpose of forming an opinion on the District's financial statement. The Combining Schedules of Receipts, Disbursements, and Cash and Investment Balances – Regulatory Basis, Schedule of Payables and Receivables, and Schedule of Capital Assets, as listed in the Table of Contents, are presented for additional analysis and are not required parts of the financial statement. They have not been subjected to the examination procedures applied to the financial statement and, accordingly, we express no opinion on them.

INDEPENDENT ACCOUNTANT'S REPORT
(Continued)

The District's response to the Examination Result and Comment identified in our examination is described in the accompanying section of the report entitled Official Response. We did not examine the District's response and, accordingly, we express no opinion on it.



Bruce Hartman
State Examiner

September 19, 2013

FINANCIAL STATEMENT

The financial statement and accompanying notes were approved by management of the District. The financial statement and notes are presented as intended by the District.

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BEN DAVIS CONSERVANCY DISTRICT
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND CASH AND INVESTMENT BALANCES -
 REGULATORY BASIS
 For The Years Ended December 31, 2011 And 2012

Fund	Cash and Investments 01-01-11	Receipts	Disbursements	Cash and Investments 12-31-11	Receipts	Disbursements	Cash and Investments 12-31-12
General	\$ 801,462	\$ 1,041,703	\$ 1,031,446	\$ 811,719	\$ 1,039,249	\$ 849,291	\$ 1,001,677

The notes to the financial statement are an integral part of this statement.

BEN DAVIS CONSERVANCY DISTRICT
NOTES TO FINANCIAL STATEMENT

Note 1. Summary of Significant Accounting Policies

A. Reporting Entity

The District was established under the laws of the State of Indiana. The District operates under an appointed governing board.

The accompanying financial statement presents the financial information for the District.

B. Basis of Accounting

The financial statement is reported on a regulatory basis of accounting prescribed by the State Board of Accounts in accordance with state statute (IC 5-11-1-6), which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Receipts are recorded when received and disbursements are recorded when paid.

The regulatory basis of accounting differs from accounting principles generally accepted in the United States of America in that receipts are recognized when received in cash, rather than when earned, and disbursements are recognized when paid, rather than when a liability is incurred.

C. Cash and Investments

Investments are stated at cost. Any changes in fair value of the investments are reported as receipts in the year of the sale of the investment.

D. Receipts

Receipts are presented in the aggregate on the face of the financial statement. The aggregate receipts include the following sources:

Taxes which can include one or more of the following: property taxes, certified shares (local option tax), property tax replacement credit (local option tax), county option income tax, wheel tax, innkeepers tax, food and beverage tax, county economic development income tax, boat and trailer excise tax, county adjusted gross income tax, and other taxes that are set by the District.

Licenses and permits which include amounts received from businesses, occupations, or nonbusinesses that must be licensed before doing business within the government's jurisdiction or permits levied according to the benefits presumably conferred by the permit. Examples of licenses and permits include: peddler licenses, dog tax licenses, auctioneer license, building and planning permits, demolition permits, electrical permits, sign permits, and gun permits.

Charges for services which can include, but are not limited to the following: planning commission charges, building department charges, copies of public records, copy machine charges, accident report copies, gun permit applications, 911 telephone services, recycling fees, dog pound fees, emergency medical service fees, park rental fees, swimming pool receipts, cable tv receipts, ordinance violations, fines and fees, bond forfeitures, court costs, and court receipts.

BEN DAVIS CONSERVANCY DISTRICT
NOTES TO FINANCIAL STATEMENT
(Continued)

Other receipts which include amounts received from various sources which can include, but are not limited to the following: net proceeds from borrowings; interfund loan activity; transfers authorized by statute, ordinance, resolution or court order; internal service receipts; and fiduciary receipts.

E. Disbursements

Disbursements are presented in the aggregate on the face of the financial statement. The aggregate disbursements include the following uses:

Personal services include outflows for salaries, wages, and related employee benefits provided for all persons employed. In those units where sick leave, vacation leave, overtime compensation, and other such benefits are appropriated separately, such payments would also be included.

Supplies which include articles and commodities that are entirely consumed and materially altered when used and/or show rapid depreciation after use for a short period of time. Examples of supplies include office supplies, operating supplies, and repair and maintenance supplies.

Other services and charges which include, but are not limited to: professional services, communication and transportation, printing and advertising, insurance, utility services, repairs and maintenance, and rental charges.

Capital outlay which include all outflows for land, infrastructure, buildings, improvements, and machinery and equipment having an appreciable and calculable period of usefulness.

Note 2. Budgets

The operating budget is initially prepared and approved at the local level. The fiscal officer of the District submits a proposed operating budget to the governing board for the following calendar year. The budget is advertised as required by law. Prior to adopting the budget, the governing board conducts public hearings and obtains taxpayer comments. Prior to November 1, the governing board approves the budget for the next year. The budget for funds for which property taxes are levied or highway use taxes are received is subject to final approval by the Indiana Department of Local Government Finance.

Note 3. Property Taxes

Property taxes levied are collected by the County Treasurer and are scheduled to be distributed to the District in June and December; however, situations can arise which would delay the distributions. 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 percent 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 normally become delinquent if not paid by May 10 and November 10, respectively.

BEN DAVIS CONSERVANCY DISTRICT
NOTES TO FINANCIAL STATEMENT
(Continued)

Note 4. Deposits and Investments

Deposits, made in accordance with state statute (IC 5-13), with financial institutions in the State of Indiana at year end should be 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 statutes authorize the District 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.

Note 5. Risk Management

The District may be exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; job related illnesses or injuries to employees; medical benefits to employees, retirees, and dependents; and natural disasters.

These risks can be mitigated through the purchase of insurance, establishment of a self-insurance fund, and/or participation in a risk pool. The purchase of insurance transfers the risk to an independent third party. The establishment of a self-insurance fund allows the District to set aside money for claim settlements. The self-insurance fund would be included in the financial statements. The purpose of participation in a risk pool is to provide a medium for the funding and administration of the risks.

Note 6. Pension Plan

Public Employees' Retirement Fund

Plan Description

The Indiana Public Employees' Retirement Fund (PERF) is 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 Indiana Public Retirement System (INPRS) Board, most requirements of the system, and give the District 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 percent of compensation, plus the interest credited to the member's account. The employer may elect to make the contributions on behalf of the member.

INPRS 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:

Indiana Public Retirement System
1 North Capital Street, Suite 001
Indianapolis, IN 46204
Ph. (888) 526-1687

BEN DAVIS CONSERVANCY DISTRICT
NOTES TO FINANCIAL STATEMENT
(Continued)

Funding Policy and Annual Pension Cost

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

Note 7. Subsequent Events

On July 30, 2013, the Board approved the purchase of a new jet truck from Best Equipment for a net cost of \$146,106 after trade-in of the old jet vac.

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SUPPLEMENTARY INFORMATION – UNAUDITED

For additional financial information, the District's Annual Report information can be found on the Gateway website: <https://gateway.ifionline.org/>.

Differences may be noted between the financial information presented in the financial statement contained in this report and the financial information presented in the Annual Reports of the District which are referenced above. These differences, if any, are due to adjustments made to the financial information during the course of the examination. This is a common occurrence in any financial statement examination. The financial information presented in this report is examined information, and the accuracy of such information can be determined by reading the opinion given in the Independent Accountant's Report.

The supplementary information presented was approved by management of the District. It is presented as intended by the District.

BEN DAVIS CONSERVANCY DISTRICT
 COMBINING SCHEDULE OF RECEIPTS, DISBURSEMENTS, AND
 CASH AND INVESTMENT BALANCES - REGULATORY BASIS
 For The Year Ended December 31, 2011

	General
Cash and investments - beginning	\$ 801,462
Receipts:	
Taxes	974,959
Licenses and permits	5,150
Charges for services	60,207
Other receipts	1,387
Total receipts	1,041,703
Disbursements:	
Personal services	322,781
Supplies	20,263
Other services and charges	688,402
Total disbursements	1,031,446
Excess of receipts over disbursements	10,257
Cash and investments - ending	\$ 811,719

BEN DAVIS CONSERVANCY DISTRICT
 COMBINING SCHEDULE OF RECEIPTS, DISBURSEMENTS, AND
 CASH AND INVESTMENT BALANCES - REGULATORY BASIS
 For The Year Ended December 31, 2012

	General
Cash and investments - beginning	\$ 811,719
Receipts:	
Taxes	989,106
Licenses and permits	2,200
Charges for services	44,081
Other receipts	3,862
Total receipts	1,039,249
Disbursements:	
Personal services	334,168
Supplies	27,350
Other services and charges	486,472
Capital outlay	1,301
Total disbursements	849,291
Excess of receipts over disbursements	189,958
Cash and investments - ending	\$ 1,001,677

BEN DAVIS CONSERVANCY DISTRICT
SCHEDULE OF PAYABLES AND RECEIVABLES
December 31, 2012

<u>Government or Enterprise</u>	<u>Accounts Payable</u>	<u>Accounts Receivable</u>
Governmental activities	<u>\$ -</u>	<u>\$ 7,801</u>

BEN DAVIS CONSERVANCY DISTRICT
 SCHEDULE OF CAPITAL ASSETS
 December 31, 2012

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.

	Ending Balance
Governmental activities:	
Land	\$ 47,651
Infrastructure	6,297,480
Buildings	105,000
Machinery, equipment, and vehicles	285,126
Total governmental activities	6,735,257
Total capital assets	\$ 6,735,257

BEN DAVIS CONSERVANCY DISTRICT
EXAMINATION RESULT AND COMMENT

ADVANCE PAYMENT

As of December 31, 2012, the District has paid \$280,000 in advance of the actual receipt of Citizens Energy Group's sewage processing invoices.

Compensation and any other payments for goods and services should not be paid in advance of receipt of the goods or services unless specifically authorized by statute. Payments made for goods or services which are not received may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

BEN DAVIS CONSERVANCY DISTRICT
EXIT CONFERENCE

The contents of this report were discussed on September 19, 2013, with Mary Ann Willoughby, Secretary/Treasurer, and John Thurman, Chairman of the Board. The Official Response has been made a part of this report and may be found on pages 20 through 23.

BEN DAVIS CONSERVANCY DISTRICT
703 SOUTH TIBBS AVENUE
INDIANAPOLIS, IN 46241-2708

(317) 241-2941

JOHN THURMAN
CHAIRMAN
ERNEST J. WALLACE
VICE-CHAIRMAN
BEVERLY A. MATTHEWS
DIRECTOR

MARY ANN WILLOUGHBY
SECRETARY

September 24, 2013

State Board of Accounts
302 West Washington Street
Room E-418
Indianapolis, Indiana 4602-2765

Official Response to Audit and Exit
Conference conducted September 19,
2013 of the Ben Davis Conservancy
District

Gentlemen:

Please consider this as the official response of the Ben Davis Conservancy District to the comment regarding the advance payment to Citizen's Energy Group in the amount of \$280,000.

The Ben Davis Conservancy is a special taxing district in Marion County Indiana and operates a sanitary sewer system in Wayne Township. The system is owned by the freeholders in the Conservancy District. The Conservancy does not charge its freeholders on the basis of sewer usage. Rather, the operating expenses of the Conservancy are financed almost totally by the imposition of a property tax levied upon all real estate in the Conservancy District. The Conservancy was created in the 1950's because the City of Indianapolis would not or could not provide sanitary sewers to its residents. The residents of the Conservancy (most of whom were of limited or modest means) literally built their own sewers. The Conservancy has long ago paid its bond issue which was used to build the sewer system and has no debt whatsoever. The Conservancy prides itself as being a governmental unit that lives within its means and our directors hate indebtedness of any kind.

The Conservancy does not process its own sewage. The Conservancy originally had a contract for the transportation and processing of all of its sanitary sewage at the sewage processing facilities operated by the City of Indianapolis. Upon the sale of the sewer facilities to Citizen's Energy Group, the processing contract was assigned to Citizens and Citizen's Energy Group now stands in the shoes of the City of Indianapolis as to our contract for processing our sewage. Sewage processing charges are usually the biggest expenditure of the Conservancy.

The issue of charges for sewage processing has always been a dilemma for the Conservancy. The Conservancy, under our contract, is charged a per gallon charge for processing the sewage plus an amount for certain solubles and foreign elements found in the sewage. (Such as ammonia, suspended solids, etc.) The more gallons of sewage that are processed the more the Conservancy has to pay to Citizens Energy Group. Because there is infiltration of rain water into the sewer lines, our processing charges are unfortunately determined by the amount of rain in any calendar year—an event over which we have no control. The sewer bill is therefore always subject to great fluctuation. In the past, there have been disputes as to the accuracy of the meter used to measure the amount of gallons of sewage processed. At present there is a dispute over a \$55,000 bill which the Conservancy maintains is incorrect based upon a faulty reading of the meter. We are providing this information to give you a historical prospective and an explanation as to why we have prepaid the sewer bill without waiting for an invoice on occasion.

Approximately 15 years ago, a dispute arose over the sewer processing bill. The City of Indianapolis contended that our meter which measured the sewage was incorrect and theirs was the most accurate. As a result, the City of Indianapolis contended that Conservancy was indebted to the City for hundreds of thousands of dollars. Our investigation into this matter led by a team of expert engineers employed by the Conservancy, led us to the unfortunate conclusion that the City was correct. As a result, our tax rate had to be drastically increased to pay the City of Indianapolis hundreds of thousands of dollars in arrears for sewage processing and to pay for increased sewer processing charges in the next year. This was a very significant event which caused almost a doubling of the tax rate for the next year. Residents who allowed their mortgage company to pay their real estate taxes were notified by their mortgage companies that their payments for the monthly accrual of property taxes had to be drastically increased—sometimes by hundreds of dollars each month. This caused an outrage in the Conservancy and disgruntled taxpayers (many of whom were on fixed incomes and who had not budgeted for an almost doubling in their sewer bills) were terribly upset and vocally demonstrated their outrage for a lengthy period of time. The Conservancy was not immune to the complaints of its freeholders, was sympathetic, and felt that the directors had an obligation to attempt to keep the tax rate level with no dramatic increases or decreases as best it could in the future.

In the past if it appeared to the Board of Directors that the Conservancy had surplus monies in the sewage processing account and that there would be a surplus in the general fund at the end of the calendar year, the Board of Directors has authorized the prepayment of the sewage processing charges. This has had the result of not having to dramatically decrease the tax rate for the next year only to dramatically increase the rate in the following year. The net result was that the freeholders in the district could be able to budget their expenses and would not be subjected to dramatic increases in the tax rate in the following year. In other words this policy has led to certainty which we feel is a good thing for almost all taxpayers.

We believe that our policy of prepayment of the sewage processing charges under the appropriate circumstance is permitted for the following reasons:

1. The preface to the Accounting and Uniform Compliance Guidelines for Special Districts specifically states: “This Accounting and Uniform Compliance Guidelines Manual for Special

Districts has been prepared by the State board of Accounts as a GUIDE for fiscal officers of special districts to use in accounting for the financial transactions of a special district.” (Our emphasis). A “guide” is defined as follows: “Something that helps you form an opinion or make a decision about something else.” See Cambridge Advance Learner’s Dictionary. We felt that a “guide” is not necessarily an absolute mandate to be followed under any and all circumstances. Rather the fact that it was referred to as a guide as opposed to a mandate would lead most reasonable individuals to believe that there could be exceptions the guide under the appropriate circumstances.

2. The City of Indianapolis did not and Citizen’s Energy Group does not (and evidently cannot) bill the Conservancy for sewage processing at regular intervals. These sewage processing bills are not sent out monthly or even regularly because (we are told) they have to be prepared by hand and are difficult to prepare. The last bill for sewage processing was for the month of April 2013. This has caused tremendous problems for the Conservancy, as we are in a difficult position of knowing at times that we owe large sums for sewage processing but have no invoice to comply with the guidelines of the State Board of Accounts. This is a matter beyond our control, as we cannot order Citizen’s energy to send us a bill when we want to pay it. When we receive a bill in a later tax year for the preceding tax year, it simply destroys the entire budget for the later tax year.

3 The guidelines in the Manual for Special Districts do state that “compensation and any other payment for goods and services should not be paid in advance of receipt of the goods or services unless specifically authorized by statute.” Our counsel, John L. Hess, advised the Conservancy Board that, in his opinion, the advance payment (not to exceed the budgeted amount) was permitted for many reasons but the most compelling reason was that the manual used the permissive words “should not” rather than the mandatory words “shall not.” He felt that there was sufficient leeway in the language of the guidelines itself to pay a bill we know was owed (or would owe) in advance of receiving the actual invoice. To require the Conservancy to wait for the receipt of the invoice would cause many problems even though it might be preferable to wait for the receipt. This policy of occasional prepayment allowed the Conservancy Board of Directors to avoid great increases in the tax rate in many years by simply not waiting for the receipt of the actual invoice. The Conservancy has never prepaid any other bill except the sewage processing bill. We agree that absent exceptional circumstances good governance requires that payment should never be paid in advance. However we feel there are exceptional reasons present when we have no control over the generation of an invoice.

4. Because any invoice which is received by the Conservancy from the owner of the processing facility is always subject to dispute and modification, the invoice in reality is at best an “estimated bill” subject to decrease or increase until finally resolved. There exists a dispute at present over approximately \$55,000 which is yet to be resolved with Citizen’s Energy Group.

5. The directors feel that the Conservancy Board has a duty to keep the tax rate from great fluctuation if it is possible. We feel this has the effect of promoting certainty with the taxpayers and allows them to know what will generally be expected in the payment of property taxes. This has allowed the Conservancy to adopt a tax rate which normally is increased or decreased by only pennies per year.

6. We believe that the intent of the language of the State Board of Accounts' guide was to assure that a public entity would not pay a salary to an employee in advance or to a contractor in advance. We feel the intended purpose of this guide was to alleviate the obvious problem that could lead to losses to the taxpayers in work not actually performed or goods never received. We feel that the purpose of the guideline was not to prevent the prepayment of a sum to another entity in advance of receipt of the actual invoice. The failure to receive regular invoices for sewage processing has really made this occasional prepayment almost a required policy. As long as we cannot send sewage to another treatment facility (which we cannot by our contract and the remoteness of any other facility) the taxpayers of the Conservancy cannot be harmed by the advance payment which will show up as a credit against future charges that will accrue in coming months.

7. We have had other audits throughout the years, and we have not ever been criticized for this policy. No individual connected with the Conservancy derives any monetary benefit from this policy. The sewage processing bill is paid timely and the residents of the Conservancy benefit in they are not subject to tremendous variances in the tax rate. We feel that other audits have accepted this occasional prepayment for the reasons expressed in this official response.

We recognize that we are always subject to the mandates of the State Board of Accounts and that we will always conform our policies to your mandates. If the State Board of Accounts is of the opinion that this guide creates the absolute prohibition of prepayment under any and all circumstances and regardless of the consequences, we will refrain from doing so in the future. However, if this guideline is not mandatory in every conceivable circumstance, we would like to continue to prepay this sewage processing bill on occasion under guidelines set out by the State Board of Accounts. We hope that the State Board of Accounts may understand that if we are required to double our tax rate (as we have had to do in the past) the result will cause great difficulties to a person on a fixed income who is faced with a large property tax bill and no means to pay it.

We wish to thank the State Board of Accounts for allowing us to present our side of this issue and we will await your decision on this matter. Should you desire further information we will be happy to respond to your request.

Very truly yours,



John Thurman,
Chairman of the Board of Directors
Ben Davis Conservancy District