

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

**IN THE MATTER OF THE REQUEST)
OF ADAMS TOWNSHIP, JORDAN)
TOWNSHIP, KENT TOWNSHIP, LIBERTY)
TOWNSHIP, PIKE TOWNSHIP, PINE)
TOWNSHIP, STEUBEN TOWNSHIP, AND) IML23-003
WARREN TOWNSHIP, WARREN COUNTY,)
FOR THE ESTABLISHMENT OF AN INITIAL)
MAXIMUM LEVY FOR THE PINE VILLAGE /)
WEST LEBANON FIRE PROTECTION)
TERRITORY)**

FINAL DETERMINATION

The Department of Local Government Finance (“Department”) has reviewed the request of Adams Township, Jordan Township, Kent Township, Liberty Township, Pike Township, Pine Township, Steuben Township, and Warren Township, all in Warren County and hereafter referred to as “Units”, for an initial operating maximum levy for the Pine Village / West Lebanon 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 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 a public hearing 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) The contents of the agreement to establish the territory.
- ii. Hold a public hearing, at least 30 days before adopting the ordinance or resolution, at which the legislative body makes 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.
- iii. Hold at least one additional public hearing before adopting an ordinance or a resolution to form a territory, to receive public comment on the proposed ordinance or resolution. The notice required for this hearing 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 30, 2021, the Units submitted to the Department a petition to create "the Pine Village / West Lebanon Fire [Protection] Territory." *Record, Adoption Legal Notice*. The petition included the following documents:

- A narrative explaining the background and the Territory's formation.
- A PowerPoint presentation for the public hearings.
- Procedural Checklist.
- Financial impact analysis.
- Petition letter.
- Proofs of publication of legal notices.
- Adams Township's adopting resolution.
- Jordan Township's adopting resolution.
- Kent Township's adopting resolution.
- Liberty Township's adopting resolution.
- Pike Township's adopting resolution.
- Pine Township's adopting resolution.
- Steuben Township's adopting resolution 2022-2.
- Warren Township's adopting resolution.

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

7. The notice of the public hearings was published on February 10, 2022, in *The Review Republican*. The notice stated the following:

- The Units will hold three (3) public hearings on February 23, March 2, and March 9, 2022. The public hearings will be held at the Pine Village Fire Station.
- The Units will vote on the establishment of the Territory after the third and final public hearing.
- Pine Township will act as the provider unit. Adams Township, Jordan Township, Kent Township, Liberty Township, Pike Township, Steuben Township, and Warren Township will act as participating units.
- There will be a uniform property tax rate within the territory.
- The first-year proposed budget, rate, and levy for the Territory, and the share of the levy and budget for each of the participating units.
- Persons seeking additional information may contact the West Lebanon Fire Department or Bill Jones.

The Review Republican Publisher's Claim for the February 10, 2022, public notice.

8. The Units adopted a resolution, on March 29, 2022, to establish the Pine Village / West Lebanon Fire Territory. *Adams Township Resolution; Jordan Township Resolution; Kent Township Resolution; Liberty Township Resolution; Pike Township Resolution; Pine Township Resolution; Steuben Township Resolution; Warren Township Resolution.*

9. The resolutions state the following:

- The boundaries of the Pine Village / West Lebanon Fire Protection Territory will include the following units in Warren County: Adams Township, Jordan Township, Kent Township, Liberty Township, Pike Township, Pine Township, Steuben Township, and Warren Township.
- Pine Township will be the provider unit. The remaining township will be participating units.
- The Fire Protection Territory Provider Unit [Pine Township] will establish Fund 8604 Fire Territory Operating Fund from which all expenses for operating and maintaining the fire protection services within the Territory will be paid, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred.
- The Territory will adopt a uniform tax rate within the territory for fire protection services to fund the Fire Protection Territory Operating Fund at \$0.07 for all taxable property.
- The Fire Protection Territory Provider Unit [Pine Township] will establish Fund 8692 Fire Territory Equipment Replacement Fund to be used to purchase fire protection equipment, including housing, that will be used to serve the entire territory.
- The Territory will establish the Equipment Replacement Fund at \$0.0333 for all taxable property.
- As of December 31, 2022, any funds in a participating unit's Fire Fund and Cumulative Fire Fund will be transferred to the Territory Equipment Replacement Fund.

- How property used for the Territory will be disposed of in the event of withdrawal from the Territory.
- Each township board will appoint one member to the Pine Village / West Lebanon Fire Protection Territory Board as specified under Ind. Code § 36-8-19-6.9.

Adams Township Resolution; Jordan Township Resolution; Kent Township Resolution; Liberty Township Resolution; Pike Township Resolution; Pine Township Resolution; Steuben Township Resolution; Warren Township Resolution.

10. The financial impact analysis included with the petition provides statements regarding the following:

- Analysis of projected local income tax distributions in 2024.
- Analysis of potential miscellaneous revenue including excise and commercial vehicle excise taxes.
- Analysis of projected property tax caps.

Record, pp. 8-14.

11. The Units also provided a set of slides made by Bill Jones, Tippecanoe Township (Tippecanoe County) Trustee, detailing the background information on fire protection territories and how a fire protection territory is formed. The presentation slides also detail the need for the Territory and the impact of the proposed Territory on local income tax distributions, miscellaneous revenue, and projected property tax caps. Mr. Jones stated that each Unit currently has a fire maximum levy, but each of them were never developed based on need.

Record, pp. 3; 39-47.

12. Subsequent to the adoption of the ordinances and resolutions to establish the Territory, the Units adopted resolutions to establish an equipment replacement fund. This fund was advertised in *The Review Republican* on March 17 and 24, 2022. These notices included similar information that was provided in the public hearing notice, but also included the date and time each township would meet to consider the establishment of a Fire Equipment Replacement Fund under Ind. Code § 36-8-19-8.5. The notice stated the following information regarding the township meetings:

- The Adams Township board will meet March 29, 2022, at 7:00 PM at the Pine Village Fire Station.
- The Jordan Township board will meet March 29, 2022, at 6:00 PM a Stewart Grain, 8217 W 300 N Williamsport.
- The Kent Township board will meet March 29, 2022, at 6:00 PM at 217 Washington Street, State Line.
- The Liberty Township board will meet March 29, 2022, at 7:00 PM at 4790 N Rocky Ford Road, Williamsport.
- The Pike Township board will meet March 29, 2022, at 7:00 PM at the West Lebanon Fire Department, 207 High Street, West Lebanon.
- The Pine Township board will meet March 29, 2022, at 6:00 PM at 2940 East SR 26, Pine Village.

- The Steuben Township board will meet March 29, 2022, at 7:00 PM at the West Lebanon Fire Department, 207 N High Street, West Lebanon.
- The Warren Township board will meet March 29, 2022, at 6:00 PM at 1533 N Liberty Street, Attica.

The Review Republican Publisher’s Claim for the March 17 and 24, 2022, public notice.

The Department will dispose of the equipment replacement fund in a separate and subsequent order.

ANALYSIS

13. Adams Township’s resolution was adopted by a vote of 3-0. *Adam Township Resolution.* Jordan Township’s resolution was adopted by a vote of 3-0. *Jordan Township Resolution.* Kent Township’s resolution was adopted by a vote of 3-0. *Kent Township Resolution.* Liberty Township’s resolution was adopted by a vote of 3-0. *Liberty Township Resolution.* Pike Township’s resolution was adopted by a vote of 3-0. *Pike Township Resolution.* Pine Township’s resolution was adopted by a vote of 2-0. *Pine Township Resolution.* Steuben Township’s resolution was adopted by a vote of 3-0. *Steuben Township Resolution.* Warren Township’s resolution was adopted by a vote of 3-0. *Warren Township Resolution.*

14. Indiana Code § 36-8-19-6 describes the process that participating units must follow to establish a fire protection territory. Neither that statute nor any other provision in Ind. Code § 36-8-19 requires the Department’s approval before the territory can come into existence. The Department, however, may decline to approve a maximum levy for the territory if the statutory process was not followed and thus the territory was not legally formed.

15. In support of their request for an initial maximum levy, the Units provide the following proposed budgets, rates, and levies:

Unit	Operating Fund		Building & Equipment Replacement Fund	
	Rate	Levy	Rate	Levy
Adams Township	\$0.07	\$29,151	\$0.0333	\$13,867
Jordan Township	\$0.07	\$39,361	\$0.0333	\$18,724
Kent Township	\$0.07	\$15,978	\$0.0333	\$7,601
Liberty Township	\$0.07	\$49,283	\$0.0333	\$23,445
Pike Township	\$0.07	\$17,548	\$0.0333	\$8,348
Pine Township	\$0.07	\$32,535	\$0.0333	\$15,477
Steuben Township	\$0.07	\$39,546	\$0.0333	\$18,813
Warren Township	\$0.07	\$31,867	\$0.0333	\$15,160
Territory Total		\$255,269		\$121,435

	Operating Fund	Building & Equipment Replacement Fund
2023 Territory Budget	\$265,000	\$130,000
2024 Territory Budget	\$275,600	\$130,000
2025 Territory Budget	\$286,000	\$130,000

Record, p. 5; 17.

Therefore, the Units propose a 2023 budget of \$265,000 for the Territory operating fund, funded at a rate of \$0.07 for each Unit. The Units also propose a budget of \$130,000 for the equipment replacement fund.

16. The Units represented that their initial max levy is based on an initial tax rate of \$0.07 and a purported initial budget of \$265,000 for the Territory operating fund. *Record, p. 5.* The Units did not represent the expected expenses for the Territory, including personnel services, capital outlays, etc. The Units represented the Territory will continue to be served by the Township volunteer fire department. *Record, p. 14.*

17. The Units represented that the \$0.07 tax rate for the operating fund and the \$0.0333 rate for the equipment replacement fund was set after “working with the fire departments and defining the budget.” *Record, p. 42.* A rate of \$0.07 is expected to yield \$255,269 in revenue to the Territory in 2023. The levy for the equipment replacement fund is not expected to change except by changes in assessed value for the Units. *Record, p. 18.* As part of their miscellaneous revenue analysis, the Units represent that the new maximum levy for the Territory will increase LIT distributions to each of the participating units by a total of \$146,404 in 2023:

Adams Township	\$16,547
Jordan Township	\$22,756
Kent Township	\$8,928
Liberty Township	\$28,340
Pike Township	\$9,937
Pine Township	\$18,974
Steuben Township	\$22,740
Warren Township	\$18,182

Record, p. 9; 44.

Likewise, the new maximum levy is expected to increase excise and CVET tax distributions to the Territory, and the Units have indicated this revenue would be dedicated as follows:

	Excise	CVET
Adams Township	\$2,564	\$215
Jordan Township	\$2,854	\$292
Kent Township	\$2,117	\$340
Liberty Township	\$5,831	\$498
Pike Township	\$3,458	\$273
Pine Township	\$7,275	\$344
Steuben Township	\$1,931	\$105
Warren Township	\$3,663	\$82

Record, p. 44.

18. Indiana Code 36-8-19-8(c) allows the provider unit to “maintain a reasonable balance, not to exceed one hundred twenty percent (120%) of the budgeted expensed.” For 2023, the Units represent that the Territory will have a budget of \$265,000 for the operating fund. Therefore, the Township can maintain an operating balance of \$318,000 ($\$265,000 * 1.2 = \$318,000$). Therefore, a levy of \$255,269 would be less than what the law allows the provider unit to have as an operating balance. Additionally, if the excise (\$29,693) and CVET (\$2,149) revenue is being dedicated to the Territory, the overall total would still be less than what the law allows the provider unit to have as an operating balance ($\$255,269 + \$29,693 + \$2,149 = \$287,111$). The Department assumes that LIT revenue would not be dedicated to the Territory, as doing so may bring the operating balance for the Territory above what is allowed by statute when added to the levy.

19. The Department finds that the Units have only provided as evidence of actual or planned expenses a proposed budget amount of \$265,000 for 2023. A levy of \$255,269, without the dedication of the excise and CVET revenues (\$31,842), would not be sufficient to fund the budgeted operations for the Territory in 2023.

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 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).

21. The Department hereby approves a Territory operating maximum levy of \$255,269 for Pay 2023. This figure does not include any dollars attributable to an equipment replacement fund.

22. For purposes of Ind. Code § 36-8-19-9 and Ind. Code § 36-8-19-12, the certified 2022 Budget Order for Warren County indicates that participating units have the following funds from which fire protection services can be paid:

Participating Unit	Fund Name	DLGF Fund Number
Adams Township	Township Fire	1111
Jordan Township	Township Fire	1111
Kent Township	Township Fire	1111
Liberty Township	Township Fire	1111
Pike Township	Township Fire	1111
Steuben Township	Township Fire	1111
Warren Township	Township Fire	1111

27. Pursuant to Ind. Code § 36-8-19-9 and Ind. Code § 36-8-19-12, the township fire fund for the participating units will be eliminated and its levy reduced to \$0.

Dated this 28th day of July, 2022.

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Wesley R. Bennett

Wesley R. Bennett, Commissioner