

ORANGE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION
MINUTES
Special Meeting & Public Hearing
February 10, 2010

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 7:05 p.m., February 10, 2010 in the Board Room, 33122 Valle Road, San Juan Capistrano, California.
2. PLEDGE OF ALLEGIANCE The Pledge of Allegiance was led by David Wilson.
3. ROLL CALL
Present:
Shirley Carey, Chairperson Jo-Ann Purcell
Shelia Henness Virginia Wilson
Carolyn McInerney Dean McCormick
Mary Fuhrman Robert Singer, Ph.D.
Karin Freeman Sheila Benecke

Absent:
James Reed
4. ADOPTION OF AGENDA Motion by McCormick, seconded by Wilson, and carried by a unanimous vote of all members present to adopt the agenda as presented.
5. ACCEPTANCE OF MINUTES Motion by Wilson, seconded by Henness, and approved by a 9-0 vote, with Chairperson Carey abstaining, to approve the Minutes of January 20, 2010.
6. PUBLIC HEARING
Chairperson Carey explained that the County Committee consists of eleven members, two from each Supervisorial area and one member at-large. The general responsibilities of the County Committee include making decisions regarding the organization 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. On September 30, 2009, the County Committee held an initial public hearing and adopted a resolution that ordered an election to be held on June 8, 2010 in order for the voters of the district to decide whether to change the method of electing governing board members from the "from trustee area"

method to the “by trustee area” method. Under the “by trustee area” method of election, members residing in each trustee area are elected by the registered voters of that particular area.

Chairperson Carey explained that that the public hearing was called because the County Committee had received a request from the chief petitioners to change the date of election from June 8, 2010 to November 2, 2010, due to the costs associated with the June 8 election date. This request from the chief petitioners is in line with the desire of the Governing Board of the Capistrano Unified School District.

Chairperson Carey explained that that the purpose of the hearing is to obtain information from the constituents of the Capistrano Unified School District and community in order to assist the County Committee members in making a determination regarding the possibility of re-setting the date of election from June 8, 2010 to November 2, 2010.

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.

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 indicated that the Capistrano Unified Board of Trustees is in favor of changing the method of elections, the Board was 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 on September 30, 2009, the County Committee held a special meeting and public hearing at the Capistrano Unified School District. The public hearing was required due to the citizen’s petition being submitted as well as the Board resolution from the Capistrano Unified Board

of Trustees. At the conclusion of the public hearing, the County Committee, by a vote of 8-1, approved the proposal to change the method of elections from the "from trustee area" method to the "by trustee area" method of election. The resolution also included an order of election that the proposal be presented to the voters of the district at the June 8, 2010 statewide primary. If the voters approve the measure to change the method of election on June 8, 2010, the change will be effectuated for November 2, 2010 election for governing board members.

Dr. Benkert explained that on October 30, 2009 the County Committee received a letter from Phillip Greer, an attorney representing the Capistrano Unified Board of Trustees. Mr. Greer's letter threatened litigation if the County Committee did not re-set the election for November 2, 2010.

Dr. Benkert explained that on November 18, 2009 the County Committee held a special meeting to consider the threat of litigation. The County Committee took no action.

Dr. Benkert explained that on December 17, 2009, Mr. Greer filed a lawsuit on behalf of the Capistrano Unified Board of Trustees alleging that the County Committee abused its discretion and exceeded its authority when it called a special election for June 8, 2010.

Dr. Benkert explained that on January 13, 2010 the County Committee held a meeting so that its counsel, Robert Feldhake, could provide the County Committee with an update of existing in closed session. In open session, during the public comment portion, the chief petitioner, Erin Kutnick, respectfully requested the County Committee to rescind its earlier decision that ordered an election for June 8, 2010 and asked the County Committee to re-set the election date for November 2, 2010.

Dr. Benkert explained that because this topic was not on the agenda, the County Committee could not take action and therefore held another meeting on Wednesday, January 20, 2010 to consider whether or not the County Committee should hold a subsequent public hearing to address the request from Ms. Kutnick. The County Committee decided to hold a public hearing in the Capistrano Unified School District.

Dr. Wendy Benkert explained that those were the circumstances that have led to the special meeting and public hearing that is being held tonight. Dr. Benkert explained that the County Committee members will hear public comments and determine whether to keep the election date set for June 8, 2010 or re-set the election so that it is held on November 2, 2010.

Adoption of Public Hearing Guidelines

Chairperson Carey explained the public hearing guidelines.

Approved on a motion by Henness, seconded by Singer, and carried by a unanimous vote of all members present to allow 3 minutes per person and not to exceed a half an hour for public comments.

Public Comments

There were 9 people who made public comments. 4 people were in favor of keeping the June 8, 2010 election, 3 people were in favor of re-setting the date of election to November 2, 2010, and 2 people did not clearly state whether they preferred the June or November election date.

7. CLOSED SESSION

Chairperson Carey reported there was no need to adjourn to closed session.

8. OPEN SESSION - Report out from Closed Session

N/A

9. Discussion Session/Action On Re-setting the Date of Election

Chairperson Carey explained that there were two possible outcomes; whether to keep the election date set for June 8, 2010 or re-set the election date to be in conjunction with the governing board member elections on November 2, 2010.

Motion by Fuhrman, seconded by McInerney, and carried by a unanimous vote of all members present to reconsider the County Committee's September 30, 2009 vote on the date of election.

Members of the County Committee asked a number of questions that were answered by staff and the chief petitioner, Erin Kutnick. Staff assigned to the County Committee were asked to clarify a number of issues, which they did.

It was moved by McInerney, seconded by Henness and voted 10-0 in favor to adopt the resolution that rescinded the County Committee's earlier resolution and re-set the date of election (for 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) from June 8, 2010 to November 2, 2010.

10. Presentations from the Public

Barbara Casserly made public comments on a topic that was not on the agenda.

11. ADJOURNMENT

Motion by McCormick, seconded by Wilson and carried by a unanimous vote to adjourn the meeting. There being no further business Chairperson Carey adjourned the meeting at 8:30 p.m.