



**LHPUSD Interim
Subcommittee Researching
Potential Impacts of the
Proposed MROSD
Annexation**

Initial Report

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LHPUSD Interim Subcommittee

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June 26, 2003

Executive Summary

The Los Altos-based Midpeninsula Regional Open Space District announced on June 5, 2003 its decision to request permission to annex a portion of the Coastsides that includes the La Honda-Pescadero Unified School District. Some three months earlier, the LHPUSD Board, following up inquiries begun the previous summer, created an interim subcommittee to research the potential impact of the proposed annexation on the school district.

That subcommittee now presents in this report its initial findings and recommendations.

1. We conclude that the annexation as proposed would have a significant and immediate adverse financial impact on the LHPUSD.
2. Further, comparing two scenarios—one, a continuation of the status quo; the other, annexation followed by a series of “open space” acquisitions in consonance with the aspirations expressed in MROSD’s Final Environmental Impact Report—we think it reasonable to project a potential cost to our little district of many millions of dollars over, say, the next 15 years.
3. Accordingly, we respectfully suggest that the Board adopt a policy opposing the proposed annexation unless adequate mitigation be assured.
4. Further, we recommend a similar position with regard to acquisition of lands inside our boundaries by any tax-exempt group.

The contents of this report include:

- An explanation of what the legal process of “annexation” entails
- Notes about public school financing in California
- A list of actions and meetings taken by the subcommittee
- An analysis of first-order, second-order, and third-order effects that might result if the annexation goes forward

- The subcommittee's initial conclusions concerning the potential fiscal impacts on LHPUSD of annexation and acquisition activities
- A complete list of findings and recommendations
- Supporting exhibits

The subcommittee will seek permission from the LHPUSD Governing Board to continue researching this matter, with the requirement to report back again in no more than ninety days.

About Annexation

The Midpeninsula Regional Open Space District is a California “special district”. It is given authority under state law to expand its boundaries under certain conditions. The expansion is sometimes termed an “annexation”.

MROSD announced on June 5, 2003 the decision of its Board of Directors to request permission to annex a portion of the Coastside that includes the La Honda-Pescadero Unified School District. The body that will decide this issue—the group MROSD made its “request” to—is the San Mateo County Local Agency Formation Commission, known as “LAFCO”.

MROSD sponsored a ballot measure in the proposed annexation area in 1998. Known as “Measure F”, it asked residents whether the area of the MROSD should be “expanded”. The measure, which was not binding (it was “advisory”), passed with 54.5% in favor. Please note, however, that this subcommittee represents to the best of its belief that the measure failed in all of the precincts within LHPUSD boundaries. We have a request pending to the Office of Elections for precise precinct-by-precinct results.

If LAFCO does not approve the annexation, MROSD will still be able to acquire land within the LHPUSD, as it has already done.

If annexation does occur, it will mean that MROSD will be able to obtain funds from the general property tax pool assessed from the annexed area, as well as levy special taxes and (we believe) issue bonds.

Please see the exhibits at the end of this paper for some material concerning the creation process and authority of special districts.

About School Finances

Our school district receives funds from many sources. Two sources that are especially important to consider are the state and the county.

From the County of San Mateo, LHPUSD receives property tax revenues. The amount we receive is based on a percentage of property tax monies collected each year. Property tax monies amount to 1% of the assessed value of those parcels that are not tax-exempt. In San Mateo County, about 65 cents of every property tax dollar goes to schools.

From the State of California, we have in the past received, among many other categories of funding, money related to the state's "revenue limit". The revenue limit is a sort of safety measure, intended to ensure that all school districts—which rely primarily on property taxes—receive adequate funding to provide basic services. Each year the state sets a "revenue limit". (It's based on Average Daily Attendance in the district.) Any district that does not receive at least that amount of money from property taxes is given a supplement by the state to bring it up to that limit.

Many districts, as it happens, receive property tax funds that exceed the revenue limit threshold. Such a district is called a "basic aid" district. Mostly because of an increase in the assessed value of land within its boundaries, LHPUSD has just this year qualified as a basic aid district

Activities of the Subcommittee

The subcommittee has met formally only twice¹.

5/25 – Mark Graff's house

6/05 – John Wilson's office (Kurt Heiner attending via teleconference)

The Chair of the LHPUSD, who is entitled to sit on the committee ex officio, has not. However, the Superintendent has kept him apprised of broad developments so as to facilitate planning meeting agenda. No other member of the Governing Board has been contacted or informed of any findings or activities outside of open Board sessions.

Each of the three subcommittee members have had individual contacts with interested parties.

John Wilson has corresponded with both Craig Britton and Cathy Woodbury of the MROSD. Copies of the letters are provided as exhibits. Mr. Wilson has also spoken to each on the telephone.

Mark Graff has talked with Larry Whitney, of the La Honda Volunteer Fire Brigade, and Jack Olsen, of the San Mateo County Farm Bureau.

Kurt Heiner has, as a representative of this subcommittee spoken to several interested parties. His fact-finding conversations have included:

- Jack Olsen
- Craig Britton
- Jerry Hill, SMC Supervisor (and a member of LAFCO)

¹ Please note that the Brown Act exempts "interim" subcommittees such as this one from open meeting requirements. This exemption does not apply to standing committees and subcommittees.

- Rich Gordon, SMC Supervisor (also a member of LAFCO)
- Vijay Singh, of the SMC Controller’s office
- Marta Poyatos, Executive Director of LAFCO

In every case, the discussions were to gather information. (Mr. Heiner was not authorized—as indeed Mr. Graff is also not authorized—to speak for the District, merely to gather information. Mr. Wilson, as superintendent, can speak for the District when authorized to do so, but has not made any representations of a District opinion on the annexation question. The letters he has written to MROSD, at the direction or with the assent of the Board, are supplied as exhibits at the end of this report.

Later in this report we will summarize many of the facts uncovered as a result of these contacts.

Considering First Order Effects

Annexation would give MROSD right to draw money from property tax pool, hold parcel tax elections, levy special assessments, and issue bonds. It would also, as we read their FEIR (“Final Environmental Impact Assessment), facilitate acquisitions.

Thus, as first order effect of the annexation we anticipate:

- A diversion of property tax funds away from LHPUSD coffers and into those of the MROSD. (Please see the transcript of the conversation with Vijay Singh for more information.)
- A resulting loss of some or all of the LHPUSD revenues above the revenue limit
- A similar loss of funds to other service districts critical to the execution of the school district’s mission, such as the local fire districts

One of the arguments sometimes made in the debate about annexation effects is that the diversion of property tax monies to the MROSD would have no practical impact on the school district. The potential loss, the argument goes, will be offset by the state, which will “fill the bucket back up”, bringing LHPUSD funding back up to the revenue limit. Even if that reasoning did hold in most cases—and we do not agree that it does, for reasons explained later—the revenue limit mechanism would not compensate for the loss of those property tax funds that otherwise would have caused LHPUSD to exceed the revenue limit.

Considering Second Order Effects

Second order effects we can foresee include the following:

- If MROSD chooses to hold a tax election, and it passes—please note that there is no requirement for the vote to be restricted to those residents of the MROSD within the area that would pay the increased taxes—an additional burden to the LHPUSD’s revenue sources would result
- If new acquisitions by tax-exempt bodies such as MROSD and POST were to occur, future property taxes that would otherwise flow into the LHPUSD from those properties would be lost.

It’s particularly important to note the effect of Proposition 13 on the delayed timing of property assessments. Here is an example.

The Muzzi property near Pescadero is (as we hear it) being acquired by POST for roughly \$40M. Yet, because it has not changed hands since Prop 13 passed, it was last assessed at \$400K. Based on that assessment, property taxes have amounted to \$4,000. Local schools have seen 65% of that money. Were the Muzzi property to be bought by a private party at the same price, and if it stayed out of tax-exempt status, the result would have been property taxes of \$400K—that is, a \$396K increase to county coffers, year after year into perpetuity.

Considering Third Order Effects

If annexation and new acquisitions do occur, we can anticipate these third-order effects:

- An increase in “open space” would seem to cap population growth, both by a sheer lack of available property and also as a result of ensuing limitations on water supplies and other services
- We may expect an increase in fire insurance rates. (This is a matter for further research—currently we only have private anecdotal accounts, and we are aware of conflicting assertions.)
- A significant decline in the quality of support services (such as fire) and a limitation on the funding available to the schools might lead to an overall decline in services past the point where a population can be sustained at acceptable health and safety standards. (For more information about such downward-leading scenarios, we direct readers to the story of Tehema County, which we do not have space to relate here.)

Initial Conclusions With Regard to Fiscal Impact

Before we sum up our expectations—we cannot yet quantify them—let us quote the notably precise estimate provided by the MROSD in its FEIR.

"The coastal School districts comprise less than 5 percent of the total tax revenue loss, which translates to approximately \$4,100 over the 15-year period. This total takes into account the fact that the La Honda Pescadero Unified School District has become a basic aid district."

As a first-order loss, we anticipate tens of thousands of dollars loss every year due to the "basic aid" effect. Of course, if property values rise, and state support of schools declines (lowering the revenue limit), this effect may grow substantially.

More speculatively, we foresee a difference of many millions of dollars between the two scenarios we mentioned earlier.

1. If the status quo is maintained—that is, if annexation does not take place, and few new acquisitions of land are made by tax-exempt bodies—we expect the rise of property values and the emergence of many more properties from the artificial Prop 13 caps to raise LHPUSD revenues. The amount could well total hundreds of thousands of dollars per year—perhaps over a million. Taken over 15, or even 50 years, the total amount of property tax revenues might well reach into the tens of millions of dollars.
2. In the alternative case, LHPUSD revenues would likely be capped at the revenue limit. Meanwhile, if other services decline; if population levels fall, and enrollment (already at critical levels) declines further, LHPUSD may find itself no longer fiscally viable—or, occupying an area of land no longer provided with sufficient base services to sustain public schools.

Findings and Facts

This subcommittee reports the following findings:

1. Credible evidence exists of significant adverse impact
2. Due in part to our inquiries, the County's Deputy Controller is now undertaking an independent study of potential fiscal impacts on the LHPUSD and other districts
3. As we read state law, an annexation is supposed to ensure a *positive* impact on schools and other service districts (please see Exhibit 1 for an excerpt from a part of the state code that might be relevant here)
4. We have sought interviews with our state assemblyman so that we can learn more about the prospects for future state revenue support
5. Craig Britton has recently² contacted John Wilson seeking an opportunity to discuss possible mitigations

Recommendations

This subcommittee reports the following recommendations. LHPUSD should:

1. Pass policies laying down conditions for District opposition to annexation and open space acquisitions
2. Pass a resolution opposing the MROSD annexation without mitigation
3. Pass a resolution directing the Superintendent to investigate possible mitigations
4. Send a letter to LAFCO expressing our concerns, and current opposition to the annexation.
5. In the same letter, ask LAFCO for several more months (perhaps 6) to gather additional information

Contributors

Members of the Interim Subcommittee:

- MARK GRAFF, Member of the LHPUSD Governing Board
- JOHN WILSON, LHPUSD Superintendent
- KURT HEINER, resident

² The telephone call took place the day after the MROSD Board meeting on June 5th, at which that Board voted to proceed with annexation,--and Mr. Heiner hand-delivered and read the letter included as Exhibit II.

Exhibit I. Excerpts (emphasis added) from the Taxes and Revenue Code concerning Special District Formation

5534. The board of directors may by resolution or ordinance fix the boundaries of the wards or subdistricts for the purpose of electing directors, after the first election creating and establishing the district. The wards shall be established in ample time prior to each biennial general election to permit candidates for the position of directors to circulate nominating papers.

5534.5. Notwithstanding any provision in this article to the contrary, the board may at any time by ordinance alter the existing boundaries of the wards or subdistricts and create new wards or subdistricts for the purpose of increasing the number of the board of directors.

5537. The board of directors is the legislative body of the district and shall determine all questions of policy.

5539. A district:

- (a) Has perpetual succession.
- (b) May sue and be sued, except as otherwise provided by law, in all actions and proceedings in all courts or tribunals of competent jurisdiction.
- (c) May adopt a seal and alter it at pleasure.

5539.3. (a) (1) The Legislature hereby finds and declares that the land acquisition, improvements, and services provided by the regional district formed pursuant to Section 5506.3 will specifically benefit the properties assessed and the persons paying the assessments authorized in this section in at least the following respects:

(A) Enhanced recreational opportunities and expanded access to recreational facilities for all residents throughout the regional district.

(B) **Improved quality of life** for all communities in the regional district by protecting, restoring, and improving the regional district's irreplaceable park, wildlife, open-space, and beach lands.

(C) Preservation of canyons, foothills, and mountains and development of public access to these lands throughout the regional district.

(D) **Protection of the diverse historical, cultural, and archaeological values of the territory** of the regional district.

(E) **Increased economic activity and expanded employment opportunities** within the regional district.

(F) Increased property values, resulting from the benefits specified in this subdivision.

(G) Provision of benefits to all properties within the regional district, including **positive impacts** on air and water quality, capacity of roads, transportation and other public infrastructure systems, **schools**, and public utilities.

5540. A district may take by grant, appropriation, purchase, gift, devise, condemnation, or lease, and may hold, use, enjoy, and lease or dispose of real and personal property of every kind, and rights in real and personal property, **within or without the district**, necessary to the full exercise of its powers.

5541.3. The district may develop, improve, operate, and maintain the real property conveyed pursuant to Section 5003.12 as a part of the Midpeninsula Regional Open Space District trail system.

5542. A district may exercise the right of eminent domain to take any property necessary or convenient to accomplish the purposes of this article.

A district may not acquire by condemnation any of the lands, properties, or facilities of any municipal utility district which are appropriated to public use or are used in or are useful to the operations of the municipal utility district or which are within the watershed of any stream or reservoir which supplies water for domestic use or which the directors of the municipal utility district determine by resolution to be

properties which are required for the purposes of the municipal utility district.

5544.3. The district may, pursuant to Section 5544, borrow not to exceed one hundred thousand dollars (\$100,000) to cover operating expenses between the time of formation of the district and the first receipt of revenue under Section 5545.

5545. It may levy and collect, or cause to be levied and collected, taxes to carry out any of its objects or purposes and to pay the obligations of the district. Taxes levied for any one fiscal year shall not exceed ten cents (\$0.10) on each one hundred dollars (\$100) of the assessed value of all real and personal property within the district. Any tax provided for in this section shall be exclusive of any tax levied to meet the bonded indebtedness of the district and the interest thereon.

5566. It is the intent of the Legislature to provide a district with authority to impose special taxes. **A district may impose special taxes** pursuant to the procedures set forth in Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. In exercising that authority, a district may establish a zone or zones and a rate of tax for each zone, which is to be applied uniformly to all taxpayers within the zone. All revenue from a tax levied in a zone shall be expended in connection with land and facilities that are located in that zone, including a reasonable amount thereof allocated for general administrative expenses of the district.

5571. The board of supervisors of each county in which any part of the district is located, shall, at the time of making the general tax levy in each year, levy a tax upon all the real and personal property within the district and within their respective county at a rate sufficient to meet the proportion of taxes necessary to be raised in the county for the purpose of paying the principal and interest of the bonds and other indebtedness of the district and all other requirements of the district as shown by the estimate of the board of directors of the district. The amount of taxes to be raised in each county shall be in the same proportion as the assessed valuation of the taxable property in the district within the county is to the assessed valuation of all property in the district.

Such taxes shall be assessed, levied, and collected at the same time and in the same manner as other county taxes are assessed, levied, and collected, and shall, when collected, be deposited with the treasurer of the district.

Exhibit II. Letter Hand-Carried to MROSD Board Meeting, 6/5/03

Craig Britton
Director
Midpeninsula Regional Open Space District
330 Distel Circle
Los Altos, CA 94022-1404
(Hand delivered)

June 5, 2003

Dear Mr. Britton:

Thank you for sending me the MROSD “annexation” FEIR and associated documents. I have studied them as carefully as the short review period has permitted. I would like to bring several points to your attention.

LHPUSD parents and trustees have expressed at our meetings over the past year concerns about the potential adverse impact of the proposed annexation on our school district. It was in this sense that I corresponded with MROSD last August, requesting information on this issue. Here is the current status:

1. As I have previously communicated to the MROSD, I personally do not consider the reply to our letter—which I received only after a delay of several months—to be responsive to our concerns. Our questions were not adequately answered. We were advised to wait for the FEIR.
2. Having now studied your FEIR and accompanying fiscal analysis, I consider it, also, unresponsive to our concerns and queries. To the extent that the potential impact on local schools is discussed, I find the analysis incomplete and unconvincing.
3. Our Board created a subcommittee a few months ago to study this question. No conclusion has yet been reached. A verbal update is scheduled for the special meeting of the LHPUSD Board this very evening. As a member of the subcommittee, I can say that recent discussions with responsible County officials have raised significant concerns over the potential adverse financial impact of annexation on the LHPUSD. We are continuing to research the matter, and expect to talk with State officials soon. Please be assured that I will forward the final report of the subcommittee to you for comment as soon as it becomes available.
4. Our Board has as yet taken no official position on the proposed annexation.
5. Due to the short review period that the MROSD has allowed between the release of the FEIR and your own meeting tonight, we will not have a formal determination of the LHPUSD’s position ready for the consideration of the MROSD Board tonight. When we scheduled this special meeting and planned its agenda, the FEIR had not been released and your meeting tonight had not been announced. The next general meeting of our Board is scheduled for June 26th, which is the earliest date at which an official position on the annexation could be determined.
6. While the timing I have just described precludes an official request from our Board for an extension of the review period, I would consider that an extension would be favorably received by those trying to evaluate the impact of the annexation on our school district.

I have asked Kurt Heiner to hand deliver this letter to the MROSD Board meeting tonight to ensure that the Board is made aware of these points as it undertakes to decide whether or not to extend the review period, and/or proceed with the application to annex.

Sincerely yours,

/s/ John Wilson
Superintendent,
La Honda-Pescadero Unified School District

Exhibit III. Transcript of a February 14th Q&A Session Between Kurt Heiner and Vijay Singh of the County Controller's Office

[Kurt Heiner is asking the questions]

-Since this 8,000 acres of land would be taken off of the tax roles permanently, can the Controller give us a range of estimates of the lost county property tax revenues- say a worst case/best case scenario (we understand that these are only estimates) for a loss of 8,000 acres of "average" coastal property?

ANSWER: In order to give a precise figure, we must first have the assessed value and tax rate in the area in question.

-Would those losses be absorbed county wide or only in the annexed area?

ANSWER: The losses would come exclusively from the annexed region.

-What services would have to forfeit money?

ANSWER: All services that receive any county money would lose revenue.

MROSD intends to acquire about 14,000 acres over a 15 yr. period. Could a similar estimate be made in that long term as to property tax revenue losses (again we recognize these are estimates - but just to get some idea of this)?

ANSWER: The controller cannot project future land prices and so no long term prediction can be made. A loss estimate could be made based on current assessed values. This estimate has not yet been done.

-Since the MROSD special district is currently funded by property tax revenues collected within its current boundaries, is there a formula to determine how much property tax revenue it will be entitled to from the newly annexed area? Currently it collects about 1.4% of the property tax revenue within its current boundaries, does this percentage entitlement automatically extend with the annexation?

ANSWER: Yes there is a formula. It is based on AB8 regulations passed after prop 13. Currently MROSD gets .0067% of all property tax revenues collected in the entire county (the AB8 figure is based on total county revenue, not just the geographic district.) When the annexation occurs, MROSD's property tax basis in the county will automatically be increased and the .0067% figure will automatically go up by an amount directly proportional to the AV. in the annexed region.

-Is the Controller's Office responsible for dispensing property tax revenues to the current MROSD district?

ANSWER: Yes

-Is the 1.4% figure (namely MROSD states that they receive about 1.4% of the collected property tax revenue in their district) basically accurate?

ANSWER: That is not how we calculate it in this office.

-Could the area being annexed be subject to an "incremental assessment" which would result in a rise in property taxes?

ANSWER: This is possible, but that is not the role of the controller's office and I cannot speculate.

-Is there any significant increased cost to the Controller's Office just in keeping track of the revenue involved in such a large district?

ANSWER: The costs incurred by this office are calculated and then charged back to the special district itself.

-Are there any safeguards in place that would assure that basic services like schools and emergency services would be funded first in preference to a parks and recreation department budget during lean years?

ANSWER: None at all.

-MROSD anticipates that it will need funds in order to continue its activities in the newly annexed area. To whom would MROSD apply in order to get a part of the property tax revenue generated within the newly annexed area - the controller?

ANSWER: MROSD does not have to apply to anyone at all in order to receive the revenue. Once LAFCO approves the annexation, the controller's office will be told what has happened and then will begin dispensing funds to MROSD.

-If MROSD continued to take 1.4% of the property tax revenue in the newly annexed area, can you give us an estimate as to how much money they would receive?

ANSWER: Not without a better knowledge of the assessed value and tax rate in the area. This has not been established.

-What would be the source of that money - namely would it come from existing services - including schools?

ANSWER: The money would come from every district that receives any county money in the annexed area.

-If that cost were shared equally between all services, can you give us an estimate of the loss to the school districts?

ANSWER: Yes we can do that once we get the av's and tax rates.

-Absent a voter approved tax increase, can the Controller give any worst case/best case estimates involving the impact on available County revenues for the School districts in the annexed area?

ANSWER: Yes again we need the av's and rates.

-Is there a mechanism for the voters to block payment of county revenues to a special district?

ANSWER: No. Once the annexation happens it is out of the voter's hands.

-Are there other significant obvious predictable losses of county revenue that we should consider as a result of taking this land out of production permanently?

ANSWER: It will impact all services that receive county funds.

[End of transcript]

[Exhibit IV. Material Obtained By Jack Olsen Concerning Hypothetical Revenue Losses]

November 12, 2002

Jack Olsen, Executive Administrator
San Mateo County Farm Bureau
765 Main Street
Half Moon Bay, CA 94019

Dear Jack,

You asked our office to calculate the apportionment of general tax that would be collected from properties you identified, had they remained on the Tax Rolls. You provided us with the estimated assessed values and the tax rate areas. Based on the information you provided, we have calculated the distribution of the general tax revenues lost. Please see the attached schedule.

Please feel free to call us if you have any questions on the information we are providing.

Sincerely,

Tom Huening
Controller

TH:of
ferrando\hue\olsen

Attachment

COUNTY OF SAN MATEO
 ESTIMATED LOSS OF GENERAL TAX REVENUE FOR VARIOUS AGENCIES
 BASED ON PROVIDED ASSESSED VALUATIONS

[Excerpt. Source: Jack Olsen, see letter above]

TAXING AGENCIES	DRISCOLL RANCHES AV \$21,000,000.	CLOVERDALE RANCH AV\$49,150,000
General County	60,032.11	136,945.75
Free Library	8,751.08	19,963.03
County Fire	16,270.26	37,115.89
Cabrillo Unified	97,295.84	
La Honda Pescadero Unif.		234,398.39
S M Jr. College	17,177.55	39,185.58
Half Moon Bay Fire		
County Service Area # 6		
Granada Sanitary Dist.		
Coastside County Water		
Bay Area Air Pollution	529.34	1,207.54
County Harbor District	892.96	2,037.05
Resource Conservation Dist.	111.41	254.18
County Education Tax.	8,939.45	20,392.74