

Council Agenda Report

To: Mayor Sibert and the Honorable Members of the City Council

Approved by: Jim Thorsen, City Manager

Date prepared: August 26, 2015

Meeting date: September 16, 2015

Subject: Petition for Unification of a Malibu Unified School District (Mayor Pro Tem Rosenthal and Councilmember La Monte)

RECOMMENDED ACTION: At the request of Mayor Pro Tem Rosenthal and Councilmember La Monte, adopt Resolution No. 15-60 authorizing transmission of the petition for unification of a Malibu Unified School District to the Los Angeles County Superintendent of Schools.

FISCAL IMPACT: Transmission of the Resolution to the Los Angeles County Superintendent of Schools, and coordinating with the Los Angeles County Office of Education, will not have a significant fiscal impact. If organization of a Malibu Unified School District is accomplished, the City may be able to provide its residents with improved services and facilities for a lower cost through shared-use agreements with the Malibu Unified School District.

DISCUSSION: The City of Malibu and the unincorporated area surrounding the City (collectively, Greater Malibu), is currently within the territory of the Santa Monica-Malibu Unified School District (SMMUSD). When SMMUSD was first organized, Greater Malibu was sparsely populated and, therefore, had very few school-age children. At that time, it made sense for Greater Malibu to be part of a larger school district. However, under current law, the organization of SMMUSD would not be permissible. Specifically, California Education Code (EDC) Section 35543 (Attachment 2), enacted in 1980, provides that "a school district shall not be formed or reorganized to include territory which is separated from other portions of the territory of the district by the territory of one or more other school districts." Greater Malibu is separated from Santa Monica by the Los Angeles Unified School District.

For several years until the construction of Malibu High School was completed, children residing in Greater Malibu would attend high school at Santa Monica High School. Currently, children residing in Greater Malibu attend one of three elementary schools

located in Malibu, followed by Malibu Middle School and Malibu High School, all located within the City of Malibu.

Since its organization into SMMUSD many decades ago, Greater Malibu has grown significantly in population and has further developed into a thriving community, distinct from nearby cities, such as Los Angeles and Santa Monica. Greater Malibu now has a population of approximately 19,000, with 1,886 students attending public schools, and even more who attend private schools in and around Greater Malibu. The City of Malibu was incorporated in 1991 and, while Santa Monica has developed into a densely-populated urban community, Greater Malibu, despite significant population growth, has strived to maintain its rural character. The centers of Greater Malibu and Santa Monica are separated by 20 miles, and have become distinct communities.

For several years, concerned residents and community groups within Greater Malibu have expressed the desire to organize a separate Malibu school district. At times, unfortunate hostilities have arisen between SMMUSD and residents of Greater Malibu regarding a variety of topics. SMMUSD's central office is located in Santa Monica, a significant distance from even the closest portions of Greater Malibu. While SMMUSD's governing board has sometimes made commendable efforts to engage the residents of Greater Malibu, the distance of SMMUSD's central office and board meetings from Greater Malibu has had a negative effect on participation by residents of Greater Malibu and resulted in an unfamiliarity with Greater Malibu on the part of SMMUSD central office staff.

Residents of Greater Malibu have expressed concern and frustration that they are not adequately represented by the SMMUSD governing board due to its at-large system of election, and thus their concerns about the policies and practices of SMMUSD go largely unaddressed. At-large elections are well known to have this effect where there is a minority community distinct from the overall community, regardless of whether the minority community is a racial/ethnic minority, socio-economic minority, geographic minority, or any other minority community with interests distinct from those of the majority.

Since the enactment of the California Voting Rights Act (California Elections Code Section 14025, et seq.) in 2001, well over 100 school districts have converted from at-large elections to district-based elections to address that very concern. However, the City of Santa Monica adopted a city charter in 1947 that requires its city council and the governing board of SMMUSD to be elected at-large. The provision in Santa Monica's city charter providing for at-large elections prevents SMMUSD from adopting district-based elections. (California EDC Section 35730) (Attachment 3).

The principle civic group that has advocated for the organization of a Malibu Unified School District is Advocates for Malibu Public Schools (AMPS). The Malibu City Council has previously expressed its unanimous support for the work of AMPS and its mission to improve the public schools in Greater Malibu.

Over the past few years, AMPS has worked cooperatively with SMMUSD staff to investigate the feasibility and desirability of organizing a Malibu Unified School District from the existing territory of SMMUSD. AMPS retained WestEd, a premiere education consulting firm, to prepare a detailed report on the feasibility of the contemplated unification. The comprehensive report of WestEd, which was completed on July 16, 2015, confirms that unification of a Malibu Unified School District is both feasible and desirable. Specifically, WestEd examined the nine criteria for unification of a school district set forth in California EDC Section 35753 (Attachment 4):

- 1) The reorganized districts will be adequate in terms of number of pupils enrolled.
- 2) The districts are each organized on the basis of a substantial community identity.
- 3) The proposal will result in an equitable division of property and facilities of the original district or districts.
- 4) The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.
- 5) Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.
- 6) The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.
- 7) Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.
- 8) The proposed reorganization is primarily designed for purposes other than to significantly increase property values.
- 9) The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.

WestEd concluded that each of these criteria was satisfied.

Legislative Authority – California EDC Section 35721

Unification of a school district in California can be initiated by a petition from a variety of sources: the governing board of an existing school district, a sufficient portion of the registered voters in an affected area, or a city council that has jurisdiction over at least a portion of the affected area, among others. (California EDC Sections 35700 (Attachment 5) and 35721 (Attachment 6)). A city council initiates the process for unification of a new school district by adopting a resolution.

Specifically, California EDC Section 35721 provides, in relevant part:

- (c) On receipt of a resolution approved by a majority of the members of a city council, county board of supervisors, governing body of a special district, or local agency formation commission that has jurisdiction over all or a portion of the school district for consideration of unification or other reorganization of any area, the county committee shall hold a public hearing on the proposal at a regular or special meeting.
- (d) Following the hearing conducted pursuant to subdivision (a), (b), or (c), the county committee shall grant or deny the petition. ...

As provided in California EDC Section 35721(c), the Malibu City Council has “jurisdiction over ... a portion of the school district for consideration of unification or other reorganization.” Specifically, the City of Malibu, represented by its duly elected City Council, comprises a portion of the contemplated Malibu Unified School District, which would encompass both the City of Malibu and unincorporated areas surrounding the City. Based upon the most recent U.S. Census, approximately two-thirds of the residents of the contemplated Malibu Unified School District reside within the limits of the City of Malibu.

Therefore, the City Council is requested to adopt Resolution No. 15-60 authorizing transmission of the petition to the Los Angeles County Superintendent of Schools to petition for unification of a Malibu Unified School District.

ATTACHMENTS:

1. Resolution No. 15-60
2. California EDC Section 35543
3. California EDC Section 35730-35730.1
4. California EDC Section 35753
5. California EDC Section 35700-35700.1
6. California EDC Section 35721-35721.5

RESOLUTION NO. 15-60

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU
AUTHORIZING TRANSMISSION OF THE PETITION FOR UNIFICATION OF
A MALIBU UNIFIED SCHOOL DISTRICT TO THE LOS ANGELES COUNTY
SUPERINTENDENT OF SCHOOLS

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. The City of Malibu and the unincorporated area surrounding the City of Malibu (collectively, Greater Malibu), is currently within the territory of the Santa Monica Malibu Unified School District (SMMUSD).

B. Greater Malibu, and specifically the City of Malibu, has developed significantly since Greater Malibu was organized as part of SMMUSD.

C. Under current law, the organization of SMMUSD, including both Santa Monica and Greater Malibu, would not be permissible as California Education Code Section 35543, enacted in 1980, provides that "a school district shall not be formed or reorganized to include territory which is separated from other portions of the territory of the district by the territory of one or more other school districts." Greater Malibu is separated from Santa Monica by the Los Angeles Unified School District.

D. The City of Malibu was incorporated in 1991 and Greater Malibu, despite significant population growth, strives to maintain its rural character, while Santa Monica has developed into a densely-populated, urban community. As those distinct communities have developed, children residing in Greater Malibu have, since 1992, attended public schools from kindergarten through 12th grade entirely within the City of Malibu.

E. The city centers of Malibu and Santa Monica are separated by several miles, and Santa Monica and Malibu have become distinct communities.

F. For several years, concerned residents and community groups within Greater Malibu have expressed the desire to organize a separate Malibu school district.

G. SMMUSD's central office is located in Santa Monica, a significant distance from even the closest portions of Greater Malibu.

H. Residents of Malibu have expressed concern and frustration that they are not adequately represented by the SMMUSD governing board due to its at-large system of election, and that their concerns about the policies and practices of SMMUSD go largely unaddressed. At-large elections have been known to have this effect where there is a minority community distinct from the overall community, regardless of whether the minority community is a racial/ethnic minority, socio-economic minority, geographic minority, or any other minority community with interests distinct from those of the majority.

I. The City of Santa Monica adopted a city charter in 1947 that requires its city council and the governing board of SMMUSD to be elected at-large, and that charter provision prevents SMMUSD from adopting district-based elections.

J. The principle civic group that has advocated for the organization of a Malibu Unified School District, Advocates for Malibu Public Schools (AMPS), has worked cooperatively with SMMUSD staff to investigate the feasibility and desirability of organizing a Malibu Unified School District from the existing territory of SMMUSD, and in that effort retained the services of WestEd to prepare a report on the feasibility and desirability of the contemplated unification using data in a large part generated by SMMUSD.

K. The comprehensive report of WestEd, completed on July 16, 2015, confirms that unification of a Malibu Unified School District is both feasible and desirable.

L. The nine criteria for unification of a school district set forth in California Education Code Section 35753 are all satisfied by the contemplated organization of a Malibu Unified School District.

M. The unification of a Malibu Unified School District from the existing territory of SMMUSD will benefit all children in Santa Monica, as well as Greater Malibu, as each of the two resulting school districts will:

- Be better suited to utilize the unique resources, and address the particular needs, of their respective communities
- Have more funds for educating each student than the existing SMMUSD, pursuant to the State's school funding formulas
- Be capable of implementing the distinct educational philosophies of their respective communities
- Continue to promote sound educational performance with no disruption to educational programs
- Not result in a significant increase in school housing costs or otherwise have an adverse effect on the fiscal status of any district

N. Organization of a Malibu Unified School District enables all residents of Greater Malibu to have representation on their local school board through the adoption of by-trustee-area elections.

O. Unification of a school district may be initiated by a resolution of a city council that has jurisdiction over at least a portion of the affected area, pursuant to California Education Code Section 35721(c).

SECTION 2. The City Council does authorize transmission of the petition for unification of a Malibu Unified School District to the Los Angeles County Superintendent of Schools.

SECTION 3. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

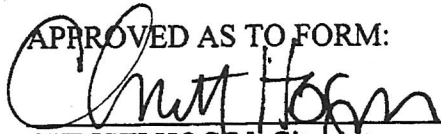
PASSED, APPROVED, and ADOPTED this ___ day of _____, 2015.

JOHN SIBERT, Mayor

ATTEST:

HEATHER GLASER, Acting City Clerk
(seal)

APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney



State of California
EDUCATION CODE
TITLE 2. ELEMENTARY AND SECONDARY EDUCATION
DIVISION 3. LOCAL ADMINISTRATION
PART 21. LOCAL EDUCATIONAL AGENCIES
CHAPTER 3. REORGANIZATION OF SCHOOL DISTRICTS—GENERAL PROVISIONS
Article 5. Territory of School Districts
§ 35543

35543. On or after January 1, 1981, a school district shall not be formed or reorganized to include territory which is separated from other portions of the territory of the district by the territory of one or more other school districts.

(Repealed and added by Stats. 1980, Ch. 1192, Sec. 2.)



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CHAPTER 4. REORGANIZATION OF SCHOOL DISTRICTS
Article 3. Contents of Plans and Recommendations
§ 35730

35730. The plans and recommendations, in connection with the proposed formation of a new unified school district to include within its boundaries a chartered city, may provide that the establishment and existence of the governing board of the district shall be governed by the charter of the city and not exclusively by general law. Upon adoption of plans and recommendations containing such provision, the establishment and existence of the governing board of the district shall thenceforth be governed exclusively by the city charter and the board shall be a city board of education of a chartered city. In the absence of such a recommendation, the proposed new unified district shall be governed by general law.

(Added by Stats. 1980, Ch. 1192, Sec. 3.)



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Article 3. Contents of Plans and Recommendations
§ 35730

35730.1. Any reorganization of a school district with more than 500,000 pupils in average daily attendance shall require that each new district created meets the following conditions:

- (a) Socioeconomic diversity.
- (b) Geographical compactness.
- (c) Equity of resource distribution.
- (d) Compliance with *Crawford v. Board of Education*, 17 Cal. 3d 280, and the terms of the consent decree in *Rodriquez v. Los Angeles Unified School District*, Consent Decree No. C-611358.
- (e) Preservation of the policies used by magnet schools, charter schools, site-based management initiatives, and the LEARN program as those policies already exist in practice or pursuant to law.
- (f) Compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).
- (g) Compliance with the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971), as amended.
- (h) The formation of the new school districts does not result in the diminution of minority protections.
- (i) The maintenance of the conditions of all collective bargaining agreements until their expirations.
- (j) Recognition of the existing retiree health, dental, and vision care benefits.

(Added by Stats. 1995, Ch. 412, Sec. 2. Effective January 1, 1996.)

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Article 4. Approval and Adoption of Plans and Recommendations
§ 35753

35753. (a) The State Board of Education may approve proposals for the reorganization of districts, if the board has determined, with respect to the proposal and the resulting districts, that all of the following conditions are substantially met:

(1) The reorganized districts will be adequate in terms of number of pupils enrolled.
(2) The districts are each organized on the basis of a substantial community identity.
(3) The proposal will result in an equitable division of property and facilities of the original district or districts.

(4) The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.

(5) Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

(6) The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.

(7) Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

(8) The proposed reorganization is primarily designed for purposes other than to significantly increase property values.

(9) The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.

(10) Any other criteria as the board may, by regulation, prescribe.

(b) The State Board of Education may approve a proposal for the reorganization of school districts if the board determines that it is not practical or possible to apply the criteria of this section literally, and that the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval of the proposals.

(Amended by Stats. 2005, Ch. 344, Sec. 10. Effective January 1, 2006.)



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Article 1. Reorganization of School Districts by the Electorate
§ 35700

35700. An action to reorganize one or more districts is initiated upon the filing, with the county superintendent of schools, of a petition to reorganize one or more school districts signed by any of the following:

(a) At least 25 percent of the registered voters residing in the territory proposed to be reorganized if the territory is inhabited. Where the petition is to reorganize territory in two or more school districts, the petition shall be signed by at least 25 percent of the registered voters in that territory in each of those districts.

(b) A number of registered voters residing in the territory proposed to be reorganized, equal to at least 8 percent of the votes cast for all candidates for Governor at the last gubernatorial election in the territory proposed to be reorganized, where the affected territory consists of a single school district with over 200,000 pupils in average daily attendance and the petition is to reorganize the district into two or more districts.

(c) The owner of the property, provided that territory is uninhabited and the owner thereof has filed either a tentative subdivision map with the appropriate county or city agency or an application for any project, as defined in Section 21065 of the Public Resources Code, with one or more local agencies.

(d) A majority of the members of the governing boards of each of the districts that would be affected by the proposed reorganization.

(Amended by Stats. 1995, Ch. 267, Sec. 2. Effective January 1, 1996.)



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CHAPTER 4. REORGANIZATION OF SCHOOL DISTRICTS

Article 1. Reorganization of School Districts by the Electorate

§ 35700

35700.1. (a) A county superintendent of schools may do any of the following, as necessary, with respect to the reorganization of school districts within the jurisdiction of a county superintendent of schools:

(1) Prior to the initiation of an action to reorganize, a county superintendent of schools may do any of the following:

(A) Provide information, coordination, and guidance to potential petitioners for reorganization and to other parties inquiring about the petition process.

(B) Provide procedural advice and counseling.

(C) Provide information and assistance for community meetings, information sessions, and briefing sessions.

(D) Provide for coordination of media and community relations.

(2) A county superintendent of schools may perform the following duties for the processing and evaluation of multiple petitions to reorganize one or more school districts:

(A) Ensure compliance with all requirements pertaining to the petitions.

(B) Ensure compliance with all required timelines or deadlines for petitions.

(C) Apply new and preexisting evaluation criteria to the petition.

(3) A county superintendent of schools may provide assistance to newly reorganized school districts during the interim period, as follows:

(A) To ensure smooth transitions with minimum disruption to pupils and staff.

(B) To provide advisory and consulting expertise on any of the following:

(i) Board and administrative policies and regulations.

(ii) Personnel policies.

(iii) Curriculum.

(iv) Instructional programs and services.

(v) Financial and budgeting functions.

(vi) Distribution of assets and liabilities.

(b) No funds allocated to the Los Angeles County Office of Education pursuant to the Budget Act shall be used to instigate, solicit, or promote the development of plans to reorganize a school district or school districts within the jurisdiction of the county office of education; provided, however, that the funds may be used to support

the research necessary to review and make recommendations regarding reorganization plans that are submitted to the county office of education.

(Added by Stats. 1996, Ch. 296, Sec. 1. Effective January 1, 1997.)

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CHAPTER 4. REORGANIZATION OF SCHOOL DISTRICTS
Article 2. County Committee on School District Organization Plans and
Recommendations for District Reorganization
§ 35721

35721. (a) On receipt of a petition signed by at least 10 percent of the qualified electors residing in any district for a consideration of unification or other reorganization of any area, the county committee shall hold a public hearing on the petition at a regular or special meeting.

(b) On receipt of a petition signed by at least 5 percent of the qualified electors residing in a school district with over 200,000 pupils in average daily attendance in which the petition is to reorganize the district into two or more districts, the county committee shall hold a public hearing on the petition at a regular or special meeting.

(c) On receipt of a resolution approved by a majority of the members of a city council, county board of supervisors, governing body of a special district, or local agency formation commission that has jurisdiction over all or a portion of the school district for consideration of unification or other reorganization of any area, the county committee shall hold a public hearing on the proposal at a regular or special meeting.

(d) Following the hearing conducted pursuant to subdivision (a), (b), or (c), the county committee shall grant or deny the petition. If the county committee grants the petition, it shall adopt a tentative recommendation following which action it shall hold one or more public hearings in the area proposed for reorganization. The provisions of Sections 35705 and 35705.5 shall apply to any such public hearing.

(Amended by Stats. 2000, Ch. 761, Sec. 1.5. Effective January 1, 2001.)



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§ 35721

35721.5. Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the local agency formation commission for the affected area.

(Added by Stats. 2000, Ch. 761, Sec. 2. Effective January 1, 2001.)