

**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 TOWN OF FRENCH LICK AND)
THE TOWN OF WEST BADEN SPRINGS,) IML23-005
ORANGE 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 Town of West Baden Springs and the Town of French Lick, all in Orange 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 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 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 April 7, 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.
- Minutes of public hearings.
- Interlocal agreement to form the Territory.
- Town of French Lick Ordinance 23-05.
- Town of West Baden Springs Ordinance 2023-2.
- Budget Forms 1, 2, and 4B.
- Powerpoint presentations given by Baker Tilly, financial advisor for the Units, for each of the public hearings.
- A list of "Planned Services, Staffing, and Capital Improvements."

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

7. The notices of public hearings were published on January 12 and 19, 2023, in the *Paoli-French Lick News-Herald*. Both notices stated that the Units will hold public hearings on January 24, February 7, and February 28, 2023. The notices also state that the Units will vote on the establishment of the Territory on March 15, more than ten (10) days after the third and final public hearing. *News-Herald Publisher's Claim for the January 12, 2023 public notice*.

8. Both Units adopted their own ordinances on March 15, 2023, to establish the Territory. *Town of French Lick Ordinance 23-05; Town of West Baden Springs Ordinance 2023-2.*

9. Both ordinances state the following:

- The Territory is created under the terms of an interlocal agreement, incorporated by reference into the ordinances.
- The boundaries of the Territory will extend to the municipal boundaries of both the Town of French Lick and the Town of West Baden Springs.
- The Town of French Lick is identified as the provider unit.
- The participating units include the Town of French Lick and the Town of West Baden Springs.
- The Territory shall have a uniform rate upon all taxable property in the Territory.
- The Town of West Baden Springs will participate in annual budgeting and rate establishment for the Territory.

Town of French Lick Ordinance 23-05; Town of West Baden Springs Ordinance 2023-2.

10. The petition letter includes statements regarding the following:

- The need to create the Territory.
- The Town of French Lick as the provider unit.
- A request for a maximum levy of \$1,144,031 for pay-2024, which is expected to grow in subsequent years by the maximum levy growth quotient.
- The Town of French Lick funds fire services through casino revenue and a public safety LIT. The Town of West Baden Springs’s fire services are funded through a general fund levy.
- The Town of West Baden Springs’s fire services budget constitutes approximately 5.5% of its overall general fund budget.
- The Town’s expenses from its general fund for fire services.

Cover Letter.

11. The powerpoint presentations for the hearings on the January 24, February 7, and February 28 include slides containing information related to the need for the Territory, tax impact, the needed budget for the Territory, and the proposed tax rates. *Powerpoint presentations.*

ANALYSIS

12. The Town of French Lick’s ordinance establishing the Territory was adopted by a vote of 4-1. *Town of French Lick Ordinance 23-05.* The Town of West Baden Springs’s ordinance was adopted a vote of 3-0. *Town of West Baden Springs Ordinance 2023-2.*

13. The notices of public hearings state that the proposed tax rates and levies as follows:

Proposed Budget	2024	2025	2026
Fire Operating	\$1,092,081	\$1,134,872	\$1,178,924
Fire Territory Equipment and Replacement	\$41,475	\$41,475	\$41,475
Totals	\$1,133,556	\$1,176,147	\$1,220,399
Proposed Property Tax Levy	2024	2025	2026
Fire Operating	\$1,144,031	\$1,080,647	\$1,122,734

Fire Territory Equipment and Replacement Totals	\$39,500 \$1,183,531	\$39,500 \$1,120,147	\$39,500 \$1,162,234
Proposed Uniform Property Tax Rate	2024	2025	2026
Fire Operating	\$0.9642	\$0.9108	\$0.9463
Fire Territory Equipment and Replacement Totals	\$0.0333 \$0.9975	\$0.0333 \$0.9441	\$0.0333 \$0.9796
Units Share of Levy Based on Net Assessed Value	2024	2025	2026
Town of French Lick	\$884,034	\$836,690	\$868,127
Town of West Baden Springs	\$299,497	\$283,457	\$294,107
Totals	\$1,183,531	\$1,120,147	\$1,162,234

Notices of public hearing.

14. The Units purport that fire services will continue in the existing service area, but will expand by adding department-wide training for EMT’s, trench/confined space rescues, other emergency rescues, HAZMAT, and Basic Life Support transport, including appropriate equipment. The Units state that they plan to hire six (6) full-time firefighters and raise salaries for the fire chief and part-time firefighters. *Planned Services, Staffing, and Capital Improvements.*

15. The draft Form 1 for the Territory represents that the operating fund will be used for payment of a contract (\$1,019,350) and vehicles (\$72,731). No further detail was given. The amounts total \$1,092,081 (\$1,019,350 + \$72,731 = \$1,092,081). The Form 1 also represents the equipment replacement fund will be used for “other capital outlays” (\$43,155). *Budget Form 1.* The draft Form 2 represents the Units estimate \$57,258 from vehicle excise tax revenue will be used for the Territory operating fund in 2023. *Budget Form 2.*

16. Ind. 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 expenses.” This should be understood as the budgeted amount for a given year plus 20%. For 2024, the Units represent that the Territory will have a budget of \$1,092,081 for the operating fund. Therefore, the Township can maintain a general fund balance of \$1,310,497 ($\$1,092,081 \times 1.2 = \$1,310,497$). Therefore, a levy of \$1,144,031 would be less than what the law allows the provider unit to have as a cash balance. The projected 2024 year-end balance is \$51,950. If the projected miscellaneous revenue (\$57,258) is being dedicated to the Territory, the overall total – including the projected year-end balance – would still be less than what the law allows the provider unit to have as an operating balance ($\$1,144,031 + \$51,950 + \$57,258 = \$1,253,239$). The Department assumes that any 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.

17. The draft Form 4B for the Territory represents that at the end of calendar year 2024, the Territory operating fund cash balance will be -\$124,728. This is based on an initial levy of \$1,144,031, less circuit breaker impact (\$233,936), plus miscellaneous revenue (\$57,258), less planned expenses (\$1,092,081) ($\$1,144,031 - \$233,936 + \$57,258 - \$1,092,081 = -\$124,728$). *Budget Form 4B.* The Form 4B also represents an estimated net assessed value of the Territory of \$123,289,991 and an operating fund tax rate of \$0.9279, to generate the initial levy. ($(\$123,289,991 / \$100) \times \$0.9279 = \$1,144,007$)

CONCLUSION

18. 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).

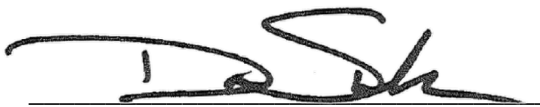
19. The Department also finds that the Units have provided the Department with information sufficient to account for the Units' calculation of an initial maximum levy of \$1,086,773. Specifically, this figure reflects a projected year-end balance (\$51,950); payment of a contract (\$1,019,350) and vehicles (\$72,731); less non-property tax revenue (\$57,258) ($\$1,019,350 + \$72,731 + \$51,950 = \$1,144,031$; $\$1,144,031 - \$57,258 = \$1,086,773$).

20. Therefore, the Department **APPROVES** an initial maximum levy for the Territory operating fund in the amount of \$1,086,773 for Pay-2024. This figure does not include any dollars attributable to an equipment replacement fund.

21. For purposes of Ind. Code § 36-8-19-9 and 12, the civil maximum levy for the Town of West Baden Springs will be reduced by \$14,794. This is based on the amount reported by the Units as the Town of West Baden's general fund expenses for fire services in Pay-2023.

Dated this 14 day of July, 2023.

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE



Daniel Shackle, Commissioner