

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

**IN THE MATTER OF THE REQUEST)
OF WASHINGTON TOWNSHIP AND THE)
TOWN OF WILLIAMSPORT,)
WARREN COUNTY, FOR THE) IML22-004
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 Washington Township (“Township”) and the Town of Williamsport (“Town”), all in Warren 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 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 units 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 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 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 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 IC 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 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 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 IC 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 24, 2022, the Units 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:

- Petition to create the Territory, prepared by Bill Jones, consultant to Units.
- Powerpoint presentation by Bill Jones.
- Town Ordinance 2022-0328A.
- Town Ordinance 2022-0328B.
- Township Resolution.
- Proof of publication of the notice of public hearing.

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

7. The notice of public hearings was published on February 10, 2022, in the *Review Republican*. Both notices stated that the Town council and Township board will hold public hearings on February 24, March 3, and March 10, 2022. The notices also state that the Units will vote on the establishment of the Territory after the public hearings. *Review Republican Publisher's Claim for the February 10, 2022 public notice, Record pp. 16-19*.

9. The Town adopted an ordinance on March 28, 2022, and the Township adopted a resolution on March 30, 2022, to establish the Territory. *Town Ordinance 2022-0328A, Record pp. 20-21; Township Resolution, Record pp. 23-24.*

10. The ordinance and resolutions state the following:

- The boundaries of the Territory will include the Town and the Township.
- The Town will be identified as the provider unit.
- The participating units include the Town and the Township.
- 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[*sic*] will adopt a uniform tax rate upon all taxable property within the territory . . . to fund the [Territory] Operating Fund at .14 for all taxable property.”
- 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 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.”
- An executive board will be established and will have the responsibility of proposing a budget to the provider unit and defining operating procedures for Territory administration. The Town Council will appoint one member to the executive board, as specified in IC 36-8-19-6.9.

Town Ordinance 2022-0328A, Record pp. 20-21; Township Resolution, Record pp. 23-24.

11. The petition includes statements regarding the following:

- The need to create the Territory.
- The public hearings and the notices of same.
- The proposed tax rates and levies for budget year 2023.
- Staffing levels and planned services.
- Use of revenue for equipment.
- “Major content” of the ordinance and resolution.
- Impact of the Territory on local income tax distributions, excise/CVET distributions, and property tax caps in the county.
- The Town’s expenses from its general fund for fire services.

The Petition states the “works cited” include Department memoranda, reports, and orders, including the 2022 Certified Budget Order for Warren County, the 2022 Estimated Property Tax Cap Impact Report, the Estimated Miscellaneous Revenues for Budget Year 2022, the Calculation of Estimated Maximum Levy for Budget Year 2022, Certified Local Income Tax Distributions for Warren County for Budget Years 2021 and 2022, and Certified Taxing District Rates for Warren County in 2022. The Petition also cites to “IC 36-8-18[*sic*]” the chapter of the Indiana Code concerning fire protection territories. *Petition.*

12. The powerpoint presentation includes information related to the need for the Territory, tax impact, the needed budget for the Territory, and the proposed tax rates. *Powerpoint presentation, Record pp. 25-31.*

13. The Petition also indicates that in 2022, the Town used \$6,422 in property tax revenues for fire protection from its General Fund. *Record, p. 12.*

14. Finally, the Petition includes a copy of a Town ordinance establishing a Territory operating fund. *Town Ordinance 2022-0328B, Record, p. 22.*

ANALYSIS

14. Both public hearings state the Units intend to adopt uniform tax rates within the Territory. The notices also include the name of Bill Jones, serving as 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 and Equipment Replacement Fund	
	Rate	Levy	Rate	Levy
Washington Township	0.14	39,409	0.0333	9,374
Williamsport Town	0.14	76,053	0.0333	18,090
Total		115,462		27,464
Territory Budget 2023		120,00		29,000

Review Republican Publisher's Claim for the February 10, 2022 public notice, Record pp. 16-19.

15. The Town's ordinance establishing the Territory was adopted by a vote of 2-0. *Town Ordinance 2022-0328A, Record p. 20-21.* The Town Council has three (3) members, according to the Town's adopted 2022 budget ordinance. *Town's Budget Form 4, dated October 4, 2021.* The Township's resolution by was adopted a vote of 2-0. *Township Resolution, Record p. 23-24.*

16. Both the Town's ordinance and Township's resolution state that, in addition to a uniform tax rate, the tax rate for the Territory's operating fund will be ".14 for all taxable property." *Town Ordinance 2022-0328A; Township Resolution.* The Department believes the Units intend the reader to interpret this as "\$0.1400 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 not all readers of either the ordinance or resolution will be as familiar with it as the drafter of either document. 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, one infers 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 resolution 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 fund¹, 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 \$0.1400 per \$100 of assessed valuation, they will have done so in violation of this ordinance and resolution.

16. The Units also provide powerpoint slides made by Bill Jones. The first eighteen slides of the powerpoint introduce the concept of a fire protection territory, the concept of the maximum levy, and the process with forming a territory. *Powerpoint presentation, Record pp. 25-31.*

17. Slide 19 of the powerpoint presents the following expenses and amounts for an operating budget:

Operations	63,850	Operating supplies, Fuel, Medical Supplies Communications, Training, Volunteer Allowances
Maintenance & Repairs	21,350	Preventative Maintenance, trucks, air compressor[sic], Hurst tools, Repairs
Safety	6,750	SCBA testing, pump testing, ladder testing
Capital	28,050	Minor equipment purchases
Total	120,000	

Powerpoint presentation, Record pp. 25-31.

18. Slide 21 of the powerpoint reiterates the proposed tax rates and levies as stated in the public notices, but also including proposed levies for budget year 2024 and 2025, as follows:

Unit	Operating Fund		Building and Equipment Replacement Fund	
	Rate	Levy	Rate	Levy
Washington Township	0.14	39,409	0.0333	9,374
Williamsport Town	0.14	76,053	0.0333	18,090
Total		115,462		27,464
Territory Budget 2023		120,000		29,000
Territory Budget 2024		128,000		29,000
Territory Budget 2025		134,000		29,000

Powerpoint presentation, Record p. 28.

19. The Petition indicates that approximately \$20,275 in excise tax revenue and \$535 in CVET revenue will go to the Territory. *Record, p. 10.* The Units did not indicate that they will have an operating balance for the Territory.

¹ Participating units are able to increase the maximum allowable levy of a fire protection territory under 6-1.1-18.5-10.5.

20. The Units confirmed that the Town has spent \$6,422 in property tax revenues from its general fund for fire expenses in 2022. *Record, p. 12.*

CONCLUSION

21. In reliance on the Record as documented above, the Department finds that the Units complied with the procedural obligations under IC 36-8-19 in establishing the Territory. The Units, after publishing notices under IC 36-8-19-6(b) and within information required by IC 36-8-19-6(d), conducted the required number of public hearings and within the timeframe under IC 36-8-19-6(b). The Units showed at that they made the information required under IC 36-8-19-6(c) to available to the public. Finally, the Units also adopted identical ordinances within the timeframe required by IC 36-8-19-6(b) and that contain the information required under IC 36-8-19-6(e).

22. 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 \$99,190. Specifically, this figure reflects expenses for operations (\$63,850); maintenance and repairs (\$21,350); safety (\$6,750); and capital expenses (\$28,050) ($\$63,850 + \$21,350 + \$6,750 + \$28,050 = \$120,000$); less miscellaneous revenue ($\$20,275 + \$535 = \$20,810$) ($\$120,000 - \$20,810 = \$99,190$).

23. The Department hereby approves a Territory operating maximum levy of \$99,190 for Pay 2022. This figure does not include any dollars attributable to an equipment replacement fund.

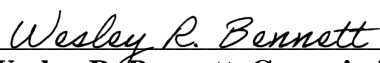
24. For purposes of IC 36-8-19-9 and 12, the certified 2022 Budget Order for Warren County indicates that the Units each have the following funds from which fire protection services can be paid:

Participating Unit	Fund Name	DLGF Fund Number
Washington Township	Township Fire	1111
Town of Williamsport	General	0101

25. Pursuant to IC 36-8-19-9 and 12, the township fire fund for the Township will be eliminated and its levy reduced to \$0. The Town of Williamsport's civil maximum levy will be reduced by \$6,422.

Dated this 28th day of July, 2022.

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE



Wesley R. Bennett, Commissioner