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Bertha Vos group sues TCAPS

By LINDSAY VANHULLE

TRAVERSE CITY -- A parents' group filed suit against Traverse City Area Public Schools, and accused the district of an "arbitrary and unreasonable" decision to close Bertha Vos Elementary after the 2007-08 school year.

Save Bertha Vos, Inc.'s membership includes several parents who've pulled their children from TCAPS in favor of Mill Creek Elementary in Elk Rapids Schools. The group filed suit Monday in Grand Traverse County Circuit Court and also sought temporary and permanent restraining orders against TCAPS.

The lawsuit comes days after Williamsburg resident John Kerkhof filed petitions to recall TCAPS board President Gerald Morris.

Board members, with Morris in the lead, on July 23 voted 4-3 to close Bertha Vos, Glenn Loomis and Norris elementaries, following months of public meetings that discussed potential school closings.

Lawrence R. LaSusa, one of several attorneys representing the plaintiffs, contends TCAPS officials in 2006 preordained the Bertha Vos closing, prior to the lengthy committee hearings and public input sessions.

"When the school district solicits input from the public and concerned parents during a decision-making process, then blatantly ignores that information ... it's not only a violation of the public's trust, it's illegal and a violation of the school code," **LaSusa** said.

Superintendent James Feil had not had a chance to peruse the complaint prior to Monday's school board meeting. Afterward, he said the matter would be forwarded to the district's attorney for review.

But, he said, the lawsuit will not change the fate of Bertha Vos. "It's one of those things you can't speculate on. It's one of those things you have to deal with as it comes," Feil said. "The board's made the decision, and it's the intention of the administration and the board to follow through with their decision."

The lawsuit will bring added expenses to the district as it seeks to defend itself, Morris said.

Part of the concern, Morris said, is that several of the plaintiffs are parents of former Bertha Vos students, who now attend school in Elk Rapids. Their loss will cost the district additional per-student funding from the state when the district's first official count is taken Sept. 26.

"That's very shortsighted," he said of those plaintiffs, adding that their reasoning is not justified. "Because the people of Acme don't want their schools closed, they've chosen the extreme measure.

"It's just a shame."

Board secretary Richard Crampton said he wasn't surprised to learn of the lawsuit, and that it likely won't affect him much since he is not seeking re-election in November.

"I kind of thought that it might happen," Crampton said. "I talked to the judge the other day and he said, 'Oh, you can do that for \$150.'"

But that thought wasn't shared by everyone. Board member Suzann Brooke was "absolutely amazed" upon hearing the allegations.

"I have no idea what will happen," she said. Bertha Vos parent Beth Friend said she's had to make tough decisions as an East Bay Township trustee, but only after listening to both sides, engaging in constructive discussion, and making a critical analysis of the facts.

"That's been completely absent in this (school closing) process," she said.

"I didn't get involved in this because we have children at Bertha Vos; we'll make sure they get an excellent education wherever they go," Friend said. "I've watched this decision-making unfold and it compels me to get involved," Friend said.

School officials last year formed a 100-member steering committee to guide building decisions. For months, the group considered grade reconfiguration and enrollment trends. Hundreds attended the sessions that culminated in a recommendation to the superintendent.

The school board approved suggestions in May that included moving ninth-graders to the high schools, shifting the east-west boundary to balance enrollment and closing as many as three elementary schools.

The TCAPS board established criteria to determine which elementary schools to close. The factors they pledged to consider included walkability, historical significance, enrollment, renovation costs, transportation, displaced students, proximity to other public school districts and value and uses for the school property.

Parents launched campaigns to keep their child's school open. In July, Superintendent James Feil recommended a trio of school closures. On the chopping block were Bertha Vos, Glenn Loomis and Norris.

The July 23 meeting was long and emotional. Board members Fred Tank, Alice McNally and Brooke opposed the motion to close the schools.

The meeting pitted parents against Morris, and the recall effort arose from some parents' frustrations with him.

Many parents alleged the board majority ignored their own stated closing criteria.

"When it came down to the final analysis they disregarded two of the criteria that they developed themselves that would have had a significant positive effect on Bertha Vos," **LaSusa** said. "Those were ...transportation implications and value of the property for other uses."

LaSusa said TCAPS "grossly misused" other criteria such as the school's historical significance and proximity to non-TCAPS schools when considering the closures. He expects to hear from the court within the next few days to schedule a hearing for a temporary restraining order to stop the district from moving forward with the Bertha Vos closure, **LaSusa** said.

Save Bertha Vos will hold a meeting at the Acme Township Hall today at 7 p.m. to bring people "up to speed" on the organization's efforts. Friend said the members will discuss the litigation, upcoming school board elections, the Morris recall, fundraising and a membership drive.

Friend said as a nonprofit, Save Bertha Vos will not endorse candidates or take a position on the recall, but will work to help people educate themselves about candidates and issues.

Record-Eagle staff writer Vanessa McCray contributed to this report.