

STATE OF VERMONT

SUPERIOR COURT
Franklin Unit

CIVIL DIVISION
Docket No. 34-1-19 Frev

HUNTINGTON)
SCHOOL DISTRICT,)
Plaintiff / Appellant,)
)
v.)
)
VERMONT STATE BOARD)
OF EDUCATION,)
and)
VERMONT AGENCY OF)
EDUCATION,)
and)
MOUNT MANSFIELD MODIFIED)
UNION SCHOOL DISTRICT,)
Defendants / Appellees.)

**PLAINTIFF / APPELLANT'S OPPOSITION TO DEFENDANT MOUNT MANSFIELD
MODIFIED UNION SCHOOL DISTRICT'S MOTION TO DISMISS**

NOW COMES Plaintiff / Appellant Huntington School District, by and through its attorneys, Tarrant, Gillies & Richardson, LLP, and opposes Defendant / Appellee Mount Mansfield Modified Union School District's motion to dismiss. In support, Plaintiff / Appellant submits the following memorandum of law.

Memorandum of Law

Huntington values its relationship with Mount Mansfield and envisions a continuation of that relationship, in one form or another, moving forward. The State Board of Education's merger order has driven a wedge between the two districts, however, by purporting to give Mount Mansfield the authority to forcibly merge Huntington, asking Mount Mansfield to exercise that authority within a limited time frame, and setting the clock ticking. The order has strained the relationship between the two local school boards, each of which is attempting to forge the best

path forward for the students with whose educational wellbeing it is charged with overseeing. Because the State Board's final order attempts to force Mount Mansfield into holding a merger vote, and given the current dynamic between Mount Mansfield and Huntington resulting from that order, the threat of a forced merger vote by Mount Mansfield is real and imminent, and therefore ripe for adjudication.¹

I. Legal standard

Vermont has adopted the three standing requirements that the U.S. Supreme Court set out in *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992): “(1) injury in fact, (2) causation, and (3) redressability.” *Parker v. Town of Milton*, 169 Vt. 74, 77, 726 A.2d 477 (1998). “Constitutional ripeness . . . is really just about the first *Lujan* factor—to say a plaintiff’s claim is constitutionally unripe is to say the plaintiff’s claimed injury, if any, is not ‘actual or imminent,’ but instead ‘conjectural or hypothetical.’” *Nat’l Org. for Marriage, Inc. v. Walsh*, 714 F.3d 682, 688 (2d Cir. 2013) (cited favorably by *Turner v. Shumlin*, 2017 VT 2, ¶ 9, 204 Vt. 78, 163 A.3d 1173); see also *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 157 n.5 (2014) (explaining that “[t]he doctrines of standing and ripeness ‘originate’ from the same Article III limitation, and that ‘standing and ripeness issues in this case ‘boil down to the same question’”) (citations omitted).

Standing and ripeness jurisprudence do not require an alleged injury to be certain; rather, the alleged injury must be sufficiently likely to occur, or imminent. *Babbitt v. United Farm Workers Nat. Union*, 442 U.S. 289, 298, 302 (1979) (holding that a matter was ripe for adjudication when there was a “credible threat” that the government would act to enforce a law, even if it had not yet taken such action, and that a threat of such government action may be

¹ Notably, if Mount Mansfield were correct and Huntington’s claim were not ripe, then the State Board of Education would have the same argument for dismissal. The State, however, has neither moved to dismiss Huntington’s complaint, nor filed anything in support of Mount Mansfield’s motion to dismiss

credible if the government “has not disavowed any intention of” carrying it out); *Vicksburg Waterworks Co. v. City of Vicksburg*, 185 U.S. 65, 82 (1902) (“one of the most valuable features of equity jurisdiction [is] to anticipate and prevent a threatened injury, where the damages would be insufficient or irreparable”); *Turner*, 2017 VT 2, ¶ 9 (holding that Governor’s intention to appoint a new justice to a not-yet-vacant seat on the Supreme Court was ripe, even though no actual appointment had been made). Compare *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 564 (1992) (holding that “‘someday’ intentions—without any description of concrete plans, or indeed even any specification of *when* the someday will be—do not support a finding of the ‘actual or imminent’ injury” required for standing).

II. A merger vote by Mount Mansfield is imminent

Although Mount Mansfield has not yet warned a merger vote, the credible and immediate threat that such a vote will be held is sufficient to make this matter ripe. Mount Mansfield argues that there are at least three contingencies that must occur before Huntington becomes harmed, and therefore injury is not imminent. But this presentation of the facts exaggerates the chain of causation and the uncertainty of harm. As set forth below, it is highly likely that Mount Mansfield will hold a vote prior to July 1, 2019, and that its voters will vote in favor of merging with Huntington. See *Valley Forge Christian Coll. v. Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 497, 102 S. Ct. 752 (1982) (“[A]s a matter of Art. III standing, if the causal relationship is sufficiently certain, the length of the causal chain is irrelevant.”). According to the State Board of Education’s Final Order, from the moment Mount Mansfield votes to accept Huntington, merger is effective. This legal trigger remains in place unless and until this Court rules otherwise. To say that this legal trigger is unlikely to occur because this Court may invalidate or stay the State Board’s Order is merely to concede that Huntington has a

strong likelihood of success on the merits. Likelihood of obtaining preliminary or permanent injunctive relief does not make a case unripe; to the contrary, it suggests that injury is imminent and concrete. Mount Mansfield wants to reserve its right to hold a merger vote (and begin operating as a unified district that includes Huntington) while also preserving its procedural defense of lack of ripeness. It cannot have its cake and eat it too.

a. The State Board of Education has requested a merger vote on or before July 1, 2019

Through Acts 46 and 49, the Secretary of the Agency of Education and State Board of Education have now requested Mount Mansfield to vote to merge Huntington.² The Secretary concluded in the Proposed Statewide Plan that:

the best means of meeting the Act 46 Goals – for both the district individually and for the region – is for the State Board of Education to merge the Huntington Elementary School District and the Mount Mansfield Modified Unified Union School District into a single UUSD by requesting the MUUSD to accept the Huntington District as a full PreK-12 member.

Proposed Statewide Plan for School District Governance 2015 Acts and Resolves No. 46, Sec. 10(a), at 78. The State Board of Education’s final order formally approved that proposal. Final Report of Decisions and Order on Statewide School District Merger Decisions Pursuant to Act 46, Sections 8(b) and 10 (“the Final Report and Order”) at 15. Furthermore, the Final Report and Order requires any Mount Mansfield merger vote to take place before July 1, 2019.

While the State Board has stated elsewhere that it cannot force Mount Mansfield to merge, it seeks the same outcome by purporting to give Mount Mansfield unilateral authority to force merge Huntington and setting a tight timeline for it to do so.

² As set out in Huntington’s complaint, this request is problematic in that it is an attempt to skirt the Act 46 prohibition on merging MUUSDs, it unlawfully subdelegates the power to dissolve a municipality to Mount Mansfield, and it violates 16 V.S.A. § 721.

b. Mount Mansfield's failure to disclaim whether it will hold a merger vote militates in favor of ripeness

While Mount Mansfield opposes its inclusion in this lawsuit, it has expressly declined to say that it will not vote to merge Huntington. If Mount Mansfield were to agree to such a condition, its argument for dismissal would be warranted; indeed, Huntington would strongly consider stipulating to Mount Mansfield's dismissal if Mount Mansfield were to agree not to hold a merger vote during the pendency of this litigation.

By failing to disclaim whether or not it will hold a merger vote, Mount Mansfield holds out the threat of such a vote. That "credible threat" makes the matter ripe for adjudication. *Babbitt*, 442 U.S. at 302 (a threat of government action may be credible if the government "has not disavowed any intention of" carrying it out); *Green Party of Tennessee v. Hargett*, 791 F.3d 684, 695–96 (6th Cir. 2015) (holding that plaintiffs have standing where, "[w]hile defendants have not enforced or threatened to enforce this statute against plaintiffs . . . they also have not explicitly disavowed enforcing it in the future.").

c. The position taken by the Mount Mansfield Board is likely to lead to a merger vote

At a Mount Mansfield Board meeting on January 28, 2019, the Board approved a motion that opposes the continuation of the existing governance structure (with Huntington and Mount Mansfield overseen by the CESU) and calls for creating a unified district either by (1) merging with Huntington or (2) petitioning the State Board of Education to allow Mount Mansfield to become its own supervisory district without Huntington. See Ex. A ("Mount Mansfield has always believed it would be in the best interest of the Huntington School District, its students

and its taxpayers to join a unified governance structure with Mount Mansfield.”).³

Because it is unclear whether the second option—having Mount Mansfield become its own supervisory district on a unilateral petition by the Mount Mansfield board—is feasible, the first option—merging with Huntington—is the more probable avenue forward.

By its January 28, 2019 motion:

Mount Mansfield authorizes its legal counsel to take all steps allowed under current law so that Mount Mansfield may become a supervisory district under Act 46 and Act 49 with a unified governance structure, regardless of the inclusion of the Huntington School District. This should include the filing of a formal request with the State Board of Education for all approvals required so that Mount Mansfield may have a unified governance structure.

Ex. A at 2.

The motion does not reference any legal authority by which Mount Mansfield could pursue this legal path, and it is unclear whether any such legal authority exists.

First, it is unclear whether a formal request by a school district to become its own supervisory district can be put forward on a vote by the school board, or whether it requires a vote by the district’s residents. See 16 V.S.A. §§ 261, 422, 724.

Second, even if the Mount Mansfield Board can unilaterally petition for Mount Mansfield to divorce Huntington and become its own supervisory district, it is unclear that the State Board of Education could approve that petition. One of the complicating factors is that Mount Mansfield and Huntington are intertwined in that Huntington Town is a member of both districts—it is a member of Mount Mansfield for grades 5–12, and a member of Huntington for

³ Ex. A is a copy of draft minutes for the January 28, 2019 Mount Mansfield Board meeting and the motion referenced and linked in those minutes. The minutes are available from the Chittenden East Supervisory Union website at <https://docs.google.com/document/d/149PFPnFfJlmy0mwht5jveigFuHUe7YA4g1ExLIHrwY/edit>. The motion is available on the website at https://docs.google.com/document/d/1SyKFc_-1MZbU_Xuap2bpOsiO95qI46BGMdUnH3hMwl8/edit.

Of the two Huntington residents on the Mount Mansfield Board, one who opposes merger was recused from voting on the motion, and the other voted in favor of the motion.

grades PreK-4. Given this structure, it is unclear whether a petition to separate from Huntington by Mount Mansfield, without the support and participation of Huntington, could be approved.

See 16 V.S.A. §§ 261, 724.

Third, even if the State Board of Education could approve such a petition, it is unclear that it would do so. This is because such approval would orphan Huntington and force it to either join another supervisory union or become its own supervisory district. This would create two supervisory districts where there had previously been one supervisory union, which would go against what appears to be the State Board of Education's agenda of reducing, rather than increasing, the number of existing supervisory unions.

For these reasons, it is far from clear that a unilateral attempt by Mount Mansfield to become a standalone supervisory district is feasible. At the very least, any realistically viable separation of Huntington and Mount Mansfield would have to include a plan for how both Mount Mansfield and Huntington would operate moving forward.

Mount Mansfield has opted to take one of two paths. On one path, it would unilaterally divorce Huntington and become its own standalone supervisory district. Because this appears unlikely for the reasons set out above, only the second path, voting to merge with Huntington, is likely to be viable. Because the path of divorce is unlikely, and because Mount Mansfield strongly opposes the current structure and favors merger, Mount Mansfield is highly likely to hold a merger vote.

d. A merger vote is likely to be in favor of merger

Based on Mount Mansfield's voting history, the recent official statements of its board, and the urgings of the state administrative body that governs all school districts, Mount Mansfield's vote is likely to be in favor of merger.

The voters of what is now the Mount Mansfield district have twice voted to create a unified district with Huntington, once on June 7, 2011, and again on November 4, 2014. See Complaint ¶¶ 9–16. As shown in the voting results set out in the following table, an overwhelming majority of voters in the most recent vote were in favor of merger.⁴

Town/School District	2011		2014	
	Yes	No	Yes	No
Bolton	110	85	324	120
Huntington	85	365	285	521
Jericho	342	142	1240	334
Richmond	317	374	1043	570
Underhill ID	150	98	564	186
Underhill Town	237	168	772	274
Total	1241	1232	4228	2005

Second, the Mount Mansfield Board’s motion (Ex. A) and the State Board of Education’s Final Report and Order are both strongly in favor of merger. These endorsements could sway voters in favor of merger.

III. A vote to merge will harm Huntington

As set out in Huntington’s Complaint and Preliminary Injunction Motion, a vote to force merger would harm the public, the students who attend Brewster Pierce Memorial School, and the teachers who work there. There is also no question that a force merger vote would harm the plaintiff in this case, Huntington School District.

The most striking and immediate harm is that Plaintiff would cease to exist. Final Report and Order at 35 (ordering that “at [the] time” of a vote in favor of merger, “the Mount Mansfield

⁴ Statistics from the CESU website:

<https://docs.google.com/document/d/1iOaGhiUfAv2IrANKjgv1vCvk20m4ECSwi6mhswQR1CU/edit> and
<https://docs.google.com/document/d/1diWIdNjgsMwzUY0pDdL8e9j65ObnHlgiKXnvaCBnXho/edit>

Modified Unified Union School District [s]hall be a unified union school district”); 16 V.S.A. § 722(b) (“On the date the unified union district becomes operative, unless another date is specified in the study committee report, it shall supplant all other school districts within its borders, and they shall cease to exist.”). Immediate and irreparable harm also exists in the constitutional violations that such a merger would affect, as set forth in detail in Huntington’s Complaint and Preliminary Injunction Motion.

Mount Mansfield has all but conceded that a merger vote would harm Huntington by moving to dismiss on ripeness, rather than standing, grounds. As noted above, the concepts of ripeness and standing overlap. One difference between the two concepts in practice, however, is that a challenge on the basis of ripeness “assumes that the relationship between the parties might at some point ripen into an injury sufficiently direct and realized to satisfy the requirements of Article III standing.” *Bronx Household of Faith v. Bd. of Educ. of City of New York*, 492 F.3d 89, 111 (2d Cir. 2007). In this case, the harm to Huntington will occur by July 1, 2019 or not at all. This window is sufficiently small to make the threat of harm imminent.

IV. Mount Mansfield is a necessary party

Even assuming for argument’s sake that there is no ripe dispute between Huntington and Mount Mansfield, Mount Mansfield concedes there is a live controversy between Huntington and the State, and Mount Mansfield remains a necessary party to the case. Under Rule 19,

A person who is subject to service of process shall be joined as a party in the action if (1) in the person’s absence complete relief cannot be accorded among those already parties, or (2) the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person’s absence may (i) as a practical matter impair or impede the person’s ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the person’s claimed interest.

V.R.C.P. 19(a).

Because the State Board effectively deputized Mount Mansfield to effect the merger of Huntington, Mount Mansfield's fate is inextricably linked to Huntington's. "In [Mount Mansfield's] absence complete relief cannot be accorded among [Huntington, the State Board, and the Agency of Education]" because Mount Mansfield currently holds the power to effect merger. *Id.* Unless and until this Court issues a final judgment in favor of Huntington or enjoins Mount Mansfield, the threat of Mount Mansfield's merger vote hangs over Huntington like the Sword of Damocles.

Moreover, the voters and board of Mount Mansfield already "claim[ed] an interest relating to the subject of th[is] action" when the voters twice voted in favor of merging with Huntington and the board made an official statement in favor of merger.⁵ If Mount Mansfield is dismissed and then votes to merge with Huntington, and this Court later invalidates all or portions of the State Board's Order relating to Huntington, it would create "inconsistent obligations" for Huntington—an outcome that Rule 19 was designed to prevent.

Conclusion

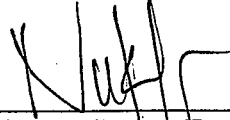
For the reasons set out above, the Court should deny Mount Mansfield's Motion to Dismiss.

⁵ Notably, the motion containing the statement in favor of merger passed at a board meeting on January 28, 2019, nearly two weeks *after* Mount Mansfield's counsel filed this Motion to Dismiss. Any disavowal of action toward merger implied in its Motion to Dismiss is belied by this later official statement of its board.

Dated this 1st day of February, 2019 at Montpelier, Vermont.

HUNTINGTON SCHOOL DISTRICT

By:



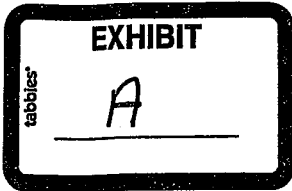
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CHITTENDEN EAST SUPERVISORY UNION
Governing Board &
MT. MANSFIELD MODIFIED UNION SCHOOL DISTRICT

School Board Meeting Minutes

January 28, 2019

Camels Hump Middle School, Richmond VT

In attendance: Kevin Campbell, Gail Conley, Angelike Contis, Eric Gildemeister, Edey Graning, Diane Kirson-Glitman, Susan Lillich, Michael Marks, Ethan Maurer, Kurt Muller, Chip Noonan, Andrew Pond, Lucinda Preston, Beth Racine, Derek Miodownik, Paul Susen.

Administrators: John Alberghini, Michael Weston.

Student Representatives: Amelia Moriarty, Finn Abbey

<i>Meeting Agenda - Minutes following</i>
Call Meeting to Order and Finalize Agenda
Student Representative Report
Community Comments.
Consent Agenda: <ul style="list-style-type: none"> • Approve previous meeting minutes (Link to 1/7/19 meeting minutes) • Approve 2019-20 MMU High School choice capacity at 809 students and transfer limit at 40 students (Link to additional information HERE)
Committee & Advisory Committee Reports: <ul style="list-style-type: none"> • Community Engagement (Link to 1/8/19 meeting minutes) • Finance (Link to 1/3/19 meeting minutes) • Negotiations (Link to 1/10/19 Teacher negotiations) • Regional Advisory Board (next meeting February 21) • Vermont School Boards Association
Discuss first Draft of Ongoing Community Engagement Plan (Link to ongoing Community Engagement Plan)
Discuss Huntington School District lawsuit opposing MMMUSD compliance with Act 46 <ul style="list-style-type: none"> • Link to Legal Document 1 -- Summons • Link to Legal Document 2 -- Preliminary Injunction/Motion to Stay • Link to Assignment of Judge Mello • Executive session to discuss legal strategy
Resume consideration of Michael Marks motion tabled at 1-7-19 meeting (Link to motion)
Policy Governance Team Work delayed from previous meetings-- PG groups. (Link to Work Plan).
Other Business & Future Agenda items
Policy Governance self-review
Next Board meeting: February 4, 2019, 6:30 pm (optional UID tour @ 6 pm), Browns River Middle School
Executive session (if needed): <i>Move to go to executive session, after specifically finding that the Student/Personnel matter falls within exemption under public records law. Move that the Board make a specific finding that premature general public knowledge of the positions that the Board may take in upcoming labor negotiations would clearly place the Board at a substantial disadvantage and therefore the Board votes to go into Executive Session for the purpose of discussing labor negotiations with its employees and personnel issues.</i>

6:36 pm Chair, Andrew Pond called the meeting to order. Agenda amended to accommodate a conference call with legal counsel in Executive Session at 7:00pm. PG work likely to be postponed again.

Student Representative Report:

Winter Ball and Winterfest occur this month, and the second Cabaret event recently raised money for Musicians Without Borders.

Community Comments:

- **Chuck Lacy:** Has monitored the entire history of merger in this Supervisory Union, and had hoped for eventual union with Huntington, who have historically been reluctant to merge. Has never detected any pressure being applied to Huntington to join. All Huntington votes have been initiated by HSB. Disappointed that HSB did not provide a possible plan to the State, nor adequately work with MMU Board to resolve the merger issue. Huntington is now suing MMMUSD, in a move which would lock MMMUSD into a governance that does not work for MMMUSD. He suggests that MMMUSD establish unified governance, close CESU, and end the additional overhead which results from a separate school district.
- Letter submitted on behalf of **Duncan Keir**, opposing the MMMUSD Board motion, and asking the board to table that motion.
- **Alison Forrest:** Disappointed in the emerging climate of distrust and fear. Huntington is 60% merged. Will get there. Noted that the lawsuit was a reaction to legal action being taken by another board - a reaction to timelines and deadlines proposed by the State. Asked board members to maintain patience and please assume the best in each other.

Andrew Pond asked Paul Susen, Chair of HSB, to give an update on where HSB stands.

Paul Susen clarified that MMMUSD would not have been a defendant in this lawsuit if the State had not established MMMUSD as responsible for moving things forward. The lawsuit emerged from a concern that a vote could be taken before HSB had fully tested the waters with the Attorney General's Office. HSB was surprised by the MMMUSD motion. Many questions about merger have arisen. Ideally, time would be granted to get answers to all these questions. HSB has no interest in prolonging this process and shares the same concerns as all involved: students, cost, efficiency, etc. Much will happen in next two months. New developments and additional questions continue to emerge.

7:00 pm: Executive Session:

Michael Marks made a motion for the MMMUSD board to go into Executive Session, for the purpose of discussion with legal counsel on the matter of the pending lawsuit filed by Huntington School District, after specifically finding that the matter falls within exemption under public records law and that public disclosure would prejudice the District.

7:55 pm: Out of Executive Session.

Discuss Huntington School District lawsuit opposing MMMUSD compliance with Act 46:

Discuss Huntington School District lawsuit opposing MMMUSD compliance with Act 46

- [Link to Legal Document 1 -- Summons](#)
- [Link to Legal Document 2 -- Preliminary Injunction/Motion to Stay](#)
- [Link to Assignment of Judge Mello](#)

The board resumed consideration of Michael Marks' motion, tabled at 1-7-19 meeting ([Link to motion](#)).

Mr. Marks explained that the motion tries to address circumstances which MMMUSD is facing and proposes that the board should:

- Oppose the lawsuit of HSD.
- Continue to welcome HSD into a merged district.

- Reject both the expense and distraction inherent in a prolonged legal exchange.
- Recognize the rights and obligation of the MMMUSD to become a Supervisory District with one unified governing structure, serving students and taxpayers.

In discussion, the following points were made:

- This does not affect the Huntington 5-12 students, who will remain full members of the merged district.
- ~~BPMS would govern itself and CESU would be eliminated.~~
- It continues to be the hope of the board that BPMS will join the merged district.
- The ongoing issue is diverting board attention from matters of governance and of how best to serve the student population.
- While the motion may be the right thing to do, discussion is dividing the community.
- Are students still at the center of this discussion?
- Is separation affecting program availability?
- A fully merged district is best in the short and long term for students, in terms of program options.
- Consolidation of boards is desirable and efficient.
- Funds were not allocated in the current budget for legal expenses of this magnitude, however they have been increased in the budget approved by the board for FY20.
- If approved, this motion would authorize legal counsel to review matters, provide an action plan to the board, and contact the Agency of Education to notify their lawyers and senior staff of the desires of MMMUSD. A filed letter would require the State Board of Education to take action. Additional steps would depend on the reaction of the State and others.
- Language was added: "Mount Mansfield shall continue in its current governance structure to serve all of its students including grades 5-12 from the Town of Huntington."

Edye Graning reminded all of the long term benefit to all of merging. Listed many ways that parents can contribute to the running of a school on a day to day level: PIE/PTA groups, academic boosters, etc. This issue is about governance, and is remote from the day to day benefits for students.

Derek Miodownik suggested that the co-occurrence of the Central Office move to the north end was unfortunate, and could exacerbate lack of feeling of control for those in Huntington. Edye Graning reminded all that that was what Community Engagement efforts were for.

Diane Kirson-Glitman closed by stating that the nexus of what Huntington wants can still be achieved in a merged school, relying as it does on invested people and their involvement at the local level.

Motion: Based on the foregoing, the Board of the Mount Mansfield Modified Union School District hereby adopts the following:

- 1. Mount Mansfield opposes the lawsuit filed by the Huntington School District and authorizes its legal counsel to take all prudent steps in opposition to that lawsuit.**
- 2. Mount Mansfield authorizes its legal counsel to take all steps allowed under current law so that Mount Mansfield may become a supervisory district under Act 46 and Act 49 with a unified governance structure, regardless of the inclusion of the Huntington School District. This should include the filing of a formal request with the State Board of Education for all approvals required so that Mount Mansfield may have a unified governance structure.**
- 3. The Huntington School District should continue to have the opportunity to merge with the Mount Mansfield Modified School District.**
- 4. Mount Mansfield shall request the support of its representatives in the Vermont Legislature for any legislative changes that would minimize the potential for legal challenge to Mount Mansfield achieving a unified governance structure.**

On the motion, thirteen in favor and two abstentions. None opposed. Motion carried.

Consent Agenda:

Angelike Contis made a motion to approve the Consent Agenda, seconded by Beth Racine.

([Link to 1/7/19 meeting minutes](#)) Approve 2019-20 MMU High School choice capacity at 809 students and transfer limit at 40 students. ([Link to additional information HERE](#))

In discussion, two amendments were made to the minutes. **Motion carried, with one abstaining.**

Committee & Advisory Committee Reports:

- **Community Engagement** ([Link to 1/8/19 meeting minutes](#)): a working document for community engagement for all board members has been shared for upcoming discussion.
- **Finance** ([Link to 1/3/19 meeting minutes](#)): None.
- **Negotiations** ([Link to 1/10/19 Teacher negotiations](#)): Meetings with teachers and support staff are ongoing, initial proposals are being exchanged.
- **Regional Advisory Board** : Next meeting February 21.

Next Board meeting: February 4, 2019, 6:30 pm BPMS (optional UID tour @ 6 pm).

Meeting adjourned on seconded motion at 8:49 pm.

Respectfully submitted by Pat Straughan

1/30/19 CESU Negotiations Committee Meeting/ESP Negotiations, 4:30 pm, Central Office
2/4/19 MMMUSD/CESU School Board Meeting, 6:30 pm, Browns River Middle School (6 PM optional tour of Underhill ID Elementary School)

MOUNT MANSFIELD MODIFIED UNION SCHOOL DISTRICT BOARD MOTION

January 7, 2019

Preamble

The Huntington School District has sued the Mount Mansfield Modified Union School District ("Mount Mansfield"). Among other demands, the suit seeks a permanent injunction against Mount Mansfield preventing any merger of the school districts. In effect, the lawsuit seeks by court order to require Mount Mansfield to permanently maintain its divided governance structure.

Mount Mansfield has always believed it would be in the best interest of the Huntington School District, its students and its taxpayers to join a unified governance structure with Mount Mansfield. That is not, however, the issue we now address. Our concern is with the needs of Mount Mansfield students and taxpayers.

The issue we confront is the effort by the Huntington School District through litigation to force Mount Mansfield to permanently maintain a divided governance structure. All of the evidence documents that the divided governance structure harms Mount Mansfield's students and taxpayers.

- The divided governance structure requires the Superintendent and staff to manage three separate entities—each with their own set of financial reporting and accounting issues—at significant cost.
- The divided governance structure diverts substantial resources from student needs to manage governance issues.
- The Huntington School District has filed suit against Mount Mansfield, imposing significant costs and disruption.
- The divided governance structure has created conflict and diverted Mount Mansfield from focusing on its mission of serving students and taxpayers.

We leave to the Huntington School District the responsibility of making decisions for their students and taxpayers. We reject, however, the proposition that Huntington has the right to dictate governance of the Mount Mansfield District.

Through Act 46 and Act 49, the Vermont Legislature has determined—with good reason—that divided governance harms students and taxpayers. Mount Mansfield has a right to govern itself without the burden of divided governance. Most important, Mount Mansfield has a responsibility to its students and taxpayers to achieve a unified governance structure.

Motion

Based on the foregoing, the Board of the Mount Mansfield Modified Union School District hereby adopts the following:

1. Mount Mansfield opposes the lawsuit filed by the Huntington School District and authorizes its legal counsel to take all prudent steps in opposition to that lawsuit.

2. Mount Mansfield authorizes its legal counsel to take all steps allowed under current law so that Mount Mansfield may become a supervisory district under Act 46 and Act 49 with a unified governance structure, regardless of the inclusion of the Huntington School District. This should include the filing of a formal request with the State Board of Education for all approvals required so that Mount Mansfield may have a unified governance structure.
3. The Huntington School District should continue to have the opportunity to merge with the Mount Mansfield Modified School District.
4. Mount Mansfield shall request the support of its representatives in the Vermont Legislature for any legislative changes that would minimize the potential for legal challenge to Mount Mansfield achieving a unified governance structure.