

**7/11 DISTRICT ADVISORY COMMITTEE  
PURSUANT TO EDUCATION CODE SECTION 17387**



Minutes of Regular Meeting  
**Thursday, August 20, 2009**  
**3:00 p.m.**

Del Mar Hills Academy  
14085 Mango Drive  
Del Mar, CA 92014

**Organizational Items**

**Call to Order** – *Time: 3:05 p.m.*

**In Attendance:** Facilitator Gayle Wayne, Jennifer Emberger, Janet Handzel, Wayne Harris, Susan Paul, Cinda Peck, Bob Shopes, Randy Wheaton, and Shirley Bales admin assistant.

**Also in Attendance:** Vicki, Hutchison, Sheri Ascencio, Wendi Santino, Heidi Niehart, Dina Irwin, Arlene Dutchek, Beth Kilroy, Kelli Politoske, Dan Picker, Doug Phillipson, Toni Schuh, Rodger Smith, Jeanette Nichols, Douglas Rafner, Tamra Atwood, Cheryl Goodman, Melissa Tor, Wendy Wardlow, Kathy Zack, Estela Dellanos, Nada Zein, Katrina Hunt, Deborah Muns-Park, Catha Duegrossia, Cindy Condon, Max Sutton-Smolin, Noreen Nepomuceno, Marie Vaughn, Darlene Klugherz, Cynthia Edgerly, Donna Pare, Michelle Beeson, Yair Aigenman, Karen Stangland, Ed Rodriguez, Debbie Weiner.

**Flag Salute**—Led by Shirley Bales

**Approval of the Agenda**

Upon motion by Cinda Peck, seconded by Susan Paul, the committee approved the agenda as amended with public comments limited to 20 minutes, 3 minutes per speaker, and public comments moved to the end of the agenda.

**Approval of the Minutes**

Upon motion by Jennifer Emberger, seconded by Cinda Peck, the minutes of the regular meeting August 3, 2009 were approved unanimously.

**Lawyers to Address Mello Roos Issue**

Facilitator Gayle Wayne informed the audience that the 7/11 Committee is very fortunate to secure services of Robert E. Anslow and Wendy H. Wiles, with the law firm of Bowie, Arneson, Wiles and Giannone, attorneys who have worked with DMUSD for close to 20 years and were directly involved in the Community Financing Districts DMUSD currently enjoys.

Attorney Robert Anslow stated that his firm has worked with DMUSD since 1993, and has worked on considerable legal matters with DMUSD. This firm was District counsel and bond

counsel on CDF-99-1 and CFD-95-1, most recently two years ago. DMUSD is also a participant in other CFD's with Joint Powers authorities.

Responding to the question if DMUSD should consider closure or reconfiguration on a school built with CFD or Mello Roos Funds, attorney Robert Anslow stated that a Mello Roos District and CFD are essentially the same thing, under the Mello Roos Community Facilities District Act of 1984. Covering a discrete geographic area, consisting of assessor parcels in a general area, with a set of proceedings done with public hearings and notice to the involved property owners, a Community Financing District is set up over real property, developed or to be developed later. A CFD is set up to fund certain items, but with no guaranty all things will be funded in any particular order, with a special tax, a fixed or incrementally increasing dollar amount, not related to the value of property. This special tax has to be voted on and approved by landowners or electors by 2/3 majority (in accordance with Proposition 13). If approved, a Mello Roos tax is usually levied on county tax rolls for 30-35 years, although the time frames vary considerably. Mello Roos taxes are put into a pool to spend or accrue interest on bonds for up front money to build facilities. Bonds or securities when issued are typically for 25-30 years, with principal and interest repaid over time.

For school facilities, if a school district finances a school through use of Mello Roos bonds facilities, the children go where the money goes. If a part Mello Roos district finances a school, first preference to have kids within that Mello Roos district go to that school, although this is not an absolute rule and is subject to other state and federal laws.

If a school is funded with Mello Roos money and changes use to other than a public school, this creates state law issues and federal tax law issues. To the extent that Mello Roos funds have been used to fund that school, legal questions arise.

Relative to certain joint powers arrangements, schools may be subject to three types of Joint Powers: access, joint use, and joint financing. Access, joint use and joint financing affect a number of schools and school facilities within DMUSD.

Access is such as when a school lies next to a city park, with a common parking lot used both by the school and the city park. Joint Use facilities are such as a school next to a park, where the park is used by the school during school hours and used as a park outside of school hours. Joint financing can involve multiple public agencies coming together (such as the North City West arrangement DMUSD is involved in with along with other school districts) in order to build K-12 public schools. Typical arrangements are a single agency that manages all finances, or a joint powers agency working together to attain joint financing. The agencies act very similar to a CFD.

Mrs. Wayne questioned Mr. Anslow on how long a legal analysis would take regarding a proposal to change a school with CFD or Mello Roos financing?

Mr. Anslow stated the answer depends on how many legal issues to work through, a single issue could be done inside two weeks. If a school with Mello Roos and Joint Powers Authority financing in addition to JPA access issues, the firm would need to analyze all relevant legal

documents, with a ballpark time frame of one month for a legal analysis (depending on how quickly the firm is able to obtain the basic documents needed for analysis).

Mrs. Wayne questioned if that time frame holds if reconfiguring a school?

Mr. Anslow replied that depends if changing from a public to a private school, or closing a school, may signify legal and tax issues. In changing a school, Mello Roos don't usually apply, but Joint Use may.

Mr. Anslow further stated that closing a school requires a much more detailed legal analysis if the district would change use by closing a school, abandoning, selling it, or making it a private school. These would much thornier legal issues than leaving the facility a school and changing the use of part of it where Joint Use issues must be addressed. The larger amount of change, the larger the issues may become and depend on if one, two or all three types of Joint Use are involved.

When asked if a school changes from K-6 to K-3 or 3-6, Mr. Anslow stated that this does not change Mello Roos issues, as boundary attendance issues do not cause those types of legal issues to arise.

Questioned if are there specific rules a school has to be used for K-6 versus some other type of district function, if the District uses a school for purposes other than current use? Mr. Anslow replied that if a school is currently K-6, and district wants a K-4 school, reconfiguring boundaries according to age, from a Mello Roos stance there is no change at all. There might be something in Joint Use agreements, but normally Joint Use Agreements leave to the District what age kids go to what sites.

Questioned about a school used for school plus District administrative offices housed at a school facility, Mr. Anslow replied every school has some administrative functions at that school (principal, admin assistant, maintenance). If moving District administrative offices to a school, from a Mello Roos standpoint this does not create an issue, but again Joint Use might be an issue.

Asked if the same hold true if public school space is used for a preschool, Mr. Anslow stated that the grades are not relevant, if used for public school purposes.

An audience member asked if a Mello Roos school is primarily for student residing within that Mello Roos district? Mr. Anslow replied that state law says children residing within the Mello Roos facilities get priority space at that school. As a general policy, kids from Mello Roos areas go where the money goes, but this is not an absolute, rather a preference and a priority.

Member Emberger asked what if a school is used for district administrative offices and not as school anymore? Mr. Anslow stated the answer would depend on individual Mello Roos, CDF and Joint Use documents. To change a public school entirely to district administrative offices, would require looking at the individual CFD.

Asked about a school site housing a preschool, Mr. Anslow replied that assuming it is a non-profit preschool, a district may run a non-profit preschool on a school site. If a district would change use to a private preschool, this runs into complicated federal tax issues about a for-profit school mixed with public school. A preschool run by District does not run into those issues.

Retired Director of Facilities/Human Resources Rodger Smith informed the committee that most school CFDs also include state funding. Mr. Smith asked attorney Anslow if state funding complicates Mello Roos issues? Attorney Anslow replied that usually the state matches Mello Roos funds, and unless the state has put a lien on the property, this would be a minor problem on the scale of things, not like Mello Roos.

Asked if portables and relocatables are built with Mello Roos funds, who owns those? Mr. Anslow responded that it depends on whether they are leased or paid for. If leased, the lease payment ends and relocatable goes back. If relocatables are used as classrooms, and if those are cycled out with permanent classroom, this does not create a Mello Roos issue.

Asked about mixing K-3 and 3-6 schools, what if one school was built with Mello Roos and one not built with CFD money? Attorney Anslow replied this depends on a number of factors, where students come from (home address within CFD or not), second what facility are they going to.

Mrs. Wayne thanked Attorneys Wiles and Anslow for their time today and their input into these complicated issues.

#### **Old and New Business, Presentations**

Mrs. Wayne read an addition to the Q&A on preschool to the audience, and informed the audience that this information is posted on the 7/11 webpage.

#### **Refined Proposal submitted by Wayne Harris**

Member Harris refined his proposal to close Del Mar Hills, return students from areas 16g, 16j & 16k, to their home school, plus return other intradistrict transfers back to neighborhood schools. An additional refinement is to move SDC from Del Mar Heights to Ashley Falls (as there is ample space at Ashley Falls). Looking at the amount of money to save closing a school, it is well over \$600,000. This proposal achieves the Board of Trustees criteria of eliminating fixed costs and saves \$893 per student (not taking into account an Assistant Principal).

An advantage is that this scenario unites the community, reduces fixed costs, and finally Del Mar Hills school is uniquely set up to house District Offices, maintenance and preschool, especially maintenance can be out of site on the blacktop by the freeway. District Offices would be located to the west of the preschool.

Other Board criteria met is that Del Mar Hills shows enrollment declining over the years. New housing developments are happening E of I-5, and those schools are needed to accommodate growth. If a school E of I-5 is reconfigured, it is likely to be a temporary situation; that school will be needed to house additional children in future, then where will District Offices, preschool, and maintenance go? It is possible to house all those kids fairly comfortably at Del Mar Heights, moving students back to home neighborhoods and moving SDC to Ashley Falls. If the Board of Trustees is intent on saving fixed costs, the only way to save is closing a school.

Combining Heights and Hills, puts Del Mar Heights at 91% as overall capacity. By moving SDC to Ashley Falls, Del Mar Heights enrollment would be below 91% in a very doable range. Many kids already live North of Del Mar Heights Road and attend Del Mar Heights, while some kids at Del Mar Hills live South of Del Mar Heights Road and must cross the road. Crossing Del Mar Heights Road does not create a new problem, the problem already exists.

New housing is a driving factor in student population growth. In order to accommodate students in the future, whether it is 6-9 years from now, it is wise not to reconfigure a school and spend money to change a facility that will eventually need to be used for future children. To make Ashley Falls a more open school to transfer into would ease crowding at Carmel Del Mar. It may be possible to build an additional structure with several additional classrooms at Del Mar Heights and also update that facility, although would need an architect, plans, etc., outside Mr. Wayne's expertise.

**New Proposal: Susan Paul, Cinda Peck and Randy Wheaton**

Members Peck, Paul and Wheaton have looked at analyses of other members, but as educators, certainly savings money is one thing, but also how to create the very best learning environment students? After proposals at the August 3 meeting, they believe having all district offices at one facility is most efficient for staff and students. They propose reconfiguring Del Mar Hills and Del Mar Heights to retain the best characteristics of both schools. Their scenario would keep K at Del Mar Hills, along with preschool, district offices and maintenance operations, while Del Mar Heights would house grades 1-6, along with improvements for Del Mar Heights using some capital improvement funding from the sales of the Shores property. Fiscally, the kindergarten program can be overseen by the director of the preschool program, saving similar amounts of money as to what Member Harris proposes.

This scenario would modernize Del Mar Heights into a new Del Mar school for West of I-5, as modern and awesome as any Del Mar school, building ten new state-of-the-art classrooms, converting the MUR into classrooms, and building a new MUR similar to Del Mar Hills PAC-- something the community West of I-5 can be proud of. They are working out details of how many buildings and what they look like, perhaps members of the community could come together to see what kind of improvements the community wants? This scenario also looks at the lunch area at Del Mar Heights, increasing numbers of students at the lunch area, opening up playground space with possibly a 10-plex with playground for students. Looking at parking issues at Del Mar Heights, it would be important to increase staff parking at the West side of the campus especially in Building B area.

One other focus is to keep District Offices at one location for safety of students. DMUSD has worked hard to maintain a safe environment for kids. If people are coming and going at a school site, they want to centralize District Offices in one place to protect kids at the school site. Having the District Offices at one location benefits all students in Del Mar.

Del Mar Hills, with some modifications, would house District Offices in half of the school, preschool the other half, maintenance along the fence by I-5. District Offices should not require extensive changes leaving the money to be spent on students to make early childhood education center, preschool through K. This would alleviate fears that Del Mar Heights would get too big,

leaving Del Mar Hills still open as a school facility. If growth occurs West of I-5, Del Mar Hills might house K-1. This scenario takes kids East of I-5 back to their schools, and also places SDC East of I-5.

There has been discussion on the needs of District Offices and size needs. Member Wheaton looked at Architect proposal 1A, noticed a lot of duplicates, and brought square footage needs down to 15,000 s.ft. Maintenance operations could use one classroom with tilt up building at East side of the campus.

Do we have enough space? This scenario looks at District office space requirements of approximately 15,000 s.ft. With 29 classrooms at Del Mar Hills, and 6 portables--15 classrooms for district offices, 5 classrooms for Kdg, 9 permanent classrooms plus 6 portables for preschool. Further, there is money in the childcare budget to spend on preschool capital improvements.

Member Wheaton's preliminary cost estimate on a tilt up 2,000 to 2,500 s.ft. building for maintenance is \$80,000-\$105,000.

### **Refinement of Shopes and Emberger**

Members Shopes and Emberger have a modification to piggyback on their previous proposals not close a school and move District offices, maintenance operations, technology and preschool into existing spaces within DMUSD. This scenario looked at where the excess space in the district is and how to use that excess space efficiently. Both Shopes and Emberger see 46 portables in district. Portables are supposed to be temporary, not permanent. Ten portables at Del Mar Heights were constructed for overflow students prior to opening Sage Canyon.

Del Mar Hills and Del Mar Heights were designed for a small number of students. At Del Mar Heights, they see a problem in doubling the size of the school, building new buildings to put a 600 student building where a 300 student building was originally designed, creating a traffic situation. Instead, their scenario is to redesign and clean up schools.

Students' primary classroom should be in a permanent classroom not a portable. Next put ESC into permanent classrooms, not portables. Fill up permanent classrooms with students first, and move nonessentials to portables. If DMUSD could put District non instructional services into excess space, Ashley Fall has 14,000 s.ft. to accommodate District Offices in the separate 2-story structure and the portables.

Del Mar Hills would continue to house technology services plus house maintenance operations within a tilt up building. At Sycamore Ridge, excess space could be used for employee childcare and preschool in addition to the 5 classrooms already used at SDC preschool, at least until the growth in perhaps 5 years fills up Sycamore Ridge.

This scenario would maximize the number of students in permanent classrooms. Another benefit is very minimal capital improvement money needed, but there is virtually no cost savings by not aggregating, splitting or reconfiguring schools. This scenario minimizes the negative impact on students and community, but does not save DMUSD the most money.

In the end it is the Board's decision on cost savings, traffic, and community impact.

Committee members commented that the proposal to put district offices at Ashley Falls does present security and safety issues, causing certain visitors to walk across the playground unescorted.

Do those same security and safety issues occur at Del Mar Hills? The scenario at Del Mar Hills creates a division between K, preschool and district offices, so that visitors do not cross the playground or blacktop. No one is walking around in preschool or K area who is not a parent or staff member.

### **Review of procedures for August 26 Board meeting**

A report was submitted to the Superintendent's office as of this morning which reflects where the committee was as of the last meeting. Today's proposals were not included in the report. It was suggested that the presentation be not more than 15 minutes. Mrs. Wayne will update her very brief PowerPoint and send it to everyone, one section for each committee member to speak on. The committee will probably come up with dates for public hearings in late September. Board members may likely ask questions. Mrs. Wayne will introduce everyone, then turn over to Chair Shopes.

### **Other topics/questions from Previous Meeting and confirmation of next month's meeting dates, times and locations**

The committee members expressed a desire for a couple more meetings prior to public hearing.

Committee members promised to hold public hearings in the evening.

### **Public Comment**

Vicki Hutchison—Ashley Falls parent, spoke that it is clear over last couple of months that although district has a few free classrooms at every school, there is not a clear excess at any one campus, the demographics need further study, and she handed out SANDAG population forecasts.

Wendi Santino-Ramseyor—Ashley Falls parent, spoke of a 1981 Del Mar school facilities master plan addressing many issues that Del Mar Hills and Heights were under capacity at that time, and also spoke of difficulties in placing District Offices at Joint Use facility.

Estella de Llanos--Del Mar Hills parent, spoke that closing a school, any school, is shortsighted because demographics change.

### **Public Communication**

None.

### **Information Items**

None.

### **Adjournment**

Upon motion by Susan Paul, seconded by Wayne Harris, the committee unanimously voted to adjourn at 5:09 p.m.