

FLOYD COUNTY RESOLUTION 2006 - III

**A RESOLUTION ESTABLISHING THE NEW ALBANY
TOWNSHIP FIRE PROTECTION DISTRICT**

WHEREAS Indiana Code 36-8-11 *et seq* authorizes a “county legislative body” to establish a Fire Protection District for the purposes of fire protection and fire prevention, and for purposes related to fire prevention and fire protection, and

WHEREAS the Board of Floyd County Commissioners is a county legislative body, and

WHEREAS certain freeholders – defined by Indiana Code 36-8-112-2 as “individuals who hold land in fee, for life, or for indeterminate period of time” – of New Albany Township outside of the Civil City of New Albany Indiana desire the establishment of a fire protection district in and for New Albany Township outside of the city limits of the Civil City of New Albany and have circulated a petition in favor of the establishment of a fire protection district in and for New Albany Township outside of the Civil City of New Albany, and

WHEREAS the freeholders’ signed petition has been filed in the office of the Auditor of Floyd County, the auditor of the county where the freeholders’ land is located, and

WHEREAS the Auditor of Floyd County presented the freeholders’ signed petition to the Board of Floyd County Commissioners at its regularly scheduled meeting on January 17, 2006 and certified to the Floyd County Commissioners that 702 of the 718 signatories are indeed freeholders within New Albany Township outside of the Civil City of New Albany, and

WHEREAS the Board of Floyd County Commissioners has determined that 702 freeholders constitutes at least 20% of the freeholders of New Albany Township outside of the Civil City of New Albany [see Indiana Code 36-8-11-5(b)], and

WHEREAS the Board of Floyd County Commissioners has, determined that the signed, filed petition contains those elements required by Indiana Code 36-8-11-7, to wit:

- 1) a name for the proposed district that distinguishes the district from all other political subdivisions within or contiguous to the area included within the district,
- 2) a description of the territory to be included sufficiently accurate to inform the county legislative body and to apprise landowners of the possibility of the inclusion of their land within the district,
- 3) a statement of the purposes for which the district is proposed to be established,
- 4) a statement of the necessity and urgency of accomplishing the purposes,
- 5) a statement that the creation of the district will be conducive to the public health, safety and welfare, including a summary of the advantages to be derived from the creation of the district,

benefits derived, and

7) whether the petition is conditioned upon a grant of state or federal monies and what conditions may be imposed by the acceptance of such state or federal grant monies, and

WHEREAS the Board of Floyd County Commissioners has generally determined that the freeholders' signed, filed petition conforms to all the requirements of Indiana Code 36-8-11 *et seq*, and

WHEREAS, the Board of County Commissioners has determined that the area to be encompassed within the proposed New Albany Township Fire Protection District is one contiguous geographic area, with no part separate from any other part, with no municipality included within the proposed fire protection district (or with any municipality included within the proposed fire protection district having consented by ordinance to being included in the proposed fire protection district, or with a majority of the freeholders within that municipality having petitioned to be included in the proposed fire protection district [see Indiana Code 36-8-11-4], and

WHEREAS no petition against the establishment of the fire protection district signed by 51% of the freeholders (or freeholders holding 2/3 of the real property) within the proposed district has been presented to the Board of Floyd County Commissioners,

IT IS THEREFORE RESOLVED BY THE BOARD OF FLOYD COUNTY COMMISSIONERS AS FOLLOWS:

- Section 1. The Board of Floyd County Commissioners does hereby establish a Fire Protection District in and for New Albany Township, outside of the city limits of the Civil City of New Albany, Indiana
- Section 2. The Fire Protection District shall be known as the "New Albany Township Fire Protection District."
- Section 3. The purpose of the New Albany Township Fire Protection District is to protect the persons and property within New Albany Township but outside of the Civil City of New Albany from fire and potential fire hazards.
- Section 4. It shall be the duty of the New Albany Township Fire Protection District to provide sufficient firefighting manpower, and sufficient firefighting equipment, education and training for its firefighters to fulfill the purpose of the fire district.
- Section 5. The New Albany Township Fire Protection District is authorized to enter into reciprocal agreements with neighboring fire protection districts to give and receive firefighting aid in the form of manpower and equipment when requested.
- Section 6. The New Albany Township Fire Protection District is also authorized to render and receive aid to and from neighboring districts even without a reciprocal agreement in the event of extreme fire emergencies.
- Section 7. The New Albany Township Fire Protection District is additionally authorized to

provide fire prevention and safety education to the public at large.

- Section 8. The Board of Floyd County Commissioners shall, within 30 days of the date of the adoption of this Resolution, appoint a Board of Fire Trustees for the New Albany Township Fire Protection District to carry out the purposes and functions for which the fire protection district was created.
- Section 9. The Board of Fire Trustees for the New Albany Township Fire Protection District shall consist of 3 Fire Trustees, qualified by knowledge and experience in matters pertaining to fire protection and prevention and related activities in the district. The 3 Fire Trustee shall be selected from three different parts of the township but all outside of the city limits of the Civil City of New Albany.
- Section 10. No person who is a party to any contract with the Fire Protection District may serve as a Fire Trustee on the Board of Fire Trustees of the New Albany Township Fire Protection District; no person who is director, shareholder, partner, member or employee of any corporation, partnership, limited liability company or other association may serve as a Fire Trustee on the Board of Fire Trustees of the New Albany Township Fire Protection District.
- Section 11. The term of office for each Trustee shall be for 4 years, except that the terms of the Fire Trustees on the initial Board of Fire Trustees. The terms of the Fire Trustees on the initial Board of Fire Trustees shall be staggered with one Fire Trustee being appointed for 1 year, one Fire Trustee appointed for 2 years and one Fire Trustee appointed for 3 years.
- Section 12. If a vacancy occurs on the Board of Fire Trustees the Board of Floyd County Commissioners shall appoint a successor Fire Trustee for the unexpired term to Fire Trustee whose term is being filled.
- Section 13. The Board of Fire Trustees for the New Albany Township Fire Protection District shall meet at least once a quarter in the months of January, April, July and October. The Board of Floyd County Commissioners may order that meetings be held more frequently. Special meetings of the board may be called by the Chairman of the Board of Fire Trustees or by any two Fire Trustees by making a written request to the Secretary of the Board of Fire Trustees who shall send written notice of the date, time and pace of the special meeting too all Fire Trustees on the Board of Fire Trustees - unless all Fire Trustees were present when a special meeting was called.
- Section 14.
- (a) At the first regular meeting each year, the Fire Trustees on the Board of Fire Trustees of the New Albany Township Fire Protection District shall elect a Chairman, a Vice Chairman and a Secretary from their number. The Vice Chairman shall act as Chairman during the absence or disability of the Chairman.
 - (b) A majority of the Fire Trustees constitutes a quorum. An action of the

board is official if it is authorized by a majority of the Fire Trustees at a regular or properly called special meeting.

- (c) Each Fire Trustee is entitled to receive compensation, but may receive not more than \$20.00 per day, for each day devoted to the work of the Fire Protection District. In addition, each Fire Trustee may be reimbursed for actual expenses, including travel expenses at a rate approved by statute for state employees. Claims for reimbursement of such expenses must be accompanied by an itemized written statement and approved by a recorded motion of the Board of Fire Trustees.
- (d) The Board of Floyd County Commissioners shall direct where the board will maintain its offices, which may not be changed without the prior approval of the Board of Floyd County Commissioners. The board shall arrange for its own office space and shall keep a record of all transactions and minutes of all meetings in the office. All records and minutes shall be available for public inspection.

Section 15.

- (a) The board:
 - (1) shall have the same powers and duties as a township executive with respect to fire protection functions, including those duties and powers prescribed by IC 36-8-13, although all cooperative and joint actions permitted by that chapter must be undertaken according to this chapter;
 - (2) shall have the same powers and duties as a township executive relative to contracting with volunteer firefighting companies, as prescribed by IC 36-8-12 and IC 36-8-13;
 - (3) shall appoint, fix the compensation, and prescribe the duties of a fiscal officer, secretarial staff, persons performing special and temporary services or providing legal counsel, and other personnel considered necessary for the proper functioning of the district; however, a person appointed as fiscal officer must be bonded by good and sufficient sureties in an amount ordered by the county legislative body to protect the district from financial loss;
 - (4) shall exercise general supervision of and make regulations for the administration of the district's affairs;
 - (5) shall prescribe uniform rules pertaining to investigations and hearings;
 - (6) shall supervise the fiscal affairs and responsibilities of the district;
 - (7) may delegate to employees of the district the authority to perform ministerial acts, except in cases in which final action of the board is necessary;
 - (8) shall keep accurate and complete records of all departmental

proceedings, record and file all bonds and contracts, and assume responsibility for the custody and preservation of all papers and documents of the district;

- (9) shall make an annual report to the executive and the fiscal body of the county that at least lists the financial transactions of the district and a statement of the progress in accomplishing the purposes for which the district has been established;
- (10) shall adopt a seal and certify all official acts;
- (11) may contract or sue or be sued collectively by its legal name ("Board of Fire Trustees, New Albany Township Fire Protection District"), with service of process made on the chairman of the board, but costs may not be taxed against the members individually in an action;
- (12) may invoke any legal, equitable, or special remedy for the enforcement of this chapter or of proper action of the board taken in a court;
- (13) shall prepare and submit to the fiscal body of the county an annual budget for operation and maintenance expenses and for the retirement of obligations of the district, subject to review and approval by the fiscal body;
- (14) may, if advisable, establish one (1) or more advisory committees;
- (15) may enter into agreements with and accept money from a federal or state agency and enter into agreements with a municipality located within or outside the district, whether or not the municipality is a part of the district, for a purpose compatible with the purposes for which the district exists and with the interests of the municipality;
- (16) may accept gifts of money or other property to be used for the purposes for which the district is established;
- (17) may levy taxes at a uniform rate on the real and personal property within the district;
- (18) may issue bonds and tax anticipation warrants;
- (19) may incur other debts and liabilities;
- (20) may purchase or rent property;
- (21) may sell services or property that are produced incident to the operations of the district making a fair and reasonable charge for it;
- (22) may make contracts or otherwise enter into agreements with public or private persons and federal or state agencies for construction, maintenance, or operations of or in part of the district;
- (23) may receive and disburse money; and
- (24) may impose a false alarm fee or service charge under IC 36-8-13-4

- (b) Powers granted by this section may be used only to accomplish the purpose or purposes as stated in this resolution establishing the district. However, an act of the board necessary and proper to accomplish the purposes for which the district is established is not invalid because it incidentally accomplishes a purpose other than one for which the district is established. Section 16. All the real property within a fire protection district constitutes a taxing district for the purpose of levying taxes to pay for the construction, operation, and maintenance of district programs and facilities. A tax levied must be levied at a uniform rate upon all taxable property within the district. A fire protection district is a municipal corporation within the meaning of the Constitution of Indiana and all general statute

Section 16. All the real property within the New Albany Township Fire Protection District - being all real property within New Albany Township but outside the city limits of the Civil City of New Albany, Floyd County - constitutes a taxing district for the purpose of levying taxes to pay for the construction, operation and maintenance of district programs and facilities. A tax levied must be levied at a uniform rate upon all taxable property within the fire protection district. A fire protection district is a municipal corporation within the meaning of the Constitution of the State of Indiana and all general statutes.

Section 17. Bonds may be issued only against the taxable property of a fire protection district and may be paid in part by revenues derived from reasonable charges for services or property produced incident to the operation of the district. Bonds shall be issued in the same manner as conservancy district bonds are issued under IC 14-33-11

Section 18.

- (a) The board shall annually budget the necessary money to meet the expenses of operation and maintenance of the district, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, bond redemption, and all other expenses lawfully incurred by the district. After estimating expenses and receipts of money, the board shall establish the tax levy required to fund the estimated budget.
- (b) The budget must be approved by the fiscal body of the county, the county board of tax adjustment, and the department of local government finance.
- (c) Upon approval by the department of local government finance, the board shall certify the approved tax levy to the auditor of the county having land within the district. The auditor shall have the levy entered on the county treasurer's tax records for collection. After collection of the taxes the auditor shall issue a warrant on the treasurer to transfer the revenues collected to the board, as provided by statute.

- Section 19. The department of local government finance, when approving a rate and levy fixed by the board, shall verify that a duplication of tax levies does not exist between a fire protection district and a municipality or township within the boundaries of the district, so that taxpayers do not bear two (2) levies for the same service, except as provided by section 20.
- Section 20. A unit that incurred indebtedness for fire protection services before the establishment of a fire protection district under this chapter shall continue to repay that indebtedness by levies within the boundaries of the unit until the indebtedness is paid in full.
- Section 21. This Resolution does not require any municipality or township to disband its fire department unless its legislative body consents by ordinance.
- Section 22. In conformity with Indiana Code 36-8-11-22 any area that is part of a fire protection district and is annexed by a municipality that is not a part of the district ceases to be a part of the fire protection district when the municipality begins to provide fire protection services to the area.
- Section 23. After a sufficient appropriation for the purchase of firefighting apparatus and equipment, including housing, is made and is available, the district's fiscal officer, with the approval of the board and the county fiscal body, may purchase the firefighting apparatus and equipment for the district on an installment conditional sale or mortgage contract running for a period not exceeding:
- (1) six (6) years; or
 - (2) fifteen (15) years for a district that:
 - (A) has a total assessed value of sixty million dollars (\$60,000,000) or less, as determined by the department of local government finance; and
 - (B) is purchasing the firefighting equipment with funding from the:
 - (i) state or its instrumentalities; or
 - (ii) federal government or its instrumentalities. The purchase shall be amortized in equal or approximately equal installments payable on January 1 and July 1 each year.

Section 24.

- (a) In conformity with Indiana Code 36-8-11-27 the New Albany Township Fire Protection District shall pay for the care of a full-time, paid firefighter who suffers:
 - (1) an injury; or
 - (2) contracts an illness; during the performance of the firefighter's duties.
- (b) The fire protection district shall pay for the following expenses incurred by a firefighter described in subsection (a):
 - (1) Medical and surgical care.
 - (2) Medicines and laboratory, curative, and palliative agents and means.
 - (3) X-ray, diagnostic, and therapeutic service, including service provided during the recovery period.
 - (4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.
- (c) Expenditures required by subsection (a) shall be paid from the fund used by the fire protection district for payment of the costs attributable to providing fire protection services in the fire protection district.
- (d) A fire protection district that has paid for the care of a firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the firefighter has a cause of action for:
 - (1) an injury sustained because of; or
 - (2) an illness caused by; the third party. The fire protection district's cause of action under this subsection is in addition to, and not instead of, the cause of action of the firefighter against the third party.

Section 25. A copy of this resolution, upon its passage and adoption, shall be certified to the following:

- (a) The Auditor of Floyd County,
- (b) The Recorder of Floyd County,
- (c) The Township Trustee of New Albany Township

ADOPTED THIS 7th DAY OF FEBRUARY, 2006.

BOARD OF FLOYD COUNTY COMMISSIONERS

Charles Freiburger, President

John C. Reiser
John Reiser, County Commissioner

Steve A. Bush
Steve Bush, County Commissioner

ATTEST:

Teresa Plaiss
Teresa Plaiss,
Auditor of Floyd County