

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

April 18, 2007

ROLL CALL

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

ABSENT

None

OTHERS

Ellen Elster, Peggy Marshburn, Terry Foley, and Laura Dorsey Huerta, County Office of Education staff; Deputy County Counsel Mary Ann Mason; Owen Poole; Vickey Rinehart, Superintendent, Knightsen Elementary School District; Dr. Rick Rogers, Superintendent, Oakley Union Elementary School District; Dan Smith, Superintendent, Liberty Union High School District; Kimberly Solarski, Oakley Union Elem. School District; Cecilia Tamayo; Carol Boyd; Kevin Romick, City of Oakley; Ian Maslen; Lynn Gursky; Ruth Roberts, Oakley Press; Frank Dell; Karen Bergenholtz; Al Simas; Linda Cozby; Kathy Kause; Kay Carlile; Michael Callos; Jessica Foutch; Lois Laza; Lauri Winters; Seth Cockrell; Linda Pennock; Greg Hetrick; Laura Filbert; Ray Witte; Cheryl Metzler; Richard Loewke; Pat Anderson, City of Oakley; Michele Gaudinier; Harold Freiman, Lozano Smith; Regina McCarthy; Liesel Williams; Gerard and Diana LaMaestra; Jack Bauz; Anne Allen; Heather Partida, Oakley Union Elem. School District; Paul Thompson; Roger MacDonald; Jani Buckman; Jim Frank; Shawndell McCall; Laura Gee; Maryann Hussey, Oakley Union Elem. School District; Dorothy Walter, Knightsen School District; Bob Kratina, Oakley Union Elem. School District; J. Souza; Janet Frazier; Christine Kay, Oakley Union Elem. School District; Diane Stockman; Janice Lindgren; Susan Dutra; Jeff Taylor; Linda Weekes, KTAC and KTSSD; Cathy Templeton; Edward Estrada; Theresa Estrada, Knightsen Elem. School District; Anthony and Bernadette Bettencourt; John Gonzales; Andrea Easley; Suzanne Witte, Knightsen School District; Regina McCarthy; Donetta Roderick; Robert Mayberry; Kim Revel; L. Williams; Ron Nunn; Eric Tabucchi; Stefani Poodan; Carolyn Gelieu; Rosalie Campbell; William and Lisa Schmidt; Leanne Sarmento; Ron and Marilyn Stacy; Tom Baldocchi, Jr.; T. Baldocchi, Sr.; Kathy Baldocci; Liz Robbins; Susan Mayberry; Adam Liebol; Remy and Eve Nichols; Mindy Bello; and Katja Pastor.

PRESIDING

Dr. David Krapf, Chairperson

The meeting of the Contra Costa County Committee on School District Organization, which convened first at Iron House Elementary School, 4801 Frank Hengel Way, Oakley, California, was called to order at 5:34 p.m. with the recitation of the Pledge of Allegiance.

APPROVAL OF MINUTES

The minutes of September 28, 2005, were approved as presented (M/S: Ruley/Mirabella).

PUBLIC HEARING

Petition Received from Edward Biggs, Sr., Bethel Island LLC, and Dennis Menke, Rock Island Homes, Inc., Chief Petitioners, to Transfer Territory from the Knightsen Elementary School District to the Oakley Union Elementary School District

Chairperson David Krapf convened the Public Hearing on the Petition received from Edward Biggs, Sr., Bethel Island L.L.C., and Dennis Menke, Rock Island Homes, Inc., Chief Petitioners, to Transfer Territory from the Knightsen Elementary School District to the Oakley Union Elementary School District at 5:40 p.m.

Chairperson Krapf explained that the purpose of this hearing would be to obtain information from the local community to assist the County Committee in making its determination regarding the feasibility of the proposed reorganized school districts. He invited members of the public to submit speakers' cards if they wished to offer comments during the public hearing. In addition, he

invited members of the public to submit written statements if time constraints did not allow for everyone to present their comments this evening to the County Committee. Dr. Krapf also provided a brief historical background on the County Committee and its purpose. He then asked Ellen Elster, who serves as staff to the County Committee, to explain the proposal being considered and the process that the County Committee would follow to evaluate it.

Mrs. Elster explained that a proposal had been presented to the County Committee to transfer territory from the Knightsen Elementary School District to the Oakley Union Elementary School District, and she indicated several maps that displayed the boundaries of the proposed territory to be transferred. She further explained the following: On February 6, 2007, the Contra Costa County Superintendent of Schools received a petition dated February 6, 2007, from the Chief Petitioners. The petition proposed transferring the subject territory from the Knightsen Elementary School District to the Oakley Union Elementary School District pursuant to Education Code section 35700(a). The County Superintendent and the Contra Costa County Registrar of Voters found the petition filed pursuant to Education Code section 35700(a) to be sufficient and signed as required by law, and the petition was presented to the County Committee at its regularly scheduled meeting on March 7, 2007, and a copy was transmitted to the State Board of Education pursuant to Education Code section 35704 on March 7, 2007. In accordance with state statutes, within 60 days from the receipt of the petition, the County Committee must hold at least one hearing within the affected districts. Following the public hearing, the County Committee will study the proposal and will make a recommendation on feasibility to the State Board of Education, and Mrs. Elster noted that a study is currently underway to evaluate the proposal, which will include information provided by the affected districts, state sources, and other interested parties. She explained if the County Committee were to approve the proposal, the proposal would then go to an election; if the County Committee were to disapprove the proposal, the process would end. However, any district or petitioner may appeal the decision of the County Committee to the State Board of Education, but the State Board of Education has no timeline in which action must be taken. Lastly, she called attention to the information packet, which contains documentation required by Education Code section 35705.5(b) to be made available to the public regarding the proposed formation; it provides information on the rights of employees, governance structure, revenue limits, and election issues related to the proposal.

Chairperson Krapf then explained how the hearing would be conducted: the chief petitioners would have 15 minutes in which to present their proposals, each district would then have 15 minutes in which to make their presentations, and members of the public who would like to speak in support of or in opposition to the proposal would then have an opportunity to speak. He noted that if anyone does not have the opportunity to address the County Committee or if anyone runs out of time, comments in writing are encouraged. He cautioned speakers that they would have two minutes each in which to address the County Committee and that staff would indicate with cards how much time a speaker has left. Dr. Krapf also announced that the County Committee would continue the hearing at 7:30 p.m. within the Knightsen Elementary School District at Knightsen Elementary School. He then invited the chief petitioners to come forward to make their presentation.

Owen Poole, representing the chief petitioners, explained to the County Committee that this has been a collaborative effort with the landowners, the City of Oakley, and the Oakley Union Elementary School District (OUESD), and, therefore, he requested permission to combine his presentation with that of OUESD Superintendent Rick Rogers rather than divide the two 15-minute presentations. Dr. Krapf consulted with the other County Committee members to see if they had any objections; no objections were noted and Dr. Krapf directed Mr. Poole to proceed. Mr. Poole called the County Committee members' attention to a map to describe the complexity of the territory. He spoke to the importance of creating a sense of community so that people feel connected in the new area and expressed his belief that it is important for the entire area to become a part of Oakley. He related an experience he had in the 1990s with regard to a development in Oakley where the elementary school was in Antioch, and he stated that this situation caused difficulties for the homeowners and their children. He related how Dr. Rogers shared with him that there was a way to combine the school districts into one area, and he indicated to Dr. Rogers that he would be interested in knowing how to do it. He noted that even though OUESD's developer fees were higher and even though developers tend to be concerned with the bottom line, he and the other developers of the new area are willing to pay higher fees in order to have a community that is laced together, which creates more value.

On behalf of the OUESD and the City of Oakley, Dr. Rick Rogers, OUESD superintendent, expressed gratitude to Mr. Poole for moving this process forward. He informed the County Committee that his district's initial approach was to have the two affected districts agree to a transfer of territory but that that had not worked well. He then had brought the matter directly before the County Committee so that it could take this matter up on its own but that the County Committee had tabled it and then appeared to have no interest in pursuing the matter further. At that point, he stated, Mr. Poole expressed an interest in filing a petition. Dr. Rogers then proceeded with a Powerpoint presentation and touched on sense of community and the Oakley Orphan issue. He reminded the County Committee that the Oakley Orphans are homeowners in the west-of-Empire neighborhood in Oakley that currently is in the Antioch Unified School District, which has resulted in a number of interdistrict attendance transfer appeals to be brought to the County Board of Education over the years. He noted that this situation is possibly unique because the territory in question is uninhabited and that, effective January 1, 2006, the law changed so that the County Committee could make a final decision subject to appeal to the State Board of Education rather than going to a vote of the people in the area. He stated that an election would prove to be arbitrary and unfair to the districts involved because people who do not yet live in the area would not be motivated to vote. He drew the County Committee's attention to charts and maps indicating the territory in question and its boundaries as well as a diagram of what is referred to as the East Cypress Corridor Specific Plan with roads and school sites identified. He noted the school site acquisitions that have been initiated and completed, and he questioned whether there have been any efforts by the Knightsen Elementary School District on school site acquisition in the affected area. Dr. Rogers addressed issues regarding transportation difficulties, interdistrict attendance transfer difficulties, districts' budget problems and their effect on student transfers, Knightsen's, community identity, the state's intent to have districts with over 900 in enrollment, the matter of racial and ethnic discrimination, costs to the state, possible disruption of educational programming, possible increased school housing costs to the state, the issue of whether or not the transfer would result in a significant increase in property value, and the fiscal management and fiscal status of districts. He pointed out that his presentation has shown that the nine criteria have all been met in that they either support the transfer of territory or are not applicable. He pointed out that he had distributed to the County Committee members a packet that contained a ten-page document that sets forth more detailed arguments related to the petition.

Dick Loewke, an urban planner and consultant for the City of Oakley, reminded the County Committee that the City had come before it in April 2005 to provide a status report on the process of the Oakley's Specific Plan. He reported that the Specific Plan has now been adopted, the EIR has been certified, and LAFCO has approved the annexation of the entire development area to the City of Oakley. He stressed that the Specific Plan focuses on delivering services and building facilities to create identity in the neighborhood and to tie that neighborhood back to the City of Oakley. He stated that the County had begun the program of approving developments in the area on a piecemeal basis before Oakley became a city but that the City of Oakley proceeded with partnerships with the school district, the water district, and the sanitary district to master plan this area with one middle school and three elementary schools. He stated that if the entire area is not serviced by the Oakley Union Elementary School District, there will be concerns around whether children will be able to walk to school and have access to the same level of afterschool programs. In addition, he stated that it is not about one school district doing a better job than the other; it is simply that having these elements together in the same place allows the district to do a better job.

Knightsen Elementary School District Superintendent Vicky Rinehart called the County Committee members' attention to a larger map of the affected area that showed the boundaries of the school districts. She noted that the petitioners and the Oakley Union Elementary School Districts appear to be concerned mainly with community identity, the Oakley Orphan issue, and overcrowded schools. She explained that there are many issues that are actually involved, including her assertion that 11,000 homes will be built, generating \$12-15 million, and she noted that the Knightsen Elementary School District fees are not lower than the Oakley Union Elementary School District's fees. Ms. Rinehart stated that the \$12-15 million is to be used to share the cost of building a new school based on a 50/50 match and that Knightsen Elementary School District intends to build a K-18 neighborhood school within the subject area (and she indicated the area on the map). She noted that it has taken one year to get the current school site approved, and her district plans to utilize a reuse plan for replicating parts of the school that will be used in the district's next school in the subject area so that a great deal of money will be saved. She informed the County Committee that if her district is ready to build the new school but the development has not begun and no developer fees have come in, the district could then apply for

financial hardship and start building the school that way. She stated that studies have shown that the K-8 model is an exceptional educational model in that it helps students learn, allows families to be together in the same school, and changes the environment to a very positive, structured environment. She noted that the City of Oakley would lose nothing by allowing the school district boundaries to remain just as they are; their only concern appears to be community identity. She asserted that the people who move into the subject area will identify with Oakley and their community regardless of whether the school district is Oakley Union Elementary School District or Knightsen Elementary School District. She then discussed the 17-foot levee that is currently in place, noting that even though it is referred to as “temporary,” she believes that nothing is so permanent in this world as something that has been called “temporary” and that the current levee will remain there for years to come. She explained that the students who will come from the development in the subject area (perhaps as many as 600) will provide \$3 million annually to the Knightsen district, which will allow the district to grow, provide educational programs for the students, compensate staff as they deserved to be compensated, and to remain a strong school district. She stressed the fact that Knightsen ESD has a lower pay scale than the surrounding school districts and that some of the districts good teachers could choose to go to other districts to earn \$5,000 more per year; however, they choose to remain with Knightsen ESD because they have a chance to make a difference. She stated that she believes it is their right as educators to be able to be compensated for the hard work that they do rather than be deprived of that potential extra compensation. She also stated that the City of Oakley will lose no money in the way of property tax if Knightsen ESD retains the territory but that Knightsen ESD would gain money in property tax, which would help with the district’s finances. She spoke to the opportunity for Knightsen ESD to become more ethnically diverse. With regard to the “Oakley Orphan” issue, she noted that there are many ways to resolve this type of issue that would not involve taking someone’s property from them. She then reviewed the interdistrict transfer information that was received from the Oakley district, and she pointed out that during two of the four years for which data was analyzed the Oakley district has been suffering from decreased enrollment, and if it had not been for the 200 student transfers from Antioch to the Oakley district during that time, the Oakley district would not have been able to maintain its budget. She also noted that the Antioch district is currently building a new school in the area of the Oakley Orphans and that the Oakley district is now trying to encourage those students to remain in Oakley by sending them a letter with clear information that lets them know what their legal rights are involving interdistrict transfers. Regarding Oakley’s argument about overcrowded schools, she stated that it is interesting to read in the petition that the schools in Oakley will be overcrowded unless the Oakley district can get the Knightsen territory. She stated that the reality is that there are more students on the Oakley side scheduled for two schools than that district has space for, that they are short approximately one-half of a school. She concluded that if the Oakley district can take Knightsen’s territory, they are solving their overcrowding problem but that she believes that that is not the way to solve one’s problems; instead, the district should redraw its internal school district boundaries rather than taking land from its neighbor. She also spoke to Dr. Roger’s statements regarding the Education Code criteria, and she noted that the Knightsen district’s attorney would be arguing in depth against Dr. Roger’s legal stance on this at the portion of the hearing that will take place in Knightsen. She reminded the County Committee that if even one of the criteria hurts the Knightsen district, the transfer is not to take place, and since five of the criteria would hurt the district, there is no legal way this property would ever be transferred to the Oakley district. She ended her presentation by stating that her district planned to do everything it could to maintain property that it has had for over 100 years and which is needed in order to help the district grow.

At this point, Dr. Krapf invited proponents and opponents to speak, and he asked that each speaker keep his/her comments to two minutes or less so that the County Committee could accommodate as many speakers as possible. He then proceeded to call speakers forward in the order in which they submitted speakers’ cards. The following speakers spoke in favor of the proposed territory transfer: Pat Anderson, City of Oakley Councilmember and teacher in the Oakley UESD; Anne Allen, principal of Laurel Elementary School in Oakley; Bob Kratina, Board Member of the Oakley UESD; and Kevin Romick, Mayor, City of Oakley, and founder of the Oakley Orphans. Reasons cited for supporting the proposed transfer of territory included the following: separating students into two different school districts within Oakley would create different calendars, schedules, afterschool activities, and music and sports programs; students would not be part of Oakley in the eyes of the community; the proposed transfer of property is supported by the development community, the citizens of Oakley, the City of Oakley, and the servants of Oakley and that the only opposition is from Knightsen; it has been difficult and time consuming for the Oakley UESD to deal with parents who reside in the Oakley Orphan area, and

the same problems would occur if the territory remains a part of the Knightsen district, creating another Oakley Orphan situation; it is commonsense that parents want their children to go to a neighborhood school with their friends from the other parts of Oakley; parents do not want to send their children to a school miles from where they live; this is an opportunity to fix the situation before another Oakley Orphan situation developments; and children need to feel as though they belong in their community. The following speakers spoke in opposition to the proposed territory transfer: Frank Dell, Trustee, Knightsen ESD; Lynn Gursky, a teacher at Knightsen Elementary School; Kay Carlile, a teacher at Knightsen Elementary School; Ian Maslen, Knightsen; Cheryl Metzler, Oakley; Jim Frank, Trustee, Knightsen ESD; Seth Cochrell, Knightsen; Shawndell McCall, Knightsen; Ray Witte, Oakley resident and employee of Knightsen ESD; Lois Laza, a teacher at Knightsen Elementary School; and Cecilia Tamayo, Knightsen. Reasons cited for opposition to the proposed territory transfer included the following: all of the students, whether they attend the Oakley or Knightsen school district, will all go to Freedom High School in Oakley; just because the Knightsen Elementary School District extends into Oakley does not give Oakley the right to take that land; there is a strong sense of community in the Knightsen Elementary School District; it is wrong for the Oakley school district to take land from its neighbor; the Knightsen district is widely respected and deserves to have the opportunity to take what is right and make it grow; if Oakley is allowed to break the rules by taking this property, it may then try to take Knightsen's water; the education provided at Knightsen Elementary School is second to none despite being a small district; in response to a speaker's claim that the citizens of Oakley are in support of the proposed territory transfer, a citizen of Oakley said she was not asked and wonders which citizens were spoken to about this matter; buyers have a responsibility to be knowledgeable about which school district their new home is located in; Oakley is being a bully; a solution might be to have a contract between the school districts to release the students if they wish to transfer to the other's district and review the contract every ten years or so to see if it has worked; if the Knightsen school were not built in time before the homes were complete, the students would receive free busing to take them under supervision to and from another Knightsen school, which would be convenient to parents because they would not have to drive their children to and from school; kids bond with their school, not with City Hall, and, therefore, the identity issue should not be an issue; the law is pretty clear that the nine criteria have not been met; the territory transfer would represent a huge financial loss to the Knightsen district; the community of Knightsen is sick and tired of everyone coming after them and picking away at their land piece by piece; land has already been lost to Oakley and Brentwood; the identity of Knightsen should be considered, not the identity of Oakley, when the Committee makes a decision in this matter; K-8 is being looked at as being the best elementary school model; all students in Knightsen could benefit from additional funds for educational programs growth; the loss of taxes from the subject property would affect all Knightsen residents personally; a parent who lives in Oakley has transferred his children to Knightsen over the past ten years because he feels that Knightsen has a better program, a better sense of community, family involvement, parent involvement, and generational involvement; living within Oakley and attending a Knightsen school would not reduce a family's sense of identity within their community; parents who prefer a particular school district will investigate the school district boundaries before purchasing a home; there are currently 199 interdistrict attendance transfers into Knightsen Elementary School, 92 of which are from Oakley; of the children who currently reside within the boundaries of the Knightsen district but who live in Oakley, all of them have chosen to attend Knightsen Elementary School; it is not fair to compare the Oakley Orphan situation to having students attend Knightsen Elementary School; Oakley has always wanted Knightsen, and it is Oakley's development that is causing problems for Knightsen.

Chairperson Krapf closed this portion of the public hearing at 6:50 p.m. The County Committee meeting reconvened the second part of the hearing at 7:36 p.m. at Knightsen Elementary School, 1923 Delta Road, Knightsen.

Chairperson Krapf reiterated that the purpose of this hearing would be to obtain information from the local community to assist the County Committee in making its determination regarding the feasibility of the proposed reorganized school districts. He invited members of the public to submit speakers' cards if they wished to offer comments during the public hearing. In addition, he encouraged members of the public to submit written statements if time constraints did not allow for everyone to present their comments this evening to the County Committee. Dr. Krapf also provided a brief historical background on the County Committee and its purpose. He then asked Ellen Elster, who serves as staff to the County Committee, to explain the proposal being considered and the process that the County Committee would follow to evaluate it.

Mrs. Elster explained once again that a proposal had been presented to the County Committee to transfer territory from the Knightsen Elementary School District to the Oakley Union Elementary School District, and she indicated several maps that displayed the boundaries of the proposed territory to be transferred. She further explained the following: On February 6, 2007, the Contra Costa County Superintendent of Schools received a petition dated February 6, 2007, from the Chief Petitioners. The petition proposed transferring the subject territory from the Knightsen Elementary School District to the Oakley Union Elementary School District pursuant to Education Code section 35700(a). The County Superintendent and the Contra Costa County Registrar of Voters found the petition filed pursuant to Education Code section 35700(a) to be sufficient and signed as required by law, and the petition was presented to the County Committee at its regularly scheduled meeting on March 7, 2007, and a copy was transmitted to the State Board of Education pursuant to Education Code section 35704 on March 7, 2007. In accordance with state statutes, within 60 days from the receipt of the petition, the County Committee must hold at least one hearing within the affected districts. Following the public hearing, the County Committee will study the proposal and will make a recommendation on feasibility to the State Board of Education, and Mrs. Elster noted that a study is currently underway to evaluate the proposal, which will include information provided by the affected districts, state sources, and other interested parties. She explained if the County Committee were to approve the proposal, the proposal would then go to an election; if the County Committee were to disapprove the proposal, the process would end. However, any district or petitioner may appeal the decision of the County Committee to the State Board of Education, but the State Board of Education has no timeline in which action must be taken. Lastly, she called attention to the information packet, which contains documentation required by Education Code section 35705.5(b) to be made available to the public regarding the proposed formation; it provides information on the rights of employees, governance structure, revenue limits, and election issues related to the proposal.

Chairperson Krapf then explained how the hearing would be conducted: the chief petitioners would have 15 minutes in which to present their proposals, each district would then have 15 minutes in which to make their presentations, and members of the public who would like to speak in support of or in opposition to the proposal would then have an opportunity to speak. He noted that if anyone does not have the opportunity to address the County Committee or if anyone runs out of time, comments in writing are encouraged. He cautioned speakers that they would have two minutes each in which to address the County Committee and that, following these speakers, a five-minute rebuttal period would be provided for the chief petitioners and each school district. He also asked that all handouts be distributed prior to public comments being provided and that the County Committee members receive copies of any handouts at this time. Dr. Krapf then invited the chief petitioners to come forward to make their presentation.

Owen Poole, Chief Petitioner, stated that he wished to speak on behalf of the landowners of the subject property with regard to the petition, and, as with the prior portion of the hearing, Mr. Poole requested permission to combine his presentation with that of OUESD Superintendent Rick Rogers rather than divide the two 15-minute presentations since this was a collaborative effort between the City of Oakley, the various developers, himself, and the Oakley UESD. Dr. Krapf indicated that perhaps the Knightsen ESD should present their comments first since this portion of the hearing was being hosted by that district, and then the Oakley UESD could present along with the petitioners and City of Oakley.

Vickey Rinehart, Superintendent, Knightsen ESD, called attention to maps with graphics to give everyone an idea of where the land in question is located. Ms. Rinehart proceeded to summarize some of the issues claimed by the Oakley UESD, which included community identity, the Oakley Orphan issue, and overcrowded schools. She then summarized the Knightsen ESD issues by noting that the subject property would allow the district to have 1,100 new homes in the district and would generate almost 600 students and \$12-15 million, which would provide a 50/50 match in building a school with help from the state; it would be a K-8 school, which is a highly approved model of education; and it would be a neighborhood school in the community. She noted that people would identify with Oakley because they will be living in that city, but they would also have an opportunity to identify with the Knightsen community. Ms. Rinehart stated that the levee, which is claimed to be temporary, may end up being permanent and that this levee alone would stop community identity and that its removal would be better for everyone. She pointed out that the \$3 million that would be generated annually from the homes for the Knightsen ESD would help the district grow and thrive and to expand its educational program and increase funding for

staff. She noted that Knightsen ESD teachers are paid about \$5,000 less per year than teachers of other districts, but they choose to remain in Knightsen; however, they deserve to be compensated appropriately. She added that Knightsen ESD would become more ethnically diverse if allowed to retain the territory. She stated that the nine criteria from the Education Code are not being met by this petition, and, therefore, the petition needs to be denied. She again noted that Oakley UESD will become overcrowded unless it gains the subject property in the Knightsen ESD, since they will be short half a school, but that this overcrowding issue should be resolved by Oakley UESD's shifting internal boundaries within its district just as every other district in the state does. In conclusion, she stated that the education provided in the Oakley UESD is just as excellent as that provided in the Knightsen ESD, but people choose to go to Knightsen because they like the small learning environment; it is that environment that they would like to continue providing in the new K-8 school. She then introduced Paul Thompson, an attorney from Pinnell and Kingsley, who has been working with the Knightsen ESD for the past two years on this situation.

Mr. Thompson pointed out that nine criteria must be met for a reorganization to be approved and that the California Code of Regulations sets forth a tenth criteria, which is "whatever the Committee deems appropriate," so that the Committee does have the power to consider whatever statement, fact, or otherwise that it deems important in making a decision in this matter. He noted that he had just submitted to the Committee a detailed analysis of each of the ten criteria but that he would only focus on the six that he felt were most important. He noted the following problems that the proposed reorganization would cause: it would leave Knightsen ESD with insufficient enrollment, it would result in substantial increased costs at both the county and state levels, it would result in racial and ethnic segregation, and it would significantly disrupt the continued growth of the educational programs in the Knightsen ESD. He contended that if the boundaries were to remain as they are, both districts would continue to thrive; therefore, it would make no sense to harm one district when there is an alternative that benefits both districts. He noted a statement made by petitioners earlier that the subject area is currently uninhabited and used that fact to theoretically render inapplicable many of the criteria. He countered that the ten criteria cannot be analyzed without taking into consideration the impact that would occur after an area has been developed and populated. He also noted that the petitioners, when it suited them, made their analysis of the criteria based on the assumption that the area would be developed. He then addressed the criteria as follows: With regard to the first criterion, the minimum enrollment set forth in the California Code of Regulations for an elementary school district is 901 students, and since Knightsen ESD currently has 485 and can expect 500-600 students from the development of the subject territory, it would be able to meet this minimum standard; however, if the reorganization proceeds, Knightsen ESD would continue to fall short of that minimum standard, and he urged the Committee to consider taking no steps that would cause Knightsen ESD's enrollment to remain below the minimum standard. With regard to the second criterion, he stated that if the petition were approved, there would be increased costs to the state and to the County and noted that if Knightsen ESD remained a smaller district, it would become more dependent on state and county funding, and significant legal costs would be incurred if an appeal to the state became necessary; also, if this reorganization were forced on a district's residents, it would create for them a mandated reimbursable SB 90 cost expense. With regard to the third criterion, he stated that local educational agencies have a constitutional obligation to prevent racial and ethnic segregation, and he presented statistics of both the Oakley and Knightsen school districts, which indicated that Knightsen ESD's student population is less diverse than Oakley UESD's. He further stated that allowing the territory to remain in the Knightsen ESD would present an extraordinary opportunity to diversify the student enrollment in both districts; otherwise, Oakley UESD's population would become more diversified while Knightsen ESD's would remain the same as it currently is. He noted that a statement had been made earlier that because the subject property is uninhabited, there would be no election; however, he informed the Committee that this is not quite correct because the law states that if the election area is uninhabited, then there is no election. He stated that the election area is defined by section 35756.5, which says it has to include the entire population of both districts and that it has to pass by a majority in Knightsen alone, and that this interpretation has been confirmed by the State Department of Education to him personally.

Owen Poole, representing the chief petitioners, spoke first as part of the combined presentation of the petitioners, Oakley UESD, and the City of Oakley, and he clarified that Eddie Biggs owns the subject property and that neither Oakley nor Knightsen owns it; therefore, until Mr. Biggs develops it, no one is taking anyone's property. He also noted that the two developers of the subject property worked cooperatively with all of the other developers in the area, and, therefore, although it does not make any difference whether the property is in the Knightsen ESD or the Oakley UESD, it is critical that the property all be included in one district. He stated that from the collective experience of the developers with whom he has worked, when it comes to selling homes, the cohesiveness of a community is very important. He then directed the Committee's attention to a map that showed the plans for the subject area.

Dick Loewke, an urban planner speaking on behalf of the City of Oakley, explained that this East Cypress Corridor Specific Plan Area is not a collage of individual development projects with homes; rather, it is a neighborhood. He stated that the requested boundary adjustment would help keep the planning area and the neighborhood whole. Rather than using a "Band-Aid" solution by providing interdistrict transfers to students living in the subject area and providing free busing, he stated that it would be better to have the services, such as parks, schools, etc., provided through a social fabric that serves the entire community. From a community development and community sustainability perspective, he asked the Committee to look beyond the quality of education, since both school districts are excellent, and to look beyond who is going to gain the most in money; instead, he would like them to consider the families and the children who will be living in the community. He stated that the City of Oakley spent five years putting this plan together, LAFCO endorsed it strongly, and the development community came together to implement it. He emphasized that this is not about schools and education; it is about social fabric, sustainability of community, and treating this as a neighborhood.

Dr. Rick Rogers, Superintendent of the Oakley UESD, began his presentation by stating that he stood corrected on the matter of there being a cost savings to the state of California related to school construction, since he heard Superintendent Vickey Rinehart state that the Knightsen ESD district plans to construct a school under the same 50/50 match formula as the Oakley UESD plans to do. Therefore, he noted, there would be an equal cost to the state rather than any additional cost to the state, according to Ms. Rinehart. He then addressed the ethnic distribution, and he distributed his own ethnic data statistics from the CBEDS portion of the state Department of Education Website to the Committee members, and he stated that he believes that there is no way that anyone can make any assumptions on this matter. He pointed out that he provided the differences in the numbers between the two districts by category and that the difference is as small as .3, not three percent. He also indicated that 11.5 of the Oakley UESD respondents chose not to respond with regard to ethnicity, whereas all of the Knightsen ESD responded with regard to ethnicity, which makes it difficult to compare the ethnicity of the two districts. He also noted that the land is uninhabited and there is no switching of a major demographic from one area to another. Lastly, he addressed the Knightsen ESD's allegation that he has been distributing materials to encourage students who are slated to attend the new Antioch USD school to stay in the Oakley UESD. He stated that his district sends out a letter every year outlining how to apply for an interdistrict attendance transfer and that this year those letters inform parents of their right to appeal any decision to the County Board of Education. As a result of feedback from the community, he identified a concern that parents were not being properly informed of their right to appeal; therefore, the letters that were mentioned by the Knightsen ESD were, in fact, simply these letters on interdistrict attendance transfer information and rights.

Harold Freiman, counsel for Oakley UESD, drew the Committee's attention to a document distributed by Oakley UESD that addresses the laws surrounding each of the points that Knightsen ESD's attorney had raised, and he encouraged the Committee members to read this information carefully. With regard to inhabited versus uninhabited territory, he noted that in his law firm's opinion and in the opinion of the petitioners, uninhabited territory is a critical consideration when looking at issues like those in this case. He clarified that nothing is being taken away from Knightsen ESD that is now in place or depriving them of existing population and that the Education Code consistently distinguishes between the treatment of inhabited territory and uninhabited territory for election purposes and for purposes of how a petition may be brought to the Committee. He also stated that, in their opinion, it is not the role of the County Committee to make sure that there are no school districts in this county that are under 901 students; nor is the

role of the County Committee to be concerned whether a school district ultimately has 901 students. Rather, he stated, it would be a concern of the County Committee as to whether or not an existing district of more than 901 students would be reduced to less than 901 students, which is the intent of the State Board of Education. He noted that the written materials and testimony provided by the Knightsen ESD illustrate that a school district is capable of being successful even with lower numbers of students. He also noted that, with the anticipated growth in the area, the Knightsen ESD will grow to more than 901 students if it is allowed to grow organically with the development already within it, and he noted that currently 600 homes are being built within the Knightsen ESD. With regard to the cost issues, he stated that this reorganization would result in the Knightsen ESD, at most, being left exactly as it is now financially. He also stated that a school district does not make a profit when more children are in attendance to allow for giving raises; rather, a school district becomes more fiscally stretched as more students come into it. Therefore, he questioned the statements made by the Knightsen ESD proponents that the district would gain \$3.1 million in operating expenses and \$12-15 million in developer fees; in particular, he does not understand how any developer fee that the Knightsen ESD could generate based on their fee studies and on the fees in place would generate any amount like that, which raises the concern that the state would have to spend more. He also stated that since the expense for building a school would be the same for either district, there would be no increased cost to the state and the criterion is met. With regard to discrimination, he stated that it is not the role of the County Committee or the reorganization process to fix problems of segregation or to desegregate school districts; rather, the County Committee should be concerned with whether there is a significant change that would render a school district segregated as a result of a reorganization. He quoted from the California Department of Education's Organizational Handbook that indicates that for a population shift to be considered to have a substantial impact where the criterion would not be met, the minority percentage would have to be more than 50-60% as a result of the proposed transfer or reorganization. He stated that this standard has not been met since the proposed reorganization does not represent anywhere near this percentage of change. With regard to the election, he stated that it remains the position of the Oakley UESD that there is not supposed to be an election if the area being discussed is uninhabited, and he based his position on Education Code section 35710.1 that became effective on January 1, 2006. He related a conversation he had had with Larry Shirey, who is responsible for school district organization issues, in which he had asked for the meaning of section 35710.1. He did note, however, that the question was rhetorical since Mr. Shirey and he had originally come up with the idea for this particular legislation while they were associated with Santa Clara County Office of Education. He stated that Mr. Shirey told him that the code section was intended to simplify the process of reorganizing small, uninhabited areas by not requiring elections. Lastly, he stated that the County Committee should consider the standards by looking at whether or not issues have a significant impact, and he alleged that the levels of significance in this particular case do not come with a high enough level of impact and that each of the criteria, therefore, has been met.

Dr. Krapf then invited proponents and opponents to speak, and he asked that each speaker keep his/her comments to two minutes or less so that the County Committee could accommodate as many speakers as possible. He then proceeded to call speakers forward in the order in which they had submitted speakers' cards. The following speaker spoke in favor of the proposed territory transfer: Greg Hetrick, principal, Delta Vista Middle School, Oakley. Reasons cited for supporting the proposed transfer of territory included the following: problems occurred when students in the Oakley Orphans area were unable to attend Oakley schools, and it would be better for the children who live in the proposed community to attend the same schools.

The following speakers spoke in opposition to the proposed territory transfer: Ray Witte, Special Education Director, Knightsen ESD; Kim Revel; Lynn Gursky, teacher, Knightsen ESD; Frank Dell, Trustee, Knightsen ESD; Theresa Estrada, principal, Knightsen Elementary School; Kay Carlile, teacher, Knightsen ESD; John Gonzales; Anthony Bettencourt; Bernadette Bettencourt; Jim Frank, Trustee, Knightsen ESD; Ron Nunn; Jeff Taylor; Al Simas; Diane Stockman; Regina McCarthy; Susan Dutra; Liesel Williams, Trustee, Knightsen ESD; Dorothy Walter, Trustee, Knightsen ESD; Clay Collins; and Linda Weegs. Reasons cited for opposing the proposed transfer of territory included the following: maintaining the territory in Knightsen ESD would allow an opportunity for the district to grow; if the Knightsen ESD is allowed to grow larger, special education services could expand and rely less on the County Office of Education or outside services; the Knightsen ESD calendar matches up better with the Liberty UHSD calendar,

which uses a modified traditional schedule; with a K-8 school, such as Knightsen ESD has, older siblings get to interact more with younger siblings, which strengthens family bonds; if the proponents of the territory transfer would like to see the entire area in one school district, perhaps consideration should be given to placing the entire area in the Knightsen ESD; this is all about the developers wanting to make the developments more marketable even if it means “crushing the little guy”; allowing the removal of one third of the Knightsen ESD would have a huge negative impact on the current students; this issue is contrary to the sense of community that exists in East County, and it is surprising that it was never discussed with the Knightsen ESD five years ago when the planning process began; with regard to community identity, children associate with where they live, not with where they go to school; many activities are provided through the Knightsen ESD until late in the evening and involve children from all over East County; research indicates that a K-18 model improves community and togetherness and increases parental involvement; some research indicates that, although no particular grade configuration has proven to be best for students, what has been determined to be best for students is the ultimate importance of skilled teachers, visionary leaders, and equitable fiscal resources, and Knightsen ESD has all of these elements; the boundaries of districts are formed so that the governing boards of each district can plan for the future; this entire matter is about money, and if a developer gets to deal with one district instead of two districts, it is probably because it is less expensive; one’s community includes the people that one chooses to be around, not necessarily the people who live nearby; history has taught us that, without growth, there is no survival, but growth at the expense of one’s neighbor is not honorable growth; when one side brings a lot of attorneys and specialists into a discussion, it really is about money; both Knightsen and Oakley students, unlike Antioch USD’s students, go on to attend the same high school; it might foster a good competitive environment for children living across the street from each other if they go to different elementary schools; most of a child’s interactions and emotional development occur at school, and a K-8 school offers more time for children to be together; by allowing the Knightsen ESD to build a new school in the subject area, a strong collaboration can be created among the teachers and administrators of both Knightsen schools; people throughout East County make highly positive comments about the Knightsen ESD; at Knightsen ESD, children are treated like individuals, not just numbers, and the children from Oakley will benefit from their experiences with Knightsen ESD, and they will derive their sense of community from Knightsen; it was noted that what attracts people to the Oakley area is the low cost of housing, not a sense of community as alleged by Oakley; there is no reason for Knightsen ESD to have to sacrifice its territory when the Oakley district could just make other plans; older children feel safer attending a K-8 school than a middle school; the Knightsen ESD provides community and continuity from kindergarten to eighth grade; Knightsen has many social and sports activities to offer, including the 4-H Club, which is the oldest 4-H Club in the state; Knightsen’s rural way of life and the environment of the school, where all the students know each other, is conducive to the students succeeding academically and learning character and life skills; it was pointed out that the Stockton school district plans to convert its middle schools and elementary schools to K-8 schools because it has been found that it is a successful model, reduces social problems in the high school students, and improves grades.

Chairperson Krapf announced that closing remarks would now be heard and stated the order in which they would be given.

Owen Poole, representing the chief petitioners, clarified that his earlier comments with regard to its not mattering to the developer whether the subject territory is either all in Oakley or all in Knightsen, he had meant to say that, from a developer’s perspective, there really would not be any economic benefit if it were in one or the other. Further, the developer would prefer that the territory be part of Oakley because the community would be more cohesive.

Dr. Rick Rogers, Oakley UESD superintendent, remarked that the K-8 configuration is not relevant to the criteria being considered by the Committee, and he feels that statistics can be suspect with regard to research. Therefore, he stated that he would remain cynical about such research until he knows whether or not it was done properly. He also stated that he could speak from experience on the K-8 issue in Stockton because his parents were teachers in Stockton and he currently lives in Stockton and that there is no proof of test scores rising since the Stockton school district has moved only a handful of students into a K-8 configuration. He also explained that because Stockton is a “Program Improvement” district, it chooses to address the concerns under No Child Left Behind by converting to a K-8 model, but he cautioned that it is very early to

make any assumptions about this particular configuration. He also addressed the passion expressed by the Knightsen citizens this evening, and he acknowledged that it is a wonderful place and that citizens are proud of their closeness, their smallness, the community, and their school. He noted that, while they should be proud of these things, there is an inherent conflict in that the rural area in and around Knightsen is about to change and will become more suburban. Therefore, it is simply reality that change is inevitable but that there will still remain a buffer of farmland between the housing development and most of Knightsen. Dr. Rogers informed the Committee that he would be submitting some additional documentation on this matter, and he reiterated that, from the district's perspective, they feel that an objective view would indicate that the criteria have clearly been met and that the transfer of territory would be in the best long-term interests of the students and the community as a whole. He thanked the Committee for coming all of the way out to Oakley and Knightsen to hear this matter.

Paul Thompson, an attorney from Pinnel and Kingsley representing Knightsen ESD, noted that, in response to Mr. Freiman's comments regarding enrollment statistics and the notion that it is not the Committee's job to bring undersized school districts up to size, the Committee was not being asked to do that. Rather, the Committee is being asked to leave a 100-year school boundary alone and allow the Knightsen ESD to grow. He also stated that it appears that the petitioners want to have it both ways in that, on the one hand, they are arguing that the Committee does not have to take affirmative steps to help districts, but, on the other hand, it is being asked to take the affirmative steps to match up Oakley city limits with the Oakley UESD boundary. If that were required, he noted, the State of California would have a monumental task ahead of it since most school districts in the state do not have school district boundaries that are contiguous with city boundaries. He stated that the Department of Education has opined that that is simply not a legal necessity, and it has been shown by comments offered tonight that community identity can surface with different boundaries. With regard to the election issue, he stated that the code provision that was referred to says, "not withstanding other areas of law." He alleged that if the election area is uninhabited, there shall be no election, but the appropriate election area would be up to the Committee to determine. He stated that he is very certain that the Legislature did not intend to let two developers take a 100-year-old piece of land from a school district without letting the residents weigh in on the matter.

Chairperson Krapf announced that the public hearing was now closed (9:13 p.m.).

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:13 p.m.

Ellen Elster, Secretary Designee
County Committee on School District Organization

These unadopted minutes are summaries and excerpts from the April 18, 2007, meeting of the Contra Costa County Committee on School District Organization.