

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

SPECIAL REPORT  
OF

COMMON COUNCIL  
CITY OF GARY  
LAKE COUNTY, INDIANA

October 15, 2016 to July 20, 2018



**FILED**  
11/30/2018



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CITY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
City Controller	M. Celita Green Angelia Hayes	01-01-17 to 02-28-18 03-01-18 to 12-31-18
Mayor	Karen Freeman-Wilson	01-01-16 to 12-31-19
President of the Common Council	Ronald G. Brewer, Sr.	01-01-17 to 12-31-18
Executive Director of the Sanitary and Storm Water Management Districts	Daniel F. Vicari	01-01-17 to 12-31-18
President of the Boards of Sanitary and Storm Water Commissioners	Charles W. Jackson, Jr.	01-01-17 to 12-31-18



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE CITY OF GARY, LAKE COUNTY, INDIANA

This is a special report for the Common Council of the City of Gary (City), for the period October 15, 2016 to July 20, 2018, and is in addition to any other report for the City as required under Indiana Code 5-11-1. All reports pertaining to the City may be found at [www.in.gov/sboa/](http://www.in.gov/sboa/).

We performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts and were limited to records associated with payroll transactions and related records. The Result and Comment contained herein describes the identified reportable instance 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.

The Official Response to the Audit Result and Comment, incorporated within this report, was not verified for accuracy.

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

September 17, 2018

COMMON COUNCIL  
CITY OF GARY  
AUDIT RESULT AND COMMENT

**GOVERNMENT EMPLOYEE HOLDING OFFICE**

The same comment also appeared in prior Reports B47027 and B47523, entitled *SUBSEQUENT EVENT - GOVERNMENT EMPLOYEE HOLDING OFFICE* and in prior Report B49191, entitled *GOVERNMENT EMPLOYEE HOLDING OFFICE*.

Indiana Code 3-5-9-7 permits government employees who also held elective office as of January 1, 2013, to continue holding elected office until the end of term of office. The Common Council had an elected member, Mary M. Brown (Brown), who also worked for the Gary Sanitary District (GSD) as the Director of Customer Service.

The GSD was created by ordinance and is considered to be a department of the City.

Indiana Code 36-9-25-3 states in part: "(a) A department of public sanitation is established as an executive department of the municipality. . . ."

Common Council member Brown's term of office affected by Indiana Code 3-5-9-7 expired as of December 31, 2015. Common Council member Brown was re-elected in November 2015 and began a new term of office on January 1, 2016. Common Council member Brown, who was employed with the GSD during the previous term of office, continued employment with the GSD in 2017 and part of 2018 and did not comply with the requirements of Indiana Code 3-5-9-5. As a result, Brown is deemed to have resigned her employment with the GSD on January 1, 2016. Any compensation paid to Brown subsequent to October 14, 2016, (date of the prior Report B47027), related to employment with the GSD, may be the personal responsibility of Common Council member Brown.

A Declaratory Judgment Complaint was filed in the Lake County Superior Court on behalf of Brown as plaintiff to determine the applicability of Indiana Code 3-5-9-5 to this situation. Summary judgment was entered into that matter, Cause No. 45D01-1611-PL-124, in favor of the state, on June 25, 2018. The summary judgment order confirmed that Brown was deemed by law to have resigned her position with the GSD on January 1, 2016.

The compensation paid to Brown for time worked after October 14, 2016, with the GSD through June 26, 2018, totaled \$132,748.35. We requested that Brown reimburse GSD in the amount of \$132,748.35 for compensation received based on noncompliance with statutory prohibitions. (See Summary of Charges, page 7)

Indiana Code 3-5-9-1 states:

"As used in this chapter, 'elected office' refers only to the following:

- (1) The executive or a member of the executive body of a unit.
- (2) A member of the legislative body or fiscal body of a unit."

Indiana Code 3-5-9-2 states: "As used in this chapter, 'government employee' refers to an employee of a unit. The term does not include an individual who holds only an elected office."

Indiana Code 3-5-9-5 states: "Except as provided in section 7 of this chapter, an individual is considered to have resigned as a government employee when the individual assumes an elected office of the unit that employs the individual."

COMMON COUNCIL  
CITY OF GARY  
EXIT CONFERENCE

The contents of this report were emailed on September 17, 2018, to Mary M. Brown, Common Council member.

The contents of this report were discussed on November 1, 2018, with Ronald G. Brewer, Sr., President of the Common Council; Michael L. Protho, Common Council member; Carolyn D. Rogers, Common Council member; Lavetta Sparks-Wade, Common Council member; Rebecca Wyatt, Common Council member; Virgil Moore Jr., Common Council Finance Advisor; Daniel F. Vicari, Executive Director of the Sanitary and Storm Water Management Districts; Charles W. Jackson Jr., President of the Boards of Sanitary and Storm Water Commissioners; Vern E. White, Director of Administration; Jerome Foster, Staff Accountant for the Gary Sanitary District; Maurice Mabon, Sanitary and Storm Water Commissioner; Ola Morris, Sanitary and Storm Water Commissioner; Tramel Raggs, Sanitary and Storm Water Commissioner; Nick Snow, Attorney for the Gary Sanitary District; Curtis Whittaker, CPA, Consultant; M. Celita Green, former City Controller; Angelia Hayes, City Controller; and Karen Freeman-Wilson, Mayor.

September 20, 2018

RE: OFFICIAL RESPONSE TO EXIT  
CONFERENCE

Dear Mr. David:

My attorney and I disagree with the findings of  
this report from the Unit City of Gary.

Mary M. Brown

Clorius Lay, Legal Counsel



COMMON COUNCIL  
CITY OF GARY  
SUMMARY OF CHARGES  
(Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Mary M. Brown, Common Council member: Government Employee Holding Office, page 4	<u>\$ 132,748.35</u>	<u>\$ -</u>	<u>\$ 132,748.35</u>

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

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AFFIDAVIT

STATE OF INDIANA            )  
  )  
Porter COUNTY)

We, Cynthia M. David and Michelle M. Janosky, Field Examiners, being duly sworn on our oaths, state that the foregoing report based on the official records of the Common Council, City of Gary, Lake County, Indiana, for the period from October 15, 2016 to July 20, 2018, is true and correct to the best of our knowledge and belief.

[Signature]

[Signature] Field Examiners

Subscribed and sworn to before me this 30 day of November, 2018.

[Signature]  
Notary Public

My Commission Expires: 06-26-2021

County of Residence: JASPER

