

CONTRA COSTA COUNTY BOARD OF EDUCATION
Serving in the Capacity as the County Committee on School District Organization

Contra Costa County Office of Education
The Ronald L. Stewart Center
77 Santa Barbara Road
Pleasant Hill, California
925/942-3380

July 2, 2008

ROLL CALL

Pamela Mirabella, David Krapf, David Gomes, Glenn Ruley, and Daniel Borsuk.

ABSENT

None

OTHERS

Ellen Elster, Terry Foley, and Laura Dorsey Huerta, County Office of Education staff; Deputy County Counsel Mary Ann Mason; Anton Jungherr, chief petitioner and Co-chair of Citizens for Positive Education Change (CPEC); Dr. Bruce Harter, Superintendent, West Contra Costa Unified School District (WCCUSD); Charles Cowens, Co-Chair, Citizens for Positive Education Change; Rebecca Hazlewood, CPEC; Don Gosney; Don Brown; Lynn R. Bailey; Aram Hodess, CC Building Trades Council; Bruce Word; Michelle Chenault, CPEC; Cathy Travlos; Kevin Hampton; Lori Chinn; Adrienne Harris; Antonio Medrano, Concilio Latino; Karen Leong-Fenton; Linda Ruiz-Lozito; Cecilia Valdez, San Pablo Library Commissioner; Mike Mahonoy; Don Lau; Chris Sorensen; Gail Mendes; Jill W.; Robert V. Jimenez; Laurie Schumacher; Charleen Raines; Robert Studdiford; Tom Butt; Scottie Smith; Alicia Jackson, CPEC; Bill Word; Martin Snider; Terri Waller, Assemblywoman Loni Hancock's office; Genoveva Calloway; Maria Alegria, Richmond Vision and Former Mayor of Pinole; Nallip Omran; Rick Alcaraz, CC Building Trades and U.A., Local 159; Andres Soto, Concilio Latino; Eduardo Martinez; James Sanders; Barbara Whipperman; Latressa Alford, Congressman Miller's office; Jerrold Hatchett; Cathy Garza; V. L. Hatcher; and Paul Doolittle.

PRESIDING

Glenn Ruley, Chairperson

The special meeting of the Contra Costa County Committee on School District Organization, which convened at Lovonya DeJean Middle School, 3400 MacDonald Avenue, Richmond, California, was called to order at 6:02 p.m. with the recitation of the Pledge of Allegiance.

APPROVAL OF MINUTES

The minutes of April 18, 2007, were approved as presented (M/S: Mirabella/Krapf).

PUBLIC COMMENT

Items Not on the Agenda

None.

PUBLIC HEARING

Petition to Establish Five Trustee Areas and to Adopt an Alternative Method of Electing Governing Board Members in the West Contra Costa Unified School District

Chairperson Glenn Ruley convened the Public Hearing on the Petition to Establish Five Trustee Areas and to Adopt an Alternative Method of Electing Governing Board Members in the West Contra Costa Unified School District at 6:04 p.m.

Comments from Chief Petitioner

Anton Jungherr, chief petitioner and Co-chair with Charles Cowens of Citizens for Positive Education Change (CPEC), stated that he submitted a petition with 1,769 signatures to the County Committee on School District Organization that would place on the November 2008 general election a measure for the electorate to consider whether the WCCUSD should have trustee areas. He explained that he would discuss how the district is currently organized and his group's proposed changes, the proposed trustee map, the advantages and disadvantages, and some closing comments. He then provided a brief history of the WCCUSD and how trustees have been elected, and he stated that his group is proposing that the district be divided into five smaller trustee areas in which the voters would elect citizens residing in each of those areas. He noted that the map of the proposed trustee areas was drawn with the assistance of San Francisco State University and considers all of the legal districting requirements. Further, he stated that his group used the 2000 Census data, which are the most current available and which state that the population at that time was 230,195; therefore, the proposed trustee areas range from 45,085 to 46,542, which represents plus or minus two percent of an even distribution of 46,019. He stated that, since it is required that each trustee area must have a distribution that is within plus or minus ten percent, his group's distribution of plus or minus two percent is well within that legal requirement. He also noted that the map meets the Education Code's requirement of a total population distribution that takes into account topography, geography, cohesiveness, compactness of the territory, and communities of interest. He discussed the various objections raised by opponents to the proposed concept of dividing the district into five areas, which included the possible adverse effect on the parcel tax that will be on the November ballot. He noted that the proponents of the proposed five trustee areas are also proponents of the parcel tax, and that he has personally contributed financially to the parcel tax campaign and has pledged to work toward its passage. He has also proposed to WCCUSD Superintendent Harter and the parcel tax campaign committee to coordinate their two campaigns with the November election, for he sees doing so as a plus. With regard to the argument of representation, he pointed out that 40 school board members have served on the WCCUSD board in its 43-year history, and that, based on the years of service, Richmond has been represented 32%; El Cerrito, 25%; El Sobrante, 18%; San Pablo, 14%; Kensington, 7%; Hercules, 4%; and Pinole, 0%. He contended that the at-large system has not provided equal representation to all of the areas in the 110-square-mile district and that, currently, three of the five school board members reside in El Cerrito. With regard to campaign costs, he stated that campaigning throughout the 110-square-mile district is expensive. Also, he pointed out that the district has eliminated its paying for candidates' statements and has reduced the number of candidate forums from six to two. He contended that smaller trustee areas would encourage more candidates to run for the school board, and the campaign costs would be less. Additionally, he stated that trustee elections by area would provide an alternative to breaking up the district, which has been unsuccessfully proposed in the past. In response to suggestions that trustee elections by area would result in a smaller candidate pool, he stated that his group's position is that it will reduce campaign costs for candidates because of the smaller campaign areas and, therefore, increase the candidate pool. He clarified that it is not the purpose of the petition to establish term limits for trustees; rather, there would be no term limits established. He responded to the concerns of several San Leandro USD board members who had written the County Committee about negatives involved with having trustee areas, pointing out that San Leandro USD utilizes six trustee areas and one at-large trustee and represents an area of 15 square miles and a population of 79,000 versus 110 square miles and a population of 230,000 for the WCCUSD. He also stated that San Leandro USD's enrollment is 8,700 versus WCCUSD's enrollment of 29,800; therefore, the two districts are not comparable, and he pointed out that trustee areas are most beneficial for large districts like the WCCUSD. He also pointed out that 18% of the school districts in California, according to a 2005 California School Boards Association survey, currently conduct their elections by trustee area and that even the members of the Contra Costa County Board of Education, the Board of Supervisors, the Community College District, and the Regional Parks District are elected by trustee area. In closing, Mr. Jungherr urged the County Committee to grant the petition and adopt the resolution.

Comments from West Contra Costa Unified School District

Dr. Bruce Harter, Superintendent, West Contra Costa County Unified School District, represented the district in its response to the proposal from CPEC. Dr. Harter raised the question of whether the proposal would help, hurt, or have no impact on student learning. Using a PowerPoint presentation, he noted that WCCUSD students go on to matriculate at universities like Brown, Columbia, Cornell, Yale, Penn, Harvard, Stanford, or USC and that a large number of the district's students enroll at California state universities. He then proceeded to provide an overview of the district's programs, A-G classes, AP classes, vocational and ROP classes, and API growth. Since the district is on an upward path, he questioned whether establishing trustee areas would improve student learning, and if it does not, this proposal should not be considered. He then asked if establishing trustee areas would result in more equitable distribution of resources and stated that, based on his experience as a superintendent, he believes that Balkenization of the district would actually occur. As an example, he pointed out that a dual-immersion program or biotechnology program at one school could not be replicated at schools in other trustee areas because of inherent restrictions; therefore, if each trustee demanded that these programs exist in his/her own trustee area, an all-or-nothing situation could be created. Dr. Harter then reviewed the facility projects currently under way within the six high school attendance areas, and he pointed out how expensive such projects have become as national disasters affect the price of resources and the importance of bond money to cover the growing expenses. With additional problems facing the district, such as the achievement gap, healthcare expenditures, and the unfunded liability, he questioned whether creating trustee areas would help the district make the hard decisions needed in order to move it forward. He noted that enrollment has been declining (approximately 4,200 students over the course of five years) and that this is forcing the district to consider school closures in the future. He stated that having separate trustee areas would definitely be problematic in the case of school closures because the Balkenization around school closures would be very difficult to overcome, potentially causing a gridlock situation. He went on to describe the district's bleak financial forecast and addressed a concern over the \$160,000 cost to place a measure regarding trustee areas on the general election, which would be the equivalent of three teachers. In regard to whether or not placing this matter on the ballot would help or hurt the chances of the parcel tax passing, he presented the opinions of several bond experts, who have said that with the economy currently struggling, poll margins would be very slim and that this would cause voter confusion that would undoubtedly lead to a difference in the number of yes votes for the parcel tax measure. He described how important the parcel tax money would be to the district in funding vital programs. Dr. Harter closed with stating that creating trustee areas would not help the district solve its problems, would not help to improve student learning, would not help enhance equity, and would not help with the parcel tax; he stated that it is all about kids and about learning.

Response from Chief Petitioner

Chairperson Ruley invited the chief petitioner to respond with a rebuttal, and Mr. Jungherr indicated that he had spoken to all of Dr. Harter's concerns and had nothing more to add.

Response from West Contra Costa Unified School District

Chairperson Ruley invited the school district to respond, and Dr. Harter noted that today's solutions become tomorrow's problems and used the example of how setting term limits was largely supported in the beginning but that there were some unintended consequences. He stated that he does not want to push problems downstream only to have them cause even greater flooding and that this is one of the reasons he is concerned about the proposal to have trustee elections. He alleged that there are no experts stating that the district should consider trustee area elections in order to solve its problems and nothing in the No Child Left Behind Act and in Program Improvement from the state to support this proposal. He stated that it would cause Balkenization, would limit qualified candidates, and might require recruitment efforts in some trustee areas to encourage candidates to run for the school board. He reiterated that he is concerned about the cost to the district if the measure is placed on the November ballot, since it would require a reduction of three teachers. He conceded that the petitioners have done an excellent job but pointed out that the negative characteristics overwhelmingly outnumber the positive characteristics of the proposal, as represented on page 13 of the report. In response to the petitioners' allegation that it takes money to run elections, he pointed out that this is not always the case. He reiterated his concerns over the parcel tax, stating that polls indicate that the district is right on the brink of being able to pass the tax and that any measures placed alongside it on the ballot would make passage more difficult. Lastly, in terms of learning improvement, he pointed out that during the past four years the WCCUSD has shown more improvement in its API than any of the school districts that the petitioners listed as currently electing their trustees by area, and he remains unmoved that having trustee areas will help the district improve learning.

Comments from the Public

Chairperson Ruley invited comments from the public, and he asked that, in the interest of time, speakers should try not to repeat points that have already been raised by a previous speaker and that each speaker should limit his/her comments to a minute or so. He then proceeded to call speakers forward in the order in which they had submitted speakers' cards.

The following speakers spoke in favor of the petition: Rebecca Hazlewood, CPEC; Lynn R. Bailey; Michelle Chenault; Kevin Hampton; Lori Chinn; Charles Cowens, CPEC; Antonio Medrano, Concilio Latino; Linda Ruiz-Lozito; Cecilia Valdez, San Pablo Library Commissioner; Jill W.; Scottie Smith; Alicia Jackson, chairperson of the District Advisory Committee; Martin Snider; Nallip Omran; Andres Soto, Concilio Latino; and Eduardo Martinez. Reasons cited for supporting the petition included the following: there have been attempts during the past by areas within the WCCUSD to secede from the district, and even though these efforts failed, more attempts will probably occur in the future unless separate trustee areas are established in order to make all citizens feel represented; trustee area elections are a form of governance that could bring district-wide representation, as well as accountability, to the board of education of the WCCUSD; the trustee elections would most likely be funded by grassroots organizations, who would be local stakeholders that would demand focus on kids, families, neighborhoods, and education; the opposition should not have concerns about the parcel tax passing because voters should not be confused by two completely different measures on the ballot; direct representation by people who know the students and parents is necessary in order to understand local neighborhood school issues; this proposal would provide better leadership and representation; voters should be given the opportunity to vote on this issue; trustees would address the local educational concerns of specific areas; it will encourage more candidates to run because their campaigns would cost less; areas of the WCCUSD need better representation, and this proposal would improve the democratization of the school district; if this is too complex an issue for the voters, perhaps it could be placed on a future ballot instead; each area in West Contra Costa is distinct and needs to be represented on the board; it is the right of the community to have the opportunity to determine its own destiny; the three board members who reside in El Cerrito have narrow mindsets and refuse to seriously consider a K-8 and neighborhood-based middle school options; the current system is not working well because of the different communities in the WCCUSD; while the concept of having trustee area elections is a good one, the Concilio Latino does not support the proposed map, because it appears to gerrymander the Latino community and reinforces the power of the more affluent communities at the expense of the less advantaged people; this measure needs to be passed in order to empower the people that the district is supposed to be serving; many people cannot afford to run against big-money candidates who run in district-wide elections, and this makes people feel not invested in the school district that their children are attending.

The following speakers spoke in opposition to the petition: Don Gosney; Don Brown; Aram Hodess, business manager of Plumbers Local 159 representing members of the Contra Costa Building Construction Trades Council; Bruce Word; Cathy Travlos; Adrienne Harris; Karen Leong-Fenton; Mike Mahonoy, past member and chair of the Bond Oversight Committee; Don Lau; Chris Sorenson, Robert V. Jimenez; Laurie Schumacher; Charleen Raines, Hercules city councilmember and member of the Hercules city council's Education Subcommittee; Robert Studdiford, PTA member, member of the Citizens Bond Oversight Committee, and a member of the Citizens Budget Advisory Committee; Tom Butt; Bill Word; Rick Alcaraz; James Sanders; and Genoveva Calloway, San Pablo city council member. Reasons cited for opposing the petition included the following: gathering valid signatures from only five-eighths of one percent of the registered voters in the district does not indicate widespread support, and electing by trustee area would have a disastrous effect on the community as a whole; a proposal for district elections on the November ballot would hamper the passage of a measure that would extend the existing parcel tax that provides critical services to students; the welfare of the children should be the only consideration; the proposal would divide the community instead of uniting it; the best and brightest candidates need to run, even if they all live in one house; the interests of all constituents need to be represented; the cost of adding this measure to the ballot would cause a reduction of three teachers; the current trustees are accessible to all communities and attend functions throughout the district; all stakeholders from all parts of the district have access and input to the board, and a change at this time is not necessary; passing a measure with regard to trustee areas would only make it cheaper for the unions to control more elections; this proposal is unfair to voters because they could only vote for the candidates running in their area, and the candidates

would not be able to change their residence within the district without losing their seat; past experience living in another district showed that having trustee areas simply does not work; nothing is more important at this time than the passage of the parcel tax, and this proposal should not distract voters from that goal; past experience in campaigning for the board has shown that trustee areas are not necessary; spending \$160,000 to place this matter on the November ballot is unacceptable in light of the large number of hours that volunteers spend on fundraising activities to subsidize their children's education; the proposal sounds costly and not very effective; the proponents of this proposal have presented no facts to support that there is something wrong with the way the school board currently functions; there is no evidence that the board has acted unfavorably towards certain sections of the district, and the superintendent has presented a great deal of evidence to show that this has not been occurring; the current board has been cooperative, available, and accessible to city officials; having Hercules and Pinole share a trustee area is not a good idea, and these cities would not have access to other trustees; the system is not broken, so it does not need to be fixed; it is more desirable to vote for someone who has done his/her homework, someone who has been on committees, and someone who is dedicated to the school district, and restricting the district to ward elections would weaken democracy by not allowing the best, most qualified candidates to run; a similar proposal in 1991 to consider having ward areas for the Richmond city council members was overwhelmingly rejected by voters; this proposal serves as a diversion from the real challenges of the district, is divisive, and has the potential to hurt all residents of the district more than it will help them; with this measure, voters would only be able to vote for one candidate every four years rather than be able to vote for two or three members of the board every other year as it is now done; establishing trustee areas would diminish everyone's voting power; if the parcel tax does not pass, it will not matter how board members are elected because the shortfall would cause all children in the district to be the ones who would lose.

Gail Mendes, representing the president of the United Teachers of Richmond (UTR), shared with the County Committee that the members of the UTR have not voted to take a stance on this proposal, but she stated that it is imperative that the parcel tax pass. She asked that if the County Committee votes to place this matter on the November ballot, the wording should be such that voters will not be confused or put the matter off for a while so that voters can decide at another time. Terri Waller, representing Assemblywoman Loni Hancock's office, stated that Assemblywoman Hancock has not taken a position on whether or not this proposal should move forward and placed on the ballot for consideration; however, if the County Committee were to decide to move forward on this matter, the assemblywoman would like to suggest that it be done after a study has been conducted to weigh the pros and cons. She added that Assemblywoman Hancock feels that the most important thing is the fiscal solvency of this district so that students can continue to succeed, and keeping focus on the parcel tax is a primary concern. At this point, Chairperson Ruley informed those present that Senator Tom Torlakson had sent a letter to the County Committee expressing the same position as Assemblywoman Hancock. Maria Alegria, representing Richmond Vision, which is a coalition of faith, labor, and community organizations that represent the greater Bay Area, submitted a letter from Richmond Vision Co-chair Arthur Hatchett. She stated that the group unanimously would like to ask the County Committee to postpone a vote on this proposal until 2009 because of concerns that placing this matter before the voters on the same ballot as the parcel tax would be devastating to the success of the parcel tax; currently, the community at large does not fully understand what is going on with the district election measure, so this issue should be postponed.

At 7:17 p.m., Chairperson Ruley announced that the public hearing was now closed. He then asked the County Committee's legal counsel, Deputy County Counsel Mary Ann Mason, to address the ramifications of postponing this matter. Ms. Mason stated that if the County Committee were to choose to postpone the matter, it would have to continue the public hearing to a further date, which would result in not being able to meet the elections timeline for placing this matter on the November ballot. She noted that Education Code section 5020(a) specifies that when a resolution is passed approving such a petition, there is then a call for an election, and it cannot be heard any later than the next election for governing board members; therefore, if this matter were continued to a later date, it would not make the November 2008 election; instead, it could be placed on the ballot of a subsequent election. Further, she noted that if the County Committee were concerned about what would be most cost effective for the district, that would then be the general election in November 2010, which would be the last possible opportunity to

place this matter on the ballot under the Education Code provision. She informed the County Committee that another alternative would be to act on the petition outright this evening to either grant or deny it.

Chairperson Ruley then asked Deputy Superintendent Ellen Elster to add to the discussion. Mrs. Elster, as staff to the County Committee, stated that at this point in the agenda staff usually addressed the County Committee to advise them on what standards or criteria need to be met in order to deliberate and decide on a petition. Since the Education Code provides no standards or criteria for this type of petition, she stated that the County Committee would be looking at what is best for the students of West Contra Costa County and the district as a whole.

Mr. Ruley then called for deliberation and a decision to either deny the petition or grant the petition and adopt a resolution calling for election on establishment of five trustee areas and adoption of an alternative method of electing governing board members in the West Contra Costa Unified School District.

Mrs. Mirabella assured the petitioners that she understands their frustration with the board elections and also with the governance structure. However, even though the petitioners assert that placing this matter on the ballot alongside the parcel tax would not affect passage of the parcel tax, she questions this assertion. She noted that she has received a large number of phone calls and e-mails, and the people who are running the parcel tax campaign are very concerned about the parcel tax's passage. She agreed that passing the parcel tax is indeed of the highest priority and that it is important not to focus on too many issues in November. In addition, she stated that she has examined the budget of the WCCUSD and that it is absolutely critical that the parcel tax pass. She added that she does not believe that having trustee areas would solve problems and that she is concerned about the cost of \$160,000 to place this matter on the November ballot and \$700,000 to place it on the March 2009 ballot. She recommended to the County Committee that it revisit this issue and perhaps examine alternatives for governance. She is also concerned that she has heard from several dozen people this evening who have urged the Committee to deny the petition, and that while she agrees that the community needs to reevaluate this matter and come back to it in the future, it should not be placed on the November 2008 ballot. She proposed that the Committee discuss governance alternatives, such as term limits, campaign spending limits, asking the County Committee to perform a study, or establishing an intradistrict local agreement to divide the district into three different areas. She described how having three different areas might benefit the communities by passing their own parcel taxes in order to benefit their local schools. She also suggested that if the concept of trustee areas is considered in the future, it should be done only for sound, solid reasons that will make a difference for the students. The information she has read on establishing trustee areas suggests that doing so does not bring about contested elections and does not bring diversity to the board. Mrs. Mirabella urged the petitioners to examine all of the options.

Mr. Gomes stated that thanks to the efforts of past boards, superintendents, and teachers and the current board, superintendent, administrators, and teachers, the WCCUSD is a going concern in that it has achieved academic goals, built new schools, established an academic program that is showing upward progress, and everyone has gotten along well with each other to get things done. He noted that since there is a system in place that works, he sees no good reason to change it and that it should be left alone. He urged everyone to participate even more to continue making improvements and stated that he would vote to deny the petition.

Mr. Borsuk stated that he has read everything that has been submitted and listened to everyone's comments and that he would like to see this petition move forward based on several factors. He feels it is wrong for the majority of the board members to be from El Cerrito, which represents only one small area of the district, and he does not buy into the argument that having two measures on the November ballot would confuse the public. He commented that the campaign for the parcel tax has been very good at informing voters and that he believes the public would vote on the merits of both issues. He also stated that the ward system would bring about more democracy by having representatives from different parts of the district. Finally, he remarked that he appreciated Mrs. Mirabella's statements and solid recommendations on what could be done with further study, but he is concerned that waiting will only result in higher election costs down the road. Therefore, he would like to see the matter proceed forward and let the citizens of the WCCUSD vote on the merits as they now stand.

Dr. Krapf stated that he has learned from past County Committee hearings involving Hercules' wish to secede from the WCCUSD that frustrations exist in the various communities that their voices are not being heard. However, he noted that passage of the parcel tax is critical for the district to maintain itself financially and that voters would probably be frustrated at having so many issues thrown at them. He also stated that he is concerned that the district would become Balkenized when larger issues are involved, such as the closing of schools as enrollment declines.

Mr. Ruley stated that he has listened to a large number of people speak about how very important the parcel tax is, and his position is, why take a chance? If passage of the parcel tax is going to be so close, why risk its not passing? He stated that it is his inclination to postpone this decision, not place it on the November 2008 ballot, and to continue the discussion with assistance from Senator Torlakson's office and Assemblywoman Hancock's office in order for the County Committee to come to a decision that is mutually acceptable to everyone in the room; therefore, it is his inclination not to approve the petition.

The County Committee then voted four to one to deny the petition calling for an election on the establishment of five trustee areas and adoption of an alternative method of electing governing board members in the West Contra Costa Unified School District (M/S: Mirabella/Gomes; Borsuk dissented).

Staff Report

Deputy Superintendent Ellen Elster reported on the matter of the petitioners seeking to transfer territory from the Knightsen Elementary School District to the Oakley Union Elementary School District with regard to their paying for the CEQA. She stated that the petitioners need to submit another tentative map before anything can happen, but she reported that she has suggested to them that they could either pay for the CCCOE to pay to have the CEQA performed or pay for it themselves if they would like to move the process forward. To date, she has not heard anything from the petitioners, but she has received a letter from Oakley UESD Superintendent Rick Rogers stating that the district would be willing to pay for the cost of the CEQA, but she noted that no CEQA can occur until the tentative map has been filed. Deputy County Counsel Mason clarified that until the petitioners have filed a new tentative map, the petition cannot move forward, and the petitioners cannot file a new tentative map until the City of Oakley has completed its work on the Specific Plan as directed by the Court. She stated that it is her understanding that that will not happen until September or October, so the tentative map could conceivably be filed after time, and then the payment for the CEQA would become an issue. She noted that, although the Oakley UESD has offered to pay for the CEQA, she is concerned about whether the district would be able to fully fund what she and the consultant believe is necessary to do. She also mentioned that currently a legal review is being performed as to whether an exemption for the CEQA might apply in this matter, and this is the Oakley UESD's position. Mrs. Elster reported that she would be contacting Dr. Rogers to let him know what needs to be done before the matter can be addressed as to who may pay for the CEQA. With regard to the Walnut Creek matter, Mrs. Elster reminded the County Committee that the July 23 meeting has been cancelled and consolidated with the September 10 meeting.

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:41 p.m.

Ellen Elster, Secretary Designee
County Committee on School District Organization

These unadopted minutes are summaries and excerpts from the July 2, 2008, meeting of the Contra Costa County Committee on School District Organization.