

IOWA STATE BOARD OF  
PUBLIC INSTRUCTION

(Cite as 4 D.P.I. App. Dec. 231)

In re Elizabeth Cott :  
:  
Elizabeth Cott, :  
Appellant :  
v. :  
Ames Community School District, :  
Appellee : [Admin. Doc. 832]

DECISION

The above captioned matter was heard on November 27, 1985, by a hearing panel consisting of Dr. Robert Benton, commissioner of public instruction and presiding officer; Dr. Orrin Nearhoof, director, Teacher Education and Certification Division; and Mr. Guy Ghan, consultant, Administration and Finance Division. Appellant was present and was represented by Attorney John McKinney. Appellee was present in the persons of Paul Masem, superintendent, and Charles Rickets, board president. Edgar Bittle, attorney with Ahlers, Cooney, Dorweiler, Haynie, Smith & Allbee of Des Moines, represented the Ames Community School District (hereinafter District). The hearing was held pursuant to Iowa Code chapter 290, contested case provisions of Iowa Code chapter 17A, and department rules found in Iowa Administrative Code chapter 670--51. The issues were submitted on the existing record, with an opportunity for oral argument, exercised by both parties.

Mrs. Cott timely appealed from a 4-3 decision of the District's Board of Directors (hereinafter Board) made on September 16, 1985, to close Central Junior High School beginning with the 1986-87 school year.

I.  
Findings of Fact

The hearing panel finds that it and the State Board of Public Instruction have jurisdiction over the parties and the subject matter of this appeal.

Appellant Betty Cott is a resident of the District but has no children currently enrolled. She represents a group of concerned patrons (Citizens for Equitable Restructure, or C.E.R.). Mrs. Cott has a history of volunteerism in her community which has included a financial study for the District and data compilation projects for other organizations.

The District is located in central Iowa in a community of 46,000 with a school population (1985-86) of 4,355 students. The district covers thirty-seven square miles and includes one senior high (currently housing grades 10-12), two junior high schools (Welch and Central, the subject of this appeal), and eight elementary schools serving kindergarten through sixth grade pupils. There are seven directors on the Board who are elected at large.

The saga leading to this appeal began in April 1984, when special assistant to the superintendent, Mr. Seim, reported to the Board on April 9 that due to projected enrollment figures, some structural changes in the District were needed. Prev. Record, Bd. Mins. of 4/9/84, p. 4. He proposed two alternatives: first, close two elementary schools and shift the current structure to a K-5, 6-8, 9-12 organization; second, shift to a K-6, 7-8, 9-12 structure and close one junior high. *Id.* Both plans would involve ninth grade students attending the high school, so the significant question then became whether to go to a seventh and eighth grade "middle school" population or a sixth through eighth grade population. That decision would then determine which of the alternatives would best suit District needs. The first proposal, closing two elementary schools and going to a K-5 elementary structure, would save an estimated \$285,400, less approximate transportation costs of \$25-35,000. *Id.* The other alternative, closing a junior high building, would create an estimated savings of \$641,000, less the same transportation figure. *Id.*

Significantly, as far back as April 9, 1984, the first seeds of this appeal were sown. Mr. Seim's report, as reflected in the Board minutes, stated in regard to the second plan, "The 600 junior high students would be housed at Welch Junior High, and the high school enrollment would be about 1,250." *Id.* There is no indication in the minutes as to why Mr. Seim chose to assume the closing of Central as opposed to Welch.

Superintendent Paul Masem recommended to the Board in a separate memo the appointment of a citizen staff advisory reorganization committee. Prev. Record, Bd. Mins. of 4/9/84 at "Exhibit VI." He further detailed his proposal at the next Board meeting on April 30, 1984. The public committee members were to represent "a broad section of the community" based upon geographic distribution, parents and non-parents of school-aged children, age distribution, sex equity, equitable minority representation, business and university community involvement. Prev. Record, Bd. Mins. of 4/30/84, at p. 7. In addition to the reorganization advisory committee, he suggested the appointment of a support/research team to collect information, conduct research for the Committee, provide clerical assistance, and ultimately "refine the Committee's options into detailed implementation plans." *Id.* at pp. 7-8. Superintendent Masem's proposal was that the Reorganization Advisory Committee "study the opinions . . . recommended by the administration, assess the impact of the options, identify the advantages and disadvantages of each option, and make recommendations to increase the effectiveness of each option." *Id.* at p. 7.

At the next meeting held on May 9, 1984, the Board unanimously voted to approve the Superintendent's recommendations for the establishment and composition of an advisory committee, a support/research team, and a timeline for completion of the study. Prev. Record, Bd. Mins. of 5/7/84, at p. 9. The study committee would be comprised of fifteen persons, including five District staff members and ten public members, with the superintendent, one Board member and the president of the Ames Education Association serving in an ex-officio capacity. *Id.* at pp. 7-8. Two of the five staff in the committee were recommended by Superintendent Masem: Mr. Don Carlson, principal at Welch Junior High, and Mrs. Judy Haggard, principal at Edwards and Roosevelt Elementary schools. *Id.* at p. 8. The

citizen committee members were to be chosen from volunteers or recommendations based on the stated criteria. Id. The timeline adopted by the Board was as follows:

June 1984 - August 1984: Establishment of the Support/Research Team and preliminary data collection by the team; identification of and contact with committee nominees to verify their interest in serving

August or September 1984: Appointment of the committee; Board charge to the committee

September 1984 - August 1985: Committee work leading to a report to the Board in September 1985

September 1985: Committee report to the Board; committee released from further responsibility

October 1985 - January 1986: Implementation plans for selected option refined by the Superintendent's staff; necessary adjustments that will result from implementation of the option included by the Superintendent in the 1986-87 budget proposal

February - March 1986: Board approval of budget and staffing recommendations to implement approved option

March - August 1986: Implementation work by staff

September 1986: Reorganization in place

Id.

The actual timetable was as follows:

September 17, 1984: Appointment of reorganization advisory committee.

November 26, 1984: Board reaffirms charge to committee; adopts three options for study (K-5, 6-8, 9-12; K-6, 7-8, 9-12; K-4, 5-8, 9-12); affirms purpose of reorganization is "to save money by closing unnecessary school buildings . . ."

June 17, 1985: Committee presents final report to Board; timetable for voting on reorganization moved up to September 16, 1985.

June 24, 1985: Board meets to review report, question committee.

July 22, 1985: Superintendent recommends approval of K-6, 7-8, 9-12 structure, the closing of both Central and Welch with Welch reopening as a 7-8 middle school; Board sets dates for public hearings as August 24, August 26, September 4.

August 24, August 26, September 4, 1985: Board meets in special sessions at public hearings to discuss proposals and comments.

September 16, 1985: Board vote on structure and closing recommendations.

We note that on May 7, 1984, the Board agreed "that the [reorganization advisory] committee would work only on the options given to it by the Board. If the committee discovers another possible option during the course of its work, approval of the Board will be necessary in order to study that option." *Id.* at p. 9. The committee did not approach the Board for approval to study another option.

On September 17, 1984, the reorganization advisory committee was announced. *Prev. Record, Bd. Mins. of 9/17/84, at p. 3.* Despite the stated criteria, eight of the ten chosen were from the Welch Junior High area, and two were selected from the Central area; eight of the ten were women, and six of the ten were affiliated with the University. *Appellant's Report at p. 22.* At that meeting "Director Dolphin was concerned that the list of alternatives to be considered by the committee be prepared as soon as possible. She felt that some comments she has heard might give the impression that some decisions have already been made." *Prev. Record, Bd. Mins. of 9/17/84, at p. 3.*

The next significant date in the reorganization study came on November 26, 1984. At the Board meeting held that evening, Superintendent Masem announced that if projections are accurate and the growth rate is stable, the District "will have a significant budget shortfall." *Prev. Record, Bd. Mins. of 11/26/84, at p. 5.* He reported that three ways existed to balance the budget. *Id.* The District could seek additional tax authority, cut programs and staff but maintain all buildings, or close building(s). *Id.*

In fact, the District had a negative unspent balance of \$78,923.00 as of June 30, 1985, or nearly eighty thousand dollars spent over the legal spending authority. Its cash reserve is also in the red by over two million dollars. (Source: Iowa Department of Public Instruction, Administration and Finance/Data Analysis and Statistics Report for fiscal year ending June 30, 1985, December 16, 1985.) The District is indeed faced with serious budgetary problems necessitating immediate action.

At that same November Board meeting, the chair of the advisory committee asked the Board to clarify what options were available for study. *Prev. Record, Bd. Mins. of 11/26/84, at p. 6.* The Board reaffirmed its desire to house the ninth grade in the high school, which meant that there were three options for the committee to study: (1) K-5, 6-8; (2) K-6, 7-8; (3) K-4, 5-8. *Id.* at p. 5. At this point, the committee's responsibility was directed primarily to the structure of the school's organization and not on which building(s) to close.

The committee's report was completed on June 7, 1985 and presented to the Board on June 17. It was an eighty-six page document in total, with the report on the three options for middle schools covering pages six

through fourteen. Prev. Record, "Reports." The committee did not recommend the K-4, 5-8 organization alternative which effectively reduced their recommendations to two options, the K-6, 7-8 option and the K-5, 6-8 option. Id. at p. 17. In its Summary Statement, the committee made no recommendation for or against either of the two viable organization options and no recommendation in regard to closing a building or buildings. Id. at pp. 18, 19.

5. This report does not specifically address the advantages and disadvantages of each attendance center. Prior to arriving at a decision for closing a school, it is recommended that each facility be analyzed for program accommodation, salability, physical structure and neighborhood impact. Some of this information can be found in Appendix E.

Id. at p. 18.

The Board's charge to the committee did not explicitly require that the committee recommend which school(s) should be closed. The logical inference is that if the K-6, 7-8, 9-12 structure were recommended, no elementary schools would be affected, leaving the conclusion that either Welch or Central would be closed and only one building used to house the seventh and eighth grade students. On the other hand, if the committee recommended a K-4 or K-5 structure, the enrollment in the junior highs would increase and one or two elementary attendance centers would be targets for closing rather than a junior high.

A review of the middle school organization options discussed by the committee reveals that the members clearly addressed the school closing issue in the "advantages and disadvantages" sections. Prev. Record, "Reports," "Final Report Reorganization Advisory Committee" at pp. 6-14. Although no recommendation was made by the committee as to which structure the Board should adopt, the seventh and eighth grade middle school concept was characterized as the option saving the most money. It would even be more advantageous to the District if the building being closed could be sold. Id. at p. 7.

On July 22, after studying the committee's report, Superintendent Masem made his recommendation to the Board at an open meeting. He proposed adoption of the K-6, 7-8, 9-12 organization and, based upon that option, the closing of Central Junior High School. Prev. Record, Bd. Mins. of 7/22/85 at p. 3. His proposal included converting Welch Junior High into a middle school to serve all seventh and eighth grade students. Id. Moreover, he advised the Board to conduct not one but three public hearings on the issue. Id.

The Board approved that suggestion. A random telephone survey of District patrons was conducted to solicit opinion. Following that, three public hearings were held: Saturday, August 24, Monday, August 26, and Wednesday, September 4, 1985, at the high school media center. Board members attended each session and extensive records were made of all comments and discussions.

At the last of those hearings, Mrs. Cott or other C.E.R. members addressed those Directors in attendance about a concern that the closing of Central had not been studied adequately. Mrs. Cott or other C.E.R. members asked for more time in which to offer another cost-saving proposal and more time to openly discuss the Superintendent's proposal. The request was repeated at the September 16 board meeting which was understood to be the target date for Board action on the Superintendent's proposal.

At that meeting two motions were made and seconded. The first was "that the Board accept the Superintendent's recommendation to reorganize the district into a K-6, 7-8, 9-12 grade structure with the K-6 structure to be handled in the existing attendance centers, close both Welch and Central, and develop a state-of-the-art middle school at the State Street site." Prev. Record, Bd. Mins. of 9/16/85, at p. 2.

The second motion, made by Director Zbaracki, was to divide the question to consider the 9-12 structure on one motion, and the middle school concept [or the closing issue] in a second vote. This motion failed in a 4-3 vote. Prev. Record, Bd. Mins. of 9/16/85 at p. 2.

Before a vote was taken on the first motion, Appellant was permitted to address the Board. She reiterated her request for a delay and the consideration of the alternative proposal proffered by the C.E.R. Two members of the reorganization advisory committee, a Central teacher and four students urged the Board to listen to Mrs. Cott's proposal. Following brief discussion, the Board voted 4-3 in favor of the first motion. Id. at p. 3.

## II.

### Conclusions of Law

The propriety of school closing decisions is not a new issue to the State Board. Beginning in the mid-seventies when declining enrollment and fiscal cutbacks became a reality, the State Board has heard some six or seven closing cases. A review of those cases evidences, in our best "official restraint" form, this body's reluctance to overturn a local board's decision. We have stated that in the absence of evidence indicating a school closing decision was made without adequate consideration or public input, we would not reverse a decision. See, e.g., In re Bryson Hendricks, 3 D.P.I. App. Dec. 278, 283 (1984).

This deference stems in part from the legislative intent we have perceived from a study of Iowa school laws. Clearly, local control of education is favored. See, e.g., Iowa Code §§ 279.11, 274.1, 297.1 (1985). Appellant has not challenged the authority of the Board to make the decision at issue in this case, as well she might not. The Iowa Code gives that exclusive responsibility to elected officials on the Board of Directors. Iowa Code § 279.11 (1985).

The State Board of Public Instruction laid down guiding criteria for school district closings in In re Norman Barker, 1 D.P.I. App. Dec. 145, 149-50 (1977). Those guidelines were recognized by the Iowa Supreme Court in Keeler v. Iowa State Board of Public Instruction, 331 N.W.2d 110 (Iowa

1983). The seven Barker recommendations suggest the establishment of a timeline for decision-making, apprising the public of the pending decision, and receiving input from the district's constituency. We further urged local boards to conduct sufficient research and planning by studying enrollment statistics, curriculum offering, staff assignments, facilities, fiscal needs, and transportation ramifications. The decision should be recorded, made in open public meeting after documentation of all steps and after frankly and openly discussing the issues. In re Norman Barker at 149-50.

Appellant urges us to reverse the board's decision in this case on the basis, inter alia, that the extensive and time-consuming study done by the reorganization advisory committee was little more than a smoke screen. She argues that the committee was charged only with examining and recommending District organization and structure options, and that no comparable study was conducted with respect to which schools, if any, should be closed once a structure decision was made.

The gist of Appellant's argument appears to be the Board's failure to study the C.E.R.'s alternative proposal which purports to save money without closing a school. Mrs. Cott unfortunately misreads our holdings in previous cases. We have expressed the position on numerous occasions that we do not wish to substitute our judgment for that of a local board.

Appellant, as well as other patrons of the District, had ample opportunity to present alternative views. The committee was actively at work for approximately eight months. Should Mrs. Cott's proposal, or any others prepared by concerned citizens, have been of interest to the committee, they had the authority to request permission from the Board to study alternative proposals. Prev. Record, Bd. Mins. of 11/26/84 at p. 6. Apparently, they did not do so.

At the public hearings, also deemed special board meetings, interested patrons had additional opportunities to make comments, ask questions, and present alternatives. At those hearings, the Superintendent's recommendations were presented through a videotape; there could be no mistake that the impact of the upcoming decision included the closing of Central Junior High School. See, e.g., Prev. Record, Bd. Mins. of 8/24/86 at p. 1.

In Keeler v. Iowa State Board of Public Instruction, the Iowa Supreme Court reviewed the seven Barker guidelines with approval. Keeler, 331 N.W.2d 110, 112 (Iowa 1983). The court's comments apply with equal force to this case.

The March meeting at which the closing decision was made was merely the last event in a long process during which the problems of declining enrollments, budgetary constraints and the prospect of closing attendance centers were studied, discussed and debated with all interested persons having full opportunity to present their views.

Id.

A review of those guidelines evidences the fact that the September 16 decision of the Ames Board of Directors was the culmination of a laborious, involved investigation of alternatives deemed worthy of study by the Board and the committee. A timeline was established and carried out. The Board and Superintendent took pains to notify and involve the community of the importance of the pending decision. The public became involved, through the committee and the public hearing process, without restriction of input. The record is extensive, reflecting every item of information used by the committee, its assumptions, and its recommendations.

The resulting report and all data relied upon were made available to District constituents. The "open and frank discussion" this Agency recommended was carried out on several occasions between June 17 when the report was made public and September 16 when the Board decision was made in open meeting. The documentation before us is written testimony to the thoroughness with which the actions were documented. The Board and Superintendent are to be commended for the professional way in which the closing, always an emotional issue, was handled.

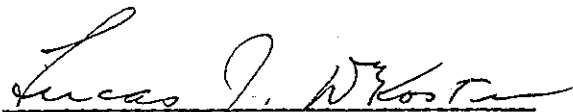
We find simply no basis on which to overturn the Ames Board's decision under our precedent. It is true that the decision was a close one; the 4-3 vote reflects that fact. It may also be true that the question of which school should be closed was a close one. However, the mere fact that reasonable minds may differ on an issue is not sufficient to undo a one and one-half year study that culminated in a reasoned, supported, well-documented decision. In re Bryson Hendricks, 3 D.P.I. App. Dec. 278, 283 (March 1984).

### III. Decision

The decision of the Ames Community School District Board of Directors made on September 16, 1985, is hereby affirmed. Appropriate costs of this appeal under Chapter 290, if any, are assigned to Appellant.

February 13, 1986

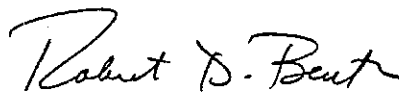
DATE



LUCAS J. DEKOSTER, PRESIDENT  
STATE BOARD OF PUBLIC INSTRUCTION

February 6, 1986

DATE



ROBERT D. BENTON, Ed.D.  
COMMISSIONER OF PUBLIC INSTRUCTION  
AND PRESIDING OFFICER