

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

NEWPORT PARENTS AND CITIZENS

V.

NEWPORT SCHOOL COMMITTEE

Decision

Held: The decision of the Newport School Committee to close the Sheffield School is supported by good cause and therefore not violative of R.I.G.L. 16-2-15.

Date: June 9, 2006

Introduction

This matter concerns an appeal filed by 24 “Newport Parents and Citizens” from the January 10, 2006 decision of the Newport School Committee to close Sheffield Elementary School at the end of the 2005-06 school year.¹

Background

The issues in this case derive from School Department deficits that developed during the 2004 and 2005 fiscal years and the continuing decline of the city’s student population.² As part of the effort to address the deficits, a program audit of the Newport Public Schools was conducted by Berkshire Advisors, Inc. The “Report of a Management Review of the Newport Schools”, which was issued on July 19, 2005, contained observations and recommendations regarding the School Department’s management, organization and operations. One section of the report, entitled “Facilities,” contains the following:

The Newport Public Schools operates six elementary schools (grades K-5), one middle school (grades 6-8) and one high school (grades 9-12). In addition, the department operates the Newport Area Career and Technical Center and supports the Aquidneck Island Adult Learning Center. The school department faces many challenges in addressing the needs of its facilities as all but one of its schools are old and in poor condition and the school department’s enrollment has been in steady decline. While the school department has been reluctant to close schools to address the decline in enrollment, the department has been faced with significant budget challenges. These budget challenges have also hampered any efforts to provide for the ongoing maintenance and capital improvement needs of school facilities. [School Committee Exhibit 10, p. VI-1].³

* * * * *

Elementary Schools. The school department’s elementary schools have a number of shortcomings including issues relating to the age

¹ The Commissioner of Education designated the undersigned hearing officer to hear and decide the appeal. After several pre-hearing telephone conferences, a hearing was held on March 14, 2006 in Newport. The parties subsequently filed memoranda.

² As discussed later in this decision, the city’s declining enrollment prompted the closing of another elementary school, the Triplett School, in 1998.

³ The exception to the “old and poor condition” description is Thompson Middle School, which opened in 2002.

of the schools, unmet maintenance needs, inadequate operating systems and the inappropriate basic design of the buildings. [Ibid.].

* * * * *

Immediate Steps Should Be Taken To Improve The Condition of Selected Facilities

The school department is in the process of developing a long-range plan to replace or renovate inadequate facilities. In the best case, however, a number of existing facilities will continue to be in service for at least three years. Addressing the condition of some of these facilities cannot be deferred until the buildings are replaced or renovated. In particular, the basements of the Sheffield and Cranston-Calvert schools must be addressed. (In addition, as will be discussed, the Underwood School should be taken off-line immediately). A conservative estimate of the cost of making these capital improvements is \$320,000. [Ibid., pp.VI-3,4].

* * * * *

Operating Small Elementary Schools Is Neither Effective Nor Efficient

Although elementary student population has declined by almost 21 percent in the past five years and this decline is projected to continue, the school department continues to operate the same number of elementary schools as it did before the enrollment decline. Simple math, however, suggests that six elementary schools are no longer needed. If the number of schools declined at the same rate as enrollment, only 4.8 schools would be needed. In fact, the observations and analysis made conducted (sic) during this engagement support this preliminary conclusion. Each of the existing schools has significant excess capacity and just five schools could easily accommodate the existing student population.

Moreover, the claim that the six schools should be retained to protect the identity of Newport neighborhoods does not hold water. In fact, most of Newport's elementary students do not attend their local elementary school and are bussed to other schools within Newport.³ For the 2004-05 school year the only elementary school that could be considered a neighborhood school is Sullivan School where 88 percent of the students reside in the Sullivan neighborhood. At all other elementary schools only 40 to 50 percent of the current enrollment is made up of "neighborhood" students.

Operating six small elementary schools when only five are needed is neither efficient nor effective. Costs are increased and problems associated with addressing intradistrict mobility are exacerbated.

3 The school department allows open enrollment so parents within Newport can select the school of their choice. [Ibid., pp. VI-4,5].

* * * * *

The School Department Should Immediately Take The Underwood School Offline

Rather than close classrooms throughout all six elementary schools, the school department should take one elementary school offline. Operating five elementary schools instead of six will enable the department to reduce costs by \$1.08 million per year (footnote omitted). . .

For many reasons, Underwood School is the elementary school which should be taken off-line. Underwood School is in the worst condition of the existing six elementary schools and is not configured to support effective instruction. Additionally, Underwood lacks the capacity to accommodate a significant number of students from other schools and does not currently function as a neighborhood school. [Ibid., pp. IV-6,7].

* * * * *

Renovating Existing Elementary Schools To Meet The Current Educational Needs Of Newport's Students And To Comply With ADA Regulations Is Not Feasible

Based on the current age and condition of existing elementary schools, it is not feasible to renovate existing buildings to meet the needs of a 21st century education. The design of the Cary, Cranston-Calvert and Sheffield Schools and the small sites on which each of these schools is located make substantial renovations impossible. Moreover, the current condition and inefficient design of the physical plant at both Sullivan and Underwood Schools would make the renovation more costly and less efficient than new construction. Likewise, Coggeshall School would require a large addition in addition to renovations to both meet the requirements of ADA and the educational requirements of Newport students.

The Newport Public Schools' Long-Term Facility Plan Should Include The Construction Of Three Elementary Schools

The Newport Public Schools' long-term facility plan should include the construction of three elementary schools. Each elementary school should be designed to serve 400 students in kindergarten to grade five and have an additional enrollment capacity of up to 440 to accommodate preschool/early childhood education. One school should be constructed in the southern portion of the city on the current site of the Underwood School. A second new school should be constructed in the northern portion of the city on the current Sullivan School property. A third new school should be constructed in the central portion of the city at the Coggeshall School site. [*Ibid.*, pp. VI-7,8].

The school district's financial status, decline in student population, and school alignment had been under discussion by the School Committee for some time before the issuance of the Berkshire report. In January 2005, the Committee reviewed these subjects and voted "to decide on the number of elementary schools to close for September 1, 2005." [School Committee Exhibit 2]. In February 2005, the Committee formed a facilities planning subcommittee to develop a long-term facilities plan for the district. The plan was to include an elementary housing plan. Realignment hearings for the elementary schools began that month, with each of the 6 elementary schools being given an opportunity to present its case for continued operation. In March 2005, however, the Committee voted to keep all 6 elementary schools open for the 2005-06 school year.⁴

In June 2005, the Committee considered an elementary school realignment resolution. The draft resolution, as revised, contained three substantive provisions: (1) an endorsement of the concept of constructing new elementary school facilities and/or renovating existing facilities; (2) an intent to expedite the construction/renovation process; and (3) a declaration that no schools be closed until plans are complete and funding is obtained. The minutes of the meeting show that the Committee adopted the first two provisions of the resolution, but that the meeting adjourned before any vote was taken on the third provision. However, as will be discussed later, an "Elementary School

⁴ The School Committee was in the process of hiring a new superintendent at this time.

Realignment” resolution containing all three provisions was signed by a majority of the School Committee. [School Committee Exhibit 22].

A new superintendent took office on July 8, 2005. The previously-referenced Berkshire report was released on July 19th, and the “Newport Public Schools Facilities Long Range Plan 2005-2025” was issued on July 22nd. In the meantime, the new superintendent formulated an action plan in response to the 38 issues raised in the Berkshire report.⁵

With regard to elementary schools, the School Facilities Long Range Plan stated:

The recommendation is for fewer, newer and larger elementary schools. The initial financial analysis conducted by the Facilities Planning Subcommittee indicates that there is a cost benefit to this option when compared to renovation and operation of the existing elementary school facilities. It is recommended that we build three (3) new schools. The recommended sites offer the largest land areas: Underwood, Sullivan and either Coggeshall or Triplett, depending on professional & community input. The sites have been selected due to the property size allowing for safety, parking, playgrounds, and a ball field and, if even needed, for future expansion. . . [School Committee Exhibit 11, p. 36].

The School Facilities Long Range Plan also included an evaluation matrix entitled “Relative Comparison of Existing Elementary School Buildings.” The six schools were assessed scores from 1 to 10 in 10 categories, with 1 being the worst and 10 the best. The comparison’s results were: Sullivan (134), Sheffield (118), Underwood (116), Cranston-Calvert (102), Carey (96), and Coggeshall (93). [School Committee Exhibit 11, Appendix G-2].

In September 2005, the School Committee adopted the superintendent’s action plan. The response and action plan for item 34 (“Close Underwood”) were

If a decision is made to close a school, each school will need to be looked at structurally and with an eye for ongoing maintenance and additional utility costs to determine which school should be taken off line first. Although there is an issue regarding Underwood School in terms of structure and storage space, it is a completely sprinkled facility – the District’s most compliant building in terms of fire safety and is handicapped accessible.

⁵ Issue 34 is entitled “Close Underwood” and issue 35 is “Three new elementary schools.” [School Committee Exhibit 12]. The superintendent also visited all the elementary schools.

The Property Services Director, Superintendent, and the Newport School Committee will review which elementary school, if any, should be closed for September 2006. [School Committee Exhibit 12].

The response and action plan for item 35 (“Three new elementary schools”) were

The Newport School Committee Facilities Subcommittee has developed a Facilities Plan that will be presented to the public to determine the direction of the School Department’s elementary schools’ configuration. At this point in time, the Administration is not ready to make a recommendation with regard to how many elementary schools are needed but fully agrees that there needs to be fewer and newer elementary schools, and we believe this is a matter for public discussion.

The Newport School Committee Facilities Subcommittee will submit its Plan to the School Committee, and the School Committee will have several public meetings to explore the need for new elementary schools. [Ibid.].

Section 1.7 of the Newport Public Schools policy manual is entitled “Guidelines for the Use and Abandonment of School Buildings.” [Petitioners’ Exhibit 4]. The section provides as follows:

1. Within practical economic and physical limitations, it is the policy of the Newport School Committee to adhere to the traditional concept of neighborhood elementary school education.
2. If/when school closings become a possibility, children shall be moved from less adequate to facilities that are more adequate where possible.
3. Within practical economic and physical limitations, all Newport school building shall comply with standards recommended by the Rhode Island Department of Education.
4. Absent extraordinary circumstances, the Superintendent shall inform the school committee no later than February of each year of any recommendation he or she may have to close facilities in the following school year.
5. The Newport School Committee shall make particular efforts to publicize these recommendations and to afford parents in the involved schools a full opportunity to be heard before any final decision is made.

In December 2005, the director of property services submitted a memorandum to the superintendent that stated the reasons why “from a facilities perspective, capital costs can be avoided by closing Sheffield School beginning in the 2006-2007 school year, as opposed to Underwood School . . .” [School Committee Exhibit 16]. The reasons focused on the inhabitability of the Sheffield School basement,⁶ Sheffield’s lack of ADA compliance, Sheffield’s limited sprinkler system, the presence of wired glass and the absence of code-compliant doors at Sheffield, an inefficient heating system at Sheffield, and the degree of deterioration of Sheffield’s wooden floors. [School Committee Exhibit 16].

Also in December, the district received the results of a demographic study it had commissioned. The study stated the following:

A projection of student enrollment for the next ten years has been made. The total school population is expected to decrease by 305 students or 12.69 percent in the next five years and 508 students or 21.16 percent in the next ten. [School Committee Exhibit 14].

On January 4, 2006, the superintendent submitted a “School Closing” memorandum to the School Committee. [School Committee Exhibit 17]. The memorandum was presented in anticipation of an item on the School Committee’s agenda for its January 10th meeting. The memorandum states that 18 available classrooms exist among the 6 elementary schools, a number sufficient to close a school; that the demographic study confirmed the district’s enrollment projections which, in turn, support the closing of a school; that closing an elementary school will save approximately \$336,500 in operational costs; and that “closing an elementary school can return property to the tax rolls.”

As for which school should be closed, the superintendent considered “the magnitude of student disruption, use of school sites for future school construction, and issues surrounding short-term facilities costs.” The superintendent recommended closing the Sheffield School as of the 2006-07 school year based upon the following:

1. All of the students currently attending Sheffield School can be accommodated by a transfer to either Cranston-Calvert School (five (5) classrooms available) or Coggeshall School (two (2) classrooms available). Both of these schools are within $\frac{3}{4}$ of a

⁶ Cranston-Calvert’s basement problems were addressed during the summer of 2005; Sheffield’s were not.

mile of Sheffield School (7/10 of a mile to Cranston-Calvert School and ½ of a mile to Coggeshall School). This recommendation keeps students moving as a group together to closer alternate schools. Other school closing options involve moving students farther away from their neighborhoods.

2. Underwood, Sullivan, and Coggeshall Schools are currently under consideration for site locations for new school construction. As a result, they need to be maintained and under the care and custody of the School Department and should not be closed until the new school construction occurs. Sheffield School is not an appropriate location for new school construction and can, therefore, be returned immediately to the City and the tax rolls.

3. The facilities renovation and updates for Sheffield School are substantial and indeed more significant than Berkshire's issues regarding Underwood School. The analysis of the Property Services Director regarding this issue is attached.

The memorandum next provided a rebuttal to the Berkshire's reasons for closing Underwood and concluded by stating that

After the bond referendum is passed, and construction is started at Underwood School, the students attending Underwood School, at that point in time, will be transported to the Triplett School. The Triplett School can easily accommodate these students for two (2) years, and we have some additional flexibility should the Committee so desire to house kindergarten and/or first grade youngsters at the Carey School, where we will still have two (2) classrooms available.

On January 5, 2006, the superintendent sent letters to all Sheffield School parents informing them of the school closing recommendation that would be considered by the School Committee at its meeting on January 10th. The superintendent included his memorandum to the School Committee and informed the parents of their child's new school assignment for 2006-07. On January 6th, the superintendent sent letters to all the other elementary school parents, informing them of his recommendation to close Sheffield, his reasons for the recommendation, and the School Committee meeting scheduled for January 10th.

The agenda for the January 10th School Committee meeting, including an action item stating "Recommendation for Closure of William P. Sheffield Elementary School –

Effective 2006-2007 School Year,” was published in the local newspaper on January 7th. [School Committee Exhibit 20].

On January 10th, the School Committee commenced discussion of the recommendation to close Sheffield School by returning to the June 2005 “Elementary School Realignment” resolution. There was a question whether the Committee had passed the resolution in its entirety, as it appeared on the face of the resolution, or whether it had approved only the first two provisions, as reflected in the minutes of the meeting. In light of the uncertainty, the School Committee voted to rescind the resolution. The superintendent then presented his reasons for recommending that Sheffield be closed, and members of the public addressed the Committee.⁷ A majority of the School Committee voted to approve the superintendent’s recommendation and close Sheffield School effective the 2006-07 school year.

In explaining his reasons for recommending that Sheffield School be closed, the superintendent testified at the hearing that “Underwood, Sullivan and Coggeshall were not considered for closure” because those schools have the most acreage and are the best site locations for new school construction. [Transcript, pp. 19, 52]. He further testified that “Cary is in very good condition, better condition than Sheffield and had recently been renovated, and Cranston-Calvert is a much bigger school and can accommodate more youngsters, had a bigger enrollment than Sheffield this year.” [Tr., p. 52]. He also stated that

Last, but certainly not least, if you’re taking a look at this from the perspective of the Mayor and Council, Sheffield is a school, that when closed, can immediately begin to give some revenue to the City. And that’s, you know, a reality that you have to deal with; that the City Council seemed to have a significant problem with funding the schools, and I think they wanted some commitment that the school district was going to have some cost savings to Sheffield when closed which can be turned over to the City for additional revenue. [Tr., p. 21].

The chairman of the school committee testified that in 2005

for the second year in a row the School Committee was in a deficit situation . . . [and] [a]ccording to state law, when you have this conflict with the City Council, who we felt didn’t give us enough

⁷ The minutes of the meeting show that 17 members of the public spoke on the subject.

money . . . the remedy is a so-called Caruolo process . . . so at that point we met with the City Council in February and said, ‘We’ve started the Caruolo that says we need about a million dollars. We would like to avoid going to court, and we had a pretty cordial agreement that probably they would give us the million dollars. [Tr., pp. 82-83].

Positions of the Parties

Petitioners contend that by closing Sheffield School and relocating students to Coggeshall and Cranston-Calvert, the School Committee breached its own policies both substantively and procedurally and is subjecting the Sheffield students to a less safe and less sound education.

Citing section 1.7.2 of the Newport Public Schools Policy Manual, i.e., children shall be moved during school closings from less adequate to more adequate facilities where possible, Petitioners state that “throughout most of his testimony, [the superintendent] refers to the big picture, not the facilities. According to the policy manual he should have just been looking at the facilities.” [Petitioners’ memorandum, p.1]. They argue that the Sullivan, Underwood and Coggeshall schools were arbitrarily removed for consideration for closure with no clear objective reasoning.⁸ Developments such as the closing of 3 classrooms in the summer of 2005, the repair of Cranston-Calvert’s basement but not Sheffield’s during that summer, and the assignment of a part-time interim principal reveal a plan to close Sheffield without a thorough investigation of all the elementary schools. There were many errors in the facilities comparison that was included in the Facilities Long Range Plan. Sheffield is the least expensive school to operate. It is a safe and accessible school which provides many unique amenities to the children.⁹ Busing the Underwood students three miles to Triplett during new construction will be disruptive. The Triplett building could be returned to the city’s tax rolls the quickest. The public notice of the January 10, 2006 School Committee meeting did not meet the policy manual’s requirement to “make particular efforts to publicize” and to afford parents “a full opportunity to be heard” (section 1.7.5). Also, “many members of the Sheffield community did not take [the superintendent’s] recommendation

⁸ They also point out that the Triplett property is .08 acres larger than Coggeshall.

⁹ The amenities include a gymnasium, music room, and coat rooms in each classroom.

seriously due to the fact that [the June 2005] resolution was in place.” [Petitioners’ memorandum, p. 9].

Citing several decisions of the Commissioner,¹⁰ the School Committee contends that it had good cause to close Sheffield School and therefore complied with R.I.G.L. 16-2-15. It points out that policy 1.7 is a set of guidelines that contain significant qualifiers and that the Facility Planning Subcommittee is an advisory body and its analysis was not the definitive measurement of the six elementary schools. The district did not merely advertise the January 10th School Committee meeting in the newspaper as required by the Open Meetings Act, it made “particular efforts” to publicize the superintendent’s recommendation and reasoning by notifying all elementary school parents. Finally, the School Committee asserts that the proper remedy for those parents who believe that an incorrect decision was made in this case rests in the voting booth.

Discussion

This case is the continuation of a saga that was initially presented in this forum in 1998. In the case of John Spohn v. Newport School Committee, we addressed the closing of the George H. Triplett School, “a highly successful early childhood center housing grades K-2 in the newest school building owned by the City of Newport.” [Decision, p. 2]. In discussing the Commissioner’s exercise of his authority to review school committee decisions on a de novo basis, we stated that

the commissioner has sought to act consistently with those provisions of Title 16 . . . which convey upon local school committees the specific authority to control the public school interests of their respective cities and towns. The commissioner has thus exercised his independent judgment on an issue so as to overturn the decision of a local school committee only when the committee’s decision is contrary to state law, regulation, or a statewide educational policy or issue of statewide concern . . . [S]uch review merely requires the initial decision makers to ensure that their decision is supportable, not contrary to state law or policy or swayed improperly by local political concerns. [Decision, pp. 11-12].

¹⁰ O’Donnell v. North Smithfield School Committee, August 11, 1976; Veazie Street School Advisory Committee v. Providence School Committee, August 27, 1980; Bradford Save Our School Committee v. Westerly School Committee, September 21, 1981; Massey v. East Greenwich School Committee, September 4, 1990; Spohn v. Newport School Committee, October 7, 1998.

Applying §16-2-15's directive that a school committee "shall not abandon, close or change the location of any [school] without good cause," we found that the district's ongoing declining enrollment, without a foreseeable increase, and the resulting cost savings met that standard, and that there was no compelling reason to overturn the school committee's vote, despite documented disadvantages to closing Triplett. Furthermore, we noted evidence in the record that there was a perceived need to close Triplett as a necessary step in generating local political support for a future bond referendum. We observed that, "[i]n context, then, the Triplett decision involved complex and competing interests of the school district, and a need to be sensitive to its political context." [Decision, p. 14].

In Bradford Save Our School Committee v. Westerly School Committee, we reviewed the closing of an elementary School. We observed at the outset that

the General Assembly has delegated a great deal of authority to school committees in matters of this nature. Of course, citizens who feel strongly about a school closing are free to make their opinions known to the school committee and, ultimately, to cast their votes in future school committee elections on the basis of those opinions. [Decision, p. 3].

We concluded our decision by stating that

[t]he School Committee has, however, a duty to manage its affairs in a fiscally responsible manner, and it is our opinion that the decision to close Bradford School was properly made in the name of fiscal responsibility. We do not say that said closing was the only reasonable decision which the School Committee could have made under the circumstances, but we do believe that it was a reasonable decision and one which was based on 'good cause' as required by the statute . . . [Decision, p. 5].

In the case at hand, Petitioners state that they are "not appealing the actual closure of an elementary school." [Petitioners' Exhibit 1]. Instead, they dispute "which elementary school was chosen for closure and the manner in which the decision was made." [Ibid.]. Petitioners place great reliance on section 1.7.2 of the district's policy manual while stating that most of the superintendent's testimony "refers to the big picture . . . [when] [a]ccording to the policy manual he should have just been looking at the facilities."

R.I.G.L. 16-2-11(a) entrusts the superintendent, under the direction of the school committee, with the care and supervision of the public schools. In other words, it is the duty of the superintendent to look at “the big picture.” With regard to school buildings, our decisions establish that finances and the political context are part of “the big picture.”

It is clear from the record in this case that the perceived need to promptly return a school building to the city’s tax rolls was a major consideration in determining which elementary school to close. Years of declining enrollment, small class sizes, empty classrooms and recent budget deficits which required additional city funding created this perception. Contrary to Petitioners’ assertion, there is ample support for the superintendent’s decision to eliminate the Sullivan, Coggeshall and Underwood schools for closure. These are the schools with the most acreage and they were identified as the preferred new school construction sites in the Berkshire report and the long-range facilities plan.¹¹ There is no evidence that in designating Underwood for immediate closure, the Berkshire group considered the political context, i.e., the need to quickly place a school building in the city’s control. While there may be many reasons to close Underwood, the fact that it is a logical and preferred site for a new elementary school renders it an unfit choice in the political context of this case. If Underwood were to close but remain the future site of a new school, the school district would not be able to deliver a building to the city. Such an action would damage, not improve, relations between the school district and the city.

Furthermore, the guideline expressed in section 1.7.2 is applicable “where possible.” New elementary school construction and the relationship between the school district and the city did not make a move from “less adequate” to “more adequate” possible.¹² In other words, “the big picture” precluded a simple school-by-school comparison.

Petitioners are a group of caring and dedicated parents and citizens. Their support for the Sheffield School is to be admired. True, the facilities comparison in the long

¹¹ Although the Triplett building occupies a parcel with .08 acres than Coggeshall, we consider this difference to be insignificant and, given the fact that Triplett is not an operating elementary school, irrelevant. No evidence was presented at the hearing as to how designating Triplett as a site for a new elementary school would remedy the current excess elementary school capacity.

¹² Assuming, for the sake of argument, that Sheffield is “more adequate” than the schools to which its students have been assigned.

range facilities plan contains errors. It is also true that Sheffield has many unique amenities and characteristics that contribute greatly to the education of its students. But as we observed in the Spohn case, the School Committee “remained unswayed” by the advantages existing at Sheffield and the disadvantages that attach to its closing. [Decision, p. 13]. As we stated there, “[e]ven though such factors may be found persuasive at this level, they are not compelling enough to overturn the local district’s decision.” [Ibid.].¹³

Conclusion

We find that the evidence in this case supports the School Committee’s decision to close Sheffield School, that the decision is a reasonable one, and that the grounds for the decision constitute good cause under § 16-2-15.

The appeal is therefore denied.

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

Date: June 9, 2006

¹³ We find that the district’s compliance with the Open Meetings Act and the letters to the parents constituted sufficient notice and publicity with regard to the January 10, 2006 School Committee meeting. We do not find that the School Committee acted improperly in rescinding its June 2005 resolution in light of the uncertainty that existed with regard to the resolution’s contents. Nor do we find in the circumstances, particularly given the superintendent’s explanation of his reasons for recommending the closure of Sheffield, that Sheffield parents were led astray by the resolution.