



SMMUSD Financial Oversight Committee Meeting Minutes

Date: Thursday, January 7, 2021

Time: 6:00 pm to 8:00 pm

Location: Zoom

https://drive.google.com/file/d/1SGyQB_xa4hCeAu9Y1NdREzWwhX5Ylqm7/view?usp=sharing

I. Call to Order

6:01 pm Committee Members: Matthew Crawford Matthew Covington arrived @ 6:08 p.m.
Alex Farivar Seth Jacobson
Michael Kremer Shawn Landres
Marc Levis-Fitzgerald Renu Mevasse
Melinda Newman Payal Maniar arrived @ 6:08 p.m.
Natalie Ricciardulli, SAMOHI student rep

Staff: Melody Canady Gerardo Cruz
Kim Nguyen Gail Pinsker left @ 7:09p.m.

Board Liaison: Craig Foster Jon Kean

Absent: Gordon Lee Laurie Lieberman
Kimya Afshar, Malibu Student Rep

Public: Jill Trembley Jimmy Tallal
Abe Sanchez Steve Cannell
Allison Deegan Donovan Hass
Cathy Dominico, Capital Finance Group
LaTanya KirkCarter, KirkCarter Associates
Terri Ryland, School Business Consulting
Christine Wood, Deputy City Attorney for Malibu

II. Approval of Agenda

6:18 pm Board Liaison Kean requested that future agendas be jointly prepared between FOC Chair and District staff.

Mr. Landres announced that the Secretary of Education resigned.

A motion was made by Mr. Landres and seconded by Mr. Crawford to approve the meeting agenda.

AYES: Ten (10) (Mr. Covington, Mr. Crawford, Mr. Farivar, Mr. Jacobson, Mr. Kremer, Mr. Landres, Mr. Levis-Fitzgerald, Ms. Maniar, Ms. Mevasse, Ms. Newman)

STUDENT ADVISORY VOTES: One (1) (Ms. Ricciardulli)

NOES: None (0)

ABSENT: One (1) (Mr. Lee)

ABSTAIN: None (0)

III. Approval of FOC Meeting Minutes

6:19 pm A motion was made by Mr. Crawford and seconded by Ms. Newman to approve the December 3, 2020 meeting minutes.

AYES: Ten (10) (Mr. Covington, Mr. Crawford, Mr. Farivar, Mr. Jacobson, Mr. Kremer, Mr. Landres, Mr. Levis-Fitzgerald, Ms. Maniar, Ms. Mevasse, Ms. Newman)

STUDENT ADVISORY VOTES: One (1) (Ms. Ricciardulli)

NOES: None (0)

ABSENT: One (1) (Mr. Lee)

ABSTAIN: None (0)

IV. Assistant Superintendent, Business and Fiscal Report: Melody Canady (10 min)

6:20 pm Ms. Canady reported that at the December 17, 2020 Board of Education meeting, Kim Nguyen was appointed as Director of Purchasing. Ms. Nguyen will continue to support the committee until a replacement is determined.

V. Discussion/Action Items

A. City of Malibu School District Separation Consultant – LaTanya KirkCarter (30 min)

6:22 pm Ms. KirkCarter, Ms. Dominico, Ms. Ryland, and Ms. Wood recapped the October 28, 2020 Malibu Town Hall presentation on School District Separation. The presentation may be found at the end of these minutes. The Malibu School District Separation Town Hall may be viewed at <https://www.youtube.com/watch?v=r3j1GtM1vJk>. **They also responded to questions raised by Committee members, after the SMMUSD school district separation consultant presentation to the FOC on December 2020.**

B. Application process for nomination to the committee effective July 1, 2021 (15 min)

7:09 pm Mr. Crawford reported that the first step in the timeline is obtaining a sense of vacancies. All applicants and incumbents will be considered equally when a recommendation is made. Members whose terms are up will inform the subcommittee chair of their intention on serving future terms **by the February meeting of each year.**

VI. Ad Hoc Subcommittee Report

7:19 pm A. Budget Recommendations: Ms. Maniar, Mr. Covington, Mr. Jacobson, Ms. Newman

There was no report.

B. Tax Revenue and Assessed Valuation: *Mr. Farivar, Mr. Crawford, Mr. Kremer, Ms. Newman*

7:19 pm

Mr. Kremer reached out to the City of Santa Monica regarding the expectation of Prop Y YY and GSH projections. City staff will report to the Santa Monica City Council later this month. The subcommittee will report back to the committee and District staff. Mr. Farivar and Mr. Crawford reported that District staff has an opportunity to pay \$36.00 fee to receive December numbers in late October/early November to help with budget projections. The subcommittee intends to circle back on one of last year's subcommittee recommendation on the enforceable obligations and to get more information from the City on refinancing those obligations that was not publicly available.

C. Bond Oversight: *Mr. Kremer, Mr. Covington, Mr. Crawford, Mr. Lee, Ms. Mevasse*

7:22 pm

Mr. Kremer reported that the subcommittee was still working on the debt funding policy and now focusing on a refunding matrix. This will be a simpler approach to looking at refunding that combines net present value and efficiency ratios into one table. Ms. Mevasse will review and provide feedback.

D. Nomination: *Mr. Crawford, Mr. Levis-Fitzgerald, Ms. Maniar, Ms. Newman*

7:23 pm

The subcommittee report was made under Agenda Item V.B.

VII. Receive and File (Limited Discussion)

7:59 pm

A. Los Angeles County Office of Education EASE program <https://www.lacoe.edu/Home/EASE>

B. Post Pricing Book 2020 Certificates of Participation – 12/9/20

<https://www.smmusd.org/cms/lib/CA50000164/Centricity/Domain/300/FinReports/PostPricingBookCOP2020.pdf>

C. Letter dated January 5, 2021 from Christine N. Wood of BEST BEST & KRIEGER LLP addressed to FOC Chair along with the 10/28/20 Malibu Town Hall presentation on School District Separation.

VIII. Public Comments None

IX. Committee Comments

7:23 pm

~~The subcommittee wanted to circle back on~~ **Members of the bond subcommittee requested further discussion of** cashflow, **as well as reconfirmation of the updated** Measure R audit ~~process~~ and oversight **processes**, and breakdowns of other local revenues. **Mr. Landres and Ms. Newman requested clarification that no changes to the uses of or accounting for Measure R funds were necessary following the District's transition to basic aid status.** ~~The committee asked for comparable data of the District Office building—1717 4th Street purchase. as well as clarity on the purpose of Measure R funds and whether the way funds accounted was meant to change considering that the District is now basic aid; and that nothing changed although the District transitioned from LCFF to basic aid.~~

Ms. Maniar requested an update on overall view of special education litigation and how that has changed since last year. The budget subcommittee would like to have a quick call to understand the budget front in regards to the structural deficit.

The breakdown of the beginning fund balance of \$7.5M reported at the 1st interim budget was attributed to a combination of **the** fiscal stabilization plan adopted in 2020-21 and not **a change in** spending due to school site closures. The committee requested a break out of the savings.

There is \$82B in the federal stimulus dollars and of that, \$54.3B is going to K-12 education. The federal government will push out to the states who will push those funds out to school districts. Of that, governors will receive \$4B to do what they wish. Governor Newsom announced that he plans to use \$2B toward school reopening. It is guesstimated to be around \$450-\$750 per student depending on factors such as free and reduced count. It is a little bit too early to know the amount of funds the District is to receive from the CARES extension. Staff will report to the committee when the District gets that information. The CARES extension comes through Title I funding so Dr. Drati and Dr. Mora should be included in that discussion.

The budget subcommittee will meet with District staff to go over interim reports.

X. Next Meeting: Thursday, February 11, 2021 – Zoom

XI. Adjournment: 8:00 p.m.



OCTOBER 28, 2020

Town Hall Meeting

School District Separation

1/7/2021

1

INTRODUCTIONS

Christine Wood

- Best Best & Krieger Law

LaTanya Kirk-Carter

- Kirk Carter & Associates

Cathy Dominico

- Capitol Public Finance Group

Terri Ryland

- Ryland School Business Consulting

BACKGROUND

- The desire for a separate Malibu School Unified School District (MUSD) apart from the existing Santa Monica-Malibu Unified School District (SMMUSD) has been a subject for the City and Community of Malibu for many years.

2011-
2015

- 2011 Formation of the Advocates for Malibu Public Schools (AMPS)
- 2013 Commissioned the West Ed. Study
- 2015 Collection of thousands of signatures submitted to the Malibu City Council in support of a new MUSD

2015-
2017

- Malibu Unification Negotiations Committee (MUNC) formed by the SMMUSD Board
- Consisting of members from Malibu and Santa Monica
- Formal MUNC report submitted February 2017
- Formal Pre-Petition of desire to form a MUSD submitted to Los Angeles COE

2018-
2020

- Ad Hoc committee formed at the suggestion of LACOE and SMMUSD School District staff
- SMMUSD financial consultants, legal counsel & 3 Board members, City of Malibu staff, 2 City Council members, Malibu financial consultants & legal counsel
- Tried to negotiate a mutual separation agreement and financial plan for both Districts

REVIEW OF OCTOBER 12 MALIBU CITY COUNCIL MEETING

City Council Ad Hoc Committee members, City staff and consulting team provided update on status of negotiations and financial model proposed by School District



Provided Council with the following four slides as an update and to provide preliminary information to assist in obtaining direction for how to move forward



Malibu City Council voted to allow staff and consultants to pursue a City sponsored petition to LACOE after Ad Hoc negotiations failed to reach any mutual agreement

REVIEW OF SMMUSD FINANCIAL MODEL FOR REORGANIZATION

Permanent redistribution of property tax revenue from the Malibu community to the Santa Monica community

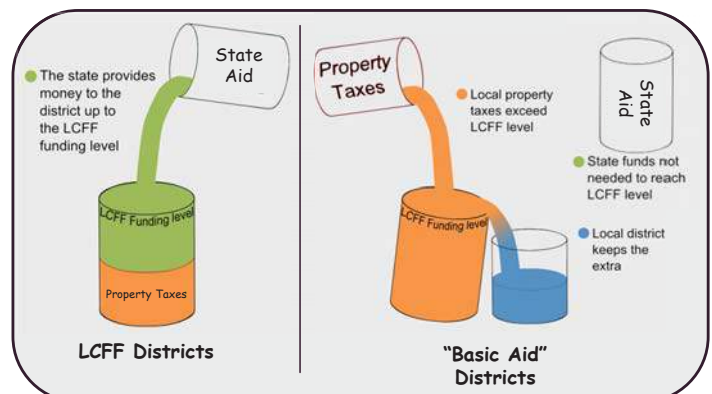
- Over the first 10 years, this would total approximately \$250 million
- Over the first 50 years, this would total approximately \$4 billion

Other revenues currently used for operations, but not part of the LCFF funding calculation, were not considered as part of the basis for revenue redistribution

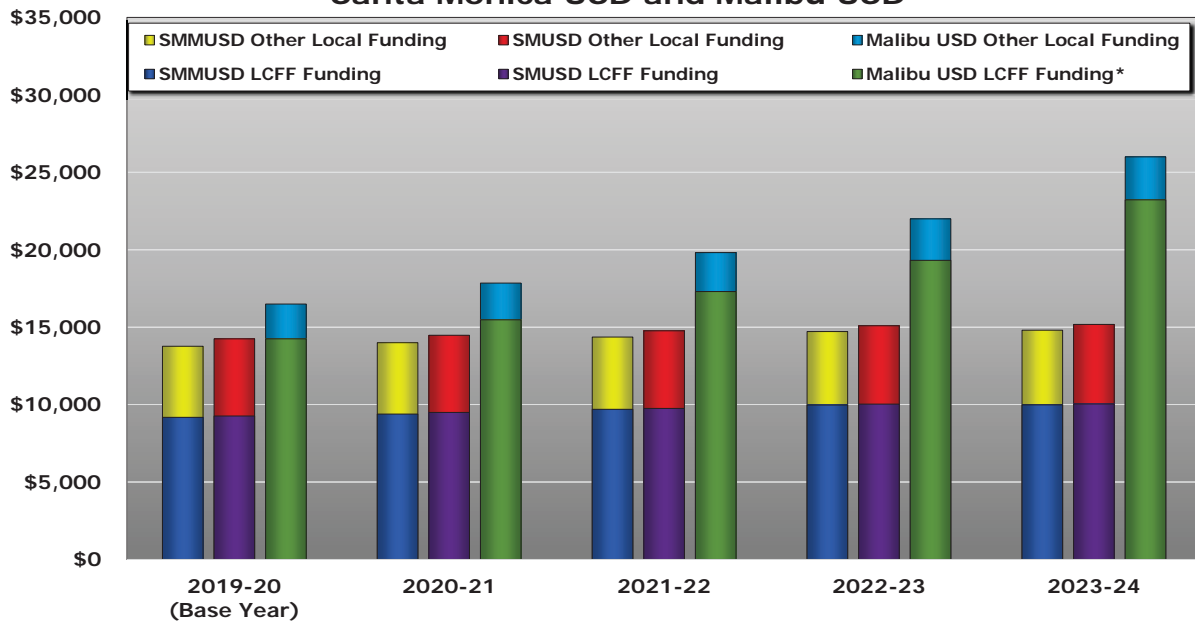
- *Key Finding:* The School District's analysis goes beyond what is typically required for a reorganization and unfair to Malibu community.
- *Recommendation:* Utilize the California Department of Education (CDE) criteria as prescribed in the Education Code to allocate revenue and evaluate the feasibility of a reorganization.

CDE'S REORGANIZATION CRITERIA PROVIDES GUIDANCE ON THE ALLOCATION OF FUNDING

- Two of the nine criteria specifically address operational funding
 - Criterion 5: the reorganization cannot result in a substantial increase in costs to the State
 - Criterion 9: the reorganization will not cause a substantial negative effect on the fiscal status of the proposed districts
- SMMUSD is currently a "basic aid" district
 - Initially after reorganization, Malibu USD would continue to be basic aid, but SMUSD would not
 - Without adjustment, this would result in an increase in costs to the State
- To keep the State whole, Malibu USD would need to allocate a portion of its property taxes to SMUSD until it reaches basic aid
 - This results in a much smaller loss of property taxes to Malibu without harming SMUSD



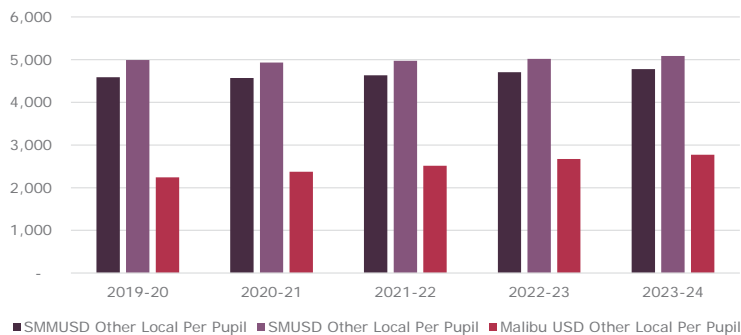
Projected Per Pupil Funding for SMMUSD Compared to Santa Monica USD and Malibu USD



PER PUPIL FUNDING POST-REORGANIZATION

Other Local Per Pupil Funding Only

New SMUSD Has Highest Per Pupil Other Local as They Maintain Most of Current Revenue with 15% Fewer Students



- State and Local per pupil funding for both districts would exceed the current per pupil funding of SMMUSD, when accounting for all operating revenues
- Demonstrating that there would not be a negative effect on the fiscal status of the future districts
- Key Finding:** After an initial review of CDE's nine reorganization criteria, it is reasonable to expect that a reorganization is feasible.

NEXT STEPS FOR THE CITY'S PETITION

(1)

- The LACOE Superintendent reviews the Petition for sufficiency. If sufficient, she transmits it to the LACOE County Committee on Reorganization and the State Board of Education. (Educ. Code, § 35704.)

(2)

- The County Committee holds a preliminary public hearing, after which it must grant or deny the Petition. (Educ. Code, § 35721, subd. (c)-(d).)

(3)

- If the County Committee grants the Petition, it adopts a tentative recommendation. (Educ. Code, § 35721, subd. (d).)

(4)

- Following its adoption of a tentative recommendation, the County Committee holds one or more public hearings in Malibu and Santa Monica. (Educ. Code, § 35721, subd. (d).)

NEXT STEPS FOR THE CITY'S PETITION (CONT'D)

(5)

- Following the public hearings, the County Committee adopts a final recommendation re approval of the Petition and transmits to the State Board. (Educ. Code, § 35722.)

(6)

- The State Board holds a public hearing, after which it must approve or disapprove the Petition. (Educ. Code, § 35754.)

(7)

- If the State Board approves the Petition, it notifies the LACOE Superintendent who then calls for an election. (Educ. Code, §§ 35755; 35756.)

Indian Wells
(760) 568-2611

Irvine
(949) 263-2600

Los Angeles
(213) 617-8100

Manhattan Beach
(310) 643-8448

Ontario
(909) 989-8584



BEST BEST & KRIEGER
ATTORNEYS AT LAW

300 South Grand Avenue, 25th Floor, Los Angeles, CA 90071
Phone: (213) 617-8100 | Fax: (213) 617-7480 | www.bbklaw.com

Riverside
(951) 686-1450

Sacramento
(916) 325-4000

San Diego
(619) 525-1300

Walnut Creek
(925) 977-3300

Washington, DC
(202) 785-0600

Christine N. Wood
(213) 542-3861
Christine.Wood@bbklaw.com

January 5, 2021

VIA ELECTRONIC MAIL

Seth Jacobson, Chairperson
SMMUSD Financial Oversight Committee
Santa Monica Malibu Unified School District
1651 16th Street
Santa Monica, California 90404
Email: seth@jcipr.com

Dear Mr. Jacobson:

On behalf of the City of Malibu ("City"), I and the City's school separation consultant team attended the December 3, 2020, Financial Oversight Committee ("FOC") Meeting and observed many statements that could benefit from clarification. To that end, we have provided this letter in an attempt to provide comments, perceptions, and clarifications to things presented by the Santa Monica Malibu Unified School District's ("SMMUSD" or "District") team during that meeting.

Of most concern to the City is the District's insistent use of two threshold parameters that must be met before reaching a negotiated agreement. Those were **(1) that the agreement should be a fifty-year agreement** and **(2) that at no point in the fifty years should a Santa Monica student be worse off than if the two districts had remained together**. Aside from the uncertainties of entering into a fifty-year agreement, the idea of a financial agreement that guarantees that no student would be worse off after reorganization is an arbitrary and subjective parameter that is not prescribed in the California laws that govern reorganization. Per pupil revenue is different for every district throughout the state based on many variables. Our initial analysis shows that, after reorganization, the new Santa Monica district would continue to be one of the highest per pupil revenue districts in Los Angeles County, at a per pupil amount even greater than is currently enjoyed. The City admits that it entered negotiations with an attempt to abide by this standard, as designed by the District's Board of Education; however, it has become increasingly clear that this is an unrealistic and unreasonable standard.

In addition to the City's overall concerns about these threshold parameters set by the District's Board of Education, the City offers the following comments, perceptions, and clarifications to things presented by the District during the December 3, 2020, FOC meeting.

January 5, 2021

Page 2

#1: The City did not abandon the negotiations, as evidenced by the two attached letters from the City (dated April 21 and June 1, 2020) that went unanswered by the District.

In the December 3, 2020, meeting, Superintendent Ben Drati stated that the District was waiting for a response from the City throughout the summer and that they were surprised by the City Council's action in October 2020. (See recording at 08:34.) Please see the attached letter to Dr. Drati dated October 28, 2020, whereby the City detailed that we sent correspondence on April 21, 2020 and on June 1, 2020, as well as those letters. The letters asked the District to clarify its position on (1) the parcel tax special legislation, and (2) the City's proposal to revisit the redistribution of Malibu property taxes to the Santa Monica community after the fifty-year term of the negotiated agreement had expired. To date, we have still yet to receive a response from the District on either issue.

#2: The City disputes the notion that an independent Malibu Unified School District will result in reduced diversity.

During the December 3, 2020, meeting, David Soldani, Esq., stated that diversity "will" be an issue in the petition. (See recording at 22:12.) We disagree as the students that currently attend the Malibu schools, both residents and those on inter-district permits, will presumably continue to attend the Malibu schools. Whatever diversity currently exists or does not exist is not a result of school separation.

#3: Clarification: The Education Code protects the rights of all teachers and staff after a reorganization.

When asked about the rights of teachers and staff after the proposed reorganization, Mr. Green said that it would be up to the new individual school boards' discretion whether teachers are retained. (See recording at 1:11:00.) This is untrue. The Education Code protects the rights of all teachers and staff after a reorganization. Teachers have the right to their existing seniority, along with all rights afforded by the operative labor agreement. The new school board has ZERO discretion to terminate teachers and other staff if they choose to stay with the new District.

#4: The City shares the District's desire to preserve the parcel tax for both districts.

During the December 3, 2020, meeting, Mr. Green stated that the continuation of the parcel tax is open to differing legal interpretations. (See recording at 2:00:00.) We do not understand the notion that this is an issue that remains unresolved. The City has always shared the District's desire to preserve the gold-standard parcel tax for both districts. The issue before the parties was how to accomplish this, which is why the City secured legislative support and legislators to sponsor special legislation that would secure the parcel tax after reorganization. The District refused to support this legislative effort, even after the District insisted that preservation of the parcel tax was needed to reach a negotiated agreement.

January 5, 2021
Page 3

#5: As detailed below, there are several points of disagreement in the financial presentation offered by Shin Green during the December 3, 2020, meeting.¹

- On Page 2 of the presentation provided to the FOC, the Santa Monica specific redevelopment property tax revenue is not added back into the per pupil property tax illustration.
- During the December 3, 2020, meeting, Mr. Green stated that the Property Tax Ratio (PTR) originally assigned to the District in 1978/79 was NOT based on community value BUT based on what it costs to provide educational services to the students of SMMUSD. (See recording at 48:00.) This is NOT true based upon our understanding of Proposition 13 and as referenced in the handbook “Demystifying the California Property Tax Apportionment System.” Each school district’s percentage was based on a one-year average since the state was obligated to fund the fiscal requirements not met with the property tax revenue. Thus the original PTR assigned to SMMUSD consisted of the average property taxes received based on assessed valuation of each AB8 Tax Rate Area within Malibu and Santa Monica.
- Mr. Green also stated that the City wants one-third of the property tax pie. (See recording at 58:00.) That is simplistic in its statement The City wants the PTR split based on the assessed valuation percentage of the underlying property generating the taxes within each of the territories, Malibu & Santa Monica. Once PTR for each new district is established, Malibu proposed to enter into a revenue neutrality agreement. If a property tax sharing agreement is approved by the State Board of Education as a condition of the separation, it would have to be honored by a new Malibu Unified School District, contrary to statements made by Mr. Green and Mr. Soldani.
- Dr. Drati talked about the soft, not so reliable revenue that Malibu wants to factor into the per pupil revenue equation. (See recording at 1:06:00.) This is true, however Malibu proposed an end of the year settle up in the revenue neutrality agreement once all known sources of revenue are calculated. The District’s proposal is a permanent shift of the approximately 80% of the PTR. Additionally, with that proposal, the District would get to keep the not so reliable revenue on top of the larger portion of the PTR, leaving Malibu with much less than it is entitled to based on assessed valuation.

¹ During the meeting, FOC members asked technical questions related to the PTR and how it is appropriated county wide. (See the meeting’s recording at 49:49 & 53:13.) The ratio and how assessed valuation growth is assigned to each District based on the tax rate areas are complicated concepts that are most accurately explained by the County Assessor’s office. As precedent, they met with Beverly Hills Unified School District FOC and CBO in 2015 to help BHUSD get a better understanding of how the property tax dollars flowed to a basic aid district.

January 5, 2021

Page 4

- Also during the December 3, 2020, Mr. Green said that the District will lose 13% of its revenue and that class sizes in Santa Monica will increase because of that. (See recording at 1:15:00.) In fact, there should be no impact on class sizes if all current students and staff stay in the same schools they currently attend. Further, although the District may lose 13% of its revenue, it will likewise lose 15% of its students. Those exiting students will be funded from sources outside the resulting new district's budget and would not be a concern to the new district. (Note: It is believed that the numbers from the Town Hall illustration are the source of this pronouncement. We want to stress that the Town Hall illustration was not the petition and nothing has been submitted to LACOE as a financial proposal.)
- Mr. Green said that both Santa Monica & Malibu felt that splitting the PTR based upon each Districts pupil enrollment rather than assessed value would be fairer. (See recording at 1:49:00.) The City has never felt that this would be fair to the students of Malibu. In fact, we contended throughout negotiations that this would be a permanent redistribution of the Malibu's property tax wealth and would be susceptible to future litigation. Furthermore, Mr. Green talks about a reopener on the PTR at some point during the fifty-year cycle. The ability for this to occur was never confirmed with the Assessor's office and, more importantly, the District never agreed to it during the negotiations. In fact, in correspondence dated November 5, 2019, the District indicated that it would be concerned about revisiting the financial models at the conclusion of the fifty-year agreement because of "a potential cliff effect in which revenues are radically shifted endangering future educational programs."

The City remains open to a dialogue with the District and looks forward to working with anyone or any group within the District that is genuinely interested in accomplishing an independent Malibu Unified School District.

Sincerely,



Christine N. Wood
of BEST BEST & KRIEGER LLP

cc: Reva Feldman, City Manager, City of Malibu
Dr. Ben Drati, Superintendent, Santa Monica Malibu Unified Schpool District
Dr. Allison Deegan, Business Advisory Services, Los Angeles County of Education

ATTACHMENTS



City of Malibu

23825 Stuart Ranch Road • Malibu, California • 90265-4861
Phone (310) 456-2489 • Fax (310) 456-3356 • www.malibucity.org

November 2, 2020

Sent via Email to BDrati@smmusd.org

Dr. Ben Drati, Superintendent
Santa Monica-Malibu Unified School District
1651 16th Street
Santa Monica, CA 90404

RE: Petition for Unification of a Malibu Unified School District

Dear Dr. Drati:

We are in receipt of your [letter](#) dated October 28, 2020, in which you express disappointment “in what appears to be a retreat to a position [you] thought we had all moved beyond in our discussions.” We understand and share your disappointment, but let’s take a moment to correct the record for those who have only recently been apprised of our progress.

First, your October 28th letter was the first correspondence we have received from Santa Monica-Malibu Unified School District (“District” or “SMMUSD”), despite our two attempts to engage in dialogue with the District on remaining terms material to our negotiated agreement. In both our letters of [April 21, 2020](#) and [June 1, 2020](#), we asked the District to clarify its position on (1) the parcel tax special legislation, and (2) the City’s proposal to revisit the redistribution of Malibu property taxes to the Santa Monica community after the 50-year term of the negotiated agreement had expired. We never heard back from the District about either issue, so it seems a bit disingenuous to claim that the City “abandoned our collaboration.”

Second, as you are fully aware, the City asked for time to have a third-party review the District’s financial projections and methodology since the District claimed that its methodology was the only way to accomplish two feasible and independent school districts in the Santa Monica and Malibu communities. We made it clear in both our April 21, 2020 and our June 1, 2020, correspondence that we intended to brief the Malibu City Council before sharing the findings of our review with the District. We knew there would be incredible interest by Malibu residents and we hoped that in-person meetings would resume after the summer. When we realized that in-person meetings were further out than anticipated, we chose to brief the Council on October 12, 2020 during a virtual meeting to facilitate meaningful input from Malibu residents. We followed that Council meeting with a Town Hall meeting that took place on October 28, 2020, further affording Malibu residents an opportunity to ask questions and be heard on the issue of school separation. All of these meetings and briefings have been public and completely transparent.




Third, your statements about the presentation shown at the Malibu City Council meeting are misleading, and your link omitted the [entire presentation](#). It is correct that per pupil funding for the two future school districts will not be the same, but that is the case across all of the school districts in the State. On a per pupil basis, the two new school districts will end up with higher per pupil funding than the current SMMUSD because, in addition to the general property taxes, the Santa Monica-generated local taxes (i.e., sales taxes, parcel taxes, joint use, and redevelopment taxes) will all remain with the future Santa Monica USD, boosting their funding far above the average per pupil funding in districts with far less community support. Even with this reality, we tried for two years to come to a reasonable solution that provided the future Santa Monica USD with additional property tax revenue from the Malibu community in an effort to create a form of equity. However, the District refused to consider any methodology that did not result in a permanent redistribution of Malibu property taxes – a formula that could have totaled \$4 billion over the proposed 50-year term. This is not an acceptable solution for Malibu residents, as reflected in the City Council's October 12th action.

Finally, the City has always been and remains interested in a thoughtful and strategic plan that will allow for the successful creation of two new school districts. In fact, we understood that one impediment to reaching an agreement was the need to resolve how both new districts would be able to retain their respective parcel taxes, as detailed in your letter dated September 11, 2019. As the parties agreed during negotiations, the City approved a [formal declaration](#) supporting special legislation to preserve the Measure R parcel tax. However, to the City's surprise, the District's Board declined to approve a formal declaration supporting the special legislation at its March 5, 2020 Board meeting after Board President Kean discouraged the declaration. This was one of the final demonstrations by the District that it was not being forthcoming during our negotiations, thereby prompting the City Council's October 12th action.

The City Council and the residents of Malibu remain committed to an independent and locally controlled Malibu Unified School District. Even though the path of a negotiated agreement did not work, the City still hopes that the District will cooperate as the City pursues its Petition for Reorganization through the LACOE County Committee. In this spirit of cooperation, we ask that you forward our letter to the entities identified below to whom your October 28, 2020 letter was addressed and whose exact identities cannot easily be determined by the City (see list labeled "cc from SMMUSD"). Alternatively, we can request a copy of the distribution list under the California Public Records Act. Please confirm when you have completed this transmission.

Obviously, we all agree it is the interest of both communities to allow for the successful creation of two new school districts. We look forward to working with the District to accomplish this.

Sincerely,


Reva Feldman
City Manager



cc: Mayor Farrer and Honorable Members of the Malibu City Council
Honorable Henry Stern, California State Senate, 27th District
Honorable Ben Allen, California State Senate, 26th District
Honorable Richard Bloom, California State Assembly, 50th District
Honorable Sheila Kuehl, Los Angeles County Board of Supervisors, 3rd District
Mayor Kevin McKeown and Honorable Members of the Santa Monica City Council
Honorable Members of the SMMUSD Board of Education
Dr. Allison Deegan, Los Angeles County Office of Education (LACOE)
Lane Dilg, Interim City Manager, City of Santa Monica
George Cardona, Interim City Attorney, City of Santa Monica
Kasey Earnest, Executive Director, Malibu Boys & Girls Club
Craig Foster, President, Advocates for Malibu Public Schools (AMPS)
Malibu Facility District Advisory Committee (M-FDAC)
Laurel Rosen, President/CEO, Santa Monica Chamber of Commerce
Santa Monicans for Renter's Rights
Max Arias, Executive Director, Service Employees International Union (SEIU) Local 99
Sarah Braff, President, Santa Monica-Malibu Classroom Teachers Association (SMMCTA)
Linda Greenburg, Executive Director, Santa Monica Education Foundation
Gabrielle Cohen, President, Santa Monica-Malibu PTA (SMMPTA) Council
City of Malibu Media

cc from SMMUSD:
SMMUSD Parents
SMMUSD Staff
SMMUSD Financial Oversight Committee
Santa Monica Facility District Advisory Committee (SM-FDAC)
SMMUSD District Advisory Committees/DELAC
SMMUSD Community Email List
Samohi Puente
AAPSSG
Media



Indian Wells
(760) 568-2611

Irvine
(949) 263-2600

Manhattan Beach
(310) 643-8448

Ontario
(909) 989-8584

Christine N. Wood
(213) 542-3861
Christine.Wood@bbklaw.com



BEST BEST & KRIEGER
ATTORNEYS AT LAW

300 South Grand Avenue, 25th Floor, Los Angeles, CA 90071
Phone: (213) 617-8100 | Fax: (213) 617-7480 | www.bbklaw.com

Riverside
(951) 686-1450

Sacramento
(916) 325-4000

San Diego
(619) 525-1300

Walnut Creek
(925) 977-3300

Washington, DC
(202) 785-0600

April 21, 2020

VIA ELECTRONIC MAIL

David A. Soldani
Atkinson, Andelson, Loya, Ruud & Romo
10 River Park Place East, Suite 240
Fresno, California 93720
Email: dsoldani@aalrr.com

re: City of Malibu & SMMUSD Territory Transfer Next Steps

Dear Mr. Soldani:

This letter provides the City of Malibu's ("City") update on next steps in regards to the proposed Santa Monica Malibu Unified School District (the "District" or "SMMUSD") territory transfer.

When we met on Tuesday, March 3, 2020, the District representatives requested that the City provide a status update and/or a timeline of when we would complete the following tasks:

- Special Legislation to Preserve the Measure R Parcel Tax
- Financial Review and Projections by City's Experts, including the creation of a start-up budget for the [proposed] Malibu Unified School District
- Review of Financial Assumptions at the Conclusion of the 50-Year Agreement

Before the City provides a status update on these items, it is important to place these tasks in context.

On September 5, 2019, the City made a huge gesture and accepted the District's methodology for revenue sharing after the territory transfer, despite the City's belief that the District's proposal is a permanent redistribution of property tax dollars from Malibu to Santa Monica. At that time, the City requested that the District agree to the following five concessions:

- (1) District account for the all leasing revenues, including the hotel leases, in its local revenue projections.
- (2) District fund the proposed MUSD's start-up costs, including the erection of a district headquarters.

April 21, 2020
Page 2

- (3) District adjust its financial model to properly account for the additional operational expenses inherent in operating a smaller school district.
- (4) District agree to creating a JPA that would cover future liabilities deriving from the non-operational SMMUSD.
- (5) District agree that the future districts will revisit the financial assumptions in the revenue sharing agreement at the conclusion of the 50-year agreement term.

In response to the City's effort to reach an agreement in these negotiations, the District sent the City a letter on September 11, 2019, asserting that "it is crucial to the financial health of both entities that the parcel tax continue and as a result, the District is loath to put the parcel tax at risk in this process." Furthermore, in its November 5, 2019, correspondence to the City, the District stated that the parcel tax issue could be addressed "[a]s long as it is understood that continuation of the parcel tax at existing levels is a condition which must be satisfied to facilitate a territory split." The District additionally contended that many of the revenue and expense concessions that the City requested were already provided for in the District's financial models.

Hence, the City's next step was to confirm the revenue and expense concessions were, in fact, in the financial models, and to address the issue of the parcel tax. The City hired Ryland School Business Consulting ("Ryland SBC") to review the District's financial models and it began working with its State representatives to consider the feasibility of special legislation that would allow the City and the District to retain the Measure R parcel tax. Here are the updates to this work.

- **Special Legislation to Preserve the Measure R Parcel Tax**

The City was pleased to find that its State representatives were open to sponsoring special legislation that would allow the City and the District to retain Measure R Parcel Tax. Since we needed to move quickly in order to have any legislation presented in the 2020 Legislative Session, the City provided proposed language that amended Government Code section 50079.2.

Then, much to the surprise of the City, the District expressed consternation that special legislation was being considered in an attempt to preserve the Measure R parcel tax—the same parcel tax that the District was "loath to put at risk." The parties met on March 3, 2020, to discuss the special legislation prior to the March 5th SMMUSD Board Meeting at which the Board of Education would consider a formal board declaration supporting the special legislation. At our March 3rd meeting, the District Board members who were present (Board President Jon Kean, School Board Vice President Laurie Lieberman, and School Board Member Richard Tahvildaran-Jesswein) assured the City that other decision makers on the Board wanted to be sure the City was working on its other deliverables before the District expended any political capital on the special legislation—a position that completely ignored

April 21, 2020
Page 3

the fact that the City had virtually agreed to all of the District's terms thus far. The City representatives present, including Mayor Karen Farrer and City Councilmember Rick Mullen assured them the City was still working on the other issues, but that those were minor considering that no territory transfer could proceed without preserving the parcel tax.

At the March 5th School Board meeting, the Board considered the formal declaration supporting the special legislation, understanding that "support of special legislation is not the equivalent of an approval of a unification of a new school district." City Councilperson Rick Mullen attended the March 5th Board Meeting to reiterate the City's commitment to preservation of the Measure R Parcel Tax. Again, to the City's surprise, Board President Kean discouraged the Board from issuing the formal declaration in support of the special legislation to preserve the parcel tax. After discussion, the matter was set for action at the next Board Meeting scheduled for March 19, 2020. Unfortunately, due to the ongoing pandemic and Governor Newsom's stay-at-home orders, the item was not discussed at the March 19th meeting and now the State Legislature is only considering emergency legislation for the remainder of the 2020 Legislative Session.

The City shares the District's position that the Measure R parcel tax should be preserved and believes the District's formal support of this effort is paramount to continued negotiations between the parties.

- **Financial Review and Projections by City's Experts**
Ryland SBC is continuing to conduct its review of the District's financial models. At this point, the City is not able to confirm that the revenue and expense concessions that the City requested are, in fact, in the financial models. However and more importantly, there seem to be some fundamental assumptions and calculations within the District's financial model that make for an overall flawed analysis. The City is awaiting a final report from Ryland SBC and expects to be able to respond to the District's November 5, 2019, correspondence by June 1, 2020, although this timeline may need to be modified based on the availability (or lack thereof) of data from the State and the County due to the ongoing pandemic.
- **Review of Financial Assumptions at the Conclusion of the 50-Year Agreement**
In its November 5, 2019, correspondence, the District indicated that it would be concerned about reviewing the assumptions in its financial models at the conclusion of the 50-Year Agreement because of "a potential cliff effect in which revenues are radically shifted endangering future educational programs." The City believes this statement is evidence that the proposed revenue sharing agreement is a permanent redistribution of property tax dollars and is exactly why the review is necessary.

BBK
BEST BEST & KRIEGER
ATTORNEYS AT LAW

April 21, 2020
Page 4

The City initially disagreed with a 50-year agreement in any form because it was a substantial commitment of future MUSD resources to support the future SMUSD's educational programs. No distinct tax base, whether property owners through property tax or local businesses through sales tax, should underwrite the education of students in another jurisdiction. In order for the City to agree to the District's methodology, it must agree to review the financial assumptions at the conclusion of the agreement in order to promote both jurisdictions to make whatever operational decisions are necessary to allow for inevitable financial independence.

The City will be in contact with the District on or before June 1, 2020, regarding its Financial Review and Projections by Ryland SBC. Additionally, the City looks forward to the District's response to the City's position on the parcel tax legislation and the review of the financial assumptions at the conclusion of the revenue sharing agreement.

Sincerely,



Christine N. Wood
for BEST BEST & KRIEGER LLP

Indian Wells
(760) 568-2611

Irvine
(949) 263-2600

Manhattan Beach
(310) 643-8448

Ontario
(909) 989-8584

Christine N. Wood
(213) 542-3861
Christine.Wood@bbklaw.com



BEST BEST & KRIEGER
ATTORNEYS AT LAW

300 South Grand Avenue, 25th Floor, Los Angeles, CA 90071
Phone: (213) 617-8100 | Fax: (213) 617-7480 | www.bbklaw.com

Riverside
(951) 686-1450

Sacramento
(916) 325-4000

San Diego
(619) 525-1300

Walnut Creek
(925) 977-3300

Washington, DC
(202) 785-0600

June 1, 2020

VIA ELECTRONIC MAIL

David A. Soldani
Atkinson, Andelson, Loya, Ruud & Romo
10 River Park Place East, Suite 240
Fresno, California 93720
Email: dsoldani@aalrr.com

re: City of Malibu & SMMUSD Territory Transfer Next Steps - Update

Dear Mr. Soldani:

In accordance with our April 21, 2020, correspondence, this letter provides the City of Malibu's ("City") update on the status of its review of the financial projections proposed by the Santa Monica Malibu Unified School District's ("District") financial expert.

First, let me point out that the City still awaits a response from the District regarding its position on (1) the parcel tax legislation and (2) the review of the financial assumptions at the conclusion of the revenue sharing agreement. We asked for a response to these positions in our April 21, 2020, correspondence. Please advise as to when the District will provide a response.

Second, as you know, the City has engaged Ryland SBC to conduct a review of the District's financial projections and methodology. The City has received Ryland's review; however, the City has not yet briefed the City Council on the report and its findings due to the extraordinary circumstances of the statewide shelter in place orders. While the City Council is having virtual meetings, the Council is not considering items that require significant impact to the community since it is difficult to facilitate meaningful input from Malibu residents in this format. Therefore, we will bring the Ryland report to the City Council once in-person meetings resume.

BBK
BEST BEST & KRIEGER
ATTORNEYS AT LAW

June 1, 2020
Page 2

Until that point, the City is not at liberty to discuss findings and next steps with the District. The City will be in contact with the District once the Council has been briefed on the Ryland report so we can discuss next steps. In the meantime, we look forward to hearing from the District regarding its position on the parcel tax legislation and the review of the financial assumptions at the conclusion of the proposed revenue sharing agreement.

Sincerely,

A handwritten signature in dark ink, appearing to read "C Wood". The signature is fluid and cursive, with the first letter "C" being large and prominent.

Christine N. Wood
for BEST BEST & KRIEGER LLP