



Council Agenda Report

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

Prepared by: Heather Glaser, City Clerk

Approved by: Reva Feldman, City Manager

Date prepared: November 9, 2020 Meeting date: November 23, 2020

Subject: Approval of Minutes

RECOMMENDED ACTION: Approve the minutes for the October 12, 2020 Malibu City Council Special meeting, October 12, 2020 Malibu City Council Regular meeting, and October 28, 2020 Malibu City Council Special meeting.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year 2020-2021. This is part of normal staff operations.

DISCUSSION: Staff has prepared draft minutes for the meetings of October 12, 2020 and October 28, 2020.

ATTACHMENTS:

1. October 12, 2020 Malibu City Council Special meeting
2. October 12, 2020 Malibu City Council Regular meeting
3. October 28, 2020 Malibu City Council Special meeting

MINUTES
MALIBU CITY COUNCIL
SPECIAL MEETING
OCTOBER 12, 2020
TELECONFERENCED - VARIOUS LOCATIONS
4:30 P.M.

The following meeting was held pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

MEETING CALL TO ORDER

Mayor Pierson called the meeting to order at 4:32 p.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Mayor Mikke Pierson; Mayor Pro Tem Skylar Peak; and Councilmembers Karen Farrer, Rick Mullen, and Jefferson Wagner

ALSO PRESENT: Christi Hogin, City Attorney; Reva Feldman, City Manager; Heather Glaser, City Clerk; and Kelsey Pettijohn, Deputy City Clerk

PUBLIC COMMENT ON CLOSED SESSION

Mayor Pierson stated the City Manager contract was not under review.

Bruce Silverstein stated the performance evaluation should be postponed until after the November 2020 General Municipal Election. He stated the evaluation should not be conducted in Closed Session. He stated the City Manager had decided to place the item on Closed Session.

Lance Simmens stated the performance evaluation should be conducted in Closed Session but should be postponed until after the November 2020 General Municipal Election.

Andy Lyon stated the performance evaluation should not be conducted in Closed Session. He stated the performance evaluation should be postponed until after the November 2020 General Municipal Election.

RECESS TO CLOSED SESSION

At 4:41 p.m., on the advice of counsel and based on existing facts and circumstances, the Council recessed to Closed Session to discuss the following items listed on the Closed Session agenda:

Conference with Legal Counsel – Existing litigation pursuant to Government Code Section 54956.9(d)(1):

1. Seider v. City of Malibu, United States District Court Case No. 2-20-cv-08781 PA (MRWx)

Personnel Matters pursuant to Government Code Section 54957:

1. Public Employee Performance Evaluation
Title: City Manager

CLOSED SESSION REPORT

City Attorney Hogin reported that the Special meeting convened at 4:30 p.m., and, after receiving public comment, the City Council recessed to a Closed Session pursuant to Government Code Sections 54956.9(d)(1) and 54957, with all Councilmembers present. She stated the Council discussed the items listed on the Closed Session agenda, recessed at 6:00 p.m. until 6:30 p.m., and took no reportable action.

ADJOURNMENT

At 6:31 p.m., Mayor Pierson adjourned the meeting.

Approved and adopted by the City Council of the
City of Malibu on _____.

MIKKE PIERSON, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
OCTOBER 12, 2020
TELECONFERENCED - VARIOUS LOCATIONS
6:30 P.M.

The following meeting was held pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

REGULAR SESSION CALL TO ORDER

Mayor Pierson called the meeting to order at 6:31 p.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Mayor Mikke Pierson; Mayor Pro Tem Skylar Peak; and Councilmembers Karen Farrer, Rick Mullen, and Jefferson Wagner

ALSO PRESENT: Christi Hogin, City Attorney; Reva Feldman, City Manager; Heather Glaser, City Clerk; Bonnie Blue, Planning Director; Rob DuBoux, Public Works Director; Christine Wood, Deputy City Attorney; Kelsey Pettijohn, Deputy City Clerk; Elizabeth Shavelson, Assistant to the City Manager; Kristin Riesgo, Community Services Deputy Director; and Susan Dueñas, Public Safety Manager

PLEDGE OF ALLEGIANCE

Mayor Pierson led the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Pierson discussed planned power outages in the City after 9:30 p.m. and stated some items on the agenda needed to be moved.

MOTION Mayor Pro Tem Peak moved, and Councilmember Farrer seconded a motion to approve the Consent Calendar, continuing Item No. 4.A. to the November 9, 2020 City Council Regular meeting, Item No. 5.A. to October 26, 2020 City Council Regular meeting, and hearing Item No. 7.A. after the Consent Calendar. The question was called, and the motion carried unanimously.

REPORT ON POSTING OF AGENDA

Deputy City Clerk Pettijohn reported that the agenda for the meeting was properly posted on October 1, 2020.

ITEM 1 CEREMONIAL/PRESENTATIONS

None.

ITEM 2.A. PUBLIC COMMENTS

Bruce Silverstein stated the performance evaluation of the City Manager should not have been held three weeks before a General Municipal Election of a majority of Councilmembers. He stated the performance evaluation should not have been held in Closed Session and should be considered invalid. He stated there had not been a report on Closed Session. He stated no law, rule or written order of the California Coastal Commission (CCC) had been provided that prohibited Southern California Edison from remediating the Bell property while an appeal was pending.

Kraig Hill stated he was curious to hear a response to Mr. Silverstein's comments. He stated he moderated a City Council candidate forum sponsored by the Malibu Foundation. He discussed a correlation between Santa Ana winds and El Niño weather patterns. He discussed Windy, an application for mobile phones that forecasted wind patterns.

ITEM 2.B. COMMISSION / COMMITTEE / CITY MANAGER UPDATES

City Manager Feldman stated there were 282,982 COVID-19 cases in the County of Los Angeles with 105 COVID-19 cases and 3 deaths in Malibu. She stated 259 single-family Woolsey Fire rebuilds had been approved through the Planning Department, 149 building permits had been issued, and 11 homes had been completed. She stated Planning Director Blue would retire from the City on October 21, 2020, and Richard Mollica would serve as Acting Planning Director during the recruitment process. She stated there would be three Vote Centers would be open in the City for the November 3, 2020 election with one at Webster Elementary School opening on October 24, 2020. She stated there was an official ballot drop box outside of the Malibu Library. She stated the temporary skate park hours would be 10:00 a.m. to 6:00 p.m. She stated the permanent skate park survey available on the City's website would close on October 23, 2020. She stated hot and dry weather was expected and urged the community to prepare for fire. She stated event videos from National Preparedness Month were available on the City's website. She announced a Hazardous Household Waste and E-Waste Collection event at City Hall on October 17, 2020. She stated the deadline to complete the 2020 Census had been extended to October 31, 2020.

Deputy City Clerk Pettijohn stated a member of the public wished to speak on the item.

Bruce Silverstein questioned when and by whom at the CCC had City Manager Feldman been told that remediation of the Bell property could not be done while an appeal was pending. He questioned why it had not been memorialized in writing

and why the City Attorney had not been consulted on whether the restriction was lawful.

In response to Mayor Pierson, City Manager Feldman stated she would contact Mr. Silverstein personally.

ITEM 2.C. SUBCOMMITTEE REPORTS / COUNCIL COMMENTS

Councilmember Wagner apologized for missing the September 29, 2020 Adjourned Regular meeting.

Councilmember Farrer left the meeting at 6:50 p.m.

Councilmember Mullen stated he did not have an update.

Mayor Pro Tem Peak thanked the Fire Department for its swift response to the most recent fire.

Councilmember Farrer returned to the meeting at 6:51 p.m.

Councilmember Farrer stated Mayor Pierson, some City staff, and she attended the League of California Cities Annual Conference. She stated she attended meetings of the Los Angeles County Library Commission and a meeting of the Los Angeles County Library Commission Education Subcommittee. She stated she attended several City Council candidate forums.

Mayor Pierson discussed candidate forums and the Windy application for mobile phones. He stated he attended the League of California Cities Annual Conference. He stated he would follow up with the League of California Cities Coastal Cities Issues Group regarding the proliferation of small and micro cells. He discussed the intersection of Pacific Coast Highway (PCH) and Las Flores Canyon Road and stated he would discuss it with the PCH Task Force when it started meeting again. He urged the Council candidates to remember the importance of relationships with other organizations and agencies.

In response to Mayor Pierson, City Attorney Hogin stated there was no recorded trail easement or offer to dedicate across Via Escondido as far as the City knew. She stated the Mountains Recreation and Conservation Authority (MRCA) had an easement for ingress and egress over Via Escondido as all property owners did. She stated the matter of whether the private road easement could become a public trail was being litigated in the Superior Court. She stated the trail map that listed Via Escondido did not do a service to the public.

In response to Mayor Pierson, Planning Director Blue stated those not ready to submit an application for in-kind disaster rebuilds by November 8, 2020, should submit their extension request as soon as possible to preserve their position to proceed with their application when they were ready.

Mayor Pierson stated Woolsey Fire fee waivers were nontransferable.

ITEM 3 CONSENT CALENDAR

In response to City Attorney Hogin, Councilmember Wagner stated he owned property in Civic Center Water Treatment Facility Phase Two.

In response to Mayor Pierson, Councilmember Wagner stated he was not within 500 feet of the Ioki Property.

City Manager Feldman stated a portion of Item No. 3.B.6. dealt with Civic Center Water Treatment Facility Phase Two.

Councilmember Wagner indicated he would recuse himself from Item No. 3.B.6.

MOTION Mayor Pro Tem Peak moved, and Councilmember Mullen seconded a motion to approve the Consent Calendar. The question was called, and the motion carried unanimously with Councilmember Wagner recusing himself from Item No. 3.B.6.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

None.

B. New Items

1. Waive Further Reading

Recommended Action: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

2. Approve Warrants

Recommended Action: Allow and approve warrant demand 61393-61509 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 668 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$5,057,909.15. City of Malibu payroll check number 5127-5131 and ACH deposits were issued in the amount of \$295,705.49.

3. Malibu Film Society Drive-In Movie Event Sponsorship

Recommended Action: Approve the request from the Malibu Film Society that the City co-sponsor the two-night drive-in movie event at the Ioki Property.

4. Award Storm Drain Trash Screens Project (Continued from September 14, 2020)

Recommended Action: 1) Authorize the City Manager to execute a construction contract with United Storm Water, Inc. in the amount \$17,863.72 for the Storm Drain Trash Screens Installation Project, Specification No. 2077; and 2) Authorize the Public Works Director to approve potential change orders up to 15% of Agreement contract.

5. Award Malibu Bluffs Park Workout Station Project (Continued from September 14, 2020)
Recommended Action: 1) Authorize the Mayor to execute a construction contract with Civic Construction Associates in the amount \$40,001 for the Malibu Bluffs Park Workout Station Project, Specification No. 2088; and 2) Authorize the Public Works Director to approve potential change orders up to 15% of Agreement contract.
6. Agreement for the Administration of Assessment District 2015-1 Civic Center Water Treatment Facility Phase One and Assessment Engineering Services for the Formation of an Assessment District for Civic Center Water Treatment Facility Phase Two
Recommended Action: Authorize the Mayor to execute a Professional Services Agreement with 30 Three Sixty Public Finance, Inc. to provide assessment engineering services for the administration and annual reporting for Assessment District 2015-1 Civic Center Water Treatment Facility (CCWTF) Phase One and the formation of an assessment district for CCWTF Phase Two.
7. Malibu Poet Laureate
Recommended Action: At the recommendation of the Cultural Arts Commission, approve the nomination of Dr. John Struloeff to serve as the Malibu Poet Laureate from October 13, 2020, to June 1, 2021.

ITEM 7 COUNCIL ITEMS

- A. Update on School District Separation (Councilmember Farrer and Councilmember Mullen)
Recommended Action: At the request of Councilmembers Farrer and Mullen 1) Receive an update from the School District Separation Ad Hoc Committee and 2) Provide direction to staff.

City Manager Feldman discussed the staff report.

Deputy City Attorney Wood introduced the financial team: LaTanya Kirk-Carter, Kirk Carter & Associates, Cathy Dominico, Capitol Public Finance Group, and Terri Ryland, Ryland School Business Consulting.

Councilmember Mullen discussed the history of negotiations for separation from Santa Monica-Malibu Unified School District (SMMUSD), including discussion regarding the separation of the school district parcel tax. He stated the School District Separation Ad Hoc Committee and financial team had moved the discussion forward as much as possible but had ultimately come back to a plan to put the petition for separation before Los Angeles County Office of Education (LACOE).

Deputy City Attorney Wood reminded the Council it had authorized staff to submit the petition for separation to LACOE, but submission of the petition had been stayed since April 2018 pending negotiations with SMMUSD. She stated financial

offers had been exchanged with SMMUSD, but negotiations had been unsuccessful. She stated the financial team had analyzed the feasibility and fairness of SMMUSD offers.

LaTanya Kirk-Carter discussed financial models for separation. She stated SMMUSD had put forward a financial model that permanently redistributed property tax away from Malibu to Santa Monica, which would total \$4 billion over 50 years. She stated SMMUSD had left out all other potential revenue sources available to Santa Monica when it submitted its financial model to the City. She stated SMMUSD had rejected all financial models submitted by the City. She discussed the California Department of Education (CDE) criteria as prescribed in the Education Code to allocate revenue and evaluate the feasibility of separation.

Cathy Dominico stated Terri Ryland and she evaluated SMMUSD financials and proposed model for revenue redistribution. She the permanent redistribution model proposed by SMMUSD was not consistent with the fundamental property tax distribution system in California and went beyond the guidance of CDE for reorganization. She stated criteria five and nine of the nine criteria set out by CDE for reorganization specifically addressed operational funding.

Terri Ryland stated SMMUSD was a “basic aid” district that required minimum State aid funding. She discussed the Local Control Funding Formula for funding school districts. She stated SMMUSD had been going in and out of “basic aid” status depending on its property tax revenues. She discussed various local tax revenues that went to SMMUSD directly from Santa Monica. She stated the student numbers being used for analysis were 1,500 students in Malibu and 8,500 in Santa Monica. She stated Malibu could slide over enough property tax to Santa Monica to keep the State aid funding static, which would keep both school districts healthy.

Ms. Ryland discussed the five-year projection for per student funding for SMMUSD compared to the projected funding for a Santa Monica Unified School District and a Malibu Unified School District (MUSD). She stated it was projected that funding per student for both cities was projected better in future years if separation were to occur. She stated other CDE criteria needed to be evaluated but the initial review indicated reorganization could be deemed feasible per the Education Code and the CDE.

Councilmember Mullen discussed the history of separation. He thanked Deputy City Attorney Wood and the financial team.

Councilmember Farrer thanked the financial team, City staff, and Deputy City Attorney Wood.

In response to Councilmember Farrer, Ms. Kirk-Carter stated separation from SMMUSD would not cost the City any money. She stated once a MUSD was formed it was a sovereign entity and funding would be separate from the City. She stated a MUSD could not raise property taxes.

Ms. Dominico stated a MUSD could ask the voters whether they wanted to tax themselves further through a general obligation bond or other type of special tax.

Craig Foster thanked the Council and staff for pursuing separation from SMMUSD. He stated the need for a MUSD had never been greater. He discussed the unique needs of Malibu and disenrollment concerns. He stated a MUSD would bring the community together.

Councilmember Farrer thanked Mr. Foster. She discussed her experience with SMMUSD. She stated school district separation was the third priority of the Council. She recommended the City cease negotiations with SMMUSD and reinstate the petition for separation with LACOE.

MOTION Councilmember Farrer moved, and Councilmember Mullen seconded a motion to direct staff to submit the petition for unification of a MUSD to LACOE.

Councilmember Wagner thanked those that had worked previously on school district separation and the School District Separation Ad Hoc Committee.

Councilmember Mullen stated the City had the capability of creating a world-class education system for the future.

The question was called, and the motion carried unanimously.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

- A. Appeal No. 20-006 - Appeal of Planning Commission Resolution No. 20-18 (23325 Malibu Colony Drive; Owner, Axel 23324, LLC; Appellant, Judith Israel)
Recommended Action: Adopt Resolution No. 20-55, determining the project is categorically exempt from the California Environmental Quality Act, denying Appeal No. 20-006 and approving Coastal Development Permit No. 18-035 for the demolition of a one-story single-family residence and associated development, totaling 2,963 square feet, and construction of a new 5,220 square foot, two-story single-family residence, swimming pool, decks, permeable driveway and other associated development, and replacement of the onsite wastewater treatment system; including Variance No. 19-062 to allow encroachment into the 100-foot buffer from an Environmentally Sensitive Habitat Area (Malibu Lagoon) and Demolition No. 18-010 for the demolition of the existing residence and associated development located in the Single-Family Medium Density (SF-M) zoning district within the Malibu Colony Overlay District at 23325 Malibu Colony Drive (Axel 23324, LLC).

This item was continued to the November 9, 2020 City Council Regular meeting upon approval of the agenda.

B. Approval of participation in the Los Angeles County Permanent Local Housing Allocation Program and use of PLHA Grant Funds

Recommended Action: 1) Conduct the Public Hearing; and 2) Adopt Resolution No. 20-56 approving participation in the Los Angeles Urban County Permanent Local Housing Allocation (PLHA) Program by authorizing the Mayor, or his designee, to sign a contract for funding the program from the County of Los Angeles.

Assistant to the City Manager Shavelson presented the staff report.

Councilmember Mullen state the money was being moved to where it could be better used.

MOTION

Councilmember Farrer moved, and Councilmember Wagner seconded a motion to adopt Resolution No. 20-56 approving participation in the Los Angeles Urban County Permanent Local Housing Allocation (PLHA) Program by authorizing the Mayor, or his designee, to sign a contract for funding the program from the County of Los Angeles. The question was called, and the motion carried unanimously.

C. Ordinance Requiring the Use of Face Coverings During the COVID-19 Pandemic

Recommended Action: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 473 requiring the use of face coverings during the COVID-19 pandemic, finding the same exempt from the California Environmental Quality Act; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 473 for the October 26, 2020 Regular City Council meeting.

City Attorney Hogin presented the staff report. She stated face coverings were required in the County of Los Angeles on order of the Public Health Officer. She stated the ordinance subjected someone non-compliant to a \$50 fine, more strictly defined face covering, and clarified someone in a residential zone and six feet away from another or in a vehicle with persons from their own home were not required to wear a face covering.

Ruel Gomez was not present at the time of the hearing.

Bruce Silverstein questioned why the Council had not brought an ordinance forward earlier. He stated a previously proposed urgency ordinance was overbroad and sloppily drafted. He stated he offered to help draft a non-urgency ordinance. He stated the order of the Public Health Officer was not a law.

In response to Councilmember Mullen, City Attorney Hogin stated the ordinance was coterminous with the City's state of emergency.

Councilmember Wagner stated the County and State had their own emergency declarations.

MOTION Councilmember Farrer moved to: 1) introduce on first reading Ordinance No. 473 requiring the use of face coverings during the COVID-19 pandemic, finding the same exempt from the California Environmental Quality Act; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 473 for the October 26, 2020 Regular City Council meeting.

City Attorney Hogin read the title of the ordinance.

Councilmember Wagner seconded the motion. The question was called, and the motion carried 4-1, Councilmember Mullen dissenting.

ITEM 5 OLD BUSINESS

- A. Big Rock Mesa Landslide Assessment District Update
Recommended Action: 1) Receive an update on the Big Rock Mesa Landslide Assessment District; and 2) Provide direction to staff.

This item was continued to the October 26, 2020 City Council Regular meeting upon approval of the agenda.

ITEM 6 NEW BUSINESS

None.

ADJOURNMENT

MOTION At 8:04 p.m. Councilmember Farrer moved, and Councilmember Mullen seconded a motion to adjourn the meeting.

FRIENDLY AMENDMENT

Mayor Pro Tem Peak moved to amend the motion to adjourn in memory of Michael Bennett. The maker and the seconder accepted the amendment. The question was called and the motion carried unanimously.

Approved and adopted by the City Council of the
City of Malibu on _____.

MIKKE PIERSON, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

MINUTES
MALIBU CITY COUNCIL
SPECIAL MEETING
OCTOBER 28, 2020
TELECONFERENCED - VARIOUS LOCATIONS
6:30 P.M.

The following meeting was held pursuant to the Governor’s Executive Orders N-25-20 and N-29-20 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

MEETING CALL TO ORDER

Councilmember Farrer called the meeting to order at 6:30 p.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Mayor Mikke Pierson; and Councilmembers Karen Farrer, and Rick Mullen

ALSO PRESENT: Trevor Rusin, Assistant City Attorney; Reva Feldman, City Manager; Christine Wood, Deputy City Attorney; Mary Linden, Executive Assistant; Elizabeth Shavelson, Assistant to the City Manager; Kelsey Pettijohn, Deputy City Clerk

VIRTUAL TOWN HALL ON SCHOOL DISTRICT SEPARATION

Councilmember Farrer thanked all in attendance. She stated on October 12, 2020, the Council decided move forward with sending a petition to separate from the Santa Monica-Malibu Unified School District (SMMUSD) and form a Malibu Unified School District (MUSD) to the Los Angeles County Office of Education (LACOE). She provided her background with Malibu schools. She stated SMMUSD was head quartered in Santa Monica which had geographic and cultural divides from Malibu. She stated Malibu students would be better served when Malibu had a stronger voice. She stated she was committed to working with the community to establish a MUSD that reflected Malibu values. She stated she was working with Councilmember Mullen, City staff and a team of consultants on school district separation efforts.

Councilmember Mullen stated school district separation was ultimately an issue of local control, the same reason Malibu became a City. He stated nothing was more important than children and their education. He stated the were seven SMMUSD Board of Education Members, and after many years of no Malibu representation, there was only one Board Members from Malibu. He stated the School District Separation Ad Hoc Committee had worked on negotiations with SMMUSD representatives. He stated the City’s efforts were well led by a qualified team of experts that were prepared to answer questions.

Deputy City Attorney Wood provided a visual presentation also presented to the City Council on October 12, 2020. She stated written questions had been received before the meeting and verbal questions would be taken at the end of the meeting using the raise hand feature in zoom. She introduced LaTanya Kirk-Carter, Kirk Carter & Associates, Cathy Dominico, Capitol Public Finance Group, and Terri Ryland, Ryland School Business Consulting.

Terri Ryland offered background on the unification process and the Council decision of October 12, 2020. She stated the team went to the Council seeking direction and the Council voted to discontinue negotiations that had failed and proceed with the petition to LACOE.

LaTanya Kirk-Carter presented the same information that was presented to the Council on October 12, 2020. She explained the City's team negotiated with SMMUSD for over two years. She stated the proposals for school district separation were not accepted by SMMUSD. She stated SMMUSD wanted the redistribution of property taxes from Malibu to Santa Monica students to be permanent. She stated this type of permanent transfer of funding was not in the California Department of Education (CDE) handbook for separation of school districts. She a financial analysis of the proposal to permanently transfer property tax revenue from Malibu to Santa Monica would redistribute \$250 million over 10 years and \$4 billion over 50 years. She stated negotiators could not find common ground in something less permanent that would be equitable to Malibu and its taxpayers.

Cathy Dominico validated Ms. Kirk-Carter's findings that the financial reorganization that SMMUSD indicated support for went beyond what was typical with a permanent redirection of property tax. She recommended doing what was prescribed in law to meet the criteria for evaluating the financial health of a school district. She stated she looked at SMMUSD operational revenues from other local funding sources. She stated some of those revenue sources would stay with Santa Monica students due to the location of the funding sources, including redevelopment funding, City of Santa Monica sales tax, and funds from the joint use arrangement with City of Santa Monica and SMMUSD. She stated when considering all revenue sources, a Santa Monica Unified School District (SMUSD) would actually see an increase in per student funding compared to SMMUSD. She explained criteria five and nine for operational funding.

Ms. Ryland explained that according to criteria five, reorganization could not result in substantial increase in costs to the State. She explained "basic aid" school district funding. She stated to avoid additional costs to the State, SMUSD would need to receive enough property tax funding to be a "basic aid" district. She stated Malibu could transfer a portion of its property tax to SMUSD to the point that the State was held harmless. She stated per student funding for both districts would be higher after separation. She stated Santa Monica would keep its same level of local funding with fewer students, so per student revenue would go up.

Ms. Dominico stated criteria five could be addressed by a temporary property tax transfer from Malibu to Santa Monica until SMUSD could reach “basic aid” status. She stated criteria nine was met by demonstrating there was not a negative financial impact for the proposed districts since each district would increase per student funding. She stated after initial review, it was reasonable to expect that a reorganization was feasible, and the City’s petition could be evaluated by LACOE.

Deputy City Attorney Wood explained the next steps for the City’s petition. She stated there were many paths to school district unification and the City petition process was one of the less common paths. She stated the community would have the opportunity to provide input at public LACOE hearings. She stated school district unification could be a long process. She discussed some of the most widely known Southern California unifications in the past 10 years. She stated there may need to be a California Environmental Quality Act (CEQA) analysis before the school districts could be separated. She stated the City would try to expedite the process as much as possible. She stated the consultant team would begin responding to the written questions submitted in advance.

In response to the question: *What can the community do to help this process?* Ms. Dominico stated the consultant team would put together a package to provide to LACOE to clarify why unification was important to the community. She stated the community could write letters to share experiences in SMMUSD and what they were looking for in a MUSD that they were not getting with SMMUSD.

In response to the question from Alfred Roven: *Is new separation going to require increased funding, e.g. tax increase?* Ms. Ryland stated taxes would not increase. She stated the current taxes would just be reallocated to stay in the communities that generate them.

In response to the question from April Costen: *When MUSD is established, will it open classrooms to in-person learning during the COVID-19 pandemic?* Ms. Dominico stated a lot of progress had been made towards unification, but it was highly likely the COVID-19 pandemic would be in the past by the time the long process was done. She stated if other similar situations happen in the future, a local school district could address issues directly affecting the community more effectively.

In response to the question: *Is Malibu still negotiating with SMMUSD?* Deputy City Attorney Wood stated that question was answered earlier in the presentation.

In response to the question from Bill Sampson: *What will be the financial effect of a separated school district on the new authorization of short-term rentals? How much average daily attendance (ADA) would be lost from the increase of short-term rentals?* Councilmember Mullen stated transient occupancy tax had nothing to do with funding for a MUSD. He stated a MUSD would not be funded through the City, and property taxes

dedicated to school district funding went directly to the school district. He stated the proliferation of short-term rentals may be diminishing the number of families in Malibu. He stated if Malibu had its own high quality local school district it would attract more families to Malibu.

Councilmember Farrer reiterated that a MUSD would not be funded through ADA, it would be a “basic aid” model school district and would not receive per pupil funding.

Deputy City Attorney Wood stated once a new school district was formed there would be an MUSD Board of Education, independent of the City Council.

In response to the question from David Kramer: *My understanding is that Malibu needs approval from LACOE? Does the vote need to be approved by both Malibu and Santa Monica?* Deputy City Attorney Wood stated the territories used as election areas were sometimes debatable in the petition process. She stated the City would argue only Malibu residents have to vote for MUSD.

Ms. Dominico stated the issue of voting territories had come up with many counties.

In response to the question from David Kramer: *In the approval process, what are the hurdles? What is the status of the Measure R parcel tax?* Deputy City Attorney Wood stated the presentation had addressed the major hurdles.

Ms. Dominico stated Measure R was the school district parcel tax. She stated the consultant’s model maintained the parcel tax and allocated the funding to the district where the property resided. She stated there had been discussion with SMMUSD over special legislation to clarify the continuity of the parcel tax. She stated in other reorganizations the existing voter approved parcel tax was maintained and redistributed to the new districts.

In response to the question from David Kramer: *How much property tax is necessary for Santa Monica?* Ms. Ryland stated Malibu only needed to transfer enough property tax to hold the State harmless and keep SMUSD in “basic aid.” She stated most of the excess taxes would stay with Malibu. She stated as the property taxes in Santa Monica grew the transfer from Malibu would decrease until MUSD could keep all the property taxes generated in the district.

In response to the question from David Kramer: *What and how much was not included in Santa Monica’s last proposal that should have been?* Ms. Kirk-Carter stated nothing necessary was not included in the proposal, but the methodology to determine the split of property taxes was different. She stated most school districts in California were funded based on their portion of the property tax in the district boundaries. She stated the earlier proposal’s methodology would not follow that used by most or all of California and would instead split property tax per pupil so Santa Monica would receive most of the property tax

in both cities, and Malibu would receive less because it had fewer students. She stated that was not a criterion that was used in the CDE handbook, nor was redistribution of property taxes ever permanent.

In response to the question from David Kramer: *Do all nine criteria need to be approved?* Deputy City Attorney Wood stated the question had been answered as part of the presentation.

In response to the question from Hans Laetz: *Does the City proposal produce two very unequal districts, with Santa Monica having less than half what Malibu had?* Ms. Kirk-Carter stated no one district's per pupil funding was the same as another district's in California. She stated MUSD would be distinctly different from SMUSD once separated. She stated the districts would start the same but grow differently based on assessed valuation of properties in each district and other local funding sources. She stated the two districts would be distinct and under the local control of each community.

In response to the question from Hans Laetz: *Dr. Drati says the October 12, 2020 presentation slide shows MUSD starting at \$16,494 per student and SMUSD at \$13,592 per student?* Ms. Ryland stated that was correct. She stated the current calculations were based on the latest numbers available and would be updated at the end of 2020. She stated each district would have a high per pupil funding rate. She stated the new SMUSD would have same level of local taxes with fewer students to educate. She stated each district would grow based on the value of their specific property taxes. She stated SMUSD would grow at a higher rate once it reached "basic aid" status.

In response to the question from Hans Laetz: *Dr. Drati says in year five MUSD will have \$25,995 per student and SMUSD will have \$14,264 per student, which is a five-year growth rate for 58% for Malibu and 5% in Santa Monica. Can you address this claim?* Ms. Ryland stated that was correct and the calculation was only taken five years out.

In response to the question from Hans Laetz: *Dr. Drati infers it is not a good course for Malibu when we are addressing worldwide pandemic. Should that put a freeze on this process?* Ms. Dominico stated the unification process should outlast the pandemic and pausing now could delay unification even more.

In response to the question from Catherine Alice: *How good are our chances going straight to LACOE?* Deputy City Attorney Wood stated the separation team would not have proposed separation through the LACOE petition if it did not have a good case for unification. She stated City staff and the consultants believed the nine criteria from the State could be met. She stated resolution through negotiations with SMMUSD would have been preferable, but those efforts had not been successful. She stated the consultant team would present to LACOE with the School District Separation Ad Hoc Committee and the community's support.

Councilmember Farrer stated she was as committed to continued participation on the School District Separation Ad Hoc Committee and hoped the team would stay intact throughout the process. She stated the Council adopted priorities that inform budget and work plan each year and for the past two years the top three priorities had been: 1) Public Safety, 2) Woolsey Fire recovery, 3) school district separation.

Mark Cullens stated over the last 10 years of Measure R funding there was \$67 million unaccounted for and SMMUSD was being investigated by three agencies.

In response to the question from Siugen Constanza, Director of Community Affairs and Outreach for Malibu Boys and Girls Club: *If Malibu forms its own district, will it allow intra- and inter-district permits for those who work in but don't live in the City?* Ms. Kirk-Carter stated when MUSD was formed, the new MUSD Board would make policies for the district, including policies for permits. She stated State law did not allow removal of a student currently in a school based on a permit. She stated the new permit policy would only apply to new applicants.

In response to the question from Siugen Constanza: *What would happen with current classified, certificated personnel working at Malibu schools?* Ms. Kirk-Carter stated State law dictated any employees certificated and classified had a right to their position in the new district with the same tenure and benefits. She stated personnel had the choice to stay in the existing district or go to the new district. She stated personnel could not lose negotiated rights or tenure.

Jeff Runyan stated the consultants explained school district separation was a lengthy process. He stated he hosted a meeting about separation seven years ago. He questioned whether the clock on unification restarted. He questioned how long it would take to separate.

Ms. Dominico stated the timeline was dependent on external forces. She stated if all went smoothly separation could happen within three to four years. She stated major objections or legal challenges would extend the timeline. She predicted it would take more than two years.

Melissa Solano questioned what would happen if the Malibu student body count was less than 1,500 students. She asked how the Measure M funds approved a few years ago would affect a MUSD? She stated Measure M was meant to support separation.

Ms. Dominico stated the State criteria were not absolute but provided guidance to LACOE to provide a reasonable expectation that the reorganization would be feasible. She stated LACOE could determine if the criteria were substantially met. She stated criteria one was that there would be sufficient enrollment of at least 1,501 students. She stated Malibu currently had just over 1,500 students but that number may decline based on historic trends,

which could be a challenge to the feasibility analysis. She stated the intent of the criteria was to ensure that the district would not burden the State. She stated MUSD would be financially independent based on its “basic aid” status and be able to provide adequate education programming even if enrollment dropped below 1,500. She stated some families in Malibu that may have opted for alternate education options, such as private schools, because they were not happy with SMMUSD may come back to a MUSD. She stated it was reasonable to think Malibu would substantially meet the intent of criteria one.

Councilmember Farrer stated Measure M was passed in 2018.

Ms. Kirk-Carter stated the Measure M school construction bond voted on in 2018 was advocated for by the Councilmembers because money was put in separate pots for Santa Monica and Malibu. She stated the Measure M funds could not be touched by Santa Monica.

Councilmember Farrer stated two bond facility districts were formed, one in each City. She stated Measure SM was only on the Santa Monica ballot and Measure M, which included both the incorporated and unincorporated areas of Malibu within SMMUSD, was only on Malibu ballot. She stated by law the Measure M funding could not be used for Santa Monica. She stated SMMUSD also established separate Facilities District Advisory Committees. She stated Malibu had a degree of local control over that funding.

Wade Major stated his stomach dropped when the presenters said it could take 20 years to create a new district. He stated two to four years sounded more reasonable based on what had already taken place. He expressed concern Santa Monica would be litigious. He stated Malibu and Santa Monica could not now form a single district since the cities were not contiguous. He questioned if the long time existing non-conformity of the district would help move separation forward.

Deputy City Attorney Wood stated she was sorry for causing worry. She stated she intended to make it clear school district separation would not be complete by next school year and could take some time. She stated because of the dynamics of the two communities and because SMMUSD had so much control over what happened in Malibu, it was not expected Santa Monica will not allow separation to happen easily. She stated even without litigation or objection, it would be about three years and it could take much longer with those issues. She stated there were not a lot of mechanisms to shut down objections and LACOE would hear from both communities. She stated the Malibu community should be vocal and clear about inequities, especially in unsatisfactory educational offerings, to help LACOE see the need for school district separation. She stated she was confident the City had very strong case that complied with the law and the State criteria.

Councilmember Mullen stated there was no lack of determination from the team pursuing school district separation. He stated it was a high priority for the Council. He stated the

issue had huge community support. He stated dealing with government bureaucracies took time.

Stacy Rouse questioned what the cost of running schools in each city would be. She questioned how the different costs would affect the petition. She stated SMMUSD was the last non-contiguous district in the State and questioned how that would impact the petitions. She stated the reasons for school district separation went beyond the funding. She questioned how much the petition described other detriments experienced by residents of both cities under SMMUSD instead of two locally-focused districts. She questioned if the petition would show Malibu's willingness to negotiate in good faith with SMMUSD, despite what Dr. Drati said in his October 28, 2020 letter.

Councilmember Mullen stated the School District Separation Ad Hoc Committee and team had diligently met with counterparts in Santa Monica to come to a negotiated settlement as SMMUSD requested when the City submitted the petition to LACOE. He stated the negotiators spent much time and energy addressing SMMUSD's many concerns. He stated one impediment was always the parcel tax issue and the negotiators had determined special legislation could resolve the concern. He stated the SMMUSD Board voted against supporting special legislation, which made it clear that Santa Monica did want to come to a conclusion through negotiation. He stated he took issue with Dr. Drati's comment. He stated the City had definitely negotiated in good faith for the last two years, as requested by Santa Monica.

Ms. Dominico stated Ms. Rouse's comments were right on point. She stated financials were only small piece of the separation. She stated the petition and feasibility analysis would address the fundamental reasons for separation. She stated the petition would identify the key reasons why reorganization was driven by the Malibu community. She stated one of the nine criteria was about community identity and if the people in the district identified as one community or two separate communities. She stated financial analysis only addressed the two cost-related criteria. She stated analysis of all issues and criteria driving separation would be included in the presentation to LACOE.

Deputy City Attorney Wood discussed the previous separation efforts lead by Advocates for Malibu Public Schools (AMPS) and the Malibu Unification Negotiation Committee (MUNC). She stated there was always a question of how SMUSD would be solvent if MUSD separated. She stated negotiations centered on revenue sharing to ensure both districts remain viable. She stated there were many other non-financial issues that would be part of the presentation to LACOE.

Councilmember Farrer stated she worked with Ms. Rouse on school district separation for many years and thanked her for participating. She stated Malibu represented about 15% of the students and voting power in SMMUSD. She stated Malibu was at a huge disadvantage as such a small percentage of the district. She stated whenever issues in the district came

to a vote the vote was always carried by Santa Monica. She stated the MUNC was originally scheduled to meet for three months, had equal representation from both sides, and negotiated diligently and in good faith for 18 months. She stated the MUNC made a reasonable proposal and SMMUSD rejected it completely. She stated she took offence to any statement that Malibu had not negotiated in good faith.

David Kramer thank the School District Separation Ad Hoc Committee and the consultants for their work. He questioned if the residents of Santa Monica and Malibu would need to vote in favor of separation.

Ms. Dominico stated the territory of the election had yet to be determined. She stated a vote was required and ideally would only include Malibu residents as the affected territory but stated it could also require the vote of the entire SMMUSD. She stated the vote was the last step in the process after LACOE and State Board of Education.

Marianne Riggins stated Malibu had quite a bit more money on a per-student basis if separation moved forward. She questioned if LACOE would consider the additional costs of running a small rural district.

Ms. Ryland stated the costs of a smaller district was not part of the objective funding calculation. She explained “basic aid” funding. She stated there were no cost factors involved, but increased funding needs based on other factors like student population and the number of English as a second language students were considered.

Deputy City Attorney Wood thanked everyone for attending and participating with thoughtful and detailed questions.

Councilmember Farrer thanked everyone who watched the meeting. She stated the meeting had been recorded and would be available on the City’s website.

Councilmember Mullen stated the City had a great team and he was very confident the objective would be achieved in the end.

ADJOURNMENT

At 8:00 p.m., Councilmember Mullen and Councilmember Farrer adjourned the meeting.

Approved and adopted by the City Council of the
City of Malibu on _____.

MIKKE PIERSON, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)