IOWA STATE BOARD
OF EDUCATION
(5 D.o.E. App. Dec. 1)

In re C. Donald MacCormack III

C. Donald MacCormack III,
Appellant

v.

Burlington Community
School District,
Appellee.

[Admin. Doc. 846]

The above-captioned matter was heard on May 14, 1986, before a hearing panel consisting of Dr. Robert D. Benton, then commissioner of public instruction and presiding officer; Mavis Kelley, chief, Federal Programs Section; and A. John Martin, director, instruction and Curriculum Division. Appellant was present and represented himself. Appellee Burlington Community School District [hereinafter District] was present in the persons of Dr. James Smith, superintendent, and Mrs. Ellen Fuller, board president, and by counsel, Mr. Terry Loeschen, attorney, Burlington, Iowa. An evidentiary hearing was held pursuant to Iowa Code chapter 290, contested case provisions of Iowa Code chapter 17A, and departmental rules found at Iowa Administrative Code chapter 670--51.

Mr. MacCormack timely appealed a decision of the District board of directors [hereinafter Board] made on February 20, 1986, to close the Middletown Elementary School at the close of the 1985-86 school year.

I.

Findings of Fact

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

Appellant, C. Donald MacCormack, resides in Middletown, an unincorporated town six miles north and west of the city of Burlington. He is the chair of "Parents of Burlington," an independent, ad hoc task force organized to study the school closing issue this spring.

The District is situated in southeastern Iowa, and its student population is approximately 5,760. In the 1985-86 school year, the District Board operated nine elementary attendance centers, three middle schools, and one high school. Several District schools were closed in recent years, and a new middle
The study was conducted under the assumption that the same group of students would take part in the transportation costs, financial implications, and impact on facilities and infrastructure. The study focused on the study of the school crossing issue, clarifying not specifically utilized or identified in the school crossing issue. Clearly, the district has established such a district, but it was apparent that the school board of an advisory committee composed of educators, parents, and other community members approved an appointment by the district of an advisory committee composed of educators, parents, and other community members. The issue of the appointment of a school crossing study, that section now mandates the study of the issue of the appointment of a school crossing study.

Agenda items raised the issue of the appointment of a school crossing study.

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We commend both parties on their professional presentations before us, bringing a wealth of skills and business management experience to their task.

But the real question is, are they the right, well-qualified, conscientious man and woman who are considered the driving force behind the school.

Overall, the guidelines were announced in a public meeting, a board decision, and a group discussion. There was an opportunity to receive input from all concerned.

In the public meeting and on the school’s website, the public was asked to provide input on the decision to be made.

There were at least four board meetings in the November-February period to discuss the decision.

The district board in this case, a decision was made by the district board in this case.

In summary, we conclude that the decision was made by the district board in this case.

A community is not a school that keeps the school alive, but a school that keeps the community alive.

Although the loss of a school is significant, the death of a community is catastrophic. Further, the community is a significant part of the school. The school is a significant part of the community.

In the end, the district board was asked to provide input on the decision to be made.

Along the same line, the district board was concerned that the task force was not a school decision. The district board was concerned that the task force was not a school decision.
III.

Conclusions of Law

We have stated consistently since 1977 that the State Board of Public Instruction is reluctant to assume the role of a "super school board" when faced with review of discretionary decisions such as the one before us today. A local school board has the statutory authority to determine its own attendance centers. Iowa Code § 279.11 (1985). Because, in part, the Code does not provide a method for making those determinations, we adopted guidelines for school boards to follow in school closings. See In re Norman Barker, 1 D.P.I. App. Dec. 145. These guidelines and our application of them were approved by the Iowa Supreme Court in Keeler vs. Iowa State Board of Public Instruction, 331 N.W.2d 110 (Iowa 1983). Most districts, and this one is no exception, are aware of the "Barker guidelines" and attempt to follow them in making these difficult decisions.

Those seven steps 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 timelines 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.

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.

In re Norman Barker, 1 D.P.I. App. Dec. at 149-150.

Our statutory duty in deciding a chapter 290 appeal is to "make such decision as may be just and equitable. . . ." Iowa Code § 290.3 (1985). We have also stated with regard to our standard of review of local board decisions, "We will not overturn a properly executed and legally authorized decision of a local school board absent proof of arbitrary or capricious action." In re Janis Anderson and Ottumwa Transit Lines, Inc., 4 D.P.I. App. Dec. 87, 93. Reasonable minds may always differ, but the mere fact that they do is not cause to reverse. In re Elizabeth Cott, 4 D.P.I. App. Dec. 231, 238.
The Barker guidelines have been in effect for over ten years. Nevertheless, decisions to close schools continue, as the state is faced with fiscal crises and overall declines in enrollment, and appeals from those closings continue. The arguments by appellants in those cases have become more sophisticated, and we find ourselves faced with attacks on the guidelines themselves. We, too, are growing concerned that districts have taken a valid concept ("a reasonable and prudent procedure to follow in making decisions as important as the closing of an attendance center," Barker, 1 D.P.I. App. Dec. at 149) and stretched it to its limits.

We purposely did not include in our school closing recommendations the requirement that these seven steps occur over a specified period of time. "It is to be understood that such an outline must be flexible enough to be used as the particular circumstances of each decision dictate," id. Yet in case after case, it seems that step one precedes step seven by a matter of one, two, or three months. Repeatedly, we hear, either expressly or impliedly, that local boards, aware that their decision may be appealed, are only "going through the motions" of following Barker; that the decision has truly been made the minute that the superintendent makes the school closing recommendation, and the steps followed subsequently are for appearances only. This concerns us.

There is no question but that the intent and trend of the laws adopted with respect to governmental bodies is toward more -- not less -- responsiveness to the public. The Barker holding, while only a recommendation, was our answer to that need for responsiveness. We are displeased when the public perceives that its local board asks for -- because it needs to comply with Barker -- public input and a study of the pertinent information and then appears to ignore that input and sincere effort put forth by the community.

This Board was faced with conflicting information. The numbers varied: "Enrollment at Middletown will increase, not decrease," said the Task Force and ad hoc committees based upon a survey of area residents. "Transportation cost increases will be closer to $30,000 than to $6,000," they said. The Board thus had to make a decision, as a local reporter phrased it, as to whom to believe.

We are not in that position. If there is "substantial evidence" to support a board's decision, and it was not made arbitrarily nor capriciously, and if the Barker guidelines were followed, we will affirm the board's decision. We are constrained to do so in this case because we agree that there is substantial evidence on which the District relied in making its decision to close Middletown.

While a question was raised as to the projected enrollment figures for Middletown for 1986-87 and ensuing years, the overall picture presented was one of past decline and current stabilization well below the capacity of the building. With only forty percent of the students in the building living in the immediate geographic area, it is arguably better to bus out that forty percent than to bus in increasing numbers to fill the building. This is especially true considering the relatively isolated location of Middletown.

The issue of transportation is a bit more clouded. Evidence showed that in 1985-86 only 38 of the school's 104-114 students walked to Middletown Elementary. The remainder were bused in, primarily from the Beaverdale area. The administration determined that one additional bus route would be added if
III.
Decision

The decision of the Burlington Community School District Board of Directors made on February 20, 1986, to close Middletown school is hereby affirmed. Costs of this appeal under Chapter 290, if any, are hereby assigned to Appellant.

July 10, 1986
Lucas J. Dekoster, President
State Board of Public Instruction

July 3, 1986
Robert D. Benton, Ed.D.
Commissioner of Public Instruction
And Presiding Officer