

**Santa Monica-Malibu Unified School District
Board of Education Meeting
UPDATE TO THE AGENDA**

June 25, 2009

CLOSED SESSION

- Public Employee, to consider appointment, employment, performance evaluation, or dismissal of employee pursuant to GC§54957, as cited in the Brown Act (Director, Teacher)
ADD: Employee title

CONSENT AGENDA

- A.15 ~~Award Bid #10.02— Districtwide Safety Improvement Child Care Facilities to TBD~~ Adopt Resolution No. 08-52 – Award of Contract for Modernization Work District-wide: Child Development Safety Projects
ADD: Replace item (*p.2-4 of this Update*)

MAJOR ITEMS

- A.43 Appoint Members to the Measure BB Advisory Committee
EDIT: Names of Applicants (*pp. 5-6 of this Update*)
- A.45 ~~Conduct Public Hearing on Resolution of Necessity and~~ Adopt Resolution No. 08-48 – Resolution of Necessity Authorizing an Eminent Domain Action to Acquire Real Property for the Expansion and Reconstruction of the Edison Language Academy
EDIT: Title and recommendation (*pp. 7 of this Update*)
- A.51 Adopt Resolution No. 08-49 – Findings and Adoption of Mitigated Negative Declaration, Mitigation Monitoring & Reporting Program, & Approval of the Malibu High School Football Lighting Project
EDIT: Language of the item and resolution (*pp. 8-13 of this Update*)

DISCUSSION ITEMS

INFORMATION ITEMS

SW

TO: BOARD OF EDUCATION

ACTION/CONSENT

06/25/09

FROM: TIM CUNEO / JANECE L. MAEZ / VIRGINIA I. HYATT **UPDATE**

RE: ADOPT RESOLUTION NO. 08-52 - AWARD OF CONTRACT FOR
MODERNIZATION WORK DISTRICT-WIDE: CHILD DEVELOPMENT
SAFETY PROJECTS

RECOMMENDATION NO. A.15

It is recommended that the Board of Education adopt Resolution
No. 08-52 - Award of Contract for Modernization Work
Districtwide: Child Development Safety Projects.

COMMENT: The Los Angeles County Department of Education (LACOE)
approved a last minute, year-end grant to the Santa
Monica-Malibu Unified District's Head Start Program in the
amount of \$127,330. Due to year-end allocation
restrictions, it was necessary to bid the Public Works
project in a very limited amount of time in order to have
the contracts encumbered by June 30, 2009, and to have the
work completed by the end of August in order to receive
the funding. Summer school at most of the identified sites
further restricts the times that contractors will be
allowed to work on the sites to complete the work by the
start of school in September. In addition, there are State
Facility Grant monies available to fund some of these
safety projects. Both grants are site and project
specific.

District staff provided a job walk and publically bid the
project, which was due Monday, June 22, 2009. Twenty-four
(24) contractors were invited to bid, ten (10) attended
the job walk on June 12, and zero (0) bids were received.
Due to the time constraints of completing the bids for the
start of school in September, it is requested that the
Board of Education approve the following resolution to
allow a contract award without advertising and bidding.
Bids have been received from four (4) contractors and will
be reviewed by staff prior to the end of the month and a
contract approved, to allow encumbrance of funds by the
end of the fiscal year 2008-09.

MOTION MADE BY:

SECONDED BY:

STUDENT ADVISORY VOTE:

AYES:

NOES:

**BEFORE THE GOVERNING BOARD OF THE
SANTA MONICA- MALIBU UNIFIED SCHOOL DISTRICT**

**RESOLUTION NO. 08-52 FOR AWARD OF CONTRACT FOR MODERNIZATION
WORK DISTRICT-WIDE: CHILD DEVELOPMENT SAFETY PROJECTS**

WHEREAS, the Santa Monica- Malibu Unified School District (“District”) advertised for bids for modernization work at various District-wide Child Development Classrooms (the “Project”) in accordance with Public Contract Code sections 20111 and 20112;

WHEREAS, the advertisement for bids for the Project stated that all sealed bids would be received and opened on June 22, 2009, but no bids were timely submitted at that time;

WHEREAS, the District must complete all work on the Project as soon as possible in order to permit the continuance of existing school classes, prevent interruption to District programs and operations and to ensure Project funding from a Head Start Grant and from the State Facilities Grant;

WHEREAS, competitively bidding the work for the Project again would cause unnecessary delay and would most likely result in the District not receiving bids for the second time;

WHEREAS, it would work an incongruity and not produce any advantage to the District to competitively bid the work for the Project due to the fact that no bids were timely received during the prior bid, and that it is likely that the District will not receive bids if it advertises and receives bids for a second time;

WHEREAS, Meakin v. Steveland (1977) 68 Cal.App.3d 490 and Los Angeles Dredging v. Long Beach (1930) 210 Cal. 348 hold that statutes requiring competitive bidding do not apply when competitive bidding would work an incongruity or not produce any advantage;

WHEREAS, in order to timely complete all necessary work on the Project, the District will request and receive proposals from a minimum of two contractors, and after reviewing all proposals, the District will determine which proposal is in the District’s best interest to construct the Project;

WHEREAS, the Governing Board of the District desires by a majority of the vote and pursuant to Education Code section 17604 and similar statutes, to delegate authority to its Assistant Superintendent, Chief Financial Officer (Jan Maez) to execute and deliver contracts and agreements, and otherwise negotiate and contract with a contractor to construct the Project, or to otherwise carry out the intent of this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the Governing Board makes the following findings:

1. That the above recitals are true and correct.
2. That all work on the Project must be completed as soon as possible in order to permit the continuance of existing school classes, prevent interruption to District programs and operations and to ensure Project funding from a Head Start Grant and from the State.

3. That competitively bidding the work for the Project would cause unnecessary delay and would most likely result in the District not receiving bids again.
4. That it would work an incongruity and not produce any advantage to the District to competitively bid the work for the Project.
5. The District will request and receive proposals from a minimum of two contractors, and after reviewing all proposals, the District will determine which proposal is in the District's best interest to construct the Project.
6. That the District's Governing Board hereby approves the delegation of authority and appoints its Assistant Superintendent, Chief Financial Officer (Jan Maez), who is hereby authorized and directed, pursuant to a majority of the vote of the Governing Board and Education Code section 17604 and similar statutes, to execute and deliver contracts and agreements, and otherwise negotiate and contract with a contractor to construct the Project, or to otherwise carry out the intent of this Resolution, all subject to ratification of the Board of Education.

APPROVED, PASSED AND ADOPTED by the Governing Board of the Santa Monica- Malibu Unified School District this 25th day of June, 2009, by the following vote:

AYES: _____
 NOES: _____
 ABSENT: _____
 ABSTAINED: _____

I, Ralph Mechur, President of the Santa Monica- Malibu Unified School District Governing Board, do hereby certify that the foregoing is full, true, and correct copy of the Resolution passed and adopted by said Board at a regularly scheduled and conducted meeting held on said date, which Resolution is on file in office of said Board.

 President of the Board of Education
 Santa Monica- Malibu Unified School District

I, Tim Cuneo, Clerk of the Board of Education of the Santa Monica- Malibu Unified School District Governing Board, do hereby certify that the foregoing Resolution was regularly introduced and adopted by the Board of Education of the Santa Monica- Malibu Unified School District Governing Board at a regular meeting thereof held on the 25th day of June, 2009, by the above described vote of the Governing Board;

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Santa Monica- Malibu Unified School District Governing Board this 25th day of June, 2009.

 Clerk of the Board of Education
 Santa Monica- Malibu Unified School District

TO: BOARD OF EDUCATION

ACTION/MAJOR

06/25/09

FROM: TIM CUNEO / JANECE L. MAEZ / STUART SAM

UPDATE

RE: APPOINT MEMBERS TO THE MEASURE BB ADVISORY COMMITTEE

RECOMMENDATION NO. A.43

It is recommended that the Board of Education appoint the following individuals to the Measure "BB" Advisory Committee (names are alphabetical):

<u>Name</u>	<u>District Affiliation</u>
<u>Ben Garbuio</u>	<u>Parent, Santa Monica Resident, Engineer</u>
<u>Rebecca Kennerly</u>	<u>Parent, former PTSA Council President; Chair, Community for Excellent Public Schools</u>
<u>Michael Sidley</u> [TBD]	<u>Parent, Malibu Resident, Attorney</u> [Representative: City of Malibu]

~~NOTE: At the publication of this agenda, the sub committee of the Measure "BB" Advisory Committee was in the final stages of recommending committee membership to fill open positions that arose after several resignations. The Measure "BB" Advisory Committee will be meeting on June 22, 2009 to finalize the recommendations; an update will be issued prior to the Board meeting on June 25, 2009.~~

COMMENT: Copies of the 7 applications received by the April 30, 2009 deadline have been provided to the Board of Education under separate cover and are on file in the Office of the Superintendent. The sub-committee reviewed the applications and selected 4 for interviews. At the June 22, 2009 meeting, the Measure BB Advisory Committee recommended the appointment of three individuals to the committee.

BACKGROUND: At the Board of Education Meeting of April 19, 2007, the Board approved the name change from the Ad Hoc Facilities Committee to the Measure "BB" Advisory Committee. At the Board Meetings of June 13 and June 28, 2007, the Board appointed a total of seventeen (17) members. Since that time, four (4) members have resigned and the designated member from the City of Malibu is currently vacant. It is anticipated that the Measure BB Advisory Committee will recommend three (3) new members be appointed at this time. The District will be contacting the City of Malibu to fill the currently vacant, designated position.

Other committee members continuing include:

Name

Craig Hamilton, Chair
Dennis Crane
David Reznick
Barbara Stinchfield, City of Santa Monica
Don Girard, SMC
Laura Rosenthal
Ted Bardacke
Elaine Rene-Weissman
Judith Meister
William Jepson
David Kaplan
[TBD] City of Malibu

MOTION MADE BY:
SECONDED BY:
STUDENT ADVISORY VOTE:
AYES:
NOES:

TO: BOARD OF EDUCATION

ACTION/MAJOR

06/25/09

FROM: TIM CUNEO / JANECE L. MAEZ / STUART SAM

RE: ~~CONDUCT PUBLIC HEARING ON RESOLUTION OF NECESSITY AND~~
ADOPT RESOLUTION NO. 08-48 - RESOLUTION OF NECESSITY
AUTHORIZING AN EMINENT DOMAIN ACTION TO ACQUIRE REAL
PROPERTY FOR THE EXPANSION AND RECONSTRUCTION OF THE
EDISON LANGUAGE ACADEMY

RECOMMENDATION NO. A.45

ISSUE:

The adoption of a Resolution of Necessity by the Santa Monica-Malibu Unified School District (hereinafter "District"), which, if approved, will authorize the condemnation of the following properties that abut the Edison Language Academy (hereinafter "Edison"): 2508 Virginia Avenue, Santa Monica, California 90404 and 2512 Virginia Avenue, Santa Monica, California 90404 (hereinafter "Subject Parcels") for purposes of expanding and reconstructing the Edison campus.

The Subject Parcels to be acquired are more specifically identified as follows:

- (A.) **Parcel No. 1:**
Owner: Shinobu Maruyama
Address: 2508 Virginia Avenue, Santa Monica, CA
90404
APN: 4274-005-032
- (B.) **Parcel No. 2:**
Owner: Mary Hernandez Revocable Trust c/o Mary
Hernandez, Trustee
Address: 2512 Virginia Avenue, Santa Monica, CA
90404
APN: 4274-005-033

Legal descriptions of the Subject Parcels are attached hereto as Exhibit "A". Maps depicting the Subject Parcels are attached hereto as Exhibit "B".

RECOMMENDATION:

Staff recommends that the District's Board of Education (hereinafter "Board") proceed as follows:

Conduct a hearing on whether a Resolution of Necessity should be adopted, as required by Code of Civil Procedure ...

TO: BOARD OF EDUCATION

ACTION/MAJOR

06/25/09

FROM: TIM CUNEO / JANECE L. MAEZ / STUART SAM

UPDATE

RE: ADOPT RESOLUTION 08-49 - FINDINGS AND ADOPTION OF MITIGATED NEGATIVE DECLARATION, MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVAL OF THE MALIBU HIGH SCHOOL FOOTBALL LIGHTING PROJECT

RECOMMENDATION NO. A.51

It is recommended that the Board of Education ("Board") adopt Resolution 08-49 to find that the mitigated Malibu High School Football Lighting Project ("Project") will not have a significant effect on the environment, adopt the Proposed Project Mitigated Negative Declaration ("MND"), adopt the Mitigation Monitoring and Reporting Program ("MMRP"), and approve the Project.

DISCUSSION:

In 2000, the athletic field for the Malibu High School was constructed by the Santa Monica-Malibu Unified School District ("District") as part of the Proposition X bond program. The athletic field has been used ever since for football, soccer, band practice, and other activities as part of the school's educational program.

In 2003, Malibu High School began its first use of temporary night lights for evening football games starting with the homecoming game. The school has continued using temporary night lights for each football season thereafter. Although District staff did receive questions and concerns about the night lighting, no formal complaint ~~was~~ has ever been made to the District until September 2008. The City of Malibu and the Coastal Commission have not directed the District to cease the use of night lighting.

In 2008, during the formulation of the Measure BB Malibu Middle and High School Campus Improvements Project ("Measure BB Project"), it was discovered that an existing Coastal Development Permit that was issued by the California Coastal Commission for the Proposition X bond project at Malibu High School in 2000 contained a restriction that prohibited the use of night lights on the athletic field, whether permanent or temporary. The permit's lighting restriction was to be memorialized in a separate agreement between the District and the California Coastal Commission. Unfortunately, neither the District nor the California Coastal Commission can locate the agreement, which may not have been ultimately executed. The District acknowledged that it violated the permit's lighting

restriction in the Notice of Preparation/Initial Study that was released for public comment on the Measure BB Project.

To remedy the violation and permit the continuance of evening football practices and games, the District developed this Project to obtain an amendment to the Coastal Development Permit for the Malibu High School. The Project would provide night lighting for the 16-night practices and games totaling no more than 62 hours annually. Five portable light standards, 53-feet high, and having six lights each on top would be positioned around the athletic field, as has been done for the past six years. In addition, visors will be included on the lights to reduce glare, and spill light, and sky glow. After the football season ends, the lights would be removed until the next football season. No other lighted evening sporting event would be allowed on the athletic field.

The District engaged CAA Planning ("CAA") to conduct an environmental review of the Project under the California Environmental Quality Act ("CEQA"). CAA determined that the Project could potentially cause significant environmental impacts, but with implementation of the certain mitigation measures there would be no resultant significant environmental impacts. As a result, CAA prepared an MND that discloses the Project, analyzes the potential environmental impacts, and includes mitigation measures to reduce those significant environmental impacts to less than significant.

On May 8, 2009, the District released the Project MND for public review and comment. The comment period ended June 10, 2009, 33 days later. In all, 18 written comments comment letters and a petition signed by 268 members of the public in support of the Project were received, which. CAA prepared responses to the comments and an Errata to the MND ("Errata") that are included together with the comments in CAA's letter and, which is available for review at the District's Main Office and on the District's website. Most comments focused on the claims that the Project would cause significant impacts on aesthetics and biological resources. However, the MND provided analysis and mitigation to reduce these impacts below significant. Although there are many comments, none of them disclose the potential that the mitigated Project would create a significant environmental impact.

Based upon the Project MND, its Errata, the mitigation measures referenced therein and identified in the MMRP, the MND's reference documents, the comments, CAA's responses to those comments, and the whole of the record of proceedings, there is no substantial evidence or fair argument that the mitigated Project will potentially have a significant effect on the environment.

CAA prepared a proposed MMRP for the Project as required by CEQA. The proposed MMRP is attached hereto as Exhibit A. The proposed MMRP lists two mitigation measures needed to reduce the Project's impacts to less than significant, as well as an additional measure to give further assurances that the number of nights and the duration of their use do not exceed the 16 nights or total of 62 hours, annually. As part of this last measure, Malibu High School would voluntarily lose the use of the lights for one football season should the lights be used in excess of the maximum 16 days per year. By adopting the proposed MMRP, the Board will provide the District with the mechanism to ensure that the mitigation measures are implemented.

If Resolution No. 08-49 is adopted by the Board, the District will submit its Project application for an amendment to the Coastal Development Permit with the California Coastal Commission. If the California Coastal Commission grants the permit amendment, Malibu High School will be able to continue using temporary night lights for its football season.

MOTION MADE BY:
SECONDED BY:
STUDENT ADVISORY VOTE:
AYES:
NOES:

SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION

RESOLUTION 08-49

FINDINGS AND ADOPTION OF THE MITIGATED NEGATIVE DECLARATION AND
MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVAL
OF THE MALIBU HIGH SCHOOL FOOTBALL LIGHTING PROJECT

WHEREAS, the Santa Monica-Malibu Unified School District ("District") developed the Malibu High School Football Lighting Project ("Project") to obtain an amendment to the existing Coastal Development Permit with the District to authorize the continuance of the Malibu High School football night practices and games using temporary portable lights that will be in place during the football season;

WHEREAS, the California Environmental Quality Act ("CEQA") requires the District to evaluate and determine whether the Project could create significant environmental impacts and develop and adopt feasible mitigation measures to reduce such impacts to less than significant;

WHEREAS, the District engaged CAA Planning ("CAA") to conduct the environmental review of the Project;

WHEREAS, CAA conducted an Initial Study of the Project and determined that it could potentially create certain significant environmental impacts, but that implementation of certain mitigation measures would reduce such impacts to less than significant and that a Mitigated Negative Declaration ("MND") is the appropriate environmental document;

WHEREAS, CAA prepared an MND that describes the Project, analyzes the potential environmental impacts, and identifies mitigation measures to reduce those significant environmental impacts to less than significant;

WHEREAS, the Project MND was noticed and circulated for public comment according to CEQA's procedures;

WHEREAS, the District received 18 comment letters and a petition signed by 268 members of the public in support of the Project during the comment period; and

WHEREAS, CAA prepared responses to the comment letters and an Errata to the MND ("Errata") and determined that ~~none of them~~ the comments do not provide a fair argument or substantial evidence that a potentially significant impact would result from the mitigated Project or requires the substantial revision of

the MND, and thus, the MND need not be recirculated for additional public comment.

NOW, THEREFORE, BE IT RESOLVED, that the Santa Monica-Malibu Unified School District Board of Education ("Board") hereby finds as follows:

1. Based upon the Project description, the Project MND, its Errata, the mitigation measures identified therein, the comments, the responses to comments, the Mitigation Monitoring and Reporting Program, the Board Item, all other referenced documents, and the whole of the record of proceedings, no new significant effect has been identified and no further mitigation measures or Project revisions are required to reduce ~~the~~ an effect to less than significant.
2. Based upon the Project description, the Project MND its Errata, the mitigation measures identified therein, the comments, the responses to comments, the Mitigation Monitoring and Reporting Program, the Board Item, all other referenced documents, and the whole of the record of proceedings, the new mitigation measure to monitor and report on the number of nights and the hours of usage annually is not a new mitigation measure needed to reduce potential impacts to less than significant.
3. The responses to comments and Errata merely clarify or amplify the information in the MND.
4. Based on the forgoing findings, the District determines that recirculation of the MND is not required.
5. Based upon the Project description, the Project MND, its Errata, the mitigation measures identified therein, the comments, the responses to comments, the Mitigation Monitoring and Reporting Program, the Board Item, all other referenced documents, and the whole of the record of proceedings, there is no fair argument or substantial evidence that the Project will have a potentially significant effect on the environment and an environmental impact report is not required.
6. The Project's MND, its Errata, the conclusions in the responses to comments, and the content of this Resolution reflect the District's independent judgment and analysis.

BE IT FURTHER RESOLVED that the Board hereby adopts:

1. The Project MND prepared by CAA and dated May 8, 2009 and Errata dated June 18, 2009; and

2. The Malibu High School Football Lighting Project Mitigation Monitoring and Reporting Program (attached hereto as Exhibit A) for the mitigation measures that are required to mitigate or avoid potentially significant environmental impacts.

BE IT FURTHER RESOLVED that the Board approves the Project and authorizes the submission of an application to the California Coastal Commission to permit the Project.

BE IT FURTHER RESOLVED that the Board directs the Assistant Superintendent to serve as the custodian of the documents and other materials that constitute the record of proceedings upon which the Board's decision is based. The record of proceedings shall be maintained at the District's offices at 1651 Sixteenth Street, Santa Monica, California 90404.

PASSED AND ADOPTED by the Santa Monica-Malibu Unified School District of Los Angeles County at a regular meeting held on this 25th day of June 2009.

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Ralph Mechur, President
Board of Education

I, Tim Cuneo, Secretary of the Board of Education of the Santa Monica-Malibu Unified School District, do certify that the foregoing Resolution was regularly introduced, passed and adopted by the Board of Education at its regular meeting held on June 25, 2009.

Tim Cuneo, Superintendent
Santa Monica-Malibu
Unified School District