



# INDIANA STATE BOARD OF EDUCATION

**TO:** Indiana State Board of Education  
**FROM:** Timothy Schultz, General Counsel—Indiana State Board of Education  
**RE:** West Clark School Corporation Reorganization Request  
**DATE:** November 6, 2019

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## Introduction

The West Clark School Corporation (“West Clark”) has submitted a request to reorganize (“Reorganization Plan”) to the Indiana State Board of Education (“Board”) pursuant to IC 20-23-4-38(b). The Reorganization Plan<sup>1</sup> seeks Board approval to subdivide West Clark into two separate entities—Silver Creek School Corporation (“Silver Creek”) and Borden-Henryville School Corporation (“Borden-Henryville”). This memorandum provides 1) a brief history of school corporation reorganization in Indiana, 2) West Clark’s rationale for submitting the Reorganization Plan, and 3) the statutory and Board mandated requirements of reorganization requests, which includes a financial review of the Reorganization Plan, an examination of the educational opportunities generated by the Reorganization Plan, a summary of local community interest, and whether the new school corporations satisfy mandatory structural requirements.

Before considering West Clark’s Reorganization Plan, it is important to note that IC 20-23-4-1 defines the General Assembly’s policy and intention governing all school corporation reorganizations as **“the establishment and maintenance of a general, a uniform, and an efficient system of public schools is the traditional and current policy of the state... provid[ing] a more equalized educational opportunity for public school students... achiev[ing] greater equity in school tax rates among the existing school corporations... [and] provid[ing] a more effective use of the public funds expended for the support of the public school system.”** Furthermore, the Board’s analysis of any such request is guided by the statutory mandate that the reorganization must **“furnish efficient and adequate educational opportunity for all students.”**<sup>2</sup>

As detailed in the subsequent sections of this memorandum, the following key findings are instructive for considering West Clark’s Reorganization Plan.

1. The Reorganization Plan definitely asserts that the reorganization will benefit the affected communities as it will permit school corporation administration decisions that better reflect individual community objectives and concerns;
2. Based on the financial review conducted by the Department of Local Government Finance (“DLGF”) and the Indiana Department of Education (“IDOE”), it appears that the plan is unlikely to generate cost savings, and more probable to result in cost increases for the divided school corporations. Further, numerous concerns were raised regarding the overall financial viability of the plan due to several factors, such as declining student enrollment and budget projections that could not be verified; and
3. West Clark’s contention that the reorganization will maintain and/or increase educational opportunities for all students does not appear to be supported by the financial analysis or claims of future cooperation between the separated entities, nor has a contingency option been offered by West Clark if cooperation is not forthcoming.

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<sup>1</sup> Attached as Exhibit 1. For purposes of the Board’s consideration of the Reorganization Plan, all subsequent materials provided by West Clark, the DLGF, and IDOE are incorporated by reference.

<sup>2</sup> IC 20-23-4-18(b).

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## **I. History of Public School Reorganization in Indiana<sup>3</sup>**

The Indiana School Reorganization Act of 1959 (the “1959 Act”), which ultimately was responsible for reducing the number of Indiana's local school districts from 966 to under 400, provided the authorization and procedure for reducing the number of local school districts through consolidation, the purpose being to provide more equalized educational opportunities for publicly enrolled students in grades 1-12 in the school corporations of Indiana. In summary, the 1959 Act required each county to form a County Committee for the Reorganization of School Corporations (the “County Committee”) which was responsible for preparing a preliminary plan of reorganization supported by studies and surveys. After public hearings and receiving comments, the County Committee was required to submit a final plan for reorganization to the State Commission for the Reorganization of School Corporations for approval.

Upon approval of a reorganization plan by the State Commission, a community school corporation provided for in the plan could be established by filing an appropriate petition with the clerk or clerks of the circuit court or courts of the county or counties where the voters reside signed by at least 55% of the registered voters in the boundaries of the new school corporation. If the County Committee did not receive a petition with 55% of the registered voters in the boundaries of the new school corporation within 90 days of receiving the approved plan from the State Commission, a special election was noticed and held for the purpose of allowing the affected voters to vote on the approved reorganization plan. If the plan should be rejected, the County Committee could re-submit it at the next general election or could devise a new plan.

West Clark was created as part of the Clark County Comprehensive Plan submitted to and approved by the State Commission on August 1, 1967, and by the voters in the fall election. As required by the 1959 Act, the County Committee was dissolved, and the duties of the State Commission devolved on the State Board of Education.

## **II. West Clark’s Rationale for the Reorganization Plan.**

According to West Clark’s Reorganization Plan, it achieves a critical education need—the need to eliminate internal competition for resources. West Clark asserts that since the mandatory reorganization in the 1960’s that consolidated three communities (Borden; Henryville; and Silver Creek Township) into one school corporation, three communities with divergent educational perspectives have chafed under one school corporation governing body. Various solutions have been proposed to unify the communities, but none have succeeded. Instead, West Clark contends that the communities would prefer to retain more autonomy to pursue different educational goals.

The most immediate catalyst that led to the submission of the Reorganization Plan to the Board appears to be the recent (2017) opposition to West Clark’s \$95 million capital projects referendum. West Clark’ plan represents that this opposition was largely driven by residents of Borden and Henryville, which resulted in the defeat of the ballot measure. The referendum was intended to fund construction and program improvements to Silver Creek schools that would have serviced growing needs caused by enrollment growth. After the referendum was denied during a

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<sup>3</sup> See Attached Exhibit 7, Formal Indiana Attorney General Advisory Opinion, requested by Board legal counsel, 2018 Ind. Op. Att’y Gen. No. 11 (Nov. 13, 2018).

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local election, the West Clark Board of Trustees unanimously voted to move forward with Reorganization Plan now before the Board for consideration. If the Reorganization Plan is approved by the Board, and subsequently by the West Clark residents in the next election, Silver Creek would encompass 2,900 students while Borden-Henryville will include 1,700 students.<sup>4</sup>

### **III. Statutory and Board Mandated Requirements of a Reorganization Plan Submitted to the Board by a School Corporation pursuant to IC 20-23-4-38(b).**

A school corporation must obtain Board approval of a reorganization<sup>5</sup> request before it can formally adopt and implement a proposed reorganization.<sup>6</sup> If the Board approves a reorganization plan, the Board shall give written notice of the approval to the requesting school corporation and the circuit court of the county in which the school corporation is located.<sup>7</sup> After notice is given, the reorganization request must still be approved by a petition, as outlined in IC 20-23-4-20, by a local election pursuant to the requirements contained in IC 20-23-4-21, or as permitted by IC 20-23-4-22 if the reorganization does not alter the boundaries of the existing school corporation.

In order to properly submit a request for Board consideration and approval, the plan must satisfy a number of statutory requirements. Pursuant to IC 20-23-4-12(c), any reorganization request submitted to the Board must identify the educational improvements the plan's adoption will make possible. Further, the request must include any other data or information the school corporation considers appropriate. In addition to identifying the educational improvement, the reorganization request must provide the name of the reorganized school corporation(s), as well as a general description of the boundaries of the school corporation.<sup>8</sup> If the boundaries do not follow the boundary of an existing civil unit of government or school corporation, the description must set out the boundary as near as reasonably possible by streets, rivers, other similar boundaries.<sup>9</sup> If the previous descriptions are not possible, by section lines or other legal descriptions.<sup>10</sup> Furthermore, the Board adopted additional standards in December of 2018, which expanded on the minimum statutory requirement set forth in IC 20-23-4-12. These requirements can be summarized into the following general categories: 1) the financial viability of the proposed reorganization, 2) the educational benefits that will be obtained through the proposed reorganization, and 3) the local community's interest in the proposed reorganization.

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<sup>4</sup> Justin Sayers, *After divisive vote, West Clark schools want to do what hasn't been done before: Split up*, LOUISVILLE COURIER-JOURNAL, November 22, 2017, available at <https://www.courier-journal.com/story/news/local/Indiana/2017/11/22/silver-creek-schools-leave-west-clark-district-indiana/865793001/> (last visited November 2, 2018).

<sup>5</sup> IC 20-23-4-7 defines "reorganization of school corporation" as:

As used in this chapter, "reorganization of school corporations" means the formation of new school corporations, the alteration of the boundaries of established school corporations, and the dissolution of established school corporations by:

- (1) the uniting of two (2) or more established school corporations;
  - (2) the subdivision of one (1) or more school corporations;
  - (3) the transfer to a school corporation of a part of the territory of one (1) or more school corporations;
  - (4) the attachment to a school corporation of all or part of the territory of one (1) or more school corporations;
- and
- (5) any combination of the methods listed in subdivisions (1) through (4).

<sup>6</sup> IC 20-23-4-37.

<sup>7</sup> IC 20-23-4-20.

<sup>8</sup> IC 20-23-4-12(a); IC 20-23-4-16(1)-(2).

<sup>9</sup> IC 20-23-4-12(e)

<sup>10</sup> IC 20-23-4-12(e).

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## A. Financial Review of West Clark’s Reorganization Request.

Pursuant to IC 20-23-4-12(a), (c), (d), and IC 20-23-4-16, if a reorganization request seeks to subdivide an existing school corporation, the request must provide a detailed accounting of how the assets, facilities, and financial obligations (contracts, debts, bonds, etc.) of the school corporation will be divided pursuant to the reorganization. Furthermore, the reorganization request must provide data showing the assessed valuation, number of resident students in ADA in grades 1 through 12, the assessed valuation per student, and the property tax levies of each existing school corporation to which the plan applies.<sup>11</sup> The assessed valuation data must be current to the year in which the request is submitted to the Board.<sup>12</sup> So long as the requesting school corporation attempts in good faith to comply with these statutory requirements, the data provided is sufficient regardless of whether the statements is exactly accurate.<sup>13</sup>

To the extent the school corporation’s reorganization request will impact financial obligations governed by the DLGF, the requesting school corporation is required to coordinate with the DLGF to ensure compliance with any applicable laws or regulations.<sup>14</sup> The requesting school corporation is required to provide the Board with documentation demonstrating that the DLGF has been contacted and has determined the proposed reorganization is legally permissible.

Concurrent with a school corporation’s obligations set forth in IC 20-23-4-12(a)(6)-(7) and IC 20-23-4-16, IC 20-39-2-1 requires that the “state superintendent shall exercise the supervision over school funds and revenues that is necessary to ascertain their safety, secure their preservation, and secure their application to the proper object.” To ensure that the obligations contained in IC 20-39-2-1 are fulfilled, IDOE has established a Finance Division, with the stated goal of “to provide customer services, fiscal responsibility and accountability, through established best practices, to the programs incorporated in the IDOE while operating with optimal efficiency and aligning all available resources around student learning.”<sup>15</sup>

Thus, in order to satisfy the financial review requirement, school corporations that request a reorganization must submit all necessary financial information to both the DLGF and IDOE to ensure a thorough financial review of proposed reorganization plan.<sup>16</sup>

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<sup>11</sup> IC 20-23-4-12(c)(2); IC 20-23-4-16(6).

<sup>12</sup> IC 20-23-4-12(c)(3); IC 20-23-4-16(6).

<sup>13</sup> IC 20-23-4-12(d).

<sup>14</sup> See Board Memo, December 2019, Standard 4.

<sup>15</sup> <https://www.doe.in.gov/finance>.

<sup>16</sup> See Board Memo, December 2019, Standard 4.

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**i. DLGF and IDOE Financial Reviews.**

Before summarizing the financial review memorandum provided by the DLGF and IDOE, it must be stressed that neither document is intended to be interpreted as a recommendation concerning West Clark's Reorganization Plan. Instead, the documents are intended to provide an analysis of various financial components and presumptions relating to the plan to assist the Board in reaching an informed decision.

Subsequent to West Clark submitting its Reorganization Plan to the Board, West Clark contacted the DLGF for assistance pursuant to IC 20-23-4-19 with determining the fiscal impact, especially with the property taxes and other revenues the new school corporations would be able to receive after reorganization. The DLGF's memorandum<sup>17</sup> analyzed four things. First, the effect of separating West Clark's property tax levies into the applicable levies for each new school corporation. Second, the effect of reorganization on the distribution of miscellaneous revenues for each new school corporation, including local income tax ("LIT"), county vehicle excise tax ("CVET"), and financial institutions tax ("FIT"). Third, the effect of reorganization on debt service, including the debt service obligations incurred by West Clark prior to reorganization, as well as cash balances previously held by West Clark. Finally, the effects on operating balances when less or more spending than expected occurs, or less or more revenue than expected is received. As noted in the DLGF's memorandum, its analysis is based on no less than 19 "main assumptions," some of which the DLGF concurred with while not concurring with other assumptions put forth by West Clark.<sup>18</sup>

Additionally, pursuant to the standards adopted by the Board on December 12, 2018, IDOE conducted a separate financial review and generated a memorandum<sup>19</sup> concerning West Clark's Reorganization Plan. As part of its review of data provided, IDOE focused on the financial parameters regarding assets and financial obligations set forth in West Clark's reorganization request, supplemented with information provided by financial advisers for West Clark as well as the DLGF analysis.

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<sup>17</sup> Attached as Exhibit 4.

<sup>18</sup> DLGF Memo at 2.

<sup>19</sup> Attached as Exhibit 5.

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## ii. Summary of the DLGF and IDOE Financial Reviews.

The following summary is based on eleven key findings from the DLGF and IDOE memos, which are reproduced in full in Exhibit 6. Overall, the memos portray a complex situation, which is to be expected given the unprecedented nature of West Clark's request. In short, the memos identify four primary areas of concern regarding West Clark's Proposed Reorganization: 1) the impact the proposal will have on other local units related to the West Clark, 2) the likelihood of any cost savings that will be achieved by the reorganization proposal, 3) uneven distribution of resources to satisfy the needs of the separated school corporations, and 4) the overall financial viability of the separated school corporations.

### **Other Local Entities Loss of Funds:**

The DLGF's memorandum provides a detailed analysis of the State's Local Income Tax, and how this tax operates and is distributed at the local level. While this document will not duplicate the DLGF's analysis, the analysis does result in two key findings relating to LIT. First, the DLGF explains that whenever the new school corporations start to receive LIT revenue, all the other units in Clark County will lose a proportional share of that revenue.<sup>20</sup> Most notably, the Clark County Unit will lose approximately \$89,499, the City of Jeffersonville will lose approximately \$183,907, and the Town of Clarksville approximately \$82,142.<sup>21</sup> Second, the DLGF noted that the overall financial viability of the proposed school corporations benefits from the increased LIT revenues in 2021.<sup>22</sup> Thus, if the Board approves the Reorganization Plan, the overall financial viability of the proposed school corporations is based, in part, on temporally increased LIT revenues that are generated by decreasing LIT revenues for other county entities.

### **Proposed Reorganization will not Produce Cost Savings:**

Both the DLGF and the IDOE examined the likelihood of the Proposed Reorganization producing cost savings, as asserted by West Clark, and determined this was unlikely. According to the DLGF, West Clark assumes general administration costs for each school corporation will stay at 2018 levels from 2020 through 2024.<sup>23</sup> However, "[t]his seems unlikely given that these costs have grown in the period from 2015 through 2019."<sup>24</sup> The DLGF memorandum further explained that this assumption seemed questionable given that West Clark's "Form 9 data and [it]'s own projections, it does not appear that West Clark has justified how the reorganization will result in a savings. Costs steadily increased from 2010 through 2015, dropped in 2016, increased again in 2017, and dropped slightly again in 2018. Overall, the trend has been that costs have increased."<sup>25</sup> The DLGF further explained why West Clark's cost assumption was improbable given that the division of administration will result in at least one of the school corporations will need to hire a superintendent and other central office staff.<sup>26</sup> West Clark's cost presumptions are also unlikely given the need to build or lease a central office building for at least one of the new school corporations.<sup>27</sup> The DLGF was unable to locate anything in the materials provided by West

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<sup>20</sup> DLGF Memo at 7-8.

<sup>21</sup> DLGF Memo at 9.

<sup>22</sup> DLGF Memo at 25.

<sup>23</sup> DLGF Memo at 11.

<sup>24</sup> DLGF Memo at 11.

<sup>25</sup> DLGF Memo at 12.

<sup>26</sup> DLGF Memo at 11, 12-13, 14.

<sup>27</sup> DLGF Memo at 11, 12-13, 14.

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Clark that budgets for these costs.<sup>28</sup> Based on the overall review of the materials provided to the DLGF by West Clark, the DLGF concluded that “it does not appear that West Clark has justified how the reorganization will result in a savings...[given] the trend has been that costs have increased[,] [and] West Clark expects facilities costs to decrease after 2020. It is not clear what justifies this expectation.”<sup>29</sup>

Similar to DLGF’s review, IDOE’s memorandum concisely summarized its review of West Clark’s proposed cost savings, stating “[b]ased on West Clark’s past budget and future projections, DLGF did not believe there was sufficient evidence that the reorganization will result in savings. IDOE concurs with DLGF that it would be unusual for each school to maintain level expenditures after a reorganization occurs due to unforeseen costs associated with relocation of administrative and operation staff and implementation of the goals desired by each school corporation.”<sup>30</sup> In other words, neither the DLGF nor IDOE were able to identify any method by which the Proposed Reorganization would result in cost savings, despite West Clark’s claims to the contrary.

**Uneven distribution of resources to meet separate school corporation needs:**

The DLGF’s analysis also noted that the proposed division of the bus fleet represents a 45%/55% allocation of vehicles and costs between Borden-Henryville and Silver Creek.<sup>31</sup> However, the ADM split for the Education Fund is represented by West Clark to be 61.35% for Silver Creek and 38.65% for Borden-Henryville.<sup>32</sup> This indicates Silver Creek will have 55% of the current bus fleet to accommodate busing for 61.35% of the current student body, and vice-versa for Borden-Henryville. In other words, there are examples in the Proposed Reorganization demonstrating that the proposal does not divide resources evenly among the current student body.

**Financial Viability:**

Based on the DLGF’s analysis, Silver Creek as a separate entity is estimated to be feasible for 2021 through 2024, even if revenue and expenses fluctuate by up to 5%.<sup>33</sup> However, Borden-Henryville is less financially secure by comparison. According to the DLGF’s review, “[i]f the [expenditure] budget for Borden-Henryville increases by 5% more than expected, it will have a low operating balance in 2023 and 2024, potentially requiring budget cuts and temporary loans to maintain cash flow.<sup>34</sup> Ultimately, the DLGF concluded that for “Borden-Henryville, the proposed budgets, rates, and levies are [] estimated to be feasible for [2021 through 2024], as long as expense and revenue fluctuations do not exceed 5%. Shortfalls or increases in revenues or expenditures should also not change this outcome, except Borden-Henryville will have low operating balances in its Operating Fund if its expenses are 5% higher than expected.”<sup>35</sup>

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<sup>28</sup> DLGF Memo at 11, 12-13, 14.

<sup>29</sup> DLGF Memo at 12-13.

<sup>30</sup> IDOE Memo at 3.

<sup>31</sup> DLGF Memo at 11.

<sup>32</sup> DLGF Memo at 15.

<sup>33</sup> DLGF Memo at 25.

<sup>34</sup> DLGF Memo at 22, 25.

<sup>35</sup> DLGF Memo at 25.

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Additionally, it must be acknowledged that the DLGF's analysis is based on the anticipated increased LIT revenues that the school corporations will receive in 2021.<sup>36</sup> As the memorandum explained, the financial feasibility of the reorganized school corporations will be benefitted, in part, from higher than projected LIT distributions in 2021.<sup>37</sup> Conversely, this increase in LIT will decrease LIT distributions for all other units in Clark County for 2021.<sup>38</sup> Moreover, "[s]hould neither school corporation be eligible to receive LIT in 2021...that will put Borden-Henryville at risk of having negative operating balances by 2023 should its expenses be underestimated by no less than 5%. If Borden-Henryville's revenues are also underestimated by at least 5% in addition to the 5% underestimate on its budget, it will have a negative operating balance by 2022."<sup>39</sup>

IDOE's review provides similar results, agreeing that the proposed budget, tax rates, and tax levies for Borden-Henryville are reasonable as long as there is not a greater than 5% deviation in revenues and expenses.<sup>40</sup> However, IDOE contends that Borden-Henryville will incur unknown and unbudgeted costs associated with the reorganization for administrative and operational needs of the new school corporation.<sup>41</sup> Thus, the underlying assumptions that support the financial viability of the Proposed Reorganization may not be realistic. In addition to the viability concerns regarding Borden-Henryville, IDOE noted that for school years 2013-2014 through 2017-2018, enrollment trends at Silver Creek reflect a lower number of incoming primary students and a larger number of graduating students, which may indicate a potential decline in enrollment in the future.<sup>42</sup> This trend of declining enrollment of primary students may result in lower tuition support funding for Silver Creek in future years.

Therefore, West Clark's Proposed Reorganization results in other local units temporarily receiving reduced revenue, is unlikely to generate any cost savings, causes uneven distribution of resources, and the overall financial viability of the separated school corporations is based on numerous assumptions that appear to create a financially viable entities that may be unable to absorb unexpected expenses or lower revenues.

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<sup>36</sup> DLGF Memo at 7-8, 9, 25.

<sup>37</sup> DLGF Memo at 7-8, 9, 25.

<sup>38</sup> DLGF Memo at 7-8, 9, 25.

<sup>39</sup> DLGF Memo at 25.

<sup>40</sup> IDOE Memo at 5.

<sup>41</sup> IDOE Memo at 5.

<sup>42</sup> IDOE Memo at 4.



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**B. West Clark’s Reorganization Plan must Furnish Efficient and Adequate Educational Opportunities for all Students.**

Pursuant to IC 20-23-4-18(b), a reorganization request must “furnish efficient and adequate educational opportunity for all students.” A reorganization request must identify how the reorganized school corporation is better suited to provide efficient, equalized, and effective educational opportunities for all students compared to the existing school corporation organization.<sup>43</sup> Additionally, if the reorganization request will result in the subdivision of an existing school corporation into two or more school corporations, the reorganization request must specifically address how the creation of an additional school corporations—and the resulting additional administration, division of shared resources, and duplication of services—will produce the statutorily mandated educational opportunities.

**i. West Clark’s Reorganization Plan.**

West Clark’s Reorganization Plan asserts that through reorganization, three communities—Borden; Henryville; and Silver Creek Township (including Sellersburg, Indiana)—were consolidated into one school corporation—West Clark Community Schools.<sup>44</sup> However, according the Reorganization Plan the consolidation did not produce complete uniformity.<sup>45</sup> Since reorganization, the different values held by the three different communities have strained West Clark’s ability to meet the education needs of families in the communities.<sup>46</sup>

Supporting the concept that the reorganization is necessary to improve educational opportunities, the Reorganization Plan explains that the three communities have maintained separate facilities since the 1967 reorganization.<sup>47</sup> Moreover, since the 2013-2014 school year, the Silver Creek campus has grown from 2,776 students to 2,927 students for the most recent 2017-2018 school year.<sup>48</sup> Conversely, the Borden campus enrollment declined 13% from 743 students to 648 students during the same time period.<sup>49</sup> Similarly, the Henryville campus enrollment dropped 3% from 1,236 students to 1,193.<sup>50</sup>

West Clark maintains that the different needs driven by the different enrollment trajectories have created friction among the different campuses—and communities—as to priorities.<sup>51</sup> The Silver Creek community is focused on expanding its facilities to meet future need, as well as updating facilities to expand current programing.<sup>52</sup> Presently, Silver Creek campus schools face overcrowding. Students attend schools in temporary, makeshift classrooms.<sup>53</sup> The declining

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<sup>43</sup> See IC 20-23-4-1.

<sup>44</sup> West Clark Reorganization Plan at 3.

<sup>45</sup> West Clark Reorganization Plan at 4.

<sup>46</sup> West Clark Reorganization Plan at 4.

<sup>47</sup> West Clark Reorganization Plan at 4.

<sup>48</sup> West Clark Reorganization Plan at 4.

<sup>49</sup> West Clark Reorganization Plan at 4.

<sup>50</sup> West Clark Reorganization Plan at 4.

<sup>51</sup> West Clark Reorganization Plan at 4.

<sup>52</sup> West Clark Reorganization Plan at 4.

<sup>53</sup> West Clark Reorganization Plan at 4.

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enrollment at the Borden and Henryville campuses do not, however, present these same challenges.<sup>54</sup>

All three communities are focused on expanding their facilities to meet future needs, and/or updating facilities to expand current and future programming.<sup>55</sup> Toward that end, in 2017 West Clark presented a capital projects referendum that sought \$95 million.<sup>56</sup> Of the \$95 million, over \$82 million was for infrastructure elements, construction, and program elements at the Silver Creek campus—close to \$65 million for Silver Creek high school alone.<sup>57</sup> A majority of voters in the Borden and Henryville communities opposed the referendum.<sup>58</sup> Without the support of the Borden and Henryville communities, the referendum failed at the polls at the November 6, 2017 general election.<sup>59</sup>

Further, the three communities have different viewpoints on educational objectives.<sup>60</sup> Through reorganization, the communities could reallocate resources to meet this objective.<sup>61</sup> Moreover, reorganization would allow the new school corporations to separately solicit grants and other funding sources for vital programs such as 1-1 technology programs.<sup>62</sup> Presently, such grant dollars are spread throughout West Clark.<sup>63</sup> Overall, the internal competition for resources negatively impacts the students within West Clark and the county.<sup>64</sup> The competing interests of the different communities deprive all communities of needed resources for increased capacity without diminishing academic achievement.<sup>65</sup> Reorganization of West Clark eliminates the competing interests.<sup>66</sup> Moreover, reorganization allows Silver Creek families—and not families attending other schools—to chart the course for Silver Creek schools.<sup>67</sup> Likewise, Borden and Henryville families control the educational mission of Borden and Henryville schools.<sup>68</sup>

## **ii. Analysis of West Clark’s Reorganization Plan.**

The overall result of West Clark’s Reorganization Plan can be summarized as: 1) the resources dedicated to one corporation will be divided between two corporations, 2) the division will result in one new school corporation with overall student growth and a second school corporation with declining growth, and 3) the proposed division will allow the new school corporations to better pursue education opportunities and funding priorities that reflect longstanding differences among local communities.

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<sup>54</sup> West Clark Reorganization Plan at 4.

<sup>55</sup> West Clark Reorganization Plan at 5.

<sup>56</sup> West Clark Reorganization Plan at 5.

<sup>57</sup> West Clark Reorganization Plan at 5.

<sup>58</sup> West Clark Reorganization Plan at 5.

<sup>59</sup> West Clark Reorganization Plan at 5.

<sup>60</sup> West Clark Reorganization Plan at 5.

<sup>61</sup> West Clark Reorganization Plan at 5.

<sup>62</sup> West Clark Reorganization Plan at 5.

<sup>63</sup> West Clark Reorganization Plan at 5.

<sup>64</sup> West Clark Reorganization Plan at 6.

<sup>65</sup> West Clark Reorganization Plan at 6.

<sup>66</sup> West Clark Reorganization Plan at 6.

<sup>67</sup> West Clark Reorganization Plan at 6.

<sup>68</sup> West Clark Reorganization Plan at 6.

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As noted in the financial review section, West Clark’s Reorganization Plan results in other local units temporarily receiving reduced funding, is unlikely to produce any cost savings, causes uneven distribution of resources, and the overall financial viability is based on assumptions that were not supported by the financial review with small margins for error. While there is little doubt that separated school corporations would lead to enhanced local control that is not the standard for Board approval. Instead, the statutory standard for approval is “efficient and adequate educational opportunity for all students.” The financial analysis demonstrated that there will not be financial efficiencies if the corporation divides. Moreover, West Clark’s Reorganization Plan makes it clear that student enrollment is increasing for Silver Creek but decreasing for Borden-Henryville. This trend would suggest that educational opportunities would increase for one group of students while concurrently decreasing for the other group.

In sum, on its face the Reorganization Plan fails the statutory requirements as no efficiencies will be produced and educational opportunities will be curtailed for some students. Instead of fulfilling the statutory requirements, it appears the plan is designed to circumvent the local decision to deny the referendum and create more local control at the individual community level. These are not standards set forth in the controlling statutes.

### **iii. West Clark’s Response to Board Adopted Standards.**

As previously noted, pursuant to IC 20-23-4-18(b), a reorganization request must “furnish efficient and adequate educational opportunity for all students.” Moreover, as required by statute, the Board has adopted additional standards to ensure any reorganization will provide efficient, equalized, and effective educational opportunities. In response to these standards, as well as related questions developed by Board staff, West Clark responded to as follows:<sup>69</sup>

**Board Question No. 1:** Board staff requested more information concerning how the creation of an additional corporations/administrations is more efficient than one corporation/administration.

West Clark Response: Many of the services (IT, transportation, and high-level business services) will be evaluated and are expected to be approved by the two respective board (see Section XI. Other Considerations of the Reorganization Plan). WCCSC historically budgeted for a Superintendent, Assistant Superintendent, and Associate Superintendent. One of these could be assigned to each of the new school corporations, and the remaining position could be eliminated. Furthermore, through shared services arrangements, duplication of business office, IT and maintenance staff could be avoided.

Analysis of West Clark Response: West Clark’s answer asserts that no additional costs will be incurred as a result of the subdivision and resulting additional administration staff of office space. While it is difficult to predict the potential staffing increases/decreases, if any, which may occur if West Clark is reorganized, the financial analysis provided by the DLGF and IDOE noted that cost savings from the reorganization are unlikely. Further, the financial analysis indicated that the new school corporations may experience cost increases due to the need to increase administrative staff. Additionally, the response suggests that

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<sup>69</sup> See attached Exhibit 2.

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future cooperation and shared resources between the divided school corporations will create efficiencies. The Reorganization Plan approved by the West Clark school board sets forth the current school board's intent to avoid duplication of services through various shared services agreements. While shared services may ultimately occur, it is unknown if the members of the new school corporations would pursue this option. Thus, the Board should consider how the possible lack of cooperation may impact student educational opportunities.

**Board Question No. 2:** Board staff noted that page 5 of the Reorganization Plan stated that the reorganization is “needed at the Silver Creek campus to address expanded programming.” Presuming that the reorganization allows for Silver Creek to pass a capital projects referendum, which allows for Silver Creek to expand its programming, will the other newly created school corporation be able to expand programming as well—provide specific examples.

West Clark Response: Yes, as approved by the new school corporation's administration and board. The current facilities at Borden/Henryville are not restrictions to programming like they presently are at Silver Creek.

Analysis of West Clark Response: West Clark provides an affirmative answer that Borden-Henryville will be able to expand its programming. Although it is difficult to predict what programming the new school corporation may adopt, the Board should consider the potential impact on Borden-Henryville programming options given the cost increase concerns raised by the DLGF and IDOE as well as the recent declining student enrollment that may result in reduced funding in future years.

**Board Question No. 3:** Board staff noted that the Reorganization Plan stated that after the reorganization Borden and Henryville schools could reallocate resources to offer vocational training—what are the resources currently being applied to, and/or where would these new resources be drawn from?

West Clark Response: Reallocation of resources would include addition of AP and Dual Credit courses, and College-Readiness courses. Borden campus would continue to use Charles Allen Prosser as they do at present, but expand AP courses on the Borden Campus. Henryville Campus would continue to use Charles Allen Prosser, as they do at present, and continue their Conexus program, as well as expand Dual Credit and College readiness courses. As programs are expanded, increased Enrollment funds will, such as Career Honors diplomas and increased Pupil Enrollment, will fund the additions.

Analysis of West Clark Response: West Clark's answer suggests that new resources for expanded programs at Borden-Henryville will be derived from “increased Enrollment funds...and increased Pupil Enrollment, will fund the additions.” This assertion conflicts with West Clark's Reorganization Plan that states “Since the 2013-2014 school year...the Borden campus enrollment declined 13% from 743 students to 648 students...[s]imilarly, the Henryville campus enrollment dropped 3% from 1,236 students to 1,193.”<sup>70</sup> Thus,

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<sup>70</sup> West Clark Reorganization Plan at 4.

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based on West Clark's data it is evident that as a separate school corporation, Borden-Henryville's funding from student enrollment will decrease and it will have reduced resources for education opportunities.

**Board Question No. 4:** Board staff noted that the Reorganization Plan stated that the “reorganization would allow the new school corporations to separately solicit grants and other funding sources for vital programs such as 1-1 technology programs. Presently, such grant dollars are spread throughout West Clark.” Please provide a detailed explanation justifying this statement, specifically addressing how the division of “grants and other funding sources” between two school corporations rather than one is more efficient.

West Clark Response: Presuming dollar amounts are the same, monies could be used more efficiently to improve a single school's needs, rather than being disbursed across three campuses. Based on demographics, data, and performance of buildings, grants and other dollars will be used to make final determinations. Generally, grant funds will follow the students that the grant serves. Therefore, grants can be submitted by any corporation.

Analysis of West Clark Response: Based on West Clark's presumption of the same dollar amounts going forward, and that the funds will follow the students to the new school corporations, it is unclear how the same funds can be used more efficiently. However, it is possible that the subdivision of the school corporation would permit the new school corporations to use the funds in a manner that better reflects the interests of the individual communities.

**Board Question No. 5:** Board staff noted that the Reorganization Plan stated on page 6 “Overall, the internal competition for resources negatively impacts the students within West Clark and the county. The competing interests of the different communities deprive all communities of needed resources for increased capacity without diminishing academic achievement. Reorganization of West Clark eliminates the competing interests.” Please explain how the “competition” for the same number of resources by 2 school corporations, rather than 1, is more efficient and “eliminates competing interests.”

West Clark Response: Silver Creek has experienced growth in enrollment while Borden and Henryville have not. Yet when the WCCSC Board approves additional funding for Silver Creek to address the growth, Borden and Henryville request funding as well. Rather than dedicate resources to the needed area—namely where growth is occurring—funds are siphoned off to non-growth areas (Borden and Henryville) to appease animosities within the existing school corporation. Separating the school corporation will better allow the monies to follow the students.

Analysis of West Clark Response: West Clark's answer acknowledges that Borden and Henryville are “non-growth areas,” and are siphoning resources from Silver Creek. This response, which is supported by the financial analysis, suggests that Silver Creek may be viable as a separate entity. However Borden-Henryville's status as a “non-growth” area, coupled with the financial concerns raised by the DLGF and IDOE, suggests the possibility that educational opportunities for students may be negatively impacted.

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**Board Question No. 6:** OAG Official Opinion No. 2011-3 reads “[i]n determining whether either reorganization is necessary...consider the state policy located at Ind. Code § 20-23-6-16. This section states in relevant part that ‘the school corporation shall give consideration to the educational opportunities for students, local community interest, the effect on the community as a whole, and the economic interests of the community relative to establishing the boundaries of the school corporation that is involved in the school corporation reorganization, consolidation, or annexation attempt.’”<sup>71</sup> Based upon the guidance contained in the OAG opinion, a reorganization request must describe the impact of the reorganization will have on:

- Educational opportunities for students:
  - Explain how the reorganization will increase educational opportunities for students within the school corporation(s).
  - Will the reorganization have an impact on the availability of career and technical education opportunities for students within the current boundaries of the school corporation? If so, please provide a detailed analysis of this impact.
  - Will the reorganization have an impact on the availability of special education services for students within the current boundaries of the school corporation? If so, please provide a detailed analysis of this impact.
  - Will the reorganization have an impact on the availability of Graduation Pathways opportunities for students within the current boundaries of the school corporation? If so, please provide a detailed analysis of this impact.
  - Will the reorganization have an impact on the availability of transportation opportunities for students within the current boundaries of the school corporation? If so, please provide a detailed analysis of this impact.
  - Explain how the reorganization will impact curriculum opportunities currently offered by the school corporation (*e.g.* Advance Placement and Dual Credit courses, industry certifications, etc.).

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<sup>71</sup> **IC 20-23-6-16 Community school corporation; state policy**

It is the policy of the state that whenever a community school corporation (as defined in IC 20-23-4-3) seeks to:

- (1) reorganize into a community school corporation under IC 20-23-4 or IC 20-23-16-1 through IC 20-23-16-5;
- (2) enter into a territorial annexation under IC 20-23-5 either as an acquiring school corporation or a losing school corporation (as defined in IC 20-23-5-4);
- (3) consolidate with another school corporation under IC 20-23-6; or
- (4) consolidate with another school corporation into one (1) metropolitan school district under IC 20-23-7;

the school corporation shall give consideration to the educational opportunities for students, local community interest, the effect on the community as a whole, and the economic interests of the community relative to establishing the boundaries of the school corporation that is involved in the school corporation reorganization, consolidation, or annexation attempt.

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West Clark Response: Reorganization will increase educational opportunities for students since each community can dictate how they wish to prioritize their educational mission and fund it accordingly (*e.g.*, allocation of state grant, operating referendum, or capital projects referendum). Educational opportunities will be increased through reorganization by allowing each school corporation to concentrate on movement within the student population as it moves dynamically and make changes more quickly by the addition of programs as needed. Local communities would have more control over the funding of their local schools and increased input by stakeholders in the education and resources for the local schools.

Availability of career and technical education opportunities should not be impacted if, as anticipated, the new school corporation continue their joint efforts. The Advanced Manufacturing program would continue to be a viable program if the two new corporations would send students to the program. Educational offerings in the CTE space may increase as each school corporation may independently dedicate more resources to CTE.

With respect to special education, the school corporations would be expected to join a special education co-op (which West Clark was a member of until it withdrew two years ago).

Graduation Pathways will not be impacted because the pathways will not be changed within each of the respective communities.

Transportation Services will be provided based upon student willingness to utilize the services, while any changes will be made as needed to routes. Daily and Monthly changes will be made, as they are now. Assuming AV growth continues in the historical rate that it has, transportation funding will be adequate for continued growth. The school corporations are expected to share transportation services.

In regards to curriculum opportunities, staffing would be a large part of the determination of AP and Dual credit courses that are provided. Staff retention will be a huge part of the equation. New local boards would have to determine the support of the AP and Dual credit course, as well as any programs that would provide industry certifications. It is not expected that the new school corporations will impact current curriculum opportunities.

Analysis of West Clark Response: West Clark’s answer acknowledges that Borden and Henryville are “non-growth areas,” and are draining resources from Silver Creek. However Borden-Henryville’s status as a “non-growth” area, coupled with the financial concerns raised by the DLGF and IDOE, suggests the possibility that educational opportunities for students may be negatively impacted. Thus, while it may be possible that local communities would have more control over the funding of their local schools, the Reorganization Plan may result in the level of resources available to local communities decreasing from current levels—at least for some students.

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West Clark asserts that educational opportunities for students will not be impacted by the reorganization because of anticipated joint efforts. The Reorganization Plan approved by the West Clark school board sets forth the current school board's intent to pursue joint efforts to maintain educational opportunities. While joint efforts may ultimately occur, it is unknown if the members of the new school corporations would pursue this option. Thus, the Board should consider how the possible lack of cooperation would impact student educational opportunities.

**Board Question No. 7:** The Indiana School Reorganization Act of 1959<sup>72</sup> (the "1959 Act"), provided the authorization and procedure for reducing the number of local school districts through consolidation, the purpose being to provide "more equalized educational opportunities for publicly enrolled students in grades 1-12 in the school corporations of Indiana."<sup>73</sup>

- Explain how the proposed reorganization will accomplish the 1959 Act's intended goal of consolidating school districts to allow for more equalized educational opportunities for all students.

West Clark Response: The 1959 Act intended to modernize "reorganization of school corporations" to grant local control over decisions. Specifically, the 1959 Act recognizes the "sense of the general assembly . . . (5) that local electors: (A) have an interest in the boundaries of the school corporation in which they reside; and (B) will exercise their privileges, as provided in this chapter, to establish an efficient and economical [subdivision] plan best suited to local conditions." IC 20-23-4-1. Toward that end, the 1959 Act gave local electors a number of tools to use in reorganizing school corporations. One of the tools in the modern toolbox given to the trusted local electors is "subdivision." IC 20-23-4-7. Therefore, this Plan—made by local electors (the school board) using tools given by the General Assembly (subdivision)—achieves the expressly stated goals of the statute.

Analysis of West Clark Response: West Clark's answer correctly notes that subdivision of a school corporation is a permissible type of reorganization under State law. However, as described in numerous other responses, West Clark's contention that this reorganization will result in more equalized education opportunities for all students is questionable given the materials submitted to the Board and the subsequent analysis.

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<sup>72</sup> Acts of 1959, Chpt. 202, pp. 451-474 (ultimately responsible for reducing the number of Indiana's local school districts from 966 to under 400).

<sup>73</sup> Historical Note, p. 4, SCHOOL REORGANIZATION COMMISSION COLLECTION, Indiana State Library Rare Books and Manuscripts Collection, available at [http://www.in.gov/library/files/L591School\\_Reorganization\\_Commission\\_Collection.pdf](http://www.in.gov/library/files/L591School_Reorganization_Commission_Collection.pdf).



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### C. Community Involvement and Interest Concerning West Clark's Reorganization Request.

As previously noted, OAG Official Opinion No. 2011-3 explains that “[i]n determining whether either reorganization is necessary...consider the state policy located at Ind. Code § 20-23-6-16. This section states in relevant part that ‘the school corporation shall give consideration to the educational opportunities for students, **local community interest**, the effect on the community as a whole, and the economic interests of the community relative to establishing the boundaries of the school corporation that is involved in the school corporation reorganization, consolidation, or annexation attempt.’”<sup>74</sup> In order to satisfy this requirement, Board staff submitted a number of questions to West Clark, receiving the following responses:<sup>75</sup>

**Board Question No. 1:** Board staff requested that West Clark identify, and provide supporting materials, any opportunities that the local community has had to comment or participate in regards to the proposed school corporation reorganization.

West Clark Response: The West Clark local school board conducted public meetings regarding the reorganization request. Copies of the audio recordings from the local school board meetings were provided by West Clark to Board staff.

**Board Question No. 2:** Board staff requested that West Clark identify any actions that the school corporation has taken to determine the impact the reorganization will have on the community, and provide the results of such actions.

West Clark Response: According to the overwhelming support at the public hearings for reorganization, it will have a positive impact. Not one person in the hearings at Silver Creek Middle School or Henryville Elementary School opposed reorganization.

**Board Question No. 3:** Board staff requested that West Clark identify the economic interests of the community relative to establishing the boundaries of the school corporation that is involved in the school corporation reorganization, consolidation, or annexation attempt:

- Identify how the proposed reorganization will improve the economic interests of the community.

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<sup>74</sup> **IC 20-23-6-16 Community school corporation; state policy**

It is the policy of the state that whenever a community school corporation (as defined in IC 20-23-4-3) seeks to:

- (1) reorganize into a community school corporation under IC 20-23-4 or IC 20-23-16-1 through IC 20-23-16-5;
- (2) enter into a territorial annexation under IC 20-23-5 either as an acquiring school corporation or a losing school corporation (as defined in IC 20-23-5-4);
- (3) consolidate with another school corporation under IC 20-23-6; or
- (4) consolidate with another school corporation into one (1) metropolitan school district under IC 20-23-7;

the school corporation shall give consideration to the educational opportunities for students, local community interest, the effect on the community as a whole, and the economic interests of the community relative to establishing the boundaries of the school corporation that is involved in the school corporation reorganization, consolidation, or annexation attempt.

<sup>75</sup> The West Clark local school board also conducted public meetings regarding the reorganization request. Copies of the audio recordings from the local school board meetings were provided by West Clark to Board staff.

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- Explain what impact, if any, the proposed reorganization will have on property values within the community.
  - Explain if the reorganization request is being pursued to increase or decrease local tax requirements of the community.

West Clark Response: Immediately following reorganization, tax rates in both new school corporations will remain the same as pre-reorganization. However, Silver Creek could greatly enhance economic interests and property values through better schools with approval of a referendum by voters. Reorganization is not being pursued to increase or decrease local tax requirements of the community.

**Board Question No. 4:** Board staff requested that West Clark provide a statement of assurances that the reorganized school corporation(s) shall abide by all applicable state and federal laws, including by not limited to IC 20-23-4, IC 20-23-8, IC 20-26-4, IC 3-8-1, 3-8-2.5, and 3-11-2.

West Clark Response: Following subdivision two new school corporations will be created. West Clark Community Schools can offer a statement of assurances that these separate legal entities shall abide by various laws, but these assurances are illusory as West Clark Community Schools can bind these new school corporations just as it unable to bind the State Board of Education. West Clark can represent that the subdivision will not contravene any outstanding court order or legal requirement imposed on West Clark.

**Board Question No. 5:** Board staff requested a good faith analysis of the impact the proposed reorganization will have on the socioeconomic and demographic composition of the school corporations, and if possible, provide specific examples to support any responses.

West Clark Response: The composition of the student bodies at each school are expected to be unchanged as the students should stay in their buildings. Families may later move among the school corporations or seek out of district transfer, but a frequency of occurrences is not foreseeable at this time.

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**i. Public Hearings Summary.**

In addition to information regarding community involvement from West Clark, as outlined in the preceding section, IC 20-23-4-18(a)(4) explains that when the Board receives a reorganization request, it is required to “hold a public hearing in the county to which the plan mainly applies to allow residents of the affected territory to testify.” In response to this requirement, Board staff conducted the following three public meetings:<sup>76</sup>

January 30, 2019, 4:30 P.M.  
Silver Creek Middle School  
495 North Indiana Avenue,  
Sellersburg IN 47172

January 31, 2019, 4:30 P.M.  
Henryville Elementary School  
215 North Ferguson Street,  
Henryville IN 47126

January 31, 2019, 4:30 P.M.  
Borden High School  
301 West Street, Borden IN  
47106

In response to the public hearings, Board staff received 93 public comments in both oral and written form. Based on a review of these comments, approximately 14 comments were against the Reorganization Plan, 53 comments were supportive, and 26 were neutral or did not directly address the reorganization plan. In other words, about a third of the community that participated in the hearings were opposed and two thirds were supportive. While there were individual variations, it is apparent that the theme shared by many individuals that voiced opposition to the Reorganization Plan were concerned that a separate Borden-Henryville school corporation would struggle to both operate and continue to provide the same educational opportunities that are currently provided. However, a majority of those who offered public comment supported the reorganization. The reasons offered for support varied, but tended to focus on hope to improve Silver Creek facilities and a general erosion in relations between the various communities.

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<sup>76</sup> The West Clark local school board also conducted public meetings regarding the reorganization request. Copies of the audio recordings from the local school board meetings were provided by West Clark to Board staff.

# **WEST CLARK COMMUNITY SCHOOLS REORGANIZATION PLAN**

**EFFECTIVE JULY 1, 2019**

**West Clark Community Schools**

**Board of School Trustees**

Doug Coffman, President

Brian Hurst, Vice-President

Crystal Gunther, Secretary

Brian Guernsey, Member

Joe Basham, Member

\*\*\*\*\*

Jonathan L. Mayes, Esq.  
Bose McKinney & Evans, LLP  
Counsel

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## **I. Executive Summary**

Pursuant to Indiana Code § 20-23-4-38(b), the West Clark Community Schools (“West Clark”) presents this plan for reorganization. The plan is to divide West Clark into two new school corporations—Silver Creek School Corporation and Borden/Henryville School Corporation. This plan achieves a critical education need—the need to eliminate internal competition for resources.

Since the mandatory reorganization in the 1960’s that consolidated three communities (Borden, Indiana; Henryville, Indiana; and Silver Creek Township) into one school corporation, three communities with divergent educational perspectives have chafed under one school corporation governing body. Various solutions have been proposed to unify the communities, but none have succeeded. Instead, the communities would prefer to retain more autonomy to pursue different, but laudable, educational goals.

The difference in opinions and goals reached a boiling point in 2017. Opposition to West Clark’s \$95 million capital projects referendum largely driven by residents of Borden and Henryville defeated the ballot measure. The overwhelming majority of the projects would have made necessary construction and program improvements to Silver Creek schools that would have serviced growing needs caused by enrollment growth. Without any other way to bridge this generational impasse, the West Clark Board of Trustees unanimously voted to move forward with reorganization.

This plan not only achieves the important educational objectives—eliminating internal competition for resources and localizing control of educational decisions—but does so without causing adverse financial impacts. Tax rates would remain the same as school aid bonds would be divided pro rata based upon assessed value. Similarly, assets would also be equitably distributed based upon enrollment figures. In the end, the division is amicable since it enjoys unanimous support of the West Clark Board of Trustees.

In conclusion, this reorganization is necessary to improve educational opportunities for students in Clark County, Indiana. This improvement is also achieved without adversely affecting taxpayers or jeopardizing the financial viability of the new school corporations. In the end, students (and their families) benefit.

## **II. History of Public School Reorganization in Indiana**

The School Consolidation Act of 1959 created the State Commission for the Reorganization of School Corporations. The law's purpose was to improve education by providing more equalized education opportunities for publicly enrolled students in grades 1 through 12 in the school corporations of Indiana.

The State Commission for the Reorganization of School Corporations was charged to establish minimum standards to be followed by individual county committees for school

reorganization, to conduct statewide hearings, to approve or reject county school reorganization plans developed by the county committees, and to develop county plans in the event that the county committee failed to act. Two standards which were regularly applied were:

1. No proposed school corporation will have less than 1,000 resident pupils in average daily attendance in grades 1 through 12.
2. No proposed school corporation will have less than \$5,000 adjusted valuation per resident student.

The state commission, directed by J.B. Kohlmeyer of Purdue University, also gave approval of proposed school construction projects.

The School Consolidation Act of 1959 reduced the number of school corporations in Indiana from 966 to 402 and reduced the number of corporations with less than 1,000 resident pupils in grades 1 through 12 from 801 to 156.

The December 11, 2007 *Report of the Indiana Commission on Local Government Reform* by Former Governor Joseph Kernan and Chief Justice Randall T. Shephard (more commonly known as the “Kernan-Shephard Report”) presented Recommendation No. 11: “Reorganize school districts to achieve a minimum student population of 2,000. Establish state standards and a county-based planning process similar to that established in 1959 legislation.” The General Assembly, however, did not adopt that recommendation.

The Act still resides in Chapter 20-23-4 of the Indiana Code, as amended.

### **III. Reorganization Efforts in Clark County, Indiana**

Since 1959, reorganization has never been popular in Clark County and has consistently been resisted. As mandated by the Act, Clark County set out in 1959 to reorganize public school corporations. But it would take years and several defeats at the polls before reorganization was accomplished.

In 1959, the Clark County Judge appointed a nine-member committee to prepare a reorganization plan as set forth in the Act. The first committee recommended reorganization of the then-present fourteen (14) public school corporations<sup>1</sup> into one county-unit. That plan was defeated at the polls in the May primary election of 1962 by an overwhelming vote of 5,900 to 1,200.

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<sup>1</sup> The fourteen school corporations were (1) Metropolitan School District of Charlestown Township, (2) Jeffersonville School City, (3) Clarksville School Town, (4) Bethlehem School Township, (5) Carr School Township, (6) Jeffersonville School Township, (7) Monroe School Township, (8) Oregon School Township, (9) Owen School Township, (10) Silver Creek School Township, (11) Union School Township, (12) Utica School Township, (13) Washington School Township, and (14) Wood School Township.



Two years later, the voters again defeated a reorganization plan in the May 1964 primary election. The 1964 plan proposed a three-unit plan. Again the vote was overwhelming—7,497 to 3,155.

Six months later at the November 1964 general election, the voters defeated for a second time a county-unit plan. The vote was 10,164 to 6,289.

On November 8, 1966, at the general election, voters were presented with a county-unit plan. This time, the plan was defeated, but only narrowly—3,912 to 3,500.

On August 1, 1967, the State Commission for the Reorganization of School Corporations approved a three-unit reorganization plan. The plan was then presented to the voters during the fall election and passed.

Since reorganization, West Clark has sought other consolidation efforts to effectuate the impact of reorganization. For example, in 1994 board members sought to consolidate the three high schools into one high school. Certain constituents responded by lodging threats of personal violence against school board members. Several school board members resigned, and no high school consolidation plan has been considered since.

In March 2012, the Henryville school campus was hit by a tornado, largely destroying existing facilities. The campus was rebuilt with insurance proceeds. Minimal alterations to the existing floor plan were included, although many systems were upgraded by necessity because aged technology was no longer available.

In December 2007, bonds were issued in the amount of \$31,635,000 to finance construction of Silver Creek Primary School, as well as expansions to Buildings at Henryville, Borden, and the Silver Creek High School.

In December 2001, bonds were issued in the amount of \$51,550,000 to finance expansion and renovations of the Borden and Henryville Campus buildings, for construction of the Silver Creek Middle School, and for renovation and expansion of the Stout Elementary (renamed Silver Creek Elementary).

In 2016, there was sufficient public resistance that the capital projects proposal of \$62.8 million would not be approved by a petition but required referendum approval.

#### **IV. Reorganization is Necessary to Improve Educational Opportunities for the Students in Clark County, Indiana**

Through reorganization, three communities—Borden, Indiana; Henryville, Indiana; and Silver Creek Township (including Sellersburg, Indiana)—were consolidated into one school corporation—West Clark Community Schools. But the consolidation did not, however, produce complete uniformity. Since reorganization, the different values held by the three different

communities have strained West Clark’s abilities to meet the education needs of families in Clark County.

Further crystalizing the institutional differences, the three communities have maintained separate facilities since the 1967 reorganization. Borden children attend Borden Elementary School (grades K-6; enrollment 311<sup>2</sup>) and Borden Jr./Sr. High School (grades 7-12; enrollment 337). Henryville children attend Henryville Elementary (grades K-6; enrollment 672) and Henryville Jr./Sr. High School (grades 7-12; enrollment 521). And Silver Creek children attend Silver Creek Primary School (grades K-1; enrollment 484), Silver Creek Elementary School (grades 2-5; enrollment 836), Silver Creek Middle School (grades 6-8; enrollment 689), and Silver Creek High School (grades 9-12; enrollment 918).

The three campuses have faced divergent results in terms of enrollment since the 2013-2014 school year:

	<b>School Years</b>				
	<b>13-14</b>	<b>14-15</b>	<b>15-16</b>	<b>16-17</b>	<b>17-18</b>
Borden Elementary School	394	341	334	328	311
Borden Jr./Sr. High School	349	339	338	348	337
<b>Total</b>	<b>743</b>	<b>680</b>	<b>672</b>	<b>676</b>	<b>648</b>
Henryville Elementary	730	647	610	640	672
Henryville Jr./Sr. High School	506	539	534	525	521
<b>Total</b>	<b>1236</b>	<b>1186</b>	<b>1144</b>	<b>1165</b>	<b>1193</b>
Silver Creek Primary School	443	433	408	478	484
Silver Creek Elementary School	846	826	850	850	836
Silver Creek Middle School	687	709	676	669	689
Silver Creek High School	800	890	932	923	918
<b>Total</b>	<b>2776</b>	<b>2858</b>	<b>2866</b>	<b>2920</b>	<b>2927</b>

Since the 2013-2014 school year, the Silver Creek campus has grown from 2,776 students to 2,927 students for the most recent 2017-2018 school year. Conversely, the Borden campus enrollment declined 13% from 743 students to 648 students during the same time period. Similarly, the Henryville campus enrollment dropped 3% from 1,236 students to 1,193.

The different needs driven by the different enrollment trajectories have created friction among the different campuses—and communities—as to priorities. The Silver Creek community is focused on expanding its facilities to meet future need, as well as updating facilities to expand current programming. Presently, Silver Creek campus schools face overcrowding. Students attend schools in temporary, makeshift classrooms. The declining enrollment at the Borden and Henryville campuses do not, however, present these same challenges.

<sup>2</sup> Enrollment figures based on Indiana Department of Education *DOE Compass* data.

In addition to a need for expanding space to hold a growing number of students, additional space is needed at the Silver Creek campus to address expanded programming. The academic strength of the Silver Creek High School, as reflected in the previous letter-grade system used by the Indiana Department of Education, is a natural draw to families:

	<b>School Years</b>					
	<b>11-12</b>	<b>12-13</b>	<b>13-14</b>	<b>14-15</b>	<b>15-16</b>	<b>16-17</b>
Borden Elementary School	C	B	B	B	C	B
Borden Jr./Sr. High School	C	B	C	C	B	A
Henryville Elementary	N/A	B	B	B	C	B
Henryville Jr./Sr. High School	N/A	C	C	C	B	B
Silver Creek Primary School	B	B	C	C	D	C
Silver Creek Elementary School	B	B	C	C	D	C
Silver Creek Middle School	B	D	A	A	C	A
Silver Creek High School	A	A	A	A	B	A

These performances also fuel the need for additional resources.

All three communities are focused on expanding their facilities to meet future needs, and/or updating facilities to expand current and future programming.

Toward that end, in 2017 West Clark presented a capital projects referendum that sought \$95 million. Of the \$95 million, over \$82 million was for infrastructure elements, construction, and program elements at the Silver Creek campus—close to \$65 million for Silver Creek high school alone. A majority of voters in the Borden and Henryville communities opposed the referendum. Without the support of the Borden and Henryville communities, the referendum failed at the polls at the November 6, 2017 general election.

Putting aside the capital projects interests, the three communities also have different viewpoints on educational objectives. Borden and Henryville schools would like to dedicate more resources to vocational training. These communities believe that vocational training is more helpful to their students, thus it occupies a greater priority. Through reorganization, Borden and Henryville schools could reallocate resources to meet this objective.

Moreover, reorganization would allow the new school corporations to separately solicit grants and other funding sources for vital programs such as 1-1 technology programs. Presently, such grant dollars are spread throughout West Clark.

Additionally, the timing of the reorganization—July 1—is anticipated to mitigate if not eliminate any disruption to the educational environment. Standardized testing is not anticipated to be impacted, transportation is anticipated to be unaffected, and extracurricular opportunities

should continue (assuming that the respective new school corporations continue the same programs) without change.

Overall, the internal competition for resources negatively impacts the students within West Clark and the county. The competing interests of the different communities deprive all communities of needed resources for increased capacity without diminishing academic achievement. Reorganization of West Clark eliminates the competing interests. Moreover, reorganization allows Silver Creek families—and not families attending other schools—to chart the course for Silver Creek schools. Likewise, Borden and Henryville families control the educational mission of Borden and Henryville schools. In the end, Clark County students benefit.

## **V. Names of New School Corporations**

The two new school corporations will be the Silver Creek School Corporation and the Borden/Henryville School Corporation.

## **VI. Boundaries of New School Corporations**

Presently, the intradistrict boundaries within West Clark are as outline in Exhibit A. The Silver Creek School Corporation's boundaries would largely follow the blue lines in Exhibit A, and the Borden/Henryville School Corporation would generally include the red and yellow areas marked in Exhibit A. However, the triangular area in between Carr Township, Union Township, and Silver Creek Township will be divided as outlined in Exhibit B.

## **VII. Board Structure of New School Corporation**

Each new school corporation board of trustees would be comprised of five members with three members from resident districts and two members at-large. The five interim members of the Borden/Henryville School Corporation Board of School Trustees will be appointed by an appointment committee comprised of Brian Hurst, Brian Guernsey and one other current West Clark board member jointly selected by Brian Hurst and Brian Guernsey. The five interim members of the Silver Creek School Corporation Board of School Trustees will be appointed by an appointment committee comprised of Doug Coffman and one other current West Clark board member selected by Doug Coffman. The appointment committees shall make their appointments at properly noticed public meetings held following approval of this Plan by voters and prior to the Plan's effective date. The resident districts will be created by the interim board members for the respective school corporations. The interim board members will serve until the next general election and then, at which point permanent board members will be selected. The permanent at-large members will serve an initial term of two years and then a term of four years thereafter. The permanent resident district members will serve terms of four years, respectively.

Board members must reside within their respective school corporation boundaries, and within their district boundaries if representing a resident district, for at least twelve months prior to holding office.

Board members of the new school corporations will receive each year a basic compensation of \$2,000 per annum. Expenses of a board member will be reimbursed when incurred in the performance of his/her duties or in the performance of functions authorized by the board and duly vouchered. The following guidelines have been established by the board to ensure appropriate and proper reimbursement of expenses for Board members. Expenses will be reimbursed only for activities authorized by the Board. Reimbursement for mileage will not exceed the current rate established for Corporation employees. When attending a Board-approved conference, all fees, parking, mileage, meals, and lodging will be reimbursed.

## **VIII. Disposition or Allocation of Assets, Human Resources and Liabilities of West Clark Community School Corporation**

The intent of the Plan is to distribute or allocate West Clark assets, human resources and liabilities equitably among the new school corporations based upon enrollment of students. Each new school corporation shall assume the assets and liabilities associated with buildings and grounds within the geographic boundaries of the new school corporations. With respect to West Clark personal property servicing all West Clark schools (*e.g.*, buses, maintenance equipment), such assets will be divided among the new school corporations pro rata. For example, buses will be divided based upon enrollment amounts most recently reported to the Indiana Department of Education. However, maintenance equipment will be divided based upon facility needs.

Likewise, the division of the various funds will be on a pro rata basis as follows:

- Capital Projects Fund: The Capital Projects Fund (CPF) will be combined with the Transportation Fund, part of the General Fund and the Bus Replacement Fund in 2019 and the combined funds will be named the Operations Fund. Since the splits have not been determined for 2019, the data presented here will reflect the current budget laws. The Tax rate of \$0.2337 (current maximum rate, a lesser rate was used for 2018) will be applied to both school corporations.
- Transportation Fund: The split for the Transportation Fund and the Bus Replacement Fund will be based on the two new corporation's proportional share of the enrollment since services are provided based on student demand.
- Bus Replacement Fund: Like the Transportation Fund, the rates and levies will be based on each corporation's share of the total enrollment.
- Other Funds: The remaining funds should be split based on the proportion of students enrolled in each program for both the cash balances at the time of the split and for future funding. It should be noted that most of the special funds such as Food Service, all of the Title Grants and any other State or Federal program will need new and separate applications to continue the program funding. Misc. Revenues will be split in proportion to tax rates – Excise, Commercial Vehicle Excise and Financial Institution Taxes.

The final division of assets and liabilities will be formally made at a public meeting of the West Clark Board of Trustees following approval of the plan by voters and prior to the effective date of the plan.

Similarly, West Clark intends to allocate certificated and classified employees based on enrollment needs within the schools. For employees serving district-wide needs, West Clark will equitably reassign them among the new school corporations based upon need and fit.

In regards to collective bargaining, the new school corporations will be responsible for complying with applicable collective bargaining laws.

## **IX. Disposition of School Aid Bonds of West Clark Community School Corporation**

The division of school aid bonds shall be in proportion to assessed value within each new school corporation since the current debt was created by West Clark and proceeds from debt used to benefit the entire West Clark School Corporation. The current Debt Service Tax Rate is \$0.4763 and that rate will be the initial Debt Service Tax Rate for each of the two new corporations. Any new debt by the new school corporations will add to the rate of the respective new school corporation creating the new debt.

The existing debt service for West Clark is as set forth in Exhibit C.

The debt service for the new school corporations will be as set forth in Exhibit D.

## **X. Assessed Valuation Analysis**

For the period of property taxes due and payable in 2018, the present assessed values of West Clark and the new school corporations are as set forth in Exhibit E.

## **XI. Other Considerations**

Special education services will be determined by the interim boards of the new school corporations. Joint services between the new school corporations through interlocal cooperation agreements, managing special education services in-house, or joining special education co-ops should be evaluated by these respective board members.

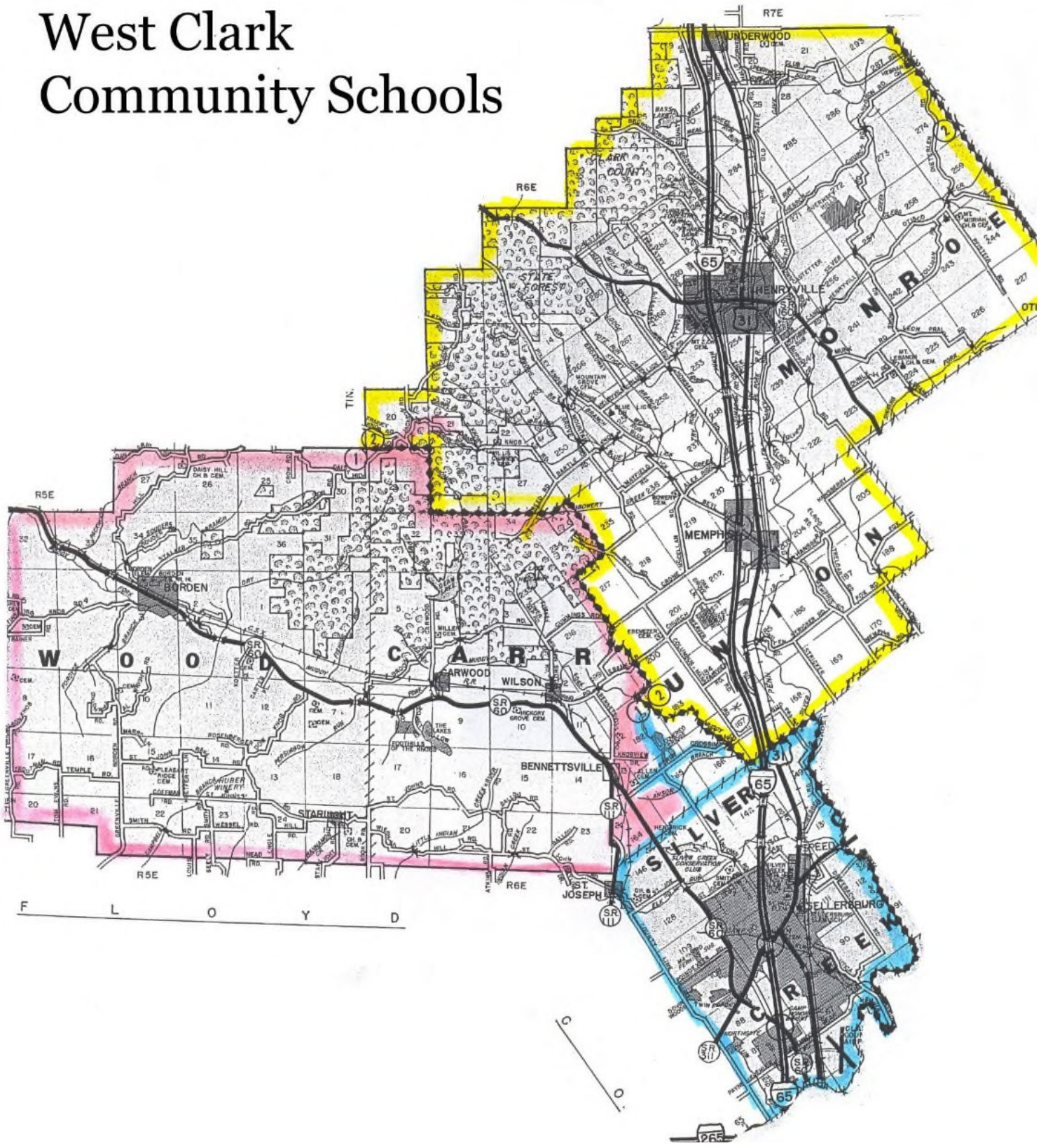
Since transportation services will be allocated based upon enrollment, it is not anticipated that the reorganization will caused any disruption.



EXHIBIT A  
West Clark Community Schools Current Intradistrict Boundaries

# West Clark Community Schools

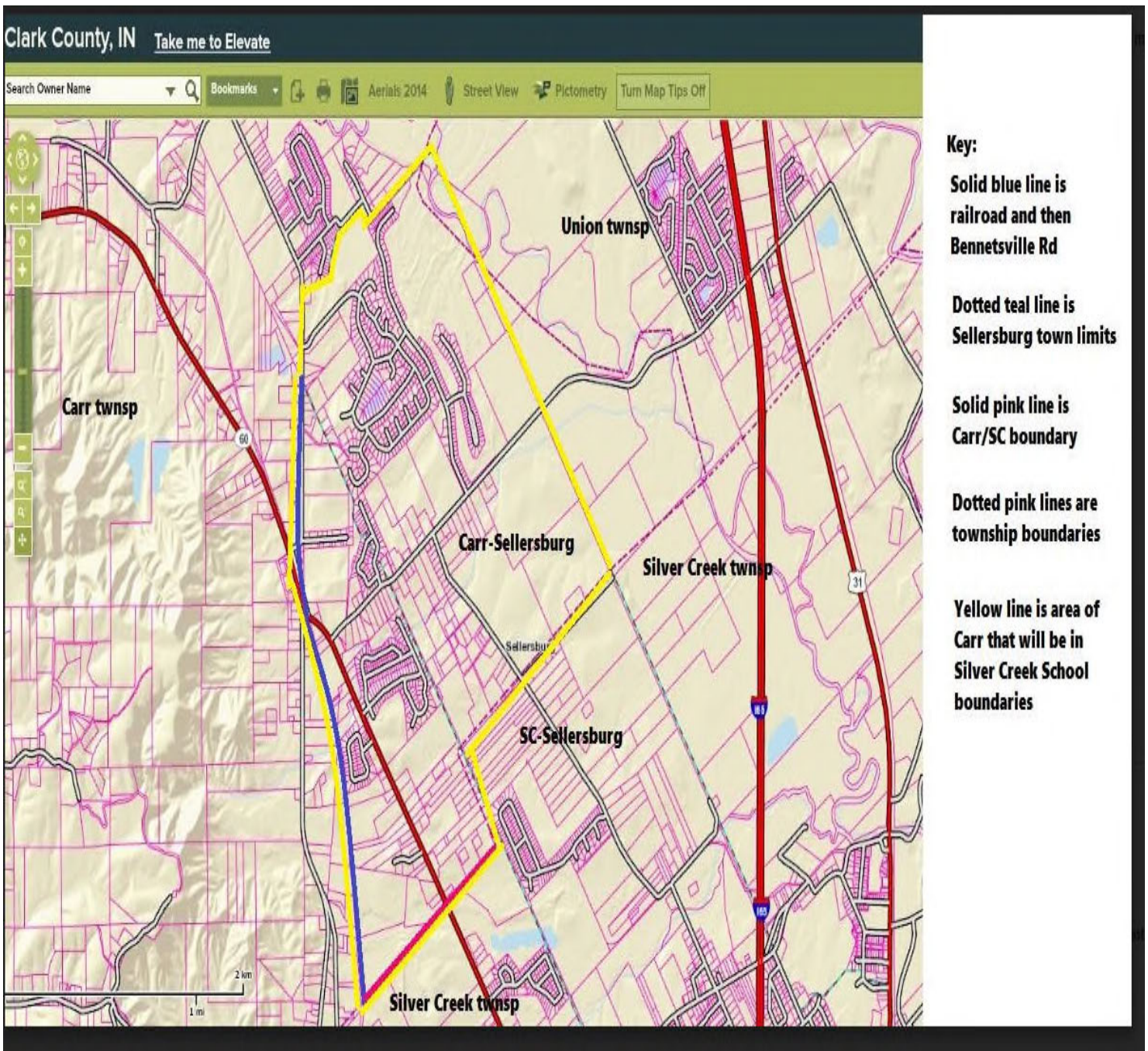
S C O T I





## EXHIBIT B

### Division of Area Between Carr Township, Union Township and Silver Creek Township





**EXHIBIT C**  
**Existing Debt Service**

	Common	Common	Common	Common	Common	Common	Common	Common			Fees	
	School	School	School	School	School	School	School	School	2005	2007	Interest on Temp	
	A1539	A1602	A1645	A1707	A1753	A1853	A1912	A1959	Bonds	Bonds	Textbook	TOTAL
2017	78,300	79,764	82,393	83,170	86,919	91,366	91,366	94,436	4,152,000	2,203,500	100,338	7,143,552.00
2018	-	39,587	40,891	82,357	86,073	90,486	90,486	93,216	4,208,000	2,080,000	108,791	6,919,887.00
2019		-	-	40,873	85,227	89,606	89,606	92,317	4,263,000	2,080,000	108,791	6,849,420.00
2020				-	-	88,725	88,725	91,419	4,320,000	2,080,000	108,791	6,777,660.00
2021						-	-	90,520	4,377,000	2,080,000	108,791	6,656,311.00
2022								-	4,442,000	2,080,000	108,791	6,630,791.00
2023									2,240,000	2,080,000	108,791	4,428,791.00
2024									-	2,080,000	108,791	2,188,791.00
2025										2,080,000	108,791	2,188,791.00
2026										2,080,000	108,791	2,188,791.00
2027										2,080,000	108,791	2,188,791.00
2028										2,080,000	108,791	2,188,791.00
2029										2,080,000	108,791	2,188,791.00
2030										2,080,000	108,791	2,188,791.00
2031										2,080,000	108,791	2,188,791.00
2032										2,080,000	108,791	2,188,791.00
2033										1,040,000	108,791	1,148,791.00
2034										-	-	-

**EXHIBIT D**  
**Projected New Debt Service**

West Clark Community Schools						Borden/Henryville School Corporation					Silver Creek School Corporation				
						Share 0.4354					Share 0.5646				
Net						Net					Net				
Tax Year	Assessed Value	Existing Debt	Misc. Income	Existing Levy	Existing Rate	Assessed Value	Existing Debt	Misc. Income	Existing Levy	Existing Rate	Assessed Value	Existing Debt	Misc. Income	Existing Levy	Existing Rate
2017	1,187,189,615	7,143,552	-1,338,195	5,805,357	0.4890										
2018	1,284,914,155	6,919,887	-799,841	6,120,046	0.4763	559,491,133	3,013,132	-348,275	2,664,856	0.4763	725,423,022	3,906,755	-451,566	3,455,190	0.4763
2019	1,284,914,155	6,849,420	-799,841	6,049,579	0.4708	559,491,133	2,982,448	-348,275	2,634,173	0.4708	725,423,022	3,866,972	-451,566	3,415,406	0.4708
2020	1,284,914,155	6,777,660	-799,841	5,977,819	0.4652	559,491,133	2,951,202	-348,275	2,602,926	0.4652	725,423,022	3,826,458	-451,566	3,374,893	0.4652
2021	1,284,914,155	6,656,311	-799,841	5,856,470	0.4558	559,491,133	2,898,362	-348,275	2,550,087	0.4558	725,423,022	3,757,949	-451,566	3,306,383	0.4558
2022	1,284,914,155	6,630,791	-799,841	5,830,950	0.4538	559,491,133	2,887,250	-348,275	2,538,975	0.4538	725,423,022	3,743,541	-451,566	3,291,975	0.4538
2023	1,284,914,155	4,428,791	-534,224	3,894,567	0.3031	559,491,133	1,928,432	-232,618	1,695,814	0.3031	725,423,022	2,500,359	-301,607	2,198,753	0.3031
2024	1,284,914,155	2,188,791	-264,024	1,924,767	0.1498	559,491,133	953,067	-114,964	838,103	0.1498	725,423,022	1,235,724	-149,060	1,086,665	0.1498
2025	1,284,914,155	2,188,791	-264,024	1,924,767	0.1498	559,491,133	953,067	-114,964	838,103	0.1498	725,423,022	1,235,724	-149,060	1,086,665	0.1498
2026	1,284,914,155	2,188,791	-264,024	1,924,767	0.1498	559,491,133	953,067	-114,964	838,103	0.1498	725,423,022	1,235,724	-149,060	1,086,665	0.1498
2027	1,284,914,155	2,188,791	-264,024	1,924,767	0.1498	559,491,133	953,067	-114,964	838,103	0.1498	725,423,022	1,235,724	-149,060	1,086,665	0.1498
2028	1,284,914,155	2,188,791	-264,024	1,924,767	0.1498	559,491,133	953,067	-114,964	838,103	0.1498	725,423,022	1,235,724	-149,060	1,086,665	0.1498
2029	1,284,914,155	2,188,791	-264,024	1,924,767	0.1498	559,491,133	953,067	-114,964	838,103	0.1498	725,423,022	1,235,724	-149,060	1,086,665	0.1498
2030	1,284,914,155	2,188,791	-264,024	1,924,767	0.1498	559,491,133	953,067	-114,964	838,103	0.1498	725,423,022	1,235,724	-149,060	1,086,665	0.1498
2031	1,284,914,155	2,188,791	-264,024	1,924,767	0.1498	559,491,133	953,067	-114,964	838,103	0.1498	725,423,022	1,235,724	-149,060	1,086,665	0.1498
2032	1,284,914,155	2,188,791	-264,024	1,924,767	0.1498	559,491,133	953,067	-114,964	838,103	0.1498	725,423,022	1,235,724	-149,060	1,086,665	0.1498
2033	1,284,914,155	1,148,791	-138,573	1,010,218	0.0786	559,491,133	500,219	-60,339	439,880	0.0786	725,423,022	648,572	-78,234	570,338	0.0786
		66,254,322		57,867,913			25,738,647		22,669,638			33,372,123		29,392,918	



**Jonathan L. Mayes**

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April 15, 2019

Mr. Timothy A. Schultz, Esq.  
General Counsel  
Indiana State Board of Education  
143 W. Market  
Suite 500  
Indianapolis, IN 46204

SENT VIA ELECTRONIC MAIL TO  
[TSchultz1@sboe.in.gov](mailto:TSchultz1@sboe.in.gov)

Re: West Clark Community School Corporation Reorganization Plan

Dear Tim:

This letter is intended to respond to the questions raised in your February 1, 2019 email. On behalf of the West Clark Community School Corporation (“WCCSC”), I address each question seriatim.

**Question No. 1:** Pursuant to IC 20-23-4-18(b), a reorganization request must “furnish efficient and adequate educational opportunity for all students in grades 1 through 12”: A reorganization request must identify how the reorganized school corporation(s) is better suited to provide efficient and adequate educational opportunities for all students compared to the existing school corporation organization. Additionally, if the reorganization request will result in the subdivision of an existing school corporation into two or more school corporations, the reorganization request must specifically address how the creation of an additional school corporation(s), and the resulting additional administration and duplication of services, will produce the statutorily mandated “efficient and adequate educational opportunit[ies] for all students in grades 1 through 12.” IC 20-23-4-18(b).

**Question No. 1(A):** Plan does not address how the creation of an additional corporation/administration is more efficient one corporation/administration.

**Answer:** Many of the services (IT, transportation, and high-level business services) will be evaluated and are expected to be approved by the two respective board (see Section XI. Other Considerations of the Reorganization Plan). WCCSC historically budgeted for a Superintendent, Assistant Superintendent, and Associate Superintendent. One of these could be assigned to each of the new school corporations, and the remaining position could be eliminated. Furthermore, through shared services arrangements, duplication of business office, IT and maintenance staff could be avoided.

**Question No. 1(B):** Page 5 of the Plan states: The reorganization is “needed at the Silver Creek campus to address expanded programming.” Presuming that the reorganization allows for Silver Creek to pass a capital projects referendum, which allows for Silver Creek to expand its programming, will the other newly created school corporation be able to expand programming as well—provide specific examples.

**Answer:** Yes, as approved by the new school corporation’s administration and board. The current facilities at Borden/Henryville are not restrictions to programming like they presently are at Silver Creek.

**Question No. 1(C):** The Plan states that after the reorganization Borden and Henryville schools could reallocate resources to offer vocational training—what are the resources currently being applied to, and/or where would these new resources be drawn from?

**Answer:** Reallocation of resources would include addition of AP and Dual Credit courses, and College-Readiness courses. Borden campus would continue to use Charles Allen Prosser as they do at present, but expand AP courses on the Borden Campus. Henryville Campus would continue to use Charles Allen Prosser, as they do at present, and continue their Conexus program, as well as expand Dual Credit and College readiness courses. As programs are expanded, increased Enrollment funds will, such as Career Honors diplomas and increased Pupil Enrollment, will fund the additions.

**Question No. 1(D):** The Plan also states that the “reorganization would allow the new school corporations to separately solicit grants and other funding sources for vital programs such as 1-1 technology programs. Presently, such grant dollars are spread throughout West Clark.” Please provide a detailed explanation justifying this statement, specifically addressing how the division of “grants and other funding sources” between two school corporations rather than one is more efficient.

**Answer:** Presuming dollar amounts are the same, monies could be used more efficiently to improve a single school’s needs, rather than being disbursed across three campuses. Based on demographics, data, and performance of buildings, grants and other dollars will be used to make final determinations. Generally, grant funds will follow the students that the grant serves. Therefore, grants can be submitted by any corporation.

**Question No. 1(E):** Page 6 states: “Overall, the internal competition for resources negatively impacts the students within West Clark and the county. The competing interests of the different communities deprive all communities of needed resources for increased capacity without diminishing academic achievement. Reorganization of West Clark eliminates the competing interests.” Please explain how the “competition” for the same number of resources by 2 school corporations, rather than 1, is more efficient and “eliminates competing interests.”

**Answer:** Silver Creek has experienced growth in enrollment while Borden and Henryville have not. Yet when the WCCSC Board approves additional funding for Silver Creek to address the

**growth, Borden and Henryville request funding as well. Rather than dedicate resources to the needed area—namely where growth is occurring—funds are siphoned off to non-growth areas (Borden and Henryville) to appease animosities within the existing school corporation. Separating the school corporation will better allow the monies to follow the students.**

**Question No. 2:** OAG Official Opinion No. 2011-3 reads “[i]n determining whether either reorganization is necessary...consider the state policy located at Ind. Code § 20-23-6-16. This section states in relevant part that ‘the school corporation shall give consideration to the educational opportunities for students, local community interest, the effect on the community as a whole, and the economic interests of the community relative to establishing the boundaries of the school corporation that is involved in the school corporation reorganization, consolidation, or annexation attempt.’”[1] Based upon the guidance contained in the OAG opinion, a reorganization request must describe the impact of the reorganization will have on the educational opportunities for students in the following ways:

**Question No. 2(A):** Educational opportunities for students:

- Explain how the reorganization will increase educational opportunities for students within the school corporation(s).
- Will the reorganization have an impact on the availability of career and technical education opportunities for students within the current boundaries of the school corporation? If so, please provide a detailed analysis of this impact.
- Will the reorganization have an impact on the availability of special education services for students within the current boundaries of the school corporation? If so, please provide a detailed analysis of this impact.
- Will the reorganization have an impact on the availability of Graduation Pathways opportunities for students within the current boundaries of the school corporation? If so, please provide a detailed analysis of this impact.
- Will the reorganization have an impact on the availability of transportation opportunities for students within the current boundaries of the school corporation? If so, please provide a detailed analysis of this impact.
- Explain how the reorganization will impact curriculum opportunities currently offered by the school corporation (e.g. Advance Placement and Dual Credit courses, industry certifications, etc.).

Please provide responses to the questions referenced above. If possible, provide specific examples to support any responses that you provide.

**Answer: Reorganization will increase educational opportunities for students since each community can dictate how they wish to prioritize their educational mission and fund it accordingly (e.g., allocation of state grant, operating referendum, or capital projects referendum). Educational opportunities will be increased through reorganization by allowing each school corporation to concentrate on movement within the student population as it moves dynamically and make changes more quickly by the addition of programs as needed. Local**

**communities would have more control over the funding of their local schools and increased input by stakeholders in the education and resources for the local schools.**

**Availability of career and technical education opportunities should not be impacted if, as anticipated, the new school corporation continue their joint efforts. The Advanced Manufacturing program would continue to be a viable program if the two new corporations would send students to the program. Educational offerings in the CTE space may increase as each school corporation may independently dedicate more resources to CTE.**

**With respect to special education, the school corporations would be expected to join a special education co-op (which West Clark was a member of until it withdrew two years ago).**

**Graduation Pathways will not be impacted because the pathways will not be changed within each of the respective communities.**

**Transportation Services will be provided based upon student willingness to utilize the services, while any changes will be made as needed to routes. Daily and Monthly changes will be made, as they are now. Assuming AV growth continues in the historical rate that it has, transportation funding will be adequate for continued growth. The school corporations are expected to share transportation services.**

**In regards to curriculum opportunities, staffing would be a large part of the determination of AP and Dual credit courses that are provided. Staff retention will be a huge part of the equation. New local boards would have to determine the support of the AP and Dual credit course, as well as any programs that would provide industry certifications. It is not expected that the new school corporations will impact current curriculum opportunities.**

**Question No. 2(B):** Local community interest:

- Identify, and provide supporting materials, any opportunities that the local community has had to comment or participate in regards to the proposed school corporation reorganization.

Although Board staff has conducted a number of hearings in Clark County and received numerous public comments, please provide any additional materials documenting input from the community that the corporation has (for example, testimony from the local board meetings or correspondence that has been provided by the community members to the corporation).

**Answer: Please find attached copies of audio and video recordings of board meetings in addition to the hearings conducted by the SBOE.**

**Question No. 2(C):** Effect on the community as a whole:

- Identify any actions that the school corporation has taken to determine the impact the reorganization will have on the community, and provide the results of such actions.

- Using specific examples, explain if the reorganization will have a positive or negative impact on the community.

Please provide responses to the questions referenced above. If possible, provide specific examples to support any responses that you provide.

**Answer: According to the overwhelming support at the public hearings for reorganization, it will have a positive impact. Not one person in the hearings at Silver Creek Middle School or Henryville Elementary School opposed reorganization.**

**Question No. 2(D):** Economic interests of the community relative to establishing the boundaries of the school corporation that is involved in the school corporation reorganization, consolidation, or annexation attempt:

- Identify how the proposed reorganization will improve the economic interests of the community.
- Explain what impact, if any, the proposed reorganization will have on property values within the community.
- Explain if the reorganization request is being pursued to increase or decrease local tax requirements of the community.

Please provide responses to the questions referenced above. If possible, provide specific examples to support any responses that you provide.

**Answer: Immediately following reorganization, tax rates in both new school corporations will remain the same as pre-reorganization. However, Silver Creek could greatly enhance economic interests and property values through better schools with approval of a referendum by voters. Reorganization is not being pursued to increase or decrease local tax requirements of the community.**

**Question No. 3:** The Indiana School Reorganization Act of 1959[2] (the "1959 Act") provided the authorization and procedure for reducing the number of local school districts through consolidation, the purpose being to provide "more equalized educational opportunities for publicly enrolled students in grades 1-12 in the school corporations of Indiana."

- Explain how the proposed reorganization will accomplish the 1959 Act's intended goal of consolidating school districts to allow for more equalized educational opportunities for all students.

Please provide a response to the question referenced above. If possible, provide specific examples to support any responses that you provide.

**Answer: The 1959 Act intended to modernize "reorganization of school corporations" to grant local control over decisions. Specifically, the 1959 Act recognizes the "sense of the general assembly . . . (5) that local electors: (A) have an interest in the boundaries of the school corporation in which they reside; and (B) will exercise their privileges, as provided in this chapter, to establish an efficient and economical [subdivision] plan best suited to local**



conditions.” IC 20-23-4-1. Toward that end, the 1959 Act gave local electors a number of tools to use in reorganizing school corporations. One of the tools in the modern toolbox given to the trusted local electors is “subdivision.” IC 20-23-4-7. Therefore, this Plan—made by local electors (the school board) using tools given by the General Assembly (subdivision)—achieves the expressly stated goals of the statute.

**Question No. 4:** A statement of assurances that the reorganized school corporation(s) shall abide by all applicable state and federal laws, including by not limited to IC 20-23-4, IC 20-23-8, IC 20-26-4, IC 3-8-1, 3-8-2.5, and 3-11-2. The statement of assurances must also confirm that the reorganization will not contravene any outstanding court order or other legal requirement currently imposed on the school corporation(s).

- Please provide this documentation.

**Answer:** Following subdivision two new school corporations will be created. West Clark Community Schools can offer a statement of assurances that these separate legal entities shall abide by various laws, but these assurances are illusory as West Clark Community Schools can bind these new school corporations just as it unable to bind the State Board of Education. West Clark can represent that the subdivision will not contravene any outstanding court order or legal requirement imposed on West Clark.

**Question No. 5:** A good faith analysis of the impact the proposed reorganization will have on the socioeconomic and demographic composition of the school corporation(s).

- Please provide a response to the question referenced above. If possible, provide specific examples to support any responses that you provide.

**Answer:** The composition of the student bodies at each school are expected to be unchanged as the students should stay in their buildings. Families may later move among the school corporations or seek out of district transfer, but a frequency of occurrences is not foreseeable at this time.

**Question No. 6:** Governing Body—need more information about the proposed governing board for both school corporations.

- Page 6 of the Plan lays out the general characteristics of the proposed governing bodies of the new school corporations. However, the proposal for the interim boards appears to conflict with IC 20-23-4-31. Please address.

IC 20-23-4-31 Board of school trustees; appointment of interim trustees

Sec. 31. (a) This section applies to each school corporation.

(b) If the plan provides for the election of members of the governing body of the community school corporation:

- (1) the judge of the circuit court; or
- (2) in the case of a united school corporation, the judge of the circuit court of the county having the most students enrolled in the united school corporation;

shall appoint interim governing body members in accordance with the plan approved by the county committee and the state board.

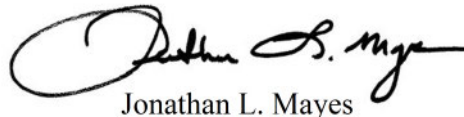
(c) The members of the governing body appointed serve until their successors are elected and qualified.

(d) Instead of appointment, the plan may provide for an alternative method of appointing the members of the interim governing body of a community or united school corporation. The appointment under this subsection must be made by one (1) or more of the class of officials listed in section 28(e) of this chapter.

**Answer: The board plans to amend the plan so that the Silver Creek Township Trustee would make appointments to the interim board for the Silver Creek School Corporation. For the Borden/Henryville School Corporation, the Township Trustees of Wood, Carr, Union and Monroe Townships will jointly approve appointments, and if there is disagreement and no appointments within 30 days of reorganization the Clark Circuit Court makes the appointment.**

Should you have any questions as to these responses, please let me know.

Sincerely,



Jonathan L. Mayes

JLM/klk

3580885\_1

DEPARTMENT OF LOCAL GOVERNMENT FINANCE

INDIANA GOVERNMENT CENTER NORTH  
100 NORTH SENATE AVENUE N1058(B)  
INDIANAPOLIS, IN 46204  
PHONE (317) 232-3777  
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**TO:** Jennifer McCormick, Superintendent of Public Instruction

**FROM:** Wesley R. Bennett, Commissioner

**RE:** West Clark Community School Corporation Reorganization Proposal

**DATE:** August 21, 2019

## **I. INTRODUCTION**

West Clark School Corporation (“West Clark”) made a request to the State Board of Education (“State Board”) to approve its plan to reorganize into two separate school corporations: Silver Creek School Corporation (“Silver Creek”) and Borden-Henryville School Corporation (“Borden-Henryville”). West Clark claims this is a valid action pursuant to IC 20-23-4-7(2) and 38(b)<sup>1</sup>. Subsequently, the State Board inquired with the Department of Local Government Finance (“DLGF”) for assistance pursuant to IC 20-23-4-19 with determining the fiscal impact, especially with the property taxes and other revenues the new school corporations would be able to receive after reorganization.

The DLGF has authority to set the initial maximum property levy for a school corporation under IC 20-23-4-19(b)(2). This states in part that if any taxes collected by a county and distributed to the school corporation as a result of a reorganization cannot be estimated by the school corporation, the DLGF shall estimate the total tax levy using the last preceding assessed valuations and tax rates, as well as any other information the DLGF believes is necessary to make the estimates.<sup>2</sup> The DLGF would then certify the estimate to the State Board. The initial maximum levy would be set for the 2021-pay-2022 budget for each new school corporation.

This memorandum to the Department of Education (“DOE”) analyzes four things. First, the effect of separating West Clark’s property tax levies into the applicable levies for each new school corporation. Second, the effect of reorganization on the distribution of miscellaneous revenues for each new school corporation, including local income tax (“LIT”), county vehicle

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<sup>1</sup> IC 20-23-4-7 states that the definition of “reorganized school corporation” is the formation of new school corporation, the alteration of the boundaries of established school corporations, and the dissolution of established school corporations. Specifically, subdivision (2) states that this includes the subdivision of school corporations. IC 20-23-4-38(b) states that if a county committee organized to consider a reorganization has been dissolved, the school board may submit a reorganization proposal to the State Board.

<sup>2</sup> The DLGF has authority to set maximum property tax levies for new political subdivisions. IC 6-1.1-18.5-7. This does not extend to school corporations by virtue of IC 6-1.1-18.5-1 (defining “civil taxing unit” as a political subdivision but excluding a school corporation). Even if there is no express authority to set a new maximum levy for a school corporation, the DLGF believes the law does not intend to deprive a school corporation from being able to levy a property tax, based on their authority to do so under IC 20-46-8.

excise tax (“CVET”), and financial institutions tax (“FIT”). Third, the effect of reorganization on debt service, including the debt service obligations incurred by West Clark prior to reorganization, as well as cash balances previously held by West Clark. Finally, the effects on operating balances when less or more spending than expected occurs, or less or more revenue than expected is received.

## **II. ASSUMPTIONS**

The following is a list of main assumptions made regarding West Clark’s forecasted budgets, rates, and levies for Borden-Henryville and Silver Creek, as made by West Clark and DLGF. Elaboration is provided where necessary. The DLGF concurs or at least does not take issue with some of West Clark’s assumptions, as explained throughout this memorandum, though it does not concur with others. The parentheses following each assumption indicates whether West Clark or DLGF, or both, is making the assumption.

1. The effective date of the reorganization is July 1, 2020. (West Clark & DLGF)
2. West Clark’s 2019 certified budget is used as a basis for the forecast. (West Clark & DLGF)
3. Growth in certified net assessed value (“CNAV”) of 3% anticipated each year. (West Clark & DLGF)
4. The assessed value growth quotient (“AVGQ”) will be 1.03 annually. (West Clark & DLGF)
5. Projected expenditures for each of the two districts are forecasted the same. Since the budget for 2019 is what was used instead of the planned expenditures, West Clark’s approved budget is higher than what is anticipated. West Clark announced \$3M in budget reductions in July and December of 2018. Having achieved that reduction, no budget cuts for 2020 and 2021 are necessary. (West Clark)
6. The school corporations will continue to receive LIT certified shares immediately after the split goes into effect. See IC 6-3.6-6-20(b). (West Clark & DLGF)
7. No circuit breaker losses are included in the 2019 budget. (West Clark)
8. No increase in circuit breaker loss estimates from 2021-2024. (West Clark & DLGF)
9. Splitting of West Clark’s Operations Fund proportional to each school corporation’s share in West Clark’s total CNAV, based on parcel data provided by West Clark.
  - Approximately 44.16% for Borden-Henryville and 55.84% for Silver Creek. (West Clark)
  - Approximately 43.32% for Borden-Henryville and 56.68% for Silver Creek based on assessed value (“AV”) provided by West Clark. (DLGF)
10. Expenditures are split evenly between the first and last 6 months. (DLGF)
11. Financial Institutions Tax (“FIT”), Commercial Vehicle Excise Tax (“CVET”), and Excise Tax revenue will remain at the 2018 levels. (DLGF)
  - Excise Tax decreased 3% between 2014 and 2015; decreased 1% between 2015 and 2016; and increased 5% between 2016 and 2017. (DLGF)
12. West Clark’s estimate of the Pension Debt Fund’s certified levy is correct, assuming the pension fund receives LIT at the 2019 level. (West Clark & DLGF)
13. West Clark’s outstanding pension debt obligation will be distributed between Borden-Henryville and Silver Creek by a proportion of their respective CNAVs. Each school corporation would then be individually responsible for their share of the obligations.

- Approximately 43.54% for Borden-Henryville and 56.46% for Silver Creek. (West Clark)<sup>3</sup>
  - Approximately 43.32% for Borden-Henryville and 56.68% for Silver Creek based on AV provided by West Clark. (DLGF)
14. West Clark’s estimates of the following are plausible:
- Budgeted expenditures.
  - CNAV.
  - AVGQ.
  - January 1, 2019 cash balance.
  - Other revenues.
  - Transfers from Education Fund to Operations Fund.
  - Circuit breaker credit amounts for each year.
- (West Clark & DLGF)
15. Property tax collection are expected to be at or near 100% (West Clark & DLGF)
- Based on Form 22 data, average property tax collection rate for West Clark from 2011 through 2018 was 98.44%.
  - Based on Form 22 data, median property tax collection rate for West Clark from 2011 through 2018 was 99.12%.
16. An interlocal agreement will be made between Borden-Henryville and Silver Creek for the last half of 2020 to carry out the remainder of West Clark’s budget and determine proper distribution of funds, fund balances, miscellaneous revenue, personnel, and other assets of West Clark. (DLGF)
17. The reorganization will be tax neutral to taxpayers from both new school corporations. (West Clark)
18. There are no changes to average daily membership (“ADM”), unknown revenue sources, and emergency expenses. (DLGF)
19. Cash will be separated at the end of 2020 proportionate to their CNAV. (West Clark & DLGF)
- Approximately 43.54% for Borden-Henryville and 56.46% for Silver Creek. (West Clark)<sup>4</sup>
  - Approximately 43.32% for Borden-Henryville and 56.68% for Silver Creek based on assessed value (“AV”) provided by West Clark. (DLGF)

### **III. REVENUES**

#### *West Clark’s Actual Property Tax Receipts for 2011 through 2018*

The most up-to-date information available on West Clark’s receipts for property tax come from Form 22 data. The table below represents the property tax receipts for the Capital Project, Bus Replacement, and Transportation Funds for the years of 2011 through 2018. The levies for these funds are now components of the Operations Fund levy. For each year, the certified levy was derived from the DLGF’s Certified Budget Order for the County, and was lower than the

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<sup>3</sup> These proportions represent West Clark’s original distribution of CNAV provided to the DLGF. West Clark provided revised CNAV projections to the DLGF on July 26, 2019. See assumption #9. West Clark did not make similar revisions to the distribution of outstanding debt obligations, levy, or to cash balances.

<sup>4</sup> See footnote 3, above.

maximum levy for that year. The receipts are then distributed in June and December installments. The June distribution tends to be the larger share of the distribution.

<b>Year</b>	<b>Certified Levy</b>	<b>June Distribution</b>	<b>December Distribution</b>	<b>Total</b>	<b>% of Certified Levy</b>
2011	\$5,181,349	\$3,007,933	\$2,159,166	\$5,167,099	99.72%
2012	\$4,282,817	\$2,499,450	\$1,819,508	\$4,318,957	100.84%
2013	\$4,913,155	\$2,779,303	\$2,130,730	\$4,910,033	99.94%
2014	\$4,958,424	\$2,729,510	\$2,024,643	\$4,754,153	95.88%
2015	\$4,872,127	\$2,714,452	\$1,993,356	\$4,707,809	96.63%
2016	\$4,799,591	\$2,625,059	\$1,978,196	\$4,603,254	95.21%
2017	\$5,060,989	\$2,931,915	\$2,139,655	\$5,071,570	100.21%
2018	\$5,291,277	\$3,037,777	\$2,175,056	\$5,212,833	98.52%
<b>Total</b>	<b>\$39,359,729</b>	<b>\$22,325,398</b>	<b>\$16,420,310</b>	<b>\$38,745,708</b>	<b>98.44%</b>

The average property tax collection rate from 2011 through 2018 is 98.44%. The median collection rate is 99.12%. The DLGF will therefore assume for 2020 through 2024 that Borden-Henryville and Silver Creek’s property tax collections will be 100% of their certified levies.

*Proposed Property Tax Levies after Reorganization*

The table below shows West Clark’s certified 2019 budget, rate, and levy for the funds payable through property tax. This information is taken from the 2019 certified budget order for Clark County.<sup>5</sup>

<b>School Corporation</b>	<b>CNAV</b>	<b>Budget</b>	<b>Levy*</b>	<b>Rate**</b>
West Clark	\$1,363,589,651	\$12,600,181	\$5,864,799	\$0.4301
*Levy excludes non-property tax revenues and takes into account estimated circuit breaker losses and revenue applied to pension debt neutralization (as a decrease to the levy).				
**Rate is taxed per \$100 of CNAV.				

West Clark’s certified 2019 budget, rate, and levy are then divided into the projected budgets, rates, and levies for Silver Creek and Borden-Henryville for 2020. The subdivision will serve as a basis for calculating the proposed levies and rates for each school corporation for 2021, when they have their first budgets, rates, and levies certified as separate school corporation, through 2024. For purposes of CNAV for each school corporation, the 2019 CNAV for West Clark will be adjusted upward 3%. West Clark assumes Silver Creek will be composed of 55.84% of the CNAV of West Clark, with Borden-Henryville making up 44.16%.

<sup>5</sup> Certified 2019 Budget Order for Clark County, <https://www.in.gov/dlhf/files/Clark%20County%202019%20Certified%20Budget%20Order.pdf>.

<b>School Corporation</b>	<b>CNAV</b>	<b>Budget</b>	<b>Levy*</b>	<b>Rate**</b>
Silver Creek	\$784,363,756	\$6,498,409	\$3,410,603	\$0.4348
Borden-Henryville	\$620,133,684	\$5,146,511	\$2,630,139	\$0.4241
Total	\$1,404,497,340	\$11,644,920	\$6,040,742	
*Levy excludes non-property tax revenues and takes into account estimated circuit breaker losses and revenue applied to pension debt neutralization (as a decrease to the levy).				
**Rate is taxed per \$100 of CNAV.				

The levy is assumed to be taxed at or near the maximum levy under IC 6-1.1-18.5-3 and for pay-2021 is also assumed to grow by 3%. If the actual growth in CNAV is lower than anticipated, or is a negative value, the rate will be higher.<sup>6</sup> For 2019, the maximum levy for West Clark is \$5,890,082.<sup>7</sup> Applying a 1.03 AVGQ for the next two years, the maximum levy to be split between the two school corporations for 2021 is \$6,248,788.

The school corporation boundaries roughly correspond to the township boundaries. West Clark is currently comprised of the areas of Monroe, Union, Carr, Wood, and Silver Creek Townships. Silver Creek will be co-terminous with Silver Creek Township. Borden-Henryville will be co-terminous with the remaining townships. However, several parcels located in southeast Carr Township and one parcel located in Union Township will be a part of Silver Creek.<sup>8</sup> There is also a triangular area in Carr Township along County Road 60 that is in dispute.<sup>9</sup> Nonetheless, the DLGF will assume Silver Creek will be composed of 56.68% of the CNAV of West Clark, with Borden-Henryville making up 43.32%.

<b>School Corporation</b>	<b>CNAV</b>	<b>Budget</b>	<b>Levy*</b>	<b>Rate**</b>
Silver Creek	\$796,075,652	\$6,498,409	\$3,410,603	\$0.4284
Borden-Henryville	\$608,421,688	\$5,146,511	\$2,630,139	\$0.4323
Total	\$1,404,497,340	\$12,096,174	\$6,040,742	
*Levy excludes non-property tax revenues and takes into account estimated circuit breaker losses and revenue applied to pension debt neutralization (as a decrease to the levy).				
**Rate is taxed per \$100 of CNAV.				

<sup>6</sup> CNAV is gross assessed value less deductions and exemptions. It can grow slowly or decline due to a greater number of deductions or exemptions granted by the county, a greater number of abatements granted by any of the overlying local units, or loss of assessed value due to economic changes or successful property tax appeals. The DLGF assumes that CNAV will not change significantly from what West Clark represents when the county auditor certifies the CNAV for pay-2020.

<sup>7</sup> Calculation of Initial Operations Fund Maximum Levy for 2019, Clark County, <https://www.in.gov/dlgf/files/Clark%20-%20180713%20-%202019%20Calculation%20of%20Estimated%20School%20Operations%20Maximum%20Levy.pdf>.

<sup>8</sup> These parcels that Silver Creek claims include a golf course and several residences surrounding the golf course. West Clark has stated these parcels should belong to Silver Creek because they have been annexed by the City of Sellersburg. Presently, the students residing in this area are given the option to attend either Silver Creek High School or Borden-Henryville High School.

<sup>9</sup> Specifically, the people residing in this area were polled and indicated they wanted their children to attend Borden-Henryville schools according to West Clark. This area was not part of an annexation by Sellersburg, and currently most students from this area are attending Silver Creek High School.

The rate is expected to increase by around one-half of one cent up or down in both school corporations. As previously stated, the rate will be different depending on the actual CNAV and AVGQ for each school corporation for 2021-pay-2022.

The following table shows the maximum levy for each school corporation West Clarks estimates for the first 4 years after the split, using a hypothetical levy in 2020 for each that is based off the 43.54%/56.46% shares of West Clark’s 2020 certified levy as a starting point<sup>10</sup>. This is then adjusted for 2021 and thereafter by a forecasted AVGQ of 1.03 applied to the previous year’s maximum levy, after taking pension neutralization into account.

School Corporation	2020	2021	2022	2023	2023
Borden-Henryville	\$2,630,139	\$2,709,044	\$2,790,135	\$2,874,024	\$2,960,245
Silver Creek	\$3,410,603	\$3,512,922	\$3,618,309	\$3,726,859	\$3,838,664
<b>Total</b>	<b>\$6,040,742</b>	<b>\$6,221,966</b>	<b>\$6,408,444</b>	<b>\$6,600,883</b>	<b>\$6,798,909</b>
<b>% Increase</b>	--	3.0%	2.9%	3.0%	3.0%

West Clark therefore forecasts the maximum levy to grow by the AVGQ each year. There are a couple of variables that also need to be taken into account. First, property tax collections for West Clark is close to 100%, though not exactly at that percentage. It is fair to expect both Borden-Henryville and Silver Creek to be able to collect close to their levy, though delinquent collections may happen. Second, because a property tax rate must be expressed up to the fourth decimal point to the right (\$0.0000), oftentimes a certified levy is less than the maximum permissible levy, as any higher rate may put the unit’s levy over the maximum. An actual certified levy for either school corporation in any of the next 5 years will be as mathematically close to the maximum levy as possible.

### Circuit Breaker

West Clark treats the circuit breaker as a reduction to the collectable levy. Below are their estimated circuit breaker credit losses for 2021 through 2024:

School Corporation	2021	2022	2023	2024
Borden-Henryville	\$80,000	\$80,000	\$80,000	\$80,000
Silver Creek	\$105,000	\$105,000	\$105,000	\$105,000

West Clark’s actual circuit breaker loss in 2019 is \$161,373.65, including the Over 65 circuit breaker and the 1%/2%/3% tax caps. West Clark’s projections are not unlikely.

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<sup>10</sup> This appears to be disproportionate to the revised CNAV distribution that West Clark is proposing. See footnote 3, above.



## Pension Debt Neutralization

Indiana Code 20-48-1-2.5 provides that debt service on pension bonds taken out before 2005 may be paid for by an offset to the Operations Fund levy. West Clark purports that the new school corporations will apply part of their property tax levy to neutralizing pension debt for their first two years. Borden-Henryville will apply \$7,909 in 2020 and \$10,000 in 2021. Silver Creek will apply \$10,000 in both years. West Clark states pension debt will be paid for by LIT revenue. For 2021, this assumes both school corporations will continue to receive LIT at the 2019 level.

### *Miscellaneous revenues*

## LIT

Indiana Code 6-3.6-6-3(a)(2) allows school corporations in former CAGIT counties (i.e., counties that imposed an income tax under IC 6-3.5-1.1 before the current LIT structure was enacted) to receive a distribution from the LIT off the first 0.25% of the County's overall expenditure rate for certified shares. Clark County is a former CAGIT county, therefore West Clark receives a distribution from LIT. West Clark's 2019 LIT distribution is \$560,204.

Generally, LIT distributions are calculated by the property tax levy imposed by the unit, as a proportion of the total property tax levy for all units throughout the county imposed in the year before the distribution takes place.<sup>11</sup> However, if a unit does not have a property tax levy imposed in the year before the LIT distribution, the unit's distribution is calculated as a proportion of that unit's budget for the distribution year to the budgets for all units in the county for the distribution year.<sup>12</sup>

West Clark anticipates LIT receipts in 2020 for Borden-Henryville (\$251,178) and Silver Creek (\$325,713). This represents a proportional split in the current LIT receipt of about 57% to Silver Creek, 43% to Borden-Henryville.<sup>13</sup>

West Clark is proposing to reorganize into two new school corporations effective July 2020. Any redistribution of money during the second half of 2020 will be through an interlocal agreement between the two new school districts. There will not be a maximum levy for each until 2021. For Borden-Henryville and Silver Creek, their levies are effectively zero, meaning that their share of the LIT distribution will have to be based on their proposed 2021 budgets. It should also be noted that because LIT revenue is proportionately distributed and is a fixed dollar amount, a change in the levy, either up or down, for any unit will result in the distribution amounts for all the other units in the county to go either up or down. Whenever the new school corporations start to

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<sup>11</sup> IC 6-3.6-6-12(b).

<sup>12</sup> IC 6-3.6-6-20(c).

<sup>13</sup> Because the effective date of the reorganization is in July 2020, West Clark will be receiving LIT in the first half of that year. Borden-Henryville and Silver Creek will both be receiving the balance of the LIT distribution, as part of an interlocal agreement. Therefore, this memorandum will treat the LIT distribution in 2020 as if they were received by Borden-Henryville and Silver Creek and not West Clark.

receive LIT revenue, all the other units in Clark County will lose a proportional share of that revenue.<sup>14</sup>

A couple other things must take place before either school corporation can receive a LIT distribution in 2021. First, Clark County's 2021 budget order must be certified on or before December 31, 2020. This is because the DLGF must be able to determine the LIT distribution for each taxing units in the county before January LIT distributions are completed.<sup>15</sup> Second, no unit in Clark County, including Borden-Henryville or Silver Creek, takes out debt in December 2020 or applies for a shortfall appeal under IC 6-1.1-18-16<sup>16</sup>. Under IC 6-1.1-17-16(k), the deadline for the DLGF to certify budgets for all units in a county moves from December 31 to January 15 if any unit in Clark county issues debt in December or files a shortfall appeal. This change in DLGF's budget certification deadline is because additional time is required to factor the new debt and the shortfall appeal into the certified budget order. If a unit in Clark County does either of these actions, thus moving the budget certification deadline to January 15, it will be unlikely that budgets for Borden-Henryville or Silver Creek will be certified in time for the January 2021 LIT distribution to also be certified. While this would not cause any issues with February or later distributions, the DLGF would not be able to determine the LIT distribution<sup>17</sup> until after the county budget is certified by January 15.

Finally, Clark County has its own adjustment to LIT for debt incurred after 2005.<sup>18</sup> Specifically, the county will receive an additional amount of LIT revenue, taken from all other taxing units' distributions, equal to the amount of the county's levy to pay off post-2005 judgment bonds. This adjustment would be phased out over three years, so that the county unit would not receive this adjustment after 2021. Hence, in 2021, Borden-Henryville and Silver Creek's LIT distribution would also have to account for this adjustment. The DLGF would need to know all the judgment bonds that are applicable in order to make an accurate adjustment.

Below represents the calculation for the combined LIT distribution for both Borden-Henryville and Silver Creek in 2021. For purposes of this calculation, West Clark's 2019 certified shares are used as a starting point. The DLGF assumes West Clark's proposed 2021 budget for both Silver Creek and Borden-Henryville for all of their funds (Education, Operations, Debt Service, and Pension Debt) is accurate and will use the combined figure. This calculation will also assume the 2019 certified LIT distribution for Clark County, and that no changes to the LIT rate or configuration will change for 2021.

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<sup>14</sup> This does not account for any new debt taken on by the new school corporations which, unless existing debt is falling off, will cause an increase to the overall property tax rate.

<sup>15</sup> Per IC 6-3.6-6-12, distributions from LIT to each unit in a county is done on the first business day of every month. Hence, January 2 is the first distribution for the year.

<sup>16</sup> IC 6-1.1-18-16 allows a unit to request from the DLGF an increase to its maximum levy for the following year based on shortfalls in revenues from prior years. A unit can request this 'shortfall appeal' up to and including December 30.

<sup>17</sup> By 'LIT distribution' in this paragraph, this means the amount from the first 0.25% of the tax rate distributed under IC 6-3.6-6-3(a)(2). The amount distributed from the remainder of the LIT rate for the county will be determined and distributed in a timely manner.

<sup>18</sup> IC 6.3.6-9-18.

Step	Description	Derived from	Result
1a	Clark County's Total LIT Distribution	Certified by SBA	\$27,000,606
1b	Distribution to School Corporations and Civil Taxing Units under IC 6-3.6-6-3(a)(2)	=1a * 0.25	\$6,750,152
2a	Total of all Certified Budgets for Clark County Units in 2019	2019 Certified Budget Order	\$294,396,343
2b	Combined 2021 Certified Budgets	West Clark's numbers	\$47,071,453
2c	Proportion of West Clark's 2019 Certified Budget to County Total in 2019	2b / 2a	0.1599, or 15.99%
2d	2021 Combined IC 6-3.6-6-20(c) LIT Distribution	=2c * 1b	\$1,079,291
3a	West Clark's Certified 2019 LIT Distribution		\$560,204
3b	2021 Combined IC 6-3.6-6-20(c) LIT Distribution	=2d	\$1,079,291
3c	Increase in LIT Distribution for 2021	=3b-3a	\$519,087

Therefore, absent any legislative modification to IC 6-3.6-6-20(c) in 2020, the combined 2021 LIT distribution for Borden-Henryville and Silver Creek is \$1,079,291. This would be a \$519,087 increase from West Clark's 2019 LIT distribution. As previously mentioned, increases to one unit's LIT distribution will result in decreases to other unit's share of LIT. The combined \$519,087 increase in LIT that Borden-Henryville and Silver Creek would receive in 2021 will come out of the distributions from other units in Clark County. Most notably, the Clark County Unit will lose approximately \$89,499, the City of Jeffersonville will lose approximately \$183,907, and the Town of Clarksville approximately \$82,142. As such, the DLGF will notify all units in Clark County that they will potentially receive less LIT dollars in 2021 as a result of West Clark's reorganization. After 2021, Borden-Henryville and Silver Creek's LIT distribution will be calculated based on their 2021 certified levy, which means that the distributions throughout the county would return close to their expected shares.

These are West Clark's estimated Operations Fund LIT receipts for both school corporations in 2021 and beyond:

School Corporation	2021*	2022	2023	2024
Borden-Henryville	\$0	\$231,757	\$242,678	\$242,678
Silver Creek	\$0	\$303,237	\$317,526	\$317,526
* For both Borden-Henryville and Silver Creek, LIT receipts will be dedicated to neutralizing their pension debt. See Section V, below.				

The 2021 amount is shown as '\$0' because both school corporations are expected to apply LIT toward pension debt. Once the pension debt is fulfilled, they will then start to direct LIT distributions to their Operations Fund. This assumes the combined LIT distribution in 2021 is \$560,204 and does not account for the \$519,087 additional LIT revenue that would be received from calculating the LIT distribution based on the 2021 budget, per IC 6-3.6-6-20(c). This

surplus would likely be received into the Operations Fund in the same proportion as they would receive in 2022, 2023, and 2024. The distributions for 2022 and later would be based off the 2021 levies for each school corporation.

Hence, the DLGF anticipates both school corporations' LIT receipts in their Operations Fund to be as follows:

<b>School Corporation</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Borden-Henryville	\$224,868	\$231,757	\$242,678	\$242,678
Silver Creek	\$294,219	\$303,237	\$317,526	\$317,526

The DLGF will estimate the financial impact of receiving LIT in Sections VI, VII, and VIII using these estimated LIT receipts.

CVET, FIT, & Excise Tax

Form 22 data for 2018 shows the following receipts for Excise, CVET, and FIT:

<b>Revenue</b>	<b>June distribution</b>	<b>December distribution</b>	<b>Total</b>
Excise	\$265,715	\$308,576	\$574,291
CVET	\$12,034	\$12,034	\$24,068
FIT	\$4,040	\$4,316	\$8,356

West Clark estimates CVET, FIT, and excise tax revenues for the Operations Fund will grow by 3% annually from their initial 2020 estimates, shown below:

<b>School Corporation</b>	<b>Excise</b>	<b>CVET</b>	<b>FIT</b>
Borden-Henryville	\$234,988.61	\$12,281.68	\$3,907.81
Silver Creek	\$304,719.09	\$15,926.12	\$5,067.40

It is not clear on what basis West Clark estimates 3% annual growth in these revenue sources after 2020, except that this is consistent with their estimated AV and AVGQ growth.

Using the 2018 receipts for West Clark, these sources represent a small portion of West Clark's overall revenue. Because these figures have not significantly changed in recent years, it is fair to estimate that both new school corporations will receive an amount close to West Clark's actual 2018 receipts for these taxes.

Other Revenues

Finally, West Clark states that each school corporation will receive what it describes as "other revenue" each year: \$17,500 for Borden-Henryville, \$25,000 for Silver Creek. It is not certain what this revenue is based on from the information received from West Clark, but it is most likely from fees and other charges.

#### **IV. EXPENDITURES**

West Clark has largely based its Operations Fund expenditures on a proportional split of the CNAV.<sup>19</sup> This split may not necessarily take into account each school corporation’s needs. West Clark assumes general administration costs for each school corporation will stay at 2018 levels from 2020 through 2024. This seems unlikely given that these costs have grown in the period from 2015 through 2019. Moreover, a division of general administration costs will not stay the same for at least one of the school corporations given that both must hire a superintendent and other central office staff, build or lease a central office building, etc.

The capital project and bus replacement plans show a disproportionate allocation of need compared to the 45%/55% allocation made for revenues and other expenses. While the Operations Fund is set up to allow for allocating funds where needed, a disproportionate allocation may cause deficiencies in paying for the costs under these plans, resulting in money being diverted from other line items.

#### *West Clark’s Actual Expenditures From 2010 through 2018*

Actual expenses for West Clark were taken from the 2010-2018 Form 9 data. This is the most recent data available. The following table shows the capital project, bus replacement, and transportation expenses for 2010 through 2018. The combined expenses are then shown as the Operations Fund total under the assumption that only these 3 funds make up the Operations Fund:

<b>Actual Expenditures</b>					
	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
CPF	\$2,331,331	\$2,462,985	\$2,983,904	\$3,093,045	\$3,202,172
Transportation	\$1,837,532	\$1,961,888	\$2,099,742	\$2,130,862	\$2,331,302
Bus Replacement	\$682,597	\$441,970	\$244,089	\$542,086	\$254,052
<b>Operations Total</b>	<b>\$4,851,460</b>	<b>\$4,866,843</b>	<b>\$5,327,735</b>	<b>\$5,765,993</b>	<b>\$5,787,526</b>

<b>Actual Expenditures</b>				
	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
CPF	\$3,495,817	\$2,806,847	\$3,166,719	\$3,045,394
Transportation	\$2,374,299	\$2,444,904	\$2,674,772	\$2,622,231
Bus Replacement	\$539,473	\$321,914	\$113,993	\$55,929
<b>Operations Total</b>	<b>\$6,409,590</b>	<b>\$5,573,664</b>	<b>\$5,955,483</b>	<b>\$5,723,554</b>

West Clark initially purported a 2018 expense figure of \$10,242,761. Projected 2019-2024 expenses will remain over this amount. For 2019 through 2024, the combined Operations Fund

<sup>19</sup> West Clark here is assuming all expenditures are based off the CNAV. This is more accurate for the Operations Fund. Spending for the Education Fund is based off the ADM.

budget for the new school corporations is stated to be \$11,644,920. No explanation was given for this increase compared to past years.

West Clark claims that it has succeeded in implementing a plan to reduce their 2019 budget by \$3 million. Based on the Form 9 data and West Clark’s own projections, it does not appear that West Clark has justified how the reorganization will result in a savings. Costs steadily increased from 2010 through 2015, dropped in 2016, increased again in 2017, and dropped slightly again in 2018. Overall, the trend has been that costs have increased.

*Overhead and operational expenses*

Preliminarily, West Clark explains in its narrative that projected expenditures for Borden-Henryville and Silver Creek were forecasted the same. West Clark had initially projected a 4% decrease in expenses in 2021, while for 2022 through 2024 expenses will remain the same. The 2021 reduction was under the assumption that West Clark could not reduce 2019 expenses by \$3 million. Subsequently, West Clark claimed it has achieved the \$3 million reduction, therefore budget cuts for Borden-Henryville and Silver Creek in 2021 would not be necessary.

West Clark represents that Borden-Henryville will have the following operational costs for 2021 through 2024, separated by categories:

<b>Category</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
General Administration	\$401,222	401,222	401,222	401,222
School Administration	\$359,107	\$359,107	\$359,107	\$359,107
Operation and Maintenance	\$2,221,832	\$2,221,832	\$2,221,832	\$2,221,832
Student Transportation	\$1,437,931	\$1,437,931	\$1,437,931	\$1,437,931
<b>Total Support Services</b>	<b>\$4,420,292</b>	<b>\$4,420,292</b>	<b>\$4,420,292</b>	<b>\$4,420,292</b>

Likewise, for Silver Creek:

<b>Category</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
General Administration	\$506,869	\$506,869	\$506,869	\$506,869
School Administration	\$453,438	\$453,438	\$453,438	\$453,438
Operation and Maintenance	\$2,805,468	\$2,805,468	\$2,805,468	\$2,805,468
Student Transportation	\$1,815,651	\$1,815,651	\$1,815,651	\$1,815,651
<b>Total Support Services</b>	<b>\$5,581,425</b>	<b>\$5,581,425</b>	<b>\$5,581,425</b>	<b>\$5,581,425</b>

Generally, it is expected Borden-Henryville and Silver Creek costs will remain stable in that same timeframe. This is in keeping with West Clark’s own purported assumption that the expenditures were forecasted the same.<sup>20</sup>

There is a difficulty with this projection for general administration costs. The reorganization is not expected to change the number of schools in operation or the staff of each school, including administration, maintenance, teachers, principals, etc. It cannot be the case, however, that the

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<sup>20</sup> See assumption #5 in Part II.

separate school corporations can share general administration staff. Each school corporation will need its own superintendent, central office, school board, and so on. While one of the school corporations can inherit the general administration currently in place for West Clark, the other will at least have to hire its own superintendent. Therefore, at least one school corporation will not necessarily see a savings for general administration.

*Capital projects*

Effective January 1, 2019, the Operations Fund is the fund by which a school corporation will use to pay for transportation services, bus replacement, and capital projects. By law, school corporations must prepare a capital projects plan and bus replacement plan before they may use the Operations Fund to pay for capital projects and bus replacement. The DLGF does not approve the capital project plan or bus replacement plan.

Currently, West Clark operates 11 buildings: 9 schools, 1 central office, and 1 special education office. The special education office is leased by West Clark. As of 2018, the total capital project plan cost for 2020 is \$3,700,000. This funding is expected to partially be derived from property tax (\$2,627,649) and miscellaneous revenue (\$251,024).

West Clark did not provide a breakdown of the capital project plan for the two new school corporations. Therefore, the DLGF will make some assumptions in analyzing their capital project plan. First, as West Clark did not provide costs beyond 2020, the DLGF will assume the 2020 costs per West Clark’s plan. Second, the distribution of the school buildings to each school corporation will depend on their location. The buildings to go to Borden-Henryville will be those located in Borden and Henryville. Likewise, the schools to go to Silver Creek will be those located in Sellersburg. Third, the capital project costs for each school building will be as West Clark estimated in their revised 2019 plan. Fourth, West Clark has included in its plan a ‘No Specific Building’ entry. This is likely an entry of capital costs that applies throughout the school corporation and therefore will be spread on a 45%/55% distribution, with Silver Creek getting the larger share. Lastly, the DLGF will assume the current central office and special education office buildings will go to Silver Creek because they are both located in Sellersburg/Silver Creek Township.

The “2020 Cost” column represents the “Total Expenditures and Allocations for this Location” line on the 2020 capital projects plan for each building.

<b>Borden-Henryville</b>	<b>Year Built</b>	<b>Building Value</b>	<b>2020 Cost</b>
Borden Elementary School	1950	\$13,009,962	\$100,861
Borden Jr./Sr. High School	1950	\$30,456,309	\$107,200
Henryville Elementary School	1961	\$20,249,476	\$139,900
Henryville Jr./Sr. High School	1960	\$28,776,020	\$130,883
Central Office (needed)			Unknown
No Specific Building (45% share)			\$260,100
<b>Total Cost</b>			<b>\$738,944</b>

<b>Silver Creek</b>	<b>Year Built</b>	<b>Building Value</b>	<b>2020 Cost</b>
West Clark Education Center	1933	\$4,143,963	\$60,400
Silver Creek Middle School	2003	\$24,164,294	\$178,466
Silver Creek High School	1961	\$45,328,408	\$216,015
Silver Creek Elementary School	1952	\$19,956,519	\$199,950
Silver Creek Primary School	2010	\$11,843,520	\$144,050
Central Office	1979	\$3,907,410	\$1,500,005
Special Education Office	2018	Leased	\$43,770
No Specific Building (55% share)			\$317,900
<b>Total Cost</b>			<b>\$2,660,486</b>

The total costs for both school corporations in 2020 is \$3,399,430, which is close to West Clark’s estimate of \$3,700,000. Borden-Henryville will have a 21.7% share; however, this does not include the costs of a central office building, which would have to be either built or leased. Silver Creek will have a 78.3% share.

Below are the amounts provided by West Clark for facilities acquisition and construction:

<b>School Corporation</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Borden-Henryville	\$726,219	\$726,219	\$726,219	\$726,219	\$726,219
Silver Creek	\$916,984	\$916,984	\$916,984	\$916,984	\$916,984

On its face, Borden-Henryville’s share of capital projects seems to be supportable by at least the projected 2020 costs. Construction or acquisition of a central office for the school corporation would increase the costs, however, to a level that has not been budgeted for Borden-Henryville. Silver Creek’s share of capital projects does not sync up with the projected costs for 2020. In addition, for both school corporations, West Clark expects facilities costs to decrease after 2020. It is not clear what justifies this expectation.

*Bus replacement*

Currently, West Clark’s bus replacement plan shows a 44-bus fleet on a 12-year rotation. The total cost to replace all the buses over this period is \$4,200,000. Between 2 to 6 buses are scheduled to be replaced each year, with annual costs ranging from \$150,000 (2021) to \$580,000 (2030).

West Clark proposes to split the fleet up as follows, compared to the current bus replacement plan:



<b>School Corporation</b>	<b>Fleet Size</b>	<b>Total Cost</b>	<b>Lowest Cost</b>	<b>Highest Cost</b>	<b>Average Cost (approx.)</b>
West Clark	44	\$4,200,000	\$150,000 (2021)	\$580,000 (2030)	\$350,000
Borden-Henryville	20	\$1,900,000	\$55,000 (2021)	\$295,000 (2030)	\$158,334
Silver Creek	24	\$2,300,000	\$95,000 (2021, 2022, 2023)	\$285,000 (2019, 2027, 2028, 2030)	\$191,667

The proposed division of the fleet represents a 45%/55% allocation of buses and costs between Borden-Henryville and Silver Creek, respectively. It should be noted that the ADM split for the Education Fund is represented by West Clark to be 61.35% for Silver Creek and 38.65% for Borden-Henryville.<sup>21</sup> This indicates Silver Creek will have 55% of the current bus fleet to accommodate busing for 61.35% of the current student body, and vice-versa for Borden-Henryville.

## **V. IMPACT ON DEBT SERVICE LEVIES AND PENSION DEBT**

As with revenues and expenses, West Clark plans to divide the share of outstanding debt obligations between Borden-Henryville and Silver Creek by respective 45% and 55% shares. A property tax levy will be partially offset by CVET, FIT, and excise tax revenue, and because the levy is need-based on an increase, would only increase the overall property tax rate without affecting any other fund. West Clark’s plan for its outstanding pension debt is feasible provided that the new school corporations receive LIT revenue in 2021. After the split, each school corporation will also be able to take on their own new debt.

### *West Clark Current Debt Obligations*

At present, West Clark maintains the following debt obligations: 7 common school fund issuances; 2 annual lease payments; other debt service<sup>22</sup>; and pension debt. The 2019 obligation amounts are as follows:

<b>Debt Type</b>	<b>Remaining Obligation</b>
7 Common School Fund Loans	\$537,348
2 Lease Rentals	\$6,343,000
Other debt service	\$88,971
Pension Bonds	\$583,354
<b>Total Debt Service</b>	<b>\$7,552,673</b>

At the time the reorganization takes place, West Clark’s obligations will be \$7,505,935, with 2 of the common school fund loans planned to expire, an uptick in lease rental payments, and a decrease in pension debt. West Clark plans to allocate the remaining debt obligations between both school corporations. Each of them could also be taking on their own debt as early as July 1,

<sup>21</sup> See West Clark Reorganization Financial Analysis, pages 131& 132, specifically the enrollment numbers given in the 2018 capital projects plan.

<sup>22</sup> Includes unreimbursed textbook rentals, temporary loan interest, and bond registrar fees.

2020. West Clark has not specified the nature of the new debt, except to say that it plans to issue a new plan which separates the projects between the two school corporations. It has also given the amounts through 2028, as follows:

School Corporation	2020	2021	2022	2023	2024
Borden-Henryville	\$416,696	\$295,550	\$295,550	\$295,550	\$1,416,550
Silver Creek	\$740,988	\$523,050	\$523,050	\$1,230,950	\$2,479,575

School Corporation	2025	2026	2027	2028
Borden-Henryville	\$1,464,300	\$2,477,575	\$2,477,675	\$2,478,150
Silver Creek	\$2,478,100	\$1,512,425	\$1,511,425	\$1,512,725

*Debt Service*

According to West Clark, outstanding debt would be approximately split by the proportionate CNAV of each school corporation. Hence, using the 45%/55% allocation, and compared to West Clark’s current obligations, the outstanding debt obligations would be as follows:

School Corporation	Debt Service	CNAV	% Share
West Clark	\$7,505,935	\$1,363,589,651	100%
Borden-Henryville	\$3,377,671	\$608,421,688	45%
Silver Creek	\$4,128,264	\$796,075,652	55%

Below is what West Clark represented would be the debt service expenses for 2021 through 2024:

School Corporation	2021	2022	2023	2024
Borden-Henryville	\$3,256,461	\$3,249,559	\$1,298,386	\$2,360,920
Silver Creek	\$4,362,577	\$4,353,627	\$2,531,367	\$3,704,176

Even after the split, the CNAV for the levy used to make payments on existing debt would be the CNAV for all of West Clark prior to the split. It would be difficult to split debts based off of a percentage as they are separate issuances. However, the effect of splitting debt proportionate to the CNAV should be negligible due to the CNAV for the debt service fund being unchanged. Any new debt would need to go into a separate debt fund with only the individual school corporations’ CNAVs considered.

West Clark states that CVET, FIT, and excise tax will be put toward debt service. A property tax levy for debt service is need-based, so it will not affect the maximum levy. However, it will affect the overall property tax rate for the school corporation. West Clark also indicated that Borden-Henryville and Silver Creek will be taking on their own debt obligations, starting in 2020. It is not specified what the nature of the debt will be, though it did provide the amounts for each year. It is likely the new debt will be paid for entirely by property tax, which will increase the overall rate for the school corporation. Projected revenue for debt service is as follows:

<b>Borden-Henryville</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Property Tax	\$3,000,000	\$3,000,000	\$1,250,000	\$2,300,000
Excise	\$268,084	\$268,084	\$111,681	\$205,493
CVET	\$14,009	\$14,009	\$5,837	\$10,740
FIT	\$4,457	\$4,457	\$1,857	\$3,417
<b>Total</b>	<b>\$3,286,550</b>	<b>\$3,286,550</b>	<b>\$1,369,375</b>	<b>\$2,519,650</b>

<b>Silver Creek</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Property Tax	\$4,000,000	\$4,000,000	\$2,500,000	\$3,400,000
Excise	\$357,379	\$357,379	\$223,361	\$303,772
CVET	\$18,678	\$18,678	\$11,674	\$15,877
FIT	\$5,943	\$5,943	\$3,714	\$5,052
<b>Total</b>	<b>\$4,382,000</b>	<b>\$4,382,000</b>	<b>\$2,738,749</b>	<b>\$3,724,701</b>

The expected revenues for debt service correspond closely with the expected expenses.

*Pension Debt*

West Clark plans to have its outstanding pension debt paid off in 2021. Borden-Henryville and Silver Creek will absorb an approximate 43.53% and 56.47% share of the pension debt, respectively.<sup>23</sup> This assumes that neither new school corporation will have its own pension debt.

<b>School Corporation</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Borden-Henryville	\$252,451	\$254,381	--	--	--
Silver Creek	\$327,363	\$329,865	--	--	--

The majority of this pension debt would be paid off using LIT revenue:

<b>Borden-Henryville</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Property Tax	\$7,909.48	\$10,000	--	--	--
Excise	\$972.67	\$972.67	--	--	--
CVET	\$50.83	\$50.83	--	--	--
FIT	\$16.17	\$16.17	--	--	--
LIT	\$243,824	\$243,824	--	--	--
<b>Total</b>	<b>\$252,773.16</b>	<b>\$254,863.67</b>	--	--	--

<sup>23</sup> This appears to be disproportionate to the revised CNAV distribution that West Clark is proposing. See footnote 3, above.

<b>Silver Creek</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Property Tax	\$10,000	\$10,000	--	--	--
Excise	\$893.59	\$893.59	--	--	--
CVET	\$46.70	\$46.70	--	--	--
FIT	\$14.86	\$14.86	--	--	--
LIT	\$316,569	\$316,569	--	--	--
<b>Total</b>	<b>\$327,524.14</b>	<b>\$327,524.14</b>	--	--	--

As both school corporations will receive LIT in 2021, these obligations do not need to be paid for out of any other revenue source.<sup>24</sup>

## **VI. BUDGETS, RATES, AND FUND BALANCES**

### *West Clark*

West Clark’s 2019 certified Operations Fund budget is \$12,600,181. Based on DLGF’s calculations, a certified levy of \$5,864,799 plus miscellaneous revenues of \$6,918,115 and a circuit breaker loss of \$161,374 results in an end of 2019 cash balance of \$21,359. This serves as an operating balance. Typically, an operating balance serves as a funding source for the first 6 months of the budget because property tax distributions are not received until June of the tax year.<sup>25</sup>

### *Borden-Henryville*

West Clark states Borden-Henryville’s total Operations Fund budget will be as follows:

<b>Year</b>	<b>Overhead and Operational Expenses<sup>26</sup></b>	<b>Capital Projects<sup>27</sup></b>	<b>Total</b>
2021	\$4,420,292	\$726,219	\$5,146,511
2022	\$4,420,292	\$726,219	\$5,146,511
2023	\$4,420,292	\$726,219	\$5,146,511
2024	\$4,420,292	\$726,219	\$5,146,511

West Clark represents that for Borden-Henryville, the Operations Fund balance at the start of 2021 is \$827,315. This is expected to decline to \$383,626 by the end of that year. In 2022, the balance is expected to decrease further to \$315,237. The fund balance will then increase going forward.

West Clark expects Borden-Henryville’s Operations Fund balance to be maintained by transfers from the Education Fund. In fact, this is the current pattern, as West Clark has represented that

<sup>24</sup> By law, a pension debt levy may be applied against the Operations Fund. IC 20-48-1-2.5.

<sup>25</sup> By contrast, CVET and LIT revenues can be used to fund the first 6 months of the budget because they are distributed monthly.

<sup>26</sup> See “Overhead and Operational Expenses” in Section IV, above.

<sup>27</sup> See “Capital Projects” in Section IV, above.

they have been transferring money from the general fund to maintain the other funds since at least 2015.<sup>28</sup>

The DLGF’s own calculations show Borden-Henryville’s 2021 starting balance to be \$836,921. The cash reserves will decrease in 2022 but stable and slightly growing cash reserves for the two years after. As such, the operating balance is not expected to be negative or low enough for Borden-Henryville to have to make budget cuts or make transfers from the Education Fund until it can accumulate enough funding.

<b>Borden-Henryville</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
<b>Starting Balance</b>	\$836,921	\$862,793	\$786,408	\$846,099
Misc Revenue <sup>29</sup>	\$2,330,569	\$2,361,972	\$2,414,403	\$2,456,121
Minimum Property Tax Levy	\$1,834,153	\$2,001,746	\$2,025,700	\$1,924,291
<b>Total Revenue</b>	\$4,947,515	\$5,070,126	\$5,206,202	\$5,334,074
Circuit Breaker	(\$80,000)	(\$80,000)	(\$80,000)	(\$80,000)
Expenditures	(\$5,146,511)	(\$5,146,511)	(\$5,146,511)	(\$5,146,511)
<b>Total Expenditures</b>	(\$5,226,511)	(\$5,226,511)	(\$5,226,511)	(\$5,226,511)
<b>Change in Cash Reserves</b>	\$25,872	(\$76,385)	\$59,691	\$187,563
Operating Balance	\$862,793	\$786,408	\$846,099	\$1,033,662

*Silver Creek*

West Clark states Silver Creek’s total Operations Fund budget will be as follows:

<b>Year</b>	<b>Overhead and Operational Expenses<sup>30</sup></b>	<b>Capital Projects<sup>31</sup></b>	<b>Total</b>
2021	\$5,581,425	\$916,984	\$6,498,409
2022	\$5,581,425	\$916,984	\$6,498,409
2023	\$5,581,425	\$916,984	\$6,498,409
2024	\$5,581,425	\$916,984	\$6,498,409

Like with Borden-Henryville, Silver Creek’s Operations Fund balance is expected to remain relatively stable. Unlike with Borden-Henryville, there is no expected reduction in cash reserves in 2022. With a starting balance of \$2,013,804, the Operations Fund balance will be \$2,473,536 at the end of 2021, and by 2024 it will climb to \$3,758,583. As with Borden-Henryville, transfers from the Education Fund are being used to offset losses to the Operations Fund due to higher expenses over revenues, and an increase of approximately \$330,000 in local income tax revenue is expected in 2022 with the expiration of the pension debt.

<sup>28</sup> See the West Clark Reorganization Financial Analysis, pages 2 and 7, listing the Operations Fund revenue by source and expenditures by function for Borden-Henryville and Silver Creek. West Clark later revised the expenditures, however this does not change the pattern of using transfers from other funds to keep the Operations Fund and its legacy funds stable.

<sup>29</sup> This includes the \$224,868 that Borden-Henryville would receive in additional LIT revenue in 2021 as a result of the IC 6-3.6-6-20(c) calculation. See the section on LIT in Section III, above.

<sup>30</sup> See “Overhead and Operational Expenses” in Section IV, above.

<sup>31</sup> See “Capital Projects” in Section IV, above.

<b>Silver Creek</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
<b>Starting Balance</b>	\$2,013,804	\$2,473,536	\$2,756,081	\$3,187,111
Misc Revenue <sup>32</sup>	\$3,237,081	\$3,237,856	\$3,276,899	\$3,304,834
Minimum Property Tax Levy	\$1,058,306	\$892,017	\$570,429	\$111,464
<b>Total Revenue</b>	\$6,663,923	\$6,780,953	\$6,929,439	\$7,070,101
Circuit Breaker	(\$105,000)	(\$105,000)	(\$105,000)	(\$105,000)
Expenditures	(\$6,498,409)	(\$6,498,409)	(\$6,498,409)	(\$6,498,409)
<b>Total Expenditures</b>	(\$6,603,409)	(\$6,603,409)	(\$6,603,409)	(\$6,603,409)
<b>Change in Cash Reserves</b>	\$459,732	\$282,544	\$431,030	\$571,692
Operating Balance	\$2,473,536	\$2,756,081	\$3,187,111	\$3,758,803

A school corporation, as with any other unit of government, must have a budget that is fully fundable from available cash reserves, a property tax levy, and miscellaneous revenue sources. The Fiscal and Qualitative Indicators Committee of the Distressed Unit Appeals Board (DUAB) reviews all school corporations in the state for adequate fiscal resources. A school corporation that is unable to maintain adequate funding or has negative cash balances can potentially be subject to review by DUAB, in turn leading to additional use of state resources for corrective action.<sup>33</sup>

## **VII. MAXIMUM LEVIES**

Typically, the DLGF sets the maximum levies for new units based on their expected operating costs for the first year the unit will be imposing the levy. The DLGF cannot anticipate what will happen in future years, as assessed value changes, legislative changes, and other external factors may be contrary to the new units' expectations. Hence, what follows are West Clark's and DLGF's forecasted levies for the new school corporations.

### *West Clark*

The following tables show the maximum levy for each school corporation estimated to be required to maintain operations. This is based off a forecasted AVGQ of 1.03. Assuming a portion of the Operations Fund is used to neutralize pension debt, some of the levy will be applied. The amount applied will be shown in the row marked "Pension Neutrality." Because West Clark also considers the circuit breaker as a reduction of the levy, that amount is also included. The maximum levy less circuit breaker and pension neutralization will be the "Estimated Property Tax Revenues."

<sup>32</sup> This includes the \$294,218 that Silver Creek would receive in additional LIT revenue in 2021 as a result of the IC 6-3.6-6-20(c) calculation. See the section on LIT in III, above.

<sup>33</sup> See generally IC 20-19-7 and IC 6-1.1-20.3.

<b>Borden-Henryville</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2023</b>
Property Tax Levy	\$2,709,044	\$2,790,135	\$2,874,024	\$2,960,245
Less Circuit Breaker	\$80,000	\$80,000	\$80,000	\$80,000
Less Pension Neutrality	\$10,000	\$0	\$0	\$0
<b>Estimated Property Tax Revenues</b>	<b>\$2,619,044</b>	<b>\$2,710,135</b>	<b>\$2,794,024</b>	<b>\$2,880,245</b>
<b>Silver Creek</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2023</b>
Property Tax Levy	\$3,512,922	\$3,618,309	\$3,726,859	\$3,838,664
Less Circuit Breaker	\$105,000	\$105,000	\$105,000	\$105,000
Less Pension Neutrality	\$10,000	\$0	\$0	\$0
<b>Estimated Property Tax Revenues</b>	<b>\$3,397,922</b>	<b>\$3,513,309</b>	<b>\$3,621,859</b>	<b>\$3,733,664</b>

*DLGF*

This table represents DLGF’s projected levies for each school corporation. The circuit breaker is not considered a direct reduction to the levy on the Form 4B, so it is not included in this table. Otherwise, the levies are fairly close to West Clark’s estimates.

<b>Borden-Henryville</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2023</b>
Property Tax Levy	\$2,706,946	\$2,788,154	\$2,871,799	\$2,957,953
Pension Neutrality	\$10,000	\$0	\$0	\$0
<b>Estimated Property Tax Revenues</b>	<b>\$2,696,946</b>	<b>\$2,788,154</b>	<b>\$2,871,799</b>	<b>\$2,957,953</b>

<b>Silver Creek</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2023</b>
Property Tax Levy	\$3,531,842	\$3,648,097	\$3,757,540	\$3,870,267
Pension Neutrality	\$10,000	\$0	\$0	\$0
<b>Estimated Property Tax Revenues</b>	<b>\$3,521,842</b>	<b>\$3,648,097</b>	<b>\$3,757,540</b>	<b>\$3,870,267</b>

**VIII. EXPENDITURE AND REVENUE CHANGES**

The tables below represent what might happen to Borden-Henryville and Silver Creek’s operating balances if either school corporation spends less than originally proposed, spends more than originally proposed, or receives more or less revenue than anticipated. This assumes that the cash flow projection includes a LIT distribution in 2021 calculated off of Borden-Henryville’s and Silver Creek’s proposed budgets under IC 6-3.6-6-20(c).

For both expenditure and revenue changes, starting balances are not included, just an expression of how the reductions or increases to either expenses or revenues would affect the operating balances. For revenues, the DLGF will limit its analysis to the Operations Fund and to the property tax levy and miscellaneous revenue sources that fund it. It is also assuming there will be no transfers to or from the Education Fund. Changes in expected revenue can come from changes in the circuit breaker credits applied to the Operations Fund and changes to the amount of

miscellaneous revenue received. The DLGF assumes, however, that both school corporations are able to levy and collect up to their maximum levy for each year.

*Expenditure Reductions*

Assuming expected revenues are received, should Borden-Henryville or Silver Creek spend less than their proposed budgets in 2021 through 2024, they would incur a savings and thus have higher operating balances than first projected, as the below tables show.

<b>Borden-Henryville</b>	2021	2022	2023	2024
<b>Expected Budgets*</b>	\$5,146,511	\$5,146,511	\$5,146,511	\$5,146,511
Operating Balance	\$862,793	\$786,408	\$846,099	\$1,033,662
<b>1% Budget Reduction</b>	\$5,095,046	\$5,095,046	\$5,095,046	\$5,095,046
Operating Balance	\$914,258	\$889,339	\$1,000,494	\$1,239,522
<b>3% Budget Reduction</b>	\$4,992,116	\$4,992,116	\$4,992,116	\$4,992,116
Operating Balance	\$1,017,189	\$1,095,199	\$1,309,285	\$1,651,243
<b>5% Budget Reduction</b>	\$4,889,185	\$4,889,185	\$4,889,185	\$4,889,185
Operating Balance	\$1,120,119	\$1,301,059	\$1,618,076	\$2,062,964
*Expected budget taken from combined overhead and operational expenses plus capital project expenses as represented by West Clark.				

<b>Silver Creek</b>	2021	2022	2023	2024
<b>Expected Budgets</b>	\$6,498,409	\$6,498,409	\$6,498,409	\$6,498,409
Operating Balance	\$2,473,536	\$3,215,813	\$3,469,656	\$4,189,833
<b>1% Budget Reduction</b>	\$6,433,425	\$6,433,425	\$6,433,425	\$6,433,425
Operating Balance	\$2,538,520	\$2,886,049	\$3,382,063	\$4,514,754
<b>3% Budget Reduction</b>	\$6,303,457	\$6,303,457	\$6,303,457	\$6,303,457
Operating Balance	\$2,668,489	\$3,145,985	\$3,771,968	\$5,164,595
<b>5% Budget Reduction</b>	\$6,173,489	\$6,173,489	\$6,173,489	\$6,173,489
Operating Balance	\$2,798,457	\$3,405,922	\$4,161,872	\$5,814,435
*Expected budget taken from combined overhead and operational expenses plus capital project expenses as represented by West Clark.				

*Expenditure Increases*

Assuming expected revenues are received, should Borden-Henryville or Silver Creek spend more than their proposed budgets in 2021 through 2024, they would incur deficits and thus have lower operating balances than first projected, as the below tables show. If the budget for Borden-Henryville increases by 5% more than expected, it will have a low operating balance in 2023 and 2024, potentially requiring budget cuts and temporary loans to maintain cash flow.



<b>Borden-Henryville</b>	2021	2022	2023	2024
<b>Expected Budgets</b>	\$5,146,511	\$5,146,511	\$5,146,511	\$5,146,511
Operating Balance	\$862,793	\$786,408	\$846,099	\$1,033,662
<b>1% Budget Increase</b>	\$5,197,976	\$5,197,976	\$5,197,976	\$5,197,976
Operating Balance	\$811,328	\$683,478	\$691,704	\$827,801
<b>3% Budget Increase</b>	\$5,300,906	\$5,300,906	\$5,300,906	\$5,300,906
Operating Balance	\$708,398	\$477,618	\$382,913	\$416,081
<b>5% Budget Increase</b>	\$5,403,837	\$5,403,837	\$5,403,837	\$5,403,837
Operating Balance	\$605,468	\$271,757	\$74,122	\$4,360

<b>Silver Creek</b>	2021	2022	2023	2024
<b>Expected Budgets</b>	\$6,498,409	\$6,498,409	\$6,498,409	\$6,498,409
Operating Balance	\$2,473,536	\$3,215,813	\$3,469,656	\$4,189,833
<b>1% Budget Increase</b>	\$6,563,393	\$6,563,393	\$6,563,393	\$6,563,393
Operating Balance	\$2,408,552	\$2,626,113	\$3,209,719	\$3,864,913
<b>3% Budget Increase</b>	\$6,693,361	\$6,693,361	\$6,693,361	\$6,693,361
Operating Balance	\$2,278,584	\$2,366,176	\$2,689,847	\$3,215,072
<b>5% Budget Increase</b>	\$6,823,329	\$6,823,329	\$6,823,329	\$6,823,329
Operating Balance	\$2,148,616	\$2,106,240	\$2,212,350	\$2,565,231

*Revenue Shortfalls*

Assuming expenses are as initially projected, should Borden-Henryville or Silver Creek take in less revenue than expected in 2021 through 2024, they would incur a shortfall and thus have lower operating balances than first projected, as the below tables show. These shortfalls, however, should not result in a negative or low operating balance.

<b>Borden-Henryville</b>	2021	2022	2023	2024
<b>Expected Revenues</b>	\$5,172,383	\$5,070,126	\$5,206,202	\$5,334,074
Operating Balance	\$862,793	\$786,408	\$846,099	\$1,033,662
<b>1% Revenue Shortfall</b>	\$5,147,628	\$5,047,306	\$5,182,858	\$5,310,313
Operating Balance	\$802,536	\$728,428	\$788,358	\$974,907
<b>3% Revenue Shortfall</b>	\$5,098,120	\$5,001,667	\$5,136,170	\$5,262,790
Operating Balance	\$682,022	\$612,468	\$672,877	\$857,398
<b>5% Revenue Shortfall</b>	\$5,048,611	\$4,956,028	\$5,089,482	\$5,215,268
Operating Balance	\$561,508	\$496,507	\$557,396	\$739,888

<b>Silver Creek</b>	2021	2022	2023	2024
<b>Expected Revenues</b>	\$6,958,141	\$6,780,953	\$6,929,439	\$7,070,101
Operating Balance	\$2,473,536	\$2,756,081	\$3,187,111	\$3,758,803
<b>1% Revenue Shortfall</b>	\$6,923,878	\$6,749,625	\$6,897,720	\$7,038,102
Operating Balance	\$2,383,938	\$2,666,475	\$3,094,289	\$3,661,391
<b>3% Revenue Shortfall</b>	\$6,855,352	\$6,686,968	\$6,834,282	\$6,974,106
Operating Balance	\$2,204,741	\$2,487,263	\$2,908,646	\$3,466,568
<b>5% Revenue Shortfall</b>	\$6,786,826	\$6,624,311	\$6,770,844	\$6,910,109
Operating Balance	\$2,025,544	\$2,308,051	\$2,723,002	\$3,271,267

*Revenue Increases*

Assuming expenses are as initially projected, should Borden-Henryville or Silver Creek take in more revenue or have reduced circuit breaker impact than expected in 2021 through 2024, they would incur a greater surplus and thus have greater operating balances than first projected, as the below tables show.

<b>Borden-Henryville</b>	2021	2022	2023	2024
<b>Expected Revenues</b>	\$5,172,383	\$5,070,126	\$5,206,202	\$5,334,074
Operating Balance	\$862,793	\$786,408	\$846,099	\$1,033,662
<b>1% Revenue Increase</b>	\$5,197,137	\$5,092,946	\$5,229,546	\$5,357,835
Operating Balance	\$923,050	\$844,389	\$903,840	\$1,092,417
<b>3% Revenue Increase</b>	\$5,246,646	\$5,138,585	\$5,276,234	\$5,405,357
Operating Balance	\$1,043,564	\$960,349	\$1,019,321	\$1,209,926
<b>5% Revenue Increase</b>	\$5,296,155	\$5,184,225	\$5,322,922	\$5,452,880
Operating Balance	\$1,164,078	\$1,076,309	\$1,134,802	\$1,327,436

<b>Silver Creek</b>	2021	2022	2023	2024
<b>Expected Revenues</b>	\$6,958,141	\$6,780,953	\$6,929,439	\$7,070,101
Operating Balance	\$2,473,536	\$2,756,081	\$3,187,111	\$3,758,803
<b>1% Revenue Increase</b>	\$6,992,404	\$6,812,282	\$6,961,158	\$7,102,099
Operating Balance	\$2,563,135	\$2,845,687	\$3,279,933	\$3,856,214
<b>3% Revenue Increase</b>	\$7,060,930	\$6,874,939	\$7,024,596	\$7,166,096
Operating Balance	\$2,742,332	\$3,024,899	\$3,465,577	\$4,051,037
<b>5% Revenue Increase</b>	\$7,129,456	\$6,937,596	\$7,088,034	\$7,230,092
Operating Balance	\$2,921,529	\$3,204,111	\$3,651,220	\$4,245,860

## **IX. CONCLUSION**

Below are the proposed budget, initial maximum levy, and tax rate for each school corporation's Operations Fund for 2021.

<b><u>School Corporation</u></b>	<b><u>CNAV*</u></b>	<b><u>Budget</u></b>	<b><u>Levy</u></b>	<b><u>Rate</u></b>
Silver Creek	\$819,957,922	\$6,498,409	\$3,531,842	\$0.4307
Borden-Henryville	\$626,674,339	\$5,146,511	\$2,696,946	\$0.4304
*The CNAV is derived from the 2019-pay-2020 estimate, grown by 3%.				

Assuming the budgets West Clark provided will be sufficient for operations at each new school corporation, the proposed budgets, rates, and levies for Silver Creek are estimated to be feasible for 2021 through 2024, even if revenue and expenses fluctuate by up to 5%. For Borden-Henryville, the proposed budgets, rates, and levies are also estimated to be feasible for those years, as long as expense and revenue fluctuations do not exceed 5%. Shortfalls or increases in revenues or expenditures should also not change this outcome, except Borden-Henryville will have low operating balances in its Operating Fund if its expenses are 5% higher than expected.

It should be noted that this feasibility is benefitted in part from higher than projected LIT distributions in 2021. Absent some statutory change, both Borden-Henryville and Silver Creek are eligible to receive LIT revenue in 2021 based on their proposed 2021 budgets for all of their funds. West Clark has represented to the State and to the taxpayers that this reorganization will result in two new school corporations. As new school corporations, neither of them would have been in existence prior to the reorganization going into effect and therefore would not have had a property tax levy from which to calculate a LIT revenue distribution. Hence, both school corporations will receive a LIT distribution based on the proportion of their 2021 budget compared to the total budget of all units in Clark County for 2021. This will result in an estimated increase of \$224,868 for Borden-Henryville and \$294,219 for Silver Creek. This will decrease expected LIT distributions for all other units in Clark County for 2021, but will revert to the expected amounts in 2022 when the LIT distribution for both school corporations will be based off their 2021 levies. Nevertheless, Borden-Henryville and Silver Creek will be able to receive some LIT distributions in 2021, allowing them to likely remain financially viable.

Should neither school corporation be eligible to receive LIT in 2021, no other unit in Clark County will see a decrease to their LIT distributions that year. Moreover, that will put Borden-Henryville at risk of having negative operating balances by 2023 should its expenses be underestimated by no less than 5%. If Borden-Henryville's revenues are also underestimated by at least 5% in addition to the 5% underestimate on its budget, it will have a negative operating balance by 2022.

The DLGF notes, in closing, that the foregoing analysis was done in the reverse of what is typically done when setting max levies for new units. In the usual process, the DLGF reviews the proposed budgets for at least the first year of the levy and determines the appropriate levy based on those budgets. Here, West Clark insisted that this be a tax neutral reorganization. Hence, the feasibility of the proposed reorganization had to be based on whether the levies West Clark desired for the two new school corporations would adequately fund the desired budgets and

maintain cash flow. This approach runs the risk of underfunding the budget, since the desired rate may not necessarily account for the actual needs that are represented in the budgets. If either Borden-Henryville or Silver Creek have a perpetually underfunded budget, they will not be able to function as a unit of government in the long term.

**SOURCES:**

West Clark Community School Corporation Reorganization Financial Analysis: April 15, 2019.

Updated Property Tax Rates and Assessed Valuation Projections for Borden-Henryville and Silver Creek, provided by West Clark on July 26, 2019.

Updated Educations Fund and Operations Fund Budgets and Revenues for Borden-Henryville and Silver Creek, provided by West Clark on July 26, 2019.

Proposed Boundaries of Borden-Henryville and Silver Creek, provided by West Clark on July 26, 2019.

Parcel data provided to Department of Local Government Finance.

Form 4B data provided to Department of Local Government Finance.

Form 22 data provided to Department of Local Government Finance, 2011 through 2018.

Form 9 data provided to Department of Education, 2010 through 2018.

Form 2 data provided to Department of Local Government Finance.

West Clark Community School Corporation Proposed 2019 Capital Project Plan.

**TO: Tim Schultz, Indiana SBOE General Counsel**

**FROM: Indiana Department of Education (IDOE)**

**RE: West Clark Community School Corporation Reorganization Proposal**

**DATE: September 6, 2019**

In the fall of 2018, West Clark Community School Corporation (“West Clark”) submitted a request to the Indiana State Board of Education (“SBOE”) for approval of a reorganization of its school corporation into two separate school corporations. The two school corporations would be named Silver Creek School Corporation (“Silver Creek”) and Borden-Henryville School Corporation (“Borden- Henryville”). Pursuant to IC 20-39-2-1, SBOE asked IDOE to conduct a review of the financial components of the reorganization request and provide feedback on whether the proposed reorganization complies with state law.

Using the minimum standards adopted by the school governing body at its December 12, 2018, meeting, IDOE conducted a review of the memorandum from Commissioner Bennett, a Department of Local Government Finance (“DLGF”) analysis, as well as the West Clark Community Schools Reorganization Plan and the West Clark Community School Corporation Reorganization Financial Analysis provided by financial consultants for West Clark Community School Corporation. The minimum standards adopted include:

1. A reorganization request must identify how the reorganized school corporation(s) is better suited to provide efficient and adequate educational opportunities for all students compared to the existing school corporation organization.
2. A reorganization request must describe the impact the reorganization will have on education opportunities of students, local community interests, the community as a whole, and the economic interests of the community.
3. How the proposed reorganization will allow for more equalized educational opportunities.
4. Provide a detailed accounting of how the assets and financial obligations of the school corporations will be impacted pursuant to the reorganization, and coordinate with the Indiana Department of Local Government Finance to ensure compliance with any applicable laws or regulations.
5. A statement of assurances that the reorganized school corporation(s) shall abide by all applicable state and federal laws.
6. A good faith analysis of the impact the proposed reorganization will have on the socioeconomic and demographic composition of the school corporation(s).



7. Any additional information requested by the Board.

As part of its review of data provided, IDOE focused on the financial parameters regarding assets and financial obligations outlined in point four referenced above and has completed its review of the information provided by financial advisers for West Clark as well as the DLGF analysis provided. The following comments reflect IDOE feedback regarding the analysis.

### **Department of Local Government Finance Proposal Review**

DLGF reviewed the assumptions regarding the forecasted budgets, property tax levies, and property tax rates for Silver Creek and Borden-Henryville as projected in the West Clark Community Schools Reorganization Plan and West Clark Community School Corporation Financial Analysis. Based on these assumptions, DLGF noted that:

1. Absent a legislative change, both school corporations will receive a distribution of local income tax (“LIT”) revenue in 2021 based on their 2021 fund budgets. After 2021, the calculated distribution of LIT is closer to prior expected shares.<sup>1</sup>
2. Assuming 2021 through 2024 operating fund budget projections are sufficient at Silver Creek, DLGF believes the proposed budgets, rates and levies are feasible even if revenue and expenses fluctuate by up to 5%.<sup>2</sup>
3. Assuming 2021 through 2024 operating fund budget projections are sufficient for Borden-Henryville, DLGF estimates the budgets, tax rates, and tax levies, to be feasible as long as expense and revenue fluctuations do not exceed 5%.<sup>3</sup>
4. One of the school corporations, likely Borden-Henryville, will see increased general administrative costs associated with administrative and operational needs. However, based on information provided, neither school anticipates changes in the number of school buildings in operation nor the number of staff associated with each school building.
5. For the last half of 2020, an interlocal agreement between Borden-Henryville and Silver Creek will determine how the budget, distribution of funds, fund balances, miscellaneous revenue, personnel and other assets will occur if reorganization is approved.

### **West Clark**

Revenue and expenditures for the general, capital project fund, transportation and bus replacement funds were updated to reflect the new Education and Operation funds in place beginning January 1, 2019. This allowed for apples to apples comparison from CY 2015 through CY 2024.

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<sup>1</sup> DLGF memo to Jennifer McCormick, Superintendent of Public Instruction, page 9.

<sup>2</sup> DLGF memo to Jennifer McCormick, Superintendent of Public Instruction, page 25.

<sup>3</sup> Ibid, page 25.



IDOE was able to reasonably determine the split of General and Operation Fund (Capital Projects, Bus Replacement, and Transportation) revenues and expenditures for the period of CY 2015 through CY 2018 against the Form 9 financial data for the same periods submitted by officials for West Clark Community School Corporation.

IDOE was able to match Severance Bond Debt Service Fund revenues and expenditures for the period of CY 2015 through CY 2018 for Silver Creek and Borden-Henryville against the West Clark Form 9 financial data for the same periods submitted by West Clark Community School Corporation.

IDOE was able to match Debt Service revenues for the period of CY 2015 through CY 2018 for Silver Creek and Borden-Henryville against the Form 9 financial data for the same periods submitted by West Clark. IDOE was able to come closely match, likely small rounding differences, the expenditure amounts reported for the same periods submitted by West Clark.

Based on West Clark's past budget and future projections, DLGF did not believe there was sufficient evidence that the reorganization will result in savings.<sup>4</sup> IDOE concurs with DLGF that it would be unusual for each school to maintain level expenditures after a reorganization occurs due to unforeseen costs associated with relocation of administrative and operation staff and implementation of the goals desired by each school corporation. If approved, Silver Creek anticipates expanding its facilities to meet future needs and address overcrowding issues<sup>5</sup>. Borden-Henryville would like to dedicate more resources to vocational training<sup>6</sup>.

### **Borden-Henryville**

The Education Fund budget for Borden-Henryville reflects continued growth in state and federal revenues through the proposed CY 2024 budget year. Enrollment trends for Borden have declined since the 2016-2017 school year while enrollment at Henryville Elementary School has increased in recent years. Enrollment at Henryville High School experienced slight, but steady, declines since the 2014-2015 school year.

DLGF analysis indicated that West Clark will receive LIT revenue in the first half of 2020 while the second half distribution will be allocated to and through an interlocal agreement between Borden-Henryville and Silver Creek based on their proportionate share of the budget for the applicable year. Absent a legislative change, Borden-Henryville is eligible to receive estimate LIT revenue totaling \$224,868 in 2021 based on its proposed budgets for the same year. LIT distributions for the following years would be based off of the levies of the proposed school corporation.

At a minimum, Borden-Henryville will have to incur rental or building costs associated with an administrative building since the current building lies within the boundaries of Silver Creek and

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<sup>4</sup> DLGF memo to Jennifer McCormick, Superintendent of Public Instruction, page 12.

<sup>5</sup> West Clark Community Schools Reorganization Plan, Page 4.

<sup>6</sup> Ibid, Page 5.



would likely be assigned to Silver Creek. West Clark projections for facilities acquisition and construction remain level for the period of 2020 to 2024. Allocating capital projects between the two school corporations does not appear to include costs associated with construction or acquisition of a central office for a newly formed school corporation which is likely needed at Borden Henryville. Without the inclusion of such costs, Borden Henryville would need to incur additional costs beyond the projected amounts.

Additionally, there would be unknown costs associated with start-up needs for the new school corporation. Depending on the level of experience of teachers assigned to the school, the estimated budgets for each year may not be accurately depicting the costs associated with their salaries and benefits. West Clark's updated Financial Analysis for the Operation and Education funds for the period of CY 2020 through 2024 reflects the same budget amount for each year. The Operation fund revenue estimates for the same period are expected to decrease in CY 2020 and increase the remaining four years.

Borden Schools have experienced enrollment declines from the 2014 school year through 2018 while Henryville ES has increased the last three years and Henryville HS has decreased the last three years. Overall the total enrollment decreased in school year 2016 and increased or remained stable in school years 2017 and 2018. Revenue projections reflect growth in Education fund revenues through 2024. Given the small enrollment growth, tuition support funding may remain stable to slightly increasing in the next couple of years. The Education fund budget is expected to decrease almost twelve percent in 2019 and remain level for CY 2020 through CY 2024.

### **Silver Creek**

DLGF analysis indicated that West Clark will receive LIT revenue in the first half of 2020 while the second half distribution will be allocated to and through an interlocal agreement between Borden-Henryville and Silver Creek based on their proportionate share of the budget for the applicable year. Absent a legislative change, Silver Creek is eligible to receive estimate LIT revenue totaling \$294,219 in 2021 based on its proposed budgets for the same year. LIT distributions for the following years would be based off of the levies of the proposed school corporation.

Silver Creek's Education and Operations fund budget estimates, as reflected in West Clark's updated Financial Analysis, are projected to remain stable for both funds for CY 2019 through CY 2024. Depending on the level of experience of teachers assigned to the school, the estimated budgets for each year may not be accurately depicting the costs associated with their salaries and benefits. The Education fund revenue estimates reflect a decrease in CY 2020 and with slight increases in revenue from CY 2021 through CY 2024. For school years 2013-2014 through 2017-2018, enrollment trends at Silver Creek reflect a lower number of incoming primary students and a larger number of graduating students, which may indicate a potential decline in enrollment in the future. Declining enrollment may result in lower tuition support funding in the future.

Silver Creek's Operation fund revenue estimates reflect increases from CY 2021 through CY 2024. The Operation fund budget estimates for CY 2019 through CY 2024 are projected to remain level.

### **Conclusion**

Indiana Department of Education believes the analysis conducted by the Department of Local Government Finance is thorough and reasonable. IDOE agrees with the Department of Local Government Finance's analysis and conclusion that the proposed budgets, tax rates and tax levies for Silver Creek are feasible for calendar years 2021 through 2024 allowing a five percent increase/decrease in revenue and expenses.

Although Silver Creek School Corporation may not initially face revenue constraints, the shift in enrollment trends could potentially impact their amount of state funding over time. Additionally, the school corporation will likely incur additional costs not anticipated as a result of the reorganization.

IDOE agrees with the Department of Local Government Finance's analysis of Borden Henryville. Furthermore, Indiana Department of Education agrees that the proposed budget, tax rates, and tax levies for Borden Henryville are reasonable as long as there is not a greater than five percent deviation in revenues and expenses. However, IDOE believes that Borden Henryville will incur unknown and unbudgeted costs associated with the reorganization for administrative and operational needs of the new school corporation.



**Sources**

Department of Local Government Finance Commissioner Bennett's Memorandum to Jennifer McCormick, Superintendent of Public Instruction, regarding Clark Community School Corporation Reorganization Proposal

West Clark Community Schools Reorganization Plan

West Clark Community School Corporation Reorganization Financial Analysis

West Clark Community School Corporation Updated Financials

West Clark Form 9 data

## Key Findings Contained in the DLFG and the IDOE Financial Review Memorandums

### 1. DLGF Memo: pages 7-8

West Clark is proposing to reorganize into two new school corporations effective July 2020. Any redistribution of money during the second half of 2020 will be through an interlocal agreement between the two new school districts. There will not be a maximum levy for each until 2021. For Borden-Henryville and Silver Creek, their levies are effectively zero, meaning that their share of the LIT distribution will have to be based on their proposed 2021 budgets. It should also be noted that because LIT revenue is proportionately distributed and is a fixed dollar amount, a change in the levy, either up or down, for any unit will result in the distribution amounts for all the other units in the county to go either up or down. **Whenever the new school corporations start to receive LIT revenue, all the other units in Clark County will lose a proportional share of that revenue.**<sup>1</sup>

### 2. DLGF Memo: page 9

Therefore, absent any legislative modification to IC 6-3.6-6-20(c) in 2020, the combined 2021 LIT distribution for Borden-Henryville and Silver Creek is \$1,079,291. This would be a \$519,087 increase from West Clark's 2019 LIT distribution. As previously mentioned, increases to one unit's LIT distribution will result in decreases to other unit's share of LIT. The combined \$519,087 increase in LIT that Borden-Henryville and Silver Creek would receive in 2021 will come out of the distributions from other units in Clark County. **Most notably, the Clark County Unit will lose approximately \$89,499, the City of Jeffersonville will lose approximately \$183,907, and the Town of Clarksville approximately \$82,142.** As such, the DLGF will notify all units in Clark County that they will potentially receive less LIT dollars in 2021 as a result of West Clark's reorganization. After 2021, Borden-Henryville and Silver Creek's LIT distribution will be calculated based on their 2021 certified levy, which means that the distributions throughout the county would return close to their expected shares.

### 3. DLGF Memo: page 11

#### IV. EXPENDITURES

West Clark has largely based its Operations Fund expenditures on a proportional split of the CNAV.<sup>2</sup> This split may not necessarily take into account each school corporation's needs. **West Clark assumes general administration costs for each school corporation will stay at 2018 levels from 2020 through 2024. This seems**

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<sup>1</sup> This does not account for any new debt taken on by the new school corporations which, unless existing debt is falling off, will cause an increase to the overall property tax rate.

<sup>2</sup> West Clark here is assuming all expenditures are based off the CNAV. This is more accurate for the Operations Fund. Spending for the Education Fund is based off the ADM.

**unlikely given that these costs have grown in the period from 2015 through 2019. Moreover, a division of general administration costs will not stay the same for at least one of the school corporations given that both must hire a superintendent and other central office staff, build or lease a central office building, etc.**

The capital project and bus replacement plans show a disproportionate allocation of need compared to the 45%/55% allocation made for revenues and other expenses. **While the Operations Fund is set up to allow for allocating funds where needed, a disproportionate allocation may cause deficiencies in paying for the costs under these plans, resulting in money being diverted from other line items.**

**4. DLGF Memo: page 12-13**

West Clark claims that it has succeeded in implementing a plan to reduce their 2019 budget by \$3 million. Based on the Form 9 data and West Clark's own projections, **it does not appear that West Clark has justified how the reorganization will result in a savings.** Costs steadily increased from 2010 through 2015, dropped in 2016, increased again in 2017, and dropped slightly again in 2018. **Overall, the trend has been that costs have increased.**

There is a difficulty with this projection for general administration costs. The reorganization is not expected to change the number of schools in operation or the staff of each school, including administration, maintenance, teachers, principals, etc. It cannot be the case, however, that the separate school corporations can share general administration staff. **Each school corporation will need its own superintendent, central office, school board, and so on. While one of the school corporations can inherit the general administration currently in place for West Clark, the other will at least have to hire its own superintendent. Therefore, at least one school corporation will not necessarily see a savings for general administration.**

**5. DLGF Memo: page 14**

On its face, Borden-Henryville's share of capital projects seems to be supportable by at least the projected 2020 costs. **Construction or acquisition of a central office for the school corporation would increase the costs, however, to a level that has not been budgeted for Borden-Henryville. Silver Creek's share of capital projects does not sync up with the projected costs for 2020. In addition, for both school corporations, West Clark expects facilities costs to decrease after 2020. It is not clear what justifies this expectation.**

**6. DLGF Memo: page 15**

The proposed division of the fleet represents a 45%/55% allocation of buses and costs between Borden-Henryville and Silver Creek, respectively. It should be noted that the ADM split for the Education Fund is represented by West Clark to be 61.35% for Silver Creek and 38.65% for Borden-Henryville.<sup>3</sup> This indicates Silver Creek will have 55% of the current bus fleet to accommodate busing for 61.35% of the current student body, and vice-versa for Borden-Henryville.

7. DLGF Memo: page 22

Expenditure Increases

Assuming expected revenues are received, should Borden-Henryville or Silver Creek spend more than their proposed budgets in 2021 through 2024, they would incur deficits and thus have lower operating balances than first projected, as the below tables show. **If the budget for Borden-Henryville increases by 5% more than expected, it will have a low operating balance in 2023 and 2024, potentially requiring budget cuts and temporary loans to maintain cash flow.**

8. DLGF Memo: page 25

IX. CONCLUSION

Assuming the budgets West Clark provided will be sufficient for operations at each new school corporation, the proposed budgets, rates, and levies for Silver Creek are estimated to be feasible for 2021 through 2024, even if revenue and expenses fluctuate by up to 5%. For Borden-Henryville, the proposed budgets, rates, and levies are also estimated to be feasible for those years, as long as expense and revenue fluctuations do not exceed 5%. Shortfalls or increases in revenues or expenditures should also not change this outcome, except Borden-Henryville will have low operating balances in its Operating Fund if its expenses are 5% higher than expected.

It should be noted that this feasibility is benefitted in part from higher than projected LIT distributions in 2021. Absent some statutory change, both Borden-Henryville and Silver Creek are eligible to receive LIT revenue in 2021 based on their proposed 2021 budgets for all of their funds. West Clark has represented to the State and to the taxpayers that this reorganization will result in two new school corporations. As new school corporations, neither of them would have been in existence prior to the reorganization going into effect and therefore would not have had a property tax levy from which to calculate a LIT revenue distribution. Hence, both school corporations will receive a LIT distribution based on the proportion of their 2021 budget compared to the total budget of all units in Clark County for 2021. This will result in an estimated increase of \$224,868 for Borden-Henryville and \$294,219 for Silver Creek. **This will decrease expected LIT distributions for all other units in Clark County for 2021, but will revert to the expected**

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<sup>3</sup> See West Clark Reorganization Financial Analysis, pages 131& 132, specifically the enrollment numbers given in the 2018 capital projects plan.

**amounts in 2022 when the LIT distribution for both school corporations will be based off their 2021 levies. Nevertheless, Borden-Henryville and Silver Creek will be able to receive some LIT distributions in 2021, allowing them to likely remain financially viable.**

Should neither school corporation be eligible to receive LIT in 2021, no other unit in Clark County will see a decrease to their LIT distributions that year. Moreover, that will put **Borden-Henryville at risk of having negative operating balances by 2023 should its expenses be underestimated by no less than 5%. If Borden-Henryville's revenues are also underestimated by at least 5% in addition to the 5% underestimate on its budget, it will have a negative operating balance by 2022.**

**9. IDOE Memo: page 3**

**Based on West Clark's and future projections, DLGF did not believe there was sufficient evidence that the reorganization will result in savings.<sup>4</sup> IDOE concurs with DLGF that it would be unusual for each school to maintain level expenditures after a reorganization occurs due to unforeseen costs associated with relocation of administrative and operation staff and implementation of the goals desired by each school corporation. If approved, Silver Creek anticipates expanding its facilities to meet future needs and address overcrowding issues.<sup>5</sup> Borden-Henryville would like to dedicate more resources to vocational training.<sup>6</sup>**

**10. IDOE Memo: page 4**

would likely be assigned to Silver Creek. West Clark projections for facilities acquisition and construction remain level for the period of 2020 to 2024. **Allocating capital projects between the two school corporations does not appear to include costs associated with construction or acquisition of a central office for a newly formed school corporation which is likely needed at Borden Henryville. Without the inclusion of such costs, Borden Henryville would need to incur additional costs beyond the projected amounts.**

Silver Creek's Education and Operations fund budget estimates, as reflected in West Clark's updated Financial Analysis, are projected to remain stable for both funds for CY 2019 through CY 2024. Depending on the level of experience of teachers assigned to the school, the estimated budgets for each year may not be accurately depicting the costs associated with their salaries and benefits. The Education fund revenue estimates reflect a decrease in CY 2020 and with slight increases in revenue from CY 2021 through CY 2024. **For school years 2013-2014 through 2017-2018, enrollment trends at Silver Creek reflect a lower number**

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<sup>4</sup> DLGF memo to Jennifer McCormick, Superintendent of Public Instruction, page 12.

<sup>5</sup> West Clark Community Schools Reorganization Plan, Page 4.

<sup>6</sup> Id., page 5.

**of incoming primary students and a larger number of graduating students, which may indicate a potential decline in enrollment in the future. Declining enrollment may result in lower tuition support funding in the future.**

**11. IDOE Memo: page 5**

IDOE agrees with the Department of Local Government Finance's analysis of Borden Henryville. **Furthermore, Indiana Department of Education agrees that the proposed budget, tax rates, and tax levies for Borden Henryville are reasonable as long as there is not a greater than five percent deviation in revenues and expenses. However, IDOE believes that Borden Henryville will incur unknown and unbudgeted costs associated with the reorganization for administrative and operational needs of the new school corporation.**



2018 Ind. OAG No. 11 (Ind.A.G.), 2018 WL 6112794

Office of the Attorney General

State of Indiana  
Official Opinion No.

2018

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11

November 13, 2018

**RE: 2018 Reorganization of West Clark Community Schools**

\*1 Timothy Schultz  
General Counsel  
Indiana State Board of Education  
143 West Market Street, Suite 500  
Indianapolis, IN 46204

Dear Mr. Schultz:

**ISSUE**

Pursuant to [Ind. Code § 4-6-2-5](#), the Indiana State Board of Education (the “State Board”) requested the opinion of the Office of the Attorney General (“OAG”) on two related questions involving actions by the West Clark County Community School Board:

- (1) May a school corporation that was previously created by a county committee reorganize without creating a new committee?
- (2) If the school corporation may proceed under [Ind. Code § 20-23-4-38](#) and reorganize without the creation of a committee, what materials must be submitted to the State Board in order to properly reorganize?

**SHORT ANSWER**

- (1) A school corporation previously reorganized by a now-dissolved county committee may submit reorganization changes to the State Board without forming a new county committee.
- (2) The local governing body or the State Superintendent of Public Instruction (the “State Superintendent”) must submit to the State Board the materials described in Ind. Code § 20-23-4 *et seq.* in order for the proposed change to become effective.

**BACKGROUND**

The Indiana School Reorganization Act of 1959<sup>1</sup> (the “1959 Act”), which ultimately was responsible for reducing the number of Indiana’s local school districts from 966 to under 400, provided the authorization and procedure for reducing the number of local school districts through consolidation, the purpose being to provide “more equalized educational opportunities for publicly enrolled students in grades 1-12 in the school corporations of Indiana.”<sup>2</sup>

In summary, the 1959 Act required each county to form a County Committee for the Reorganization of School Corporations (the “County Committee”) which was responsible for preparing a preliminary plan of reorganization supported by studies

and surveys. After public hearings and receiving comments, the County Committee was required to submit a final plan for reorganization to the State Commission for the Reorganization of School Corporations (the “State Commission”) for approval.

Upon approval of a reorganization plan by the State Commission, a community school corporation provided for in the plan could be established by filing an appropriate petition with the clerk or clerks of the circuit court or courts of the county or counties where the voters reside signed by at least 55% of the registered voters in the boundaries of the new school corporation. After receiving certification from the aforementioned clerk or clerks on the regularity of the signatures on the petition, the County Committee was required to publish notice in a newspaper of general circulation in the community school corporation that the steps necessary to establish the community school corporation had been completed and provide notice of the creation of the new school corporation and its particulars.

\*2 If the County Committee did not receive a petition with 55% of the registered voters in the boundaries of the new school corporation within 90 days of receiving the approved plan from the State Commission, a special election was noticed and held for the purpose of allowing the affected voters to vote on the approved reorganization plan. If the plan should be rejected, the County Committee could re-submit it at the next general election or could devise a new plan.

The West Clark County Community Schools were created as part of the Clark County Comprehensive Plan submitted to and approved by the State Commission on August 1, 1967,<sup>3</sup> and by the voters in the fall election. The West Clark Community School Corporation covered five townships; Silver Creek, Wood, Carr, Union and Monroe. The Clark County Comprehensive Plan reorganized the entire county. As required by the 1959 Act, the County Committee was dissolved, and the duties of the State Commission devolved on the State Board of Education.<sup>4</sup>

In 2017, after the voters defeated a funding request deemed essential by the residents of Silver Creek Township, the West Clark Community School Board voted unanimously to split the district into two: “the move would make the three Silver Creek schools and their 2,900 students into their own district while the five Henryville and Borden schools and their 1,700 students would remain in the West Clark district.”<sup>5</sup>

## ANALYSIS

### I. MAY A SCHOOL CORPORATION THAT WAS PREVIOUSLY CREATED BY A COUNTY COMMITTEE REORGANIZE WITHOUT CREATING A NEW COMMITTEE?

Even 60 years ago, the General Assembly recognized the transitory nature of a County Committee, finding that once the County Committee had fulfilled its statutory functions, it should be dissolved and further reorganization should be accomplished by the local school trustees or by the State Superintendent. The 1959 Act provided that

(1) When an entire county has been reorganized in the manner and procedure provided in this act, or at the end of four (4) years from the effective date of this act, whichever is earlier, the County Committee shall be dissolved.

...

(2) After a County Committee has been dissolved, if local school trustees or the State Superintendent of Public Instruction deems further reorganization necessary to improve educational opportunities for the pupils in the County, such local school trustees or the State Superintendent of Public Instruction shall submit proposed changes to the State Commission, if in existence at the time, or if the State Commission has been dissolved, to the Commission on General Education of the State Board of Education.<sup>6</sup> If the changes proposed by such local school trustees or the State Superintendent of Public Instruction are approved by the State Commission, or by the General Commission of the State Board of Education if the State Commission has been dissolved, the proposal shall be submitted to the electors of the corporations affected in the same manner as provided in section 7 hereof, as far as applicable, and the change effected in the same manner.<sup>7</sup>

\*3 While the 1959 Act has been codified, re-codified, and periodically amended, its essential provisions are still found in Ind. Code § 20-23-4, including the authority of the local governing body or the State Superintendent to undertake further reorganization;

### **IC 20-23-4-38 Dissolution of county committees upon completion of reorganization**

Sec. 38. (a) Whenever an entire county has been reorganized under this chapter or IC 20-23-16-1 through IC 20-23-16-5, by the creation of a community school corporation or corporations for the entire county, the county committee shall be dissolved. ...

(b) After a county committee has been dissolved, if the local governing body or the state superintendent considers further reorganization necessary to improve educational opportunities for the students in the county, the local school trustees or the state superintendent shall submit proposed changes to the state board. If the changes proposed by the local governing body or the state superintendent are approved by the state board, the proposal becomes effective under the procedure specified in sections 20 through 24 of this chapter [[Ind. Code § 20-23-4] so far as the same are applicable.

The entirety of Clark County was reorganized in the 1960s. The County Committee, having fulfilled its statutory obligations, was dissolved. Each of the local governing bodies (typically, the school board) and the State Superintendent are empowered to take further reorganization without the need to establish a County Committee.

II. IF THE SCHOOL CORPORATION MAY PROCEED UNDER [IND. CODE § 20-23-4-38](#) AND REORGANIZE WITHOUT THE CREATION OF A COMMITTEE, WHAT MATERIALS MUST BE SUBMITTED TO THE STATE BOARD IN ORDER TO PROPERLY REORGANIZE.

[Ind. Code § 20-23-4-16](#) sets forth the minimum requirements the final plan must meet to be deemed “sufficient” by the State Board (emphasis added):

The form of a preliminary or final comprehensive plan of reorganization is sufficient if the plan contains in its own terms or by reference the following for each proposed community school corporation:

- (1) The name of the proposed community school corporation,
- (2) A general description of the boundaries of the **community school corporation as provided in section 12 of this chapter** [[Ind. Code § 20-23-4-12](#)].
- (3) The number of members of the board of school trustees and whether the members are elected or appointed.
- (4) The manner in which the board of school trustees, other than the interim board, is elected or appointed.
- (5) If a school corporation is divided as part of the reorganization, the disposition of assets and liabilities of the school corporation.
- (6) **The statement required by section 12** of this chapter [[Ind. Code § 20-23-4-12](#)] if that statement is submitted or adopted with the plan.<sup>8</sup>

[Ind. Code § 20-23-4-12](#) (referred to in [Ind. Code § 20-23-4-16](#) as “section 12 of this chapter”) has an extensive list of supporting documents that must accompany a preliminary plan. Those required by [Ind. Code § 20-23-4-16](#) to accompany the final plan are;

**IC 20-23-4-12 Preliminary plans; contents; supporting documents**

\*4 (a) In formulating a preliminary reorganization plan and with respect to each of the community school corporations that are a part of the reorganization plan, the county committee shall determine the following:

(2) Subject to subsection (e), a general description of the boundaries of the community school corporation.

(c) The preliminary plan must be supported by a summary statement of the following:

(1) The educational improvements the plan's adoption will make possible,

(2) Data showing the:

(A) assessed valuation;

(B) number of resident students in ADA in grades 1 through 12;

(C) assessed valuation per student referred to in clause (B); and

(D) property tax levies;

of each existing school corporation to which the plan applies.

(3) The:

(A) assessed valuation;

(B) resident ADA; and

(C) assessed valuation per student;

data referred to in subdivision 2(A) through 2(C) that would have applied for each proposed community school corporation if the corporation existed in the year the preliminary plan is prepared or notice of a hearing or hearings on the preliminary plan is given by the county committee.

(4) Any other data or information the county committee considers appropriate or that may be required by the state board in its rules.

(e) The general description referred to in subsection (a)(2) may consist of an identification of an existing school corporation that is to be included in its entirety in the community school corporation. If a boundary does not follow the boundary of an existing civil unit of government or school corporation, the description must set out the boundary:

(1) as near as reasonably possible by:

(A) streets;

(B) rivers; and

(C) other similar boundaries;

that are known by common names; or

(2) if descriptions as described in subdivision (1) are not possible, by section lines or other legal description.

The description is not defective if there is a good faith effort by the county committee to comply with this subsection or if the boundary may be ascertained with reasonable certainty by a person skilled in the area of real estate description. The county committee may require the services of the county surveyor in preparing a description of a boundary line.

While the State Board is required to “receive and examine each plan for the reorganization of a school corporation submitted to the state board by a county committee [or the local school board when the county committee has been dissolved] and approve each plan that meets the standards of the state board,”<sup>9</sup> the statutes speak only to the subject matter the plan must address. The statutes do not dictate the form of any particular materials. However, the State Board is authorized to request “[a]ny other data or information ... that may be required by the state board in its rules.”<sup>10</sup>

### CONCLUSION

\*5 A County Committee does not need to be re-established in order for the West Clark Community Schools to reorganize. The contents of the plan that are to be submitted to the State Board, and documents or information in support of it, are described in [Ind. Code § 20-23-4-16](#) and, where appropriate, in [Ind. Code § 20-23-4-12](#),

SUBMITTED and ENDORSED FOR PUBLICATION:

Curtis T. Hill, Jr.  
Attorney General  
Scott C. Newman,  
Chief Counsel  
Kevin C. McDowell  
Assistant Chief Counsel  
Susan W. Gard  
Deputy Attorney General

#### Footnotes

- <sup>1</sup> Acts of 1959, Chpt. 202, pp. 451-474.
- <sup>2</sup> *Historical Note*, p. 4, SCHOOL REORGANIZATION COMMISSION COLLECTION, Indiana State Library Rare Books and Manuscripts Collection, available at [https://www.in.gov/library/files/L591\\_School\\_Reorganization\\_Commission\\_Collection.pdf](https://www.in.gov/library/files/L591_School_Reorganization_Commission_Collection.pdf) (last visited November 2, 2018).
- <sup>3</sup> Copies of documents relating to the Clark County School Reorganization were obtained from the State Archives, Indiana Archives and Records Administration, 6440 E. 30<sup>th</sup> Street, Indianapolis, IN and provided to this Office by the State Board of Education. The Comprehensive Plan covered all of Clark County.
- <sup>4</sup> Acts of 1959, Chpt. 202, Sec. 11.
- <sup>5</sup> Justin Sayers, *After divisive vote, West Clark schools want to do what hasn't been done before: Split up*, LOUISVILLE COURIER-JOURNAL, November 22, 2017, available at <https://www.courier-journal.com/story/news/local/Indiana/2017/11/22/silver-creek-schools-leave-west-clark-district-indiana/865793001/> (last visited November 2, 2018).
- <sup>6</sup> The Commission on General Education was itself dissolved by P.L. 20-1984, and its responsibilities assigned to the current iteration of the Indiana State Board of Education, as established pursuant to Ind. Code § 20-19-2 *et seq.*
- <sup>7</sup> Acts of 1959, Chpt. 202, Sec. 11.

[8](#) These general requirements are also found in the 1959 Act. *See* Acts of 1959, Chpt. 202, Sec. 5.

[9](#) [Ind. Code § 20-23-4-18\(a\)\(2\)](#)

[10](#) [Ind. Code § 20-23-4-12\(c\)\(4\)](#)

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