

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

SUPPLEMENTAL COMPLIANCE REPORT

OF

TOWN OF CLARKSVILLE

CLARK COUNTY, INDIANA

January 1, 2012 to December 31, 2012



FILED
10/23/2015

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SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Robert P. Leuthart	01-01-12 to 12-31-15
President the Town Council	John Gilkey Bob Polston	01-01-12 to 12-31-12 01-01-13 to 12-31-15
Director of Storm Water Utility	Thomas L. Clevidence	01-01-12 to 12-31-15



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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

This report is supplemental to our examination report of the Town of Clarksville (Town), for the period from January 1, 2012 to December 31, 2012. It has been provided as a separate report so that the reader may easily identify any Examination Results and Comments that pertain to the Town. It should be read in conjunction with our Financial Statement Examination Report of the Town, which provides our opinion on the Town's financial statement. This report may be found at www.in.gov/sboa/.

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

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

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

June 11, 2015

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CLERK-TREASURER
TOWN OF CLARKSVILLE

CLERK-TREASURER
TOWN OF CLARKSVILLE
EXAMINATION RESULTS AND COMMENTS

ANNUAL FINANCIAL REPORT

The Annual Financial Report for 2012 contained the following errors and did not properly reflect the financial activity of the Town:

1. The Storm Water and Wastewater Utility receipts and disbursements were incorrectly classified as "other" on the Combining Schedule of Receipts, Disbursements, and Cash and Investment Balances - Regulatory Basis.
2. The grant schedule provided in the Annual Financial Report contained the following errors:
 - a. The federal grantor agency and pass-through entity for some grants were incorrect.
 - b. Program names and CFDA numbers of several grants were incorrect.
 - c. Incorrect amount of federal disbursements were reported on the National Infrastructure Investments and Disaster Grants - Public Assistance (Presidentially Declared Disasters) Programs resulting in a net overstatement of \$141,610 in federal disbursements for 2012.

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

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

COLLECTION OF AMOUNTS DUE

During the period January 2012 through February 2015, 6 pensioners of the 1937 Firefighters' Pension Plan were overpaid a total of \$8,185.

Agreements have been entered into between the Town and each pensioner to either repay the overpayments in a lump sum or through monthly payroll deductions. As of June 3, 2015, the Town has received repayments of \$3,263 from the pensioners of the 1937 Firefighters' Pension Plan.

Governmental units have a responsibility to collect amounts owed to the governmental unit pursuant to procedures authorized by statute. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

ADVANCE PAYMENTS - PENSION BENEFITS

The Town pays monthly police and fire pension benefits to their pensioners at the time of the Town's first payroll each month instead of at the end of the month. This payment method results in pension benefits being paid in advance.

CLERK-TREASURER
TOWN OF CLARKSVILLE
EXAMINATION RESULTS AND COMMENTS
(Continued)

Compensation and any other payments for goods and services should not be paid in advance of receipt of the goods or services unless specifically authorized by statute. Payments made for goods or services which are not received may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

ACCOUNTS RECEIVABLE RECONCILEMENT

The Utility did not perform periodic reconcilements between the accounts receivable control account reported in the general ledger to the detail customers' balance accounts reported in the aged trial balance subsidiary record. A comparison of the records showed the following variances between the control account balance (General Ledger) and the subsidiary account balance for both current accounts receivable and delinquent accounts receivable (Aged Trial Balance) at December 31, 2012:

Reported in General Ledger	\$ 848,416
Reported in Aged Trial Balance	<u>603,287</u>
Variance	<u>\$ 245,129</u>

The Utility contracted with a private Certified Public Accounting firm to perform an analysis and review of the Utility's account receivable through December 31, 2014. The firm has presented the Utility with proposed adjustments to correct identified posting errors from 2012 to 2014, and adjustments to balance the control account balances to the subsidiary account balances at December 31, 2014.

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

At all times, the manual and/or computerized records, subsidiary ledgers, control ledger, and reconciled bank balance should agree. If the reconciled bank balance is less than the subsidiary or control ledgers, then the responsible official or employee may be held personally responsible for the amount needed to balance the fund. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

PUBLIC RECORDS RETENTION

A utility payment stub is remitted at the time a payment is made on a customer's account. Upon receipt of the payment, the utility payment stub is marked with the amount paid, date, and the form of the payment received (cash, check, MO). These payment stubs are used as the source document when entering payments on customer accounts into the Utility's computerized billing system. After all payments are entered into the system, the stubs are totaled, compared to the daily cash update posting report, and to the bank deposit for the day, to ensure they all agree. The utility payment stubs were not presented for examination; therefore, we could not verify that all collections received were posted to the customer accounts and deposited.

Indiana Code 5-15-6-3(f), concerning destruction of public records, states in part: "Original records may be disposed of only with the approval of the commission according to guidelines established by the commission."

CLERK-TREASURER
TOWN OF CLARKSVILLE
EXIT CONFERENCE

The contents of this report were discussed on June 11, 2015, with Robert P. Leuthart, Clerk-Treasurer; Sherry Lockard, Deputy Clerk-Treasurer; Bob Polston, President of the Town Council; Chris Sturgeon, Attorney; and Anita Neeld, Administrative Assistant.

FIRE PENSION
TOWN OF CLARKSVILLE

FIRE PENSION
TOWN OF CLARKSVILLE
EXAMINATION RESULTS AND COMMENTS

COLLECTION OF AMOUNTS DUE

During the period January 2012 through February 2015, 6 pensioners of the 1937 Firefighters' Pension Plan were overpaid a total of \$8,185.

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ADVANCE PAYMENTS - PENSION BENEFITS

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Compensation and any other payments for goods and services should not be paid in advance of receipt of the goods or services unless specifically authorized by statute. Payments made for goods or services which are not received may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

FIRE PENSION
TOWN OF CLARKSVILLE
EXIT CONFERENCE

The contents of this report were discussed on June 9, 2015, with Kyle E. Johnson, Fire Pension Secretary, and Sherry Lockard, Deputy Clerk-Treasurer.

The contents of this report were discussed on June 11, 2015, with Bob Polston, President of the Town Council.

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POLICE PENSION
TOWN OF CLARKSVILLE

POLICE PENSION
TOWN OF CLARKSVILLE
EXAMINATION RESULT AND COMMENT

ADVANCE PAYMENTS - PENSION BENEFITS

The Town pays monthly police pension benefits to their pensioners at the time of the Town's first payroll each month instead of at the end of the month. This payment method results in pension benefits being paid in advance.

Compensation and any other payments for goods and services should not be paid in advance of receipt of the goods or services unless specifically authorized by statute. Payments made for goods or services which are not received may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

POLICE PENSION
TOWN OF CLARKSVILLE
EXIT CONFERENCE

The contents of this report were discussed on June 4, 2015, with Jason Tackett, Police Pension Secretary, and Sherry Lockard, Deputy Clerk-Treasurer.

The contents of this report were discussed on June 11, 2015, with Bob Polston, President of the Town Council.

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REDEVELOPMENT COMMISSION
TOWN OF CLARKSVILLE

REDEVELOPMENT COMMISSION
TOWN OF CLARKSVILLE
EXAMINATION RESULT AND COMMENT

USE OF TAX INCREMENT FINANCING (TIF) FUNDS

The Town has established a TIF allocation fund as authorized by Indiana Code 36-7-4-39. A review of expenditure paid from the TIF allocation fund during 2012 noted disbursements that were considered unallowable, such as improvements to facilities constructed with TIF funds and repairs and/or maintenance of facilities and equipment. The following is a schedule of those unallowable disbursements from the fund:

Description of Expenditures	2012
Police Station addition and renovations	\$ 74,470
HVAC for Town Hall and Police Station	214,273
Donations to Falls of the Ohio Foundation to fund new exhibits	250,000
Park and Golf Course Equipment	154,746
Park Restroom Renovations	23,510
Fire Station Appliances, Furnishings and Fitness Equipment	<u>164,834</u>
 Total	 <u>\$ 881,833</u>

Indiana Code 36-7-14-39(b)(3) states in part:

". . . property tax proceeds . . . shall be allocated to the redevelopment district and when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

- (A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.
- (B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.
- (C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.
- (D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to that allocation area.
- (E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

REDEVELOPMENT COMMISSION
TOWN OF CLARKSVILLE
EXAMINATION RESULT AND COMMENT
(Continued)

- (F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.
- (G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to that allocation area.
- (H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.
- (I) For property taxes first due and payable before January 1, 2009, . . .
- (J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.
- (K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located: (i) in the allocation area; and (ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance. . . .
- (L) Pay the costs of carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the unit that established the redevelopment commission. . . .

The allocation fund may not be used for operating expenses of the commission."

Payments or transfers which are not authorized by statute, ordinance, resolution, or court order must be reimbursed or transferred to the appropriate fund. (Accounting and Uniform Compliance Guidelines for Cities and Towns, Chapter 7)

The uses of TIF funds are restricted to those set forth in the Indiana Code. The power of a redevelopment commission to expend such funds is limited to the express statutory powers as set forth in Indiana Code 36-7-14. The use of TIF funds for ongoing maintenance of redeveloped property is not an expressly or impliedly permitted use, except as provided in Indiana Code 36-7-1-18(7) for repairing and maintaining buildings acquired before redevelopment is complete. (Redevelopment Commission of the Town of Munster, Indiana, v. Indiana State Board of Accounts and Paul D. Joyce, State Examiner of State Board of Accounts, 28 N.E.3d 272 (Ind. App., 2015) trans. denied, 34 N.E.3d 251).

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June 22, 2015

M. Scott Shireman
Audit Manager
State Board of Accounts
302 West Washington Street, Suite E418
Indianapolis, Indiana 46204

RE: Reports on Town of Clarksville, 2012 and 2013

Dear Mr. Shireman:

I have had the opportunity to review and investigate the State Board of Account's report of the Town of Clarksville for the years 2012 and 2013 and respond as follows to the comments regarding use of tax increment financing ("TIF") by the Redevelopment Commission:

Indiana Code 36-7-14-39(b)(J) authorizes the use of TIF to "pay expenses incurred by the Commission for local public improvements that are in the allocation area or serving the allocation area." The law does not define what a "local public improvement" is, leaving it to local officials to decide what a "local public improvement" is. Under this law, the Clarksville Redevelopment Commission used its tax increment financing fund according to the law.

Police Station addition and renovations, HVAC for Town Hall and Police Station

These comments by the Board of Accounts are being addressed together. In 1994, the Clarksville Police Station and Town Hall were built on the Town Hall campus by the Commission with tax increment financing funds. Both the police station and the Town Hall are in the allocation area.

The addition to the police station made in 2012 and 2013 was a physical expansion of the original building, adding approximately 7000 square feet, new rooms, and updates, improving the existing facility. At the same time, the HVAC systems for the police station and the Town Hall were replacements of the old systems. Simple maintenance of the HVAC was not feasible because of changes made by the Environmental Protection Agency, and replacements were necessary.

The position of the Board of Accounts appears to be that, once a project is completed, the Commission cannot return to the project and make further improvements. This interpretation leads to stagnation of facilities and would prevent such things as widening a road that was originally built with TIF or installing a warranted traffic light. Preventing improvements and updates to facilities and projects originally built with TIF would be an absurd result. The law

does not limit the Commission in such a way, and the use of these funds for the improvements made here is lawful.

Donations to Falls of the Ohio Foundation

The Falls of the Ohio Interpretive Center is a major public attraction owned by the Indiana Department of Natural Resources that has been closed since November, 2014 while undergoing renovations. The interpretive center provides an economic development benefit to the TIF area by drawing tourists to the area and increasing property values in the area

The Falls of the Ohio Foundation is a charitable organization that supports the interpretive center. The Commission made payments to the Falls of the Ohio Foundation to purchase new exhibits for the renovated Falls of the Ohio Interpretive Center, which is undergoing a major redesign of its entire facility. These payments were toward "local public improvements" as determined by the Commission and were lawful.

Park and Golf Course Equipment

The Redevelopment Commission has appropriated this money to the Clarksville Parks Department for several years before 2012 and 2013. The Board of Accounts has reviewed this use of TIF funds in those prior years and permitted them because these expenditures for equipment is not prohibited by the statute. Further, the Commission has determined that these expenditures are within the law under Indiana Code 36-7-14-39(b)(J) as a "local public improvement."

Parks Restroom Renovations

These restrooms are located in Lapping Park within the TIF allocation area. The project completely rebuilt the old restrooms from the ground up, with new buildings, toilets, urinals, and sinks. The project was not simply maintenance on the existing restrooms. The Commission determined that these expenditures are within the law under Indiana Code 36-7-14-39(b)(J) as a "local public improvement."

Fire Station Appliances, Furnishings and Fitness Equipment

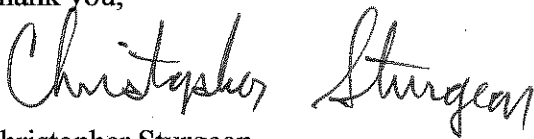
In 2011, the Commission used TIF funds to pay for a completely new fire station headquarters to be constructed on the Town Hall campus in 2012. The purchases of the furnishings for the new fire station in 2012 were part of the project, made to complete the project. The contractor could have included these items as part of the construction project, with a possible mark-up on the prices, and there likely would be no questions or comments for these expenditures. The Commission determined to pay for these furnishings separately to avoid having to pay a possible

mark-up, thus saving money and giving the Commission control over the expenses. This was a lawful use of TIF funds.

Conclusion

Indiana Code 36-7-14-39(J) authorizes the Commission to “pay expenses incurred by the Commission for local public improvements that are in the allocation area or serving the allocation area.” There are no specific definitions of “public improvements” or “expenses incurred” in IC 36-7-14, leaving such determinations to be made by the local officials of the Commission. These uses of Tax Increment Financing funds were for a local public improvement in the allocation area and were lawful and proper.¹

Thank you,



Christopher Sturgeon
Clarksville Town Attorney

¹ Although Indiana Code 36-7-14-39 states that, “the allocation fund may not be used for operating expenses of the commission,” the language restricts use of TIF funds for *operating expenses of the Commission*. The expenditures identified here were not for salaries, supplies, or similar operating expenses of the Commission. They were used for public improvement projects.

REDEVELOPMENT COMMISSION
TOWN OF CLARKSVILLE
EXIT CONFERENCE

The contents of this report were discussed on June 10, 2015, with Nick Lawrence, Director; Robert Popp, President of the Redevelopment Commission; Chris Sturgeon, Attorney; and Anita Neeld, Administrative Assistant.

The contents of this report were discussed on June 11, 2015, with Bob Polston, President of the Town Council.

The contents of this report were also discussed on August 26, 2015, with Nick Lawrence, Director; Robert Popp, President of the Redevelopment Commission; Bob Polston, President of the Town Council; Chris Sturgeon, Attorney; Sherry Locard, Deputy Clerk-Treasurer; and Anita Neeld, Administrative Assistant.