ORANGE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION
MINUTES
Special Meeting
November 15, 2017

1. CALL TO ORDER

ORANGE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

The Special Meeting of the Orange County Committee on School District Organization was called to order by Chairperson Sheila Benecke at 6:02 p.m., November 15, 2017 in the Board Room of the Orange County Department of Education, 200 Kalmus Drive, Costa Mesa, California, 92626.

2. FLAG SALUTE

The Pledge of Allegiance was led by Virginia Wilson.

3. ROLL CALL

Present:

Sheila Benecke, Chairperson
Meg Cutuli
Karin Freeman
Kathryn Moffat
Jo-Ann Purcell
Francine Scinto
Suzie Swartz
Josephine "Joey" Van Camp
Virginia Wilson

Absent:

Robert Singer

4. ADOPTION OF AGENDA

Motion by Virginia Wilson, seconded by Meg Cutuli, and carried by a unanimous vote of all members present to adopt the agenda as presented.

5. ACCEPTANCE OF MINUTES

Motion by Karin Freeman, seconded by Virginia Wilson, and approved by a 8-0 vote, with Meg Cutuli abstaining, to approve the County Committee minutes of the October 25, 2017 meeting.

Chairperson Sheila Benecke explained the public comment process for members of the public who wish to address the County Committee.

6. NEW BUSINESS

A. County Committee Vacancy

1. Staff Report

Chairperson Benecke asked Mr. Chris Lombardo, County Committee Secretary, to explain the process for filling a vacancy on the County Committee.

Mr. Lombardo reported that on October 24, 2017 former County Committee member Lisa Jordan, who represented the 4th supervisorial district, submitted her written resignation.

Mr. Lombardo explained that Education Code Section 4006 and the County Committee By-laws state that a vacancy shall be filled by the majority vote of the remaining County Committee members within 70 days of the vacancy (January 2, 2018) and the appointment shall be for the duration of the unexpired term, in this case November 2018.

Mr. Lombardo further explained that as with past practice, all County Committee members were notified of the vacancy as well as members of the Nominating Committee whose district is located within the 4th supervisorial district for nominations/applications. Nominations were due by Friday, November 3, 2017 and two nominations were received: Marilyn Buchi, current Fullerton Joint Union High School District board member; and Janice Meyer, current Fullerton Elementary School District board member. Copies of their Statement of Qualifications were provided to County Committee members.

2. Discussion of Nominees/Question from County Committee Members

Chairperson Benecke asked Mr. Lombardo to read an e-mail received from County Committee member Robert Singer who was out of state and unable to attend tonight's meeting.

Mr. Lombardo explained that on November 9, 2017 County Committee member Robert Singer sent an e-mail to let the County Committee members know that he supports Marilyn Buchi to fill the vacancy on the County Committee in the 4th Supervisorial District.

Chairperson Benecke asked if there are any questions from the County Committee members.

Kathy Moffat asked if Mr. Singer's communication would count as a vote. Chairperson Benecke responded that it was Mr. Singer's input and it did not constitute a vote.

3. Appointment of the New County Committee Member

Chairperson Benecke asked for a motion to approve one of the candidates to fill the vacancy. Virginia Wilson moved to approve Marilyn Buchi, to fill the County Committee member vacancy in the 4th Supervisorial District. The motion was seconded by Francine Scinto. The motion was approved by a unanimous vote of 9-0.

4. Administer Oath of Office to Newly Appointed County Committee Member

Marilyn Buchi was not in attendance. Chairperson Benecke reported that should Ms. Buchi arrive to the meeting, the oath of office can be administered at that time.

B. Continuation of Discussion/Action on Petition to Transfer Territory from Orange Unified School District to Tustin Unified School District – Panorama Heights II

Chairperson Benecke asked if any speaker cards have been received on this agenda item. She stated that the 30 minutes will be shared equally with all of the people registered to speak. 16 public comment cards were submitted which rounded out to 2 minutes per speaker. Chairperson Benecke explained that each speaker has 2 minutes to address the County Committee.

Chairperson Benecke then called each speaker to the podium. Ten speakers indicated the election should be held within the entire Orange Unified School District so that the entire district is involved in the decision. Four speakers indicated the election should be held in the territory proposed to be transferred (petition area). Several speakers also spoke regarding the fiscal impact, impact to ADA and enrollment, socioeconomically disadvantaged children, diversity, property values, and curriculum.

1. Staff Report

Mr. Lombardo reported that at the County Committee meeting on September 6, 2017 the County Committee held public hearings in Tustin Unified School District and Orange Unified School District on the petition to transfer territory from Orange Unified School District to Tustin Unified School District, referred to Panorama Heights II, as well as a hearing on the negative declaration in accordance with the California Environmental Quality Act (CEQA). The County Committee also approved the Negative Declaration. The notice of determination was filed with the County Clerk Recorder and the CEQA process is complete.

Mr. Lombardo also reported that at the September 6, 2017 meeting, the County Committee voted on each of the nine criteria set forth in the Education Code Section 35753 and determined that all of the nine criteria were substantially met. The County Committee then approved by a 8 to 1 vote the Panorama Heights II petition to transfer territory from the Orange Unified School District to the Tustin Unified School District. Given that the districts did not both consent to the transfer of territory, the County Committee is required to notify the County Superintendent of Schools who shall call an election in the territory of the affected districts, as determined by this County Committee. Due to the late hour of the meeting on September 6, 2017, the County Committee agreed to meet at a subsequent meeting to determine the area of election and finalize its action regarding the Panorama Heights II petition to transfer territory.

Mr. Lombardo stated that the County Committee members should each have received a memo from the Orange Unified School District containing enrollment data from both the Orange Unified School District and Tustin Unified School District. Petitioners and Tustin Unified School District were also provided an opportunity to submit additional documentation to the County Committee. Mr. Lombardo also indicated that the County Committee members should have received a legal opinion from Lysa Saltzman, attorney for the County Committee, detailing the election process as well as a memo from him, Secretary to the County Committee, enclosing two maps of the petition area. The first map shows the Panorama Heights II petition area based on the addresses set forth in the petition as prepared by the Orange County Registrar of Voters. The second map has an additional overlay showing the unincorporated areas in North Tustin. This map was provided in direct response to a question regarding unincorporated areas.

Mr. Lombardo then asked Lysa Saltzman, Legal Counsel to the County Committee, to explain the election process.

Ms. Saltzman mentioned that in addition to the documents referenced by Mr. Lombardo, the petitioners also had submitted a memo that was forwarded to the County Committee and hard copies were distributed at this meeting. Additionally, Orange Unified School District and various public speakers distributed handouts at this meeting. Ms. Saltzman noted that the third to the last speaker distributed a map, but there were not sufficient copies, so the County Committee members will have to share them.

Ms. Saltzman explained that since the transfer of territory involves inhabited property, and both of the school district affected by the transfer did not consent to the transfer, Education Code section 35710 requires that the County Committee notify the County Superintendent of Schools to call an election in the affected districts as determined by the County Committee. Ms. Saltzman also indicated that Orange Unified School District objected to the transfer of territory.

Ms. Saltzman further explained that the County Committee has broad discretion, as discussed briefly at the September 6, 2017 meeting, in determining the area for election. In having that broad discretion the County Committee needs to ensure that it's decision is based on the facts that have been presented, including the information at the public hearings. Ms. Saltzman indicated that County Committee members can express their reasoning as to the determination of the election area as this will show how the County Committee reached its decision and it is not arbitrary or capricious, which would be the standard that a court may look should there be a dispute.

Ms. Saltzman also summarized the legal cases addressing the area of election for transfer of territory petitions, the Local Agency Formation Commission (LAFCO) and the Fullerton Joint Union High School District decision, as further detailed in the confidential attorney-client memo previously provided to the County Committee. She also referenced the information in the California Department of Education (CDE) School District Organization Handbook and that the State Board of Education (SBE) follows the legal analysis in the LAFCO case.

Ms. Saltzman explained that the County Committee can consider factors, such as financial impact, impact to the educational programs, and also the racial impacts in determining the election area. Ms. Saltzman also explained the appeal process and the election process.

2. Discussion of Area of Election/Questions from County Committee Members

Chairperson Benecke asked each of the County Committee members if they had any questions.

Each of the County Committee members discussed the election area and some asked questions regarding the map, the cost of the election, attendance boundaries, and the appeal process. There was discussion as to whether the election should be within both of the affected districts, and whether it was possible to have the election area be determined by the attendance boundaries of the Orange Unified School District schools affected, which would be the El Modena High School attendance area which includes multiple feeder schools beyond the petition area. The County Committee discussed how to balance the interest of the small group within the petition area with the interests and impacts of the entire Orange Unified School District.

3. Vote on Area of Election (Action)

Chairperson Benecke then asked if anyone would like to make a motion on the area of election for the Panorama Heights II transfer of territory from Orange Unified to Tustin Unified. Virginia Wilson made a motion that "The Orange County Committee on School District Organization, having approved the Panorama Heights II Petition to transfer territory from Orange Unified District to Tustin Unified School District and the affected school districts having not consented to the transfer, shall notify the County Superintendent of Schools to call an election in the following territory, Panorama Heights II Petition Area." The motion was seconded by Meg Cutuli.

Kathryn Moffatt asked if the motion could be amended. The amended motion would change the election area from "Panorama Heights II Petition Area" to "El Modena High School attendance area". Chairperson Benecke stated that

the motion could be amended but would require a second. Karin Freeman seconded the amended motion. Chairperson Benecke then asked for a vote on the amended motion. The vote on the amended motion vote was 2 to 7 and did not pass.

In Favor	Opposed	Absent
Karin Freeman	Sheila Benecke	Robert Singer
Kathryn Moffat	Meg Cutuli	
	Jo-Ann Purcell	
	Francine Scinto	
	Suzie Swartz	
	Joey Van Camp	
	Virginia Wilson	

Chairperson Benecke then read the original motion and asked for a vote. The original motion was approved by a vote of 7-2 for Panorama Heights II Petition Area as the area of election.

In Favor	Opposed	Absent
Sheila Benecke	Karin Freeman	Robert Singer
Meg Cutuli	Kathryn Moffat	
Jo-Ann Purcell		
Francine Scinto		
Suzie Swartz		
Joey Van Camp		
Virginia Wilson		

Chairperson Benecke then called for a brief recess to allow members of the public who did not want to stay for the remainder of the meeting to leave.

7. DISCUSSION ITEMS

Chairperson Benecke asked Mr. Lombardo to give an update on the Discussion Items.

A. Placentia-Yorba Linda Unified School District's Anticipated Proposal to Establish Trustee Areas and Change the Method of Election to a By-Trustee Area Election Process

Mr. Lombardo reported that on November 7, 2017 the Placentia-Yorba Linda Unified School District Board adopted a resolution approving a Trustee Area Map and Proposed Sequence of Elections, and Authorizing the Presentation of the Selected Map to the Orange County Committee on School District Organization. Additionally, the district board adopted a resolution authorizing submission of a waiver request to the State Board of Education to waive the election requirements.

The County Committee has not received a formal proposal from the Placentia-Yorba Linda Unified School District, however, staff is in the process of coordinating a date for this meeting in early 2018.

B. Westminster School District's Anticipated Proposal to Establish Trustee Areas and Change the Method of Election to a By-Trustee Area Election Process

Mr. Lombardo reported that on November 9, 2017 the Westminster School District Board approved a resolution adopting a Trustee Area Map and Sequence of Elections for Submission to the Orange County Committee on School District Organization. Additionally, the district board adopted a resolution to seek a waiver of the election requirements from the State Board of Education.

The County Committee has not received a formal proposal from the Westminster School District, however, staff is in the process of coordinating a date for this meeting in 2018.

C. Newport-Mesa Unified School District's Anticipated Proposal to Establish Trustee Areas and Change the Method of Election to a By-Trustee Area Election Process

Mr. Lombardo reported that on October 17, 2017 the Newport-Mesa Unified School District Board approved a Resolution Adopting a Trustee Area Map, Sequence of Elections, and Initiating a Proposal to the Orange County Committee on School District Organization to Adopt By-Trustee Area Elections. Newport-Mesa Unified School District also adopted a resolution to seek a waiver from the State Board of Education to waive the election requirements.

The County Committee has not received a formal proposal from the Newport-Mesa Unified School District, however, staff is in the process of coordinating a date for this meeting as well.

8. PRESENTATIONS FROM THE PUBLIC

Mr. Spencer Covert spoke on behalf of Newport-Mesa USD regarding the scheduling of the public hearing on the district's proposed trustee area map.

9. NEXT MEETING

Chairperson Benecke reported that the next County Committee will be held most likely in January 2018. There was a brief discussion about considering a change to the start time of the meeting, possibly earlier in the day.

10. ADJOURNMENT:

There being no further business Chairperson Benecke requested to adjourn the meeting. The motion was moved by Virginia Wilson, seconded by Sheila Benecke, and unanimously approved. The meeting was adjourned at 8:03 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://www.ocde.us/CCSDO/Pages/Meeting-Agendas.aspx and are available for viewing and/or downloading. An audio recording of this meeting is also available upon request.