

**STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE
Room 1058, IGCN – 100 North Senate
Indianapolis, IN 46204**

**IN THE MATTER OF THE REQUEST)
OF SHAWSWICK TOWNSHIP AND)
GUTHRIE TOWNSHIP, LAWRENCE) IML22-005
COUNTY, FOR THE ESTABLISHMENT OF)
AN INITIAL MAXIMUM LEVY FOR)
A FIRE PROTECTION TERRITORY)**

FINAL DETERMINATION

The Department of Local Government Finance (“Department”) has reviewed the request of Shawswick and Guthrie Townships (“Townships”), both in Lawrence County and hereafter referred to as “Townships”, for an initial operating maximum levy for a fire protection territory (“Territory”). Having considered the issues, the Department now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

1. Indiana Code 36-8-19-5 allows the legislative bodies of at least two contiguous Townships to establish a fire protection territory for any of the following purposes:

- (A) Fire protection, including the capability for extinguishing all fires that might be reasonably expected because of the types of improvements, personal property, and real property within the boundaries of the territory.
- (B) Fire prevention, including identification and elimination of all potential and actual sources of fire hazard.
- (C) Other purposes or functions related to fire protection and fire prevention.

2. Per IC 36-8-19-6, to establish a fire protection territory, the legislative bodies of each unit desiring to become a part of the proposed territory must:

- i. Adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that meets the following requirements:
 - (A) The ordinance or resolution is identical to the ordinances and resolutions adopted by the other Townships desiring to become a part of the proposed territory.
 - (B) The ordinance or resolution is adopted after January 1 but before April 1.
 - (C) The ordinance or resolution authorizes the unit to become a party to an agreement for the establishment of a fire protection territory.

- (D) The ordinance or resolution is adopted after the legislative body holds at least three (3) public hearings to receive public comment on the proposed ordinance or resolution. The legislative body must give notice of the hearing under IC 5-3-1.
 - (E) The ordinance or resolution includes at least the following:
 - (1) The boundaries of the proposed territory.
 - (2) The identity of the provider unit and all other participating Townships desiring to be included within the territory.
 - (3) An agreement to impose:
 - (A) a uniform tax rate upon all of the taxable property within the territory for fire protection services; or
 - (B) different tax rates for fire protection services for the Townships desiring to be included within the territory, so long as a tax rate applies uniformly to all of a unit's taxable property within the territory.
 - (4) An agreement as to how the property that is held by the territory will be disposed of if:
 - (A) a participating unit withdraws from the territory; or
 - (B) the territory is dissolved.
 - (5) The contents of the agreement to establish the territory.
- ii. Hold at least three (3) public hearings to receive public comment on the proposed ordinance or resolution, as follows:
 - (A) The first public hearing must be held at least thirty (30) days before adopting an ordinance or a resolution to form a territory.
 - (B) At least two (2) public hearings must be held after the first public hearing, with the last public hearing held not later than ten (10) days before adopting an ordinance or a resolution to form a territory.
 - iii. The legislative body must make available to the public the following information:
 - (A) The property tax levy, property tax rate, and budget to be imposed or adopted during the first year of the proposed territory for each of the Townships that would participate in the proposed territory.
 - (B) The estimated effect of the proposed reorganization in the following years on taxpayers in each of the Townships that would participate in the proposed territory, including the expected property tax rates, property tax levies, expenditure levels, service levels, and annual debt service payments.
 - (C) The estimated effect of the proposed reorganization on other Townships in the county in the following years and on local option income taxes, excise taxes, and property tax circuit breaker credits.
 - (D) A description of the planned services and staffing levels to be provided in the proposed territory.
 - (E) A description of any capital improvements to be provided in the proposed territory.
 - iv. The notice required for the hearings must include all of the following:
 - (A) A list of the provider unit and all participating Townships in the proposed territory.
 - (B) The date, time, and location of the hearing.
 - (C) The location where the public can inspect the proposed ordinance or resolution.

(D) A statement as to whether the proposed ordinance or resolution requires uniform tax rates or different tax rates within the territory.

(E) The name and telephone number of a representative of the unit who may be contacted for further information.

(F) The proposed levies and tax rates for each participating unit.

3. According to IC 36-8-19-8, upon the adoption of identical ordinances or resolutions, or both, by the participating Townships, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund, and money in the fund may not be used for any other expenses. The provider unit, with the assistance of each of the other participating Townships, must annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory. The provider unit may maintain a reasonable balance, not to exceed 120% of the budgeted expenses. Except as provided in IC 6-1.1-18.5-10.5, after estimating expenses and receipts of money, the provider unit must establish the tax levy required to fund the estimated budget. The amount budgeted must be considered a part of each of the participating unit's budget.

4. Pursuant to IC 36-8-19-8.5, participating Townships may agree to establish an equipment replacement fund to be used to purchase fire protection equipment, including housing, that will be used to serve the entire territory.

5. The Department, when approving a rate and levy fixed by the provider unit under IC 36-8-19-9, must verify that a duplication of tax levies does not exist within participating Townships, so that taxpayers do not bear two levies for the same service.

RELEVANT PROCEDURAL HISTORY

6. On April 7, 2022, the Townships submitted to the Department a petition for an initial maximum levy for the Territory. *Cover Letter, Record p. 1*. The petition included the following documents:

- Information sheet.
- Proposed 2023 Budget and Levy.
- Proofs of publication of legal notices.
- Interlocal agreement to form the Territory.
- Shawswick Township Resolution No. 22-1.
- Guthrie Township Resolution No. 22-1.

All of the documents referenced above are included in the Record.

7. The notice of the public hearings was published on February 11 and March 7, 2022, in the *Bedford Times*. Notice was also apparently given in WBIW, which is a local radio station. *Record, p. 1*.

8. The February 11 notice stated the following:

- The Townships will hold public hearings on February 21, March 7, and March 21, 2022, at 1327 Sunny Acre Drive, Bedford, Indiana.
- Taxpayers appearing at the meeting have a right to be heard.
- The Territory “as finally made will be referred to the Department of Local Government Finance.”
- The Townships will make a written determination as to the adoption of the Territory at the final meeting on March 21.

Bedford Times Publisher’s Claim for the February 11, 2022 public notice, Record pp. 18-19.

9. The March 7 notice stated the following:

- The Townships will hold a public hearing on March 7 and March 21, 2022.
- The Townships will vote on the establishment of the Territory after the third and final public hearing.
- The Townships are the participating Townships. Shawswick Township is the provider unit.
- There will be a uniform property tax rate within the territory.
- The first year proposed budget, rate, and levy for the Territory.
- A copy of the proposed ordinance and resolution was made available for public inspection at the public hearings.
- Persons seeking additional information may contact either of the Township trustees.

Bedford Times Publisher’s Claim for the March 7, 2022 public notice, Record pp. 20-21.

8. The Townships adopted their respective resolutions on March 31, 2022, to establish the Territory. *Shawswick Township Resolution No. 22-1, Record p. 24; Guthrie Township Resolution No. 22-1, Record p. 27.* The resolutions state the following:

- The boundaries of the Territory “shall include the entire unincorporated area of Shawswick Township and entire area of Guthrie Township.”
- Shawswick Township is the provider unit.
- Both Townships are participating Townships.
- There shall be a uniform rate of taxation, a fire territory operating fund, and an equipment replacement fund.
- There will be an executive board “which shall perform certain administrative, planning, and operating business of the territory with the involvement of all the Participating Townships.”
- An interlocal agreement has been incorporated by reference.

Shawswick Township Resolution No. 22-1, Record pp. 22-24; Guthrie Township Resolution No. 22-1, Record pp. 25-27.

9. The interlocal agreement contains provisions concerning the following:

- Creation and purpose of the Territory.
- The Territory’s boundaries.
- Imposition of a uniform tax rate.
- Designation and responsibilities of the provider unit.
- Creation and responsibilities of the executive board.
- Designation of a volunteer fire department to serve the Territory.

- Budget development and adoption, including establishing an equipment replacement fund.
- Incurrence of indebtedness.
- Duration of agreement, expansion of Territory by participating Townships, and conditions of withdrawal from Territory.

Interlocal Agreement, Record pp. 3-17.

10. The Townships also provided a proposed 2023 budget for the Territory as prepared by Reedy Financial Group, financial advisor to the Townships. This information also included projected budgets for 2024 through 2026. *Proposed 2023 Budget, Record pp. 18-19.*

ANALYSIS

11. Shawswick Township’s resolution establishing the Territory was adopted on March 31, 2022, by a vote of 3-0. *Shawswick Township Resolution No. 22-1, Record pp. 22-24.* Shawswick Township’s resolution establishing the Territory was adopted on March 31, 2022, by a vote of 2-0. *Guthrie Township Resolution No. 22-1, Record pp. 25-27.*

12. The Units purport the 2023 budget for the Territory, in addition to projections for the next three years, as follows:

	2023 Budget	2024 Projection	2025 Projection	2026 Projection
January 1 Cash Balance	-	\$3,116.00	\$16,023.00	\$39,784.00
Prior Year Encumbrance	-	-	-	-
January 1 Fund Balance	-	\$3,116.00	\$16,023.00	\$39,784.00
Plus: Revenues				
General Property Taxes	\$630,000.00	\$651,420.00	\$673,568.00	\$696,470.00
Circuit Breaker	\$(3,994.00)	\$(4,130.00)	\$(4,271.00)	\$(4,416.00)
General property Taxes	\$626,006.00	\$647,290.00	\$669,298.00	\$692,054.00
Financial Institution Tax Distribution	\$12,600.00	\$13,028.00	\$13,471.00	\$13,929.00
Vehicle/Aircraft Excise Tax Distribution	\$31,500.00	\$32,571.00	\$33,678.00	\$34,823.00
Commercial Vehicle Excise Tax Distribution	\$6,300.00	\$6,514.00	\$6,736.00	\$6,965.00
EMS Revenue	-	-	-	-
LIT Public Safety	-	-	-	-
Miscellaneous	-	-	-	-
Total Revenues	\$676,406.00	\$699,403.00	\$723,183.00	\$747,771.00
Less Expenditures:				
Certified Budget	\$673,290.00	\$686,316.00	\$699,602.00	\$713,154.00
Plus: Additional	-	-	-	-

Appropriations				
Total Spending Authority	\$673,290.00	\$686,316.00	\$699,602.00	\$713,154.00
Personal Services	\$541,540.00	\$552,371.00	\$563,418.00	\$574,687.00
Supplies	\$22,000.00	\$22,000.00	\$22,000.00	\$22,000.00
Other Services and Charges	\$109,750.00	\$111,945.00	\$114,184.00	\$116,468.00
Capital Outlays	-	-	-	-
Total Budget	\$673,290.00	\$686,316.00	\$699,602.00	\$713,154.00
Unused Appropriation %	0%	0%	0%	0%
Projected Unused Appropriations	-	-	-	-
Rainy Day Fund Transfer	-	-	-	-
Total Expenditures	\$673,290.00	\$686,316.00	\$699,602.00	\$713,154.00
Net Increase/Decrease in Fund	\$3,116.00	\$13,088.00	\$23,581.00	\$34,617.00
Equals: Year End Fund Balance	\$3,116.00	\$13,088.00	\$23,581.00	\$34,617.00

Proposed 2023 Budget, Record p. 19. Therefore, the Units purport to receive in 2023 a levy of \$630,000 (\$626,006 after circuit breaker), and \$50,400 in miscellaneous revenues (\$12,600 + \$31,500 + \$6,300 = \$50,400). In addition, the levy is projected to grow by 3.4% annually.

13. The 2023 budget would fund staffing for four firefighters, including salaries and insurance, supplies, and utilities for five fire stations, advertising, and other administrative expenses. *Proposed 2023 Budget, Record p. 18.* The annual budget is expected to grow by 2% annually.

14. Although the Units have not requested part of the levy for an operating balance, the 2023 year end cash balance is expected to be \$3,116, which is less than half a percent of the budgeted expenses for that year ($3,116 / 673,290 = 0.0046 = 0.46\%$). This balance is purported to grow annually to \$34,617 in 2026, which is approximately 5% of that year's expenses ($34,617 / 713,154 = 0.049 = 4.9\%$). Ind. Code § 36-8-19-8 permits the Units to maintain a reasonable balance not to exceed 20%. The Units' proposed budget is expected to build a balance that is less than 20%.

CONCLUSION

15. In reliance on the Record as documented above, the Department finds that the Units complied with the procedural obligations under Ind. Code § 36-8-19 in establishing the Territory. The Units, after publishing notices under Ind. Code § 36-8-19-6(b) and with information required by Ind. Code § 36-8-19-6(d), conducted the required number of public hearings and within the timeframe under Ind. Code § 36-8-19-6(b). The Units showed at that they made the

information required under Ind. Code § 36-8-19-6(c) to available to the public. Finally, the Units also adopted identical ordinances within the timeframe required by Ind. Code § 36-8-19-6(b) and that contain the information required under Ind. Code § 36-8-19-6(e).

16. The Department also find that the Units have provided the Department with information sufficient to account for the Units' calculation of an initial maximum levy of \$626,006. Specifically, this figure reflects expenses for personal services (\$541,540); supplies (\$22,000); services and charges (\$109,750); less non-property tax revenue (\$50,400) ($\$541,540 + \$22,000 + \$109,750 = \$673,290$; $\$673,290 - \$50,400 = \$622,890$); plus an operating balance of \$3,116 ($\$622,890 + \$3,116 = \$626,006$).

31. The Department hereby approves a Territory operating maximum levy of \$630,000 for Pay 2023. This figure does not include any dollars attributable to an equipment replacement fund.

32. For purposes of Ind. Code § 36-8-19-9 and 12, the certified 2022 Budget Order for St. Joseph County indicates that Greene Township has the following fund from which fire protection services can be paid:

Participating Unit	Fund Name	DLGF Fund Number
Shawswick Township	Township Fire	1111
	Cumulative Fire	1190
Guthrie Township	Township Fire	1111
	Cumulative Fire	1190

33. Pursuant to Ind. Code § 36-8-19-9 and 12, the township fire funds and cumulative fire fund for Shawswick Township and Guthrie Township will be eliminated and their levies reduced to \$0.

Dated this 10th day of August, 2022.

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE



Wesley R. Bennett, Commissioner