IOWA DEPARTMENT OF EDUCATION
(Cite as 26 D.o.E. App. Dec. 10)

In re Closing of Prairie Valley Elementary Building

Tanner and Jennifer Carlson, Appellants,	:	
	:	DECISION
vs.		
	:	[Admin. Doc. 4713]
Prairie Valley Community School District, Appellee.	:	

The above-captioned matter was heard on July 13, 2010, before designated administrative law judge Carol J. Greta, J.D. The Appellants, Tanner and Jennifer Carlson, were personally present. They were represented by their attorneys Tyler Smith and Jessman Smith. The Appellee, the Prairie Valley Community School District ["Prairie Valley"], was represented by its attorneys, Brian Gruhn and David Winkelmann.

An evidentiary hearing was held pursuant to agency rules found at 281 Iowa Administrative Code 6. Authority and jurisdiction for the appeal is found in Iowa Code chapter 290 (2009). 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.

The Carlsons seek reversal of the March 22, 2010 decision of the local board of directors of the Prairie Valley School District to close the Prairie Valley Elementary Building, commencing with the 2010-11 school year.

FINDINGS OF FACT

Prairie Valley has operated three attendance centers[1] for the relevant past several years. Those attendance centers (mapped out on Appellants' Exhibit 7) are as follows:

1. A prekindergarten through 4th grade building in the town of Callender on the east side of the district,
2. A middle school for grades five through eight located in rural Farnhamville on the west side of the district, and
3. A high school in Gowrie, directly south of Callender.

Faced with declining enrollment[2] and a poor financial outlook[3], the local school board at Prairie Valley began in May of 2009 to look at options for closing one of its

[1] The terms "attendance center," "building," and "school" are used synonymously throughout this Decision.

[2] Supt. James Dick testified that the district's enrollment has decreased by about 20 students per year for the past 10 years.

[3] Both parties agreed that the financial conditions of the district are such that keeping all three attendance centers open fully is not an option. Therefore, the specifics of the district's financial conditions shall not be recounted in this decision.

three attendance centers. Ultimately, the board voted 5 – 2 to close the PK – 4 building, have the students who would have attended the elementary school join the 5th and 6th graders in the middle school attendance center in rural Farnhamville, and move the 7th and 8th graders to the high school building in Gowrie.

The board established and maintained the dual goals of saving money and "keep[ing] intact as much of the educational programming as possible." (Testimony of Supt. Dick.) The board hired an independent consultant firm, Woodruff Design, to make a recommendation as to which attendance center closure would meet its goals. The board also set up a building study committee comprised of three board members (one from each voting district), Superintendent Dick and the three building principals, a teacher from each building, three members from the community (one from each voting district), and a representative from the Area Education Agency that serves Prairie Valley, for a total of 14 committee members.

Woodruff Design, the independent consultant firm hired by the board, studied the sizes and conditions of the attendance centers, the composition and current uses of the spaces in each building, the ability of each building to absorb functions from the other schools, and the new construction or other accommodations that would be required in the remaining buildings to absorb whichever population of students was to be displaced. Woodruff Design hired Dr. David Haggard, retired superintendent from Fort Dodge, to evaluate the current academic programs of the district.

All three of the district's attendance centers are in good repair. Because the Appellants do not dispute either the accuracy or wisdom of statements that closing the high school building would not be a reasonable option, this decision does not include a discussion of the characteristics of the high school building.

Appellants' Exhibit 2 is the report dated January 18, 2010 from Woodruff Design to the district. The report includes the following information about the elementary and middle school buildings.

	Approx. square footage	**Number of levels**	**Utilities cost per square foot**	**Original "built as" intended use**
Elementary (PK – 4) Building	44,263	One story	$0.98	Elementary only
Middle School (5 – 8) Building	60,481	One story	$1.54	K – 12 building

Woodruff Design recommended that the local board close the elementary building, based on "existing infrastructure, space requirements, and minimal construction and/or retrofitting." (Appellants' Exhibit 2.) The report and recommendation were provided to the district's building study committee, which also reviewed bus route information from the district's transportation coordinator, as well as floor plans of both buildings for projected classroom sizes and uses. The committee voted 7 – 5 (excluding the vote of

Supt. Dick[4]) to recommend to the school board that the middle school be closed. The local school board voted 5 – 2 to close the elementary school building.

Superintendent Dick recommended to the board that the elementary school be closed. He wrote a summary (Appellee's Exhibit A-32) for the board's work session of March 15, listing reasons for closing the middle school, reasons for closing the elementary school, and his summary, as follows: "The middle school has the space to absorb all of the elementary programs while maintaining the greatest amount of facilities to meet the needs of all students daycare through 12th grade. The use of space and facilities could be used to enhance educational offerings at the elementary level."

This summary from Superintendent Dick also lists pros and cons of the "partial use" option, described as an option that would involve continued use of only the athletic spaces at the middle school, closing that building's classrooms, and relocating the 5th and 6th grade students to the elementary school. Superintendent Dick labels this option "2-1/2 schools," and lists the pros and cons as follows:

Pros: Keep wrestling program
Keep softball/baseball fields

Cons: Maintaining partial building/Only closing ½ building
More staff reduction to make up for maintenance and transportation costs
Still have janitor expenses and utilities
Decreased chance of building being sold

As discussed in depth below, we must determine whether there was substantial, credible evidence to support the decision to close the elementary building. Thus, it is probative to know why the majority of the local board voted to close the elementary school. At a public hearing on June 3,[5] board members discussed their reasons for their vote. The reasons cited by those in the majority include the following:

- The middle school is completely climate controlled (that is, air conditioning exists throughout the entire building); the elementary building is not completely climate controlled.
- Were the elementary building left open, its utility costs would be similar to those of the middle school after absorbing additional students.
- Closing the middle school may discourage open enrollment of students from districts to the west of Prairie Valley.
- The middle school includes a dedicated gymnasium; the gym in the elementary school doubles as the lunchroom.
- The middle school includes an auditorium and a multipurpose room; the elementary lacks both.
- The middle school is the larger of the two buildings and can more easily absorb additional students without the need to retrofit classrooms in a manner that would "cheat some of the programs out of space."

[4] It was not so stated, but it is assumed that the representative from Prairie Lakes AEA was on the committee as a resource only and did not participate in the vote.

[5] Derived from Appellants' Exhibit 11.

- "It would not be fiscally sound to duplicate [dedicated gym and multipurpose room] at the elementary school and using the gym and lunchroom at the elementary school would create scheduling problems."
- The middle school has a large parking lot; there is no off-street parking at the elementary school.
- The computer lab at the middle school is larger than that at the elementary school; and the middle school, but not the elementary school, is equipped with wireless technology.
- The middle school is the friendlier facility for students with disabilities whose Individualized Education Programs (IEPs) require a totally climate controlled environment.
- The middle school includes a wrestling room, and the grounds include softball and baseball diamonds; all of these athletic facilities are absent from the elementary location.

The Appellants agree with the two local board members who voted against closing the elementary school. The two board members explained their votes at the aforementioned public hearing on June 3rd. One of the board members stated that his vote was based on his belief that the district's future lies in sharing academics and athletics with the Southeast Webster Grand District, directly to Prairie Valley's east.[6] He stated, "I thought it was best to put the kids in the most friendly facility for kids and the cheapest to run and remodel. I thought we could still use the sporting facilities at the middle school until they were no longer needed. Knowing if things would materialize with Southeast Webster Grand they would have all of the facilities to take the place of the middle school." The other director to vote against closing the elementary school stated that he "was impressed with both buildings," but the "main factor" for his vote came down to the elementary building being "already designed" to meet the educational needs of early elementary students. (Appellants' Exhibit 11, page 1.)

The Appellants hired an expert witness who undertook his own study of the demographics, financial factors, and building specifications. He concluded, "In the best interest of the future financial health of the Prairie Valley Community School District, and the taxpayers, Callender Elementary School should remain open and the Middle School building closed or utilized for athletic activities only. Based on my analysis and professional experience, it is my opinion that the district's decision to the contrary, and specifically its failure to consider a limited-use option for one of the buildings, was irrational." (Appellants' Exhibit 19, page 5.)

CONCLUSIONS OF LAW

The Appellants are residents of the Prairie Valley School District, and are the parents of students who were in the first grade this immediate past school year at Prairie Valley Elementary School. Thus, they have standing to bring their appeal.

Prior to 2009, school attendance closing appeals had been governed by administrative rules known colloquially as "the Barker rules," and formerly codified at 281—IAC chapter 19. However, the rules were held to be void by the Iowa Supreme

[6] It is also true, as listed by Superintendent Dick in Appellee's Exhibit A-32, that the Manson Northwest Webster Community School District, to the west and north of Prairie Valley, is a viable sharing partner, making it more attractive to keep open the middle school.

Court in *Wallace v. Iowa State Board of Education*, 770 N.W.2d 344 (Iowa 2009). The Court went on to state as follows:

> As we have decided the subject rules are void, we do not consider further the ... claims that the ISBE [Iowa State Board of Education] erred in failing to set aside the District's decision to close the schools as a consequence of noncompliance with those rules. The District's decision to close some of its schools clearly entailed discretion. **Accordingly, the proper nature of the ISBE's review of the District's decision is for abuse of discretion.** [Emphasis added.]

770 N.W.2d at 349.

In describing the abuse of discretion standard, the Iowa Supreme Court stated as follows:

> [W]e look only to whether a reasonable person could have found sufficient evidence to come to the same conclusion as reached by the school district. [Citation omitted.] In so doing, we will find a decision was unreasonable if it was not based upon substantial evidence or was based upon an erroneous application of the law. [Citation omitted.] Neither we nor the Department [of Education] may substitute our judgment for that of the school district.

Sioux City Community School District v. Iowa Department of Education, 659 N.W.2d 563 (Iowa 2003). The abuse of discretion standard means that we may not substitute our judgment for that of the underlying decision-maker absent a showing that the initial decision was "unreasonable and lacked rationality." 659 N.W.2d at 571. In the *Sioux City* case, the Iowa Supreme Court further explained that, just because rational people can disagree about a decision, there is no authority to override the original decision and replace it with one that is more palatable. Indeed, the fact that rational people could reach differing decisions eliminates authority to reject the decision as an abuse of the decision-maker's discretion. The local board must have either erroneously applied the relevant law or failed to base its decision upon substantial evidence. The Prairie Valley board did neither.

Under this standard of review, we must be deferential to a local board's decision because the legislature decided that the local board's "expertise justifies vesting primary jurisdiction over this matter in the discretion" of the local boards. *Berger v. Iowa Department of Transportation*, 679 N.W.2d 636, 640 (Iowa 2004). *Cf., Christensen v. Snap-On Tools Corp.*, 665 N.W.2d 439 (Iowa App. 2003) (when a rational person could agree with either of two competing arguments, it cannot be said that the underlying decision is so illogical or irrational as to dictate a different outcome).

Our state laws that give local school boards broad authority in school closing matters are Iowa Code §§ 279.11 (local boards "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, [and] determine the particular school which each child shall attend") and 280.3(5) ("board of directors of each public school district ... shall establish and maintain attendance centers based upon the needs of the school age pupils enrolled in the school district").

The facts in this case are largely uncontested. The parties choose, as is their privilege, to emphasize those facts that favor their argument. We do not analyze the facts in depth because there simply is ample evidence that the local board's decision was within its discretion. For instance, board member Shannon Miller, who voted in the minority opposed to closure of the elementary building, testified that good reasons existed on both sides of the issue, and that the decision of the majority was a "reasonable decision."[7]

The Appellants admit that the district cannot afford to operate all three of its schools as attendance centers. They do not argue that it was irrational for the local board to close part or all of one of the district's attendance centers. Rather, the Appellants target the specific choice of closing the elementary building. In urging the State Board to find that the local board's decision was an abuse of that board's discretion, the Appellants argue that the following factors render the board's decision unreasonable and irrational:

- The local board failed to take into consideration the impact that closing the elementary building would have on open enrollment income.
- The local board ignored the "partial use" option whereby only the classrooms of the middle school would be discontinued, but the building would be used for athletics.
- The local board failed to maintain the optimal learning environment expressly designed for elementary-age children.

The task of the State Board in appeals of this nature cannot be to place the competing reasons on a scale and determine which option is "best." The issue is not whether closing the elementary building was the best decision. The evidence discloses that both buildings were in good shape. The record shows that substantial, credible reasons existed to justify closing the middle school. But the record also shows that substantial, credible reasons existed to justify closing the elementary school. Indeed, substantial, credible reasons existed to consider a "partial use" option; substantial, credible reasons existed to reject such an option.

Under the abuse of discretion standard, a decision by the local board to close either building would have to be upheld by this Board as one supported by substantial credible evidence. It simply is irrelevant under the appropriate standard whether the superior decision would be to close the middle school or the option of using the middle school for athletics only. *Even if we view all of the underlying facts in the light most favorable to the Appellants, we must conclude that a reasonable person could reach the same conclusion as the majority of the Prairie Valley board.*

This is not to say that the abuse of discretion standard of review cannot be overcome. The following three cases illustrate recent examples where our courts have found an abuse of discretion to occurred:

In *Auen v. Alcoholic Beverages Div., Iowa Department of Commerce*, 679 N.W.2d 586 (Iowa 2004), the Iowa Supreme Court reversed an agency action that it

[7] Mr. Miller also testified that in the board's meeting of March 22 he raised the issue of partial use of the middle school for athletics but not classrooms, laying to rest the Appellants' argument that this option was not considered.

found to be based on an illogical interpretation of Iowa Code section 123.45. That statute prohibited *any* ownership interest, no matter how remote, by a person in the chain of alcohol beverage distribution in the retailing of such beverages. The agency unlawfully permitted persons to have an indirect ownership interest, contrary to the plain language of the statute.

In *Cooper v. Maytag Co.*, 682 N.W.2d 82 (Iowa App. 2004), Iowa's workers' compensation commissioner was found to have abused her discretion in dismissing an injured worker's claim for compensation solely because the worker did not file a timely appellate brief. The worker stated she did not intend to file an appellate brief because she was relying on her post-hearing brief. In addition, the past practice of the workers' compensation commission had been to consider appeals in which no briefs were filed. Imposing a sanction as drastic as dismissal was an abuse of the commissioner's discretion.

And in *Schoenfeld v. FDL Foods, Inc.*, 560 N.W.2d 595 (Iowa 1997), the Supreme Court held that the Industrial Commissioner's imposition of the severe sanction of exclusion of the treating physician's evaluation report was an abuse of discretion in light of the fact that admission of the report did not unfairly surprise the employer. Exclusion under the circumstances of this case was found by the Court "to run contrary to the primary purpose of the workers' compensation statute, which is for the benefit of the worker." 560 N.W.2d at 599.

This matter has been a very emotional and divisive one for the patrons of the Prairie Valley Community School District. We understand that the decision of the local board offends the Appellants. But there are no legal grounds for reversal by this Board.

Regarding the open enrollment argument, we agree with the observation of Dr. David Haggard, who in his testimony characterized open enrollments as "a threat and a promise." Prairie Valley has enjoyed a positive open enrollment ratio (receiving more students through open enrollment than it loses to other districts). The open enrollment statute, Iowa Code § 282.18, deliberately gives school districts very little control over timely-filed open enrollments. Only the parents or guardians of the students who take advantage of open enrollment may terminate the same, and termination may be done at any time and for any reason, or no reason at all. This Board will not fault any district that declines to make decisions, financial or other, that are dependent on the enrollment of non-resident students into the district.

The record herein simply does not support the Appellants' assertion that the local board ignored the partial use option. It was discussed – albeit briefly – by Superintendent Dick in his summary of March 15 (Appellee's Exhibit A-32). More telling, this option was not only known to and discussed by the local board, this option was favored by a director.[8] (Remarks of Director Shannon Miller, Appellants' Exhibit 11, page 1.)

The Appellants' argument that the local board's decision was irrational based on finances must fail because (a) the parties agree that the bulk of monetary savings is realized in staff reductions, which are largely not dependent on the closure of one building over the other and (b) not one board member cited the savings to be had in closing the elementary school as a major factor in his or her vote.

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[8] See footnote 7.

Finally, no one disputes that the elementary attendance center, built as it was to be a dedicated elementary school, provides an optimal learning environment for younger students. But the local board must take into consideration the educational needs of all of the district's students. The Appellants' expert witness himself characterized the middle school as a "Cadillac" of a building. (Testimony of Dr. George Chambers.)

Lacking any legal grounds on which to reverse the local Board, we would do great harm to the administrative legal system were we to substitute our own judgment for that of the Prairie Valley school board. Iowa is a "local control" state. It is an intentional legislative policy in this state that much power and authority rests with the popularly elected school boards that govern Iowa's school districts. The voters hold the local directors responsible for what voters perceive to be unwise decisions or decisions with which voters disagree by changing the make-up of the local board through the election process. The State Board of Education must uphold a discretionary decision of a local board "in the absence of fraud or abuse" or unless the local board exercised its power "in an arbitrary or capricious manner." 78 C.J.S. *Schools & School Districts* § 558. *Accord*, 1 Rapp *Education Law* 4.01[3][c].

There is no fraud and no abuse of discretion here. The local school board carefully studied the issue and did not act in an arbitrary, unreasonable, irrational manner. The local board made a decision that it has authority to make, and the board made that decision lawfully.

DECISION

For the foregoing reasons, it is recommended that the decision of the Board of Directors of the Prairie Valley Community School District made on March 22, 2010, closing Prairie Valley Elementary School be AFFIRMED. There are no costs of this appeal to be assigned.

8-19-10
Date

Carol J. Greta, J.D.
Administrative Law Judge

It is so ordered.

9-16-10
Date

Charles C. Edwards, Jr., Vice President
State Board of Education