School releases assembly video

District recording shows student rebuffing FMMS principal’s offer to hold the end of his banana

*Video released to Tri-State Public Radio, Pen City Current on Wednesday morning*

BY CHUCK VANDENBERG
PCC EDITOR

FORT MADISON - After nearly a full year of hearings, filings, and negotiations, the Fort Madison School District has turned over video segments of a 2017 assembly that includes possible inappropriate behavior on the part of a school official.

Pen City Current had been made aware of alleged inappropriate conduct by Fort Madison Middle School Principal Todd Dirth, who had encouraged a student to hold the end of a banana suit that was hanging between his legs, at an assembly on Dec. 12, 2017.

Efforts to reach Dirth at Fort Madison Middle School Wednesday were directed to the central office. District officials have declined to comment on the issue due to the incident being a personnel issue, but released an unsigned statement that read Dirth's employment continues and, following an investigation, he was disciplined for actions at the assembly.

"Mr. Dirth has been and continues to be a valued employee of the Fort Madison Community School District. In late 2017, the District investigated Mr. Dirth's conduct during a school assembly that occurred in December 2017. At the conclusion of the investigation, the District took appropriate disciplinary action related to the incident."

Pen City Current on Dec. 13th, submitted a request under the Freedom of Information Act for release of the video on the grounds it was made at a public school assembly on district equipment. On Feb. 13th the district responded saying the video was protected under Iowa Code Chapter 22 because it contained personal information in personnel records. On March 2, Pen City Current filed an appeal with the district indicating it wasn't looking for personal information, but a copy of a video recorded in front of more than 400 students and faculty. On May 11, the appeal was denied. The issue was then sent to the Iowa Public Information Board on June 18th. The IPIB is a state board governed by Iowa code that is charged with formally and informally mitigating requests for public records. The FMCSD’s attorney, Emily Ellingson of Lynch Daniels out of Cedar Rapids, filed a response with the district's opinion that the record was used in disciplinary action and was privileged under Chapter 22.7 of Iowa Code. The Current responded that the video was taken in front of an entire student body, faculty, and potentially other viewers, on public recording equipment and does not contain any personal information protected by Chapter 22.

Ellingson then filed a motion to dismiss to the IPIB on July 10th, writing that the complaint was filed with the IPIB more than 60 days after the alleged incident and was therefore beyond the scope of the IPIB. That motion to dismiss was granted by IPIB director Margaret Johnson. A hearing was held on July 19th regarding the dismissal. Pen City Current was not at that hearing, but received an audio recording of the hearing. At that hearing, the board upheld the dismissal 8-1 and Pen City Current filed for a rehearing that was held on Aug. 18. At the July hearing.

See VIDEO, page 4

Supervisors vote to file injunctions over Powdertown septic system delays

*LCHD says there’s very little time left to avoid being taken to court*

BY CHUCK VANDENBERG
PCC EDITOR

MONTROSE - Lee County will be moving forward with injunctions against seven, and possibly eight, homeowners in the Mooar-Powdertown district after nearly two years of efforts to get residents to upgrade septic systems per a 2016 Iowa Department of Natural Resources mandate.

The Lee County Board of Supervisors voted 3-0 to move forward with the injunctions after Lee County Health Department officials have been trying for the past three years to get septic systems upgraded in the unincorporated residential district.

A program was started in 2016 to get 38 homeowners with unpermitted septic systems to upgrade or new systems installed. The effort began when the Iowa Department of Natural Resources told Lee County that Chatfield Lake, located in the township, was contaminated and had to be cleaned up. DNR officials at one point threatened the county with fines of up to $25,000 per day if efforts weren't undertaken to get the district and lake cleaned up.

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SUPERVISORS - Continued from Page 1

Rosa Haukedahl, program director for Lee County Environmental Services, said since the supervisors directed the county to draw up injunctions last week, no additional residents have come forward.

“Last week we presented a proposal to take legal action against eight residents and I did not hear from any of them during the last week,” she said. I did receive phone calls from other residents, but they have a permit and intention to install their systems. Nothing has changed from last week,” Haukedahl said.

She said several other residents who have come forward and gotten a permit and have intentions to install the systems are not included in the injunctions. Former Lee County Attorney Mike Short filed two injunctions before he retired and those issues were quickly resolved.

“These residents quickly installed their system. We’re hoping for the same outcome. Again, our intention is not to remove people from their homes, but we have a job to do,”

Matt Pflug asked what the language of the injunctions would look like, but Haukedahl said Lee County Attorney Ross Braden has not drawn up documents yet.

“Again, they’ve had ample time to resolve this. This started again back in 2016 and we started with 38 so I think a lot of progress has been made here,” Pflug said. “However, we have been served by DNR basically that we have to have 100% compliance and they are polluting the lake so they know what’s going on here.”

Haukedahl said LCHD has had a presence in the district and said at this point everyone who is going to install has done so.

She said from now until the injunctions are filed, if any residents come to the LCHD and get a permit and show intent to install a system, the injunction can be withheld.

Supervisor Ron Fedler said this is something the county is not taking lightly.

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“Another matter, the board tabled the second reading of a new ordinance prohibiting the use of semi-trailer “jake” brakes within specified areas of the county. With Board chairman and vice chairman Rick Larkin absent from the meeting, Felouso, Pflug, and Fedler voted to table the discussion.

Area truck driver Chris Sorrentino asked the board to review the jake brake ordinance again because it will be very tough to enforce it.

“If the county wants to put this into a law, the question is how are you going to successfully enforce this? Even a truck that’s 30 years old with the old jake brakes that are louder than God, we all understand that. By the time he comes down that ramp, makes the run, the resident calls the complaint in...that truck is 50 miles down the road.”

Sorrentino suggested putting a time frame on the ordinance from 9 p.m. to 6 a.m. In other action, the board:

• tabled discussion on converting two part-time county attorneys to full-time after the retirement of Bruce McDonald from the staff. His salary would be used to pay the difference in the two-part time county attorneys to full-time status. The board tabled the discussion to allow Braden to attend the next meeting and talk about how the salaries would impact next year.

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At some point the DNR could start fining the county and that’s why we have to do this. Not because we want to,” Fedler said. “These fines could be daily, not yearly.”

Pflug said the fines from DNR could be very large and the Lee County taxpayers would be paying the fine. However, Supervisor Gary Felouso said DNR officials have been encouraged with the progress the county is making.

Fedler said with the winter coming and ground hardening it could be spring before the new systems can be in place.

Haukedahl said the samples continue to be taken from the lake out by the district and the local and state officials continue to monitor the water. She said she didn’t know if mitigation would be required to make the lake healthy again.

In an unrelated matter, the board tabled the second reading of a new ordinance prohibiting the use of semi-trailer “jake” brakes within specified areas of the county. With Board chairman and vice chairman Rick Larkin absent from the meeting, Felouso, Pflug, and Fedler voted to table the discussion. Area truck driver Chris Sorrentino asked the board to review the jake brake ordinance again because it will be very tough to enforce it.

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**CURRENT-LEE**

Community Blood Drives
The following are November Fort Madison blood drives; Lincoln Elementary gymnasium on Nov. 15 from 2:30 to 5:30 p.m. - contact LeAnn Cashman at 372-2896; Fort Madison Public Library, 1920 Avenue F - contact Blood center at 800-747-5401 ext. 1281.

Business After Hours
The Kensington and the Fort Madison Chamber are hosting a Business After Hours on Nov. 15 from 5 p.m. to 7 p.m. at the Kensington 2210 Avenue H in Fort Madison, to celebrate the Kensington’s 15th year in business in Fort Madison.

Vendor Show
Saturday, November 17th, 10am-3pm, McAleer Hall, 1111 Avenue E, Fort Madison. 12 vendors including Boy Scout Troops 7 & 19 with provide breakfast items & baked goods. Pack 19 will have BBQ pork sandwiches, chips, baked goods, and drinks. Come out and support your local Boy Scouts and shop all your favorite vendors just in time to get your holiday shopping started!

Veteran’s Breakfast at Sunnybrook
Each month on the third Tuesday of the month, Sunnybrook Assisted Living hosts a Veteran’s Breakfast from 7 a.m. to 9 a.m. at 5025 River Valley Road in Fort Madison.

**CURRENT-LEE**

Community Thanksgiving
The annual Community Thanksgiving meal in Fort Madison will be held beginning at 11:30 a.m. at the Fort Madison High School on Thursday, Nov. 22 at FMHS. Volunteers and donations are needed. Email the chamber at chamber@fortmadison.com for details.

Caregivers Connection at The Kensington
The Kensington hosts this monthly gathering to help educate attendees about all dementia types. Held at noon the 4th Tuesday of every month in The Kensington’s private dining room, 2210 Avenue H in Fort Madison. Call 319-372-4233 to RSVP or for more information.

Senior Community BINGO at The Kensington
Each month on the second Wednesday of the month, The Kensington hosts Senior Community BINGO at 2:00 p.m. in their dining room at 2210 Avenue H in Fort Madison. All seniors are welcome and cash prizes are awarded.

Pen City Current will list your event in this highly visible CURRENT-LEE section in increments of 25 words for $15. Add a photo for $5. Non-profit organizations are eligible for the reduced rate of $10 per 25 words and $3 per photo. To place your listing, click here or call Lee at (319)371.4125.

**IOWA LOTTERY WINNING NUMBERS**

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<tr>
<th>Game</th>
<th>Draw Days</th>
<th>Sales Cutoff Time</th>
<th>Approx. Drawing Time</th>
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<td>Mega Millions®</td>
<td>Tues &amp; Fri</td>
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<td>Powerball®</td>
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Pen City Current encourages you to play responsibly.

First. Fresh. Local.

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Ellingson, who in attendance representing the district, told the IPIB that the district had maintained constant contact with Pen City Current during the initial request and the appeal process. At the following hearing she had stepped back from the statement after Pen City Current directed the board members to documentation in their possession that showed a reminder of the pending records request and no communication from the district other than one email indicating the issue had been forwarded to the district’s law firm.

Also at the July hearing, Ellingson told the board that the complaint now became more complicated finally being reviewed by Adams, but then was turned back over to Johnson several weeks ago. Johnson indicated that the complaint may not have been aware that the district didn’t create the video, but had to acquire the video. Johnson, told the board about three minutes later, when a member pressed Ellingson as to why it took 60 days to respond to Pen City Current’s initial request, that the district had to find the video.

“That I have an answer for. It took ‘em a while to find it,” Johnson said at the hearing.

“(Pen City Current Editor Chuck Vandenberg) requested it on the day that the event happened and to determine whether or not there’s been any kind of tape, and I think that was during the investigation this was discovered,” Johnson said.

At the same July hearing Johnson told the board she was given the impression that the video was recorded by someone in the district. In an email Wednesday morning Johnson said she was initially led to believe that the district did not record the video.

Ellingson told the board it was her understanding initially that the district didn’t have the video, but she didn’t dispute that the video was eventually in possession of the district and therefore it was a district record.

In the video released Wednesday morning at the school district’s office, a 360-degree camera was used to record the event and was set up on the floor of the gymnasium in full view of all in attendance. It was monitored, and at several times relocated on the gymnasium floor, by a district staff member.

Superintendent Erin Slater and Ellingson were not at the viewing on Wednesday morning, but provided a statement to Pen City Current and Tri-States Public Radio reporter Jason Parrott. Parrott had also filed an open records request for the video, after Pen City Current’s request was dismissed by the IPIB in August. Parrott’s request was also denied by the district under Chapter 22.7 and he immediately filed with the IPIB for a hearing to avoid the 60-day jurisdictional window.

While Parrott’s case was working through the IPIB process, another unrelated opinion was handed down by IPIB attorney Amanda Adams that had an impact on Pen City Current’s and Parrott’s complaint. A police officer in Ankeny was involved in a car accident and the dashboard camera caught the accident. Ankeny media requested the video footage, but were denied by the police department on the grounds that the video was part of the officer’s personnel file because of disciplinary resulting from the accident.

Adams issued an advisory opinion in that case, in summary, finding that the camera was a public camera and the incident occurred on a public street, therefore the video should be released to the public. After that advisory opinion was upheld unanimously by the IPIB in late September an offer was extended to Parrott and Pen City Current to view the video in exchange for a dismissal of the IPIB complaint by Parrott and Tri-States Public Radio reporter Jason Parrott. Pen City Current requests for the video, was that the district didn’t create the video, but had to acquire the recording. Clearly in this photo to a district employee, Andrew Troxel, is recording the events with a 360-degree camera.

One of the contentions of the district in taking 60 days to respond to Pen City Current requests for the video, was that the district didn’t create the video, but had to acquire the recording. Clearly in this photo to a district employee, Andrew Troxel, is recording the events with a 360-degree camera.

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-Margaret Johnson, Director, Iowa Public Information Board

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Parrott and Tri-States Public Radio initially declined the offer stating that any viewing of the video should be a public release and not a private viewing. The complaint was originally being reviewed by Adams, but then was turned back over to Johnson several weeks ago. Johnson indicated that the complaint now became more complicated because the district did offer a viewing on Thursday of last week, the offer to view the video footage was accepted by Parrott and included an offer for Pen City Current to view the video as well.

The video was presented in 11 segments in order to save time on the recording.

The video footage is provided here: https://youtu.be/aoJsfaOB6dA.
LINDA BARKER

Linda Barker, 69 of West Liberty, IA formerly of Keokuk, IA died Friday, November 9, 2018 at Lexington Square in Keokuk surrounded by her family. She was born on September 18, 1949 in Fort Dix, New Jersey the daughter of Frank and Charlotte Newburn Sporer. Linda graduated from Ottumwa High School in Ottumwa, IA with the Class of 1967. She had worked various jobs through the years in order to care for her family.

Linda enjoyed antiquing and collecting and was always on the lookout for things to add to her collections. She looked forward to the holiday season every year and loved decorating for Christmas. Linda also enjoyed watching crime shows and on television and adored her cats. She is survived by one daughter, Monica O’Donnell (Mark Mueller) of Keokuk, one son, Jesse West (Amanda) of Atalissa, IA, five grandchildren, Josie Washburn (Ryan), Austin O’Donnell (Stacey), Dylan Clifford-West, Kobe West and Kaya West, one great-grandchild, Aiden Washburn, several adopted grandchildren, one sister, Bobbi Bettis of Ottumwa, IA and one brother, Scott Feagin of South Carolina. She was preceded in death by her parents. Memorials may be made to the University of Iowa Children’s Hospital. Online condolences may be left for the family at www.vigenmemorialhome.com.

OBITUARIES

BARKER

FOR THE RECORD

FORT MADISON Police report
11/13/18 - 6:22 a.m. - Fort Madison Police responded to a report of a larceny/theft in the 2200 block of Avenue L. 11/13/18 - 9:54 a.m. - Fort Madison Police responded to a report of a property damage accident in the 1700 block of Avenue H. 11/13/18 - 9:56 a.m. - Fort Madison Police responded to a report of a larceny/theft in the 5000 block of River Valley Road. 11/13/18 - 10:35 a.m. - Fort Madison Police responded to a report of a property damage accident in the 1900 block of Avenue H. 11/13/18 - 6:04 p.m. - Fort Madison Police responded to a report of a property damage accident in the 6000 block of Revue Court. 11/13/18 - 3:29 p.m. - Fort Madison Police responded to a report of a larceny/theft in the 1900 block of Avenue H.

Lee County Sheriff’s report
11/13/18 - 2:53 p.m. - Lee County Sheriff’s deputies arrested Tyler Keith Jennings, 31, of Montrose, at the sheriff’s office on a court-ordered hold. He was taken to the Lee County Jail and held. Those listed above are presumed innocent until proven guilty in a court of law.

Fort Madison Fire & Rescue report
11/13/18 - Fort Madison Firefighters responded to one medical call and call for smoke removal.

National Recycling Day is November 15th

Join the movement!

Now is the time to start preparing our world for a better future!

- Implement these simple steps to create a healthy footprint!
  - Go Paperless (Decrease your need for paper products. Choose paperless statements, use digital shopping lists & other documents.)
  - Reduce (Install new life into items you would normally throw away.)
  - Reuse
  - Compost
  - Buy Recyclables
  - Create Space

GoWasteFree

Backyard composting improves soil quality & makes for healthier plants!

Great River Regional Waste Authority

Ft. Madison Main Office:
2092 303rd Ave
Ft. Madison, IA
1-319-372-6140

Keokuk Transfer Station:
111 Carbide Lane
Keokuk, IA
1-319-524-6775

Visit Us Online: www.grrwa.com facebook.com/grrwa

Types of Recyclables

- Christmas Wrapping Paper
- CD & DVD Players, and VCRs, Fees apply to the following:
- Computer Towers & Modems,
- Laptops, Tablets, Consoles,
- Radios, Cell Phones
- All TVs, Monitors,
- Instill new life to create a healthy footprint!
- Paperless documents. Use your composting bin for food & yard waste.
- Decrease your need for paper products. Choose paperless statements, use digital shopping lists & other documents.
- Install new life into items you would normally throw away.
- Creating an indoor space for all your recyclables. Recycling bins available at our Fort Madison & Keokuk facilities.
- Great River Regional Waste Authority
- Ft. Madison Main Office:
- 2092 303rd Ave
- Ft. Madison, IA
- 1-319-372-6140
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The Fort Madison City Council met in regular session at 5:30 P.M. on Monday, November 5, 2018, at City Hall, 811 Avenue E. Mayor Pro Tem Greenwald presided with Council Members Morawitz, Rink, Andrews, Mohrfeld and Lair present. Mayor Randolph and Council Member Cangelosi were absent.

Group Benefit Partners provided an update on the City’s health insurance plans and overall benefits. On motion, Council approved the agenda as written. On motion, Council approved the Consent Agenda: Minutes of 10/16/2018; 2018 Financial Report for FY ending 6/30/2018; Resolution No. 2018-53, approving the FY ending 2018 Annual Urban Renewal Area Report; Payment of Claims; and Liquor License Renewals: Quicker Liquor Store, 1414 – 48th Street, effective 11/01/2018; Chaoong Garden, 712 – 9th Street, effective 11/01/2018; Kinncoll South, 1310 – 14th Street, effective 11/01/2018 and Smokin’ Joe’s Tobacco & Liquor Outlet #3, 1735 Avenue H, effective 1/1/2019.

On motion, Council approved Ordinance No. D-49, the third reading of an amendment to Title 1, Administration, of the Fort Madison City Code. On motion, Council adopted Resolution No. 2018-54, approving and authorizing an Amendment to a Loan and Disbursement Agreement by and between the City of Fort Madison and the Iowa Finance Authority, and authorizing and providing for the reissuance of the $2,000,000 Sewer Revenue Capital Loan Note, Series 2008A, of the City of Fort Madison, State of Iowa, dated June 1, 2008, and direct notice be given. On motion, Council approved the Mayor’s signature on a Water Purchase Contract for a 20-year term between the City of Fort Madison and Rathbun Regional Water Association, Inc. On motion Council, approved the purchase of three trucks in the amount of $79,992 from Jim Bailer, Inc., of Fort Madison, for the Public Works Department. On motion, Council approved the Mayor’s signature on a Pool Management Agreement with the YMCA. Following a motion, Council approved the first reading of an ordinance amending Title 7, Parks, by adding a new Chapter 12, Fireworks. At 6:22 P.M. on motion, Council adjourned until November 20, 2018, at 5:30 P.M.

PROCEEDINGS - FORT MADISON CITY COUNCIL – 11/5/2018

On motion, Council adopted Resolution No. 2018-50, approving the Mayor’s signature on a Pool Management Agreement with the YMCA. Following a motion, Council adopted Resolution No. 2018-53, approving the FY ending 2018 Annual Urban Renewal Area Report; Payment of Claims; and Liquor License Renewals: Quicker Liquor Store, 1414 – 48th Street, effective 11/01/2018; Chaoong Garden, 712 – 9th Street, effective 11/01/2018; Kinncoll South, 1310 – 14th Street, effective 11/01/2018 and Smokin’ Joe’s Tobacco & Liquor Outlet #3, 1735 Avenue H, effective 1/1/2019.

On motion, Council approved Ordinance No. D-49, the third reading of an amendment to Title 1, Administration, of the Fort Madison City Code. On motion, Council adopted Resolution No. 2018-54, approving and authorizing an Amendment to a Loan and Disbursement Agreement by and between the City of Fort Madison and the Iowa Finance Authority, and authorizing and providing for the reissuance of the $2,000,000 Sewer Revenue Capital Loan Note, Series 2008A, of the City of Fort Madison, State of Iowa, dated June 1, 2008, and direct notice be given. On motion, Council approved the Mayor’s signature on a Water Purchase Contract for a 20-year term between the City of Fort Madison and Rathbun Regional Water Association, Inc. On motion Council, approved the purchase of three trucks in the amount of $79,992 from Jim Bailer, Inc., of Fort Madison, for the Public Works Department. On motion, Council approved the Mayor’s signature on a Pool Management Agreement with the YMCA. Following a motion, Council approved the first reading of an ordinance amending Title 7, Parks, by adding a new Chapter 12, Fireworks. At 6:22 P.M. on motion, Council adjourned until November 20, 2018, at 5:30 P.M.

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