

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2765

EXAMINATION REPORT

OF

ELKHART TOWNSHIP

ELKHART COUNTY, INDIANA

January 1, 2004 to December 31, 2005



FILED

08/16/2006

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OFFICIALS

Office

Official

Term

Trustee

Charles C. Cheek

01-01-03 to 12-31-06

Chairman of the
Township Board

Larry Blackport

01-01-04 to 12-31-06



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF ELKHART TOWNSHIP, ELKHART COUNTY, INDIANA

We have examined the schedules of receipts, disbursements, and cash and investment balances of Elkhart Township (Township), for the period of January 1, 2004 to December 31, 2005. The Township's management is responsible for the schedules. Our responsibility is to express an opinion 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 schedule of receipts, disbursements, and cash and investment balances and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the schedules referred to above present fairly, in all material respects, the cash transactions of the Township for the years ended December 31, 2004 and 2005, based on the criteria set forth in the uniform compliance guidelines established by the Indiana State Board of Accounts.

STATE BOARD OF ACCOUNTS

July 21, 2006

ELKHART TOWNSHIP, ELKHART COUNTY
SCHEDULES OF RECEIPTS, DISBURSEMENTS, AND CASH AND INVESTMENT BALANCES
ALL GOVERNMENTAL FUND TYPES
As Of And For The Years Ended December 31, 2004 And 2005

	Cash and Investments 01-01-04	Receipts	Disbursements	Cash and Investments 12-31-04
Governmental Funds:				
General	\$ 42,483	\$ 103,810	\$ 77,531	\$ 68,762
Dog	340	38	40	338
Township Assistance	136,200	144,880	84,104	196,976
Firefighting	912,240	273,326	202,032	983,534
Park and Recreation	3,737	8,566	10,000	2,303
Cumulative Fire	227,411	237,084	-	464,495
Totals	<u>\$ 1,322,411</u>	<u>\$ 767,704</u>	<u>\$ 373,707</u>	<u>\$ 1,716,408</u>

	Cash and Investments 01-01-05	Receipts	Disbursements	Cash and Investments 12-31-05
Governmental Funds:				
General	\$ 68,762	\$ 109,160	\$ 81,171	\$ 96,751
Dog	338	52	158	232
Township Assistance	196,976	93,694	60,059	230,611
Firefighting	983,534	204,155	231,000	956,689
Park and Recreation	2,303	9,067	10,119	1,251
Levy Excess	-	9,237	-	9,237
Cumulative Fire	464,495	180,745	306,444	338,796
Totals	<u>\$ 1,716,408</u>	<u>\$ 606,110</u>	<u>\$ 688,951</u>	<u>\$ 1,633,567</u>

The accompanying notes are an integral part of the schedules.

ELKHART TOWNSHIP, ELKHART COUNTY
NOTES TO SCHEDULES

Note 1. Introduction

The Township was established under the laws of the State of Indiana. The Township provides the following services: public safety, health and social services, culture and recreation, and general administrative services.

Note 2. Fund Accounting

The Township uses funds to report on its cash and investments and the results of its operations on a cash basis. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain governmental functions or activities.

Note 3. Budgets

The operating budget is initially prepared and approved at the local level. In addition, funds for which property taxes are levied are subject to final approval by the Indiana Department of Local Government Finance.

Note 4. Property Taxes

Property taxes levied are collected by the County Treasurer and are distributed to the Township in June and December. 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% 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 become delinquent if not paid by May 10 and November 10, respectively. All property taxes collected by the County Treasurer and available for distribution were distributed to the Township on or prior to December 31 of the year collected.

Note 5. Deposits and Investments

Deposits, made in accordance with Indiana Code 5-13, with financial institutions in the State of Indiana at year end were 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 statute (IC 5-13-9) authorizes the Township 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 6. Subsequent Event

The Township's fire department is planning on purchasing a tanker using funds from the Firefighting Fund. The approximate cost is \$188,623.

ELKHART TOWNSHIP, ELKHART COUNTY
EXAMINATION RESULT AND COMMENT

DONATIONS

Records presented for audit indicate donations were made to the City of Goshen without a contract. The City of Goshen's DARE Program and Park Department received donations in 2004 and 2005 in the amounts of \$1,000 and \$10,000, respectively.

Governmental funds should not be donated or given to other organizations, individuals, or governmental units unless specifically authorized by statute. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 13)

ELKHART TOWNSHIP, ELKHART COUNTY
EXIT CONFERENCE

The contents of this report were discussed on July 21, 2006, with Charles C. Cheek, Trustee. The official response has been made a part of this report and may be found on pages 8 through 12.

CHUCK CHEEK

TRUSTEE, ELKHART TOWNSHIP, ELKHART COUNTY
106 N. 5th Street • Goshen, IN 46528

August 3, 2006

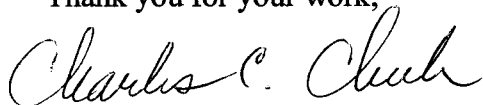
Response to the audit report for 2004 & 2005 for Elkhart Township

The response to the allegation that the funds given to the local DARE program were a donations is that they were given to the program under Indiana code IC 36-6-4-19 and this constitutes legal funding and not donations even without a contract.

The response to the allegation that funds were given to the Goshen Park & Recreation Department as a donation is that they were given to the program under the Indiana code IC 36-1-3 Chapter 3. Home Rule and this constitutes legal funding and not a donation, even though a resolution is required.

A copy of the Indiana codes is attached with highlighted portions for my response.

Thank you for your work,



Charles C. Cheek
Elkhart Township Trustee

IC 36-6-4-8

Use of funds appropriated for community services; contracts for ambulance services; fees

Sec. 8. (a) The executive may use the township's share of state, county, and township tax revenues and federal revenue sharing funds for all categories of community services, if these funds are appropriated for these services by the township legislative body. The executive may use these funds for both operating and capital expenditures.

(b) With the consent of the township legislative body, the executive may contract with corporations for health and community services not specifically provided by another governmental entity.

(c) The executive may contract with a private person to provide regular or emergency ambulance service within the township. The contract may provide for the imposition and collection of fees for this service.

(d) The township legislative body may adopt a resolution to provide for the imposition and collection of fees for ambulance services provided by the township police or fire department.

IC 36-6-4-19

Use of funds for drug awareness programs

Sec. 19. The township executive may pay township funds for the purpose of supporting a drug awareness program that is implemented in schools. As added by P.L.2-1997, SEC.83.

IC 36-1-3

Chapter 3. Home Rule

IC 36-1-3-1

Application of chapter

Sec. 1. This chapter applies to all units.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.251-1993, SEC.1.

IC 36-1-3-2

Policy

Sec. 2. The policy of the state is to grant units all the powers that they need for the effective operation of government as to local affairs. As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-3-3

Rule of law; resolution of doubt as to existence of power of a unit

Sec. 3. (a) The rule of law that any doubt as to the existence of a power of a unit shall be resolved against its existence is abrogated.

(b) Any doubt as to the existence of a power of a unit shall be resolved in favor of its existence. This rule applies even though a statute granting the power has been repealed.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-3-4

Rule of law; powers of unit

Sec. 4. (a) The rule of law that a unit has only:

(1) powers expressly granted by statute;

(2) powers necessarily or fairly implied in or incident to powers expressly granted; and

(3) powers indispensable to the declared purposes of the unit; is abrogated.

(b) A unit has:

(1) all powers granted it by statute; and

(2) all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute.

(c) The powers that units have under subsection (b)(1) are listed in various statutes. However, these statutes do not list the powers that units have under subsection (b)(2); therefore, the omission of a power from such a list does not imply that units lack that power.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-3-5

Powers of unit; exercise; township exception

Sec. 5. (a) Except as provided in subsection (b), a unit may exercise any power it has to the extent that the power:

(1) is not expressly denied by the Indiana Constitution or by statute; and

(2) is not expressly granted to another entity.

(b) A township may not exercise power the township has if another unit in which all or part of the township is located exercises that same power.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.251-1993, SEC.2.

IC 36-1-3-6

Specific manner for exercising a power; constitutional or statutory provision; ordinance; resolution

Sec. 6. (a) If there is a constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must do so in that manner.

(b) If there is no constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power

must either:

(1) if the unit is a county or municipality, adopt an ordinance prescribing a specific manner for exercising the power;

(2) if the unit is a township, adopt a resolution prescribing a specific manner for exercising the power; or

(3) comply with a statutory provision permitting a specific manner for exercising the power.

(c) An ordinance under subsection (b)(1) must be adopted as follows:

(1) In a municipality, by the legislative body of the municipality.

(2) In a county subject to IC 36-2-3.5 or IC 36-3-1, by the legislative body of the county.

(3) In any other county, by the executive of the county.

(d) A resolution under subsection (b)(2) must be adopted by the legislative body of the township.

As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.17, SEC.2; P.L.251-1993, SEC.3.

IC 36-1-3-7

Review or regulation of exercise of power by a unit

Sec. 7. State and local agencies may review or regulate the exercise of powers by a unit only to the extent prescribed by statute.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-3-8

Powers specifically withheld

Sec. 8. (a) Subject to subsection (b), a unit does not have the following:

(1) The power to condition or limit its civil liability, except as expressly granted by statute.

(2) The power to prescribe the law governing civil actions between private persons.

(3) The power to impose duties on another political subdivision, except as expressly granted by statute.

(4) The power to impose a tax, except as expressly granted by

statute.

(5) The power to impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.

(6) The power to impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for services.

(7) The power to regulate conduct that is regulated by a state agency, except as expressly granted by statute.

(8) The power to prescribe a penalty for conduct constituting a crime or infraction under statute.

(9) The power to prescribe a penalty of imprisonment for an ordinance violation.

(10) The power to prescribe a penalty of a fine as follows:

(A) More than ten thousand dollars (\$10,000) for the violation of an ordinance or a regulation concerning air emissions adopted by a county that has received approval to establish an air program under IC 13-17-12-6.

(B) For a violation of any other ordinance:

(i) more than two thousand five hundred dollars (\$2,500) for a first violation of the ordinance; and

(ii) except as provided in subsection (c), more than seven thousand five hundred dollars (\$7,500) for a second or subsequent violation of the ordinance.

(11) The power to invest money, except as expressly granted by statute.

(12) The power to order or conduct an election, except as expressly granted by statute.

(b) A township does not have the following, except as expressly granted by statute:

(1) The power to require a license or impose a license fee.

(2) The power to impose a service charge or user fee.

(3) The power to prescribe a penalty.

(c) Subsection (a)(10)(B)(ii) does not apply to the violation of an ordinance that regulates traffic or parking.

As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.17, SEC.3; P.L.123-1987, SEC.2; P.L.3-1987, SEC.540; P.L.3-1990, SEC.122; P.L.251-1993, SEC.4; P.L.164-1995, SEC.14; P.L.1-1996, SEC.84; P.L.200-2005, SEC.4.

IC 36-1-3-9

Territorial jurisdiction; exception; petition

Sec. 9. (a) The area inside the boundaries of a county comprises its territorial jurisdiction. However, a municipality has exclusive jurisdiction over bridges (subject to IC 8-16-3-1), streets, alleys, sidewalks, watercourses, sewers, drains, and public grounds inside its corporate boundaries, unless a statute provides otherwise.

(b) The area inside the corporate boundaries of a municipality comprises its territorial jurisdiction, except to the extent that a statute expressly authorizes the municipality to exercise a power in areas

outside its corporate boundaries.

(c) Whenever a statute authorizes a municipality to exercise a power in areas outside its corporate boundaries, the power may be exercised:

(1) inside the corporate boundaries of another municipality, only if both municipalities, by ordinance, enter into an agreement under IC 36-1-7; or

(2) in a county other than the county in which the municipal hall is located, but not inside the corporate boundaries of another municipality, only if both the municipality and the other county, by ordinance, enter into an agreement under IC 36-1-7.

(d) If the two (2) units involved under subsection (c) cannot reach an agreement, either unit may petition the circuit or superior court of the county to hear and determine the matters at issue. The clerk of the court shall issue notice to the other unit as in other civil actions, and the court shall hold the hearing without a jury. There may be a change of venue from the judge but not from the county. The petitioning unit shall pay the costs of the action.

As added by Acts 1980, P.L.211, SEC.1.