



Leavenworth County Fire District #1

111 East Kansas Street, Lansing, KS 66043

July 2, 2024

County of Leavenworth,
Board of County Commissioners
300 Walnut Street, Suite 225
Leavenworth, KS 66048-2815

Subject: Fire District No. 1 of Leavenworth County

Dear Commissioners: greetings!

Fire District No. 1 ("FD#1" or the "District") is at a crossroads in its life, with entity members—the City of Lansing and the Townships of Delaware and High Prairie—moving toward termination of their Interlocal Cooperation Agreement (ILA), effective at the end of 2024. The District's Trustees have used the delegated authority of the Board of County Commissioners ("BoCC") to *operate* the District over the past 21 years. That said, the Trustees believe that the authority to *create, alter, or disorganize* the Fire District remains with the BoCC and cannot be delegated, as a matter of law. Recent actions by the entities suggest it might be time for the first of what will likely be several interventions by you in 2024.

Recommendations. The FD#1 Board of Trustees recommends you take the following actions without delay:

1. Make a determination to exclude the City of Lansing and the Township of Delaware from the boundaries of Fire District No. 1, effective midnight, December 31, 2024.
2. Agree that the FD#1 ILA will terminate (vice partially terminate) upon the exit of the City of Lansing.
3. Reinforce to the City and Township entities that assets will be disposed and distributed, and liabilities apportioned, strictly pursuant to the terms of the ILA.
4. Direct the County Clerk to "zero-out" all FD#1 2025 budget and revenue actions and to issue instructions to the City and Township entities to submit independent fire protection budgets and revenue actions.

Background. The Interlocal Cooperation Agreement for FD#1 was signed by all parties and approved by the Kansas Attorney General on June 26, 2003. In more recent years, the City of Lansing made several attempts to exit the ILA and FD#1. This led to litigation between the entities that included a trial in District Court, an appeal to the Court of Appeals of the State of Kansas, and an appeal to the Supreme Court of the

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State of Kansas. The Supreme Court reversed lower court judgments, giving primacy to contracts in general and interlocal agreements in particular. The City of Lansing subsequently gave termination notice that satisfied the ILA and with an effective date of December 31, 2024.

Discussion. (Numbers correspond with associated recommendation above.)

1. Delaware Township has requested an exemption to the 18-month notice requirement of the ILA—seeking to exit in tandem with the City of Lansing at midnight, December 31, 2024. High Prairie Township has not yet agreed to the early release of Delaware Township from the ILA. K.S.A. 19-3602 authorizes the BoCC to act on its own motion regarding the limits and boundaries of a fire district. By excluding Delaware Township in particular, the BoCC would affirm that only High Prairie Township will remain in the rump FD#1 beginning January 1, 2025. (Note: High Prairie Township has requested to remain in FD#1 after other entities exit the ILA. The BoCC should explore with High Prairie Township the comparative advantages and disadvantages to continuing in a fire district or creating a township fire department. The tax implications of this decision are significant.)
2. As mentioned, Delaware Township requests an early release from the ILA. The City of Lansing concurs, but so far, High Prairie Township has demurred. The adverse consequences of failing to release Delaware Township from the ILA at the end of 2024 are significant. As Delaware Township notes, the combined assets the two townships would receive from the breakup of FD#1 would be insufficient to provide for adequate fire protection. Additionally, FD#1 would have to submit a 2025 budget covering Delaware Township, and associated 2025 tax revenues would flow into FD#1. K.S.A. 12-2904(d)(5) contemplates the possibility of an ILA having either a “partial or complete termination”, but the FD#1 ILA only states that “...any party may terminate this agreement...” There are no provisions in this ILA for a one-party withdrawal, and all parties should operate the ILA by its own terms. The FD#1 Trustees concur with Delaware Township in concluding that the ILA only works if all entities are present. (Note that as entities exit the ILA, their appointees to the FD#1 Board of Trustees cease to have standing.) A statement from the BoGC affirming the complete termination of the ILA upon the exit of the City of Lansing would provide needed clarity.
3. The FD#1 ILA has specific provisions for the disposition of property and the apportionment of liabilities between the parties. A statement from the BoCC affirming the clear terms of the ILA will help preclude entities from trying to leverage these assets and liabilities inappropriately.
4. The County, the City of Lansing, the two Townships, and FD#1 are all under the same statutory deadlines for producing budgets and assessing taxes. The first such deadline is imminent. The BoCC should direct the County Clerk to issue immediate and clear guidelines such that FD#1 submits no budget and levies no

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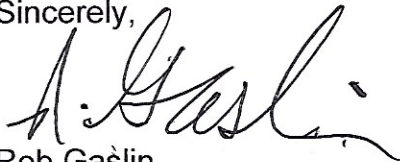
taxes for 2025. In parallel, the County Clerk should issue guidance to the City and two Townships to submit independent budgets and tax levies for 2025 fire protection. (As a practical matter, the City of Lansing and High Prairie Township are already doing this. Delaware Township is the entity still caught in the trap of uncertainty over their ILA status for 2025.) Failure to provide clear and immediate direction on this matter could have enormous adverse impact on the taxpayers in FD#1, on the ability of FD#1 to conduct its current mission, and on the ability of the entities to provide for their own fire protection services in 2025.

Conclusion. The FD#1 Trustees regret the pending breakup of the District. Our review of data and research from the National Fire Protection Association and the U.S. Fire Administration—combined with our own surveys of local and regional trends, plus exit interviews—all point to a dramatic decline in volunteer firefighters nationally (about 6% per year) and a substantial decrease in the number of people entering the pipeline for careers in firefighting. The governance trend nationally is toward greater consolidation (pooling of resources)—not less. More fire districts and fewer of the smaller, stand-alone fire departments. This does not mean the FD#1 entities can't or won't be successful; it just means they'll be moving against a powerful set of trends in manning the force. We also think there is substantial risk to current ISO ratings—which has public safety and insurance implications. In an alternative future, we could have imagined an expanded FD#1—with other entities joining to make more efficient and effective use of scarce resources. That said, the entities are free to chart their own course. For the rest of the year, FD#1 personnel will be fully engaged in providing current and essential emergency services to the District. We will try to assist the entities with their preparation for future operations as best we can, but our priority with our own limited resources is to our chartered mission.

Points of contact:

Administrative: Chief Michael Stackhouse 913-727-5844
Legal: Mr. Peter Robertson, Bateman Law Group 913-565-2998

Sincerely,



Rob Gaslin
Chairman, Board of Trustees
Leavenworth County Fire District No. 1

CF:

- Administrator, City of Lansing, KS
- Trustee, Delaware Township
- Trustee, High Prairie Township
- County Clerk, Leavenworth County, KS