

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

FINANCIAL STATEMENT EXAMINATION REPORT

OF

TOWN OF ST. JOHN

LAKE COUNTY, INDIANA

January 1, 2011 to December 31, 2011



**FILED**  
02/28/2013



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### SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Sherry P. Sury	01-01-08 to 12-31-15
President of the Town Council	Michael S. Forbes	01-01-11 to 12-31-12
President of the Water District Board of Commissioners	Robert Myers	01-01-11 to 01-16-12
President of the Waterworks Board of Commissioners	Michael S. Forbes	06-28-12 to 12-31-12
President of the Sanitary District Board of Commissioners	Robert Myers (Vacant) Frank Bradtke	01-01-11 to 01-16-12 01-17-12 to 05-23-12 05-24-12 to 12-31-12
President of the Utility Board	Michael S. Forbes	06-28-12 to 12-31-12
President of the Park Board	Beth Hernandez Shari Kolodziej	01-01-11 to 12-31-11 01-01-12 to 12-31-12
Town Manager	Stephen Z. Kil	01-01-11 to 12-31-12



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS  
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INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA

We have examined the accompanying financial statement of the Town of St. John (Town), for the year ended December 31, 2011. The financial statement is the responsibility of the Town's management. Our responsibility is to express an opinion on the financial statement based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the financial statement and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

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

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

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

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

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

STATE BOARD OF ACCOUNTS

November 21, 2012

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## FINANCIAL STATEMENT

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

TOWN OF ST. JOHN  
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND CASH AND INVESTMENT BALANCES -  
REGULATORY BASIS  
For The Year Ended December 31, 2011

Fund	Cash and Investments 01-01-11	Receipts	Disbursements	Cash and Investments 12-31-11
General	\$ 364,941	\$ 7,495,514	\$ 7,230,549	\$ 629,906
MVH	39,930	1,029,817	844,212	225,535
Local Road & Street	88,836	136,966	117,589	108,213
EDC	21,645	-	3,372	18,273
PD Special Revenue SWAT	-	5,061	911	4,150
LECE	29,904	15,895	10,188	35,611
Electronic Map Generation	385	88	-	473
Riverboat	152,764	100,055	-	252,819
Park Operating	51,272	456,975	349,782	158,465
Hazmat Response	3,700	-	-	3,700
St John TIF	1,107,579	1,150,876	538,192	1,720,263
Excess Welfare Distribution	78,804	-	68,238	10,566
CCD	152,688	231,995	52,270	332,413
Redevelopment	70,282	-	3,665	66,617
Cumulative Fire Equipment	294,188	193,691	144,460	343,419
Cumulative Sewer	731,589	1,577,121	648,705	1,660,005
CCI	23,286	24,071	7,268	40,089
Police Pension Metro	143,640	369,519	300,545	212,614
LC Substance Abuse	-	28,000	28,000	-
GO Bond Debt Service	-	183,552	99,743	83,809
Cash Change	300	-	-	300
Park V3 Donation	4,376	-	2,300	2,076
Fire Gift	289	-	-	289
Police Gift	2,829	560	1,787	1,602
Park/Gift Donation	1,420	3,631	2,778	2,273
PD Family Violence Grant	2,000	-	-	2,000
OSS/FCRE Program	58	-	-	58
Seat Belt Partnership	91,647	284,168	375,241	574
Federal Grants	521	-	-	521
CATV Franchise	127,303	164,352	38,222	253,433
Police PIDP	9,716	-	-	9,716
Quad Town	6,702	-	-	6,702
Asset Forfeiture Account	5,617	-	-	5,617
Christmas Events	837	8,212	5,948	3,101
HH/Fall Festival	62,874	48,764	39,501	72,137
Farmers Market	11,878	14,520	8,100	18,298
Police Special	82,559	122,561	83,328	121,792
Solid Waste Operating	46,920	59,424	28,223	78,121
Trash Collection	97,799	998,628	1,015,665	80,762
Street Repair Bond Proceeds	580,752	18,738	493,316	106,174
DARE Gifts & Donations	150	3,020	862	2,308

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

TOWN OF ST. JOHN  
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND CASH AND INVESTMENT BALANCES -  
REGULATORY BASIS  
For The Year Ended December 31, 2011  
(Continued)

Fund	Cash and Investments 01-01-11	Receipts	Disbursements	Cash and Investments 12-31-11
Excess Levy Tax	14,052	-	-	14,052
FSA Withholdings	7,921	11,424	9,732	9,613
Lease Rental	24,214	1,201,900	876,087	350,027
Park Bond & Interest	21,336	140,850	83,755	78,431
SJ 05 Town Project	242	-	-	242
Park & Recreational	206,472	220,063	25,888	400,647
Ambulance Capital Replacement	64,657	60,351	24,829	100,179
Payroll	-	3,889,873	3,889,873	-
Group Insurance	13,697	652,825	641,148	25,374
Park Security Deposits	(100)	3,150	3,000	50
Police Pension 1977	13,504	56,565	55,815	14,254
PERF	16,203	243,248	244,975	14,476
Barrett Law Water Improvement	6,613	536	7,149	-
Barrett Law Sewer Improvement	3,270	-	2,622	648
Rosewood Wellington	1,662	6,127	-	7,789
Traffic Tickets	2,520	88,204	80,820	9,904
Building Escrow	266,000	82,000	108,000	240,000
Escrow Clearing Reimbursement	21,919	22,184	31,339	12,764
Wastewater Operating	541,258	2,076,248	2,019,504	598,002
Wastewater Bond & Interest	1,050	222,012	222,433	629
Wastewater Improvement	92,492	-	14,619	77,873
Wastewater DSR	254,038	-	-	254,038
Wastewater WWTP Expense	589,740	173,734	16,598	746,876
Wastewater System Development	1,216,508	199,917	116,594	1,299,831
Wastewater 36" Transmission	13,339	112,567	106,541	19,365
Water Operating	1,838,281	2,404,131	1,879,872	2,362,540
Water B & I	305,319	720,000	686,908	338,411
Water Improvement	331,519	-	17,143	314,376
Water Meter Deposit	191,360	14,675	8,005	198,030
Water Construction	119,693	-	-	119,693
Water System Development	764,283	102,000	555,342	310,941
Water DSR	503,794	66,480	-	570,274
Water District Operating	47,523	463,377	349,320	161,580
Water District Excess Welfare	4,556	-	-	4,556
Water Const Bond 2009	332,841	-	137,739	195,102
Sanitary District Operating	76,043	490,354	351,382	215,015
Sanitary District B & I	10,356	225,879	233,220	3,015
Sanitary District Excess Welfare	8,793	-	-	8,793
Totals	<u>\$ 12,418,948</u>	<u>\$ 28,676,448</u>	<u>\$ 25,343,212</u>	<u>\$ 15,752,184</u>

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

TOWN OF ST. JOHN  
NOTES TO FINANCIAL STATEMENT

**Note 1. Summary of Significant Accounting Policies**

*A. Reporting Entity*

The Town was established under the laws of the State of Indiana. The Town operates under a Town Council form of government and provides some or all of the following services: public safety (police and fire), highways and streets, health and social services, culture and recreation, public improvements, planning and zoning, general administrative services, water, wastewater, storm water, trash, and urban redevelopment.

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

*B. Basis of Accounting*

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

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

*C. Cash and Investments*

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

*D. Receipts*

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

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

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

Intergovernmental receipts which include receipts from other governments in the form of operating grants, entitlements, or payments in lieu of taxes. Examples of this type of receipts include, but are not limited to: federal grants, state grants, cigarette tax distributions received from the state, motor vehicle highway distribution received from the

TOWN OF ST. JOHN  
NOTES TO FINANCIAL STATEMENT  
(Continued)

state, local road and street distribution received from the state, financial institution tax received from the state, auto excise surtax received from the state, commercial vehicle excise tax received from the state, major moves distributions received from the state, and riverboat receipts received from the county.

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

Fines and forfeits which include receipts derived from fines and penalties imposed for the commission of statutory offenses, violation of lawful administrative rules and regulations (fines), and for the neglect of official duty and monies derived from confiscating deposits held as performance guarantees (forfeitures).

Utility fees which are comprised mostly of charges for current services.

Penalties which include fees received for late payments.

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

*E. Disbursements*

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

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

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

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

Debt service principal and interest which include fixed obligations resulting from financial transactions previously entered into by the Town. It includes all expenditures for the reduction of the principal and interest of the Town's general obligation indebtedness.

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

TOWN OF ST. JOHN  
NOTES TO FINANCIAL STATEMENT  
(Continued)

Utility operating expenses which include all outflows for operating the utilities.

Other disbursements which include, but are not limited to the following: interfund loan payments, loans made to other funds, internal service disbursements, and transfers out that are authorized by statute, ordinance, resolution, or court order.

*F. Interfund Transfers*

The Town may, from time to time, transfer money from one fund to another. These transfers, if any, are included as a part of the receipts and disbursements of the affected funds and as a part of total receipts and disbursements. The transfers are used for cash flow purposes as provided by various statutory provisions.

*G. Fund Accounting*

Separate funds are established, maintained, and reported by the Town. Each fund is used to account for money received from and used for specific sources and uses as determined by various regulations. Restrictions on some funds are set by statute while other funds are internally restricted by the Town. The money accounted for in a specific fund may only be available for use for certain, legally restricted purposes. Additionally, some funds are used to account for assets held by the Town in a trustee capacity as an agent of individuals, private organizations, other funds, or other governmental units and therefore the funds cannot be used for any expenditures of the unit itself.

**Note 2. Budgets**

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

**Note 3. Property Taxes**

Property taxes levied are collected by the County Treasurer and are scheduled to be distributed to the Town in June and December; however, situations can arise which would delay the distributions. State statute (IC 6-1.1-17-16) requires the Indiana Department of Local Government Finance to establish property tax rates and levies by February 15. These rates were based upon the preceding year's March 1 (lien date) assessed valuations adjusted for various tax credits. Taxable property is assessed at 100 percent of the true tax value (determined in accordance with rules and regulations adopted by the Indiana Department of Local Government Finance). Taxes may be paid in two equal installments which normally become delinquent if not paid by May 10 and November 10, respectively.

TOWN OF ST. JOHN  
NOTES TO FINANCIAL STATEMENT  
(Continued)

**Note 4. Deposits and Investments**

Deposits, made in accordance with state statute (IC 5-13), with financial institutions in the State of Indiana at year end should be entirely insured by the Federal Depository Insurance Corporation or by the Indiana Public Deposit Insurance Fund. This includes any deposit accounts issued or offered by a qualifying financial institution.

State statutes authorize the Town to invest in securities including, but not limited to, federal government securities, repurchase agreements, and certain money market mutual funds. Certain other statutory restrictions apply to all investments made by local governmental units.

**Note 5. Risk Management**

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

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

**Note 6. Pension Plans**

*A. Public Employees' Retirement Fund*

*Plan Description*

The Indiana Public Employees' Retirement Fund (PERF) is a defined benefit pension plan. PERF is an agent multiple-employer public employee retirement system, which provides retirement benefits to plan members and beneficiaries. All full-time employees are eligible to participate in this defined benefit plan. State statutes (IC 5-10.2 and 5-10.3) govern, through the Indiana Public Retirement System (INPRS) Board, most requirements of the system, and give the Town authority to contribute to the plan. The PERF retirement benefit consists of the pension provided by employer contributions plus an annuity provided by the member's annuity savings account. The annuity savings account consists of members' contributions, set by state statute at 3 percent of compensation, plus the interest credited to the member's account. The employer may elect to make the contributions on behalf of the member.

INPRS administers the plan and issues a publicly available financial report that includes financial statements and required supplementary information for the plan as a whole and for its participants. That report may be obtained by contacting:

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

TOWN OF ST. JOHN  
NOTES TO FINANCIAL STATEMENT  
(Continued)

*Funding Policy and Annual Pension Cost*

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

*B. 1925 Police Officers' Pension Plan*

*Plan Description*

The 1925 Police Officers' Pension Plan is a single-employer defined benefit pension plan. The plan is administered by the local pension board as authorized by state statute (IC 36-8-6). The plan provides retirement, disability, and death benefits to plan members and beneficiaries. The plan was established by the plan administrator, as provided by state statute. The plan administrator does not issue a publicly available financial report that includes financial statements and required supplementary information of the plan.

*Funding Policy*

The contribution requirements of plan members for the 1925 Police Officers' Pension Plan are established by state statute.

*On Behalf Payments*

The 1925 Police Officers' Pension Plan is funded by the State of Indiana through the Indiana Public Retirement System as provided under Indiana Code 5-10.3-11.

*C. 1977 Police Officers' and Firefighters' Pension and Disability Fund*

*Plan Description*

The 1977 Police Officers' and Firefighters' Pension and Disability Fund is a cost-sharing multiple-employer defined benefit pension plan administered by the Indiana Public Retirement System (INPRS) for all police officers and firefighters hired after April 30, 1977.

State statute (IC 36-8-8) regulates the operations of the system, including benefits, vesting, and requirements for contributions by employers and by employees. Covered employees may retire at age 52 with 20 years of service. An employee with 20 years of service may leave service, but will not receive benefits until reaching age 52. The plan also provides for death and disability benefits.

INPRS issues a publicly available financial report that includes financial statements and required supplementary information for the plan as a whole and for its participants. That report may be obtained by contacting:

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

TOWN OF ST. JOHN  
NOTES TO FINANCIAL STATEMENT  
(Continued)

*Funding Policy*

The contribution requirements of plan members and the Town are established by the Board of Trustees of INPRS.

**Note 7. Subsequent Events**

Sewage Works Refunding Revenue Bonds of 2012 totaling \$2,275,000 were sold on February 29, 2012, and used to defease the \$2,210,000 balance of the 2004 Sewage Works Revenue Bonds on March 30, 2012. The 2012 bonds have interest rates from 1 percent to 2.75 percent payable each July 1 and January 1 beginning July 1, 2012 and ending January 1, 2025.

On October 11, 2012, the Waterworks Board approved Well House Improvements to Wells 3 and 5 by Gariup Construction for \$267,400.

Tax Anticipation Warrants (TAW) of \$1,313,314 were issued for the General Fund on February 1, 2012. On June 27, 2012, principal of \$61,064 was repaid, leaving \$1,252,250 due on December 31, 2012.

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## SUPPLEMENTARY INFORMATION – UNAUDITED

For additional financial information, the Town's 2011 Annual Report information can be found on the Gateway website: <https://gateway.ifionline.org/>.

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

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

TOWN OF ST. JOHN  
 COMBINING SCHEDULE OF RECEIPTS, DISBURSEMENTS, AND  
 CASH AND INVESTMENT BALANCES - REGULATORY BASIS  
 For The Year Ended December 31, 2011

	General	MVH	Local Road & Street	EDC	PD Special Revenue SWAT	LECE	Electronic Map Generation
Cash and investments - beginning	\$ 364,941	\$ 39,930	\$ 88,836	\$ 21,645	\$ -	\$ 29,904	\$ 385
Receipts:							
Taxes	4,394,042	1,015,975	136,966	-	-	-	-
Licenses and permits	333,965	-	-	-	-	11,093	-
Intergovernmental	331,050	10,743	-	-	-	-	-
Charges for services	452,488	-	-	-	-	40	-
Fines and forfeits	94,670	-	-	-	-	4,762	-
Utility fees	-	-	-	-	-	-	-
Penalties	-	-	-	-	-	-	-
Other receipts	1,889,299	3,099	-	-	5,061	-	88
Total receipts	<u>7,495,514</u>	<u>1,029,817</u>	<u>136,966</u>	<u>-</u>	<u>5,061</u>	<u>15,895</u>	<u>88</u>
Disbursements:							
Personal services	3,110,030	261,069	-	-	-	-	-
Supplies	111,464	92,432	117,589	500	911	-	-
Other services and charges	999,719	213,474	-	2,872	-	10,188	-
Debt service - principal and interest	2,522,677	-	-	-	-	-	-
Capital outlay	7,854	2,237	-	-	-	-	-
Utility operating expenses	-	-	-	-	-	-	-
Other disbursements	478,805	275,000	-	-	-	-	-
Total disbursements	<u>7,230,549</u>	<u>844,212</u>	<u>117,589</u>	<u>3,372</u>	<u>911</u>	<u>10,188</u>	<u>-</u>
Excess (deficiency) of receipts over disbursements	<u>264,965</u>	<u>185,605</u>	<u>19,377</u>	<u>(3,372)</u>	<u>4,150</u>	<u>5,707</u>	<u>88</u>
Cash and investments - ending	<u>\$ 629,906</u>	<u>\$ 225,535</u>	<u>\$ 108,213</u>	<u>\$ 18,273</u>	<u>\$ 4,150</u>	<u>\$ 35,611</u>	<u>\$ 473</u>

TOWN OF ST. JOHN  
 COMBINING SCHEDULE OF RECEIPTS, DISBURSEMENTS, AND  
 CASH AND INVESTMENT BALANCES - REGULATORY BASIS  
 For The Year Ended December 31, 2011  
 (Continued)

	Riverboat	Park Operating	Hazmat Response	St John TIF	Excess Welfare Distribution	CCD	Redevelopment
Cash and investments - beginning	\$ 152,764	\$ 51,272	\$ 3,700	\$ 1,107,579	\$ 78,804	\$ 152,688	\$ 70,282
Receipts:							
Taxes	100,055	387,889	-	1,150,876	-	221,176	-
Licenses and permits	-	-	-	-	-	-	-
Intergovernmental	-	12,652	-	-	-	10,319	-
Charges for services	-	56,434	-	-	-	-	-
Fines and forfeits	-	-	-	-	-	-	-
Utility fees	-	-	-	-	-	-	-
Penalties	-	-	-	-	-	-	-
Other receipts	-	-	-	-	-	500	-
Total receipts	<u>100,055</u>	<u>456,975</u>	<u>-</u>	<u>1,150,876</u>	<u>-</u>	<u>231,995</u>	<u>-</u>
Disbursements:							
Personal services	-	70,335	-	-	-	-	-
Supplies	-	29,207	-	-	62,038	-	-
Other services and charges	-	164,392	-	-	6,200	-	-
Debt service - principal and interest	-	-	-	464,203	-	-	-
Capital outlay	-	848	-	-	-	52,270	3,665
Utility operating expenses	-	-	-	-	-	-	-
Other disbursements	-	85,000	-	73,989	-	-	-
Total disbursements	<u>-</u>	<u>349,782</u>	<u>-</u>	<u>538,192</u>	<u>68,238</u>	<u>52,270</u>	<u>3,665</u>
Excess (deficiency) of receipts over disbursements	<u>100,055</u>	<u>107,193</u>	<u>-</u>	<u>612,684</u>	<u>(68,238)</u>	<u>179,725</u>	<u>(3,665)</u>
Cash and investments - ending	<u>\$ 252,819</u>	<u>\$ 158,465</u>	<u>\$ 3,700</u>	<u>\$ 1,720,263</u>	<u>\$ 10,566</u>	<u>\$ 332,413</u>	<u>\$ 66,617</u>

TOWN OF ST. JOHN  
 COMBINING SCHEDULE OF RECEIPTS, DISBURSEMENTS, AND  
 CASH AND INVESTMENT BALANCES - REGULATORY BASIS  
 For The Year Ended December 31, 2011  
 (Continued)

	Cumulative Fire Equipment	Cumulative Sewer	CCI	Police Pension Metro	LC Substance Abuse	GO Bond Debt Service	Cash Change
Cash and investments - beginning	\$ 294,188	\$ 731,589	\$ 23,286	\$ 143,640	\$ -	\$ -	\$ 300
Receipts:							
Taxes	184,818	603,695	-	-	-	170,123	-
Licenses and permits	-	-	-	-	-	-	-
Intergovernmental	8,873	30,426	24,071	-	28,000	13,429	-
Charges for services	-	-	-	-	-	-	-
Fines and forfeits	-	-	-	-	-	-	-
Utility fees	-	-	-	-	-	-	-
Penalties	-	-	-	-	-	-	-
Other receipts	-	943,000	-	369,519	-	-	-
Total receipts	<u>193,691</u>	<u>1,577,121</u>	<u>24,071</u>	<u>369,519</u>	<u>28,000</u>	<u>183,552</u>	<u>-</u>
Disbursements:							
Personal services	-	-	-	105,438	-	-	-
Supplies	-	-	-	-	-	-	-
Other services and charges	-	-	6,074	-	28,000	-	-
Debt service - principal and interest	-	-	-	-	-	99,243	-
Capital outlay	144,460	248,705	1,194	-	-	-	-
Utility operating expenses	-	-	-	-	-	-	-
Other disbursements	-	400,000	-	195,107	-	500	-
Total disbursements	<u>144,460</u>	<u>648,705</u>	<u>7,268</u>	<u>300,545</u>	<u>28,000</u>	<u>99,743</u>	<u>-</u>
Excess (deficiency) of receipts over disbursements	<u>49,231</u>	<u>928,416</u>	<u>16,803</u>	<u>68,974</u>	<u>-</u>	<u>83,809</u>	<u>-</u>
Cash and investments - ending	<u>\$ 343,419</u>	<u>\$ 1,660,005</u>	<u>\$ 40,089</u>	<u>\$ 212,614</u>	<u>\$ -</u>	<u>\$ 83,809</u>	<u>\$ 300</u>

TOWN OF ST. JOHN  
 COMBINING SCHEDULE OF RECEIPTS, DISBURSEMENTS, AND  
 CASH AND INVESTMENT BALANCES - REGULATORY BASIS  
 For The Year Ended December 31, 2011  
 (Continued)

	Park V3 Donation	Fire Gift	Police Gift	Park/Gift Donation	PD Family Violence Grant	OSS/FCRE Program	Seat Belt Partnership
Cash and investments - beginning	\$ 4,376	\$ 289	\$ 2,829	\$ 1,420	\$ 2,000	\$ 58	\$ 91,647
Receipts:							
Taxes	-	-	-	-	-	-	284,168
Licenses and permits	-	-	-	-	-	-	-
Intergovernmental	-	-	-	-	-	-	-
Charges for services	-	-	-	-	-	-	-
Fines and forfeits	-	-	-	-	-	-	-
Utility fees	-	-	-	-	-	-	-
Penalties	-	-	-	-	-	-	-
Other receipts	-	-	560	3,631	-	-	-
Total receipts	-	-	560	3,631	-	-	284,168
Disbursements:							
Personal services	-	-	-	-	-	-	-
Supplies	-	-	153	-	-	-	-
Other services and charges	-	-	1,634	2,778	-	-	375,241
Debt service - principal and interest	-	-	-	-	-	-	-
Capital outlay	2,300	-	-	-	-	-	-
Utility operating expenses	-	-	-	-	-	-	-
Other disbursements	-	-	-	-	-	-	-
Total disbursements	2,300	-	1,787	2,778	-	-	375,241
Excess (deficiency) of receipts over disbursements	(2,300)	-	(1,227)	853	-	-	(91,073)
Cash and investments - ending	\$ 2,076	\$ 289	\$ 1,602	\$ 2,273	\$ 2,000	\$ 58	\$ 574

TOWN OF ST. JOHN  
 COMBINING SCHEDULE OF RECEIPTS, DISBURSEMENTS, AND  
 CASH AND INVESTMENT BALANCES - REGULATORY BASIS  
 For The Year Ended December 31, 2011  
 (Continued)

	Federal Grants	CATV Franchise	Police PIDP	Quad Town	Asset Forfeiture Account	Christmas Events	HH/Fall Festival
Cash and investments - beginning	\$ 521	\$ 127,303	\$ 9,716	\$ 6,702	\$ 5,617	\$ 837	\$ 62,874
Receipts:							
Taxes	-	-	-	-	-	-	-
Licenses and permits	-	-	-	-	-	-	-
Intergovernmental	-	-	-	-	-	-	-
Charges for services	-	-	-	-	-	-	-
Fines and forfeits	-	164,352	-	-	-	-	-
Utility fees	-	-	-	-	-	-	-
Penalties	-	-	-	-	-	-	-
Other receipts	-	-	-	-	-	8,212	48,764
Total receipts	-	164,352	-	-	-	8,212	48,764
Disbursements:							
Personal services	-	-	-	-	-	-	-
Supplies	-	1,862	-	-	-	5,397	24,731
Other services and charges	-	3,762	-	-	-	551	8,770
Debt service - principal and interest	-	-	-	-	-	-	-
Capital outlay	-	32,598	-	-	-	-	-
Utility operating expenses	-	-	-	-	-	-	-
Other disbursements	-	-	-	-	-	-	6,000
Total disbursements	-	38,222	-	-	-	5,948	39,501
Excess (deficiency) of receipts over disbursements	-	126,130	-	-	-	2,264	9,263
Cash and investments - ending	\$ 521	\$ 253,433	\$ 9,716	\$ 6,702	\$ 5,617	\$ 3,101	\$ 72,137

TOWN OF ST. JOHN  
 COMBINING SCHEDULE OF RECEIPTS, DISBURSEMENTS, AND  
 CASH AND INVESTMENT BALANCES - REGULATORY BASIS  
 For The Year Ended December 31, 2011  
 (Continued)

	Farmers Market	Police Special	Solid Waste Operating	Trash Collection	Street Repair Bond Proceeds	DARE Gifts & Donations	Excess Levy Tax
Cash and investments - beginning	\$ 11,878	\$ 82,559	\$ 46,920	\$ 97,799	\$ 580,752	\$ 150	\$ 14,052
Receipts:							
Taxes	-	-	-	-	-	-	-
Licenses and permits	-	-	-	-	-	-	-
Intergovernmental	-	-	-	-	-	-	-
Charges for services	-	-	-	983,633	-	-	-
Fines and forfeits	14,520	121,296	-	-	-	-	-
Utility fees	-	-	-	-	-	-	-
Penalties	-	-	-	-	-	-	-
Other receipts	-	1,265	59,424	14,995	18,738	3,020	-
Total receipts	<u>14,520</u>	<u>122,561</u>	<u>59,424</u>	<u>998,628</u>	<u>18,738</u>	<u>3,020</u>	<u>-</u>
Disbursements:							
Personal services	5,260	-	-	-	-	-	-
Supplies	1,935	9,998	8,700	-	-	862	-
Other services and charges	905	20,486	8,636	1,015,665	-	-	-
Debt service - principal and interest	-	-	-	-	-	-	-
Capital outlay	-	52,844	10,887	-	493,316	-	-
Utility operating expenses	-	-	-	-	-	-	-
Other disbursements	-	-	-	-	-	-	-
Total disbursements	<u>8,100</u>	<u>83,328</u>	<u>28,223</u>	<u>1,015,665</u>	<u>493,316</u>	<u>862</u>	<u>-</u>
Excess (deficiency) of receipts over disbursements	<u>6,420</u>	<u>39,233</u>	<u>31,201</u>	<u>(17,037)</u>	<u>(474,578)</u>	<u>2,158</u>	<u>-</u>
Cash and investments - ending	<u>\$ 18,298</u>	<u>\$ 121,792</u>	<u>\$ 78,121</u>	<u>\$ 80,762</u>	<u>\$ 106,174</u>	<u>\$ 2,308</u>	<u>\$ 14,052</u>

TOWN OF ST. JOHN  
 COMBINING SCHEDULE OF RECEIPTS, DISBURSEMENTS, AND  
 CASH AND INVESTMENT BALANCES - REGULATORY BASIS  
 For The Year Ended December 31, 2011  
 (Continued)

	FSA Withholdings	Lease Rental	Park Bond & Interest	SJ 05 Town Project	Park & Recreational	Ambulance Capital Replacement	Payroll
Cash and investments - beginning	\$ 7,921	\$ 24,214	\$ 21,336	\$ 242	\$ 206,472	\$ 64,657	\$ -
Receipts:							
Taxes	-	1,148,112	134,206	-	-	-	-
Licenses and permits	-	-	-	-	-	-	-
Intergovernmental	-	53,788	6,644	-	-	-	-
Charges for services	-	-	-	-	-	-	-
Fines and forfeits	-	-	-	-	133,810	60,246	-
Utility fees	-	-	-	-	-	-	-
Penalties	-	-	-	-	-	-	-
Other receipts	11,424	-	-	-	86,253	105	3,889,873
Total receipts	<u>11,424</u>	<u>1,201,900</u>	<u>140,850</u>	<u>-</u>	<u>220,063</u>	<u>60,351</u>	<u>3,889,873</u>
Disbursements:							
Personal services	9,732	-	-	-	-	-	-
Supplies	-	-	-	-	-	-	-
Other services and charges	-	-	-	-	-	2,569	-
Debt service - principal and interest	-	875,855	83,730	-	-	-	-
Capital outlay	-	-	-	-	25,888	22,260	-
Utility operating expenses	-	-	-	-	-	-	-
Other disbursements	-	232	25	-	-	-	3,889,873
Total disbursements	<u>9,732</u>	<u>876,087</u>	<u>83,755</u>	<u>-</u>	<u>25,888</u>	<u>24,829</u>	<u>3,889,873</u>
Excess (deficiency) of receipts over disbursements	<u>1,692</u>	<u>325,813</u>	<u>57,095</u>	<u>-</u>	<u>194,175</u>	<u>35,522</u>	<u>-</u>
Cash and investments - ending	<u>\$ 9,613</u>	<u>\$ 350,027</u>	<u>\$ 78,431</u>	<u>\$ 242</u>	<u>\$ 400,647</u>	<u>\$ 100,179</u>	<u>\$ -</u>

TOWN OF ST. JOHN  
 COMBINING SCHEDULE OF RECEIPTS, DISBURSEMENTS, AND  
 CASH AND INVESTMENT BALANCES - REGULATORY BASIS  
 For The Year Ended December 31, 2011  
 (Continued)

	Group Insurance	Park Security Deposits	Police Pension 1977	PERF	Barrett Law Water Improvement	Barrett Law Sewer Improvement	Rosewood Wellington
Cash and investments - beginning	\$ 13,697	\$ (100)	\$ 13,504	\$ 16,203	\$ 6,613	\$ 3,270	\$ 1,662
Receipts:							
Taxes	-	-	-	-	-	-	-
Licenses and permits	-	-	-	-	-	-	-
Intergovernmental	-	-	-	-	-	-	-
Charges for services	-	-	-	-	-	-	-
Fines and forfeits	-	-	-	-	-	-	-
Utility fees	-	-	-	-	-	-	-
Penalties	-	-	-	-	-	-	-
Other receipts	652,825	3,150	56,565	243,248	536	-	6,127
Total receipts	<u>652,825</u>	<u>3,150</u>	<u>56,565</u>	<u>243,248</u>	<u>536</u>	<u>-</u>	<u>6,127</u>
Disbursements:							
Personal services	-	-	-	-	-	-	-
Supplies	-	-	-	-	-	-	-
Other services and charges	-	3,000	-	-	-	-	-
Debt service - principal and interest	-	-	-	-	7,149	2,086	-
Capital outlay	-	-	-	-	-	-	-
Utility operating expenses	-	-	-	-	-	-	-
Other disbursements	641,148	-	55,815	244,975	-	536	-
Total disbursements	<u>641,148</u>	<u>3,000</u>	<u>55,815</u>	<u>244,975</u>	<u>7,149</u>	<u>2,622</u>	<u>-</u>
Excess (deficiency) of receipts over disbursements	<u>11,677</u>	<u>150</u>	<u>750</u>	<u>(1,727)</u>	<u>(6,613)</u>	<u>(2,622)</u>	<u>6,127</u>
Cash and investments - ending	<u>\$ 25,374</u>	<u>\$ 50</u>	<u>\$ 14,254</u>	<u>\$ 14,476</u>	<u>\$ -</u>	<u>\$ 648</u>	<u>\$ 7,789</u>

TOWN OF ST. JOHN  
 COMBINING SCHEDULE OF RECEIPTS, DISBURSEMENTS, AND  
 CASH AND INVESTMENT BALANCES - REGULATORY BASIS  
 For The Year Ended December 31, 2011  
 (Continued)

	Traffic Tickets	Building Escrow	Escrow Clearing Reimbursement	Wastewater Operating	Wastewater Bond & Interest	Wastewater Improvement
Cash and investments - beginning	\$ 2,520	\$ 266,000	\$ 21,919	\$ 541,258	\$ 1,050	\$ 92,492
Receipts:						
Taxes	-	-	-	-	-	-
Licenses and permits	-	-	-	-	-	-
Intergovernmental	-	-	-	-	-	-
Charges for services	-	-	-	-	-	-
Fines and forfeits	88,204	-	-	-	-	-
Utility fees	-	-	-	1,945,388	-	-
Penalties	-	-	-	34,763	-	-
Other receipts	-	82,000	22,184	96,097	222,012	-
Total receipts	<u>88,204</u>	<u>82,000</u>	<u>22,184</u>	<u>2,076,248</u>	<u>222,012</u>	<u>-</u>
Disbursements:						
Personal services	-	-	-	-	-	-
Supplies	-	-	-	-	-	-
Other services and charges	80,820	108,000	31,339	-	-	-
Debt service - principal and interest	-	-	-	-	222,433	-
Capital outlay	-	-	-	-	-	14,619
Utility operating expenses	-	-	-	1,717,542	-	-
Other disbursements	-	-	-	301,962	-	-
Total disbursements	<u>80,820</u>	<u>108,000</u>	<u>31,339</u>	<u>2,019,504</u>	<u>222,433</u>	<u>14,619</u>
Excess (deficiency) of receipts over disbursements	<u>7,384</u>	<u>(26,000)</u>	<u>(9,155)</u>	<u>56,744</u>	<u>(421)</u>	<u>(14,619)</u>
Cash and investments - ending	<u>\$ 9,904</u>	<u>\$ 240,000</u>	<u>\$ 12,764</u>	<u>\$ 598,002</u>	<u>\$ 629</u>	<u>\$ 77,873</u>

TOWN OF ST. JOHN  
 COMBINING SCHEDULE OF RECEIPTS, DISBURSEMENTS, AND  
 CASH AND INVESTMENT BALANCES - REGULATORY BASIS  
 For The Year Ended December 31, 2011  
 (Continued)

	Wastewater DSR	Wastewater WWTP Expense	Wastewater System Development	Wastewater 36" Transmission	Water Operating	Water B & I
Cash and investments - beginning	\$ 254,038	\$ 589,740	\$ 1,216,508	\$ 13,339	\$ 1,838,281	\$ 305,319
Receipts:						
Taxes	-	-	-	-	116,308	-
Licenses and permits	-	-	-	-	-	-
Intergovernmental	-	-	-	-	-	-
Charges for services	-	-	-	-	-	-
Fines and forfeits	-	-	-	-	-	-
Utility fees	-	93,772	102,000	112,567	2,106,304	-
Penalties	-	-	-	-	9,256	-
Other receipts	-	79,962	97,917	-	172,263	720,000
Total receipts	-	173,734	199,917	112,567	2,404,131	720,000
Disbursements:						
Personal services	-	-	-	-	-	-
Supplies	-	-	-	-	-	-
Other services and charges	-	-	-	-	-	-
Debt service - principal and interest	-	-	-	-	-	686,010
Capital outlay	-	11,778	112,866	106,541	-	-
Utility operating expenses	-	-	-	-	886,383	-
Other disbursements	-	4,820	3,728	-	993,489	898
Total disbursements	-	16,598	116,594	106,541	1,879,872	686,908
Excess (deficiency) of receipts over disbursements	-	157,136	83,323	6,026	524,259	33,092
Cash and investments - ending	\$ 254,038	\$ 746,876	\$ 1,299,831	\$ 19,365	\$ 2,362,540	\$ 338,411

TOWN OF ST. JOHN  
 COMBINING SCHEDULE OF RECEIPTS, DISBURSEMENTS, AND  
 CASH AND INVESTMENT BALANCES - REGULATORY BASIS  
 For The Year Ended December 31, 2011  
 (Continued)

	Water Improvement	Water Meter Deposit	Water Construction	Water System Development	Water DSR	Water District Operating
Cash and investments - beginning	\$ 331,519	\$ 191,360	\$ 119,693	\$ 764,283	\$ 503,794	\$ 47,523
Receipts:						
Taxes	-	-	-	-	-	347,822
Licenses and permits	-	-	-	-	-	-
Intergovernmental	-	-	-	-	-	15,555
Charges for services	-	-	-	-	-	-
Fines and forfeits	-	-	-	-	-	-
Utility fees	-	14,675	-	102,000	-	-
Penalties	-	-	-	-	-	-
Other receipts	-	-	-	-	66,480	100,000
Total receipts	-	14,675	-	102,000	66,480	463,377
Disbursements:						
Personal services	-	-	-	-	-	-
Supplies	-	-	-	-	-	-
Other services and charges	-	-	-	-	-	-
Debt service - principal and interest	-	-	-	-	-	-
Capital outlay	17,143	-	-	555,342	-	-
Utility operating expenses	-	-	-	-	-	200,208
Other disbursements	-	8,005	-	-	-	149,112
Total disbursements	17,143	8,005	-	555,342	-	349,320
Excess (deficiency) of receipts over disbursements	(17,143)	6,670	-	(453,342)	66,480	114,057
Cash and investments - ending	\$ 314,376	\$ 198,030	\$ 119,693	\$ 310,941	\$ 570,274	\$ 161,580

TOWN OF ST. JOHN  
 COMBINING SCHEDULE OF RECEIPTS, DISBURSEMENTS, AND  
 CASH AND INVESTMENT BALANCES - REGULATORY BASIS  
 For The Year Ended December 31, 2011  
 (Continued)

	Water District Excess Welfare	Water Const Bond 2009	Sanitary District Operating	Sanitary District B & I	Sanitary District Excess Welfare	Totals
Cash and investments - beginning	\$ 4,556	\$ 332,841	\$ 76,043	\$ 10,356	\$ 8,793	\$ 12,418,948
Receipts:						
Taxes	-	-	425,010	138,364	-	10,959,605
Licenses and permits	-	-	-	-	-	345,058
Intergovernmental	-	-	22,344	83,515	-	651,409
Charges for services	-	-	-	-	-	1,492,595
Fines and forfeits	-	-	-	-	-	681,860
Utility fees	-	-	-	-	-	4,476,706
Penalties	-	-	-	-	-	44,019
Other receipts	-	-	43,000	4,000	-	10,025,196
<b>Total receipts</b>	<b>-</b>	<b>-</b>	<b>490,354</b>	<b>225,879</b>	<b>-</b>	<b>28,676,448</b>
Disbursements:						
Personal services	-	-	213,542	-	-	3,775,406
Supplies	-	-	163	-	-	467,942
Other services and charges	-	-	33,677	-	-	3,128,752
Debt service - principal and interest	-	-	-	141,220	-	5,104,606
Capital outlay	-	137,739	-	-	-	2,057,354
Utility operating expenses	-	-	-	-	-	2,804,133
Other disbursements	-	-	104,000	92,000	-	8,005,019
<b>Total disbursements</b>	<b>-</b>	<b>137,739</b>	<b>351,382</b>	<b>233,220</b>	<b>-</b>	<b>25,343,212</b>
Excess (deficiency) of receipts over disbursements	-	(137,739)	138,972	(7,341)	-	3,333,236
Cash and investments - ending	<u>\$ 4,556</u>	<u>\$ 195,102</u>	<u>\$ 215,015</u>	<u>\$ 3,015</u>	<u>\$ 8,793</u>	<u>\$ 15,752,184</u>

TOWN OF ST. JOHN  
 SCHEDULE OF PAYABLES AND RECEIVABLES  
 December 31, 2011

Government or Enterprise	Accounts Payable	Accounts Receivable
Governmental activities	\$ 130,530	\$ -
Wastewater	1,000	-
Water	-	-
Sanitary District	-	-
Totals	\$ 131,530	\$ -

TOWN OF ST. JOHN  
SCHEDULE OF LEASES AND DEBT  
December 31, 2011

Lessor	Purpose	Annual Lease Payment	Lease Beginning Date	Lease Ending Date
Governmental activities:				
First National Bank	Purchase Equipment	\$ 29,239	03-01-08	03-01-11
St John Building Corp	New Public Safety Facility, Town Hall Addition, New Public Water Facility	733,000	08-01-06	02-01-26
Standard Bank	Purchase Equipment	<u>14,800</u>	05-07-10	05-07-12
Total governmental activities		<u>777,039</u>		
Total of annual lease payments		<u>\$ 777,039</u>		

Type	Description of Debt Purpose	Ending Principal Balance	Principal and Interest Due Within One Year
Governmental activities:			
General obligation bonds	Park Projects	\$ 525,000	\$ 90,610
General obligation bonds	Infrastructure Improvements	1,530,000	172,370
Revenue bonds	Special Project TIF	1,865,000	261,963
Note payable	Town Obligations	<u>581,151</u>	<u>-</u>
Total governmental activities		<u>4,501,151</u>	<u>524,943</u>
Wastewater:			
Revenue bonds	Utility Expansion	<u>2,210,000</u>	<u>223,120</u>
Water:			
Revenue bonds	Water Utility Expansion	495,000	345,128
Revenue bonds	Water Utility Expansion	4,000,000	161,165
Revenue bonds	Water Utility Expansion	<u>2,435,000</u>	<u>192,207</u>
Total Water		<u>6,930,000</u>	<u>698,500</u>
Totals		<u>\$ 13,641,151</u>	<u>\$ 1,446,563</u>

TOWN OF ST. JOHN  
SCHEDULE OF CAPITAL ASSETS  
December 31, 2011

Capital assets are reported at actual or estimated historical cost based on appraisals or deflated current replacement cost. Contributed or donated assets are reported at estimated fair value at the time received.

	Ending Balance
Governmental activities:	
Land	\$ 3,635,917
Infrastructure	132,619,926
Buildings	1,338,239
Improvements other than buildings	7,145,576
Machinery, equipment and vehicles	1,404,617
Total governmental activities	146,144,275
Wastewater:	
Land	571,413
Infrastructure	21,854
Buildings	200,641
Improvements other than buildings	3,834,682
Machinery, equipment and vehicles	5,091,255
Total Wastewater	9,719,845
Water:	
Land	103,995
Infrastructure	8,100,602
Buildings	840,615
Improvements other than buildings	103,644
Machinery, equipment and vehicles	452,807
Total Water	9,601,663
Sanitary District:	
Infrastructure	15,585,211
Total capital assets	\$ 181,050,994

TOWN OF ST. JOHN  
EXAMINATION RESULTS AND COMMENTS

***PENALTIES, INTEREST, AND OTHER CHARGES***

The St. John Water Utility paid penalties and interest during 2011 and 2012.

1. Interest totaling \$258.75 was paid to the Indiana Department of Revenue on March 29, 2011, for December 2008 and December 2009 sales taxes not paid timely.
2. Penalties of \$862.91 and interest of \$334.76 were paid to the Indiana Department of Revenue in February and March 2011 for the 2008, 2009, and 2010 utilities receipts taxes not paid timely or underpaid quarterly.
3. Penalties of \$491.85 were paid to the Indiana Department of Revenue on August 8, 2012, for the 2011 utilities receipts taxes underpayment of the first quarter and late payment of the second quarter.

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. 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 Cities and Towns, Chapter 7)

***APPROPRIATIONS AND BUDGETS***

The Trash Collections Fund (623), which is locally appropriated by the Town Council, had disbursements of \$15,615 in excess of budgeted appropriations.

The 2011 Budget Orders from the Department of Local Government Finance (DLGF) authorized \$14,052 in transfers from the Levy Excess Fund (102) to various funds. These transfers were not made in 2011, as required.

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."

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 Cities and Towns, Chapter 7)

***TOWN'S NOTE PAYABLE TO WASTEWATER UTILITY***

In July 2007, both the Town Council and Sanitary District Commissioners approved resolutions authorizing a \$1,500,000 temporary loan from the Wastewater Treatment Plant Expansion Fund (Expansion Fund) to the Town's 05 Town Project Fund (Project Fund) to be repaid by December 31, 2007. A partial repayment of \$300,000 was made in December 2007 to the Sanitary District resulting in an outstanding principal balance of \$1,200,000. On December 20th and 17th, 2007, both the Town Council and Sanitary District Commissioners, respectively, approved resolutions authorizing an extension of the term of the loan and prepared a "Demand Promissory Note".

TOWN OF ST. JOHN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

The \$1,200,000 promissory note was due on December 20, 2011, or "On Demand" with 180 days prior written notice to the Town from the Sanitary District, with interest thereon prior to the due date at 5 percent per annum. During May 2008, \$392,686.58 was paid to the Expansion Fund as partial repayment of the note, based upon a reimbursement the Project Fund received. No other repayments occurred in 2008 or 2009. The General Fund has paid \$146,200 and \$79,962 in 2010 and 2011, respectively, to the Expansion Fund, on behalf of the Project Fund. The amounts repaid in 2010 and 2011 were equal to the payment in lieu of taxes that the Town received from the Wastewater Utility. The Town has repaid principal totaling \$918,848.58 on the original \$1,500,000 loan from July, 2007. The outstanding principal on the note was \$581,151.42 as of December 31, 2011.

The Town Council approved Resolution 12-05-24B on May 24, 2012. This resolution renews the borrowing from the Expansion Fund for the outstanding principal balance as of December 31, 2011. The term of the loan has been renewed for four (4) years from the date of the resolution, with a due date of May 24, 2016. As in the original resolution, the new resolution extending the note requires interest at 5 percent per annum during the term.

The following deficiencies were noted:

1. All repayments on the loan (note) have been principal only. The officials have not paid the interest component in accordance with the promissory notes' terms adopted by the Town Council.
2. Town Council Resolution 12-05-24B did not include a funding source for how the Town would repay this loan.
3. The Town Council did not approve an ordinance to borrow the money, only authorized the loan through a resolution.

A similar comment has appeared in reports since 2008.

Indiana Code 8-1.5-3-12 states that a municipality may, by ordinance of its legislative body, borrow money from a water, gas, or electric utility owned by the municipality for current purposes in anticipation of taxes levied and to be collected during the current or following year.

The Board may by resolution lend money to the municipality if the water, gas, or electricity has on hand:

1. A surplus of cash exceeding by at least the amount the sum of all amounts required to pay the indebtedness of the utility falling due during the current calendar year and following year;
2. The amount necessary to meet current expenses during the year; and
3. The amount necessary to pay for improvements contemplated to be made during the current calendar year minus the estimated receipts during the calendar year.

A loan may not be made for the sum in excess of 50 percent of the amount estimated to be collected from anticipated taxes. The loan:

1. Must be evidenced by an obligation of the municipality;
2. Must be signed by the executive;

TOWN OF ST. JOHN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

3. Is due on or before thirty (30) days after the last day of the payment of anticipated taxes;  
and
4. May bear interest at any rate as determined by the board, payable at maturity.

We recommend that when loans are made from a municipal wastewater (sewage) utility to a municipality, the aforementioned procedures be followed. However, since there are no statutory guidelines included in IC 36-9-23 for such loans, other loan provisions would be acceptable as set out in home rule ordinance adopted under IC 36-1-3. (Cities and Towns Bulletin and Uniform Compliance Guidelines, March 2008)

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)

### **RECREATION INSTRUCTORS**

The Park Board contracts with individuals as instructors for recreation programs. The individuals are considered independent contractors and are paid through the claim process at an hourly rate as set by an approved agreement. If an individual is paid over \$600 in a year, a Miscellaneous Income Form 1099-MISC is completed.

The individuals hired as instructors should be considered employees of the Town and paid through the payroll system. A similar comment appeared in the 2010 report.

The Internal Revenue Service's Publication 15 (Circular E), Employer's Tax Guide defines an employee as follows: "Generally, a worker who performs services for you is your employee if you have the right to control what will be done and how it will be done. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed. See Publication 15-A for more information on how to determine whether an individual providing services is an independent contractor or an employee. If an employer-employee relationship exists, it does not matter what it is called. The employee may be called an agent or independent contractor. It also does not matter how payments are measured or paid, what they are called, or if the employee works full or part time."

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 Cities and Towns, Chapter 7)

### **PERSONNEL POLICY**

The Town's personnel policies for vacation leave state:

"Vacation schedules shall be developed on a uniform basis from January 1st through December 31st at the discretion of the Department Head and shall not be accumulated from year to year. When an employee who has unused vacation leave to his credit is separated from department services, full pay for amount of such vacation will be allowed."

TOWN OF ST. JOHN  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

Upon separation of employment with the Town, employees were paid the vacation leave balance reflected on their service record. They were also paid for the amount of vacation time earned in the year of separation which would not be credited to the employee until January of the following year. An approved ordinance, resolution, or policy was not presented for examination to support the payment of earned vacation time.

A similar comment appeared in the 2010 report. The Official Response to the 2010 report, written in 2011, indicated that the Town's Personnel Policy Manual was being updated to include the appropriate language to clarify the manner in which accumulated vacation time is paid out. The official response also indicated that the Personnel Policy Manual would be presented to the Town Council for consideration prior to the end of 2011.

The Town Council has not approved a new Town Personnel Policy Manual or any amendments as of October 31, 2012.

All compensation and benefits paid to officials and employees must be included in the labor contract, salary ordinance, resolution, or salary schedule adopted by the governing body unless otherwise authorized by statute. Compensation should be made in a manner that will facilitate compliance with state and federal reporting requirements. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

TOWN OF ST. JOHN  
EXIT CONFERENCE

The contents of this report were discussed on November 21, 2012, with Sherry P. Sury, Clerk-Treasurer; Beverly Gawrys, Chief Deputy Clerk-Treasurer; Michael S. Forbes, President of the Town Council; Mark Barenie, Vice President of the Town Council; Stephen Z. Kil, Town Manager; and David Austgen, Town Attorney. The Official Response has been made a part of this report and may be found on pages 36 through 48.

**Office of the  
Clerk-Treasurer**

St. John Municipal Building  
10955 West 93<sup>rd</sup> Avenue  
St. John, Indiana 46373-8822



**Sherry P. Sury, IAMC, CMC  
Clerk-Treasurer**

(219) 365-4800 Voice  
(219) 558-2081 Facsimile  
E-Mail [ssury.ct@stjohnin.com](mailto:ssury.ct@stjohnin.com)

December 21, 2012

VIA EMAIL

Mr. Bruce A. Hartman, CPA, State Examiner  
INDIANA STATE BOARD OF ACCOUNTS  
302 Washington Street, Room E418  
Indianapolis, IN 46204-2765

Ms. Mary Jo Small, Field Supervisor  
For Lake, LaPorte and Porter Counties  
C/o: Porter County Administration Center  
Attn: INDIANA STATE BOARD OF ACCOUNTS  
155 Indiana Avenue  
Valparaiso, IN 46383

RE: Town of St. John Clerk-Treasurer's and Town Manager's  
Responses to the State Board Accounts Exam Results and Comments  
(Exam Period: January 1, 2011 – December 31, 2011)

C/o: Mary Jo Small, Field Supervisor, Valparaiso, IN

Dear Mr. Hartman and Ms. Small:

As Clerk-Treasurer of the Town of St. John, Indiana, I attended the November 21, 2012, Exit Conference along with Ms. Beverly Gawrys, Chief Deputy; Mr. Michael S. Forbes, Town Council President; Mr. Mark Barenie, Town Council Vice-President; Mr. Steve Kil, Town Manager and Town Attorney, Mr. David Austgen wherein the Exam Results and Comments for the Town of St. John for the one year period ending on December 31, 2011 were disclosed and reviewed. As Fiscal Officer and Clerk for the Town along with the December 18, 2012 letter from the Town Manager addressed to Charlie Pride with the August 23, 2010 Memorandum from the Town Attorney attached thereto (the same Memorandum submitted with the September 12, 2011 Comment Responses) this is our response to the current Exam Results and Comments.

The Town Manager's introductory statement regarding the "Town's Note Payable to Wastewater Utility" and "Recreation Instructors" includes a notation concerning

attendance at the 2011 Exit Conference which mysteriously omits the fact that he, Stephen Kil did attend the August 24, 2011 Exit Conference (See page 31 of the Examination Report of the Town, January 2010 – December 2010, Report #B39765.) Nor is it clear that no elected official was aware of the comments until after responses were made since the Town Manager's Responses were an integral part of the Town's Responses which he shows as copied to the Town Council and Town Attorney.

## **PENALTIES, INTEREST AND OTHER CHARGES**

### Examination Position

The St. John Water Utility paid penalties and interest during 2011 and 2012.

\* \* \*

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. 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.

\* \* \*

### RESPONSES:

1. Interest totaling \$258.75 paid to the Indiana Department of Revenue on March 29, 2011 for December 2008 and December 2009 sales taxes not paid timely.

The Town acknowledges the interest payment for December 2008 and December 2009 sales taxes. This penalty was the subject of an Indiana Department of Revenue audit or review that concluded in an exit conference held on October 6, 2010.

The underlying work for 2008 and 2009 was the responsibility of former Clerk-Treasurer's office employee Jeff W. Kopkey who was an auditor for the Indiana State Board of Accounts prior to his employment with the Town. (His state experience is one of the reasons he was hired.)

Jeff Kopkey left employment with the Town Clerk-Treasurer's office by resignation on July 20, 2010 just before he was to be involuntarily terminated for failure to follow office procedures, insubordination and work and bookkeeping irregularities, discrepancies, errors and improprieties.

2. Penalties of \$862.91 and interest of \$334.76 were paid to the Indiana Department of Revenue in February and March 2011 for the 2008, 2009, and 2010 utilities receipts taxes not paid timely or underpaid quarterly.

The Town acknowledges the penalties and interest payments for 2008, 2009 and 2010 utilities receipts taxes. Again, the underlying work was the responsibility of former employee Jeff W. Kopkey. After the departure of Jeff Kopkey, Cender & Company LLC was asked to review some of his work and completed the 2010 estimated returns. It is believed that the Penalties and interest is the result of underpayment due to the calculations of the quarterly estimates and not late filing.

3. Penalties of \$491.85 were paid to the Indiana Department of Revenue on August 6, 2012 for the 2011 utilities receipts taxes underpayment of the first quarter and late payment of the second quarter.

The Town acknowledges the payment of penalties and notes that the assessment is "for underpayment of quarterly estimated income tax payments." (URT-1 Proposed Assessment #12038172165). In 2011, the Chief-Deputy Clerk-Treasurer hoped to save the cost of having an outside firm calculate the quarterly estimated tax payments and understood the Revenue Representative to instruct her to use the actual amounts instead of estimates. The final assessment, however, states it is the result of an underpayment as quoted above.

Presently, financial advisors and accountants of Cender & Company, LLC are preparing the calculations for the 2012 quarterly estimates. Going forward, Cender & Company LLC, or other outside consultants or accountants will continue to handle these reports

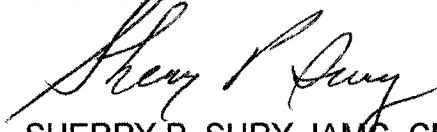
Additionally, the office currently utilizes a posted Yearly Planner for deadlines and reporting dates, but the office will institute the additional use of an electronic or computerized scheduling calendar as an additional safeguard for future filings.

RESPONSES to Comments on "APPROPRIATIONS AND BUDGETS," "TOWN'S NOTE PAYABLE TO WASTEWATER UTILITY," "RECREATION INSTRUCTORS" and "PERSONNEL POLICY" are contained in the Town Manager's letter to Charlie Pride, dated December 18, 2012 with the attached memorandum from the Town Attorney, all of which are attached hereto and made a part hereof.

#### CONCLUSION

Please accept my personal thanks to you for extending the filing deadline for the Town's response to today, December 21, 2012. Do not hesitate to contact the undersigned if you have any questions.

Sincerely,



SHERRY P. SURY, IAMC, CMC  
Clerk-Treasurer

Copy: Michael S. Forbes, Town Council President  
Mark Barenie, Town Council Vice-President  
Dave Austgen, Tim Kuiper, Town Attorneys  
Steve Kil, Town Manager  
Jeffrey Gunning, Special Counsel to Clerk-Treasurer

Beverly Gawrys, Deputy Clerk  
Barbara Williams, SBA, Auditor

Office of the  
Town Manager

St. John Municipal Building  
10955 West 93<sup>rd</sup> Avenue  
St. John, Indiana 46373-8822



Stephen Z. Kil

219 . 365 . 6043 \*1 telephone  
219 . 558 . 2078 facsimile  
E-mail: stevekil.tm@stjohnin.com

December 18, 2012

**Sent via U.S. Mail**

State of Indiana  
State Board of Accounts  
Mr. Charlie Pride, State Examiner  
302 West Washington Street  
Room E418  
Indianapolis, Indiana 46204-2765

**RE: Response to Exit Audit (Examination Comments Audit Year 2011)**

Dear Mr. Pride;

The following in a Q and A format, are responses to various sections of the State Board of Accounts (SBA) examination results and comments, for Audit Year 2011.

**Appropriations and Budgets**

1. Examination Position

The Trash Collection Fund (623), which is locally appropriated by the Town Council, had disbursements \$15,615.00 in excess of budgeted appropriation.

Response

The Town will verify that this Fund is set-up as a Proprietary Fund and will not be appropriated in the future. Unfortunately, for 2013, this fund has already been appropriated, however will not be commencing with the 2014 Budget adoption. The Town's financial advisor will be made aware of same.

2. Examination Position

The 2011 Budget order from the DLGF authorized \$14,052.00 in transfers from the Levy Excess Fund (102) to various funds. The transfers were not made in 2011 as required.

Response

This oversight was reported to the Clerk-Treasurer during the course of the examination and the transfers were made on October 23, 2012. DLGF guidelines will be reviewed as they pertain to the Excess Levy Fund.

**Personnel Policy**

1. Examination Position

A formal ordinance has not been adopted that clarifies the manner in which accumulated vacation time is paid out.

### Response

The Town acknowledges and concurs with this position and consistent with our official response to the 2010 Report. The Town is in the process of updating the entire Personnel Policy Manual, which will contain language that will clarify the manner in which accumulated vacation time is paid out.

The reason this matter was not addressed prior to the end of 2011 is that the updating of the entire Personnel Policy Manual document has taken longer than anticipated, however is nearly complete.

## **TOWN'S NOTE PAYABLE TO WASTEWATER UTILITY**

### 1. Examination Position

We recommend that when loans are made from a municipal wastewater (sewage) utility to a municipality, the aforementioned procedures be followed. However, since there are no statutory guidelines included in IC36-9-23 for such loan, other loan provisions would be acceptable as set out in home rule ordinance adopted under IC36-1-3 (Cities and Towns Bulletin and Uniform Compliance Guidelines, March 2008).

### Response

The Town was aware of this issue from the previous 2010 Report after said Report was processed in September, 2011. It is to be noted that the 2010SBOA Audit Exit Conference was attended by the Town Clerk-Treasurer, but not the Town Attorney or any Town Council Members. It is to be further noted that the 2010 SBOA Audit Report was not provided to Town Council Members or Town Attorney until September, 2011. Hence, the elected Town Officials other than the Clerk-Treasurer were unaware of these comments until after response was made and report issued by the SBOA in August, 2011, which were delivered by the Clerk-Treasurer in September, 2011.

The Town Council has previously authorized and issued, pursuant to Indiana law, temporary borrowing between the Sewage Works and the Town by Resolution No. 07-12-20, as amended and extended, including Resolution No. 12-05-24B, and evidenced the same by a Promissory Note. The Town has made certain repayments to the Sewage Works for repayment of the Promissory Note and has reduced the principal amount of the Promissory Note.

In response to the Audit Results and Comments, the Town Council will consider adoption of a Home Rule Ordinance to authorize and ratify the borrowing pursuant to Indiana Code 36-1-3. The Town will also identify future repayments between principal and interest at such time as the repayments are made.

## **RECREATION INSTRUCTORS**

### 1. Examination Position

Individuals are contracted by the Park Board/Park Department as instructors for recreation programs. These individuals are considered Independent Contractors and are paid through the claim process at an hourly rate as set by an approved Agreement. If an individual is paid over \$600.00 a year, a Miscellaneous Income Form 1099-MISC, is completed. It is indicated in the examination comments that "the

individuals hired as instructors should be considered employees of the Town and paid through the payroll system. A similar comment appeared in the 2010 report”.

Response

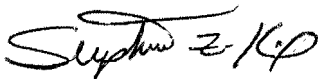
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Following receipt of the Audit response comments of the SBOA, and Town Response Position made by the Clerk-Treasurer, legal review of this matter was made. The review was completed and a Memorandum to St. John Town Council President Mark Barenie was made dated August 23, 2010. A copy of same is enclosed herewith. The analysis for consideration of the determination of an individual as an employee or independent contractor is based upon more than the IRS Publication 15 (Circular E) Employee's Tax Guide definition, as identified in the review memorandum to the Town Council President. It is, and has been determined to this point, based upon legal review and assessment, and as documented, that the Town handling of these matters is lawful and permitted.

The Town Council will again be informed of this position, related to independent contractor or employee status of Park Department Instructors for programs of the Department, and further direction will be sought. If further or corrective action is required, the Town will assess and act accordingly.

All items not addressed or responded to will be the subject of response by the Town's Clerk-Treasurer under separate cover.

Respectfully,



Stephen Z. Kil  
Town Manager

ENC.

Copy: Ms. Mary Jo Small, Field Supervisor  
Town Council members  
Clerk-Treasurer  
Town Attorney  
File

DAVID M. AUSTGEN  
TIMOTHY R. KUIPER\*  
EDWARD P. GRIMMER\*\*  
MICHAEL J. JASAITIS\*  
JOSEPH C. SVETANOFF\*

*of Counsel*

DONALD R. O'DELL\*  
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AMERICA L. MCALPIN+



AUSTGEN KUIPER & ASSOCIATES, P.C.

ATTORNEYS AT LAW

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Professional Engineer

AMY S. BENJAMIN  
SHANNON R. JONES  
Paralegals

PAMELA A. WEBBERG  
Elder Law Administrator

\*Licensed in IN & IL  
\*\*Licensed in IN & DC  
+ Licensed in IN, IL & FL  
†Also Licensed CPA in IN & IL

September 12, 2011

**VIA E-MAIL ONLY**

Town of St. John  
10955 W. 93<sup>rd</sup> Avenue  
St. John, IN 46373

Attn: Mr. Stephen Z. Kil, Town Manager

**Re: St. John/Town-Misc. Park Department  
Miscellaneous Employee/Independent Contractor Matters, and Related**

Dear Steve:

Enclosed please find the Opinion Memorandum dated August 23, 2010, regarding the above matter provided to then-Town Council President Mark Barenie that you requested for your report to the State Board of Accounts. If you require any further information, please contact the undersigned. Otherwise, I trust this satisfies your request.

Thank you.

Very truly yours,

AUSTGEN KUIPER & ASSOCIATES, P.C.

By: David M. Austgen

DMA/Ima

Enclosure: As noted.

cc: St. John Town Council President M. Forbes (via e-mail only)  
St. John Town Council Vice-President M. Barenie (via e-mail only)  
File

**MEMORANDUM (via e-mail only)**

**DATE:** August 23, 2010  
**TO:** Town of St. John, Attn: M. Barenie, Town Council President  
**FROM:** Austgen Kuiper & Associates, P.C., Town Attorneys  
**RE:** St. John/Town-Misc. Park Department  
Miscellaneous Employee/Independent Contractor Matters

---

Based upon direction to review and assess the above matter and circumstances, the following constitutes our memo report on same.

**Current Process and Procedure:**

Currently, the Parks Department uses an Independent Contractor Agreement to engage the services of individuals and entities to provide Recreational Instruction activities for program participants. For example, the Parks Department will engage Midwest Ice Arena to provide ice skating activities and the Arena collects a flat fee from each participant. For individuals, the Superintendant coordinates with the individual to determine a schedule to provide recreational activities as a program leader or to assist in the program at a set hourly rate or a percentage of the participant fee. The ages of leaders range from high school to older, with most leaders being in college, or college-aged. Most programs are conducted during the summer time and there are no year round programs. No individual recreational leader or assistant used provided more than 70 hours in a year (most average about 20 hours a year).

The original Agreement used by the Park Department was provided by our Firm in 2004 based on the circumstances and factors provided us at that time. The same has been updated. Once an agreement is made, then the Park Board approves the formal agreement. The only issue with this process is that given meeting schedules, some individuals provide services before Agreement is formally approved by the Park Board.

**Employee versus Independent Contractor**

The distinction between employees and independent contractors is important, because an employer must deduct Social Security/Medicare taxes from employees and must pay an equivalent amount to the Social Security Administration. If an individual is working as an independent contractor, the employer does not make Social Security/Medicare deductions, and the independent contractor must pay his or her own self-employment taxes along with income tax on earnings.

The IRS default is that all workers are employees unless they are independent contractors. When determining if an individual or an entity is an independent contractor, all information that provides evidence of the degree of control and independence must be considered. The Common

Law criteria that the IRS has established that provides evidence of the degree of control and independence fall into three (3) categories ("IRS criteria"):

1. **Behavioral:** Does the employer control or have the right to control what the worker does and how the worker does his or her job? If an employer trains and directs work, including hours of work, what tools or equipment to be used, specific tasks to be performed and how the work is to be done, the worker is likely an employee. If the worker can set his or her own hours and works with little or no direction or training, then he or she is probably an independent contractor. Facts that show whether the business has a right to direct and control how the worker does the task for which the worker is hired include the type and degree of--

(a) **Instructions the business gives the worker.** An employee is generally subject to the business' instructions of the business about when, where, and how to work. All of the following are examples of types of instructions about how to do work:

- When and where to do the work
- What tools or equipment to use
- What workers to hire or to assist with the work
- Where to purchase supplies and services
- What work must be performed by a specified individual
- What order or sequence to follow

The amount of instruction needed varies among different jobs. Even if no instructions are given, sufficient behavioral control may exist if the employer has the right to control how the work results are achieved. A business may lack the knowledge to instruct some highly specialized professionals; in other cases, the task may require little or no instruction. The key consideration is whether the business has retained the right to control the details of a worker's performance or instead has given up that right.

(b) **Training the business gives the worker.** An employee may be trained to perform services in a particular manner. Independent contractors ordinarily use their own methods.

2. **Financial:** Are the business aspects of the worker's job controlled by the employer? (these include things like how worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.) This factor includes how the worker is paid, whether the worker may work for others at the same time, and whether the worker can incur a profit or loss. A worker who is paid a salary, is often restricted from working for others, and who does not participate in company profits or losses, is probably an employee. Facts that show whether the business has a right to control the business aspects of the worker's job include:

(a) **The extent to which the worker has unreimbursed business expenses.** Independent contractors are more likely to have unreimbursed expenses than are employees. Fixed ongoing costs that are incurred regardless of whether work is currently being performed are especially important. However, employees may also incur unreimbursed expenses in connection with the services they perform for their business.

(b) **The extent of the worker's investment.** An independent contractor often has a significant investment in the facilities he or she uses in performing services for someone else. However, a significant investment is not necessary for independent contractor status.

(c) **The extent to which the worker makes services available to the relevant market.** An independent contractor is generally free to seek out business opportunities. Independent contractors often advertise, maintain a visible business location, and are available to work in the relevant market.

(d) How the business pays the worker. An employee is generally guaranteed a regular wage amount for an hourly, weekly, or other period of time. This usually indicates that a worker is an employee, even when the wage or salary is supplemented by a commission. An independent contractor is usually paid by a flat fee for the job. However, it is common in some professions to pay independent contractors hourly.

(e) The extent to which the worker can realize a profit or loss. An independent contractor can make a profit or loss.

3. **Type of Relationship:** Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)? Will the relationship continue and is the work performed a key aspect of the business? The presence of a specific contract may indicate an independent contractor, but this factor alone is not controlling. If the worker is entitled to benefits, this would indicate an employment relationship. Another factor would be the type of work the person does; if it is directly related to the company's core work, he or she is probably an employee. Facts that show the parties' type of relationship include:

(a) Written contracts describing the relationship the parties intended to create.

(b) Whether the business provides the worker with employee-type benefits, such as insurance, a pension plan, vacation pay, or sick pay.

(c) The permanency of the relationship. If you engage a worker with the expectation that the relationship will continue indefinitely, rather than for a specific project or period, this is generally considered evidence that your intent was to create an employer-employee relationship.

(d) The extent to which services performed by the worker are a key aspect of the regular business of the company. If a worker provides services that are a key aspect of your regular business activity, it is more likely that you will have the right to direct and control his or her activities.

Every business must weigh all these factors when determining whether a worker is an employee or independent contractor. Some factors may indicate that the worker is an employee, while other factors indicate that the worker is an independent contractor. There is no magic or set number of factors that makes the worker an employee or an independent contractor, and no one factor stands alone in making this determination. Also, factors which are relevant in one situation may not be relevant in another. The keys are to look at the entire relationship, consider the degree or extent of the right to direct and control, and finally, to document each of the factors used in coming up with the determination. The IRS also allows for the submission of a Form SS-8 to request a determination on the classification of a worker as an employee or independent contractor.

#### Consequences of Treating an Employee as an Independent Contractor

If an employee is classified as an independent contractor and there is *no reasonable basis* for doing so, the Town may be held liable for employment taxes for that worker (See Internal Revenue Code section 3509 for more information). If the Town has a *reasonable basis* for not treating a worker as an employee, the Town may be relieved from having to pay employment taxes for that worker. To get this relief, the Town must file all required federal information returns on a basis consistent with the Town's treatment of the worker. The Town must not have treated any worker holding a substantially similar position as an employee for any periods beginning after 1977 (See Publication 1976, Section 530 Employment Tax Relief Requirements (PDF) for more information).

### Analysis of Current Town Process and Procedure

This is a general overview and analysis of the Park Department's status of workers as Independent Contractors. To be certain, every worker would have to be reviewed based upon the IRS criteria. The Independent Contractor Agreement is being used to engage two (2) general classes of workers, (1) entities and (2) individuals, which are discussed in further detail below.

Entities: Typically, entities are independent contractors pursuant to the IRS criteria. Midwest Ice Arena and Jump Central would be good examples of Independent Contractor entities that the Park Department approves an Independent Contractor Agreement. In every case that has been presented to this Law Firm, related to the Town Park Department, these Independent Contractor entities are Independent Contractors under the IRS criteria and regulations.

Individuals: Individual persons engaged by the Park Department as Recreation Instructors or assistants are the second class of workers. This class of workers is engaged to perform specific and limited activities for the Park Department. Examples of the limited activities are a babysitting course, craft and project programs, cooking class, dog obedience, referees, tennis lessons, and day camps. These individuals are paid at an hourly rate as needed to lead or assist with a specific program (or programs) or paid a percentage of the applicant fees paid to the Town. The engagement is limited to the specific activity and not to general help with the Park Department regular duties and functions. After evaluating all of the IRS Criteria as set forth below, it appears that the individuals engaged to perform recreational activity leadership for specific courses would be Independent Contractors and not treated as employees. We reasonably conclude the same. If an Independent Contractor status is determined, the same needs to be documented in a similar fashion as set forth below.

1. **Behavioral:**

(a) **Instructions the business gives the worker.**

- When and where to do the work: ***Only after consultation with the worker.***
- What tools or equipment to use: ***No***
- What workers to hire or to assist with the work: ***No***
- Where to purchase supplies and services: ***No***
- What work must be performed by a specified individual: ***Yes if specifically contracted***
- What order or sequence to follow: ***No***

(b) **Training the business gives the worker. Minimal**

2. **Financial:**

- (a) ***The extent to which the worker has unreimbursed business expenses. No reimbursement***
- (b) ***The extent of the worker's investment. Little***
- (c) ***The extent to which the worker makes services available to the relevant market. Have other employment and are free to be employed by others.***
- (d) ***How the business pays the worker. Hourly and percentage of fee collected per participant.***
- (e) ***The extent to which the worker can realize a profit or loss. No if hourly & Yes if percentage***

3. **Type of Relationship:**

- (a) ***Written contracts describing the relationship the parties intended to create. Yes***

(b) Whether the business provides the worker with employee-type benefits, such as insurance, a pension plan, vacation pay, or sick pay. *No benefits.*

(c) The permanency of the relationship. *Short term for completion of Course Program*

(d) The extent to which services performed by the worker are a key aspect of the regular business of the company. *Not part of key aspect of park department*

Enclosure: Specimen Independent Contractor Agreement

cc: File/