

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

SUPPLEMENTAL COMPLIANCE REPORT  
OF

CLERK-TREASURER  
TOWN OF MICHIANA SHORES  
LAPORTE COUNTY, INDIANA

January 1, 2011 to December 31, 2014



**FILED**  
12/29/2016



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## SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Steven J. Millick	01-01-08 to 12-31-11
	Patrick J. Margraf	01-01-12 to 12-31-13
	Joan M. Lewis	01-01-14 to 12-31-19
President of the Town Council	Jean V. Poulard	01-01-11 to 12-31-15
	Alex Sprovtsoff	01-01-16 to 12-31-16



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE TOWN OF MICHIANA SHORES, LAPORTE COUNTY, INDIANA

This report is supplemental to our examination report of the Town of Michiana Shores (Town), for the period from January 1, 2011 to December 31, 2014. 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 Statements Examination Report of the Town, which provides our opinion on the Town's financial statements. This report may be found at [www.in.gov/sboa/](http://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

February 10, 2016

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CLERK-TREASURER  
TOWN OF MICHIANA SHORES

CLERK-TREASURER  
TOWN OF MICHIANA SHORES  
EXAMINATION RESULTS AND COMMENTS

**CASH NECESSARY TO BALANCE, PENALTIES, INTEREST, AND FEES**

*Cash Necessary to Balance*

As stated in the prior Report B38758, posting errors were noted which were not detected or corrected because the former Clerk-Treasurer was not preparing bank reconcilements. Furthermore, some of the required ledgers were not maintained.

After recording the adjustment for the four years examined, a cash necessary to balance of \$2,120.95 remains and has been consistent as of December 31 for each of the four years.

Indiana Code 36-5-6-6 states in part:

- (a) The clerk-treasurer shall do the following:
  - (1) Receive and care for all town money and pay the money out only on order of the town legislative body.
  - (2) Keep accounts showing when and from what sources the clerk-treasurer has received town money and when and to whom the clerk-treasurer has paid out town money . . .
  - (5) Manage the finances and accounts of the town and make investments of town money . . .
  - (12) Perform all other duties prescribed by statute.
- (b) A clerk-treasurer is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the requirements set forth in subsection (a), unless the act or omission constitutes gross negligence or an intentional disregard of the requirements.

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)

Steven J. Millick, former Clerk-Treasurer, was requested to reimburse the Town \$2,120.95 for cash necessary to balance. (See Summary of Charges, page 16)

*Penalties, Interest, and Fees*

Penalties, interest, and fees were paid to the Internal Revenue Service, Indiana Department of Revenue, LaPorte County Sheriff, and a collection agency for failing to remit withholding and payroll taxes timely, and for failure to report withholding taxes timely. The LaPorte County Sheriff served tax warrants upon the former Clerk-Treasurer for the collection of taxes owed by the Town. Furthermore, when the County Sheriff was unsuccessful in collecting the past due withholding taxes, these delinquencies were turned over to a collection agency, which resulted in the Town incurring and paying additional fees. The penalties, interest, and fees were paid in 2012, 2013, and 2014. The following schedule details the penalties, interest, and fees paid by the years they were assessed:

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

Years	Internal Revenue Service	Indiana Department of Revenue	Indiana Department of Workforce Development	Totals
2009	\$ -	\$ 1,225.91	\$ -	\$ 1,225.91
2010	1,166.41	761.73	-	1,928.14
2011	4,397.73	289.19	-	4,686.92
2012	223.83	-	-	223.83
2013	1,312.28	161.25	15.67	1,489.20
Totals	<u>\$ 7,100.25</u>	<u>\$ 2,438.08</u>	<u>\$ 15.67</u>	<u>\$ 9,554.00</u>

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Failure to pay claims or remit taxes in a timely manner could be an indicator of serious financial problems which should be investigated by the governmental unit. Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit. Any penalties, interest, or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Steven J. Millick, former Clerk-Treasurer, was requested to reimburse the Town \$7,840.97 for penalties, interest, and fees for the years 2009 through 2011.

Patrick J. Margraf, former Clerk-Treasurer, was requested to reimburse the Town \$1,713.03 for penalties, interest, and fees for the years 2012 and 2013. (See Summary of Charges, page 16)

**OFFICIALS' BONDS**

The Town had Public Officials' Bonds with EMC Insurance Company for Steven J. Millick. The bond periods and coverage were as follows:

Bond Term	Coverage
September 11, 2009 to January 1, 2010	\$ 30,000
January 1, 2011 to January 1, 2012	30,000
January 1, 2012 to January 1, 2013	30,000

The Town had Public Officials' Bonds with Western Surety Company for Patrick J. Margraf. The bond periods and coverage were as follows:

Bond Term	Coverage
January 1, 2012 to January 1, 2016	<u>\$ 15,000</u>

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

***BANK ACCOUNT RECONCILIATIONS***

Depository reconciliations of the record balances to the bank account balances were not presented for examination for the thirty-six month period of January 1, 2011 through December 31, 2013.

Depository reconciliations of the fund balances to the bank account balances were conducted in 2014; however, the reconciliations contained errors and did not balance. The outstanding checklist excluded checks written prior to January 1, 2014, which had not cleared the bank in 2014.

Indiana Code 5-13-6-1(e) states: "All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories."

***CONDITION OF RECORDS***

The following exceptions related to the condition of records were noted during the years 2011 through 2013:

1. Prescribed or approved ledgers of receipts, disbursements and balances were not provided for examination. Computer spreadsheets were used by the former Clerk-Treasurer to prepare lists of checks issued and deposits made each year in total and by fund.
2. The Leaf Pickup fund had an ending balance of \$868 in the previous examination report as of December 31, 2010. This fund was omitted in the 2011 financial statement. An examination adjustment was proposed and accepted by the Clerk-Treasurer to correct this omission.
3. Receipts were not written or issued for all collections received by the Town. Of the receipts issued, 90 percent were for Water Surcharges and Refuse collections. Receipts were not issued for county tax distributions, interest income, cell tower collections, and state distributions.

In July, 2012, the Town began using computer software to record billings, collections, and balances due on Water and Refuse customer accounts. In 2013, \$8,174.84 was recorded in Computer spreadsheets as Water and Refuse collections; however, collection reports or receipts do not substantiate that the collections deposited were for Water and Refuse.

4. Payroll earnings records were not provided for examination. Records documenting the number of hours worked by two hourly employees were not provided for examination.

Officials and employees are required to use State Board of Accounts prescribed or approved forms in the manner prescribed. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Supporting documentation such as receipts, canceled checks, invoices, bills, contracts, and other public records must be available for audit to provide supporting information for the validity and accountability of monies disbursed. Payments without supporting documentation may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

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

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)

**DEPOSITS**

Collections were not deposited timely. In 2013, Water Surcharges and Refuse collections were recorded for 21 days. We tested all 21 days of the collections. Only four of the days collections were deposited timely. The remaining 17 days were deposited from 2 to 27 days after the report date.

Indiana Code 5-13-6-1(c) states in part:

". . . all local officers . . . who collect public funds of their respective political subdivisions, shall deposit funds not later than the business day following the receipt of funds on business days of the depository in the depository or depositories selected by the . . . local boards of finance . . ."

**ERRORS ON CLAIMS**

The following errors related to claims were noted:

1. Claims, or accounts payable vouchers (APV's), were not prepared for 61 percent of disbursements tested.
2. Disbursements for contractual services were based solely upon the contract. Itemized invoices for services rendered were not included with the APV.
3. The APV's for items permitted by Town Council resolution to be paid prior to Town Council approval were not subsequently presented to the Town Council for formal approval as required.
4. Of the APV's tested, 34 percent were not signed by the Clerk-Treasurer to indicate that the APV was verified for the accuracy of the amounts paid.

Indiana Code 5-11-10-1.6 states in part:

"(b) As used in this section, 'claim' means a bill or an invoice submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the governmental entity's fiscal officer;

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

- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim."

***LOCAL ROAD AND STREET FUND DISBURSEMENTS***

Invoices for the Town's usage of gas, electric, and telephone services were paid from the Local Road and Street fund.

In 2012, wages for Street Department employees were paid from the Local Road and Street fund.

The Indiana Code restricts how local road and street funds can be used, which does not include the payment of utilities or wages.

Indiana Code 8-14-2-5 states:

"Money from the local road and street account shall be used exclusively by the cities, towns, and counties for:

- (1) engineering, land acquisition, construction, resurfacing, maintenance, restoration, or rehabilitation of both local and arterial road and street systems;
- (2) the payment of principal and interest on bonds sold primarily to finance road, street, or thoroughfare projects;
- (3) any local costs required to undertake a recreational or reservoir road project under IC 8-23-5; or
- (4) the purchase, rental, or repair of highway equipment."

***ORDINANCES AND RESOLUTIONS***

The Town Council passed Ordinance 92-2 on September 8, 1992, which imposed a surcharge to all water users within the Town to be used exclusively for the up-grading and expansion of the water distribution system. The Town Council also passed Ordinance 92-5, an amendment to Ordinance 92-2, to establish penalties for late payment of the surcharge.

According to both ordinances, the amount to be billed per water user each year was \$75. Our examination noted that the Clerk-Treasurer billed the water users \$95 a year in 2011, 2012, and 2013. A template of the bills sent to customers on July 1, 2012, indicated that Ordinance 92-5 was the authority by which the \$95 water surcharge was billed.

Ordinance 81-4 established a refuse collection fee of \$100 per year on all residents.

In 2014, the Town billed water customers \$100 for the year, and the refuse was billed at \$95 for the year. Thus, the water customers were overcharged \$25 for the year, and the refuse customers were undercharged \$5 for the year.

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

The minutes of the Town Council meeting from March 8, 2011, referenced Ordinances 91-5 and 81-4 stating that the Water and Refuse rates established by these two ordinances were \$95 and \$100, respectively, per year; however, Ordinance 91-5 was not provided for examination and would have been superseded by Ordinance 92-2.

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)

**COMPENSATION AND BENEFITS**

Because salary ordinances were not adopted for any of the years examined, the Clerk-Treasurer paid wages based upon the budgets adopted for each of the four years.

In 2014, the Clerk-Treasurer was paid an additional \$850 from the Refuse Collection fund. Another individual hired to assist the Clerk-Treasurer with the refuse billings and collections was also paid from the Refuse Collection fund; however, salaries and wages were not addressed in the budgets for the Refuse Collection fund.

The Town employed office help and road maintenance employees at hourly rates, but the budgets did not include the hourly rate.

Since the budgets did not provide a breakdown by position or hourly rates, we could not determine if the correct rates were paid.

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)

**APPROPRIATIONS**

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

Fund	Year	Excess Amount Expended
General	2011	\$ 16,675
Local Road and Street	2011	9,252
Motor Vehicle Highway	2011	8,089

CLERK-TREASURER  
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EXAMINATION RESULTS AND COMMENTS  
(Continued)

Fund	Year	Excess Amount Expended
General	2012	\$ 42,903
Local Road and Street	2012	7,968
Fund	Year	Excess Amount Expended
General	2013	\$ 19,999
Local Road and Street	2013	1,487
Fund	Year	Excess Amount Expended
Cumulative Capital Development	2014	<u>\$ 7,028</u>

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."

**COUNTY TAX DISTRIBUTIONS AND COUNTY ADJUSTED GROSS INCOME TAX**

County tax distributions received in 2013 were posted to the General fund, and the Rainy Day fund only, rather than to the various individual funds specified by the County Auditor. The Motor Vehicle Highway, Park and Recreation, and the Cumulative Capital Development funds did not receive a share of the tax distributions.

In 2013 and 2014, the County Adjusted Gross Income Tax (CAGIT) distributions were posted to the Rainy Day fund.

Examination adjustments were proposed and accepted to correct the recording of the county tax distributions to the specified funds, and to correct the recording of the CAGIT distributions to the General fund.

Indiana Code 36-1-8-5.1 states in part:

- "(a) A political subdivision may establish a rainy day fund by the adoption of:
- (1) an ordinance, in the case of a county, city, or town; or
  - (2) a resolution, in the case of any other political subdivision.

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

- (b) An ordinance or a resolution adopted under this section must specify the following:
- (1) The purposes of the rainy day fund.
  - (2) The sources of funding for the rainy day fund, which may include the following:
    - (A) Unused and unencumbered funds under:
      - (i) section 5 of this chapter;
      - (ii) IC 6-3.5-1.1-21.1;
      - (iii) IC 6-3.5-6-17.3; or
      - (iv) IC 6-3.5-7-17.3.
    - (B) Any other funding source:
      - (i) specified in the ordinance or resolution adopted under this section; and
      - (ii) not otherwise prohibited by law."

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)

***TRANSFERS BETWEEN FUNDS***

In 2011, 2012, and 2013, the Town transferred \$43,000, \$65,000, and \$65,000 from the River Boat Win Tax fund to the General fund. Also in 2013, the Town transferred \$15,000 from the Rainy Day fund to the General fund. None of the transfers were disclosed in the minutes of the Town Council meetings or in Resolutions passed and adopted by the Town Council.

Indiana Code 36-1-8-9 states in part:

- "(a) Each unit that receives:
- (1) tax revenue under IC 4-33-12-6 or IC 4-33-13;
  - (2) revenue under an agreement to share the tax revenue received under IC 4-33-12 or IC 4-33-13 by another unit;
  - (3) revenue under a development agreement (as defined in section 9.5 of this chapter);

may establish a riverboat fund. Money in the fund may be used for any legal or corporate purpose of the unit.

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

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

Indiana Code 36-1-8-5.1(g) states:

"A county, city, or town may at any time, by ordinance or resolution, transfer to:

- (1) its general fund; or
- (2) any other appropriated funds of the county, city, or town; money that has been deposited in the rainy day fund of the county, city, or town."

**CAPITAL ASSETS**

The most current listing of capital assets was from 2008. This listing had not been updated for acquisitions and disposals.

Every governmental unit should have a complete inventory of all capital assets owned which reflects their acquisition value. Such inventory should be recorded in the applicable Capital Assets Ledger. A complete inventory should be taken every year for good internal control and for verifying account balances carried in the accounting records. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

**OFFICIAL BOND INSUFFICIENT**

The Clerk-Treasurer's official Surety Bond provided coverage of \$15,000, which was insufficient per the Indiana Code.

Indiana Code 5-4-1-18 states in part:

"(c) . . . the fiscal bodies of the respective units shall fix the amount of the bond of city controllers, city clerk-treasurers, town clerk-treasurers, Barrett Law fund custodians, county treasurers, county sheriffs, circuit court clerks, township trustees, and conservancy district financial clerks as follows:

- (1) The amount must equal thirty thousand dollars (\$30,000) for each one million dollars (\$1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision (2).
- (2) The amount may not be less than thirty thousand dollars (\$30,000) nor more than three hundred thousand dollars (\$300,000) unless the fiscal body approves a greater amount for the officer or employee."

CLERK-TREASURER  
TOWN OF MICHIANA SHORES  
EXIT CONFERENCE

The contents of this report were discussed on February 10, 2016, with Joan M. Lewis, Clerk-Treasurer, and Alex Sprovtsoff, President of the Town Council.

Patrick J. Margraf and Steven J. Millick, former Clerk-Treasurers, did not attend an exit conference.

CLERK-TREASURER  
TOWN OF MICHIANA SHORES  
SUMMARY OF CHARGES

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Steven J. Millick, former Clerk-Treasurer:			
Cash Necessary to Balance, pages 6 and 7	\$ 2,120.95	\$ -	\$ 2,120.95
Penalties, Interest, and Fees, pages 6 and 7	<u>7,840.97</u>	<u>-</u>	<u>7,840.97</u>
Total	<u>9,961.92</u>	<u>-</u>	<u>9,961.92</u>
Patrick J. Margraf, former Clerk-Treasurer:			
Penalties, Interest, and Fees, pages 6 and 7	<u>1,713.03</u>	<u>-</u>	<u>1,713.03</u>
Totals	<u>\$ 11,674.95</u>	<u>\$ -</u>	<u>\$ 11,674.95</u>

This report was forwarded to the Office of the Indiana Attorney General.

AFFIDAVIT

STATE OF INDIANA                    )  
  )  
PORTER COUNTY)

I, Michelle M. Janosky, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records of the Town of Michiana Shores, LaPorte County, Indiana, for the period from January 1, 2011 to December 31, 2014, is true and correct to the best of my knowledge and belief.

*Michelle M. Janosky*  
Field Examiner

Subscribed and sworn to before me this 16 day of November, 2016

*Judy A. Hittle*  
Notary Public

My Commission Expires:  
County of Residence:

