

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

September 14, 2005

- ROLL CALL** Pamela Mirabella, David Krapf, Daniel Gomes, and Daniel Borsuk.
- ABSENT** Glenn Ruley
- OTHERS** Ellen Elster, Peggy Marshburn, Judy Parker, Wendy Richard, Terry Foley, and Laura Dorsey Huerta, County Office of Education staff; Mary Ann Mason, Deputy County Counsel; Susan L. Pricco; Shirley Gotelli; Brenda Souza Hudson; John Swett USD Superintendent Michael Roth; West Contra Costa USD Interim Superintendent Cynthia LeBlanc, Ed.D.; John Swett USD Trustees Norma Clerici, Janet Callaghan, Holly Myers, and James Delgadillo; West Contra Costa USD Trustees Dave Brown, Charles Ramsey, Glen Price, Karen Pfeifer, and Karen Leong Fenton; Alan Hersh, WCCUSD General Counsel; Ruth Vedovelli, Associate Superintendent for Business, WCCUSD; Vince Kilmartin, Associate Superintendent, Operations, WCCUSD; Kathy Rollins of Public Employees Union, Local 1; Gail Mendes, United Teachers of Richmond; Ed Sklar and Harold Frieman, legal counsels for WCCUSD; Dr. Michael Winters, consultant; Cathy Caudell; Jerry Hirst; Cheryl Bennett; Jeff Bennett; Charlene Gordon; Renee Powell, Bryan Richards; Liz Warmerdam; and Rose Mena. A partial list of attendees is on file at the County Office of Education.
- PRESIDING** Daniel Borsuk, Chairperson
- PLEDGE OF ALLEGIANCE** The meeting of the Contra Costa County Committee on School District Organization was called to order at 5:03 p.m. with the recitation of the Pledge of Allegiance.
- MINUTES OF 4/20/05** The Board voted unanimously to accept the minutes of April 20, 2005 (M/S: Krapf/Mirabella; Ruley absent).
- MINUTES OF 5/19/05** The Board voted unanimously to accept the minutes of May 19, 2005 (M/S: Krapf/Gomes; Ruley absent).
- MINUTES OF 5/25/05** The Board voted unanimously to accept the minutes of May 25, 2005 (M/S: Mirabella/Gomes; Ruley absent).
- MINUTES OF 6/22/05** The Board voted unanimously to accept the minutes of June 22, 2005 (M/S: Mirabella/Krapf; Ruley absent).
- PUBLIC COMMENT**
Items Not on the Agenda None.
- PUBLIC HEARING ON PETITION TO TRANSFER TERRITORY FROM WEST CONTRA COSTA USD TO JOHN SWETT USD, INCLUDING POTENTIAL ENVIRONMENTAL IMPACTS** Prior to the beginning of the hearing, Chairperson Borsuk explained that the agenda for the evening would be slightly rearranged in that Item 4.2 would be a 20-minute presentation from the Committee's consultant (rather than 10 minutes); Item 4.8 would be moved to precede Item 4.7 and would allow for a 10-minute response from the consultant (rather than 20 minutes). Mr. Borsuk then opened the public hearing at 5:08 p.m.

In her opening comments, Ellen Elster, staff to the County Committee, then announced that this evening the County Committee on School District Organization would make its final decision on whether or not to approve the petition to transfer territory from the West Contra County Unified School District to the John Swett Unified School District. She further explained that following the County Committee's actions, each school district and the chief petitioners would have the opportunity to appeal this decision to the State Board of Education and that if an appeal is filed by either party, the decision of the County Committee will be stayed until the State Board acts on the appeal. Further, she stated that any issues that parties feel were not addressed this evening or were addressed incorrectly could be raised in the appeal process. As a procedural matter, she clarified that in addition to the items listed in the agenda packet and the consultant's report, the record includes written items submitted for prior hearings, letters to the Committee from Lozano-Smith on behalf of WCCUSD dated September 9, September 13, and September 14, 2005, and any other written items submitted during this hearing. She then introduced the County Committee's consultant, Dr. Michael Winters, who has been doing school district organization evaluations and assessments since 1993. She noted that Dr. Winters would review his objective analysis of the petition and the Committee's ability to comply with the California Environmental Quality Act (CEQA).

Dr. Winters thanked the County Committee for selecting him to help them analyze the data for the report, the staff from each of the school districts for their work to diligently provide the data necessary for him to do the analysis, and the chief petitioners for the clarifications they made in conference calls with him. He also thanked Mary Ann Mason, legal counsel to the Committee; Ellen Elster; and her assistant, Terry Foley, for assisting him in getting the data together so that he could compile the report. Dr. Winters then discussed the school district organization process, and he explained that the action before the County Committee this evening is the result of a petition filed under Education Code section 35700. He informed the County Committee that the process would involve three steps tonight: 1) the Committee would make factual determinations about each of the nine conditions as to whether or not they are substantially met after hearing evidence from him and asking questions of him and after hearing comments from the Chief Petitioners, both school districts, and the public; 2) the Committee would make a decision regarding the California Environmental Quality Act (CEQA) as to whether or not CEQA can be complied with, given the evidence provided; and 3) if the Committee votes to approve all nine conditions as being substantially met and also determines that the CEQA can be complied with, the Committee could then make a decision on approving or disapproving the petition. Dr. Winters then proceeded to address each of the nine conditions, summarizing very briefly conditions 1, 3, 4, 5, 7, and 8 because he had found them to be substantially met. He noted that he believed that condition 2, 6, and 9 were not substantially met.

In regard to condition 2 (community identity), he provided his reasons for finding that it had not been substantially met, which included the fact that the John Swett USD would double in size with the proposed transfer of territory and the character of the relatively suburban/semi-rural district would change to one that would have an urban core in Hercules. Also, he reported that there would be almost twice as many voters as there are today in the entire John Swett USD. Since the voting population would shift completely, he felt that the community identity would become radically different; therefore, he found that condition 2 could not be substantially met. Mr. Borsuk noted that one of the issues of the petitioners is access to school administrators at West Contra Costa USD to address their various needs; therefore, he wondered if the proposed territory transfer would, in fact, result in a better community identity in that the residents of Hercules would have a better voice if they were part of the John Swett USD. Dr. Winters responded that he agreed that the comments he had heard at the last hearing did lead him to believe that some of the residents are not being heard by the West Contra Costa USD; however, he pointed out that the statute indicates that "the districts are each organized on the basis of substantial community identity." He explained that he did not have the leeway to isolate Hercules to solve their problem; instead, he had to examine the two school districts that would be formed. Because of the negative impact that the proposed territory transfer would have on the John Swett USD with regard to community identity, he felt he had to find that condition 2 was not substantially met. Mr. Gomes asked Dr. Winters if he believed that the territory transfer would result in Hercules voters being able to dominate elections in the John Swett USD, and Dr. Winters responded that his recommendation on condition 2 not being met is based in part on that very fact.

Regarding condition 6 (educational programs), he focused on a section of the law regarding No Child Left Behind (NCLB), a new federal statute, and noted that there is very little case law or additional statute law on this particular act. However, he noted that NCLB requires that schools that fall into the category of Program Improvement schools must allow for parents to transfer their children to other schools within the district. He further explained that the basis for his finding on this portion of condition 2 that cannot be substantially met is that, by moving the schools in the Hercules area, the options would be reduced for parents whose children attend Program Improvement schools in other portions of the West Contra Costa USD. He also noted that, in addition to reducing parents' rights with regard to NCLB, he has serious concerns about the possibility of insufficient revenue to adequately address the large number of Special Education students that reside in the Hercules area. A third factor is that if the teachers who now teach within the Hercules area were to decide that they wished to remain with the West Contra Costa USD, the educational programs in the Hercules schools would be left without the teachers who developed and now teach those particular programs. Taken together, these three factors led him to conclude that condition 6 could not be substantially met. Dr. Krapf asked for clarification on whether Dr. Winters' primary concern about the Special Education students involves the encroachment on the general fund of the John Swett USD, and Dr. Winters stated that that was correct. Mr. Borsuk asked if Dr. Winters had considered that if the more experienced teachers in Hercules were to remain with West Contra Costa USD, thus possibly teaching at Program Improvement schools, those schools might improve their performance. Dr. Winters stated that he agreed in part with this possibility; however, he noted that if West Contra Costa USD had to retain many experienced teachers while letting less experienced teachers go, its budget would be negatively impacted by the higher percentage of high-paid teachers that the district would have. Dr. Krapf also asked Dr. Winters to clarify whether or not he factored into his recommendation any movement of Special Education students from the West Contra Costa SELPA to the Contra Costa SELPA in terms of the services each student would receive. Dr. Winters responded that he did not judge the quality of the educational services that each of the Special Education programs provides, but, rather he assumed that each district and the County Office of Education would strive to provide the highest quality services to children as possible; therefore, he did not question that aspect.

Regarding condition 9 (fiscal impact), Dr. Winters explained that this condition involves two factors: 1) the operational money, which is general fund money, and 2) capital money, which is usually general obligation bond debt. He noted that he is not overly concerned regarding the general obligation bond debt because voters could address that issue. He also informed the Committee that it is impossible to calculate the tax rates because they would be calculated in the future by the County Auditor and based on tax rate areas and individual parcels. He noted that his concern is on the operational side of the equation. He explained that it is common for many large school districts and other public organizations to provide lifetime health benefits to attract employees to their districts; however, his analysis has concluded that these benefits, as offered by the West Contra Costa USD, would have to be quantified and this liability included with the transfer of territory to the John Swett USD. Therefore, he has determined that the negative fiscal impact would be too much for the John Swett USD (\$51,956,595.00). He explained the calculations he had made in his report to reach the conclusion that condition 9 is not substantially met, which included an increase of \$253,000 to the John Swett USD but a decrease of \$1.5 million because of the debt service transferred from West Contra Costa USD. Therefore, he has concluded that if the proposed territory transfer were to occur, the John Swett USD would become an insolvent school district in its very first year of operation under the newly formed district. He recommended that the County Committee accept his conclusion that condition 9 has not been substantially met.

With regard to CEQA, Dr. Winters found that, in order to approve the CEQA, the issues of land use/planning and the significant impact on humans would have to be considered. He found that the key issues were adequate financial resources to cover the maintenance of the schools for land use and planning so that the schools would not become blighted. He also found that districts needed money to maintain their educational programs, as well as maintain their schools, under a mandatory finding regarding significant impact on humans. He noted that these were the issues that the County Committee must consider as it moves forward with the CEQA and the findings within his report.

Chief Petitioner Susan L. Pricco stated that the group she chairs, For the Kids We Care, has researched figures, studied the community's history, polled the community, walked the streets, and watched the crime rate at its schools escalate and the academic scores falter. In addition, they attended two hearings of the County Committee on this matter, listened to the concerns of two school districts, studied their histories of financial and academic decisions, collected signatures, and embarked on a journey that took over 10,000 volunteer hours in the last year alone. She noted that it is common to hear that education in West Contra Costa USD is a joke, but her group is not laughing. However, she expressed the opinion that money does not appear to be the issue as evidenced by the number of attorneys, architects, and consultants that are hired by the district and sit at these hearings. She noted that the John Swett USD cannot afford to hire a group of attorneys, architects, or consultants to advise them on their needs; instead, with minimal administration and with the priority on their students, what money they have goes to the schools. She also acknowledged receipt of the large number of last-minute filings from Lozano-Smith on behalf of the West Contra Costa USD in the final hours before this hearing; the last one was provided only minutes before the meeting was called to order. She claimed that these extra, last-minute billable hours by the attorneys is typical and sadly indicative of the regular course of business at West Contra Costa USD. Although her group has not responded, she wished the County Committee to know that they do not agree with the accuracy of the statements and figures provided by the West Contra Costa USD and its attorneys. Additionally, she noted that For the Kids We Care has received the correspondence from Ellen Elster stating that the County Committee will not be making a decision on the jurisdictional issues surrounding Education Code section 35706.5. In light of this, she noted, and the previous letter from Mrs. Elster on behalf of the Committee denying her group's request for a waiver of the issue and the absence of a waiver to extend the 120 days as requested by John Swett USD, it appears that the County Committee has already set the direction of its decision. She further stated that they realize that if the Committee were to approve the petition, there would be an appeal. She noted that the loss of Hercules would not be the biggest challenge to the West Contra Costa USD, but the same cannot be said for the John Swett USD, since it has been in a period of declining enrollment resulting in a serious reduction of curriculum and services that it should be providing. However, although others do not appear to wish to help John Swett USD, Hercules residents would like to join that district and shore up its future. She noted that the transfer of territory would involve negotiations that would require thinking outside of the box, but the consultant's analysis does not present any such possibilities, nor does it acknowledge a range of options to be considered. The information provided in the West Contra Costa USD's report to the State pursuant to AB 3141 shows a significantly lower pay-as-you figure than the estimate of adopted debt selected by Dr. Winters. Because West Contra Costa USD's debt has been accumulated over many years, she asked why—within the requirements of AB 3141—could the debt not remain with West Contra Costa USD and John Swett USD be allowed to make incremental payments over time to that district? She asked the County Committee to make its decision based on what would be best for students, and she urged the Committee to allow the decision for such a large territory transfer to rest with the voters.

John Swett USD Superintendent Michael Roth reiterated that since the 1996-97 academic and fiscal year, the district has experienced an enrollment decline. However, he explained that that enrollment decline does not indicate, either through his own experience or through the studies that the district has had done, any dissatisfaction on the part of the public with the John Swett USD. Rather, he clarified that the enrollment decline is demographic in nature due to the aging community and shrinking school-age population. Also, it is expected that no major new housing developments will be built in the small towns of Crockett, Rodeo, Port Costa, and the Foxboro section of Hercules. Along with the enrollment decline, he noted, comes a difficult financial situation. This has been one of the reasons that this issue of a transfer of territory has been of crucial importance to the John Swett USD over the many years that it has been discussed. He then questioned the accuracy of the consultant's figure with regard to the ADA rate for calculating the percentage of indebtedness that would be passed on to the newly formed district because the figure does not appear to exclude those students attending Hercules schools who live outside of Hercules in other parts of the West Contra Costa USD; hence, it is his guess that the ADA rate would, in fact, be lower than that established by the consultant. He also spoke to the issue of lifetime health benefits, which he noted is an unfunded liability and which is proving to be difficult to fund. He described this liability as a huge issue statewide, which may require a statewide resolution. He stated that it is possible that either the ability and authority to write contracts that cannot be paid for will be taken away from public entities or that there might have to

be assistance provided to those public entities to pay that liability. Therefore, he claimed that it might be premature to reject a petition for transfer of territory on the grounds of an issue that does need to be solved at a statewide level through governmental or legislative action. He also addressed issues regarding the revenue limit calculated by Dr. Winters. He noted that the documentation provided by Lozano-Smith indicates that \$11.2 million would be required to operate the four schools in Hercules (less the cost of the lifetime health benefits); therefore, if \$15 million is predicted to come to John Swett USD, he would like that figure to be the one that will be analyzed. Because this is a crucial question in the deliberation of the County Committee, he noted that he had requested that this information be considered in his earlier letter to the Committee. He raised the question of whether the County Committee should come to a decision tonight without knowing whether these figures are correct, since this issue is of utmost importance to the students who would attend John Swett USD. He then introduced four members of the John Swett USD Board of Trustees: Holly Myers, Janet Callaghan, James Delgadillo, and Board President Norma Clerici. For the record, he expressed the respect that he personally feels for the Chief Petitioners and For the Kids We Care, who have been dedicated to their cause for a number of years. He informed the Committee that he believes that the motivation For the Kids We Care has been concern for quality education and a desire to be involved in seeking high-quality education. He personally offered his thanks to them for the work they have done throughout this process. He stressed the importance of knowing everything before a decision is made in this matter, and he expressed the opinion that everything is not yet known at this point.

John Swett USD Board President Norma Clerici noted that the letter sent earlier to the County Committee had been written based upon a consensus of the Board. However, she also noted that several statements in that letter had not been agreed upon or supported by all Board members. She then addressed the issue of enrollment and provided some history on enrollment figures in the John Swett USD. With regard to the demographer's report that was prepared in 1999, she pointed out that even though he predicted that the John Swett USD would continue to suffer from declining enrollment, the district presently has 200 more students at this point than what he predicted. Also, she noted, enrollment for this year is slightly higher than it was at this time last year. She also informed the County Committee that the John Swett USD Board voted on a resolution regarding this matter last week and that the vote failed 3 to 2. She also mentioned her respect for the Petitioners' group, For the Kids We Care, but she finished her comments by adding that she did not feel that the transfer of property would benefit John Swett USD.

John Swett USD Board Member James Delgadillo noted the many unanswered questions that remain regarding the lifetime health benefits and the bonded indebtedness. He also expressed concerns that the Hercules residents are more numerous and would prevail in future elections on bonds and parcel taxes if the proposed transfer of territory were to occur, and this could be detrimental to the many senior citizens in the present John Swett USD. He stated that he could not support the proposed territory transfer.

West Contra Costa USD Interim Superintendent Cynthia LeBlanc, Ed.D., introduced Board President Glen Price and Trustees Karen Pfeifer, Dave Brown, and Charles Ramsey; Executive Cabinet members Alan Hersh, legal counsel; Paul Ehara, director of communication; Vince Kilmartin, associate superintendent of operations; Ruth Vedovelli, associate superintendent for business; Vera Rowsey of the Executive Board of the Administrators Association; Gail Mendes of the United Teachers of Richmond; Local One Executive Director Kathy Rollins; Mary Jones of the School Supervisors Association; and legal counsels from Lozano-Smith, Ed Sklar and Harold Frieman. She noted that the presence of so many representatives from West Contra Costa and their Board's adoption of a unanimous resolution opposing the petition confirm that they do not believe that the petition accomplishes the aim of providing the best education for the children of Contra Costa County. She reiterated that the district does not believe that this petition should even be considered because the district is exempt from reorganization based on Education Code section 35706.5 because the West Contra Costa USD had previously received an emergency state apportionment and over 70% of its students meet the statutory income level threshold. Although a hearing on these matters was not held, she stated that the West Contra Costa USD stands behind the written materials that it has submitted to the County Committee regarding the 70% issue and the California Environmental Quality Act. She noted that because this proposed transfer of territory would affect West Contra Costa USD's educational mission and fiscal ability to fulfill that mission for many years to come, she urged the County Committee to carefully consider this matter in light of the fact that the decision will have a lasting impact on the district's students.

She further noted that the analysis of the petition does not include how the educational program of West Contra Costa USD, John Swett USD, or the Hercules schools would be improved as a result of a territory transfer, which she stated is the most important issue. She asserted that the proposed territory transfer would negatively impact the educational programs in all of the aforementioned areas of the county. She further explained that student opportunities to participate in certain academies and Advanced Placement classes would be lost. In addition, approximately 120 students who currently attend Hercules schools through transfers for programmatic reasons, but do not claim Hercules residency, would no longer be entitled to attend schools in Hercules (including No Child Left Behind transfers and students participating in programs offered only at Hercules schools). She noted that there would also be disruption to Special Education students with disabilities, since the richer array of programmatic options that a larger school district can offer to meet the needs of such students would be lost. She also asserted that they are also very concerned for the John Swett USD, a much smaller district, since it would be overwhelmed with the number of Special Education students who reside in Hercules and with the number of programs that John Swett USD would now be required to provide, which she enumerated. Reorganization is not good for the children residing in Hercules, the children who reside in the rest of West Contra Costa, and the children who reside in the John Swett USD. She reiterated that Hercules would lose many of its outstanding teachers, principals, counselors, and librarians, who would remain with the West Contra Costa USD because of the benefits it provides; the West Contra Costa USD would lose its \$75 million investment in Hercules, lose state funds, ADA, and categorical funds because of the decrease in student population; lose some of its highest performing schools; see a displacement of students; witness a profound social and economic change in the district with the loss of one of its more affluent communities; and lose some of the diversity that makes their district so rich. As for John Swett USD, she stated that the portion of the loan and bonded indebtedness from West Contra Costa would render that district insolvent. She urged the County Committee to not teach our children that we cannot all work and live together and that the answer to a perceived problem is to run from it rather than work through it.

West Contra Costa USD Board President Glen Price thanked the petitioners for their huge amount of work to put this effort together and noted that he understands that their reason for pursuing this matter is to advance public education. He also thanked the John Swett USD board of trustees and Superintendent Michael Roth for the time and energy that they have put into this issue and to the County Committee for the hours spent studying the matter. He reiterated that the West Contra USD board has unanimously adopted a resolution opposing the petition and that the John Swett USD has declined to promote or advocate for the petition. Therefore, he noted that since neither board is requesting this transfer of territory, he cannot see how the County Committee could reasonably be expected to approve it. He then pointed out that this transfer of property would negatively impact their district from a diversity standpoint (socio-economic and racial/ethnic diversity). He also expounded on the negative financial impact to John Swett USD and noted that, if the transfer of territory were successful, such an action might necessitate having a state trustee appointed to that district as a result of the indebtedness it would have to take on.

Gail Mendes, president of the United Teachers of Richmond, informed the County Committee that her organization represents approximately 2,000 teachers and that her representative assembly has voted unanimously to oppose the petition. She noted that the teachers in Hercules are highly qualified and the students' test scores are excellent. In particular, she wished to inform the County Committee that if it should vote to give the Hercules schools and students to John Swett USD, the teachers would not be going with them. She noted that the chaos caused by the Hercules teachers when they choose to bump teachers with less seniority in the West Contra Costa USD would be insurmountable.

Kathy Rollins, Public Employees Union, Local One, informed the County Committee that her organization represents the non-supervisory classified employees in the West Contra Costa USD. She stated that Public Employees Union, Local One, opposes the petition because of the economic upheaval that would result if the petition were granted. Because classified employees would not have the option to remain with the West Contra Costa USD, they might have to accept lower wages and the loss of lifetime health benefits.

Mary Jones, representing the classified supervisors union, voiced the same concerns as those expressed by Local One. She also noted that a number of employees might leave the John Swett USD in order to garner higher salaries and better benefits at other districts.

Vera Rowsey, representing the West Contra Costa Administrative Association's Executive Board, stated that her organization also opposes the petition. She noted that many of the administrators in Hercules would not be willing to transfer to the John Swett USD if the petition were approved.

Chief Petitioner Susan Pricco, on behalf of the chief petitioners, For the Kids We Care, and supporters and friends, thanked the County Committee for its attention to the petition and the long process involved. She reminded the Committee that the children are the sole driving force behind the petition and are depending on the Committee to make the right decision for their future. She urged the Committee to approve the petition and allow the process to continue, keeping the options open for the John Swett USD.

Dr. Michael Winters then responded to questions posed by County Committee members. Mrs. Mirabella asked if it was true that if any of the conditions cannot be met, the matter cannot be placed before the voters and if it was true that there is no possibility for delaying the decision in this matter. Dr. Winters referred these questions to the County Committee's legal counsel, Deputy County Counsel Mary Ann Mason, who responded that while there may have been the possibility of seeking a waiver of the timeline regarding the 120 days in which to come to a decision, she noted that this option is not on the agenda for consideration this evening. Regarding the necessity of finding that each of the nine conditions listed in the statute for a transfer of property is substantially met in order to approve the petition, she stated that that would be the case: the County Committee would need to find each of the nine conditions to be substantially met. She clarified further that, in order for this matter to go before the voters, the County Committee would have to find that all nine conditions were substantially met. Mrs. Mirabella then asked Dr. Winters if she had understood him correctly that the County Committee does not have the option to initiate studies on school district organization. Dr. Winters responded that the County Committee does, in fact, have the ability to initiate actions to reorganize a school district; however, he noted that because of the supportive role of the County Committee with respect to the school districts in the county, it could be perceived as not being supportive of a school district if the Committee were to initiate such a reorganization action. Based on his experience with other counties, he suggested that such an action could be unwise. In response to another question posed by Mrs. Mirabella regarding the new figures received from the West Contra Costa USD and the importance of knowing the exact amount of revenue and costs involved in a transfer of territory, Dr. Winters stated that the new figures provided by West Contra Costa USD were received too late for him to evaluate them, and, thus, his answer would be based on speculation; therefore, he stated that it would be impossible to evaluate the figures at this late date. Mrs. Mirabella also expressed how important it was to her to know the exact tax rate involved, and Dr. Winters explained that the tax rate is not known at this time and that case law bears out that the outcome of the tax issue is secondary to the organization issue. Mr. Borsuk asked Dr. Winters whether West Contra Costa USD is considered a growth district or one that has declining enrollment. Dr. Winters stated that demographic analyses are an area in which he specializes as a consultant, and he explained that school enrollments are based on population cycles and that an increase in births in 2003 may result in increased kindergarten enrollment in 2008-09; however, he noted that this is a general trend only and that he has not done a study on the population of West Contra Costa USD. He did note that the West Contra Costa USD is a typical California school district, one that is stabilized and receiving immigrants; therefore, he believes that there will probably be increases in the future as the real estate cycles change and the population increases. Mr. Borsuk asked about the \$4 million figure claimed by the John Swett USD, and Dr. Winters stated that the amount of extra revenue would probably be close to the \$15 million claimed by Mr. Roth; however, he noted that the large amount of expenses that would also transfer would result in a negative figure. He added that the data he studied did not lead him to believe that the John Swett USD would have an extra \$4 million annually as a result of the transfer; rather, he concluded that there would be an annual shortage of approximately \$1.75 million to \$2 million. Dr. Krapf inquired about the matter of how lifetime health benefits may be dealt with in the future by the state. Dr. Winters stated that he did not have the liberty as fact-gathering analyst to express opinions about what future laws should or should not be included in a study. Instead, his reports are based on what laws are in place now. Mr. Gomes asked Dr. Winters to expand on his earlier oral report regarding the possibility that West Contra Costa USD might suffer a negative financial impact from a transfer of territory. Dr. Winters stated that because of the issue of teacher bumping rights and the possibility that many teachers with seniority might remain with West Contra Costa USD, he concluded that having a high percentage of higher paid teachers might cause a negative financial impact, but, again, he stressed that is speculation on his part. The Committee County thanked Dr. Winters for his assistance.

Chairperson Borsuk invited members of the public to offer comments on the proposed transfer of territory; he noted that each speaker would have one minute in which to speak in order to accommodate everyone who wished to speak on this matter.

Chief Petitioner Shirley Gotelli asked that the minutes of May 19, 2005, be corrected on page 5 to indicate that Renato Salgado was in favor of, rather than against, the petition.

Jerry Hirst spoke against the petition because the Carquinez communities of Rodeo, Port Costa, and Crockett, which have a strong sense of collective community, would be severely disrupted by the transfer of territory. He stated that Hercules is a collection of bedroom developments, not a collection of small towns with a long historic context. He noted that people in the Carquinez communities have grown up together and have built concrete connections with the area, and, as an example, he pointed to the large number of high school teachers at John Swett High School who were once students there themselves. He also feels that John Swett USD's educational programs and schools would suffer, and he expressed the opinion that the Hercules residents are attempting to escape what Richmond represents to them by taking the best schools with them rather than concentrating their efforts on working with their own children. West Contra Costa USD Trustee Dave Brown spoke to the issue of his district not listening to the residents of Hercules. He noted that the district has been making an investment in Hercules with the building of new schools and is listening to the needs of the residents there in order to provide top-quality schools in Hercules. Cheryl Bennett commented that, with regard to Condition no. 2 in the consultant's report, community identity is a difficult thing to measure, and she reminded the County Committee that Hercules and Rodeo share a fire district, the NAACP, and a sewage treatment facility; also, part of the Hercules community already attends the John Swett USD. She also noted that most Hercules parents would prefer to attend a school board meeting in Crockett or Rodeo rather than drive all the way to Richmond in the evening. With regard to Condition no. 6, she stated that the students of the West Contra Costa USD would still be able to choose from a multitude of different schools if they wished to attend a school other than the one in their attendance area. Lastly, if Hercules were to join the John Swett USD, she knows of many parents who would take their children out of private school; therefore, more students would be transferred to John Swett USD than have been calculated in the report. Jeff Bennett urged the County Committee to allow this matter to come before a vote of the people as it will be the only chance for residents in John Swett USD to vote on what areas their future school district will encompass. He warned that with rising operating costs, declining enrollment, and declining funds from the state, the John Swett USD may eventually become part of the West Contra Costa USD without a public vote. West Contra Costa USD Trustee Karen Leong Fenton challenged the claim that their district is too large. She noted that there are other districts where the population is much larger and mentioned that Mt. Diablo USD encompasses a mix of cities similar to those in West Contra Costa. She proposed that their district continue to work with John Swett USD to assist them in offering specialized programs and services. West Contra Costa USD Trustee Charles Ramsey informed the County Committee that his district also suffers from declining enrollment, noting that the district has lost 4,000 students in the last four years. Additionally, he noted that a parcel tax, Measure B, pays for lower class sizes, librarians, counselors, athletics, and extracurricular activities; therefore, he raised the question of what would happen to programs and students in the affected areas with regard to these funds. He also noted that the advisory vote in Hercules in 2003 resulted in not a single precinct voting in favor of Hercules becoming part of the John Swett USD, and that should indicate the intent and vision of the voters in that area. West Contra Costa USD Trustee Karen Pfeifer reported that there is a strong community of new schools, teachers, and classes within the city of Hercules; to remove the teachers from those classrooms would be perhaps the most foolish thing to do in terms of continuing to educate the children there. Charlene Gordon, a teacher in Hercules, informed the County Committee that great things are happening at Hercules Middle & High School and in the West Contra Costa USD, and she would like to remain a part of that district. Renee Powell, a Hercules resident, remarked on the fear and uncertainty that she has heard this evening, which can bring disillusionment, and she asked the County Committee to try to understand those fears and take into account the severe issues that existed that caused the petition to be submitted in the first place. The public hearing portion of the meeting closed at 6:51 p.m.

**County Committee Deliberations:
Conditions One Through Nine**

The County Committee deliberated on whether or not the petition to transfer territory from West Contra Costa Unified School District to John Swett Unified School District substantially meets conditions one through nine of Education Code section 35753. Regarding the first condition (the new districts will be adequate in terms of number of pupils enrolled), the Committee voted unanimously that this condition is substantially met (M/S: Mirabella/Krapf; Ruley absent).

With regard to the second condition (the districts are each organized on the basis of a substantial community identity), the County Committee voted 3-1 that this condition is substantially met (M/S: Mirabella/Krapf; Gomes opposed; Ruley absent). Mr. Gomes stated his concerns that the voters of Hercules might dominate the voters in the Carquinez community, thus swaying elections and controlling the outcome of tax and bond measures, if the transfer of territory were to take place. He also stated that he believes that the Hercules community and the rest of West Contra Costa are more alike than they are different.

With regard to the third condition (the proposal will result in an equitable division of property and facilities of the original district or districts), the County Committee voted unanimously that this condition is substantially met (M/S: Gomes/Mirabella; Ruley absent).

With regard to the fourth condition (the reorganization of the districts will not promote racial and ethnic discrimination or segregation), the County Committee voted unanimously that this condition is substantially met (M/S: Krapf/Mirabella; Ruley absent).

With regard to the fifth condition (the proposed reorganization will not result in any substantial increase in costs to the state), the County Committee voted unanimously that this condition is substantially met (M/S: Gomes/Mirabella; Ruley absent).

With regard to the sixth condition (the proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue to promote sound educational performance in those districts), the County Committee voted 3-1 that this condition is **not** substantially met (M/S: Gomes/Mirabella; Borsuk opposed; Ruley absent). Mr. Gomes stated that he agrees with the Committee's consultant that regular educational programs, as well as Special Education programs, would be disrupted. Dr. Krapf stated that he is concerned about the Special Education encroachment that John Swett USD would have to incur, and he also expressed concern for the possibility that some Special Education students may have to travel long distances to be provided services. Mrs. Mirabella stated she is also concerned regarding Special Education, since it is an unfunded mandate, and she noted that West Contra Costa USD has a very good Special Education program in place. She also expressed concern that teachers and other employees have indicated that they would remain with West Contra Costa USD if the territory transfer were approved, and this would result in disruption to the educational programs in Hercules. Mr. Borsuk stated that he disagrees with the consultant's findings on this condition and expressed the belief that the territory transfer would result in mutual benefits for both affected districts. In addition, he noted that if the teachers in Hercules decided to remain with West Contra Costa USD, they might transfer to schools identified as Program Improvement schools, thereby raising students' test scores. Additionally, he mentioned that it is difficult to sort out and verify all of the calculations provided to the County Committee from the consultant and schools districts in order to determine which figures are correct.

With regard to the seventh condition (the proposed organization will not result in a significant increase in school housing costs), the County Committee voted unanimously that this condition is substantially met (Mirabella/Krapf; Ruley absent)

With regard to the eighth condition (the proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to an adjoining district), the County Committee voted unanimously that this condition is substantially met (M/S: Mirabella/Krapf; Ruley absent).

With regard to the ninth condition (the proposed reorganization will not cause a substantial adverse effect on the fiscal management or fiscal status of the proposed district or any existing district affected by the proposed reorganization), the County Committee voted 3-1 that this condition is **not** substantially met (M/S: Mirabella/Gomes; Borsuk opposed; Ruley, absent). Mr. Gomes stated that John Swett USD would have to take on a large amount of debt. Dr. Krapf then

stated that it is this condition that appears to settle the matter since he is concerned about the financial stability of the John Swett USD. Mrs. Mirabella stated that this is the most difficult condition because each of the districts will be affected differently. She also noted that in 1962 the California Department of Education denied the Contra Costa County Board of Supervisors' County Committee request to form a Pinole-Hercules School District due to an insufficient financial base. She admitted that the financial calculations are very confusing in light of the various parties who provided data, some even at the last minute. In order to act responsibly with the data she has before her, she stated that she believes this condition is not substantially met and that the petitioners should proceed to the State to have them determine if this condition can be substantially met. She also expressed concerns about what will happen to the John Swett USD if its enrollment continues to decline, and she suggested the possibility of having the County Committee review this issue to see if there is an alternative means for helping that district. She noted that West Contra Costa USD is a very large district with problems, while the John Swett USD is a very small district with problems, but the financial base is in question with regard to the petition before the County Committee this evening. She thanked the petitioners for their time and energy in putting the petition together. Mr. Borsuk stated that he disagrees with the consultant's report because he believes that this transfer of territory would provide additional ADA to the John Swett USD, which would improve its fiscal situation and that the anticipated increase in kindergarteners in 2008-09 may provide further ADA to the West Contra Costa USD. Lastly, Mr. Gomes expressed concern about the precedent that might be set if the County Committee were to approve the territory transfer.

Mitigated Negative Declaration

The County Committee on School District Organization voted 3-1 in finding that the mitigated negative declaration prepared for this project is **not** adequate for purposes of compliance with the California Environmental Quality Act and, therefore, the Committee does not adopt the mitigated negative declaration (M/S: Mirabella/Krapf; Borsuk opposed; Ruley absent).

Petition to Transfer Territory from West Contra Costa USD to the John Swett USD and Resolution No. 05/06-1 Reflecting the Committee's Decision on the Petition

The Board voted by the following roll call vote to disapprove the petition to transfer territory from the West Contra Costa USD to the John Swett USD and to adopt Resolution No. 05/06-1 reflecting the decision of the County Committee on School District Organization on the petition: Mirabella, aye; Krapf, aye; Gomes, aye; and Borsuk, nay (M/S: Mirabella/Gomes; Ruley absent).

ADJOURNMENT

There being no further business, the County Committee meeting was adjourned at 8:05 p.m.

Ellen Elster, Secretary Designee
County Committee on School District Organization

These unadopted minutes are summaries and excerpts from the County Committee meeting of September 14, 2005, and are subject to amendment and/or correction prior to the approval of the County Committee on School District Organization.