

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

**IN THE MATTER OF THE REQUEST )  
OF THE CITY OF ATTICA, DAVIS )  
TOWNSHIP, LOGAN TOWNSHIP, AND )  
SHAWNEE TOWNSHIP, FOUNTAIN ) IML23-004  
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 the City of Attica (“City”), Davis Township, Logan Township, and Shawnee Township (“Townships”), all in Fountain County and hereafter referred to as “Units”, 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 units 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 Ind. Code § 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 units desiring to become a part of the proposed territory.
    - (B) The ordinance or resolution is adopted after January 1 but before August 2 (for an ordinance or resolution adopted in 2023).

- (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 units 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 units 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 twenty-five (25) days before adopting an ordinance or a resolution to form a territory (for an ordinance or resolution adopted in 2023).
  - (B) At least two (2) public hearings must be held after the first public hearing, with the last public hearing held not later than five (5) days before adopting an ordinance or a resolution to form a territory (for an ordinance or resolution adopted in 2023).
- 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 units 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 units 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 units 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 units 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 Ind. Code § 36-8-19-8, upon the adoption of identical ordinances or resolutions, or both, by the participating units, 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 units, 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 Ind. Code § 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 Ind. Code § 36-8-19-8.5, participating units 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 Ind. Code § 36-8-19-9, must verify that a duplication of tax levies does not exist within participating units, so that taxpayers do not bear two levies for the same service.

### **RELEVANT PROCEDURAL HISTORY**

6. On March 31, 2023, the Units submitted to the Department a petition for an initial maximum levy for the Territory. *Cover Letter*. The petition included the following documents:

- Procedure Checklist.
- Financial impact analysis.
- Petition letter.
- Proofs of publication of legal notices.
- Interlocal agreement to form the Territory.
- Attica City Ordinance (dated March 29, 2023).
- Davis Township Resolution (dated March 28, 2023).
- Logan Township Resolution (dated March 29, 2023).
- Shawnee Township Resolution (dated March 28, 2023).
- PowerPoint presentation given by Bill Jones, advisor for the Units, for each of the public hearings.

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

7. The notices of public hearings were published on February 2 and 9, 2023, in the *Fountain County Neighbor*. Both notices stated that the Units will hold public hearings on February 14, February 23, and March 17, 2023. The notices also state that the Units will vote on the establishment of the Territory after the third and final public hearing. *Fountain County Neighbor Publisher's Claim for the February 2, 2023 and February 9, 2023 public notice*.

8. Davis Township and Shawnee Township adopted their resolutions on March 28, 2023, to establish the Territory. The City of Attica adopted their ordinance and Logan Township adopted their resolution on March 29, 2023, to establish the Territory. *City of Attica Ordinance (dated March 29, 2023)*; *Davis Township Resolution (dated March 28, 2023)*; *Logan Township Resolution (dated March 29, 2023)*; *Shawnee Township Resolution (dated March 28, 2023)*.

9. The ordinance and resolutions state the following:

- The boundaries of the Territory will include the City and the Townships.
- The City will be identified as the provider unit.
- The participating units include the City and the Townships.
- The provider unit “will establish Fund 8604 Fire Territory Operating Fund from which all expense for operating and maintaining the fire protection services within the Fire Protection Territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred with the [Territory] shall be paid.”
- The Territory “will adopt a uniform tax rate upon all of the taxable property within the territory.”
- The Territory will not hold title to any equipment purchased by the Territory and property will be retained in the fire department using the equipment upon the dissolution of the Territory.
- The provider unit will establish an equipment replacement fund for the purpose of “purchas[ing] fire protection equipment, including housing, that will be used to serve the entire territory.”

*City of Attica Ordinance (dated March 29, 2023)*; *Davis Township Resolution (dated March 28, 2023)*; *Logan Township Resolution (dated March 29, 2023)*; *Shawnee Township Resolution (dated March 28, 2023)*.

10. The petition letter includes statements regarding the following:

- The need to create the Territory.
- The public hearings and the notices of the same.
- The proposed tax rates and levies for budget year 2024.
- Staffing levels and planned services.
- The details for each unit's ordinance or resolution.
- Impact of the Territory on local income tax distributions, excise/CVET distributions, and property tax caps in the county.

The Petition states that the “works cited” include:

- Memorandums – Department of Local Government Finance
- Fountain County 2023 Certified Budget Order
- 2023 Estimated Property Tax Cap Impact Report

- Estimated Miscellaneous Revenues for Budget Year 2023
- Calculation of Estimated Maximum Levy for Budget Year 2023
- 2023 Certified Local Income Tax Distributions – Fountain County
- 2022 Certified Local Income Tax Distributions – Fountain County
- Fountain County 2023 Taxing District Rates
- Indiana Code § 36-8-18 (Fire Territories)

*Petition.*

11. The PowerPoint presentations for the hearings on February 14, February 23, and March 17 included slides containing information related to the need for the Territory, tax impact, the needed budget for the Territory, and the proposed tax rates. *PowerPoint Presentation.*

### ANALYSIS

12. The City of Attica’s ordinance establishing the Territory was adopted by a vote of 4-0. *City of Attica Ordinance (dated March 29, 2023).* Davis Township’s resolution was adopted by a vote of 3-0. *Davis Township Resolution (dated March 28, 2023).* Logan Township’s resolution was adopted by a vote of 3-0. *Logan Township Resolution (dated March 29, 2023).* Shawnee Township’s resolution was adopted by a vote of 3-0. *Shawnee Township Resolution (dated March 28, 2023).*

13. The notices of public hearings state that the Units intend to adopt a uniform tax rate within the Territory. The notices also include the name of Bill Jones, serving as a consultant for the Units, as well as his phone number. Finally, the notices state the proposed tax rates and levies as follows:

Unit	Operating Fund		Building & Equipment Replacement Fund	
	Rate	Levy	Rate	Levy
Attica City	0.0983	\$126,573	0.0333	\$42,878
Logan Township	0.0983	\$42,763	0.0333	\$14,486
Davis Township	0.0983	\$52,008	0.0333	\$17,618
Shawnee Township	0.0983	\$63,715	0.0333	\$21,584
Totals		\$285,059		\$96,566
<hr/>				
Territory 2024 Budget		\$290,000		\$90,000

*Notices of public hearing.*

14. The ordinance and all three (3) resolutions state that, in addition to a uniform tax rate, the tax rate for the Territory’s operating fund will be “.0983 for all taxable property.” *City of Attica Ordinance (dated March 29, 2023); Davis Township Resolution (dated March 28, 2023); Logan Township Resolution (dated March 29, 2023); Shawnee Township Resolution (dated March 28, 2023).* The Department believes the Units intend the reader to interpret this as “\$0.0983 per \$100 of assessed valuation”, at least to those readers who are familiar with how property taxes are actually imposed; the Department will not assume that all readers of either the ordinance or the resolutions will be as familiar with it as the drafter of the documents. The Department cautions the Units about unintended consequences of stating an exact property tax rate in an ordinance or resolution. A property tax rate is a function of: (1) the certified net assessed value attributed to the fund for which the tax rate is imposed; and (2) the levy imposed for the fund. By stating that the tax rate is an exact number, it can be inferred that the Units intend to impose that tax rate every time they impose a property tax for the

Territory operating fund until both the ordinance and the resolutions are changed or repealed. However, a change in the net assessed value of taxable property in the Territory, or an increase in the maximum allowable levy for the Territory’s operating fund<sup>1</sup>, will change the resulting property tax rate. Should the Units adopt the Territory’s budget such that the adopted operating fund tax rate is any number but \$0.0983 per \$100 of assessed valuation, they will have done so in violation of the ordinance and the resolutions adopted.

15. The Units also provided a document entitled “Fire Territories in Indiana” which includes PowerPoint slides made by Bill Jones. The first twenty (20) slides of the PowerPoint introduce the concept of a fire protection territory, the concept of the maximum levy, the process of forming a fire protection territory, and the current taxing district tax rates. *PowerPoint Presentation.*

16. Slide 21 of the PowerPoint presentation includes the following expenses and amount for an operating budget:

<b>Personnel Costs</b>	132,000	Officers, part time day staff, fringe
<b>Operations</b>	80,066	Operating supplies, Fuel, Medical Supplies, Communications, Training, Volunteer Allowances
<b>Maintenance &amp; Repairs</b>	18,000	Preventative Maintenance, t[ruck]s, air compressor, Hurst tools, Repairs
<b>Safety</b>	29,934	SCBA testing, pump testing, ladder testing
<b>Capital</b>	30,000	Minor equipment purchases
<b>Total</b>	290,000	

*PowerPoint Presentation.*

17. Slide 24 of the PowerPoint presentation reiterates the proposed tax rates and levies as stated in the public notices, as well as the proposed levies for budget year 2024, as follows:

Unit	Operating Fund		Building & Equipment Replacement Fund	
	Rate	Levy	Rate	Levy
Attica City	0.0983	\$126,573	0.0333	\$42,878
Logan Township	0.0983	\$42,763	0.0333	\$14,486
Davis Township	0.0983	\$52,008	0.0333	\$17,618
Shawnee Township	0.0983	\$63,715	0.0333	\$21,584
Totals		\$285,059		\$96,566
Territory 2024 Budget		\$290,000		\$90,000

*PowerPoint Presentation.*

<sup>1</sup> Participating units are able to increase the maximum allowable levy for a fire protection territory under Ind. Code § 6-1.1-18.5-10.5.

18. While the PowerPoint presentation and the petition included information about the potential impact on non-property tax revenue, neither document indicates that the Units will use non-property tax revenue to fund the Territory.

19. The Units confirmed that the City has spent \$32,607 in property tax revenues from its general fund for fire expenses in 2023. *Petition.*

### CONCLUSION

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

21. The Department also finds that the Units have provided the Department with information sufficient to account for the Units' calculation of an initial maximum levy of \$290,000. Specifically, this figure reflects expenses for personnel costs (\$132,000); operations (\$80,066); maintenance and repairs (\$18,000); safety (\$29,934); and capital (\$30,000) ( $\$132,000 + \$80,066 + \$18,000 + \$29,934 + \$30,000 = \$290,000$ ).

22. Therefore, the Department **APPROVES** an initial maximum levy for the Territory operating fund in the amount of \$290,000 for Pay-2024. This figure does not include any dollars attributable to an equipment replacement fund.

23. For purposes of Ind. Code §§ 36-8-19-9 and 12, the certified 2023 Budget Order for Fountain County indicates that the Units each have the following funds from which fire protection services can be paid:

<b>Participating Unit</b>	<b>Fund Name</b>	<b>DLGF Fund Number</b>
Davis Township	Township Fire	1111
Logan Township	Township Fire	1111
Shawnee Township	Township Fire	1111
City of Attica	General	0101

24. Pursuant to Ind. Code §§ 36-8-19-9 and 12, the township fire funds for the respective Townships will be eliminated and its levy reduced to \$0. The City of Attica's civil maximum levy will be reduced by \$32,607.

25. The Units have also submitted an equipment replacement fund for certification under Ind. Code § 6-1.1-41. The equipment replacement fund will be disposed of in a separate order.

Dated this 15 day of September, 2023.

STATE OF INDIANA  
DEPARTMENT OF LOCAL GOVERNMENT FINANCE

A handwritten signature in black ink, appearing to read 'D. Shackle', written over a horizontal line.

**Daniel Shackle, Commissioner**