

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

SUPPLEMENTAL COMPLIANCE REPORT

OF

TOWN OF BORDEN

CLARK COUNTY, INDIANA

January 1, 2010 to December 31, 2014



FILED

04/26/2016

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SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Mellinda Holmes	01-01-08 to 12-31-19
President of the Town Council	Rudy L. Cook	01-01-10 to 12-31-16



STATE OF INDIANA

AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE TOWN OF BORDEN, CLARK COUNTY, INDIANA

This report is supplemental to our examination report of the Town of Borden (Town), for the period from January 1, 2010 to December 31, 2014. It has been provided as a separate report so that the reader may easily identify any Examination Results and Comments that pertain to the Town. It should be read in conjunction with our Financial Statements Examination Report of the Town, which provides our opinion on the Town's financial statements. This report may be found at www.in.gov/sboa/.

As authorized under Indiana Code 5-11-1, we performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts. The Examination Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

Any Official Response to the Examination Results and Comments, incorporated within this report, was not verified for accuracy

Paul D. Joyce
Paul D. Joyce, CPA
State Examiner

February 24, 2016

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CLERK-TREASURER
TOWN OF BORDEN

**CLERK-TREASURER
TOWN OF BORDEN
EXAMINATION RESULTS AND COMMENTS**

BOND ORDINANCE REQUIREMENTS

The Wastewater Utility issued revenue bonds in 1976 and 1999. Ordinance No. 76-1 and Ordinance No. 99-08-03 require the Utility to maintain minimum balances of cash and investments in the Bond and Interest funds and in the Wastewater Utility-Debt Service Reserve fund. At December 31, 2014, the Bond and Interest funds were underfunded in the amount of \$12,424 and the Wastewater Utility-Debt Service Reserve fund was underfunded in the amount of \$19,351.

A similar comment was reported in prior Reports B38183 and B33762.

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)

OVERDRAWN CASH BALANCES

The financial statements presented for examination included the following funds with overdrawn cash balances at December 31:

Fund	Years	Amount Overdrawn
CHPS Grant	2011	\$ 7,766
CHPS Grant	2012	7,723
Wastewater Utility-Operating	2012	3,545
Wastewater Utility-Operating	2013	2,766

The cash balance of any fund may not be reduced below zero. Routinely overdrawn funds could be an indicator of serious financial problems which should be investigated by the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

APPROPRIATIONS

The records presented for examination indicated the following expenditures in excess of budgeted appropriations:

Fund	Years	Excess Amount Expended
Law Enforcement	2010	\$ 40
General	2011	10,293
Credit Special Revenue	2011	36,736
LOIT	2011	5,513
Cumulative Capital Improvement	2012	256
Cemetery Operating	2013	5,000
LOIT	2014	890
Motor Vehicle Highway	2014	4,476
Local Road And Street	2014	11,710
Rainy Day	2014	24,157

Indiana Code 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."

CLERK-TREASURER
TOWN OF BORDEN
EXIT CONFERENCE

The contents of this report were discussed on February 24, 2016, with Mellinda Holmes, Clerk-Treasurer, and Rudy L. Cook, President of the Town Council.

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TOWN COUNCIL
TOWN OF BORDEN

TOWN COUNCIL
TOWN OF BORDEN
EXAMINATION RESULTS AND COMMENTS

TRANSFERS FROM MOTOR VEHICLE HIGHWAY AND LOCAL ROAD AND STREET FUNDS

In 2010, the Town transferred \$6,000 from the Motor Vehicle Highway (MVH) fund to the Rainy Day fund. In 2014, the Town transferred \$20,000 from the MVH fund and \$25,000 from the Local Road and Street (LRS) fund to the Rainy Day fund. The Town Council, by resolution, approved each of these transfers totaling \$51,000. However, the maximum amount permitted by statute to be transferred from either MVH or LRS to another fund by a town with a population greater than 500 but less than 2,000 may not exceed \$40,000. The Town's population from the 2010 census was 808.

Indiana Code 36-5-4-13b states:

"Except as provided in subsection (c), this subsection applies to a town having a population of more than five hundred (500) but less than two thousand (2,000). Notwithstanding IC 8-14-1 and IC 8-14-2, a town may transfer money distributed to the town from:

- (1) the motor vehicle highway account under IC 8-14-1;
- (2) the local road and street account under IC 8-14-2; or
- (3) the:
 - (A) motor vehicle highway account under IC 8-14-1; and
 - (B) local road and street account under IC 8-14-2;

to any other town fund after the passage of an ordinance or a resolution by the town legislative body that specifies the amount of the transfer, the funds involved, the date of the transfer, and the general purpose of the transfer. However, the total amount of all money transferred by a town under this subsection may not exceed forty thousand dollars (\$40,000)."

TOWN COUNCIL
TOWN OF BORDEN
EXAMINATION RESULTS AND COMMENTS
(Continued)

COLLECTION OF FEES FOR MOVING TRAFFIC VIOLATIONS

The Town Council adopted Ordinance No. 11-11-08, An Ordinance Adopting Indiana Code – and Regulating Certain Activities within the Town of Borden, on November 8, 2011. This Ordinance included local fines for numerous moving traffic violations. The Town Marshal issued local ordinance citations for moving traffic violations from January 1, 2010 to January 11, 2013, and fines in the amount of \$16,137 were collected and retained by the Town. None of these moving traffic violations were processed through the court system and no court costs were charged related to the violations. Subsequent to January 11, 2013, citations for moving traffic violations started being handled through the Clark County court system.

Indiana Code 36-1-6-3 states:

- "(a) Certain ordinances may be enforced by a municipal corporation without proceeding in court through:
 - (1) an admission of violation before the violations clerk under IC 33-36; or
 - (2) administrative enforcement under subsection 9 of this chapter.
- (b) Except as provided in the subsection (a), a proceeding to enforce an ordinance must be brought in accordance with IC 34-28-5, section 4 of this chapter, or both.
- (c) An ordinance defining a moving traffic violation may not be enforced under IC 33-36 and must be enforced in accordance with IC 34-28-5."

The accounts of each public official and public office should reflect the proper treatment of fines collected for moving traffic violations as required by Indiana Code § 36-1-6-3(c), Indiana Code Ch. 34-28-5, and this Directive. Failure to do so will result in a civil action against those public officials who are responsible for the improper enforcement and collection of fines for moving traffic violations as allowable by law. (State Examiner Directive 2015-1)

TOWN COUNCIL
TOWN OF BORDEN
EXIT CONFERENCE

The contents of this report were discussed on February 24, 2016, with Rudy L. Cook, President of the Town Council.

CEMETERY
TOWN OF BORDEN

CEMETERY
TOWN OF BORDEN
EXAMINATION RESULT AND COMMENT

OFFICIAL BOND

The Town Liaison's duties include handling the collection of cemetery fees, but no individual Surety Bond was obtained during the examination period. An individual Surety Bond is required by Indiana Code 23-14-65-14.

Indiana Code 23-14-65-14 states: "Each officer and employee whose duty includes handling any funds in carrying out this chapter shall, in the manner prescribed by IC 5-4-1, execute an official bond before beginning the duties of office or employment."

CEMETERY
TOWN OF BORDEN
EXIT CONFERENCE

The contents of this report were discussed on February 24, 2016, with Patrick Kelly, Town Liaison, and Rudy L. Cook, President of the Town Council.