

ORANGE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION
MINUTES
Special Meeting & Public Hearing
September 30, 2009

1. CALL TO ORDER

ORANGE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION
A special meeting and public hearing of the Orange County Committee on School District Organization was called to order at 7:00 p.m., September 30, 2009 in the Board Room, 33122 Valle Road, San Juan Capistrano, California.
2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Marilyn O'Brien of the Women League of Voters.
3. ROLL CALL

Present:

Shirley Carey, Chairperson	Shelia Henness
James Reed	Jo-Ann Purcell
Sheila Benecke	Virginia Wilson
Mary Fuhrman	Dean McCormick
Karin Freeman	

Absent:

Robert Singer, Ph.D.	Carolyn McInerney
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4. MINUTES

Motion by Wilson, seconded by Benecke, and carried by a unanimous vote of all members present to approve the Minutes of December 10, 2008.
5. PUBLIC HEARING

Purpose of the Public Hearing
Chairperson Carey explained that the purpose of the public hearing is to obtain information from the chief petitioner, affected school district and the local community to assist the County Committee in making its determination regarding the proposed change in the election process.

Chairperson Carey explained that she felt it appropriate to give some background on the County Committee, its duties, and the selection process for the County Committee Members.

Chairperson Carey explained that the County Committee consists of eleven members, two from each Supervisorial area and one member at-large. The Members are elected by a voting representative of each school district and community college district governing board in the county. County Committee Members serve staggered 4 year terms. The Members serve without pay. The general responsibilities of the County Committee include making decisions regarding the organization/reorganization of school districts, transfers of territory between districts, the number of trustees and the manner in which they are elected. The County Committee conducts public hearings pursuant to legal timelines and requirements, and maintains neutrality, evaluating proposals without bias.

Chairperson Carey officially opened the public hearing and explained that the public hearing was being called pursuant to Education Code Section 5019, which states that when a proposal is made, such as to adopt one of the alternative methods of electing governing board members, the County Committee shall call and conduct at least one hearing in the District on the matter.

Chairperson Carey explained that the purpose of the hearing is to obtain information from the chief petitioner, affected school district and the local community to assist the County Committee in making its determination regarding the proposed change in the election process.

Dr. Wendy Benkert explained that on July 1, 2009 a group of citizens from the Capistrano Unified School District submitted a petition to the County Committee on School District Organization in order to initiate the process to change the method in which the school board members are elected. Currently, the Capistrano Unified School District has seven trustees who must reside in the trustee area they represent, but who are elected by the registered voters of the entire school district. This is referred to as the "from trustee area" method of election. The petitioners would like to change the method of elections so that the trustees are only elected by the registered voters of their respective trustee areas. This is referred to as the "by trustee area" method of election.

Dr. Benkert explained that on July 20, 2009, the signatures and petition were validated by the Registrar of Voters, requiring the County Committee to hold a public hearing on the matter. At the conclusion of the hearing, the County Committee must approve or disapprove the proposal. If the County Committee approves the proposal to change the method of elections, an election shall be called for an established date no later than November 2, 2010.

Dr. Benkert explained that on August 10, 2009, the Capistrano Unified Board of Trustees passed a resolution requesting the County Committee on School District Organization to change the method of elections from the "from trustee area" method to the "by trustee area" method. Although the Resolution indicates that the Capistrano Unified Board of Trustees is in favor of changing the method of elections, the Board is petitioning the County Committee to consolidate the election with the November 2, 2010 governing board member elections. If the voters approve the change in the method of elections in November 2, 2010, the change would be in effect for the November 2012 Board elections.

Dr. Benkert explained that if the County Committee approves the proposal to change the method of election, it also needs to set the date for the election on the proposal, which shall be no later than the next succeeding biennial election for members of the governing board. If adopted, the County

Committee's resolution to change the method of elections constitutes an order of election. The election on the proposal to change the method of elections will be considered a special election as there is no specific date set forth in the law for this election. However, Elections Code Section 1002 does require that the election be held on an established election date, either June 8, 2010 or November 2, 2010.

Dr. Benkert explained that the Orange County Registrar of Voters estimated the cost of an election on June 8, 2010 to be approximately \$403,177 to \$496,465. If the election were to be held on November 2, 2010, since there is already a board election on that date, the additional cost would be \$8,500.

Dr. Benkert explained that the California School Boards Association recently took a survey of the K-12 school districts in California and inquired as to how governing board members were elected. Approximately 24% of the school districts responded. The results of the survey showed that 76% of the school districts that responded to the survey elect their governing board members by way of at large elections. 24% of the California school districts that responded have trustee areas. 10% of the responding districts with trustee areas elect their governing board members using the "from trustee area" method, and 14% elect their governing board members using the "by trustee area" method of election.

Dr. Benkert explained that the deadline to notify the Registrar of Voters of an order of election is no later than 88 days prior to the date of election.

Dr. Benkert explained that with regard to the County Committee's decision whether or not to approve the proposal to change the method of election, that the Education Code does not contain specific criteria to apply in determining whether to approve such a proposal.

Dr. Benkert explained that the County Committee can either adopt a resolution to approve the proposal and order an election to be held on June 8, 2010 or November 2, 2010, disapprove the proposal, or vote to continue the public hearing at a later date.

Adoption of Public Hearing Guidelines

Chairperson Carey explained the public hearing guidelines.

Approved on a motion by Wilson, seconded by Freeman, and carried by a unanimous vote of all members present.

Testimony on changing the method of elections by chief petitioner

Erin Kutnick, Kevin Kirwan and Marilyn Amato gave a presentation in support of their petition. The chief petitioners stated that they are part of a growing group of people who would like to change the method of elections. They stated that they are a non-partisan coalition of parents, teachers, and concerned constituents who are committed to public education and who are

very supportive of local control. The petitioners are seeking the County Committee's approval to change the method of elections in which the Trustees for Capistrano Unified are elected. The chief petitioners argued that the petition represents the will of the people and confirms their desire for better representation, local control and reduced costs. They requested that the County Committee put the proposal on the ballot for the June 8, 2010 election.

The petitioners spoke in favor of changing the method of election and provided arguments as to why they feel it is the right decision for the County Committee to approve their petition. The arguments included the size of the school district, both geographically and in population; cost savings to the district and to future candidates; better representation; potential lawsuits and legal implications if the change is not made. The petitioners summarized their arguments by stating that the District has grown too large to adequately serve constituents with an "at large" voting method, that outside interests are funding and controlling local elections, and that immediate change is necessary in order to better serve the needs of the constituents.

Testimony on changing the method of elections by Capistrano Unified

Attorneys Warren Kinsler and Cathie Fields gave a presentation on behalf of the Capistrano Unified School District. They shared the District's thoughts on why the County Committee should carefully consider the petition, as it will be a lasting, significant decision that affects the voters, students, and residents of the District. Mr. Kinsler explained that there were three alternatives that the County Committee needed to consider; to accept or reject the petition, to consider the necessity of any change to the method of election, and if still so inclined, after considering the necessity, to take into account the Board's proposal to schedule the election for November 2, 2010.

Mr. Kinsler stated that the petition is invalid because it does not contain a date for an election or the proposal to change the method of election.

Mr. Kinsler argued: (1) the District's petition to hold the election on November 2, 2010 would provide sufficient time for the necessary modifications to the existing trustee areas; (2) the District's Resolution allows voters to have their rightful say in the change without incurring exorbitant expenses; (3) the advantages of the current method of election; (4) changing to a "by trustee area" method would require the redrawing of trustee areas to avoid an "equal protection violation" because the current areas not equal in regards to population; (5) that the petition should be presented to the voters on November 2, 2010 because the trustee areas cannot be redrawn between a June 8, 2010 election and the next Board election of November 2, 2010; (6) that if the petition were presented to the voters on June 8, 2010 and approved, the trustee areas would have to be redrawn again after the 2010 census and; (7) that a June 8, 2010 election would cost the district much more in election costs than would a November 2, 2010 election. Mr. Kinsler summarized his arguments by requesting the County Committee adopt the

District's proposal to order an election on November 2, 2010 at an additional cost of \$8,500, allowing the trustee areas to be redrawn using 2010 Census results, and resulting in an election using the "by trustee area" method in November 2012.

Ms. Fields stated that the petitioners did not address the cost of a June 8, 2010 election: approximately \$500,000 with additional tens-of-thousands of dollars to redraw the trustee areas prior to the November 2, 2010 election, if that is even possible. Ms. Fields explained that the "by trustee area" method does in fact cost less than the "from trustee area" method and that the cost to conduct a June 8, 2010 election can be avoided by placing the petition on the November 2, 2012 election.

Public comments on changing the method of election

There were 23 people who made public comments. 17 people were in favor of changing the method of election, 3 people were opposed, and 3 people did not clearly state whether they were in favor or opposed.

Chairperson Carey closed the public comment period and gave the County Committee the opportunity to discuss the issues presented in the petition and the District's resolution and ask any questions in order to help clarify arguments heard.

6. DISCUSSION SESSION/ACTION

Chairperson Carey explained that there were two primary considerations: (1) Whether to change the method of election from a "from trustee area" method of election to a "by trustee area" method of election; (2) if approved by the County Committee, a June 8, 2010 or November 2, 2010 date of election ballot for voter consideration. Chairperson Carey also explained that the public hearing could be continued for a later date or the County Committee could disapprove the petition altogether.

Members of the County Committee asked a number of questions that were answered by staff, the District Superintendent, Mr. Kinsler and Ms. Kutnick. Staff assigned to the County Committee were asked to clarify a number of issues, which they did.

It was moved by Sheila Benecke, seconded by Shelia Henness, and voted 8 to 1 in favor to adopt the resolution to approve the proposal to change the method of elections from the "from trustee area" method to the "by trustee area" method for the Capistrano Unified School District and order an election to be held on Tuesday, June 8, 2010. The roll call vote was as follows:

In Favor

Sheila Benecke
Shirley Carey

Opposed

Karin Freeman

In Favor (cont'd.)

Mary Fuhrman
Shelia Henness
Dean McCormick
Jo-Ann Purcell
James Reed
Virginia Wilson

7. PRESENTATIONS FROM THE PUBLIC

None

8. ADJOURMENT

There being no further business, Chairperson Carey adjourned the meeting.