STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE
Indiana Government Center North Room N1058 (B)
Indianapolis, Indiana 46204

IN THE MATTER OF TAX REQUEST OF CLARK-PLEASANT COMMUNITY SCHOOL CORPORATION, JOHNSON COUNTY FOR APPROVAL OF A LEASE WITH CLARK-PLEASANT MIDDLE SCHOOL BUILDING CORPORATION	)	No. 07-055

A petition was filed on behalf of Clark-Pleasant Community School Corporation for approval of a lease rental agreement with the Clark-Pleasant Middle School Building Corporation providing for the lease of a school building for a term of twenty-seven (27) years at an annual lease rental payment of $4,905,000 commencing on the date the school building is completed and ready for occupancy or June 30, 2010, whichever is later, with an option to purchase such building. The total project cost is sixty million dollars ($60,000,000).

The Department of Local Government Finance ("Department"), pursuant to Executive Order 05-19, reviewed the proposed lease rental agreement and the Project, and applied the factors set forth in IC 20-46-7-11 and the Guidance for Review of School Building Project Financing. The school corporation has complied with the appropriate provisions of Indiana Code section 6-1.1-20 and Indiana Code chapter 20-46-7. After careful consideration of all facts, the Department finds as follows:

FINDINGS:

1. On February 9, 2007, the Board of School Trustees of the Clark-Pleasant Community School Corporation ("School Board") published legal notice of a meeting to consider adoption of a resolution making a preliminary determination to enter into a lease. The public hearing on the preliminary determination was scheduled for February 22, 2007 at 6:30pm. *See* #07-055 Department record, Tab 10. Thus, the requirements of Indiana Code section 6-1.1-20-3.1(1) were met.

2. Since the School Board proposed to construct, repair, or alter a school building at a cost of more than one million dollars ($1,000,000) that would be financed by entering into a lease agreement under Indiana Code section 20-47-3-9 through Indiana Code section 20-47-3-12, the School Board was required to hold a public hearing at which explanations of the potential value of the proposed project to the school corporation and to the community must be given and at which interested parties may present testimony and questions. Notice of the public hearing, or 1028 hearing, was published on February 9, 2007 with the preliminary determination notice. The 1028 hearing and preliminary determination were held on February 22, 2007 at 6:30 p.m. *See* #07-055 Department record, Tab 10. Thus, the requirements of Indiana Code section 20-26-7-37 were fulfilled.

3. At the February 22, 2007 preliminary determination and 1028 hearings, the members present at the meeting were as follows: David Stephenson, Jeff Brinkman, Brian Drake, and David Penoff. The one member absent was Howard Young. Brian Drake made the motion to adopt the 1028 Resolution, which was seconded by Jeff Brinkman. The motion carried 4-0. *See* #07-055 Department record, Tab 10.

4. At the conclusion of the public testimony and questions, the School Board considered the preliminary determination resolution to issue bonds and enter a lease in order for the construction of the project. David Penoff made the motion to adopt the preliminary determination, which was seconded by Jeff Brinkman. The motion carried 4-0. *See* #07-055 Department record, Tab 10.

5. The notice of the preliminary determination to enter into the lease, which was published on February 23, 2007, included the required information:

a. The maximum term of the bonds or lease (*27 years*).

b. The maximum lease rental for the lease (*$4,905,000*).

c. The estimated interest rates that will be paid and the total interest costs associated with the lease (*3-6%*).

d. The purpose of the lease (*to provide for the construction of a new middle school building, renovations of and improvements to the Clark Pleasant Middle School to convert it into a 9th grade center and renovation and improvements to the Whiteland Community High School*).

e. A statement that any owners of real property within Clark-Pleasant Community School Corporation who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition not later than thirty (30) days after publication.

f. With respect to a lease entered into to open (i) a new school facility; or (ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space; the estimated costs Clark-Pleasant school corporation expects to incur annually to operate the facility (*$1,050,000*).

g. A statement of whether the school corporation expects to appeal for a new facility adjustment for an increased maximum permissible tuition support levy to pay the estimated costs (*"new facility appeal may be sought and currently expects to appeal for an increased adjusted base levy to pay these estimated costs"*). Thus, Indiana Code section 6-1.1-20-3.1 was met. *See* #07-055 Department record, Tab 1; *see also* #07-055 Department record, Exhibit B, Preliminary Determination Resolution, Tab 10.

6. A sufficient application was filed by taxpayers for the petition/remonstrance process. *See* #07-055 Department record, Petition of School Patrons, Tab 10. On July 5, 2007, the Johnson County Auditor certified that she examined the 190 counterparts of the petition in favor of and the 94 counterparts of the remonstrance against the proposed project. The County Auditor

further certified that the vote was 2,740 in favor of the project, and 1,513 in opposition to the project. *See* #07-055 Department record, Auditor's Certificate, Tab 10.

7. On October 12, 2007, the school corporation's petition requesting the Department's approval to enter into a lease rental agreement was received by the Department. *See* #07-055 Department record, Tab 10; Ind. Code § 20-46-7-8. The filing of the petition was within twenty-four (24) months after the first date of publication of notice of a preliminary determination to enter into the lease rental agreement. Ind. Code § 6-1.1-20-3.1(2).

8. Clark-Pleasant school corporation is required by law to obtain approval by the Department before the school corporation may incur indebtedness, or enter into the lease agreement. Ind. Code § 20-46-7-8.

9. The Department is authorized to approve, disapprove, or modify then approve Clark-Pleasant's proposed lease rental agreement. Before the Department approves or disapproves a proposed lease rental agreement, the Department may seek the recommendation of the school property tax control board ("Control Board"). Ind. Code § 20-46-7-9.

10. The major component of the project presented to the Department and Control Board is the construction of the new 280,000 square foot middle school building. The first segment of the project, with bonds issued in 2008, is the new proposed middle school with an estimated project cost of $54,000,000. Clark-Pleasant Hearing Presentation, November 15, 2007, Project Description, Tab 6.

11. The conversion of the current middle school to the high school annex will follow in 2009, and the high school improvements will be the last phase with bonds issued in 2010. *Id.*

12. Clark-Pleasant conducted a feasibility study for this project on September 1, 2006. Public testimony was taken on using year round school on September 18, 2007 and October 16, 2007. Hearing Information Sheet, October 12, 2007, page 2 of 16; Ind. Code § 20-46-7-10.

13. On November 15, 2007, officials from the Clark-Pleasant school corporation appeared before the Control Board and the following items were discussed:

a. School officials requested approval of a lease rental agreement with maximum annual lease payments of $4,905,000 for a term of 27 years. The tax rate impact of the project is $0.1350 (or 13.5 cents) per $100 of assessed valuation. However, the school argues the tax impact is now zero (0) "due to updated assessed valuation and tax rate." A new facility appeal with a tax impact of $0.0738 (or 7.4 cents) and $1,050,000 tax levy is expected to be requested to cover the new costs from the new facility. *See* Control Board Meeting Minutes, www.in.gov/dlgf/boards/school/minutes/2007/pdf/111507Minutes.pdf; *see also* #07-055 Department record, Exhibit A, 1028 Resolution, Tab 10.

b. The school corporation did not modify any part of the project to address taxpayer concerns raised during the petition/remonstrance process. *See* Control Board Meeting Minutes, www.in.gov/dlgf/boards/school/minutes/2007/pdf/111507Minutes.pdf.

c. Enrollment increased by 370 students in the Fall 2007, down from 500 students per year in the previous two years with projected growth to remain constant over the course of the next ten years at 350-400 students. *Id.*

d. As part of the planning efforts for the projects, the school corporation commissioned a community-based planning group referred as the Decades of Excellence Task Force. *Id.*

e. Electronic surveys were conducted in community forum settings to determine community preference to attempt to provide some guidance for the task force recommendations. *Id.*

f. The task force completed their work in May 2006; however, the favored option of the task force was not accepted, and the plan was later modified by the school board. *Id.* In fact, the task force's plan was to start with an elementary school and to open a new middle school in 2013. The task force's plan was for $57 million, which is $3 million less than the proposed project. *See* Jennifer Lewis, http://peopleforclarkpleasant.org/main_links/press%20room/Daily_journal_06_02_2007_board_change_article.htm.

14. Tad Bohlson, a taxpayer opposed to the project who was a member of the task force, stated at the Control Board hearing that he believed there was a better option. He cited the fact Clark-Pleasant is the only school district in the county with a tax rate above $2.00. *Id.* That fact is confirmed by the Department's own analysis discussed below.

15. The Control Board recommended approval of the lease rental agreement with maximum annual payments of $4,905,000 for 27 years by a vote of 5-4. *Id.*

16. In determining whether to approve or disapprove a school building construction project, the Department and the Control Board must consider the **current and proposed square footage of school building space per student, and the cost per square foot of the school building construction project**:

a. new middle school new construction:

(1) *Square feet of new construction*: 280,000

(2) *New Enrollment Capacity*: 1,600

(3) *Subtotal general construction cost*: $43,330,000 (including professional fees, land, building, and equipment, insurance = $48,470,568).

(4) *Total Estimated Costs of Construction for new construction per square foot*: $154.75 (state threshold = $157.30)

(5) *Total Estimated Costs of Construction per Student at New Capacity*: $27,081.25

b. addition to middle school for conversion to high school annex:

(1) *Square feet of addition*: 7,500 (148,000 existing + 7,500 new = 155,500 total sq ft)

(2) *New Enrollment Capacity*: 1,080 (unchanged from current enrollment capacity)

(3) *Subtotal general construction cost*: $1,645,000 (including professional fees, land, building, and equipment, insurance = $1,716,000).

(4) *Total Estimated Costs of Construction for addition per square foot*: $219.33 (state threshold = $220.00)

(5) *Total Estimated Costs of Construction per Student at New Capacity*: $1,523.15

c. renovation to middle school for conversion to high school annex:

(1) *Square feet of remodeling*: 22,644

(2) *New Enrollment Capacity*: 1,080 (unchanged from current enrollment capacity)

(3) *Subtotal general construction cost*: $781,000 (including professional fees, land, building, and equipment, insurance = $823,300).

(4) *Total Estimated Costs of Construction for remodeling per square foot*: $34.49

(5) *Total Estimated Costs of Construction per Student at New Capacity*: $723.15.

d. remodeling of existing high school structure:

(1) *Square feet of remodeling*: 34,779

(2) *New Enrollment Capacity*: 1,680 (unchanged from current enrollment capacity)

(3) *Subtotal general construction cost*: $2,141,000 (including professional fees, land, building, and equipment, insurance = $2,233,000).

(4) *Total Estimated Costs of Construction for remodeling per square foot*: not provided

(5) *Total Estimated Costs of Construction per Student at New Capacity*: $1,274.40.

e. site work at high school

(1) *Square feet of work*: 0

(2) *New Enrollment Capacity*: 1,680 (unchanged from current enrollment capacity)

(3) *Subtotal general construction cost*: $460,000 (including professional fees, land, building, and equipment, insurance = $489,300).

(4) *Total Estimated Costs of Construction for remodeling per square foot*: not provided

(5) *Total Estimated Costs of Construction per Student at New Capacity*: $273.81. Hearing Information Sheet, Individual Project Breakdown, October 12, 2007.

17. According to the Clark-Pleasant School Corporation's 1028 Hearing Power Point presentation:

a. New Middle School

(1) estimated construction costs: $41,540,000

(2) soft costs (fees, issuance costs, equipment): $5,662,000

(3) capitalized interest = $6,798,000

(4) total project cost = $54,000,000

b. 9th Grade Center Conversion

(1) estimated construction costs = $2,306,900

(2) soft costs (fees, issuance costs) = $252,000

(3) capitalized interest = $441,100

(4) total project cost = $3,000,000

c. High School Improvements

(1) estimated construction costs = $2,486,000

(2) soft costs (fees, issuance costs) = $252,000

(3) capitalized interest = $262,000

(4) total project cost = $3,000,000

18. A comparison of other middle school projects indicates that the cost of Clark-Pleasant's proposed new middle school is high compared to other projects.

School order issued	County	SQ footage	Cost	Year
Clark- Pleasant.	Johnson	280,000	$48,470,000	N/A
Avon Middle	Hendricks	208,000	$42,730.000	2007

Castle So Middle	Warrick	144,000	$27,402,000	2007
Tri Creek Middle	Lake	197,000	$43,375,000	2007
Hanover Comm. School	Lake	172,000	$42,000,000	2007

19. In determining whether to approve or disapprove a school building construction project, the Department and the Control Board must consider the **enrollment patterns within the school corporation:** Clark-Pleasant, over the last two years, is #3 in largest growth behind Hamilton Southeastern and Avon Community Schools. *See* Clark-Pleasant binder, Tab 7. However, in 2005, Clark-Pleasant officials predicted as many as 8,800 new housing units could be built over the next decade in the school district. However, after home building slowed in the district, that expectation was scaled back to about 4,600 units. *See* Joseph S. Pete, http://peopleforclarkpleasant.org/main_links/press%20room/Daily_journal_10_18_2007_growth_article.htm. The results of the demographic study and facility analysis were shared with task force members, who proposed a project different than the one before the Department. www.in.gov/dlgf/boards/school/minutes/2007/pdf/111507Minutes.pdf.

20. In determining whether to approve or disapprove a school building construction project, the Department and the Control Board must consider the **age and condition of the current school facilities**.

a. All of the facilities within the Clark-Pleasant school corporation are in at least "good" condition. In fact, only two facilities (Old Whiteman Gym and Maintenance facility) are listed as "good" with the other 11 facilities listed as "very good" or "excellent."

b. Of the 13 facilities, 9 have been built or remodeled within the last 9 years with one facility, Pleasant Crossing Elementary School, currently under construction. *See* Clark-Pleasant binder, *Facility Listing*, Tab 8.

21. In determining whether to approve or disapprove a school building construction project, the Department and the Control Board must consider the **effect that completion of the school building construction project would have on the school corporation's tax rate.**

a. Of the five school districts in Johnson County, Clark Pleasant is the only school district is the only one with a tax rate over $2.00. In fact, with its current tax rate of $2.1391, Clark-Pleasant's tax rate is 29 cents higher than the school district with the second highest tax rate in the county, Franklin Community Schools ($1.8470). *See* Department school district budget analysis.

b. Clark-Pleasant's debt service fund has a current tax rate of $0.8371, which is over 15 cents higher than the school district with the second highest debt service tax rate in the county, Franklin Community Schools ($0.6803). *Id.*

c. Clark-Pleasant is the only school district in Johnson County with a debt service tax rate ($0.8371) and levy ($9,724,218) higher than their general fund tax rate ($0.6823) and general fund levy ($7,925,976). *Id.* Additionally, Clark-Pleasant is only 1 of 24 school districts in the

state out of 293 school districts, which has a debt service tax rate higher than their general fund tax rate. *See* Department high debt service tax rates for 06p07.

d. Clark-Pleasant's assessed valuation of $1,161,655,510 is comparable to Franklin Community School Corporation's assessed valuation of $1,275,814,520 and Greenwood Community School Corporation's assessed valuation of $1,100,913,520. Yet Franklin schools and Greenwood schools have a total tax rate and debt service tax rate significantly less than Clark-Pleasant. *See* Department school district budget analysis.

e. Clark-Pleasant has the 13th highest school district tax rate out of 326 school district tax rates in Indiana. *Id.*

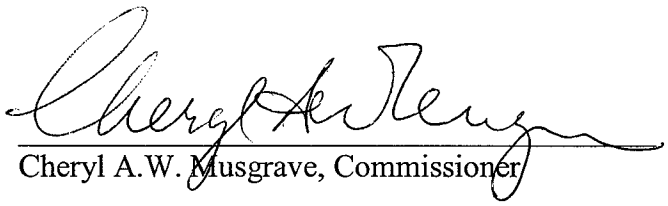
f. The total debt to assessed value ratio, including the proposed new $60,000,000 debt, is 15.61%. *See* Hearing Information Sheet, pg. 11 of 16.

g. School officials argue that due to retiring debt, the tax impact of the $60,000,000 project will be minimal. However, as has been demonstrated above, Clark-Pleasant currently has a high total tax rate; thus, maintaining the current tax rate and arguing that it is it has a minimal impact on taxpayers is not persuasive.

22. The Department attempted to "bridge the gap" between the remonstrators and the School Board by requesting that both sides meet to discuss the project and attempt to find any common ground on a modified proposal. Unfortunately, the School Board refused the Department's request.

WHEREFORE, based upon the above findings of fact and applicable law, the petition filed on behalf of Clark-Pleasant Community School Corporation for approval of a lease rental agreement with the Clark-Pleasant Middle School Building Corporation providing for the lease of a school building for a term of twenty-seven (27) years at an annual lease rental payment of $4,905,000 is hereby DENIED.

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



Cheryl A.W. Musgrave, Commissioner

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE

I, Timothy J. Rushenberg, General Counsel for the Department of Local Government Finance, hereby certify that the above is an order of the Commissioner of the Department of Local Government Finance made this date in the above-entitled matter and that the Commissioner has personally signed the same under her statutory authority.

WITNESS MY HAND AND SEAL of this Commissioner on this the 8th day of April, 2008

Timothy J. Rushenberg, General Counsel

STATE OF INDIANA

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FROM: Tim Rushenberg, General Counsel

DATE: April 8, 2008

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COMMENTS:

Please see attached order regarding the Clark-Pleasant Community School Corporation request for approval of a lease with Clark-Pleasant Middle School Building Corporation.

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