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COUNTY DEFENDANT
NO FEE REQUIRED

5 Attorneys for Defendant,
6 Shanna White

7
8 **SUPERIOR COURT OF STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF TRINITY**

10 MICHAEL WEAR,
11 Contestant,
12 v.
13 SHANNA WHITE,
14 Defendant.

Case No. 17CV091

**NOTICE OF MOTION AND
MOTION TO DISMISS;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATIONS
IN SUPPORT THEREOF**

**Date: May 25, 2018
Time: 9:00 a.m.
Dept.: 1**

16 TO PLAINTIFF MICHAEL WEAR AND HIS COUNSEL OF RECORD:

17 PLEASE TAKE NOTICE that on May 25, 2018, at 9:00 a.m. in Department 1 of the
18 above-entitled Court, located at 11 Court Street, Weaverville, CA, defendant Shanna White
19 will, and hereby does, move the Court for an order dismissing this election contest, pursuant to
20 Code of Civil Procedure section 436.

21 This motion is brought on the grounds that defendant violated no Elections or
22 Education Code provisions in connection with the November 7, 2017 election in question, and
23 as a result, there is no basis for setting aside the results of said election, wherein the voters of
24 Trinity County approved a bond measure put forth by the Mountain Valley Unified School
25 District. The remaining allegations of plaintiff's verified complaint likewise should be
26 dismissed as irrelevant to the certification of the election contest in question.
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28

1 This motion is based upon this Notice of Motion, the Memorandum of Points and
2 Authorities in support thereof, and the Declaration of Shanna White, served and filed
3 concurrently herewith, as well as all the papers and records on file, and upon such other
4 matters as may be introduced into evidence at or prior to the hearing, and oral argument
5 presented at said hearing.

6
7 Dated: May 3, 2018

PRENTICE, LONG & EPPERSON

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10 By: 

KELLY SNOWDEN
Attorneys for Defendant,
Shanna White

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Michael Wear filed a verified Election Contest Statement on December 12, 2017.
4 In it, he alleges that mistake, error or misconduct occurred in the counting of ballots in the
5 November 7, 2017 Trinity County election wherein the Mountain Valley Unified School
6 District (hereafter “the District”) put forth a school bond ballot measure, identified as Measure
7 J, and as a consequence, the election results, in which the majority of participating voters –
8 65% -- approved Measure J, should not have been certified by defendant Shanna White, the
9 Trinity County Clerk/Assessor/Recorder and Elections official for Trinity County.

10 Plaintiff basis his claim of error on the part of defendant on the assertion – unsupported by
11 any statutory authority – that the District’s bond measure should not have been on the
12 November 7, 2017 ballot, because the Education Code does not allow school bond measures to
13 be the sole election on the ballot. Plaintiff also adds allegations directed at non-parties herein,
14 such as allegedly deceptive campaign materials put forth, presumably, by the District. See
15 Election Contest, §§ 13-14. There are also allegations of misconduct on the part of the
16 Elections office that are not claimed to have affected the outcome of the Measure J election
17 and consequently should be stricken as irrelevant and improper matters, pursuant to C.C.P.
18 section 436. See, e.g., §§ 17-19 of the Elections Contest (alleging that defendant failed to
19 provide notice to representatives of the “county central committee” prior to preparation of
20 elections machines; no allegation that any such machines malfunctioned, were negligently
21 prepared or tampered with, or had any effect on the election in question); Elections Contest pp.
22 5-6 (alleging unspecified violations of the Americans With Disabilities Act and unspecified
23 failings to count provisional or vote-by-mail ballots). Because the central tenet of plaintiff’s
24 Elections Contest is that Measure J should not have been on the ballot in the first place, the
25 boilerplate vote-counting allegations are simply irrelevant surplusage.

26 There is no legal authority for the relief plaintiff presumably (but not explicitly) seeks – an
27 order of this Court directing defendant to decertify the results of the Measure J bond election.
28 The undisputed evidence is that Measure J was placed on a “regularly scheduled local

1 election,” as required by the Education Code at issue. Regularly scheduled District Board
2 member seats were to be on the November 7, 2017 ballot; only the fact that there were fewer
3 candidates than there were open seats on the board rendered that election moot and caused it
4 not to appear on ballots.

5 Because there is no legal support for plaintiff’s claim of irregularity in this election,
6 defendant hereby moves this Court to dismiss the Election Contest in its entirety.

7 II. LEGAL ARGUMENT

8 A. NEITHER THE ELECTIONS CODE NOR THE EDUCATION CODE PRECLUDED 9 MEASURE J FROM BEING ON THE NOVEMBER 7, 2017 BALLOT.

10
11 Plaintiff claims that defendant placed on the November 7, 2017 ballot a “fraudulent
12 Proposition 39 bond election ordered by the Mountain Valley Unified School District on June
13 14, 2007.” Election Contest, § 7. He further alleges that defendant proceeded with an election
14 “at which the only item on the ballot for district voters was Measure J, a \$5,950,000 bond.” *Id.*

15 What plaintiff refers to as Proposition 39 is codified in the Education Code as the Strict
16 Accountability in Local School Construction Bonds Act of 2000, known on the election ballot
17 as AB 1908 (hereafter “the Act”). The Act modified certain sections of the Education code
18 relating to raising money for school improvements via bonds. As summarized by the
19 California Legislative Service, the Act would offer an alternative to existing bond measures
20 that required a 2/3 vote to pass. “This bill would provide that... the governing board of a
21 school district... may, pursuant to a 2/3 vote of the governing board, pursue the authorization
22 and issuance of bonds by a 55% vote of the electorate, at a primary or general election, a
23 regularly scheduled local election, or a statewide special election, subject to certain additional
24 requirements.” 2000 Cal.Legis.Serv, Ch. 44 (A.B.1908) (West); Educ. Code § 15266.¹

25
26 ¹ The additional requirements include, *inter alia*, the requirement that the ballot advise voters that the board will
27 appoint a citizens’ oversight committee and conduct annual independent audits to ensure funds are used only for
28 school and classroom improvements (Educ. C. § 15272); addresses the maximum percentage of taxable property
in the district (Educ. C. § 15268, 15270); and sets forth some of the duties of the oversight committee (Educ. C. §
15282). Plaintiff does not raise any issues with regard to the Act other than the election-related requirements of
section 15266.

1 Plaintiff's complaint herein is that "in the case of Mountain Valley District [sic], there was
2 no other election on the ballot on November 7, 2017." Election Contest, § 9. The question
3 raised in this motion to dismiss is: was Measure J part of a primary or general election, a
4 regularly scheduled local election, or a statewide special election? The answer, set forth below
5 and demonstrated conclusively by the documentation attached as exhibits to the accompanying
6 declarations, is *yes*.

7 1. Measure J Was Included In a County-Wide Election.

8 A brief review of the documents attached to the Elections Contest reflects that there were
9 multiple elections occurring in Trinity County on November 7, 2014. In addition to Mountain
10 Valley and other Unified School District elections, there were also several community service
11 district elections – 33 in all. (See also Declaration of Shanna White, Exhibit "B.") Clearly, this
12 qualified as a "general election" and/or a "regularly scheduled local election" as contemplated
13 by Educ. C. § 15266.

14 2. Measure J Was Part of a "Regularly Scheduled Local Election of the District."

15 Plaintiff also conflates the "regularly scheduled local election" language of section 15266
16 with an *actually held* election. As the accompanying declaration and supporting documents
17 establish, the District scheduled an election of three seats on its Board for the November 7,
18 2017 election. A Notice of Elections was then published in the Trinity Journal on August 2,
19 2017. See Declaration of Shanna White, Ex. "B." The Notice set forth 33 separate elections to
20 take place on November 7, 2017 – including the District, which has two 2-year and one 4-year
21 board seats up for election. *Id.*

22 As set forth in defendant's declaration, however, there were too few properly registered
23 candidates for those three positions to proceed to the actual ballot. White Decl., ¶ 5.
24 Consequently, there was no need for the board member election to proceed to ballot.

25 Nevertheless, the election which included Measure J qualifies as a "regularly scheduled
26 local election" of the District. Case law is directly on point on this issue. In *Silicon Valley*
27 *Taxpayers' Assn. v. Garner* (2013) 216 Cal.App.4th 402, plaintiffs filed a petition for writ of
28 mandate challenging the placement of Measure A (a 10-year, 1/8-cent sales tax increase) on the

1 November 2012 general election ballot by the County of Santa Clara. Plaintiffs claimed that
2 Proposition 218 required such tax increase measures to be placed on the ballot only with a
3 regularly scheduled general election for members of the local government's governing body.
4 Because no members of the local government's governing body were actually on the ballot,
5 claimed plaintiffs, the voters should not have been allowed to vote on Measure A. *Silicon*
6 *Valley Taxpayers' Assn. v. Garner, supra*, 216 Cal.App.4th at 404. This argument exactly
7 tracks plaintiff's complaint here, *viz.*, that voters in the District should not have been allowed
8 to vote on Measure J because it was the only matter actually on the ballot. (See Election
9 Contest, ¶ 8: "[t]he law exists to protect district taxpayers by prohibiting low-voter-threshold
10 (55%) bond measures at an election where the bond measures are the only items on the
11 ballot.")

12 The trial court, and the court of appeal, rejected plaintiffs' argument in *Garner, supra*. In
13 *Garner*, the candidates for the available Board seats ran unopposed, and as such, were elected
14 during the primary election; there was no need to proceed to a vote during the general election
15 that November. *Garner, supra*, 216 Cal.App.4th at 407-408. Plaintiffs there erroneously
16 contended that because there were no Board candidates on the *actual* November ballot, it
17 violated the requirements of Proposition 218. The *Garner* court made short shrift of the
18 contention. "The scheme [Proposition 218] does not contemplate the counterintuitive notion
19 that a regularly scheduled election can simultaneously be 'not regularly scheduled' in the event
20 a contingency occurs to make the election unnecessary." *Id.* at 408. "Plaintiffs' interpretation
21 of Proposition 218 changes the meaning of 'regularly scheduled' to 'actually scheduled.'"
22 *Ibid.*

23 This same analysis squares perfectly here. The undisputed evidence is that the District
24 "regularly scheduled" an election in which there would be *both* Measure J and the Board seat
25 election on the November 7, 2017 ballot. A contingency – very similar to that which occurred
26 in *Garner* – arose, that being the dearth of qualified candidates for the three Board seats
27 standing for election. The election of Board members is the very definition of a "regular
28 election," in that it is one "which recurs at stated intervals as fixed by law; it is one that occurs

1 at stated intervals without any superinducing cause other than the efflux of time.” *County of*
2 *Alameda v. Sweeney* (1951) 151 Cal.App.2d 505, 511-512. As set forth in the exhibits to Ms.
3 White’s declaration, the three Board positions were for limited terms – two were 2-year seats,
4 and one was a 4-year seat. The November 2017 election was the legally-mandated time for the
5 District to fill seats left empty by the expiration of their former holders’ terms.

6 The *Garner* court went on to emphasize that the plaintiffs’ presumed cause – tax reform –
7 was undermined by their efforts to prevent this particular measure from being voted on. “To
8 interpret ‘regularly scheduled general election’ to mean ‘actually scheduled general election’
9 would limit the opportunities for taxpayers to vote on taxes and thereby contravene one of the
10 stated objectives of Proposition 218.” *Garner, supra* at 409. Similarly, here, plaintiff, who
11 purports to be the protector of the integrity of elections, would derail a properly scheduled
12 election, which in this case included a bond measure that would have afforded the District the
13 funds necessary to conduct required school building repairs and upgrades, due to nothing more
14 than the unanticipated and unpredictable dearth of qualified candidates for the regularly-
15 scheduled Board election. The argument quite counterintuitively suggests, as a solution to a
16 District which seeks to avoid any delay occasioned by the failure of enough candidates to
17 throw their hats into the ring, that it set a special election just for the bond Measure!

18 Regardless, as *Garner* makes clear, “the stated objective to enhance taxpayer consent
19 supports that ‘regularly scheduled general election’ means ‘regularly scheduled general
20 election’ rather than ‘actually scheduled general election.’” *Id.* at 410. Applied, here, the fact
21 that an election of Board members was *regularly scheduled* for the November 2017 ballot is
22 sufficient to conform to the requirements of Education Code § 15266. The unforeseen
23 circumstance that there were not enough candidates to make an *actual scheduled* election take
24 place does not change its nature. This was not an election called by the District on a date upon
25 which there was not already a regularly scheduled election, such as on a date between June
26 primaries and the November election, nor was it an election called solely for the determination
27 of Measure J. While it may have turned out that way – much to plaintiff’s dismay – it was not
28 so intended, nor devised.

1 Consequently, plaintiff's central claim – that Measure J was not voted on as part of a
2 regularly-scheduled local election – fails. As that is the sole claimed basis for his challenge of
3 the November 7, 2017 election, this motion to dismiss his election contest should be granted.

4 **B. THE REMAINING ALLEGATIONS OF THE ELECTIONS CONTEST ARE**
5 **FATALLY VAGUE AND DO NOT AFFECT THE CERTIFICATION OF THE**
6 **APPROVAL OF MEASURE J BY DISTRICT VOTERS.**

7 Plaintiff's remaining allegations and contentions fail to address any matters which, even
8 assuming the allegations to be true, would affect the outcome of the election in which the
9 District's voters overwhelmingly approved Measure J.

10 1. Plaintiff's Allegations Against the District.

11 Plaintiff alleges that the District's campaign materials were "deceptive," and that its
12 financial advisor did a campaign survey, the results of which were supposedly used to
13 formulate the question posed to voters in their ballots. See Elections Contest, ¶¶ 13-14.
14 Unfortunately, plaintiff did not name the District as a defendant in this action, nor does he
15 allege under what authority defendant, the Elections official of Trinity County, had the right –
16 let alone the *duty* – to scrutinize and either approve or disapprove of the District's campaign
17 practices. Absent any such authority, the alleged misdeeds of the District cannot be placed at
18 defendant's feet. Nor does plaintiff cite any authority that even if such misdeeds were
19 presumed to have occurred, it would oblige defendant, or this Court, to decertify the results of
20 the election.

21 Because the resolution of these allegations, even in plaintiff's favor, cannot authorize the
22 relief he seeks, they are surplusage and should be stricken from the Elections Contest.

23 2. Plaintiff's Alleged Voting Machine Improprieties.

24 Plaintiff next alleges that before preparing a voting machine for any "general election," the
25 elections official must first mail written notice to the chairperson of the "county central
26 committee of at least two of the principal political parties," stating when and where the
27 machine will be prepared. Then, at said time and place, a "party representative" must be
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1 afforded an opportunity to see that the machine is in proper condition for use. Plaintiff further
2 alleges that defendant did not notify said chairperson of said “county central committee,” and
3 as a result, the observation did not occur. See Elections Contest, ¶¶ 17-19.

4 These *non sequitur* allegations, like those regarding the complaints against the District, are
5 bereft of factual support and, even if somehow true, there is no legal authority cited by plaintiff
6 to suggest that the result of such miscarriage is the decertification of the election. As set forth
7 in Ms. White’s declaration, however, there has never been a verified Trinity County “central
8 committee” of any party, negating any supposed requirement (or even the opportunity) to
9 provide notice to same. See White Declaration, ¶ 6. These allegations are simply more
10 surplusage and should be stricken.

11 3. Plaintiff’s Americans With Disabilities Act Allegations.

12 Plaintiff next alleges that defendant is obliged to comply with the Americans With
13 Disabilities Act, and that defendant violated plaintiff’s ADA rights by not allowing sufficient
14 access to observation and participation in the elections process. Copies of two out-of-focus
15 photographs, *sans* explanation, attached to the Elections Contest, are referenced in these
16 allegations. See Elections Contest, p. 5.

17 As with the other surplus allegations enumerated above, plaintiff does not provide any
18 factual or legal support for this alleged violation. Plaintiff does not state in what manner he
19 has rights under the ADA, or what condition he has which requires accommodation; he does
20 not state in what manner any accommodation was requested, or if it was refused or not fully
21 complied with; he does not specify in what way his “observation and participation” in the
22 election process was impeded by said lack of accommodation; and he certainly does not
23 elucidate how such a failure to accommodate under the ADA should decertify the results of the
24 election on Measure J. These allegations should likewise be stricken.

25 4. Plaintiff’s Boilerplate Election Errors Allegations.

26 The remainder of plaintiff’s allegations are allegations that are typically brought in the
27 context of election challenges seeking a recount of ballots, such as ballots not being processed
28 and counted (Elections Contest, p. 5); “vote-by-mail” and/or provisional ballots not processed

1 and counted (*Id.*, p. 6); and unknown numbers of “permanent vote-by-mail” ballots were not
2 counted (*Ibid.*).

3 Again, the thrust of the Elections Contest is not that the passage of Measure J should not
4 have been certified by defendant because it did not receive the requisite number of votes due to
5 such failures to count provisional or vote-by-mail ballots; the measure was passed with far
6 more support than the 55% required by statute. Plaintiff instead challenges the certification of
7 the election because it shouldn’t have been on the November 7, 2017 ballot in the first place.
8 As discussed in detail above, this argument lacks merit; so, too, the boilerplate miscounted-
9 ballot arguments incongruously included in the Contest. If plaintiff seeks to challenge the
10 certification of the Measure J election on the grounds that improperly excluded ballots would
11 have affected the outcome of the vote, such that the bond measure did not pass the 55%
12 threshold, he must first concede that the measure was properly on the ballot in the first
13 instance. Likewise, if the election should be decertified simply because it should not have been
14 on the November ballot, there is no need to raise the unsupported specter of uncounted ballots.
15 As yet more surplusage, these allegations should be stricken.

16 III.

17 CONCLUSION

18 Contrary to plaintiff’s assertions, Measure J was placed onto a “regularly scheduled
19 local election,” was properly considered by voters in the District, and overwhelmingly passed
20 by them. This meritless election challenge has served only to cause expense, delay and
21 consternation within the District, which needs to proceed with the voter-approved repairs and
22 other work on its school buildings. As the contest fails as a matter of law, there is no factual
23 issue to resolve, and consequently, this Court should grant this motion, dismiss the election
24 challenge, and vacate the scheduled trial date.

25 Dated: May 3, 2018

PRENTICE, LONG & EPPERSON, PC

26 By: 

27 KELLY J. SNOWDEN
28 Attorneys for Defendant, Shanna White

PROOF OF SERVICE

I, Gina M. Toombs, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action. My business address is 2240 Court Street, Redding, CA 96001. On May 3, 2018, I served the within document(s):

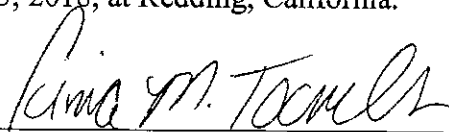
NOTICE OF MOTION AND MOTION TO DISMISS; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION IN SUPPORT THEREOF

- Via electronic/email service, the document(s) listed above were served via email to the email address as set forth below on this date.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Redding, California, addressed as set forth below.

Diane E. DePould
P.O. Box 241915
Los Angeles, CA 90024
E-Mail: DePould@gmail.com

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 3, 2018, at Redding, California.



Gina M. Toombs

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6 Attorneys for Trinity County
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF TRINITY**
10

11 MICHAEL WEAR,
12 Contestant,
13 vs.
14 SHANNA WHITE,
15 Defendant.

Case No. 16 CV 0068

**DECLARATION OF SHANNA
WHITE IN SUPPORT OF
MOTION TO DISMISS VERIFIED
ELECTION CONTEST
STATEMENT**

Date: May 25, 2018
Time: 9:00 a.m.
Dept.: 1

18 SHANNA WHITE HEREBY DECLARES:

- 19
- 20 1. I hold the office of Trinity County Clerk/Assessor/Recorder, and was the principal
21 Elections official for Trinity County for the November 7, 2017 Consolidated
22 District Election. The following statements are based upon my personal
23 knowledge, and if called upon, I could and would truthfully testify to the veracity of
24 the following statements, except for those offered upon information and belief, and
as to those matters, I believe them to be true.
 - 25 2. Attached hereto as Exhibit "A" is a true and correct copy of the School District Fact
26 Sheet, completed by the Mountain Valley Unified School District (hereafter "the
27 District"), setting forth the elective officer seats up for election in the November 7,
28

1 2017 consolidated general election. As with all other unified school districts in
2 Trinity County, the District has board members who sit for specified terms of four
3 or two (i.e., short term) years. The District's board members are all elected, and the
4 District's board member elections take place at regular, scheduled intervals, as part
5 of the county-wide elections held in November of each year. For the November 7,
6 2017 election, there were two short-term (2-year) seats open, and one full-term (4-
7 year) seat open.

- 8 3. Attached hereto as Exhibit "B" is a true and correct copy of the Affidavit of
9 Publication of public notice of election, in which, among many other contests, the
10 Mountain Valley Unified School District lists the positions up for election in the
11 November 7, 2017 consolidated district election. This publication is part of my role
12 in consolidating the District's board member election with the many other elections
13 to be included in the November 7, 2017 county-wide election, which included
14 similar elections for other unified school districts and multiple community services
15 districts, as well – 33 in all.
- 16 4. Attached hereto as Exhibit "C" is a true and correct copy of the Impartial Analysis
17 performed by Trinity County Counsel Margaret E. Long, regarding the school bond
18 ballot measure proposed by the Mountain Valley Unified School District for
19 inclusion in the November 7, 2017 consolidated general election. Although not at
20 that time provided a alphabetical designation, the ballot measure referenced in the
21 Impartial Analysis became Measure J.
- 22 5. The only reason that the November 7, 2017 ballot for District voters did not include
23 a list of candidates for the three open Board seats is that fewer than three qualified
24 candidates stood for election. Consequently, there was no need for the voters to
25 choose among the existing candidates, and Measure J was the only item for the
26 District's voters to decide upon on the ballot. Nevertheless, this was a regularly-
27 scheduled local election for the District, and had there been sufficient qualified
28 candidates for the voters to decide between, the ballot would have so indicated.

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6. During my tenure as Trinity County Clerk/Assessor/Recorder, I have never been informed by any of the principal, organized political parties that they have formed a “county central committee” in Trinity County, and I am informed and believe, and upon that basis aver, that no such “county central committee” existed prior to my assuming the position of Clerk/Assessor/Recorder. I therefore have no such county apparatus to notify when voting machines are prepared for an election.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Dated this 3rd of May, 2018, at Redding, California.

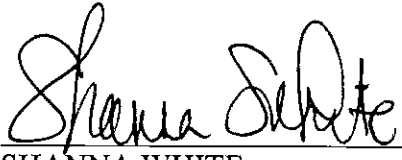

SHANNA WHITE

EXHIBIT A

CONSOLIDATED GENERAL ELECTION
NOVEMBER 7, 2017
SCHOOL DISTRICT FACT SHEET

The Mountain Valley Unified SCHOOL DISTRICT Fact Sheet must be completed & returned with the following information no later than July 5, 2017

1. INCUMBENT INFORMATION

I have reviewed the enclosed "Incumbent List by Office" information for the elective officers of the district according to our records. (Check where applicable)

The information is correct

The information is incorrect. I have marked needed changes and have listed the dates of vacancy and appointment if they are different from the information on the form

Number of Full Term seats up for election: 1

Number of Short Term seats up for election: 2

2. CANDIDATE STATEMENT

The following entity will be responsible for paying the candidate statement costs (\$275.00). (Check One)

Candidate

District

3. QUALIFICATIONS FOR OFFICE AS REQUIRED BY THE DISTRICT'S PRINCIPAL ACT

As of 2016, our records show that your district's qualifications for office are:

* A candidate must be a resident and registered voter of the district.

Please check the appropriate box below.

The qualifications listed above are correct and have not changed.

The qualifications for office have changed. These changes made in our district Principal Act are listed below:

4. DISTRICT BOUNDARIES

No changes to district boundaries

Changes have been made to district boundaries since 2015. I have provided a map or list of completed annexation numbers since district's last regular election.

5. RESOLUTION CALLING FOR ELECTION Elections Code §10002

Enclosed is the resolution adopted by the District Board members. The resolution may include a Request for Consolidation, designation of who will pay for the Candidate Statements, and acceptance of the Elections Office estimated cost for printing and distributing the Candidate Statement.

Other

6/14/17
DATE

Peggy Halderman
BOARD PRESIDENT OR DISTRICT SECRETARY

Peggy Halderman
PRINTED NAME

PO Box 339
MAILING ADDRESS

Hayfork, CA 96041
MAILING ADDRESS

530-628-5265 ext 121
AREA CODE / PHONE NUMBER

(1) DISTRICT SEAL

Order of Election

(Education Code Sections 5000, 5018, 5304, and 5322)

Resolution No. 2016/17-28

ORDERING GOVERNING BOARD MEMBER ELECTION

WHEREAS, the regular biennial election of governing board members is ordered by law pursuant to Section 5000 of the Education Code to fill offices of members of the governing board of the Mountain Valley Unified School District, of Trinity County.
(School District)

NOW BE IT RESOLVED that the County Superintendent of Schools for this county call the election as ORDERED and in accordance with the designations contained in the following Specifications of the Election Order made under the authority of Education Code Sections 5304 and 5322.

SPECIFICATIONS OF THE ELECTION ORDER

The election shall be held on Tuesday, November 7, 2017.

The purpose of the election is to elect 3 members of the governing board of the Mountain Valley Unified School District.
(School District)

IT IS FURTHER ORDERED that the clerk or secretary of the district shall deliver not less than 123 days prior to the date set for the election, one (1) copy of this Resolution and Order to the County Superintendent of Schools and one (1) copy to the officer conducting the election.

Mountain Valley Unified School District has determined that the Candidate will pay for the Candidate's Statement.
(School District) (Candidate or District)

The Candidate's Statement will be limited to 200 words. The Candidate shall pay the estimate cost at the time of filing their Declaration of Candidacy. The County hereby establishes the estimated cost for a candidate statement as the following: \$275.00.
(Candidate or District)

Mountain Valley Unified School District directs that the County Registrar of Voters of the principal county publish the Notice of Election in a newspaper of general circulation that is regularly circulated in the territory.
(School District)

The Board hereby requests and consents to the consolidation of this election with other elections which may be held in whole or in part of the territory of the district, pursuant to Elections Code 10400.

Mountain Valley Unified School District will reimburse the county for the actual cost incurred by
(School District)
the county elections official in conducting the general district election upon receipt of a bill
stating the amount due as determined by the elections official.

The Clerk of this Board is ordered to deliver copies of this Resolution to the Registrar of Voters.

The foregoing Resolution and Order was adopted by a formal vote of the governing board of the
Mountain Valley Unified School District, being the board authorized by law to make the
(School District)
designations herein contained on June 14, 2017.

Signed: Nancy Johnson
(Clerk/Secretary of the Governing Board)

AYES: 5

NOES: 0

ABSENT: 0

ABSTAINED: 0

Instructions: After the Order of Elections is adopted by the board, the clerk or secretary should sign the Order and deliver two (2) copies to the county superintendent of schools and one (1) to the officer conducting the election not less than 123 days prior to the date set for the election (Education Code 5322). One (1) of these copies is to be delivered by the county superintendent to the county clerk or registrar of voters, with a copy of the Notice of Election, at least 120 days prior to the day of election (Education Code 5324).

(1) Instructions: If the election is called under Education Code 5018 insert:

"Another purpose is the measure whether the number of members of the governing board of Trinity County Office of Education shall be increased from three to five."

"Another purpose of the election shall be to elect two additional members of the governing board of Trinity County Office of Education to serve if the above measure is approved."

Mountain Valley Unified School District ~

Area 1 (Hayfork/Woodford) = 4; Area 2 (Hyampom) = 3 Total = 3

Member	City	PO Box	Phone	CA	SSN	Area	Short	Appointed	5 Member District
Clark Winter	Hayfork	PO Box 338	(530) 428-1033	CA	98041	Area 1	Full	12/01/17	08/10/18 Rep
Member Ferguson	Hayfork	PO Box 338	(530) 428-1072	CA	98041	Area 1	Full	12/01/17	12/01/18 Member
President Schrock	Hayfork	PO Box 338	(530) 428-1074	CA	98041	Area 2	Full	12/01/17	12/14/18
Member Riggs	Hayfork	PO Box 338	(530) 428-1018	CA	98041	Area 1	Full	12/01/18	12/01/18
Member Yates	Hayfork	PO Box 338	(530) 428-1015	CA	98041	Area 1	Full	12/01/18	12/01/18
Member Riggs	Hyampom	PO Box 346	(530) 428-1000	CA	98046	Area 2	Full	12/01/18	12/01/18
Member Musulas	Hayfork	PO Box 33	(530) 428-1022	CA	98041	Area 4	Full	12/01/18	12/01/18

Cindy Winter - cwinter@mvsd.us
 Nancy Ferguson - N Ferguson@mvsd.us
 Jennifer Schrock - JSchrock@mvsd.us
 Angela Riggs - ARiggs@mvsd.us
 Diane Yates - dyates@mvsd.us

EXHIBIT B

Affidavit of Publication

No.

{ Trinity County Elections
P.O. Box 1215
Weaverville, CA 96093
{

STATE OF CALIFORNIA
SS.
COUNTY OF TRINITY

Wayne R. Agner of the said County, being duly sworn, deposes and says:

That he is and at all times herein mentioned was a citizen of the United States, over the age of twenty-one years and that he is not a party to, nor interested in the above entitled matter;

That he is the publisher of The Trinity Journal, a newspaper of general circulation published in the Town of Weaverville, County of Trinity, and which newspaper at all times herein mentioned had and still has a bona fide subscription list of paying subscribers, and which newspaper has been established, printed and published at regular intervals in the said Town of Weaverville, County of Trinity, for a period exceeding one year next preceding the date of publication of the notice hereinafter referred to; and which newspaper is not devoted to nor published for the interests, entertainment or instruction of a particular class, profession, trade, calling, race, or denomination, or any number of same; that the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

August 2, 2017

I hereby certify under penalty of perjury that the foregoing is true and correct. Executed at Weaverville, California, on the 2nd day of August, 2017.

Wayne R. Agner
WAYNE R. AGNER
Publisher CJ

AFFIDAVIT OF PUBLICATION OF

PUBLIC NOTICE
"Notice of Elections"

BY TRINITY JOURNAL

RECEIVED

AUG 07 2017

TRINITY COUNTY
CLERK/RECORDER/ASSESSOR

See Attachment.

NOTICE OF ELECTIONS

NOTICE OF ELECTION

NOTICE IS HEREBY GIVEN in accordance with the provisions of the California Elections Code that a Consolidated District Election will be held on the Tuesday, November 7, 2017 for the following positions:

District	# of Positions	
	2 year term	4 year term
Coffee Creek Volunteer Fire District.....	1	4
Douglas City Community Services District.....	1	3
Greater Hayfork Valley Park & Recreation District.....	2	3
Hayfork Fire Protection District.....	0	3
Hyampom Community Services District.....	0	2
Lewiston Community Services District.....	0	3
Post Mountain Public Utilities District.....	2	3
Ruth Lake Community Services District.....	0	2
Salyer Community Services District.....	1	3
Trinity Center Community Services District.....	1	3
Trinity Public Utilities District.....	0	2
Weaverville Community		

Services District.....	0	3
Weaverville/Douglas City Park & Recreation District.....	2	3
Weaverville Fire Protection District.....	0	2
Weaverville Sanitary District.....	2	3
Burnt Ranch School District.....	1	2
Coffee Creek School District.....	0	1
Douglas City School District.....	1	2
Junction City School District.....	0	2
Klamath Trinity Joint Unified School District - Area 1.....	0	1
Lewiston School District.....	2	3
Mountain Valley Unified School District - Area 1.....	2	1
Southern Trinity Joint Unified School District - Area 1.....	0	2
Southern Trinity Joint Unified School District - Area 2.....	1	0
Southern Trinity Joint Unified School District - Area 3.....	0	1
Trinity Alps Unified School District - Area 1.....	0	1
Trinity Alps Unified School District - Area 2.....	0	1
Trinity Alps Unified School District - Area 4.....	0	1
Trinity Center School District.....	1	2
Trinity County Office of Education - Area 1.....	1	0
Trinity County Office of Education - Area 2.....	1	0
Trinity County Office of Education - Area 4.....	0	1
Trinity County Office of Education - Area 5.....	0	1

Declaration of Candidacy papers for eligible candidates may be obtained from the Elections Office located at 11 Court Street, Weaverville, CA, (530) 823-1220 on or after July 17, 2017. Declaration of Candidacy papers must be filed with the Elections Office no later than 5:00 p.m. on August 11, 2017. In the event an incumbent does not file Declaration of Candidacy papers by August 11, 2017; the deadline for any eligible candidate other than the incumbent is extended until 5:00 p.m. on August 16, 2017.

August 2, 2017

RECEIVED
 AUG 01 2017
 TRINITY COUNTY
 CLERK/RECORDER/ASSESSOR

RECEIVED
 AUG 07 2017
 TRINITY COUNTY
 CLERK/RECORDER/ASSESSOR

EXHIBIT C

TC
Elections

IMPARTIAL ANALYSIS BY COUNTY COUNSEL
OF THE MOUNTAIN VALLEY UNIFIED SCHOOL DISTRICT
GENERAL OBLIGATION BOND OF 2017

MEASURE " "

This is a ballot measure to establish a General Obligation Bond for the Mountain Valley Unified School District ("District").

If approved by the voters, Measure " " would authorize the District to issue and sell bonds aggregating up to a \$5,950,000 principal balance. The funds raised by the sale of the bond are intended to be used to provide financing for the specific school facilities projects as well as to qualify for State matching grant funds.

The price per bond, term of bond and interest rate are not specified in the measure, but are indicated to not exceed the statutory or legal limits.

The District Board of Trustees shall establish an independent Citizen's Oversight Committee to ensure bond proceeds are spent only for the school facilities projects listed in the Bond Project List and the Board shall conduct annual audits to ensure funds are expended appropriately.

The projects in the Bond Project List are as follows:

- Make health and safety improvements, including mold, lead and asbestos abatement
- Upgrade inadequate electrical systems
- Upgrade and replace heating/air conditioning units
- Modernize outdated classrooms, restrooms, and school facilities
- Improve student access to computers and modern technology
- Repair or replace leaky roofs
- Update/renovate playgrounds, play structures and PE fields and facilities for school and community use
- Modernize/renovate classrooms to meet 21st Century educational standards
- Replace outdated and energy-inefficient windows
- Federal and State-mandated Americans with Disabilities Act (ADA) accessibility upgrades including site access, parking, staff and student restrooms, relocation of some existing electrical devices, drinking fountains, playground equipment, etc.
- Make water conservation improvements
- Upgrade School site parking, roadways, utilities and grounds
- Abate and remove hazardous materials identified prior or during construction
- Repair, replace and/or upgrade paved surfaces, turf, and other grounds to eliminate safety hazards and improved outside instructional areas
- Pay or prepay interim funding, including lease obligations and certificates of participation, which was used to advance fund the projects listed above.

The District retains authority to use bond funds for joint-use projects with other public agencies or nonprofit organizations.

There are no provisions for securing the bond either through State of California full faith and credit backing or levying of property taxes.

This measure will pass if fifty-five percent (55%) of the registered voters cast a "Yes" vote and will authorize Mountain Valley Unified School District to issue and sell bonds up to \$5,950,000 aggregate principal amount. If Measure "___" fails, Mountain Valley Unified School District shall not be authorized to issue and sell bonds.

The above statement is an impartial analysis of Measure "___." If you desire a copy of the measure, please call the Trinity County elections official's office at 530-623-1220 and a copy will be faxed or mailed at no cost to you.

County Counsel

By:



Margaret Long

CERTIFICATE OF SERVICE

I, Gina M. Toombs, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action. My business address is 2240 Court Street, Redding, CA 96001. On May 3, 2018, I served the within document(s):

**DECLARATION OF SHANNA WHITE IN SUPPORT OF MOTION TO DISMISS
VERIFIED ELECTION CONTEST STATEMENT**

X via electronic/email service, the document(s) listed above were served via email to the email address as set forth below on this date.

X by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Redding, California, addressed as set forth below.

Diane E. DePould
P.O. Box 241915
Los Angeles, CA 90024
E-Mail: DePould@gmail.com

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 3, 2018 at Redding, California.



Gina M. Toombs