

San Mateo County Committee on School District Organization
Regular Meeting
July 15, 2013

APPROVED MINUTES

Date: July 15, 2013

Place: San Mateo County Office of Education
101 Twin Dolphin Drive
Redwood City, CA 94065

County Committee on School District Organization Members Present:

Virginia Bamford, Greg Dannis (Excused himself from the meeting prior to agenda items on the Loma Road petition.), Hilary Paulson, Laura Rich, George Robinson, Bob Stelzer, Mel Thompson

Committee Members Absent:

Lory Lorimer-Lawson

Staff Present:

Tim Fox, Deputy County Counsel; Nancy Magee, Secretary to County Committee and Administrator for Board Support and Community Relations

1. Call to Order:

Chairperson Stelzer called the July 15th meeting of the San Mateo County Committee on School District Organization to order and welcomed all those in attendance.

2. Approval of Agenda

Chairperson Stelzer requested a motion to approve the agenda. Member Rich made a motion to approve and Member Thompson seconded. The motion carried with seven (7) members unanimously voting to approve the agenda.

3. Approval of the Minutes of the April 8, May 6, and May 23, 2013 Meetings:

Chairperson Stelzer explained that the committee has three sets of minutes to approve. He then asked if there were any corrections or additions to any of the three sets of minutes. There were none. Chairperson Stelzer asked for a motion to approve all three sets of minutes. Member Rich made a motion and Member Robinson seconded the motion. The April 8, May 6, and May 23 minutes were unanimously approved with Member Dannis abstaining regarding the public hearing minutes of May 6 and May 23.

4. General Staff Report:

Chairperson Stelzer invited Secretary Magee to provide the Committee with updates. Secretary Magee reported she had two updates to share. She said that at its most recent Board meeting, the County Board of Education honored Carolyn Livengood for her 22 years of service to the County Committee on School District Organization. She said the Board of Supervisors also adopted a resolution in Ms. Livengood's honor and that Supervisor Dave Pine attended the meeting and spoke in honor of Ms. Livengood. County Superintendent Campbell also honored Ms. Livengood with a joint resolution passed and adopted by the County Board of Education and

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the County Superintendent. Ms. Magee added that in addition to Ms. Livengood, the County Board also recognized Paul Scannell for 40 years of service on the Personnel Commission.

Ms. Magee said the second update to report regarding a potential petition from the community college district and property adjacent to Skyline College. Ms. Magee said the petition involves parcels that were left out of a residential sale many years ago. In addition, Ms. Magee said the community college district is implementing a program on their various campuses that avails faculty of low-cost housing to help attract faculty talent to the peninsula. To support this initiative, all college property needs to be included within the boundaries of the appropriate K-12 school districts. She anticipates this petition coming forward sometime in the near future. Ms. Magee said this concluded the staff report.

5. Public Comment

Chairperson Stelzer asked if there were any members of the public wishing to comment on any item on the agenda other than Item 10. He announced that comments directed at Item 10 would be heard at that point in the meeting. There were no members of the public wishing to address the Committee at this time.

6. Review Committee Membership and 2013 Election Procedures

Secretary Magee directed the Committee's attention to the handout with Committee membership information dated December 1, 2010. She asked all the members to review the listed contact information and to forward any corrections or revisions. She also asked the Committee to note those members whose terms are expiring November 30, 2013. These members include Lory Lorimer Lawson, Hilary Paulson, George Robinson, Robert Stelzer and Mel Thompson. In addition, there is a vacant seat in Supervisorial District Three up for election.

Ms. Magee said that retirements and resignations of Committee members have hurt the ability of the Committee to achieve a quorum at any given meeting. The Committee has 70 days to appoint someone to fill the three vacant seats (Districts 1, 3, and 5). At that point, the County Superintendent may appoint someone. Ms. Magee stated she has had some contact with a potential Committee member, but that individual had not yet committed to the appointment. She asked the Committee for their comments.

Member Bamford indicated she had an idea of someone who might be good. Secretary Magee encouraged Ms. Bamford to follow up with that individual.

Ms. Magee said she would communicate with the Superintendents and try to reach out through the San Mateo County School Boards Association. She also noted that member Lawson sent her apologies for not being able to make tonight's meeting, but had originally agreed to fill Mark Hudak's seat based on the idea of a set meeting schedule. Ms. Magee reported that she had offered Ms. Lawson the assurance that once the vacancies were filled, the Committee would be better equipped to fulfill a regularly set calendar of meetings.

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Chairperson Stelzer commented that for members who are due to have their terms expire at the end of 2013 and are not planning to continue service, to please let staff know. Ms. Magee added that the election would be held in November. Ms. Magee reminded those members who are active school board members that each school board has a representative to the County Committee whose main responsibility is to elect the members of the Committee. Those school board representatives will be receiving notification regarding the election process.

Member Bamford asked whether a quorum of the school board members is required to hold a vote?

Deputy County Counsel Fox responded that he has never sat with the Governing Board Representatives during an election, but he indicated the process is provided for in Education Code.

Ms. Magee said her understanding is that there's a nomination form for the open seats that goes out to all the school board representatives. Names that are returned on the nomination form become candidates. All candidates have the opportunity to write a short statement that goes out to school board liaisons. Discussion regarding election procedures then concluded.

Member Dannis asked if the members would be willing to address Agenda Item 11 before he leaves at the outset of Agenda Item 8. Chairperson Stelzer agreed that would be fine.

7. Review Draft of Revised Bylaws

Ms. Magee reminded the members that this item is a follow up to the lengthy discussion that took place at the April meeting regarding a possible script for use at public hearings and revisions to the existing published bylaws. She directed the members' attention to the draft script and revised bylaws included in the meeting materials.

Member Rich asked for a summary of the rationale behind the script. Ms. Magee responded that the intent of the script is to inform the public at public hearings the general purpose and make-up on the County Committee and to address the fact that often members of the County Committee serve the dual role of elected school board member and elected member of the County Committee. County Committee members are legally permitted to participate fully in both processes regardless whether the business of the County Committee involves that school board member's home district or not. The script is intended to help clarify what the public could perceive as a conflict of interest if a Committee member chose to fully participate in a petition that involved his or her own school district.

Member Rich suggested that the statement itself could be shortened. Ms. Magee agreed that paragraph one could be shortened and paragraph two deleted in its entirety. Member Dannis recommended the statement be presented on several PowerPoint slides rather than be read as a script.

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Ms. Magee asked the members to take the draft of the revised bylaws and review them between now and the next meeting. If members have suggestions for changes they can be discussed at that time.

11. Review and Confirm Upcoming 2013 Meeting Dates

The Committee skipped to Item 11 to confirm upcoming meeting dates before Member Dannis, who has recused himself from the Loma Road petition, has to leave. Ms. Magee said that depending on whether the Committee takes action on the Loma Road petition tonight would impact the need to meet in August and/or September, but it was agreed to save August 6th and September 3rd as meeting dates for those months. She also said that since the Committee has agreed to make the first Tuesday of every month its regular meeting date, members should also reserve October 1st for a meeting date.

Due to both a general election in November and the need to convene the Governing Board representatives in November, the Committee did not select a general meeting date for November. The members did agree to a general meeting date of December 9. That date will serve as the annual reorganization meeting.

Member Dannis excused himself from the meeting at this time.

8. Regarding the Loma Road Transfer of Territory, Discuss and/or Take Action to Address CEQA Review

Chairperson Stelzer said that the Committee would now dedicate its attention to the next set of agenda items in regards to the Loma Road petition and invited Deputy County Counsel Fox to introduce the CEQA Review. Mr. Fox reminded the Committee that the County Committee that a proposed transfer of territory is a project under CEQA and the County Committee is considered the lead agency for purposes of compliance.

Mr. Fox said the task of the Committee tonight is to determine whether the circumstances of the Loma Road petition meet the standard of exemption under CEQA or whether the Committee feels that a full CEQA review is in order. Chairperson Stelzer asked for the guidance of staff in making this determination. Mr. Fox responded that with such a low number of students impacted by this potential transfer of territory, it would be in keeping with past practice for the Committee to declare the Loma Road Transfer of Territory exempt from CEQA.

Member Rich stated that the environmental impact as a result of this potential transfer seems negligible and she would recommend that Committee take action on the exemption. Member Bamford asked for the exact title of the exemption. Mr. Fox responded that this exemption is under code section 15320; Changes in Organization of Local Agencies.

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Mr. Stelzer asked for a motion to address the Committee's action regarding CEQA. Member Bamford made a motion that the Committee finds that, in the event the Loma Road petition is approved, that the Committee declares the exemption as outlined in code section 15320 applies to the Loma Road petition. Member Paulson seconded the motion. The Committee unanimously approved the motion.

9. Regarding the Loma Road Transfer of Territory, Discuss and/or Take Action to Set Area of Election

The Committee will discuss and/or take action concerning the area of election.

Chairperson Stelzer said that in the event the Loma Road Transfer of Territory petition is approved, and because at least one of the affected school districts has taken action to oppose the petition, the Committee must take action to declare the area of election. Member Bamford and Member Rich asked for a summary of the options involved.

Mr. Fox explained that State Board of Education staff had provided feedback that the area of election determination is best made prior to the Committee's action to approve or deny the petition as a whole. The options before the Committee are to 1) declare the election area be limited solely to the area of the petitioners 2) declare the election area be the entire area of the affected school districts 3) declare the area of election be within the boundaries of an area specifically defined by the County Committee. This decision should be driven by an analysis or agreement as to which citizens have a direct interest in the outcome.

Member Rich suggested that a summary of the parameters for determining area of election would be a helpful addition to the CCSDO Handbook.

Mr. Stelzer raised the question of who pays for the election in each of the given scenarios. Mr. Fox responded the County Superintendent of Schools pays for an election unless the need to conduct an election involving an entire school district is triggered by a particular statute that only applies to small school districts with enrollment less than 1,000 students.

Member Bamford asked for clarification in the event someone felt the need to appeal the Committee's area of election determination. Is there a process for that? Mr. Fox said that there is a process. The petitioners and/or any of the affected school districts can appeal actions taken by the Committee on a petition, including area of election. Mr. Fox added that the default position on area of election is to declare the area as that of the petitioners only.

Member Paulson asked for additional clarification on the burden of payment of the election. If a district requests that the area of election include the entirety of all the districts, would the burden of payment shift to the district? Mr. Fox responded that the burden of payment only shifts to the district if the district qualifies as a "small" school district.

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Chairperson Stelzer recognized Superintendent Jan Christensen who wished to make public comment regarding the area of election. Superintendent Christensen said that it seems somewhat self-serving to limit the area of election solely to the properties included in the petition, given that the petition impacts both the Redwood City School District as well as the San Carlos School District. She also noted that the Redwood City Elementary School District opposes the petition, although the school board has not yet had an opportunity to take formal action against it. S Public Comment: Redwood City Superintendent Jan Christensen thanked the Committee for hearing public comment regarding the Loma Road petition. She commented that it seems self-serving to identify the area of election solely as the properties included in the petition. She also noted that the Redwood City Elementary School District opposes the petition, although the school board has not yet had an opportunity to take formal action against it.

Chairperson Stelzer then asked the members for a motion in regards to the area of election. Member Rich stated that to declare both school districts as the area of election seems like it would cause a huge expense for the County Office. Given that the transfer affects only seven homes, Member Rich made a motion that the area of election be limited to the territory identified in the petition.

Member Thompson stated that in past petitions, given the small size of most of the petitions that come before the Committee, the Committee has tended to favor an election area that covers only the immediate area being impacted.

Member Paulson said she has always found it odd that the area of election is more often than not, limited to the area of the petition itself, but she also noted what a huge cost would be incurred if the area included the entirety of both school districts.

Chairperson Stelzer noted that typically the area of election is limited only to the parcels involved in the petition itself and that opposition to that would likely be voiced through an appeal. Member Rich added that it seems appropriate to involve those voters who have the most interest in the matter and that certainly would involve those residents whose homes are part of a petition.

Mr. Fox asked to check the number of signatures on the petition since in the event there are 12 or fewer, the petition can be managed under the status of uninhabited territory, which does not require and election. Member Paulson stated the Loma Road petition involves 13 signatures. Mr. Fox conceded that in this case, 13 signatures dictate the need for an election.

Mr. Stelzer offered a motion to declare the area of election to be inclusive only of the petition area itself. Member Rich seconded the motion. Six members voted in favor of the motion (Bamford, Rich, Robinson, Stelzer, and Thompson) and one member voted not to approve the motion (Paulson). The motion carried 6-1.

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10. Regarding the Loma Road Transfer of Territory, Discuss and/or Take Action

Mr. Fox began the consideration of whether to take action on the Loma Road Transfer of Territory by reviewing the memo he had prepared for Committee members on the status of the section of Loma Road in question in the matter. Mr. Fox explained that the Committee had asked him to investigate and report back on whether or not the fact that this section of Loma Road is impassable to north/south traffic by vehicles is the result of a choice on the part of the petitioners not to improve the road, and if they had the power to do so was there some future point at which the road could be or would be improved.

Mr. Fox said his research showed that there were two were two different residential subdivisions that created the houses that are there now. This information is addressed in the June 18th memo provided by Mr. Fox to the Committee. In the memo the graphic shows that the parcels circled in red can be accessed from the north side of the break in the road, but is impassable to vehicles attempting to travel across the break.

All the houses circled in red that also represent the signatories to the petition, were created by a subdivision where their access was not provided by that subdivision map. The portion that was designated a private road was not part of the land proposed to be subdivided. That happened at a later date in 1985 in a separate subdivision. This map is attached to the memo as exhibit B. If there is a right to travel across that private road it derives not from their ownership of the property, but simply by being a member of the general public. In 1998 there was a lawsuit over access to Loma Road where some adjacent neighbors who are not petitioners, the owners of parcel 56 as depicted on the map on the front page, had been accused of having installed improvements in the right of way and rather than remove those they sued to have a judicial declaration that they had the right to install them. The court held that the public continue to have a right to move across that right of way and that the neighbors who had formed a neighborhood association as interested parties in the lawsuit, that their right of access derived from being members of the public.

Mr. Fox summarized his understanding of the legal situation on Loma Road to say that there is pedestrian traffic across the road, that the right of pedestrian traffic derives from historic use, but the adjacent neighbors do not have the right to take the land, improve it or build any roadway there because they did not obtain that right by subdivision. They only obtained it by right of historic use. Mr. Fox recommended against the Committee making the assumption that neighbors ever had the legal ability to restore vehicular access north and south along Loma Road. Chairperson Stelzer asked if the Committee had any additional questions or comments regarding the memo as explained by Mr. Fox. There were none.

Chairperson Stelzer did ask that the Committee spend a few minutes examining the map to determine precisely where the school district boundary lines fall in relation to the break in Loma Road. This examination served to prove that approving a change in boundary would not result in

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creating an island. Through discussion and examination of the map, the Committee was satisfied that the proposed change in boundary would not result in creating an island.

Public Comment Specific to the Loma Road Transfer of Territory:

Redwood City Elementary School District Superintendent Jan Christensen re-introduced herself. She thanked the Committee for taking comments from the public and noted that the minutes of the public hearings and prior CCSDO meeting were quite accurate and comprehensive. Superintendent Christensen reminded the Committee that the Redwood City Elementary School Board did not take official action on the Loma Road petition, but rather included it on their meeting agenda as a discussion item. She stated that it was the interest of the Redwood City Board at that time to oppose the petition. As a representative of the Board, Superintendent Christensen reiterated that the Board remains opposed to the petition. She is particularly concerned with issues of social justice and setting a precedent for chipping away at the boundaries of poorer districts and adding to wealthier, less ethnically diverse school districts. She stated she does not know whether her Board will appeal the decision if the petition is approved tonight. She also expressed concern that this decision is being made in July when so many of the district's principals are out of town, but she understands the many reasons the County Committee would need to do so.

Superintendent Christensen stated once again that having seven homes vote on something they already want to do seems self-serving, but she will reserve judgment to see how it all plays out. She appreciates the time of the Committee has taken to investigate the case and noted that she found Attorney Fox's memo regarding the 1998 court case quite interesting.

Finally, Superintendent Christensen reminded the Committee that the distance between driving to Clifford School in Redwood City or Heather Elementary in San Carlos is only two minutes, but when a student leaves Heather to attend middle school in San Carlos, that travel distance would be even greater.

Petitioner Rob Meyer also addressed the Committee and thanked them for their time and effort. He never thought the process would be so long and involved, but he does appreciate all that the Committee put into it. He also acknowledged the concerns of the Redwood City Elementary School District regarding the territory transfer. He said his thoughts have changed quite a bit since the process initiated and said that it really comes down to community identity. Mr. Meyer said he finds it interesting that the petitioners are requesting a change from the Committee, but that really it's about upholding a way of life that these seven houses have maintained for many years. If the Committee were to rule against the territory transfer, it would result in isolating the children in these homes from the community with which they most identify. Mr. Meyer said this action is really about righting a misunderstanding that existed as a result of this impassable road. Mr. Meyer again thanked the Committee.

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Action on the Petition:

Chairperson Stelzer indicated he would vote on a criterion only in the event of a tie.

Chairperson Stelzer read the first criterion:

1. *The reorganized districts will be adequate in terms of number of pupils enrolled.*

Chairperson Stelzer asked for questions or comments.

There being none, Chairperson Stelzer asked the members to indicate they are in favor of the finding by saying aye. The vote was five (5) members in favor of criterion #1.

(In favor: Bamford, Paulson, Rich, Robinson, Thompson) Chairperson Stelzer read the second criterion:

2. *The districts are each organized on the basis of a substantial community identity.*

Chairperson Stelzer asked for questions or comments.

There being none, Chairperson Stelzer asked the members to indicate they are in favor of the finding by saying aye. The vote was five (5) members in favor of criterion #2.

(In favor: Bamford, Paulson, Rich, Robinson, Thompson) Chairperson Stelzer read the third criterion:

3. *The proposal will result in an equitable division of property and facilities of the original district or districts.*

Chairperson Stelzer asked for questions or comments.

There being none, Chairperson Stelzer asked the members to indicate they are in favor of the finding by saying aye. The vote was five (5) members in favor of criterion #3.

(In favor: Bamford, Paulson, Rich, Robinson, Thompson) Chairperson Stelzer read the fourth criterion:

4. *The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.*

Chairperson Stelzer asked for questions or comments.

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There being none, Chairperson Stelzer asked the members to indicate they are in favor of the finding by saying aye. The vote was five (5) members in favor of criterion #4.

(In favor: Bamford, Paulson, Rich, Robinson, Thompson) Chairperson Stelzer read the fifth criterion:

5. Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

Chairperson Stelzer asked for questions or comments.

There being none, Chairperson Stelzer asked the members to indicate they are in favor of the finding by saying aye. The vote was five (5) members in favor of criterion #5.

(In favor: Bamford, Paulson, Rich, Robinson, Thompson) Chairperson Stelzer read the sixth criterion:

6. *The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.*

Chairperson Stelzer asked for questions or comments.

There being none, Chairperson Stelzer asked the members to indicate they are in favor of the finding by saying aye. The vote was five (5) members in favor of criterion #6.

(In favor: Bamford, Paulson, Rich, Robinson, Thompson) Chairperson Stelzer read the seventh criterion:

7. *Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.*

Chairperson Stelzer asked for questions or comments.

There being none, Chairperson Stelzer asked the members to indicate they are in favor of the finding by saying aye. The vote was five (5) members in favor of criterion #7.

(In favor: Bamford, Paulson, Rich, Robinson, Thompson) Chairperson Stelzer read the eighth criterion:

8. *The proposed reorganization is primarily designed for purposes other than to significantly increase property values.*

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Chairperson Stelzer asked for questions or comments.

There being none, Chairperson Stelzer asked the members to indicate they are in favor of the finding by saying aye. The vote was five (5) members in favor of criterion #8.

(In favor: Bamford, Paulson, Rich, Robinson, Thompson) Chairperson Stelzer read the ninth criterion:

9. The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.

Chairperson Stelzer asked for questions or comments.

There being none, Chairperson Stelzer asked the members to indicate they are in favor of the finding by saying aye. The vote was five (5) members in favor of criterion #9.

(In favor: Bamford, Paulson, Rich, Robinson, Thompson)

Chairperson Stelzer next indicated he would entertain a motion to approve the petition as a whole. Member Rich offered a motion to approve the Loma Road Transfer of Territory and Member Thompson seconded.

Chairperson Stelzer asked for questions or comments.

There being none, Chairperson Stelzer asked the members to indicate they are in favor of the finding by saying aye. The vote was five (5) members in favor of the Loma Road Transfer of Territory.

(In favor: Bamford, Paulson, Rich, Robinson, Thompson)

Chairperson Stelzer announced that the Loma Road Transfer of Territory petition is approved, and he thanked the Committee for their work.

11. Member Comments

There were none.

12. Adjournment

Chairperson Stelzer adjourned the meeting.