

## THE CASE FOR GENUINE OVERSIGHT

by Nelda Mickle



**THE SITUATION:** The Des Moines School District is the largest school district in the State of Iowa. Currently the Des Moines Public School District (DMPS) is mid-way through “the Schools-First construction program which is the largest in the history of Polk County and possibly the State.” This massive construction program was made possible after voters in Polk County approved the Local Option

Sales Tax, (L.O.S.T.) for school infrastructure in 1999, after three failed attempts.

Voters approved the sales tax only after the creation of a 10-year plan which is specifically referenced in the ballot language of the referendum. This language outlines the plans of the Des Moines Schools District for the use of the tax levy funds; and only after a promise that there would be ongoing substantial public oversight to assure compliance with the mandate from the voters was included in the 10-year did the voters approve the LO.S.T.

**MANY OF THE** Schools-First project expenditures of L.O.S.T. revenues have deviated substantially from the those projects and expenditures submitted to and approved by the voters in the 1999 referendum. As taxpayers and citizens of the Des Moines community, we cannot stand idly by as neighborhood schools are closed and large new construction projects are hastily promoted. We know that many projects already funded and now being funded by the L.O.S.T stream of revenues have not been submitted to nor approved by the voters as required. Conversely many projects for which funds were approved by the voters have been and are being denied L.O.S.T funding upon the claim of an insufficient revenue stream.

The magnitude of the departures from the 10-year plan literally boggle the mind. It is not an exaggeration to say the deviations from the approved L.O.S.T language exist in amounts of many millions of dollars.

**BACKGROUND:** On Friday, May 27, 2005 (before the Memorial Day Weekend), principals of five Des Moines Schools were called to a meeting with top administrators in the school district and told that their respective schools would be closed, merged with other schools or demolished to provide for new construction at their site. They were



### SOS MISSION

To return high quality to our D.M. schools:

by adding opportunities for a higher percentage of students in order to prepare for productive lives;

by requiring adequate research and open discussion prior to all major decisions;

by correcting the following problems:

- lack of planning
- fiscal extravagance
- lack of oversight
- inadequate staffing
- missing curriculum.

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provided with notes, (referred to as backpack notes), to send home with the students in their schools that day. This was the first notice afforded the building principals and staff of the affected attendance centers to be lost. Our school communities were stunned by these announcements. As a result, four community protest meetings took place. Parents and others community members formed an Ad Hoc group now organized as a non-profit corporation known as SaveOurSchools (SOS). A long, heated protest meeting at Hoover High school revealed many additional problems of ineffective curriculum and teaching conditions, disregard to requests for public information, etc., lack of valid research prior to action, disregard for required procedures, etc., in addition to those of specific closure and demolition plans.

**Since June 2005, the SOS legal team\* reviewed numerous documents, recordings, video tapes, news reports, and other items containing information about the L.O.S.T. expenditures and D.M. School Board's deviations from and failures to observe the 10-Year Plan. In addition, we researched the legal recourse provided to us by the Iowa Code and other case law related to our concerns. As a result we have two active legal actions against the Des Moines School District.**

We are awaiting a decision from the Administrative Law Judge on our appeal heard at the Iowa Department of Education on October 5, 2005. This appeal challenges the failures of the Des Moines School Board to comply with the Administrative Agency Rules governing the closures of attendance centers, found in 281-Chapter 19 of the Iowa Administrative Code — which 2003 Rules made mandatory the previously more permissive BARKER GUIDELINES on school closings.

In addition we have filed in Polk County District Court a

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## BACKGROUND ON NELDA MICKLE



Nelda Barrow Mickle was born in Jonesboro, Arkansas. She is a graduate of Arkansas University with a B.A. in English and a minor in History. As a recipient of a national Woodrow Wilson Fellowship for

Graduate Study, Nelda attended Northwestern University where she earned a M.A. in both English and American Literature.

Nelda moved to Des Moines in 1968 and taught freshman English and Business English at Drake University from 1969 to 1971. In 1974 she entered Drake Law School as a young mother of two children. After earning her Law Degree in Spring, 1977, she served as Law Clerk to Judge Leo Oxberger, Iowa Court of Appeals, for two years.

Nelda served as Attorney with the City of Des Moines Legal Department for many years, first as a Traffic Court Prosecutor; then Attorney III working with Neighborhood and Urban Development Departments; then City Solicitor working with Civil Service, Police and Fire Retirement Systems and Employee Relations matters. She was appointed as Acting Corporation Counsel for six months after the retirement of Corporation Counsel Philip Riley in 1986.

Nelda is married to former City of Des Moines Planning Director, Robert Mickle and has two sons. Her entire family lives in the Edmunds neighborhood and her grandchildren attend Edmunds Academy. Nelda joined SOS in the Spring of 2005 and is a key member of the SOS legal team.

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**Writ of Certiorari** that questions the legality of the Des Moines School Board changes in the use of the L.O.S.T. monies from the official promise made to the voters. This action is based in part on a change in the Iowa Code made in 2003 requiring that any “change in use” OF L.O.S.T. Funds for school infrastructure needs must be taken back to the voters. Our scheduled court date is March 31, 2006.

Through months of research, we faced extreme difficulty and also the impossibility of obtaining accurate and timely information from the Des Moines School District. A local news reporter told us that her TV station received from the Superintendent and two top DMPS administrative officers three different figures for the cost of the Central Kitchen Project. Each of the three different amounts given by administrators were a million dollars different from the other. This project which has consumed a MINIMUM OF \$11.5 millions L.O.S.T. with (unofficial estimates are \$20 million plus) was not included in the required 10 Year Plan.

In addition, we have documented numerous failures of the part of the D.M School Board to follow the Open Meetings and Open Records laws (Chapters 21 and 22 of the Iowa Code).

Our experiences lead us to concur with Iowa legislators who created HF 2346. An urgent need for accountability exists pertaining to the expenditures of public monies by D.M. school district officials. The accounting reports required in this proposed legislation will provide necessary vehicles to allow additional public scrutiny of public school district expenditures.

Democracy is dependent upon public awareness, factual knowledge, and the opportunity to be hard at a point in time when citizens can make a difference in the outcome of the School District’s decision-making process. We urge

all responsible citizens and law-makers to support HF2346, or a stronger version in it prior to the end of the current legislative session. While enforced oversight may not be necessary in the majority of districts in Iowa, citizens in Polk County must have a strong process by which public officials are forced to respond to strong external fiscal review and oversight. ■

\* Should readers wish more detailed legal information, please contact one of the following members of SOS:

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### AT RISK : Adams Elementary School



*Increasingly, human history is a race between education and catastrophe.*      ~ H.G. Wells