

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

SPECIAL INVESTIGATION REPORT

OF

TOWN OF MILLERSBURG

ELKHART COUNTY, INDIANA

July 1, 2022 to October 19, 2023



FILED
06/10/2024

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STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE TOWN OF MILLERSBURG, ELKHART COUNTY, INDIANA

This is a special investigation report for the Town of Millersburg (Town), for the period July 1, 2022 to October 19, 2023, and is in addition to any other report for the Town as required under Indiana Code 5-11-1. All reports pertaining to the Town may be found at www.in.gov/sboa/.

We performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts and were limited to bank statements, deposit tickets, Town Council minutes, fund reports, history transactions by type reports, revenue reports, and customer history reports. The 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 Results and Comments, incorporated within this report, was not verified for accuracy.

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

February 19, 2024

TOWN OF MILLERSBURG RESULTS AND COMMENTS

BACKGROUND

Jessica Frye (Frye) was hired on July 2, 2021, as the Deputy Clerk-Treasurer for the Town. Based upon interviews with MacKenzie Taylor (Taylor), Clerk-Treasurer, and Frye, Frye was responsible for the following financial activities:

- Preparing utility bills, that include trash service, for all Town and Utility customers.
- Collecting utility and trash service payments, for all Town and Utility customers.
- Posting utility and trash service payments to customer accounts.
- Making adjustments for utility and trash service to customer accounts.
- Preparing deposit tickets for all town and utility collections.
- Counting cash collections.
- Taking deposits to the bank.

On October 12, 2023, a customer came into the Town Hall and inquired of Taylor about a letter, commonly referred to as disconnect notice, he received from Taylor. The disconnect notice informed the customer that his water, sewer, and trash service balances of \$210.33, \$325.16, and \$57.20, respectively, were past due. The total past due customer balance per the disconnect notice was \$592.69. The customer claimed he made a cash payment of \$500 on September 1, 2023. Taylor reviewed the customer's account activity and discovered an adjustment reducing the customer's account balance by \$508.76 on September 26, 2023. Taylor stated the adjustment made on September 26, 2023, was either the same day or shortly after the disconnection notices were mailed to customers. Taylor reviewed video surveillance and observed this customer had dropped their payment into the Town's drop box on September 1, 2023; however, there were not any payments recorded to the customer's account either on or after September 1, 2023 through November 1, 2023. Taylor noted the adjustment to the customer's account made on September 26, 2023, was made by Frye. The adjustment reduced the customer's account balance from \$592.69 as of September 18, 2023, to \$83.93 as of September 26, 2023.

For the month of September 2023, Taylor reviewed adjustments made to other customer accounts to reduce the balance due, noting adjustments without payments being recorded. Taylor reviewed the video surveillance documenting payments being made.

Taylor notified the Indiana State Board of Accounts (SBOA) on October 13, 2023, in accordance with Indiana Code 5-11-1-27. The SBOA examined the records, and the results of our investigation are described in the following comments.

On October 16, 2023, Frye was placed on suspension. The Personnel Action Notice placing Frye on suspension indicated the following as the description for the incident or violation: "Noticed many unwarranted adjustments on utility customer's accounts who are known for paying cash and it not being receipted in properly to the Cash Entry Detail. It is written off as an adjustment."

COLLECTIONS NOT DEPOSITED

The Town charges residents for water, sewage, and trash pick-up services. The Town Council established the rates charged and billed by Frye and/or Taylor for the services.

In an interview with Taylor on October 31, 2023, Taylor stated that typical adjustments to customer accounts would be for: removal of penalties, sprinkler credits not applied, and/or meter reading errors. Taylor added that any adjustments made to customers' accounts should have a written description of the adjustment recorded to the customers' account.

TOWN OF MILLERSBURG
RESULTS AND COMMENTS
(Continued)

Taylor provided a report of all adjustments made to customer accounts. The reports indicated the customer account number, customer name, date of the adjustment, adjustment type, description of the adjustment (written explanation), amounts, and the first name of the "Operator" or person who made the adjustment. The report of adjustments is from the computer software used by the Town to account for all of the financial activities of the Town and Utilities, including activity to customer accounts. Users of the computer software have their own user identification names and unique passwords. The unique passwords are determined by the user and known only to the user. The "Operator" is the person who entered the adjustment based upon the user identification name and password. For the Town and Utilities, the user identifications, or "Operators" for Taylor and Frye were MacKenzie and Jessica.

We performed a review of the adjustments made by Frye for July 1, 2022 to October 19, 2023. We determined there were 91 adjustments reducing customer account balances. Out of these 91 adjustments, there were only two (2) adjustments which had any written explanations provided by Frye. Those explanations were: "Put on wrong account" and "adjustment." The remaining 89 adjustments did not have any written explanations from Frye. (Note: Two (2) adjustment explanations were made by Taylor after Frye's resignation stated as: "Paid Cash 9-29-23 Jess stole" and "Jessica stole customer's \$ 9/22/23").

Month, Year	Number of Adjustments	Total Adjusted Amount	Number of Explanations on Customer Accounts	Adjustment Explanation
November 2022	4	\$ (460.60)	-	
December 2022	2	(265.00)	-	
January 2023	5	(465.75)	-	
February 2023	5	(582.74)	-	
March 2023	3	(565.00)	-	
April 2023	10	(1,457.09)	-	
May 2023	10	(1,266.21)	-	
June 2023	11	(1,215.52)	-	
July 2023	11	(1,733.38)	1	"put on wrong account"
August 2023	18	(2,424.72)	1	"adjustment"
September 2023	12	(2,057.64)	-	
October 2023	1	(61.50)	1	"Paid Cash 9-29-23 Jess stole"
November 2023	1	(180.00)	1	"Jessica stole customers \$ 9/22/23"
Totals	<u>93</u>	<u>\$ (12,735.15)</u>	<u>4</u>	

Regarding the October 2023 adjustment reducing a customer balance by \$61.50, Taylor explained that on October 19, 2023, Taylor made the adjustment to the customer's account. Per an email inquiry with Taylor on January 14, 2024, Taylor stated that the customer provided a copy of the utility stub that indicated \$61.50 cash was paid on September 29, 2023. The utility stub presented by the customer had initials "MT." Taylor stated the initials were hers; however, she could not recall if she handed the payment to Frye or put it in the drawer. Taylor stated that she left early that day and Frye was supposed to make the deposit for September 29, 2023. We reviewed deposits made into the Town's bank account and did not find any deposits made on Friday, September 29, 2023. There was a deposit on Monday, October 2, 2023 (the following business day); however, we did not find any cash deposited.

TOWN OF MILLERSBURG
RESULTS AND COMMENTS
(Continued)

Regarding the November 2023 adjustment reducing a customer balance by \$180, Taylor explained that on November 2, 2023, Taylor made the adjustment to reduce the customer's account balance for collections Frye took and did not deposit. Taylor reviewed video surveillance and viewed this customer come into Town Hall and pay on September 22, 2023.

Based upon our review of the unexplained adjustments reducing customer account balances and review of customer history reports, the SBOA determined that the customers whose account balances were reduced by adjustments made by Frye typically paid for their town and utility billed services. Per the customer history reports, we would observe billings without a subsequent payment; however, Frye would record an adjustment to reduce the customer's account balance.

For the unexplained adjustments, from the customer history reports, the SBOA observed:

- Individual customers' accounts that were adjusted multiple times to reduce that customer account balance.
- Five (5) adjustments were made to two (2) customers' accounts that had historically paid by cash; these two customers' account balances were reduced by \$427.99 and \$704.43, respectively.

In an interview with Frye on February 19, 2024, Frye stated that she would adjust customers' accounts for penalty removal and meter reading errors. Frye stated, "the other adjustments would have been her own mistake - stealing the utility money."

On October 17, 2023, Frye emailed Taylor and stated the following:

". . . yes I took some money and for that I am truly sorry. . . ."

". . . As far as how much I know that it was under 1000.00 and like I said I will pay what I need to back to the town. I will sign whatever paperwork needs to be signed. Obviously I know that this means I lost my job which is my own doing. . . ."

". . . I take full responsibility for my actions. I regret doing what i did. once again i apologize from the bottom of my heart to you and the town. . . ."

Frye resigned on October 19, 2023.

In the interview with Frye on February 19, 2024, Frye admitted to taking the Town and Utility money from the Town to the SBOA and to an Indiana State Police Detective.

Indiana Code 5-13-6-1 states in part:

"(a) All public funds paid into the treasury of the state or the treasuries of the respective political subdivisions shall be deposited not later than the business day following the receipt of funds on business days of the depository in one (1) or more depositories in the name of the state or political subdivision by the officer having control of the funds. . . ."

TOWN OF MILLERSBURG
RESULTS AND COMMENTS
(Continued)

(c) Except as provided in subsections (d) and (g), all local officers, except township trustees, who collect public funds of their respective political subdivisions, shall deposit funds not later than the business day following the receipt of funds on business days of the depository in the depository or depositories selected by the several local boards of finance that have jurisdiction of the funds. The public funds collected by township trustees shall be deposited in the designated depository on or before the first and fifteenth day of each month. Public funds deposited under this subsection shall be deposited in the same form in which they were received. . . .

(g) The following are not required to deposit funds on the business day following receipt if the funds on hand do not exceed five hundred dollars (\$500):

- (1) An office of the legislative branch of state government.
- (2) A local officer of a political subdivision required to deposit funds under subsection (c) other than a township trustee.
- (3) A city or a town required to deposit funds under subsection (d).

However, the funds on hand must be deposited not later than the business day following the day that the funds exceed five hundred dollars (\$500)."

Tickets, goods for sale, billings, and other collections, are considered accountable items for which a corresponding deposit must be made in the bank accounts of the unit. The deposit ticket or attached documentation must provide a detailed listing of the deposit, which includes at a minimum, check numbers and corresponding names of the payers. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

The governing body of a unit must have a written policy concerning a procedure for the writing off of bad debts, uncollectible accounts receivable, or any adjustments to record balance. Documentation must exist for all efforts made by the unit to collect amounts owed prior to any write-offs. Write-offs or adjustments to records which are not documented or warranted may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any official or employee may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

We requested Frye to reimburse the Town and Utilities \$12,735.15 for collections not deposited. (See Summary of Charges, page 12)

SPECIAL INVESTIGATION COSTS

The State of Indiana incurred costs in the amount of \$12,731.27 due to the special investigation of the Town and Utilities.

TOWN OF MILLERSBURG
RESULTS AND COMMENTS
(Continued)

This investigation involved examination of 285 adjustments made to customer accounts to determine legitimacy for the adjustment. To determine legitimacy, we reviewed the customer history reports determining if for a removal of penalty, the result of a repair or leak, or an unexplained adjustment to reduce the customer balance in place of an expected customer payment. As needed, we reviewed work orders to repair meters and/or pipes, and correspondence from the Utility Superintendent to the customer to support adjustments were logical and the result of a water leak or meter reading error.

We reviewed receipts for other collections, such as those from the Park Department and Town Marshal, as these collections were also handled by Frye. We substantiated that receipted collections were deposited.

Indiana Code 5-11-1-27(m) states:

"If the attorney general institutes civil proceedings related to this section or under [IC 5-11-5-1](#), the attorney general shall seek, in addition to the recovery of any funds misappropriated, diverted, or unaccounted for, restitution of:

- (1) costs incurred by the state board of accounts; and
- (2) all costs and reasonable attorney's fees incurred by the attorney general;

in connection with the civil proceedings."

Audit costs incurred because of poor records, nonexistent records, or any other inadequate bookkeeping practices, or because of theft or a shortage may be the personal obligation of the responsible official or employee.

Any audit costs paid without the prior approval of the SBOA when the SBOA has the statutory requirement to perform the audit of the unit may be considered a duplication of service and an unnecessary expense. These payments may be the personal obligation of the responsible official or employee.

(Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

We requested Frye to reimburse the State of Indiana for special investigation costs in the amount of \$12,731.27. (See Summary of Charges, page 12)

OFFICIAL BOND

Frye was covered by public official position schedule bonds as follows:

<u>Term</u>	<u>Bond Amount</u>
12-31-21 to 12-31-22	\$ 15,000
01-01-23 to 12-31-23	15,000

TOWN OF MILLERSBURG
RESULTS AND COMMENTS
(Continued)

INSURANCE POLICY

The Town, which includes the Utilities, had an insurance policy that protects them from wrongful employment practices.

Term	Coverage
01-22-23 to 01-22-24	\$ 1,000,000

BAD DEBTS AND UNCOLLECTIBLE ACCOUNTS

Billing Adjustments Policy

The Town Council did not have written policies for making adjustments to customers' account balances and write offs of penalties and customer account balances.

Adjustments Made by Clerk-Treasurer and Deputy Clerk-Treasurer

In an interview with Taylor on October 31, 2023, Taylor stated that adjustments to customer accounts would be for:

- removal of penalties,
- sprinkler credits not applied, and
- meter reading errors.

Taylor added that any adjustments made to customers' accounts should have a written description of the reason for the adjustment posted to the customers' account.

Taylor provided a "History Transactions by Type - All Adjustments" report on October 31, 2023. This report showed the customer account number and customer name, date of adjustment, description of adjustment, adjustment by service detail (water, sewer, trash) and total balance adjustment, and the operator who made the adjustment. Each operator had their own user identification name and password that they keep confidential.

We reviewed adjustments made to customers' accounts by Taylor from July 1, 2022 to October 26, 2023, and found that all 43 adjustments had explanations, including the 2 made by Taylor after Frye resigned to reduce the customer account balances for collections not deposited by Frye. Adjustments made by Taylor included the following descriptions: "meter not reading properly" and "removal of penalties."

We reviewed adjustments made to customers' accounts by Frye from July 1, 2022 to October 19, 2023, and found there were 242 adjustments made to customers' accounts, including the adjustments Frye made to cover up for cash collections not deposited. There were only 14 out of 242 that had written explanations for the adjustment. The adjustment explanations made by Frye included: "account should be closed" and "new renter paying bill."

TOWN OF MILLERSBURG
RESULTS AND COMMENTS
(Continued)

The governing body of a unit must have a written policy concerning a procedure for the writing off of bad debts, uncollectible accounts receivable, or any adjustments to record balance. Documentation must exist for all efforts made by the unit to collect amounts owed prior to any write-offs. Write-offs or adjustments to records which are not documented or warranted may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

INTERNAL CONTROLS

Deficiency in Internal Controls - Segregation of Duties

There were no internal controls evident, such as segregation of duties, oversight, review, or approval process, over the cash collections and adjustments related to the Town and Utilities.

We noted the following deficiencies:

- The Deputy Clerk-Treasurer billed the customer accounts; receipted collections, recorded the receipts to the customer accounts, prepared the deposit tickets, took the deposits to the bank, and recorded adjustments to customer account balances. These duties were not segregated and were performed without any documented review or oversight.
- Reports of adjustments made to customer account balances were available to the Clerk-Treasurer and Town Council; however, there was not a documented review and approval by either the Clerk-Treasurer or Town Council.

The Indiana State Board of Accounts (SBOA) is required under Indiana Code 5-11-1-27(e) to define the acceptable minimum level of internal control standards. To provide clarifying guidance, the State Examiner compiled the standards contained in the manual, *Uniform Internal Control Standards for Indiana Political Subdivisions*. All political subdivisions subject to audit by SBOA are expected to adhere to these standards. The standards include adequate control activities. According to this manual:

"Control activities are the actions and tools established through policies and procedures that help to detect, prevent, or reduce the identified risks that interfere with the achievement of objectives. Detection activities are designed to identify unfavorable events in a timely manner whereas prevention activities are designed to deter the occurrence of an unfavorable event. Examples of these activities include reconciliations, authorizations, approval processes, performance reviews, and verification processes.

An integral part of the control activity component is segregation of duties. . . .

There is an expectation of segregation of duties. If compensating controls are necessary, documentation should exist to identify both the areas where segregation of duties are not feasible or practical and the compensating controls implemented to mitigate the risk. . . ."

TOWN OF MILLERSBURG
EXIT CONFERENCE

The contents of this report were discussed on May 13, 2024, with MacKenzie Taylor, Clerk-Treasurer; Dean Smith, President of the Town Council; and Larry Randolph, Town Council member.



"The Town is saddened by the incident that occurred. Since the transpiration of this event the Town has taken protective measures to ensure internal control practices are being followed through a multi-step process in regards of oversight from the clerk treasurer and the governing board together."

TOWN OF MILLERSBURG
SUMMARY OF CHARGES
(Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Jessica Frye, former Deputy Clerk-Treasurer:			
Collections Not Deposited, pages 3 through 6	\$ 12,735.15	\$ -	\$ 12,735.15
Special Investigation Costs, pages 6 and 7	<u>12,731.27</u>	<u>-</u>	<u>12,731.27</u>
 Totals	 <u>\$ 25,466.42</u>	 <u>\$ -</u>	 <u>\$ 25,466.42</u>

This report was forwarded to the Office of the Indiana Attorney General and the local prosecuting attorney.

AFFIDAVIT

STATE OF INDIANA)
Porter COUNTY)

I, Kristin Campbell, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records of the Town of Millersburg, Elkhart County, Indiana, for the period from July 1, 2022 to October 19, 2023, is true and correct to the best of my knowledge and belief.

Kristin Campbell
Field Examiner

Subscribed and sworn to before me this 10th day of JUNE, 2024

Kathryn A. Hrapsek
Notary Public

My Commission Expires: January 24, 2026
County of Residence: PORTER

