

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

SUPPLEMENTAL COMPLIANCE REPORT
OF

CLERK-TREASURER
TOWN OF SHIRLEY
HANCOCK COUNTY, INDIANA

January 1, 2012 to December 31, 2015



FILED
08/24/2017

TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
Schedule of Officials	2
Transmittal Letter	3
Clerk-Treasurer:	
Examination Results and Comments:	
Penalties, Interest, and Other Charges.....	4
Annual Financial Report Filed Late.....	4
Bank Account Reconciliations.....	5
Condition of Records.....	5
Annual Financial Report Errors.....	5
Overdrawn Cash Balances	6
Delinquent Wastewater Accounts	6-7
Fund Sources and Uses.....	7
Payroll Reporting and Withholdings.....	7
Customer Deposit Register.....	7
Appropriations	7-8
Certified Report (Form 100-R) Filed After Due Date	8
Supporting Documentation	8
Official Response.....	9-14
Exit Conference	15
Summary of Charges.....	16

SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Marla Kemerly Teresa Hester	01-01-12 to 12-31-15 01-01-16 to 12-31-19
President of the Town Council	A. Kyle Austin Dennis Denney	01-01-12 to 12-31-15 01-01-16 to 12-31-17



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
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TO: THE OFFICIALS OF THE TOWN OF SHIRLEY, HANCOCK COUNTY, INDIANA

This report is supplemental to our examination report of the Town of Shirley (Town), for the period from January 1, 2012 to December 31, 2015. 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/.

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

April 12, 2017

CLERK-TREASURER
TOWN OF SHIRLEY
EXAMINATION RESULTS AND COMMENTS

PENALTIES, INTEREST, AND OTHER CHARGES

The Town paid penalties, interest, and other charges to federal and state agencies and vendors because the Town did not file reports correctly or remit payments on a timely basis. The amounts of penalties, interest, and other charges are summarized below:

Years	Federal Withholding and Social Security Tax	State and County Withholding	Other	Total Penalties, Interest, and Other Charges
2014	\$ -	\$ -	\$ 74.42	\$ 74.42
2015	911.55	66.55	55.25	1,033.35
Totals	<u>\$ 911.55</u>	<u>\$ 66.55</u>	<u>\$ 129.67</u>	<u>\$ 1,107.77</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 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 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 1)

We requested that Marla Kemerly, former Clerk-Treasurer, reimburse the Town \$1,107.77 for the payment of penalties, interest, and other charges. Reimbursement of \$1,107.77 was made to the Town on July 31, 2017. (See Summary of Charges, page 16)

ANNUAL FINANCIAL REPORT FILED LATE

As shown in the table below, the Annual Financial Reports for the Town of Shirley were not filed in a timely manner.

Year	Date Filed	Days Late
2012	07-24-13	145
2013	04-21-14	51
2014	05-15-15	75
2015	03-31-16	30

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."

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

BANK ACCOUNT RECONCILIATIONS

Depository reconciliations of the fund balances to the bank account balances were conducted periodically; however, the reconciliations contained errors and did not balance. The outstanding check lists were not accurate, adjustments to records were not always supported, and fund balances used in the reconcilments did not reflect the actual ledger balances.

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

As similarly stated in prior Reports, most recently B41442, the following deficiencies related to the recordkeeping of Town funds were again present during the period examined. Some of the deficiencies include:

1. Considerable number of posting errors.
2. Checks and receipts not recorded in the proper amounts.
3. Interest not posted.
4. Transfers not recorded or reported properly.

At all times, the manual and/or computerized records, subsidiary ledgers, control ledger, and reconciled bank balance must agree. If the reconciled balance is less than the subsidiary or control ledgers, the amount needed to balance may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

ANNUAL FINANCIAL REPORT ERRORS

As similarly stated in prior Reports, most recently B41442, the Annual Financial Reports filed for 2012, 2013, and 2014, contained a number of errors and did not match the Town's records. Errors noted included incorrect fund balances and receipts and disbursements not reported.

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."

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

OVERDRAWN CASH BALANCES

The following funds had overdrawn cash balances at December 31:

Years	Fund	Amount Overdrawn
2012	Sewage Utility Operating	\$ 14,234
2012	Sewage Utl Debt Service	5,022
2013	Sewage Utility Operating	46,189
2013	Sewage Utl Debt Service	5,022
2013	Water Utility Operating	3,392
2014	Sewage Utility Operating	116,865
2014	Sewage Utl Debt Service	5,022
2014	Water Utility Operating	8,535
2015	General	23,577
2015	Sewage Utility Operating	118,363
2015	Sewage Utl Debt Service	5,022
2015	Water Utility Operating	26,287

The cash balance of any fund may not be reduced below zero. Routinely overdrawn funds could be an indicator of serious financial problems which should be investigated by the unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

DELINQUENT WASTEWATER ACCOUNTS

Delinquent wastewater fees and penalties had not been recorded with the County Recorder nor were they certified to the County Auditor on a consistent basis which would result in a lien against the property. As a result, several wastewater accounts had accrued large unpaid balances.

Indiana Code 36-9-23-33 states in part:

"(c) . . . the officer charged with the collection of fees and penalties assessed under this chapter shall enforce their payment. As often as the officer determines is necessary in a calendar year, the officer shall prepare either of the following:

- (1) A list of the delinquent fees and penalties that are enforceable under this section, which must include the following:
 - (A) The name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent.
 - (B) A description of the premises, as shown by the records of the county auditor.
 - (C) The amount of the delinquent fees, together with the penalty.
- (2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.

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

(d) The officer shall record a copy of each list or each individual instrument with the county recorder . . .

(f) . . . Using the lists and instruments prepared under subsection (c) and recorded under subsection (d), the officer shall, not later than ten (10) days after the list or each individual instrument is recorded under subsection (d), certify to the county auditor a list of the unpaid liens for collection with the next May installment of property taxes. . . ."

FUND SOURCES AND USES

Town funds and utility funds shared costs for items such as insurance without clearly documenting the breakdown of costs by fund.

Sources and uses of funds must be limited to those authorized by the enabling law, ordinance/resolution, or grant agreement. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

PAYROLL REPORTING AND WITHHOLDINGS

Exceptions were identified with the reporting of wages and the remittance of federal/state taxes and other withholdings. Wages reported on the Internal Revenue Service (IRS) Employer's Quarterly Federal Tax Return - Form 941 did not agree with IRS Transmittal of Wage and Tax Statements - Form W-3 wages; remittance amounts did not agree with required payments, and some remittances were not made timely.

Units are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings, court decisions, and filing requirements concerning reports and other procedural matters of federal and state agencies. Units must 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 1)

CUSTOMER DEPOSIT REGISTER

The detailed customer deposit register did not reconcile with the customer deposit amount recorded on the general ledger. As of December 31, 2015, the Customer Deposit Register indicates a balance of \$29,846.02 and the Town's ledger indicates a balance of \$27,421.40.

At all times, the manual and/or computerized records, subsidiary ledgers, control ledger, and reconciled bank balance must agree. If the reconciled balance is less than the subsidiary or control ledgers, the amount needed to balance may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

APPROPRIATIONS

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

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

Fund	Years	Excess Amount Expended
General	2012	\$ 7,948
General	2013	10,748
General	2015	59,032

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."

CERTIFIED REPORT (FORM 100-R) FILED AFTER DUE DATE

The Town did not timely file a Certified Report of Names, Addresses, Duties and Compensation of Public Employees (Form 100-R) with the Indiana State Board of Accounts for 2014. The report was filed on March 19, 2015, which was 47 days past the due date.

Indiana Code 5-11-13-1 states in part:

"Every . . . town . . . shall during the month of January of each year prepare, make, and sign a certified report, correctly and completely showing the names and business addresses of each and all officers, employees, and agents . . . and the respective duties and compensation of each, and shall forthwith file said report in the office of the state examiner of the state board of accounts. . . ."

SUPPORTING DOCUMENTATION

We noted that \$3,931.04 out of a total of \$4,149.23 in credit card disbursements for 2015 did not include adequate supporting documentation for the purchases. Due to the lack of supporting information, we could not verify the purpose of the disbursement.

Supporting documentation such as receipts, canceled checks, tickets, invoices, bills, contracts, and other public records must be available for examination 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 1)

Official Response SBOA Audit.txt

State Board of Accounts
302W. Washington St., E418
Indianapolis, IN. 46204

Re; Response to SBOA Audit for Town of Shirley, In.

To whom it concerns;

This is my official response to the recent Exit Conference Meeting I recently Had with Mr. David Bixler concerning the audit for the Town of Shirley, Ind for years 2012, 2013, 2014 and 2015.

First of all I can affirm to the best of my knowledge the untimely lateness of the anynual reports. I will say that part of the problem for the fist two years had to do with the health issues on my part and my family's. Also difficulties with trying to submit with Gateway software and the town's being compatible.

As for 2015, the current Clerk Treasurer was responsible for the submission of that report and as I was not allowed to assist her in making transitions from manuel booking to new Keystone, I cannot comment on that.

Condition of Records;

My comment is to the best of my knowledge and ability I believe all checks were posted to the correct funds and as were all deposits. Interest was posted monthly as was received from the bank statements.

To my knowledge I Did note transfers to and from all the general fund ledger funds maintained is that ledger which consisted of all funds other than those of the utility funds. Those were kept and posted by the utility clerk. As for reporting to Gateway, as I have previously commented there were major issues with Gateway reporting for us and trying to make correstion was next to impossible.

Annual Reports; I have already commented on this but do and did believe those were reported correctly.

Penalties, interest and charges;

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The charges for 2014 I have no knowlege of what this was until such time as I may be allowed to review the books etc that were in my care. I am requesting a meeting with the current Clerk Treasurer, Present Council President, Town attorney and the previous Council President to review the records as all of us are involved these matters and I believe all of us should view the cited errors and discuss them to make clear the issues and concerns. As for the year 2015, I am not assuming total responsibility for errors as my books were closed out by the current clerk and also transferred to new software. Therefore I remove myself from the responsibly for mistakes etc as I did not get to finalize them. This being addressed, I do not know or understand why there would be such a large amount of penalties assessed for 2015. I do not believe I am responsible to pay these and would ask that the Council concur and release me of such repayments.

Overdrawn Cash Balances;

The overdrawn balances for the utilitiy funds were discussed with the Town Council. The council has control over the utilities and its expenditures. I paid claims as they were received. Funds were transferred as ordinace allowed. Were it not for the fact that all funds for each utility were in the same account, there would have been no way claims could have been paid. Council gave approval for purchase, orders etc. Many times between meeting or in emergencies. As for the overdrawn amount for 2015 in the general fund, I would take issue with that on my part as I was cautious to not expsend the budget or fund. Again I will not take responsibility for the shown amount of overdrawn balance for 2015 and the final postings etc I did not finish as I have previously stated. I will say that if I had finished it as I had kept records in the past there is no way I would have been overdrawn the amount listed. It is my belief that some items were incorrectly posted for the final months with the changes of line items, funds and all prescribed withthe new software and the breakdown/breakout of such. I was told that Keystone approved by SBOA broke out expenses differently than I had for 20 years.

Delinquent Wastewater accounts

These accounts were discussed many times with Town Council and I did file leins on

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several. But some of these accounts went back several years and many were given extended time to pay or catch up arrangements. Most failed, but again I did not make the decisions. As for the rest of the comments concerning these claims and findings, I believe the present and past council should address these. The utility clerk was very much upset and concerned with these balances and as I said brought them to the attention of the council at several meetings. She and I set a suggested payment plan and other thoughts, but most still failed and were again brought to the attention of the council and town attorney. I do not believe that Phyllis Hedrick, Utilities Clerk nor I should be held responsible for such monies as we were at the direction and guidance of the Town Council.

Funds Sources and Uses;

I believe it was an oversight on the part of the council, myself and the attorney in not having an ordinance or payplan in place for the employee insurances. As employees were paid from one, two of more funds, I also paid the insurance in accord with the same manner of paying payroll. I am sure the attorney and current clerk, can if not already done, prepare an ordinance or ammendment as such to correct this. This issue was not done with knowledge of wrongdoing, but in ignorance of such.

Payroll Reporting and Withholdings;

I am unaware of the issue reported on the withholdings etc. Weekly, monthly and quarterly payroll sheets were prepared and filed accordingly. As to the differences in the amounts reported I reported totals as paid and remitted accordingly. Again this is another matter I hope to review in a requested meeting, as I hope all of these matters will come to light and be cleared.

Customer deposit Register; This is not a matter which I have control over. However for several years there has been a difference and after researching and reviewing this neither, the utilities clerk, my deputy clerk, nor myself could come up with the figures presented by previous auditors. This issue has had very serious effect on the utilities clerk because she could not find the discrepancy. As I type this, out of the blue a memory came to me where near the early years of my service monies from long ago and unclaimed or unreturned deposits were transferred to the general operating fund

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I believe. This would take some research but now I wonder if that is where the funds were moved.

Appropriations;

I cannot comment on the overage of the appropriations expenditures until I see the ledgers for those years.

However, I firmly believe them to be incorrect as I was very cautious not to exceed overspending in any form. The amount for 2015 I cannot believe and again will not be responsible as I did not close out the year.

Credit card purchases;

As the credit card for clerks office was used very few times and in small amounts. I did not carry the card

The Police department, maintenance department used the cards at the permission of the council. Stating this

I have no knowledge of the discrepancies listed without review of the claims.

Capital Assets; Kieser Consulting prepared the Capital assets reports each year and those were reported.

Any additions or deletions were reported to Dave Keiser of that firm and he prepared the reports etc.

I am sure the new clerk will have the improved method and guidelines followed as Mr. Keiser no longer is used by the town.

Conflict of interest;

This matter was not something I was aware of as it was handled by the council. The attorney did not

suggest the conflict of interest and I didn't know it was not filed or taken care of. I was directed to

pay for the claim and did just that.

In conclusion;

I believe that I have to the best of my ability addressed each matter listed on The Town of Shirley

Examination Results and Comments. I also replied to many of these in the meeting with Mr. David Bixley,

SBOA Auditor. I replied that I did not claim responsibility for such comments, that I believe that is

all or most matters of the town I did to the best of my knowledge and ability perform my duties as

Clerk Treasurer in an honest, concerned and caring manner. Serving as Clerk Treasurer for 20 years

I learned many changes, tried to consult and receive any and all information to aid in being the

best that I could for the town. I avoided allowing myself to purchase, expend or

Official Response SBOA Audit.txt

change any items, purchases
or in debt the town for any items or needs so that such would not be questioned when presented or audited.
When many items over the years were needed for me in the performance of my job or to make improvements
to my office, or to add to the appearance of the Town Hall for event, holidays etc.
I paid for these out
of my own pocket without submitting a bill. Expenses for SBOA classes, training classes and other such
required or suggested help were paid for by the town with documentation of such. Any expenses incurred
while in attendance at such were also paid for by me personally. Since I was responsible for the
funds and knew how tight monies could be, I felt obligated to avoid any additional or unneeded expenses
even though I knew that I could claim such expenses, ie mileage, meals etc.

Books for the Town of Shirley, In for my twenty years of service were maintained by manual recordings in the
ledgers. As i am more Computer illiterate than most clerks of today, I felt more comfortable withthis method.
i also discovered that there were many issues which I encountered with reports that had tobe submitted
electronically and I discovered I wasn't the only clerk with issues. Since my term was near end and I was
retiring I discovered that trying to upgrade my last year was more stressful and I was already havign health
issues, so I decided the new clerk could begin the upgrade. for this I may be considered irresponsible, but
again I believe I did my best.

I have been pleased and proud to have served the Town of Shirley for 20 years. I retired with full knowledge
assurance and belief on my part that I had been honest, trustworthy, concerned, caring and faithful to the
Town of Shirley, to the citizens of the town and to the oath of office that I took. Here I have lived, worked,
raised my family, served and been active in all areas and loved it since 1954.

I submit this response with a clear conscience, peace of mind, belief in my statements of response, confident
that nothing I did or was cited for doing was deliberate or intentional, and that though my character and position
as clerk treasurer maybe viewed by some as questionable or with concern, I can look at myself and say I did my
best at the time and now by the Grace of God I can move on to retirement with only a few minor regrest of not
accomplishing all that I had hoped to as Clerk and working with Council, we could

Official Response SBOA Audit.txt

achieve.

On another positive note I would thank and commend SBOA for all the help, patience and guidance that has been shown to me and our town when needed during my 20 years.

Respectfully submitted

Marla J. Kemerly
Former Clerk Treasurer
Town of Shirley, IN

CLERK-TREASURER
TOWN OF SHIRLEY
EXIT CONFERENCE

The contents of this report were discussed on April 12, 2017, with Teresa Hester, Clerk-Treasurer; Dennis Denney, President of the Town Council; and Rebecca Perkins, Town Council member.

The contents of this report were discussed on April 12, 2017, with Marla Kemerly, former Clerk-Treasurer.

CLERK-TREASURER
TOWN OF SHIRLEY
SUMMARY OF CHARGES
(Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Marla Kemerly, former Clerk-Treasurer: Penalties, Interest, and Other Charges, page 4	<u>\$ 1,107.77</u>	<u>\$ -</u>	<u>\$ 1,107.77</u>