

ORANGE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION
MINUTES
Special Meeting
November 18, 2009

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|--|---|----------------------------|----------------|------------|----------------|-------------------|-----------------|--------------|----------------------|---------------|----------------|----------------|--|
| 1. <u>CALL TO ORDER</u> | <p><u>ORANGE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION</u></p> <p>The special meeting of the Orange County Committee on School District Organization was called to order at 6:35 p.m., November 18, 2009 in the Board Room, 200 Kalmus, Costa Mesa, California.</p> | | | | | | | | | | | | |
| 2. <u>PLEDGE OF ALLEGIANCE</u> | <p>The Pledge of Allegiance was led by Ronald Wenkart.</p> | | | | | | | | | | | | |
| 3. <u>ROLL CALL</u> | <p>Present:</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Shirley Carey, Chairperson</td> <td style="width: 50%;">Shelia Henness</td> </tr> <tr> <td>James Reed</td> <td>Jo-Ann Purcell</td> </tr> <tr> <td>Carolyn McInerney</td> <td>Virginia Wilson</td> </tr> <tr> <td>Mary Fuhrman</td> <td>Robert Singer, Ph.D.</td> </tr> <tr> <td>Karin Freeman</td> <td>Dean McCormick</td> </tr> <tr> <td>Sheila Benecke</td> <td></td> </tr> </table> | Shirley Carey, Chairperson | Shelia Henness | James Reed | Jo-Ann Purcell | Carolyn McInerney | Virginia Wilson | Mary Fuhrman | Robert Singer, Ph.D. | Karin Freeman | Dean McCormick | Sheila Benecke | |
| Shirley Carey, Chairperson | Shelia Henness | | | | | | | | | | | | |
| James Reed | Jo-Ann Purcell | | | | | | | | | | | | |
| Carolyn McInerney | Virginia Wilson | | | | | | | | | | | | |
| Mary Fuhrman | Robert Singer, Ph.D. | | | | | | | | | | | | |
| Karin Freeman | Dean McCormick | | | | | | | | | | | | |
| Sheila Benecke | | | | | | | | | | | | | |
| 4. <u>ADOPTION OF AGENDA</u> | <p>Motion by Wilson, seconded by McInerney, and carried by a unanimous vote of all members present to adopt the agenda as presented.</p> | | | | | | | | | | | | |
| 5. <u>ADOPTION OF PUBLIC PRESENTATION GUIDELINES</u> | <p>Motion by McInerney, seconded by Wilson and carried by a unanimous vote to adopt the Public Presentation Guidelines. Mr. Phillip Greer, an attorney representing the Capistrano Unified School District and the chief petitioner, will be allowed 5 minutes to make public comments. All other public comments will be limited to 3 minutes per person.</p> | | | | | | | | | | | | |
| 6. <u>ACCEPTANCE OF MINUTES</u> | <p>Motion by Freeman, seconded by Fuhrman, and carried by a 10-0 vote, with Benecke abstaining, to approve the Minutes of October 21, 2009.</p> | | | | | | | | | | | | |
| 7. <u>WEBSITE DEVELOPMENT</u> | <p>Secretary Dr. Wendy Benkert, updated the County Committee regarding the County Committee website development. Dr. Benkert explained that staff has worked with the Orange County Departments of Education's Information Technology Department and were able to develop a webpage that describes the who, what and why as it relates to the County Committee. Dr. Benkert also explained that the webpage has the names and terms of the County Committee Members. The minutes from previous meetings will be posted as well as any agendas for upcoming meetings. The webpage also has a link to the <i>District Organization Handbook</i>, which is on the California Department of Education's website. Dr. Benkert stated that the webpage should be available to the public within the next two weeks.</p> | | | | | | | | | | | | |

8. Correspondence From
Phillip Greer, Esq.

Chairperson Carey explained that the County Committee has received correspondence from Mr. Phillip Greer, dated October 30, 2009, in which Mr. Greer challenges the legality of the Committee's action on September 30, 2009. Chairperson Carey stated that on September 30, 2009 the Committee approved the proposal to change the method of election in the Capistrano Unified School District and set an election date of June 8, 2010. Chairperson Carey further explained that Mr. Greer, acting on behalf of the Capistrano Unified School District, has asked the Committee to reconsider its decision and set the election date for November 2, 2010. The Committee has set the matter as a discussion item for the purpose of taking public comments.

Chairperson Carey explained that the County Committee received three letters; one from Mr. Mudge, one from Ms. Bui, and one signed by both Senator Mimi Walters and Assemblyman Jeff Miller. The letters have been provided to the County Committee Members and copies of the letters were placed on file in the back of the room for members of the audience.

Public Comments

Mr. Phillip Greer, Esq., explained that contrary to certain assertions, the Capistrano Unified Governing Board does support changing the method in which trustee members are elected. Mr. Greer stated that the issue of a waiver is more of an administrative action, and to administratively adopt the waiver would take the decision out of the hands of the voters and disenfranchise them. Mr. Greer stated that every share holder has the same goal, to have a public referendum in order to determine how the board members are elected, and the question to answer is will it be a June 2010 or November 2010 election.

Mr. Greer stated that it is the position of the Capistrano Unified Governing Board to hold the election in November because it makes more sense, both economically and procedurally. He stated that the Orange County Registrar of Voters, Neal Kelley, has estimated a special election for June 2010, would cost the District approximately \$450,000. Mr. Greer stated that a November 2010 election would cost the District approximately \$8,500. Mr. Greer argued that with no special circumstances or emergency mandating a June 2010 election, there is no real justification to spend up to \$450,000 for a June election. Mr. Greer explained that this is particularly critical because the District is facing further cuts to its Budget; thus the June election is not sensible.

Mr. Greer went on to explain that there also are a number of practical and logistical considerations that make the June election not only economically unwise, but procedurally suspect as well. Mr. Greer stated that Election Code 15372 provides that election results are not final until the County Registrar certifies the election, which can be 28 days after the election. Therefore, the June 8 election might not be certified until July 6, 2010. Once the election is certified, new trustee areas must be drawn in accordance with state and federal election requirements and then must be approved by the County

Committee. Mr. Greer stated that pursuant to Election Code 5019 (d), the trustee areas that the County Committee approves, must be in place a minimum of 120 days, prior to the November election. Therefore, Mr. Greer argued that it is highly speculative that all of the requirements and timelines for the new method of election will be in place for the November election.

Mr. Greer stated that it is the position of the Capistrano Unified Governing Board, to not gamble with scarce educational funds in the hope that all the requirements will come together seamlessly, in order to have the new method of elections in effect for the November 2010 Governing Board Member Elections. This is a risk that the Board, in good faith, and in accordance with its fiduciary obligations to the students, parents, and teachers of the District, does not desire to take.

Chief Petitioner Erin Kutnick argued that there are points in Mr. Greer's letter that are not accurate. The first is the statement that both Sheila Benecke and Shelia Henness were the two individuals who were leading the charge for the proposed change. She stated, this is absolutely false. Ms. Kutnick stated that Kevin Kirwan, Marilyn Amato, and she were the chief petitioners who worked with others to gather the signatures. Ms. Kutnick stated that Ms. Benecke and Ms. Henness had no involvement in the process of initiating the changing of the method of elections.

Ms. Kutnick stated that Interim Superintendent, Ms. Bobbi Mahler, suggested to the Board that they should apply to the State Board of Education for a waiver to avoid the cost of election. This waiver was supported by tens of thousands of parents, teachers and constituents, many of whom weighed in during public hearings at the district. However, the Capistrano Unified Governing Board voted against pursuing the waiver, and is now putting a financial burden on the school district.

Ms. Kutnick stated that the current Board Members were elected by campaigning on a reform platform, including changing the way trustees are elected to the "by trustee area" method. In actuality, the constituents have already voted to change the method of election, by electing the Board Members and expecting they would fulfill their campaign promises. Furthermore, the petitioners had overwhelming support when they were out gathering signatures for the petition.

Ms. Kutnick also stated that there is a rush to have the election. The chief petitioners began the process in March 2009, for a potential election date of June 2010. The Board has had plenty of time to hire a demographer prior to the June 2010 election; and the petitioners began the process so early because they wanted to have all the requirements completed in time to place the measure on the June 2010 ballot.

Lastly, Ms. Kutnick questioned a comment in Mr. Greer's letter, in which he states that his office has been instructed to take any and all action necessary

to protect the interests of the students, parents, and taxpayers of the district. Ms. Kutnick questions whose interests he is protecting, because she is a parent, a taxpayer, and has a student in the district and Mr. Greer is not representing her, her child's best interest, nor the best interests of the students in her child's school. Furthermore, none of the parents have asked the Board to take this action, and they have done this by taking it upon themselves. Ms. Kutnick stated that Mr. Greer should be upfront and admit that he is only serving the best interests of the Trustees.

In addition to Mr. Greer and Ms. Kutnick, 8 others made public comments. 7 people were in favor of changing the method of election and maintaining the June 8, 2010 election, while 1 person was opposed to the June election and requested the election be consolidated with the November 2010 Biennial Governing Board Member election.

9. CLOSED SESSION

Motion by Fuhrman, seconded by McCormick and carried by a unanimous vote to adjourn to closed session.

10. OPEN SESSION

At 9:20 p.m., the County Committee reported no action in closed session.

11. PRESENTATION FROM
THE PUBLIC

None

12. ADJOURNMENT

Motion by Wilson, seconded by McCormick and carried by a unanimous vote to adjourn the meeting. There being no further business Chairperson Carey adjourned the meeting at 9:25 p.m.