

ORANGE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION
MINUTES

CEQA Public Hearing, Silverado Transfer of Territory Special Meeting & Annual Organizational Meeting
October 20, 2010

1. CALL TO ORDER

ORANGE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

The CEQA Public Hearing, Silverado Transfer of Territory Special Meeting and the Annual Organizational Meeting of the Orange County Committee on School District Organization was called to order at 6:05 p.m., October 20, 2010 in the Board Room at the Orange County Department of Education, 200 Kalmus Drive, Costa Mesa, California.
2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Ms. Barbara Michel.
3. ROLL CALL

Present:

Shirley Carey, Chairperson	Jo-Ann Purcell
Shelia Henness	Karin Freeman
Carolyn McInerney	Dean McCormick
Mary Fuhrman	Robert Singer, Ph.D.
James Reed	Sheila Benecke

Absent:

Virginia Wilson
4. ADOPTION OF AGENDA

Motion by Sheila Benecke, seconded by Karin Freeman, and carried by a unanimous vote of all members present to adopt the agenda as presented.
5. ACCEPTANCE OF MINUTES

Motion by Dean McCormick, seconded by Sheila Benecke, and approved by a 9-0 vote, with Karin Freeman abstaining, to approve the Minutes of the August 4, 2010 meeting.
6. CEQA PUBLIC HEARING

Chairperson Carey officially opened the CEQA public hearing and explained that the public hearing was being called pursuant to the provisions of The California Environmental Quality Act (CEQA) and the purpose of this hearing was to hear testimony regarding the CEQA Initial Study and proposed Negative Declaration as to whether the proposed transfer of territory will adversely affect the environment.

Chairperson Carey then asked Dr. Wendy Benkert, Secretary to the County Committee to give a staff report on the CEQA Initial Study and proposed Negative Declaration.

STAFF REPORT: Dr. Benkert explained that a group of citizens from the unincorporated community of Silverado, California has petitioned the Orange County Committee on School District Organization to approve a transfer of inhabited territory from the Orange USD to the Saddleback Valley USD. The

area in question is approximately 60 square miles and is located in the Santa Ana Mountains in eastern Orange County, California. The proposed transfer of territory would shift Silverado, Black Starr, Ladd, Williams and Modjeska Canyons from OUSD to SVUSD jurisdiction.

Dr. Benkert explained that the County Committee has the primary approval authority over the proposed petition and as such, is considered the "Lead Agency" under CEQA. Under CEQA and the accompanying regulations, the County Committee must determine the impact that the proposed territory transfer may have on the environment. Staff contracted with The Planning Center to advise on the requirements of the Initial Study and process and staff used the CEQA Environmental Checklist to analyze the proposed transfer's potential environmental effects.

Dr. Benkert further explained that the Initial Study evaluates the potential environmental impacts of shifting the attendance of students living within the proposed transfer area from schools located in the Orange USD to schools located within the Saddleback Valley USD. The Initial Study, the Notice of Completion, and the Notice of Intent to Prepare a Negative Declaration were publically posted on Monday, September 20, 2010 and available for public review at the Orange USD, the Saddleback Valley USD, the County Clerk-Recorders Office, on the website of the County Committee and at the Orange County Department of Education. The study was made available to the public through Tuesday, October 19, 2010 at 5:00 p.m. Each County Committee member, district superintendent, and the chief petitioners also received a copy of the study.

Dr. Benkert also explained that Education Code Section 35753(a) establishes the criteria to be used by the County Committee in making its decision on the petition. However, these criteria are outside the purview of CEQA and are not addressed in the Initial Study. During the 30-day Public Comment Period our office received 2 comments on the Initial Study, one from Chief Petitioner, Laura Bennett, and one from the Orange County Local Agency Formation Commission (OC LAFCO). Both correspondences were forwarded to the members of the County Committee for review. The Initial Study has been prepared in accordance with CEQA Guidelines and staff finds that the proposed project could NOT have a significant effect on the environment and therefore a Negative Declaration is appropriate.

Testimony/Comments on the CEQA Initial Study by chief petitioner(s)

Dr. Debra Johnson and Ms. Laura Bennett spoke on behalf of the petitioners and pointed out some items in the report for clarification. Dr. Johnson stated that the maps on pages 9, 10, and 11 of the report were misleading because they portray the petition area to be centered by the closed Silverado Elementary School site. She stated that the transfer area includes Modjeska Canyon, which is only 3 miles from the SVUSD border. She and Ms. Bennett presented the same map to the County Committee that Ms. Bennett provided in her letter to the County Committee with the transfer area outlined. They

stated that part of the transfer area includes the Irvine Wildlands Park/Conservancy and does not have any residents and will not.

Dr. Johnson stated that Portola Hills is the closest school to Modjeska Canyon residents. In the CEQA study Trabuco was used as the elementary school for SVUSD and even though they have a philosophical compatibility to the school, she stated that there are at least 3 other schools that would be closer and SVUSD is an open enrollment district so families would then be able to choose.

Dr. Johnson stated that the number of inter-district transfers in the study provided by OUSD was incorrect. When she contacted SVUSD last year the number they gave her was different. She was unable to confirm with SVUSD, but wanted to point out a difference in the records. She also wanted to point out that in the study the number of car trips does not take into consideration any carpools. And she asserted the busing issue (or lack of busing in SVUSD) is not an issue for the community from the transfer area.

Dr. Johnson concluded by concurring with the CEQA study findings that the transfer of territory would not have a significant effect on the environment.

Testimony/Comments on the CEQA Initial Study by representative(s) from the Orange Unified School District

Mr. Spencer Covert, Legal Counsel for OUSD, stated that OUSD also agrees with the conclusions of the Negative Declaration.

Testimony/Comments on the CEQA Initial Study by representative(s) from the Saddleback Valley Unified School District

Ms. Tammy Blakely, Director of Pupil Services, stated that Saddleback Valley USD had no comments.

Public Comments

There were no public comments made regarding the CEQA Initial Study. Chairperson Carey called for any rebuttals. No rebuttals were given.

Chairperson Carey gave the County Committee members the opportunity to ask any questions from staff or those who gave comments regarding the CEQA Initial Study. Then, Chairperson Carey closed the CEQA public hearing.

VOTE ON NEGATIVE DECLARATION: It was moved by Carolyn McInerney, seconded by Mary Fuhrman, and carried by a unanimous 10-0 vote to adopt the Negative Declaration of Environmental Impact.

Chairperson Carey stated that in accordance with California Public Resource Code sections 21000 through 21177 and Title 14, sections 15070 through 15075 of the California Code of Regulations, the Orange County Committee on School District Organization finds there is not substantial evidence that the project will have a significant effect on the environment and adopts the proposed Negative Declaration of Environmental Impact on the proposed

transfer of territory from the Orange Unified School District to the Saddleback Valley Unified School District.

7. Discussion/Action On the Proposed Silverado Transfer of Territory

Chairperson Carey explained that the County Committee would continue their discussion regarding the proposed transfer of territory from the Orange USD to the Saddleback Valley USD.

Secretary Benkert then provided an update to the County Committee regarding this topic. She recounted that on May 13th the Orange County Committee on School District Organization received a petition to transfer territory from the Orange USD to the Saddleback Valley USD. The petition was validated by the Orange County Registrar of Voters on July 11th.

The County Committee held public hearings on August 4th at locations in both the Orange USD and the Saddleback Valley USD. On September 20th packages were sent to all County Committee members containing the CEQA Initial Study and related documents. On September 21st a second packet was sent out with a matrix on the 9 criterion used in determining approval of reorganization proposals, a summary of information presented at the public hearing, and information from the Orange County Registrar's office with estimated costs of elections.

On September 27th and October 13th staff forwarded correspondences from a resident of the canyon area to the County Committee members. On October 18th staff forwarded correspondence from the Orange USD Board of Education to the County Committee members. All documents were also posted on the County Committee website.

Dr. Benkert then asked Karen Meyers, OCDE legal counsel, to provide some clarification on the proposed transfer of territory issue in regards to voting and the criteria.

Karen Meyers, OCDE Legal Counsel, explained that Education Code lists criteria that the County Committee is to use when deciding to approve or disapprove the petition. Ms. Meyers explained that the decision is a two step process. She explained that all nine criteria must be substantially met, and if so, then the County Committee could approve or disapprove of the petition. She explained that even if all nine criteria were found to be substantially met, the County Committee could still disapprove the petition.

Ms. Meyers then explained that since there were 10 County Committee members present, in the event of a tie vote, the lack of a majority vote would be equivalent to a no vote and it would be a finding that the particular criteria was not substantially met. She explained that because of the possibility of an

appeal, each criterion should be voted on. If the County Committee voted that the one or more of the criterion was not substantially met, Ms. Meyers recommended that the County Committee continue to vote on the other criteria even though the petition would not be eligible for approval.

Chairperson Carey asked the County Committee members if they had any further questions or needed any additional clarifications.

Comments on the Silverado proposed transfer of territory by the chief petitioner(s)

Dr. Deborah Johnson stated that this community has been through a long and difficult struggle and spoke about parent involvement with the school. She stated that the feelings of the community wanting to belong to SVUSD began even before the closure of their school. She stated that the closure of their school did prompt the momentum of their actions. She explained that the community is behind this move. She thanked the Committee members and staff for their time.

Comments on the Silverado proposed transfer of territory by representative(s) from the Orange USD

Mr. Spencer Covert, Legal Counsel for OUSD, and Mr. Michael Christensen, Deputy Superintendent OUSD, spoke.

Mr. Covert concurred with Ms. Meyer's interpretation of the Education Code laws pertaining to the transfer. He stated that due to the State of California's economy, those in the education business are suffering. He explained that in addition to reducing staff, administration, and cutting programs; OUSD made a tough decision that this school site (Silverado Elementary) should be closed in June 2009. He stated that he attends all OUSD board meetings and until the subject of school closure came up he had never heard anyone in the Silverado area ever question the quality or services they were receiving from OUSD. He stated that the budget issue is not unique to Orange; it applies to all school districts in Orange County.

Mr. Covert stated that the Committee must look at the big picture and no matter how heartfelt the concerns heard are, that if they decide to grant this petition the Committee will set a very bad precedent in this county. He stated that many of the conditions that need to be satisfied are not in dispute. But he stated that what are not met are criteria #3, #7 and #9.

Mr. Covert stated this transfer will not result in an equitable division of property or facilities. The site represents 15.5% of all district surplus property. He stated that OUSD has had all of their surplus sites appraised and this site was appraised at \$3.4 million.

Mr. Covert stated that in OUSD there is no bonded indebtedness and if this property is transferred there would be an increase in the area's property taxes by \$34 per \$100,000 assessed valuation. He stated that in regards to criteria #9, there is going to be an impact on SVUSD but the greater impact will be to OUSD.

Mr. Covert reminded the committee that there is already an agreement in place between the superintendents regarding inter district transfers and the OUSD has entered into a mitigation agreement with the Irvine Company to build a new school in the Irvine Lake area in the future.

Mr. Christensen said that he was available to answer any questions.

Comments on the Silverado proposed transfer of territory by representative(s) from the Saddleback Valley USD

Ms. Tammy Blakely, Director of Pupil Services, stated that Saddleback Valley USD had no comments or additional information.

Public Comments on the Silverado proposed transfer of territory

There were 4 people who made public comments. Each individual was given up to 5 minutes to speak. All speakers spoke in favor of the proposed transfer from OUSD to SVUSD.

Chairperson Carey closed the public comment period and gave the County Committee the opportunity to discuss and ask any questions. Members of the County Committee asked a few questions that were answered by staff, the petitioner(s) and the District representatives.

Vote on Each Criteria Specified in Education Code Section 35753

Chairperson Carey explained that the County Committee will vote as to whether the specific criteria are met or not met. The County Committee will vote on each of the nine criteria individually and all votes must be made by way of a roll call vote. Each criterion must be approved by a majority of the Committee for the petition to be eligible for approval. For each criterion, if a majority of the Committee votes no, then the transfer would not be eligible for approval.

Criteria #1: It was moved by Mary Fuhrman and seconded by Sheila Benecke, and adopted by a unanimous 10-0 vote that Criteria #1 (the reorganized districts will meet the adequate enrollment condition) is substantially met.

Criteria #2: It was moved by Dean McCormick and seconded by Sheila Benecke, and adopted by a unanimous 10-0 vote that Criteria #2 (the school districts are each organized on the basis of a substantial community identity) is substantially met.

Criteria #3: It was moved by Carolyn McInerney and seconded by Sheila Benecke, and adopted by a vote of 7 to 3 vote that Criteria #3 (the transfer of territory will result in an equitable division of property and facilities of the original districts) is NOT substantially met.

In Favor

Sheila Benecke
Mary Fuhrman
Karin Freeman
Dean McCormick
Carolyn McInerney
James Reed
Robert Singer

Opposed

Shirley Carey
Shelia Henness
Jo-Ann Purcell

Absent

Virginia Wilson

Criteria #4: It was moved by Sheila Benecke and seconded by Shelia Henness, and adopted by a unanimous 10-0 vote that Criteria #4 (the transfer of territory will not promote racial or ethnic discrimination or segregation) is substantially met.

Criteria #5: It was moved by Shelia Henness and seconded by Dean McCormick, and adopted by a unanimous 10-0 vote that Criteria #5 (the transfer of territory will not result in any substantial increase in costs to the state) is substantially met.

Criteria #6: It was moved by Karin Freeman and seconded by Shelia Henness, and adopted by a unanimous 10-0 vote that Criteria #6 (the transfer of territory will not significantly disrupt the educational programs in the school districts and the school districts affected by the transfer of territory will continue sound educational performance) is substantially met.

Criteria #7: It was moved by Robert Singer and seconded by Shelia Henness, and adopted by a unanimous 10-0 vote that Criteria #7 (the transfer of territory will not result in a significant increase in school facilities costs) is substantially met.

Criteria #8: It was moved by James Reed and seconded by Jo-Ann Purcell, and adopted by a unanimous 10-0 vote that Criteria #8 (the transfer of territory is not primarily designed to result in a significant increase in property values) is substantially met.

Criteria #9: It was moved by Mary Fuhrman and seconded by Shelia Hennes that Criteria #9 (the transfer of territory will not negatively affect the fiscal management or fiscal status of either school district affected by the transfer of territory) is substantially met. This motion did not pass. Therefore, it was determined criteria #9 is NOT met.

In Favor

Mary Fuhrman
Shelia Hennes

Opposed

Sheila Benecke
Shirley Carey
Karin Freeman
Dean McCormick
Carolyn McInerney
Jo-Ann Purcell
James Reed
Robert Singer

Absent

Virginia Wilson

Chairperson Carey reported that since two of the criteria, #3 and #9, were not substantially met, the County Committee does not have authority to approve the petition.

Ms. Meyers referenced Education Code Section 35710.5 to the petitioners for the process and timelines for appeal to the State Board of Education.

8. OLD BUSINESS

Dr. Wendy Benkert gave an update on the Appeal of the Brea Olinda USD and Placentia-Yorba Linda USD transfer of territory. Dr. Benkert informed the Committee that the State Board of Education (SBE) had tentatively scheduled to hear the appeal at its September meeting. Prior to the August 4th meeting the California Department of Education (CDE) had requested additional information for its analysis to the State Board of Education (SBE) and staff was informed that the appeal was to be presented at the November SBE meeting.

However, on September 14th written notification was received from CDE that the appeal would be taken to the January 2011 SBE meeting instead of the November meeting.

9. NEW BUSINESS

Chairperson Carey asked Dr. Wendy Benkert to give a staff report on the results from the Nominating Committee meeting on October 13, 2010 and to conduct the election for chairperson.

Dr. Benkert explained that on Wednesday, October 13th the Nominating Committee met for the annual County Committee elections. Nominating Committee Members were given the option to vote via absentee ballot or traditional paper ballot. In all, 19 ballots were cast, 6 ballots were cast in-person and 13 ballots were cast via absentee. In total, 61% of the Nominating Committee cast votes.

Dr. Benkert then congratulated re-elected member Shirley Carey representing the 2nd Supervisorial District and introduced newly elected member Barbara Michel representing the 4th Supervisorial District. Dr. Benkert then presented member Mary Fuhrman, the outgoing representative of the 4th Supervisorial District, with a Certificate of Appreciation for her years of service with the County Committee.

Dr. Benkert then conducted the election of Chairperson. Motion by Sheila Benecke, seconded by Mary Fuhrman, and carried by a unanimous 10-0 vote to elect Shelia Henness as Chairperson.

Chairperson Henness then conducted the election for Vice-Chairperson. Motion by Carolyn McInerney, seconded by Mary Fuhrman, and carried by a unanimous 10-0 vote to elect Shelia Benecke as Vice-Chairperson.

10. DISCUSSION SESSION

CONFLICT OF INTEREST: Dr. Wendy Benkert explained that a question was asked to staff if the County Committee should have a Conflict of Interest Code and be required to fill out a *Form 700-A Statement of Economic Interests*. After discussions with legal counsel and other County Committee Secretaries throughout the state, staff recommends that a Conflict of Interest Code is needed.

Dr. Benkert explained that staff is currently working on drafting a proposed code for the County Committee similar to that of the Orange County Board of Education's. Staff is waiting for further guidance from the County of Orange. At a later date staff will bring back a proposal to the Committee for review and adoption.

START TIME OF HEARINGS: Dr. Wendy Benkert explained that staff had some concerns with scheduling two public hearings in one night. Most recently with timing issues and the distance between locations, staff is concerned that holding two public hearings in one night is overwhelming. It was proposed that only one public hearing be held per night.

Committee members discussed the issue and decided that they liked having the hearings on the same night; otherwise the hearings would have to be on two consecutive Wednesday nights due to other meetings the members are involved in during the week. Members agreed that in some cases they might start the hearings at 5:30 p.m. instead of 6:00 p.m.

TRANSFER OF TERRITORY INQUIRY: Dr. Benkert explained that on September 16th, a resident of Rocking Horse Ridge II, a gated community in the Orange Unified School District, contacted staff for information and requirements for a transfer of territory petition from the Orange USD to the Tustin USD.

Dr. Benkert explained that the gated community is located in North Tustin and the school district boundary currently divides the area into two different school districts, Orange and Tustin. The same gentleman had contacted Dr. Benkert's office back in February and it sounds as if the possibility to transfer territory is being revisited. Both school districts were notified of the request for information.

11. PRESENTATIONS FROM THE PUBLIC

None

12. NEXT MEETING

Chairperson Henness stated that there are currently no other meetings scheduled for the County Committee.

13. ADJOURNMENT

Motion by Shirley Carey, seconded by Karin Freeman and carried by a unanimous vote to adjourn the meeting.

There being no further business Chairperson Henness adjourned the meeting at 8:37 p.m.

All documents submitted to the County Committee prior to, during and subsequent to this public hearing have been posted on the County Committee's website at <http://ccsdo.ocde.us/Home.htm> and are available for viewing and/or downloading. An audio recording of this meeting is also available upon request.