

**SCHOOL CITY OF HAMMOND
SCHOOL BOARD OF TRUSTEES**

RESOLUTION No. ____

**Intervention in Cause No. 79C01-1909-PL-000115, West Lafayette Community School
Corporation v. Holcomb**

Whereas, School City of Hammond closed three public school buildings at the end of the last school year, including: Columbia Elementary School, Lafayette Elementary School, and Miller School; and

Whereas, Indiana Code Section 20-26-7-1 and 20-26-7.1 require the sale or lease of school property no longer in use for one dollar (\$1.00) to an interested charter school within a specified timeline not exceeding 45 days, or not more than the minimum bid in accordance to IC 36-1-11 by interested accredited nonpublic schools or postsecondary educational institutions without voluntary approval or consent of the School City of Hammond; and

Whereas, West Lafayette Community School Corporation filed an action against Eric Holcomb, in his official capacity as Governor of the State of Indiana, seeking declaratory judgment that the above is unconstitutional, in violation of Article I, Section 21 of the Indiana Constitution and the Takings Clause of the 5th Amendment of the U.S. Constitution, as well as injunctive relief; and

Whereas, Indiana Trial Rule 24(B)(2) permits intervention in an action when an entity's claim and the main action have a question of law or fact in common; and

Whereas, School City of Hammond is similarly situated to West Lafayette Community School Corporation due to its recent public school building closures such that this statute could be used to result in charter schools purchasing or leasing this property for \$1.00 or in nonpublic schools or postsecondary educational institutions purchasing this property for not more than the minimum bid in accordance with IC 36-1-11, resulting in the property being used or sold for well under fair market value without voluntary approval or consent of the school entity; and

Whereas, taxpayers in the City of Hammond recently voted via referendum to locally raise taxes to better schools, thus to require forced sales or leases to charter schools, accredited nonpublic schools, and postsecondary educational institutions would run directly against the voters' referendum decision; and

Whereas, under IC 20-26-5-4(a)(1), the governing body of a school corporation has the power to sue in matters permitted by applicable law, but may not use funds received from the State of Indiana to bring or join in an action against the State; and

Be it Therefore Resolved that, the President and Secretary of the Board of School Trustees be, and are hereby, authorized to execute any and all documents necessary to proceed in the litigation as an intervener, and as a party in said litigation, or similar litigation challenging the constitutionality of IC 20-6-7.1 and IC 20-26-7-1; and

Be it Further Resolved that, the President and Secretary of the Board of Trustees are authorized, together with the school Superintendent and Board legal counsel, to take any and all actions necessary to participate in said litigation, including the filing of motions, briefs, and other pleadings; the participation in related discovery; and the settlement or voluntarily dismissal or withdrawal from the litigation, as the President and Secretary of the School City of Hammond, with advice of the Superintendent and Board counsel may determine during the pendency of said litigation; and

Be it Further Resolved that, the Board hereby authorizes the payment of legal fees and costs for the participation in said litigation, so long as any funds for such payment do not come from state funding.

NOW, THEREFORE, BE IT RESOLVED that: the School City of Hammond by and through its legal counsel shall intervene on the above mentioned Cause No. 79C01-1909-PL-000115, *West Lafayette Community School Corporation v. Holcomb*.

RESOLVED this ____ November 2019.

SCHOOL CITY OF HAMMOND

ATTESTED:

BOARD OF SCHOOL TRUSTEES:

Manny Candelaria, Jr., Secretary

Anna Mamala, President

Carlotta Blake-King, Vice President

Lisa Miller, Member

John Czulno, Member