

**IOWA STATE BOARD
OF EDUCATION
(Cite as 21 D.o.E. App. Dec. 120)**

In re Closing Montour Elementary Building :

Deborah Frundle, *et al.*, :
Appellants,

v. : DECISION

South Tama County Community School :
District, Appellee. : [Admin. Doc. #4455]

The above-captioned matter was heard on July 12, 2002, before Susan E. Anderson, J.D., designated administrative law judge, presiding. Appellants were present, and were represented by Attorney Chris Clausen of Boliver Law Firm, of Marshalltown, Iowa. Appellee, South Tama County Community School District [hereinafter, “the District”], was present in the persons of new Superintendent James Molacek and Board President Joe Lyon. Appellee was represented by Attorney Peter Pashler of Ahlers, Cooney, Dorweiler, Haynie, Smith & Allbee, P.C. of Des Moines, Iowa.

The hearing was originally scheduled for June 5, 2002, but was continued to the later date at Appellants’ request. Upon written agreement of the parties, a hearing was held on stipulated record pursuant to departmental rules found at 281 Iowa Administrative Code 6.12. Authority and jurisdiction for this appeal are found at Iowa Code section 290.1 (2001). The administrative law judge finds that she and the State Board of Education have jurisdiction over the parties and subject matter of the appeal before them.

Appellants seek reversal of the February 18, 2002, decision of the Board of Directors [hereinafter, “the Board”] of the District to close its Montour Elementary Building located in Montour, Iowa.

**I.
FINDINGS OF FACT**

Appellants reside in the District with their children, who are students in the District. In the 2001-2002 academic year, the children attended elementary school at the Montour Elementary Building in Montour, Iowa, where 36 students attended grades kindergarten through fifth. The District serves approximately 1,600 students in the communities of Tama, Toledo, Chelsea, Montour, and Vining, located in the southern half of Tama County. The District operated six attendance centers during the 2001-2002 school year: South Tama High School (543 students in grades 9-12), located between

Tama and Toledo; South Tama Middle School (354 students in grades 6-8), located in Toledo; Tama Intermediate School (344 students in grades 3-5), located in Tama; Tama Primary School (280 students in grades prekindergarten through fifth), located in Tama; Chelsea Elementary School (68 students in grades prekindergarten through fifth), located in Chelsea; and Montour Elementary School (36 students in grades prekindergarten through fifth), located in Montour.

The possibility of closing the Montour Elementary Building first arose as the District was addressing financial problems, decreased enrollment and a series of personnel-related problems. (Dep., pp.5-6.) (Dep., p. 5; pp.10-11.) The community was first informed of the potential decision on whether to close the Montour Elementary Building when Superintendent Clarence Lippert included a recommendation in his Annual Report for the year ending June 30, 2001. (Exh. 41.) This report included only one recommendation, to close the Montour Elementary Building (Exh. 2.) The recommendation cited the following reasons:

1. Current enrollment at Montour;
2. Decreasing enrollment into Montour from Primary (Tama/Toledo);
3. Financial building management concerns (cost per pupil for utilities);
4. Open enrollment of Montour students out of the District; and
5. The effect on pending decisions of bond issues for a new elementary building.

(Dep. pp. 101-103.) The superintendent's recommendation noted two "obstacles" to the closing of Montour: (1) space considerations at the Tama elementary schools; and (2) the effect on Chelsea parents who might be concerned the Board would consider closing the Chelsea school. (Dep. p. 103, lines 1-9; Exh. 2.)

The superintendent's recommendation was distributed through the superintendent's office to the press, the Board, faculty, and general public (Dep. p. 16, lines 14-20.) The Board elected to utilize the eight Board meetings held between October 1, 2001, and the public hearing on January 21, 2002, as a vehicle to get specific matters studied and to keep the public informed (Exh. 41-48.) Individuals from the public were given an opportunity to speak at Board meetings on the Montour closing. The research and reports produced by the administration were typically in response to questions raised by the Board or during the discussions at the Board meetings. (Dep. pp. 37-38.) For this reason, the matter was on every Board agenda between November 12, 2001, and February 18, 2002. (Exh. 43-51.) The Board established a timeline at the November 12, 2001, Board

meeting and the Board was given a copy of the *Barker* guidelines to structure its deliberations

122

regarding the closing. The Board continued to discuss the closing at the February board meetings, until the final vote on the closing was taken at its meeting on February 18, 2002. (Dep. p. 100; Exh. 50, 51.)

The potential of closing the Montour Elementary Building generated considerable public debate, as reflected in numerous newspaper articles. (Exh. 4-17, 31-39, 54.) Several of the articles included in-depth coverage of the issues. (Exh. 17, 31, 34-36.) The public's views were covered in these newspaper articles and the public was given editorial space to share its views. (Exh. 37.) In order to ensure the public's awareness of this issue, the District purchased a newspaper advertisement encouraging attendance at its public hearing on January 21, 2002. (Dep. p. 35; Exh. 16.) This advertisement ran twice (on January 15, 2002 and January 17, 2002). (Exh. 16.) In a further attempt to ensure public awareness, a member of the public opposed to the school closing was granted permission to send a leaflet home with the Montour students. (Exh. 3.) Ordinarily, the District does not allow the use of students to send home information that is not generated by the District. (Dep. p.23.) This leaflet constituted an exception to District policy. (Dep. pp. 21-24.)

The research, study and planning behind the Montour school closing decision included various areas and issues. (Exh. 1.) First, the Board looked at the enrollment history (Exh. 18, 20.) There was a decline of students in Montour from 100 in 1981 to 36 students in 2001. (Dep. pp. 39-40, 43; Exh. 18, 20.) Those 36 students in grades kindergarten through fifth (averaging 6 students per grade) were taught by combining students in two grades into one classroom, making two-grade sections. Open enrollment data was developed indicating the trend of Montour parents to send their children to other schools. (Dep. pp. 58-62, Exh. 23, 24.) The exodus from Montour and Chelsea has been as high as 24.5% in 2001. (Exh. 24.)

In addition to researching the enrollment at Montour, the Board also researched and considered the enrollment impact and staffing effect on the Tama elementary schools of adding the students from Montour to its building. The District wanted to ensure that it was possible to have single-grade sections at acceptable attendance levels. (Dep., pp.52-52; Exh. 21-22.) Research indicated this could be accomplished by adding a single fifth-grade section. (Exh. 21.) In other words, the three two-grade sections at Montour could be absorbed at Tama Elementary by adding only one fifth-grade section. (Dep., pp. 52-53; Exh. 21.)

The cost of utilities was also studied. (Dep., p. 41-42; Exh. 19.) During the 2001-2002 school year, the cost-per-student at Montour was \$497.74, while the utility costs at

other nearby buildings were \$365.37 per student at Chelsea; \$162.02 at Tama Primary; and \$173.00 at Tama Intermediate. (Dep., p. 42; Exh. 19.) The Board considered the financial data presented by the Administration. (Exh. 19, 25, 26.) The data showed total

123

potential savings of \$122,179.00 if the Montour Elementary Building were closed. (Dep., p. 69; Exh. 26.) Broken down, the total reflected transportation, utilities, professional and support staff salaries, and food service costs. (Exh. 26.)

Appellants argue that all of the students who have left Montour (for special education services, open enrollment or any other reason) should be included in the enrollment figures at Montour as if they had never left and were still attending Montour (Dep., pp. 268-269.) This would raise the number of students at Montour from 36 to 68. Appellants were troubled by the fact that parents were choosing to open enroll their children out of the Montour Elementary Building. In the spring of 2001, the parents were aware that a student had brandished a pocketknife at Montour. This child had used the pocketknife to cut the belt loops off the pants of another child. Additionally, the child with the knife was depantsing other children and looking up the skirts of several of the elementary school girls. The parents testified that Montour Principal Billie Jean Snyder encouraged the victims to leave the school by open enrolling out. The superintendent testified that even if the students hadn't open enrolled out, each grade would still have only ten students in each section and this would still necessitate two-grade sections. (Dep., p. 65.)

The Board also looked at educational programming, including educational areas that would be impacted if the Montour Building were closed. (Exh. 27.) The programming was first analyzed by District administrators and then presented to the Board for its consideration. (Dep., pp. 73-75.) The superintendent's report included six "impacts" supportive of closing, three not supportive, and two that were mixed. (Dep., pp. 76-79; Exh. 27.) A citizen and witness in this matter for Appellants, Gary Hoskey, requested research on enrollment patterns. (Dep., p. 80.) This research was gathered and presented to the Board for review. (Dep., p. 80; Exh. 28.) Overall, the Board and Administration determined that educational programming at the District would not suffer if the Montour Building were closed.

The Board considered and discussed the possible closing at each Board meeting between October 1, 2001, and February 18, 2002. (Dep., pp.92-96; Exh. 43-51.) Parties opposed to the closing of Montour were given an opportunity to speak not only at the public hearing, but also during the open public forum portion of each Board meeting and many people took advantage of this opportunity. (Exh. 43-51.) Gary Hoskey, a witness in this appeal, requested research on enrollment patterns, (Dep., p. 80.), and this research was gathered by the administration and presented to Gary Hoskey and to the Board for consideration and discussion. (Dep., p. 80; Exh. 28.) The administration also prepared

and distributed a packet of information that detailed the Montour closing process and addressed many of the Montour parents' concerns. (Dep. p. 28; Exh. 3, 8.)

124

The Board decided to hold a public hearing on the Montour closing to allow for more discussion and input from the community. The January 11, 2002, Board minutes reflect that the public hearing would be held on January 21, 2002. Newspaper articles on January 12, January 15 and January 20, 2002 also confirmed the hearing date.(Exh. 32-34.)

At the conclusion of the public hearing, the Board advised the public that "all things will be given consideration" and that a decision would not be made until the regular Board meeting on February 18, 2002. (Exh. 35.) This allowed the Board an opportunity to reflect further on the information presented at the public hearing. The issue of the Montour closing continued to be on the Board's agenda at each meeting following the public hearing. (Exh. 49-51.) A full 28 days elapsed between the public hearing and the vote. During that time, the Montour closing was discussed at two more Board meetings. (Dep., pp. 96-97; Exh. 49, 50.)

The Montour closing was also discussed at the Board meeting on February 18, 2002 when the vote was taken. (Exh. 51.) At the February 18, 2002, Board meeting, the public was again given an opportunity to share their viewpoints with the Board (Dep., pp. 100-01; Exh. 51.) Board members gave an overview of the steps they had taken while addressing this issue and also answered more questions. (Exh. 51.) After this discussion took place, the Board voted four to one in favor of closing the Montour Elementary Building effective at the beginning of the 2002-2003 school year. (Dep., p.100; Exh. 51.)

The Board maintained detailed records and minutes of all meetings and work sessions where the Montour closing issue was discussed. The record of the decision making in this appeal is reflected in Exhibits 1, 2, 18 through 28, and 41 through 53. In special session, the Board voted to close the Montour Elementary Building at the end of the 2001-2002 school year and transfer the students to the Tama Primary and/or Chelsea Elementary schools for the 2002-2003 school year. (Dep., pp. 99-100; p. 124; Exh. 53.)

Appellants' primary contention is that the Board failed to consider the State Fire Marshal's reports for the District's elementary buildings. (Dep., p. 307.) Appellants consider that alleged failure a violation of the *Barker* guideline that requires sufficient research, study and planning. The thrust of their argument is that neither the Board nor the public knew about the State Fire Marshal's reports from 1998. (Dep., pp. 267-268). Appellants' witness on the reports, Marvin Ridout, testified that the State Fire Marshal's reports were not thoroughly discussed and were not made available. (Dep., pp. 290-92.) Specifically, he stated parents could have only known about the reports if they learned about them from a "third source." (Dep., p. 267.) The witness surmised that even the

Board members might not have had the information about the State Fire Marshal's reports. (Dep., p. 268.) On cross-examination, witness Marvin Ridout acknowledged a newspaper report during which the State Fire Marshal's reports were discussed at a public hearing and that a public discussion of the reports did take place before the actual Board vote. (Dep., pp. 295-99; Exh. 17, 35.)

125

Appellants question whether the District's other elementary schools, particularly Tama Primary and Chelsea, are in compliance today with the State Fire Marshal's recommendations, or whether they are out of compliance. (Dep., pp. 116-17.) The Tama Primary and Chelsea buildings would house the former Montour students after the closing. Both the Tama Primary and Chelsea buildings are operating under waivers or variances from the State Fire Marshal. (Dep., p. 300.) The parents argue that it appears from the 1998 State Fire Marshal's reports that the Montour school, which was closed, was the school that was in the best shape from a fire safety point-of-view. The parents are particularly concerned with the subbasement area and the multiple-floor structure of the Tama Primary Building.

The State Fire Marshall, however, has not shut down any of the South Tama County District's attendance centers. The superintendent testified, "with dialogue with representatives from the Fire Marshal's office, every issue that they have requested us to do at this stage we've done, and I believe to their satisfaction. ... There's a great deal in the report that has not been complied with. Because there are some things that are by design, for example, that we cannot change short of tearing it [Tama Primary Building] down and building a new one." (Dep., pp. 116-17.)

Appellants contend that the State Fire Marshal's reports were somehow hidden or obscured from the public by the superintendent (Dep., pp. 307-08.). These reports, and particularly the report for Tama Primary, were the subject of discussion at Board meetings leading up to the public hearing, and again at the public hearing (Exh. 17, 35, 55.) The State Fire Marshal's reports, as official documents, are placed before the Board each year as it considers and develops its annual plans for improvements as part of its budget-making process. (Exh. 55-57.) The Board also did on-site inspections of each building, the last being in May 2001. (Exh. 55.) The State Fire Marshal's reports, applicable waivers and necessary repairs were pointed out to the Board on these tours. (Exh. 55.)

A citizen at the public hearing on January 21, 2002, raised the topic of the State Fire Marshal's reports. (Dep., pp. 210-211; Exh. 17, 35.) Two newspaper articles reported the fact that the Fire Marshal's reports were discussed at the public hearing. (Exh. 17, 35.) After being assured that the State Fire Marshal had not been to the District for three years and that everything was in compliance, the parents did not pursue the reports. On March 4, 2002 (after the vote to close the Montour attendance center), the parents' group became concerned about the contents of the State Fire Marshal's reports.

The concerns were raised by the superintendent's statements in the *Marshalltown Times Republican*, dated March 4, 2002, in which he was quoted:

126

[R]eplacing the Tama Primary building will be a necessity in the long run as the building is currently being operated under a waiver from the State Fire Marshal," he said. "When he comes in and says the district will have to replace the building, then we (the district) have no choice."

Id.

In 1998, fire safety inspectors had indicated that they had serious reservations about the continuance of the Tama Primary Building variance because without the construction of an exit door leading directly outside, the District could no longer utilize the subbasement area. The subbasement area is where the lunchroom and the gymnasium are currently located. In response to a question of whether the District has constructed an exit door leading directly outside, the superintendent testified: "We were told by the fire marshal's office that ... it wouldn't be necessary to do so at the moment. We did volunteer to do that." (Dep., pp. 128-29.)

During inspection of the third level of the Tama Primary Building, inspectors were informed that kindergarten, special education, first and second-grade students have regularly scheduled classes on the third floor of the building. The report further states that the district should be very aware of the liability concerns for continued use of the upper level of this building. The request for the variance for the Chelsea Building indicated that the maximum remaining useful life of the building was five to ten years. The parents believe that the last useful year for the building would expire prior to the end of the coming school year.

Appellants believe that although the Montour closing does not appear to affect the Tama Primary Building or the Chelsea Elementary Building, these two schools are inextricably intertwined with the Montour closing. The 36 children from the Montour Elementary School would be dispersed to the Tama Primary and the Chelsea Elementary schools. The majority of these students would attend the Tama Primary School. Appellants contend that no school board member would have voted to close the Montour Building if that board member had known of the fire safety issues at the Tama Primary School. Likewise, Appellants contend that no school board member would have voted to close Montour if that board member had known that the Chelsea Elementary Building had

State Fire Marshal concerns, as well as a variance request indicating that the maximum useful life of the building could expire during the next school year.

127

II. CONCLUSIONS OF LAW

The primary issue in this appeal is whether the Board's decision on February 18, 2002, which closed the Montour Elementary attendance center, should be affirmed. Review of the South Tama County Board's decision in this appeal by the Iowa State Board of Education is *de novo*. *In re Debra Miller*, 13 D.o.E. App. Dec. 303(1996). The decision must be based upon the laws of the United States and Iowa, the regulations and policies of the Department of Education, and "shall be in the best interest of education." 281 Iowa Administrative Code 6.11(2). Essentially, the test is one of reasonableness. *In re Jesse Bachman*, 13 D.o.E. App. Dec. 363(1996).

The South Tama County Board of Directors has the authority to determine the number of attendance centers it shall have and where each child shall attend. The Iowa Code clearly states:

The board of directors shall determine the number of schools to be taught, divide the corporation into such wards or other divisions for school purposes as may be proper, determine the particular school which each child shall attend, and designate the period each school shall be held beyond the time required by law.

Iowa Code section 279.11(2001).

Whether the District Board exercised its authority in a reasonable manner is the question raised by this appeal. The reasonableness of the Board's action is measured by the seven-step procedure recommended for school closings by the State Board of Education. *In re Norman Barker*, 1 D.P.I. App. Dec. 145(1977). These seven steps constitute procedural due process for the public when "making decisions as important as the closing of an attendance center." 1 D.P.I. App. Dec. 145, 149. The Barker guidelines are as follows:

1. A timeline should be established in advance for the carrying out of procedures involved in making an important decision. All aspects of such a timeline would naturally

focus upon the anticipated date that the Board of Directors would make its final decision in the matter.

2. All segments of the community in the school district should be informed that a particular important decision is under consideration by the Board of Directors.

128

3. The public should be involved in providing sufficient input into the study and planning involved in important decision making.

4. Sufficient research, study and planning should be carried out by the board and groups and individuals selected by the board. Such things as student enrollment statistics, transportation costs, financial gains and losses, program offerings, plant facilities, and staff assignment need to be considered carefully.

5. There should be an open and frank public discussion of the facts and issues involved.

6. A proper record should be made of all the steps taken in the making of the decision.

7. The final decision must be made in an open, public meeting and a record be made thereof.

Barker at 149, 150.

This seven-step process is needed “to acclimate the public and implement [a school closing] decision.” *Meredith v. Council Bluffs Comm. Sch. Dist.*, 5 D.o.E. App. Dec. 25, 30 (1986). The purpose of going through the process is to avoid springing such an action on an unwilling, resisting public. *Id.* By involving parents and citizens, a district board may not win approval of their plan, but it may avoid a schism in the community. The fact that, in this appeal, a majority of the Board can control the outcome of every debate is not a matter that can be changed by the State Board.

The real issue for the State Board of Education to consider is not whether both sides actually agreed with each other’s position. The real issue is whether they were given the *opportunity* to listen to each other’s position. That is what the Barker guidelines stand

for. The guidelines do not mandate that the District Board acquiesce to the wishes of those who are most vocal at the public hearings. *In re Susan Beary, et al.*, 15 D.o.E. App. Dec. 208, 217 (1999). As the State Board of Education said in another school closing appeal:

Appellant and her silent counterparts in the district believe the board owed them a greater “duty” to consider their views than it exhibited in this case. Translation: We (300+persons signed a petition opposing the change of attendance centers) are many. We told you we didn’t want you to do this and you did it anyway.

129

Therefore, you failed to give adequate consideration to public opinion.

On the contrary, no one was denied an opportunity to present his or her views on the subject. There was an information meeting ... there were no less than four Board meetings at which Appellant and other residents spoke to the Board on this issue, and the meeting at which the decision was made lasted over three hours due to public comment. Appellant misconstrues the weight put on the right of public input. It does not imply that the Board must agree....

In re Ilene Cadarr, 9 D.o.E. App. Dec. 11, 15(1991).

A school district board is comprised of “representatives” from the district it serves. At the time of its vote, the majority of those representatives on the South Tama County Board believed that closing the Montour School Building was the best course for the District as a whole. Whether or not it is the District’s best course is not the subject of the State Board of Education’s review. The State Board’s review focuses on the *process* employed by the District, rather than on the substance or merits of the decision. *Dunn v. Villisca Comm. Sch. Dist.*, 5 D.o.E. App. Dec. 31, 36(1982). *Beary* at 218.

The focus of this appeal, then, is an examination of the process followed by the South Tama County Board in making its decision to close the Montour attendance center, which occurred on February 18, 2002. The District contends that the decision made on February 18, 2002, to close the Montour attendance center should be affirmed because it was the product of a process that followed the Barker guidelines. In contrast, Appellants argue that the District Board’s February 18, 2002 decision should be reversed because the Board did not follow three of the Barker guidelines.

Appellants contend that the *Barker* guidelines 3, 4, and 5 were not complied with and therefore the decision of the Board is subject to reversal. Appellants contend that by

not providing valuable information related to the quality of safety in the schools to which the Montour students would be sent, the Board failed in its duties under guidelines 3, 4 and 5 to provide the public with adequate information, to conduct adequate studies and to frankly discuss the ramifications of closing the school building in Montour.

The parents believe that the physical conditions of the building, the crowding of the classrooms and the State Fire Marshal's reports all become relevant factors which should have been considered and discussed in connection with the closing of the Montour Elementary Building. The parents and concerned citizens believe that they have been deceived by the superintendent and the school board by not providing this information.

130

Appellants' arguments regarding the State Fire Marshal's reports, the number of students at Montour and the building principal at Montour do not provide a basis to conclude that the *Barker* guidelines were not followed. Appellants' contention that the Board and the public were misled regarding the existence and importance of the State Fire Marshal's reports is not supported by the record in this appeal. The record, through the affidavit of Board President Lyon, shows the State Fire Marshal's reports were known to the Board, considered by the Board, and discussed at the public hearing. It is within the local board's discretion to determine what, if any weight, to give to the State Fire Marshal's reports in making its decision.

The Tama Primary attendance center has two design problems that the District will have to continue to address. It is multi-floored and has a gym one-half floor off of grade. Today, a district could probably not build a building with these design problems. While the State Fire Marshal was critical of these design problems, a waiver was granted which allowed the District to continue to operate the building. It is the State Fire Marshal's duty, within the Department of Public Safety, to enforce its fire safety reports, including those for the South Tama County District. The State Board of Education has no jurisdiction over the substance of those reports.

Appellants argue that some 60 students should be attending Montour Elementary School instead of the 36 students listed by the District. Appellants argue that the building principal was not an effective administrator. They contend that she did not effectively communicate with parents or staff, did not handle a disciplinary issue appropriately, and that she drove students out of Montour. If Appellants disagree with the decisions the building principal made, their relief is not in challenging those actions as a basis for preventing the closing of the Montour Elementary Building. Those issues are not relevant to the *Barker* guidelines and should be addressed in a different forum. It is not relevant how many students *could* go to the Montour Building. The fact remains that there were 36 students in attendance there last year. The District must make its recommendations and decisions based on actual data.

The numerous and expansive exhibits offered at the time of the hearing, when combined with the deposition testimony from parents, concerned citizens, Board members and administrators, established that the South Tama County Community School District substantially complied with the Barker guidelines in making its February 18, 2002 decision, as follows:

- 1) On November 12, 2001, the Board established a clear and concise timeline and established February 18, 2002 as the date for the Board to make a final decision on whether to close the Montour school;
- 2) All segments of the community were informed of all aspects of the decision-making process;
- 3) The building closing issue was on all of the agendas of board meetings from October 2001 through February 18, 2002 with opportunities for the public to speak. There was also a public hearing on January 21, 2002.
- 4) The District undertook sufficient study and research regarding student enrollment, transportation costs, financial considerations, curriculum, facilities and staff, and developed options for the Board including pros and cons.
- 5) At the public hearing, information and opinions were received from individuals both in support of and opposed to the school closing option (Exh. 48). Suggestions on how to better utilize the Montour Building were shared by the public. (Exh. 48.) The superintendent addressed specific questions from the Board and the public concerning the proposed closing.
- 6) Regular Board minutes were maintained.
- 7) On February 18, 2002, at an open meeting attended by parents and media, the Board of Education of the South Tama County Community School District voted to close the Montour Elementary Building at the beginning of the 2002-2003 school year.

131

We believe the evidence showed that the District Board substantially complied with the *Barker* guidelines. Because the process used was reasonable under the *Barker* guidelines, the February 18, 2002, decision must be affirmed.

Unless time weighs heavily as a factor, school boards should allow a reasonable amount of time to pass between initial formal input and the final decision. *In re Susan Beary et al.*, 15 D.o.E. App. Dec. 1, 15 (1999). The State Board recently affirmed a board's decision to close a building after the Wapsie Valley District went through the Barker guidelines process in a seven-week period. *In re Teresa Duffy, et al.*, 19 D.o.E.

App. Dec. 194(2001). We conclude that the South Tama County District's five-month timeline was reasonable under the circumstances.

The fact that there were other decisions the District Board could have made is not fatal to the decision that it did make:

Any district board of directors faced with the possibility of closing an attendance center must take into account what it considers to be the best interest of the entire district. Only that locally elected board of directors can best determine whether the best interest of the entire district dictates that

132

the desires of a segment of the school community must yield to the interest of the whole. ... It is the established policy of the State Board, in the absence of unusual circumstances, such as those involved in *In re Norman Barker*, to leave undisturbed those decisions involving the closing of attendance centers made by the duly-elected representatives of the citizens of the school district.

In re Debra Miller, et al., 13 D.o.E. App. Dec. 303, pp. 323-24 (1996)(citing *In re Edward J. Comiskey*, 2 D.P.I. App. Dec. 306, 309-10 (1981)).

In summary, Appellants have not shown any legal reason to reverse the District Board's February 18, 2002, decision. The District's decision to close Montour Elementary School should, therefore, be affirmed.

Any motions or objections not previously ruled on are hereby denied or overruled.

III. DECISION

For the foregoing reasons, the decision of the Board of Directors of the South Tama County Community School District made on February 18, 2002, to close the Montour Elementary Building, is hereby recommended for affirmance. There are no costs to be assigned under Iowa Code chapter 290.

DATE

SUSAN E. ANDERSON, J.D.

ADMINISTRATIVE LAW JUDGE

It is so ordered.

DATE

GENE VINCENT, PRESIDENT
STATE BOARD OF EDUCATION