

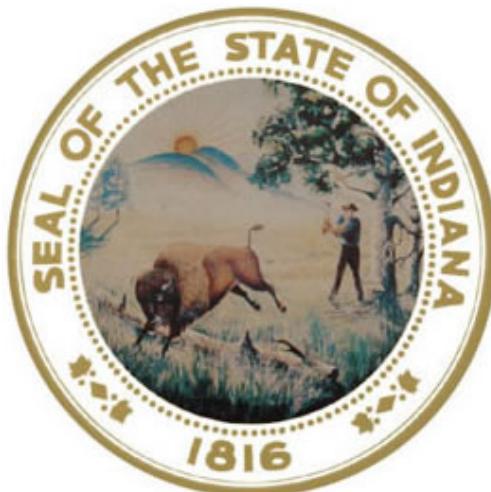
**STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769**

SUPPLEMENTAL COMPLIANCE REPORT

OF

CARROLL COUNTY, INDIANA

January 1, 2014 to December 31, 2015



FILED
02/02/2017

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SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
County Auditor	Elaine Hathaway Debra Stevens (Vacant) Cindy Lesh Vickie Snipes Christina Johnson (Vacant) Thomas Gray	01-01-11 to 06-20-14 06-21-14 to 01-13-15 01-14-15 to 01-31-15 02-01-15 to 04-06-15 04-07-15 to 04-04-16 04-05-16 to 04-15-16 04-16-16 to 04-17-16 04-18-16 to 12-31-16
County Treasurer	Beth Myers	01-01-11 to 12-31-18
Clerk of the Circuit Court	Andrea Miller	01-01-13 to 12-31-16
County Sheriff	Tony Burns Tobe Leazenby	01-01-11 to 12-31-14 01-01-15 to 12-31-18
County Recorder	Mary Ann Burton	01-01-13 to 12-31-16
President of the Board of County Commissioners	Patrick F. Clawson	01-01-14 to 12-31-16
President of the County Council	James Hancock Jamie Rough	01-01-14 to 12-31-14 01-01-15 to 12-31-16



STATE OF INDIANA

AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF CARROLL COUNTY, INDIANA

This report is supplemental to our examination report of Carroll County (County), for the period from January 1, 2014 to December 31, 2015. It has been provided as a separate report so that the reader may easily identify any Examination Results and Comments that pertain to the County. It should be read in conjunction with our Financial Statement Examination Report of the County, which provides our opinion on the County's financial statement. 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

December 7, 2016

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COUNTY AUDITOR
CARROLL COUNTY

COUNTY AUDITOR
CARROLL COUNTY
EXAMINATION RESULTS AND COMMENTS

SUPPORTING DOCUMENTATION

A representative sampling method was used to test disbursements for the examination period. Originally, 27 percent of the vendor claims tested did not have adequate supporting documentation. Upon further inquiry and investigation by unit personnel, additional information was provided; however, 14 percent of the claims tested still did not include adequate supporting documentation to verify the validity and accountability for those disbursements. The claims which did not have supporting documentation accounted for 31 percent of the total amount of disbursements sampled. When projected to the population as a whole, this resulted in an \$8,270,312 potential material misstatement of the financial statement.

Due to the lack of supporting documentation for 31 percent of the total amount of disbursements sampled and the projected potential material misstatement of the financial statement, we did not obtain sufficient competent evidential matter over a material amount of disbursements. The lack of competent evidential matter over the disbursements also affected our ability to verify the ending cash and investment balances. The County's records did not permit the application of other examination procedures to ascertain if the disbursements or ending cash and investment balances within the financial statement are fairly stated.

In addition, claims were not always certified by the fiscal officer or approved by the governing board. Of the claims tested, 25 percent, which accounted for \$116,330, did not have proper approval by the governing board, and 42 percent, which accounted for \$134,156, did not have proper approval by the fiscal officer.

Indiana Code 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:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the governmental entity's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim."

Supporting documentation such as receipts, canceled checks, tickets, invoices, bills, contracts, and other public records must be available for audit to provide supporting information for the validity and accountability of monies disbursed. Payments without supporting documentation may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 14)

COUNTY AUDITOR
CARROLL COUNTY
EXAMINATION RESULTS AND COMMENTS
(Continued)

INTERNAL CONTROLS OVER FINANCIAL REPORTING

We noted a deficiency in the internal control system of the County over preparation of the financial statement. Effective internal control over financial reporting involves the identification and analysis of the risks of material misstatement to the County's audited financial statement and then determining how those identified risks should be managed. The County has not identified risks to the preparation of a reliable financial statement and as a result has failed to design effective controls over the preparation of the financial statement to prevent or detect material misstatements, including notes to the financial statement. The County Auditor independently prepared the financial statement without oversight, review, or approval.

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.

Controls over the receiving, 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 County Auditors of Indiana, Chapter 14)

ANNUAL FINANCIAL REPORT

The Annual Financial Reports (AFR) submitted in the Gateway Reporting system were the basis for the County's financial statement. The 2015 AFR contained a number of errors and did not properly reflect the financial activity of the County. When compared to the County's ledger, the AFR, and, therefore, the financial statement included the following errors:

1. Payroll Clearing fund receipts and disbursements were understated by \$2,154,990 and \$2,156,297, respectively.
2. The CC Redevelopment 2015 Bond fund was not included in the AFR which understated the financial statement receipts and disbursements by \$1,294,038 and \$1,294,037, respectively.
3. The Reserve Bond fund was not included in the AFR which understated the financial statement receipts by \$318,244.
4. Drain Construction/Reconstruction fund receipts were understated by \$463 and disbursements were overstated by \$1,285.
5. HEA 1001 State Homestead Credit fund disbursements were understated by \$738.
6. CAGIT Distribution fund receipts and disbursements were understated by \$27 and \$107,252, respectively.
7. General fund receipts and disbursements were understated by \$259 and \$8,906, respectively.

COUNTY AUDITOR
CARROLL COUNTY
EXAMINATION RESULTS AND COMMENTS
(Continued)

8. The Carroll Manor Maintenance fund cash and investments balance was overstated \$300,000 due to the incorrect recording of the sale of an investment.
9. Carroll County Treasurer After Settlement fund receipts and disbursements were understated by \$201,064 and \$605,329, respectively.
10. The Carroll County Treasurer After Settlement Other Sources fund receipts were understated by \$363,399 and the disbursements were overstated by \$42,344.

In addition, the Carroll County Treasurer After Settlement fund receipts and disbursements in the 2014 AFR were overstated by the Settlement amounts of \$19,546,733 and \$19,546,234, respectively.

Adjustments were proposed, accepted by the County, and made to the County's financial statement.

The County is also required to report all federal awards received for the year into the Gateway System. For 2014 and 2015, the total federal awards reported were \$42,708 and \$53,962, respectively; the actual federal awards were \$288,123 and \$219,192, respectively.

Indiana Code 5-11-1-4(a) states:

"The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be in the form and content prescribed by the state examiner and filed electronically in the manner prescribed under IC 5-14-3.8-7."

OVERDRAWN CASH BALANCES

The financial statement presented in the Financial Statement Examination Report for the County includes the Economic Development Fee fund with an overdrawn cash balance at December 31, 2014, of \$17,456, and the Settlement fund with an overdrawn cash balance at December 31, 2015, of \$6,000.

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 County Auditors of Indiana, Chapter 14)

FEDERAL AGENCY COMPLIANCE REQUIREMENTS

The County did not submit the 2014 W-3 Transmittal of Wage and Tax Statements and the accompanying W-2 Wage and Tax Statements for County employees to the Social Security Administration timely. The forms were due March 31, 2015, but were not submitted until April 4, 2016.

Political subdivisions are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings, and filing requirements concerning reports and other procedural matters of federal and state agencies, including opinions of the Attorney General of the State of Indiana, and court decisions. Governmental units should file accurate reports required by federal and state agencies. Noncompliance may require corrective action. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 14)

COUNTY AUDITOR
CARROLL COUNTY
EXAMINATION RESULTS AND COMMENTS
(Continued)

PENALTIES

The County paid \$886 in penalties to the Internal Revenue Service for late payments associated with the Form 941 for the period ending September 30, 2014.

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Failure to pay claims or remit taxes in a timely manner could be an indicator of serious financial problems which should be investigated by the governmental unit.

Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit.

Any penalties, interest or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 14)

APPROPRIATIONS

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

Years	Fund	Excess Amount Expended
2014	General	\$ 509,111
2014	Cumulative Bridge	361,135
2014	Planning and Zoning Impact	119,455
2014	Riverboat	108,942
2015	Riverboat	167,585

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."

Indiana Code 36-2-5-2(b) states: "The county fiscal body shall appropriate money to be paid out of the county treasury, and money may be paid out of the treasury only under an appropriation made by the fiscal body, except as otherwise provided by law."

FUND SOURCES AND USES

The County did not correctly record receipts and disbursements in the CAGIT Distribution fund and the CAGIT County Certified Shares fund. The CAGIT Distribution fund is a remittance fund used to account for the CAGIT distributions received from the state and distributed to the appropriate taxing units, including the County. The CAGIT Certified Shares fund is the County fund used to account for the receipt and disbursement of the County's certified share distribution. The transaction recorded in the CAGIT County Certified Share fund should have been recorded in the CAGIT Certified Shares fund; the transactions recorded in the CAGIT County Certified Shares fund should have been recorded in the CAGIT Distribution fund.

COUNTY AUDITOR
CARROLL COUNTY
EXAMINATION RESULTS AND COMMENTS
(Continued)

A similar comment appeared in the prior Report B44562.

The CAGIT - PTRC fund was used to account for the PTRC portion of CAGIT. These amounts should have been accounted for in the CAGIT Distribution fund, instead of a separate fund.

The County did not correctly record receipts and disbursements in the Riverboat fund and did not use the Riverboat Revenue Sharing fund. The transactions recorded in the Riverboat fund should have been recorded in the Riverboat Revenue Sharing fund. In 2014 the County paid both their vendor disbursements and distributions to other taxing units from their Riverboat fund. In 2015 the County paid their vendor disbursements from the Riverboat fund and did not make the proper distributions to other local taxing units.

A chart of accounts is a listing of account titles, with numerical symbols, employed in the compilation of financial data. It also serves to facilitate processing of claims, warrants, and other documents and as a convenience in posting ledgers.

A numerical coding system has been established for use in accounting for funds, revenues, appropriations and expenditures, which is adaptable to all counties having a manual or mechanized accounting system, as distinguished from electronic data processing. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 5)

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 County Auditors of Indiana, Chapter 14)

Indiana Code 36-1-8-9 states:

"(a) Each unit that receives:

- (1) tax revenue under IC 4-33-12-6 or IC 4-33-13;
- (2) revenue under an agreement to share the tax revenue received under IC 4-33-12 or IC 4-33- unit; or
- (3) revenue under a development agreement (as defined in section 9.5 of this chapter); may establish a riverboat fund. Money in the fund may be used for any legal or corporate purpose of the unit.

(b) The riverboat fund established under subsection (a) shall be administered by the unit's treasurer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund."

CUMULATIVE BRIDGE FUND

In 2013, the County Council adopted an ordinance to transfer \$1,000,000 in "surplus funds" from the Cumulative Bridge fund. The funds were transferred in two installments of \$500,000 each to the Motor Vehicle Highway fund (MVH). The first transfer was made in 2013 and the second was made in 2014.

COUNTY AUDITOR
CARROLL COUNTY
EXAMINATION RESULTS AND COMMENTS
(Continued)

The County did not make a determination that the purpose of the Cumulative Bridge fund had been accomplished or no longer existed, nor did they rescind the tax levy for this fund. There is no statutory authority to transfer money from the Cumulative Bridge fund to the MVH.

Indiana Code 6-1.1-41-15 states:

"If the political subdivision establishing a fund:

- (1) decides that the purposes for which the fund was established have been accomplished or no longer exist; or
- (2) rescinds the tax levy for the fund;

the governing body establishing the fund for the political subdivision may transfer the balance in the fund to the general fund of the political subdivision. The money in a fund does not otherwise revert to the general of a political subdivision at the end of the political subdivision's fiscal year."

SALE OF INVESTMENTS

In March 2014, a \$300,000 Certificate of Deposit was purchased from the Carroll Manor Maintenance Fund (4907). In April 2015, the investment was sold, but the proceeds were receipted into the County General fund.

When the investments by fund are sold, the full amount of such sale should be entered as receipt to the fund from which the investment was made . . . (Accounting and Uniform Compliance Guidelines Manual for County Auditors, Chapter 19)

LOCAL OPTION INCOME TAX (LOIT)

For the months of July through December of 2015, the County did not disburse \$891,187 to the various taxing units from the LOIT Prop Tax Oper Levies Replace fund. In June 2016, these funds were properly paid out to the appropriate taxing units.

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 County Auditors of Indiana, Chapter 14)

CREDIT CARDS

The County did not comply with their approved credit card policy. The policy designated the County Auditor as the custodian of the credit cards; however, the cards were not always properly logged out from the Auditor's office, and were regularly held by some departments.

The State Board of Accounts will not take exception to the use of credit cards by a governmental unit provided the following criteria are observed:

1. The governing board must authorize credit card use through an ordinance or resolution, which has been approved in the minutes.

COUNTY AUDITOR
CARROLL COUNTY
EXAMINATION RESULTS AND COMMENTS
(Continued)

2. Issuance and use should be handled by an official or employee designated by the board.
3. The purposes for which the credit card may be used must be specifically stated in the ordinance or resolution.
4. When the purpose for which the credit card has been issued has been accomplished, the card should be returned to the custody of the responsible person.
5. The designated responsible official or employee should maintain an accounting system or log which would include the names of individuals requesting usage of the cards, their position, estimated amounts to be charged, fund and account numbers to be charged, date the card is issued and returned, etc.
6. Credit cards should not be used to bypass the accounting system. One reason that purchase orders are issued is to provide the fiscal officer with the means to encumber and track appropriations to provide the governing board and other officials with timely and accurate accounting information and monitoring of the accounting system.
7. Payment should not be made on the basis of a statement or a credit card slip only. Procedures for payments should be no different than for any other claim. Supporting documents such as paid bills and receipts must be available. Additionally, any interest or penalty incurred due to late filing or furnishing of documentation by an officer or employee should be the responsibility of that officer or employee.
8. If properly authorized, an annual fee may be paid.

(Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 14)

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1)

COUNTY AUDITOR
CARROLL COUNTY
EXIT CONFERENCE

The contents of this report were discussed on December 7, 2016, with Thomas Gray, County Auditor; Patrick F. Clawson, President of the Board of County Commissioners; Jamie Rough, President of the County Council; Steve Pearson, Vice President of the County Council; and Rafael Ramirez, County Council Attorney.

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COUNTY COUNCIL
CARROLL COUNTY

COUNTY COUNCIL
CARROLL COUNTY
EXAMINATION RESULTS AND COMMENTS

CUMULATIVE BRIDGE FUND

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

Years	Fund	Excess Amount Expended
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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."

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December 28, 2016

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

RE: OFFICIAL RESPONSE BY CARROLL COUNTY COUNCIL

SBOA Examination Results & Comments

Objection: The Examiners Erred in Its Finding That the Council Did Not Follow Proper Procedures in Transferring Funds From the Cumulative Bridge Fund.

Please permit this objection by the Carroll County Council to the adverse finding resulting from the SBOA examination results presented on 12/07/2016. As the evidence in support of the objection will show, the transfer occurred with the full knowledge of the SBOA and its support for the action taken by the council in that regard.

Evidence in Support of the Objection:

Exhibit #1: Email dated 06/04/2012 referencing Commissioners approval of the surplus money;

Exhibit #2: Carroll County Council meeting minutes dated 06/14/2012 with discussion of the Cum Bridge Surplus and vote on Ordinance 2012-02;

Exhibit #3: Carroll County Council Ordinance 2012-02 that substantiate compliance with the requisite statute followed by the council in transferring the funds from Cumulative Bridge to the County General Fund;

Exhibit #4: Email dated 09/07/2012 from Councilman Jim Hancock to Abigail Diener, Esq. re: CUM Bridge Funds Transfer; email contains Mr. Gerlach's email and Ms. White's email re: transfer. Abigail Diener, Esq. details her position re: transfer supported by the statutes.

Exhibit #5: Letter dated 11/20/2015 from Carroll County Commissioners to the Carroll County Council re: Transfer of the CUM Bridge Funds. (Note: the letter states 'On June 14, 2013' that date is incorrect as that was a Sunday. The correct date should have been June 14, 2012).

Therefore, after review of the Indiana Codes at that time, it is also my analysis that the funds were transferred in accordance to the statutes and with the consent of the SBOA. Please ensure that the public examination reflect the position of the Carroll County Council.

Should you need any additional information, please feel free to contact me.

Very truly yours,



Rafael Ramirez, #18847-49
Carroll County Council Attorney

EXHIBIT #1

Rafael Ramirez

From: Jim Hancock <jamesrayhancock@gmail.com>
Sent: Friday, December 16, 2016 1:11 PM
To: Rafael Ramirez
Subject: Fwd: Fw: Cum Bridge

----- Forwarded message -----

From: **Abigail Diener** <adiener@obearlaw.com>
Date: Fri, Dec 18, 2015 at 2:12 PM
Subject: Fw: Cum Bridge
To: Hancock Jim <jamesrayhancock@gmail.com>

Abigail A. (Huffer) Diener
OBEAR OVERHOLSER HUFFER & RIDER, LLC
102 South Union Street
P.O. Box 257
Delphi, IN 46923
Office (765) 564-3060
Fax (765) 564-6270
adiener@obearlaw.com

From: Elaine Hathaway <elaine@carrollcountyin.gov>
Sent: Monday, June 4, 2012 3:18 PM
To: Abigail Diener
Subject: Cum Bridge

Abby,

Jim Hancock wanted me to let you know that the Commissioners did vote to allow the money from cum bridge to go to county general to go to the highway. They approved \$1,000,000. Jim says there are some documents that you need to prepare for the June 14th meeting. There is a \$500,000 CD that matures in January so they will let it set until then and then move that money, doing \$500,000 now. Paul Couts said it would probably take about 3 years to use up all the \$1,000,000, so not sure how you should word it. I guess doing the entire \$1,000,000 paperwork now would eliminate the need to redo anything when they give him the second \$500,000. What's your opinion.

And if I have you totally confused let me know; my head is kind of swimming right now having just completed the 2nd Commissioner meeting so I might not have stated it very clearly.

Elaine Hathaway
Carroll County Auditor
765-564-1810

EXHIBIT #2

Council Members Ann Brown, Bill Northcutt, James Hancock, Jamie Rough, Marion Huffer, Nancy Cripe and Scott Ayres met in Regular Session on the 14th day of June 2012 at 8:30 a.m. to conduct business pursuant to the laws of Carroll County and the State of Indiana.

The meeting was opened with the Pledge of Allegiance.

Minutes of the May 17, 2012 regular meeting were unanimously approved upon motion made by Jamie Rough and seconded by Nancy Cripe.

REPORTS:

TREASURER: Per request of the Council President, Beth Myers distributed the Treasurer's Daily Balance of Cash and Depositories for May 31, 2012. Myers explained the report and showed how it balances with the financial report, she will be providing the report each month.

AUDITOR: The Auditor had e-mailed the Monthly Comparison Report, Monthly Financial Statement and Revenue & Expenditure Comparisons for May 2012. Also distributed was the breakdown on tax cap losses and information on the Hold Harmless 911 funding for 2013. Hathaway shared information she received at conference: new legislature wanting to eliminate personal property tax; information on the new 911 fund; non-binding reviews and mandatory training for Auditors.

Hathaway reported that the County's annual portion of the LOIT Levy Freeze will be \$545,995.08 and that \$203,574.00 will go into the Stabilization Fund for 2012.

FINANCIAL REPORT: Marion Huffer gave the financial report noting which departments appeared to be over budget percentage wise, especially autopsy fees. Huffer stated he would like to see a report that showed the year-to-date revenue of all funds, not just County General. It was the consensus of the Council that would be good information; the Auditor will include the report in the monthly information e-mailed. Nancy Cripe will give the financial report at the July meeting.

25% RULE: Ann Brown shared the highlights of Larry DeBoer's presentation, "The State Budget and Local Income Taxes". When you have revenue reductions, special distributions must be limited; practice no additional appropriations and all money spent should be in yearly budgets. If you keep a 25% balance to distribution, then you should have no problem if revenues decline. An increase in assessed values will keep taxes up and tax caps will not affect the bottom line.

OLD BUSINESS:

REVISED 2013 BUDGET CALENDAR: Council President Jim Hancock explained the change in the budget calendar; non-binding reviews were moved from August 17 to September 18.

2013 CUM CAP BUDGET: The Auditor distributed an updated list of Cum Cap requests. Hancock explained the 911 back-up issue and that EMA's radio equipment is broken. If there were an emergency, Dave McDowell could not respond with his radios. Hancock stressed that if Council representatives do not have information on department cum cap requests they need to get more information before budget workshops.

Jamie Rough asked Highway Engineer Paul Couts about the Patton salt barn proposal and if he had received anything in writing from the State that the County could build a barn at their location. Couts stated he had received a verbal OK, but was having trouble getting in touch with the correct person to get the permission in writing; he was still working on it.

NEW BUSINESS:

TRANSFERS:

- The Highway request was changed to \$300 per Paul Couts; he had received a bid and the cost was less than anticipated. He needs to repair the roof, some shingles are missing and the roof was close to its life end.
- The Treasurer's request was to purchase a new monitor and a card for the printer.

The following transfers were unanimously approved:

Department	From	To	Line Item # From/To	Amount Requested	Amount Approved	Motion Carried
Treasurer	Printing/Paper/ Toner	Computer Equip/Maint	1000-003-3000.21 1000-003-	\$283.99	\$283.99	JR/NC
Highway	Office Equipment	Repairs, Bldg & Equipment	1176-530-3000.83 1176-530-3000.50	\$500.00	\$300.00	JR/SA

CUM BRIDGE SURPLUS: Jim Hancock explained the steps necessary to transfer money from Cum Bridge to County General to Motor Vehicle Highway in order for the funds to be used for chip and seal projects. The Council must adopt an ordinance declaring there is a \$1 million surplus. Couts was asked if he was comfortable with transferring that amount; he stated the "big" bridges are in good shape according to the recent bridge inspection just completed. Couts distributed information on the tandem and dump trucks and a replacement schedule; he wanted the Council to be aware of his upcoming needs. He hopes to purchase a new chip spreader that can do the process all in one pass and will pay for itself in time and materials. He is going to the Commissioners June 18th with his proposal; he has put it in his budget as a lease option for 5 years, beginning next year. The contract would be in arrears; he could receive the machine this year but not have to make a payment until next year. Due to its size there will be space to store the equipment in the barn. Couts asked if he needed to use all his money for chip and seal or use the \$1 million from Cum Bridge and the \$250,000 from EDIT funds for chip and seal; then he could use some of the \$600,000 in Motor Vehicle Highway that is budgeted for roads, and use it for new tandems. Marion Huffer made a motion to approve Ordinance 2012-02 declaring a \$1 million surplus in Cum Bridge. Motion was seconded by Ann Brown; passed unanimously.

President Hancock then recessed the Council meeting for a LOIT presentation by Andrew Berger of AIC.

After Mr. Berger's presentation the Council meeting was reconvened, Scott Ayers was absent at this point.

Ann Brown made a motion to transfer \$500,000 each of 2 years, 2012 and 2013; seconded by Marion Huffer, passed unanimously. The Auditor will transfer \$500,000 from Cum Bridge to County General and then advertise an additional of \$500,000 from County General to Motor Vehicle Highway.

2012/2013 EDIT BUDGET: Because the EDIT budget was not advertised the Council could not vote on the budget but did have discussion on various requests. Ann Brown questioned expenditures requested by the Carroll County Chamber of Commerce; and questioned why the Chamber wasn't self sufficient by now. Hancock will invite Julia Leahy and Laura Walls to the next meeting to answer questions.

STATE GENERAL FUND LOANS: Hancock explained that the State General Fund Loan program was a result of the cuts to cumulative budgets and the decision by the State to not recalculate the levies for those funds, and were offering no-interest loans rather than delaying tax collection. It was the consensus of the Council that the Cum Bridge fund and the Cum Cap fund were stable without having to apply for the loan that would have to be repaid next year.

OTHER TOPICS:

- Jamie Rough brought up the question of putting a County Manager position in the Council budget. Jim Hancock stated he thought it was best to bring it up at a joint meeting of the Commissioners and Council.
- There was discussion on the central supply system and who would be included; more discussion is needed with the Commissioners to determine the guidelines. It may be as simple as providing a list of preferred providers that departments must purchase from.
- Bill Northcutt gave a report on the K-IRPC meeting.
- Melissa Bishop sent Bill Northcutt information on a Council representative to the board of the Carroll County Adult Educational Program. By consensus Northcutt will be the Council's representative.
- Ann Brown announced that the EMS Committee will have a meeting June 21 at 6:00 p.m. at the Flora Community Center to discuss the study results for location of an additional ambulance garage.

DATES TO REMEMBER:

- State called conference for Councils June 30, 2012
- Next regular Council meeting will be July 19, 2012 at 8:30 a.m.

There being no further business to bring before the Carroll County Council, motion to adjourn was made by Jamie Rough and seconded by Bill Northcutt; passed unanimously.

CARROLL COUNTY COUNCIL:

James R. Hancock
James R. Hancock, President

Jamie Rough
Jamie Rough

Marion C. Huffer
Marion Huffer

Scott W. Ayres
Scott W. Ayres

Nancy S. Cripe
Nancy S. Cripe

Joe Bill Northcutt
Joe Bill Northcutt

Ann Brown
Ann Brown

ATTEST:

Elaine Hathaway
Elaine Hathaway, Auditor

EXHIBIT #3

CARROLL COUNTY COUNCIL

ORDINANCE 2012-02

TRANSFER OF CUMULATIVE BRIDGE FUNDS TO COUNTY GENERAL FUND

WHEREAS, the Carroll County Council has established a Cumulative Bridge Fund under Indiana Code § 6-1.1-41-1, and said Cumulative Bridge Fund is subject to the same appropriation process as any other fund which receives tax money; and

WHEREAS, I.C. §36-1-8-5(b) provides that funds which are raised by a general or special tax levy on the taxable property of a county may be transferred to the General Fund or Rainy Day Fund when there is an unused or unencumbered balance of those funds; and

WHEREAS, the Cumulative Bridge Fund presently maintains funds raised by such tax levies, the purposes of which have been fulfilled and there remains an unused or unencumbered surplus balance of such funds; and

WHEREAS, the Carroll County Council desires to transfer the sum of \$1,000,000.00 from the Cumulative Bridge Fund to the County General Fund for the purposes of county expenditures.

NOW, THEREFORE, BE IT DECLARED AND ORDAINED that there are surplus funds in the Cumulative Bridge Fund, and that transfer of \$1,000,000.00 from the Cumulative Bridge Fund to the County General Fund shall be authorized and the same is hereby approved.

Presented to the County Council of Carroll County, Indiana, and adopted this 14th day of June, 2012.

CARROLL COUNTY COUNCIL

Ann Brown
Ann Brown

Scott Ayres
Scott Ayres

Nancy S. Cripe
Nancy Cripe

James R. Hancock
James R. Hancock

Attest:

Elaine Hathaway
Elaine Hathaway, Auditor

Marion C. Huffer
Marion C. Huffer

Bill Northcutt
Bill Northcutt

Jamie P. Rough
Jamie P. Rough

EXHIBIT #4



Ann Brown <rabrown24.26@gmail.com>

Fwd: CUM Bridge Funds Transfer

Jim Hancock <jamesrayhancock@gmail.com>
To: Debbie Stevens <dstevens@carrollcountyin.gov>
Cc: Ann Brown <rabrown24.26@gmail.com>, Al Auffart <amauffart@gmail.com>, Jamie Rough <jprough1@aol.com>, Steve Pearson <speerson@live.com>, Abigail Diener <adiener@obearlaw.com>

Mon, Dec 15, 2014 at 2:15 PM

Debbie,

Please send this email to Miranda and to SBOA, whoever your POC is there. This is a copy of emails from 2012.

Jim

----- Forwarded message -----

From: James Hancock <jamesrayhancock@gmail.com>
Date: Fri, Sep 7, 2012 at 7:28 PM
Subject: CUM Bridge Funds Transfer
To: Abigail Diener <adiener@obearlaw.com>
Cc: Elaine Hathaway <elaine@carrollcountyin.gov>

Abby,

To get more funds for road repair the comms, Paul and the council have all agreed to transfer \$1,000,000 from CUM Bridge to end up in the General Fund to support the needed road work. The issue, Ann Brown contacted SBOA to check and see if this was possible, Mr. Dean Gerlach said yes, I have copies his reply below. So we proceeded with the transfer, advertisement, etc. When Elaine was ready to transfer the funds she contacted Ms. Tammy White at SBOA to question the actual procedure, Ms White replied that we could not do this. Since then we have questioned SBOA to come to a conclusion. Their final answer, ask your attorney, they will go along with what you say.

I really do not know what the problem is, last year we transferred \$300,000 from area plan to general without a hitch???. The council determines by ordinance that there is more funds in a certain account than is needed, we then advertise, and then we move it. Anyway, both Mr. Gerlach and Ms. White reference IC in their emails. We need your interpretation as soon as possible, Paul is running low on road funds and wants to continue the chip and seal as soon as possible.

I have included both Mr. Gerlach's email and Ms. White's email.

Mr. Gerlach's email.

IC 36-1-8-5 indicates that whenever the purpose of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund, the governing body of a political subdivision shall order the balance of that fund to the general or rainy day fund. I would propose that under home rule the money could be transferred to the rainy day fund. Once in the rainy day fund the money can be used, after obtaining appropriation, for all purposes identified in the enabling ordinance passed to establish the rainy day fund. Normally, the acceptable purposes identified in these ordinance is very broad and would include roadwork. If not the county could, under home rule, amend the ordinance to include roadwork. IC 36-1-8-5.1 (d) limits the amount that can be transferred to the rainy day fund to 10% of the political subdivision's total annual budget for that fiscal year. So in order to accomplish this task a number of things need to happen.

1. You need to review the rainy day fund ordinance to make sure its approved uses are broad enough to include roadwork
2. You need the have the Council declare surplus funds in the Cumulative Bridge Fund
3. The council needs to pass an Ordinance authorizing a set amount to be transferred from the Cumulative

Bridge Fund to the Rainy Day fund

4. You need to (if not already appropriated) apply to the DLGF for an additional appropriation for Roadwork from the Rainy Day Fund

5. Spend the money !

Please note step three requires all the advertising and ordinance readings that come with the passage of any ordinance. I did not list all that because I am sure you are aware of the steps necessary to pass an ordinance.

Hope this helps.

If you have any other questions let me know.

Ms. White's email

Elaine,

The county has NO authority to move monies placed in the cumulative bridge fund by law to another fund. This action is contrary to IC 8-16-3 and completely circumvents the basis for fund accounting.

If the county council wants to use county general fund money for county highway purposes the appropriation is to be given in county general fund and disbursed from county general fund. This can only be done if the county has followed the provisions in IC 8-18-8-5 which means all MVH and LRS monies must be used first.

Tammy R. White, C.P.A.
IN State Board of Accounts
302 W. Washington Street, Suite E418
Indianapolis, IN 46204
Ph: (317) 232-2512
Fax: (317) 232-4711
email: twhite@sboa.in.gov

Thanks, (please confirm receipt of this message)

Jim

Jim,

From my examination, I believe the issue between this transfer and the one we did last year from APC to General is that IC 36-1-8-5 allows the transfer of unused fund balances "*unless a statute provides that funds be transferred otherwise.*" Tammy White seems to be referring to that provision when referencing IC 8-18-8-5 which states that expenses incurred for county highways shall first be paid out of gasoline tax, motor vehicle registrations, etc. However, that same statute provides that counties may additionally use funds derived from "...(7) property taxes and misc revenue deposited in the county general fund."

It is my opinion that IC 8-18-8-5 does not prohibit a transfer as provided in IC 36-1-8-5 if the Council goes through the proper steps to declare a surplus (which you did), transfer the money into the County General Fund, and use it for the maintenance of county highways as provided under IC 8-18-8-5(7). My experience thus far has been that if it is not strictly prohibited by statute, and the intent of the action is proper, then you can do it. The statute says highway expenses shall first be paid a certain way, but then provides additional funds from which to pull. From a legal sense, I say you can consider the unused Cum Bridge funds as miscellaneous revenue deposited into County General and then use it for road work.

This is my humble opinion, but I think the argument is sufficiently supported by the statutes. Let me know if you have other thoughts!

Abby

Abigail A. (Huffer) Diener
OBEAR OVERHOLSER HUFFER & RIDER, LLC
102 South Union Street
P.O. Box 257
Delphi, IN 46923
Office (765) 564-3060

EXHIBIT #5

CARROLL COUNTY COMMISSIONERS

101 W. Main Street
Delphi, IN 46923-1555
Telephone: 765-564-1810
Fax: 765-564-4851

Patrick F. Clawson, Chairman
William R. Brown
John Brown
Vicky Snipes, Auditor
Ted Johnson, County Attorney

November 20, 2015

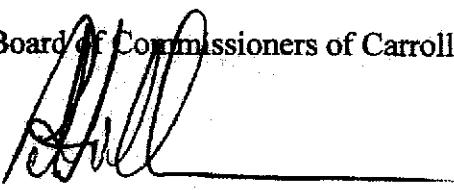
TO: Members of the Carroll County Council

Re: Transfer of Cumulative Bridge Funds to Local Road and Streets

On June 14, 2013, the Carroll County Council adopted an ordinance to transfer \$1,000,000 from the Cumulative Bridge Fund to the General Fund. These funds were deemed as "surplus funds" by the Carroll County Council. Paul Couts verified the account balances. The money was transferred in two installments of \$500,000 each.

Auditor Vicky Snipes has been informed by the Department of Local Government Finance (DLGF) that these transfers were non compliant with Indiana Code 6-1.1-41-15. Names of two council members appear as the source of the information that these transfers had been cleared by the DLGF. If any of the members who were on the County Council at that time have correspondence or other documents to support these transfers, it should be brought forward now.

Board of Commissioners of Carroll County


Patrick F. Clawson, Chairman

Cc: Rafael Ramirez

INDIANA STATE BOARD OF ACCOUNTS COMMENT ON THE OFFICIAL RESPONSE

To provide clarity and perspective, we are commenting on the Official Response to our Examination Result and Comment titled "Cumulative Bridge Fund." An official response to this comment was submitted by Rafael Ramirez, Counsel to the Carroll County Council on behalf of the County Council.

The Official Response states, in part:

"As the evidence in support of the objection will show, the transfer occurred with the full knowledge of the SBOA and its support for the action taken by the council in that regard."

"Therefore, after review of the Indiana Codes at that time, it is also my analysis that the funds were transferred in accordance to the statutes and with the consent of the SBOA."

State Board of Accounts Comment:

The State Board of Accounts is an audit agency. We do not provide consent or pre-approve any transactions for the political subdivisions that we audit. Upon request, we may provide our audit position on a proposed transaction. It is the responsibility of the governing body of the political subdivision to make the decisions for any transactions proposed.

COUNTY COUNCIL
CARROLL COUNTY
EXIT CONFERENCE

The contents of this report were discussed on December 7, 2016 with Thomas Gray, County Auditor; Patrick F. Clawson, President of the Board of County Commissioners; Jamie Rough, President of the County Council; Steve Pearson, Vice President of the County Council; and Rafael Ramirez, County Council Attorney.