

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

July 1, 2009

MAJOR ITEMS

- A.02 Adopt Resolution No. 08-50 – Exemption of the Malibu High School Football Lighting Project from the City of Malibu Zoning Code
EDIT: Language of the item and resolution (*pp. 1-5 of this Update*)

DISCUSSION ITEMS

INFORMATION ITEMS

SW

TO: BOARD OF EDUCATION
FROM: TIM CUNEO / JANECE L. MAEZ / STUART SAM
RE: ADOPT RESOLUTION 08-50 – EXEMPTION OF THE
MALIBU HIGH SCHOOL FOOTBALL LIGHTING PROJECT FROM
THE CITY OF MALIBU ZONING CODE

ACTION/MAJOR
07/01/09
UPDATE
Previously
06/25/09

RECOMMENDATION NO. A.02

It is recommended that the Board of Education (“Board”) adopt Resolution 08-50 to exempt the Malibu High School Football Lighting Project (“Project”) from the City of Malibu’s zoning code ~~because the Project is not a permitted use therein.~~

DISCUSSION:

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

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

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

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

~~Malibu High School is in the Institutional Zone of the City of Malibu. By letter dated June 10, 2009, the City of Malibu informed the District that the Project is not a permitted use in the Institutional Zone, or any zone within the City of Malibu, with or without a conditional use permit.~~

Per Government Code section 53094, the California Legislature has authorized school districts to exempt themselves from local zoning codes for classroom facilities.

The Malibu High School athletic field is a classroom facility even though it does not have four walls and a roof. Sophomores, Juniors, and Seniors are eligible to receive five physical education credits per season of participation. Generally, every student must obtain 20 physical education credits in order to graduate.

It is well known and accepted among educators that team sports, such as football, are an integral and vital part of an educational program that emphasizes building character, teamwork, discipline, sportsmanship, and competition. Such activities, although frequently not confined to a traditional classroom, can and do enhance the academic or educational achievement of students.

Further, the California Department of Education considers athletic fields to be teaching stations, which indicates they are a part of an educational program.

Since the City of Malibu has an adopted general plan and its zoning code provides for the location of public schools, per section 53094(b), the District must adopt a resolution by a two-thirds' vote of the Board members to exempt the Project from the City of Malibu's zoning code. Section 53094's requirement for compliance with Government Code section 65352.2 and Public Resources Code section 21151.2 are not applicable here since the Project is not a new school site or an expansion of an existing school site. The physical component of the Project is the portable lighting of the existing athletic field.

If Resolution 08-50 is adopted, section 53094 requires the Board to notify the City of Malibu within ten days of adoption. Thus, staff requests the Board to direct the Assistant Superintendent to give such notice to the City of Malibu.

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

**SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION**

RESOLUTION 08-50

**EXEMPTION OF THE MALIBU HIGH SCHOOL FOOTBALL LIGHTING PROJECT FROM
THE CITY OF MALIBU ZONING CODE**

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

WHEREAS, on May 8, 2009, a copy of the Project’s Mitigated Negative Declaration was sent to the City of Malibu for review and comment;

WHEREAS, Malibu High School is in the Institutional Zone of the City of Malibu;

WHEREAS, by letter dated June 10, 2009, the City of Malibu informed the District that the Project is not a permitted use in the Institutional Zone, or any City of Malibu zone, with or without a conditional use permit;

WHEREAS, Government Code section 53094(b) expressly authorizes the District to exempt the Project from the City of Malibu’s zoning code and permit requirements by a two-thirds’ vote of the District’s Board members;

WHEREAS, based upon the Board Item, the Project is not a “nonclassroom facility” within the meaning of Government Code section 53094(b);

WHEREAS, high school football is a scholastic event that is an integral and vital part of an educational program that emphasizes building character, teamwork, discipline, sportsmanship, and competition;

WHEREAS, high school evening football games provide students an activity that is organized, safe, and secure; fosters a sense of community and well being; and leads to improved student achievement and student retention;

WHEREAS, the City of Malibu’s zoning code unduly hampers, interferes with, and prohibits the Project, which the District disputes;

WHEREAS, the Malibu High School football evening practices and games cannot continue unless the Project is exempted from the City of Malibu’s zoning code; and

WHEREAS, football, as a team sport, is an integral, important part of the education of the District’s students at Malibu High School.

NOW, THEREFORE, BE IT RESOLVED, for good and sufficient cause based on the entire record of proceedings that the Santa Monica-Malibu Unified School District Board of Education hereby finds the Project to be a classroom facility and exempts the Project from the City of Malibu’s zoning code, which includes all permitting conditions and prohibitions that would otherwise apply to the Project.

BE IT FURTHER RESOLVED that the Assistant Superintendent is directed to serve notice of this action upon the City of Malibu within 10 days.

PASSED AND ADOPTED by the Santa Monica-Malibu Unified School District of Los Angeles County at a regular meeting held on this 1st day of July 2009.

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Ralph Mechur, President
Board of Education

I, Tim Cuneo, Secretary of the Board of Education of the Santa Monica-Malibu Unified School District, do certify that the foregoing Resolution was regularly introduced, passed and adopted by the Board of Education at its special meeting held on July 1, 2009.

Tim Cuneo, Superintendent
Santa Monica-Malibu
Unified School District