

DEL MAR UNION SCHOOL DISTRICT
SURPLUS PROPERTY ADVISORY COMMITTEE
DEL MAR SHORES PROPERTY

SUMMARY REPORT TO THE BOARD OF TRUSTEES
FINDINGS AND RECOMMENDATIONS
AUGUST 31, 2005

MEMBERS:

<i>Tim Malott, Chairperson</i>	<i>Luca Pacelli</i>
<i>Kamran Azimzaduh</i>	<i>Cinda Peck</i>
<i>Phil Kidd</i>	<i>Rodger Smith</i>
<i>Gail Moran</i>	<i>Joe Sullivan</i>
<i>Bill Morgan</i>	<i>Gary Wilson</i>

SUMMARY:

Introduction

The Surplus Property Advisory Committee (the “Committee”) was established by the Board of Trustees of the Del Mar Union School District (the “District”) in February, 2005 in accordance with California Education Code Sections 17387-17391. The purpose of the Committee is to advise the Trustees on whether the site of the former Del Mar Shores School (the “Shores Site”) should be considered surplus to the educational needs of the District. If so, the Committee is to recommend alternative uses that would be practical for the District and tolerable to the surrounding community.

The Shores Site has not been used for a public school since 1975. The District and the City of Del Mar have had discussions to see if the two agencies might be able to construct new District and City administrative offices on the property, possibly as a joint facility. These discussions – or other alternatives for use of the Shores Site - cannot mature into serious real estate negotiations until the District declares the property surplus.

Even if District-City of Del Mar negotiations do not lead to a joint project, securing a new revenue source through the possible sale or lease of the Shores property could generate income to help the District finance educational enrichment programs and/or finance sorely needed District offices.

School boards have been given authority by the State to take the following actions on properties no longer used for school purposes. They may:

- Sell
- Lease for a term not to exceed 99 years
- Lease with purchase option
- Enter into a joint occupancy agreement with a private party
- Exchange for real property of any other party, or
- By simply taking no action, opt for non-use of the site.

The Committee met seven times from March through August of 2005. Committee members gave careful consideration to public input, staff reports, other documentary evidence, and Committee discussion. All meetings were properly noticed and all Committee deliberations were public in accordance with the California “Brown Act.”

This is the report of the Committee to the Board of Trustees.

Process

The Committee met seven times between March and August 2005. Each meeting was held in the evening at a school site. Meetings were noticed at all the school sites; through announcements in the local papers; and by e-mail distribution to interested parties. Public comment was taken at each meeting. A noticed public hearing was held on June 1, 2005.

The large number of interested citizens attending the meetings and the prominent coverage of the Committee’s work in the local papers indicate that the public was aware of the process. More than 58 public comments were given during the Committee meetings and/or at the Public Hearing.

Meeting minutes, including summaries of public comment and Committee discussion, were taken by Executive Assistant to the Superintendent (Martha Cox) or an alternate staff member.

Minutes are attached as *Exhibit A*.

In addition, the Committee reviewed and considered various written data prepared and presented by staff.

Controlling Law

Education Code Section 17390:

The school district advisory committee shall do all of the following:

- (a) Review the projected school enrollment and other data as provided by the district to determine the amount of surplus space and real property.
- (b) Establish a priority list of use of surplus space and real property that will be acceptable to the community.

- (c) Cause to have circulated throughout the attendance area a priority list of surplus space and real property and provide for hearing of community input to the committee on acceptable uses of space and real property, including the sale or lease of surplus real property for child care development purposes pursuant to Section 17458.
- (d) Make a final determination of limits of tolerance of use of space and real property.
- (e) Forward to the district governing board a report recommending uses of surplus space and real property.

Description of the Shores Site

The Shores Site is a 4.94-acre property located in the City of Del Mar. The District purchased the property in January 1946 as the site for the Del Mar Shores School. The public elementary school operated on the site until 1975 when the Del Mar Hills School (the "Hills") was opened and Shores staff and students moved to the Hills or the Del Mar Heights School.

The property boundaries are Ninth Street on the north, the Del Mar Inn property line and residential property on the south, Stratford Court on the west, and Camino del Mar on the east, except for the far northeast edge of the property, which is separated from Camino del Mar by a small commercial office development.

Neighboring properties:

- South: two-story motel and apartment/condo buildings;
- West (across Stratford Court): smaller single family residences;
- North (across Ninth Street): two-story professional office building and smaller single family residences;
- East (across Camino del Mar): commercial office buildings;
- East (adjacent to District offices): single story commercial office building.

The property is currently occupied by:

- District Administrative Offices and childcare center, which are housed in approximately 12,000 sq. ft. of space, formerly used as a school and two relocatable buildings owned by the District.
- The private Winston School, which leases approximately 12,000 sq. ft. of classroom and auxiliary space from the District for \$15,263.50 per month, per the 2004/2005 lease agreement.
- An improved baseball field, blacktop playgrounds, and tot lot that are used by the Winston School during school hours and are open to the public during non-school hours.
- Paved parking areas for District employees, visitors, and the Winston School population.

Buildings on the site are 40-50 years old.

There is substantial open space in addition to the playing fields and playgrounds. The slope of the land from east to west permits a wide view to the ocean across the property. Grounds have been minimally maintained over the last several years.

The baseball field is currently used by youth baseball teams and has been so used for at least seventeen years. In addition, individuals in the neighboring community use the space for informal recreational activities and canine exercise.

FINDINGS:

Property Occupied by District Offices

The District Administrative Offices and Maintenance Facilities (including employee child care facilities) currently occupy a portion of the site. Because of growth in District enrollment and the addition of new schools, the District is in need of new and expanded administrative, training and support facilities. It is estimated that new District offices would require approximately 20,000 sq. ft. of improvements on approximately one acre of land.

- **Because the District does not presently have an identified plan to relocate the District offices to another location, the Committee concluded that approximately one acre of the property required for District offices cannot be found to be “surplus.”**

Property not Occupied by District Offices

The Del Mar Shores School was closed in 1975. The property has not been needed as a public school since that time.

A Surplus Property Advisory Committee was formed in 1988, chaired by Jan McMillan, to consider the same questions as are presently before the Committee. The 1988 Committee found that the property would not be required for a school in the near future. However, it cautioned the District against the sale or any other final disposition of the site given the uncertainty of rapid development east of I-5. The 1988 Committee also recorded the public’s “strong desire to maintain the public use of the site, preferably in a diverse way to accommodate many of its present recreations, educational, civic and cultural activities.”

Since that time the school facilities have been used by the private Winston School, subject to a series of short-term leases. The playing fields are used by the public for both organized and unorganized activities making them a de facto public recreation area.

In considering whether the property should now, in 2005, be declared surplus to the District’s needs, the Committee carefully reviewed and discussed:

1. The capacity of the District's seven schools and planned school # 8. The capacity plan assumes that the class size reduction program will remain in place for grades K-3 and that contractual class size limits will remain at 27 for grades 4-6 and 15 for Special Day Class (SDC).
2. Site requirements for elementary schools as estimated by the State Office of Education.
3. Elementary school attendance projections prepared by the District's consultant, Davis Demographics & Planning. School enrollment is projected through 2011. **(Exhibit B)**

The District has sufficient classroom capacity to accommodate all projected future enrollment through 2011. In fact, when School # 8 is completed in September 2007, the District will have sufficient classroom space to accommodate 1,129 more students than the number of students projected for enrollment in 2011. In the event that the interchange of Highways 5 and 56 is completed at some time in the future the District has reserved potential school sites for two additional schools east of I-5 in order to accommodate additional enrollment growth due to new housing construction that would be permitted at that time.

- **Based on the above considerations the Committee finds that the approximately 3.9 acres of the Shores property not required for District offices is not necessary for the District's future instructional program and can be declared "surplus" in the meaning of the Education Code.**

Zoning

The Shores property lies within the jurisdiction of the City of Del Mar. The property is zoned PF (Public Facility). The following uses are allowable in the PF Zone:

- A. Public schools
- B. Private schools that are open to the public
- C. City, county, state and federal buildings and uses (including public parks and playgrounds)
- D. Utility structures

There is currently no floor area ratio assigned to the PF Zone. However, any development is subject to the provisions of Del Mar's Design Review Ordinance.

Any change in zoning would require an affirmative vote of a majority of the five members of the Del Mar City Council. Any change is also likely to require an amendment to Del Mar's Community Plan. Such amendment requires an affirmative vote by four of the five council members.

The process to change the zoning from Public Facilities to Residential or Commercial involves the following applications:

- A. General Plan Amendment
- B. Zone Code Amendment
- C. Local Coastal Plan (LCP) Amendment
- D. CEQA analysis.

Should any part of the property be rezoned as “Central Commercial” use it would be subject to the “downtown commercial zone overlay” ordinance. This ordinance requires any development in excess of 11,500 square feet of commercial floor area to be subject to a specific plan that requires approval by a majority vote of the citizens.

A vote of the people should not be required if the zoning is changed (by the City Council) to a category other than “Central Commercial” (e.g., Residential; Residential-Commercial; Professional-Commercial).

Please note this short synopsis of the Del Mar Zoning Code is a lay opinion of the Committee based on material provided. It does not purport to be an exhaustive or professional analysis of the issue. It is intended only to provide a brief overview of the zoning provisions affecting the Shores Site for readers of this report.

Naylor Act

The section of the Education Code generally referred to as the “Naylor Act” governs the disposition of surplus property by the District. The Naylor Act specifically addresses the loss of playgrounds, playing fields, and outdoor recreational space that communities may have assumed would be permanently available for recreational purposes. The Act would require the District, if it chooses to sell or lease the property, to first offer the property used as playgrounds, playing field, and recreational space to a public entity (i.e., City of Del Mar) that would continue the recreational use. An exception to this requirement is available to school districts actively involved in seeking new school sites.

- **District Counsel (Bowie, Arneson, Wiles & Giannone) has opined that the District may exempt the Shores Site from the Naylor Act since the District is actively and immediately seeking to acquire an additional school site. (Educ. Code § 17496.) (Exhibit C)**

Deed Restriction

In 1946 the property was purchased by the school district for the sum of \$10 from land developer Wm. G. Kerckhoff Company. The recorded deed states that “The property hereby conveyed shall be used for school purposes only.”

In a letter dated April 12, 2005 (*Exhibit D*) the District’s legal counsel opines that, “the conditions set forth in the 1946 deed ... no longer apply to the Shores Property.” The

basis for this conclusion is that deed restrictions such as this must be reaffirmed by filing an update or statement to reaffirm within specified time periods. No such affirmation or statement was filed by the Kerckhoff Company. However, counsel recommends, “that the District initiate an action to quiet title with respect to the Shores Property, so as to remove any cloud created by the Deed restrictions.”

- **Despite this opinion, sale or other disposition of the property could be subject to litigation over this issue should quiet title not be affirmatively obtained by the District.**

Disposition through Lease vs. Sale

Whether the surplus property should be sold, leased, or exchanged requires analysis beyond the Committee’s purview. However, a number of community members spoke in favor of a long-term lease rather than outright sale of the Shores Site so that the Shores Site could be kept in the public trust to continue to benefit generations and the community into the future.

CONCLUSIONS:

Determination of Surplus Property

1. The Committee has determined that approximately 3.94 acres of the Shores Site should be designated as surplus real property, with the remaining 1 acre to be used by the District for its administrative offices.
2. The Committee further determined that, in the event the District should elect to move its administrative offices, the entire 4.94-acre Shores Site should be designated as surplus real property.
3. The Committee based its determination upon a number of factors, including, but not limited to, the surplus property statutes set forth in the Education Code, capacity and enrollment projections, and community input.
4. If the Trustees adopt this recommendation, the surplus property portion of the Shores Site could be sold, leased, or otherwise disposed of within the guidelines of the Education Code.

Recommended Priority Uses

It is recognized that in any redevelopment of the Shores Site the District offices may remain on the property, although not necessarily in their current location and configuration.

First Priority Use

- **The Committee has determined that the first priority for alternate uses should be to preserve playing field, park and playground space.**

This use currently occupies approximately 1.5 acres of the site. It includes a playing field adequate for youth baseball, two asphalt basketball half courts, and a “tot lot” playground. In addition there are open unimproved grassy areas that are used informally by the community for canine activity, picnics, games, et al.

Continuing this recreational use was the top priority for members of the public who appeared before the community. Continuing such use would also be consistent with the spirit of the Naylor Act (although the Shores Site is exempt from the Naylor Act according to the District’s legal counsel).

Second Priorities

The Committee has determined that the following three uses should be considered as priority uses for the portion of the Shores Site not required for the District offices. These three uses are considered to be equivalent in priority:

➤ School

The private Winston School occupies approximately 12,000 feet of classroom/office space on less than an acre of the property. In addition the school has use of the playing fields during school hours. The school accommodates approximately 120 students with attendant faculty, staff, and parking. The Winston school has occupied this property for seventeen (17) years under a series of short-term leases. School leaders have expressed their desire to enter into a long-term lease or purchase of the facility.

Continued use of a portion of the Shores Site for a school could be achieved by the District with the Winston School or another private or public organization.

➤ Public or Private Day Care Facility (child and/or adult)

The District currently operates a day care center for children of District employees on the Shores Site. In addition the community would likely welcome a child or adult day care facility open to the public.

➤ Offices for the City of Del Mar or Other Public Agency

Like the District, the City of Del Mar is sorely in need of new administrative offices. The Committee understands approximately 15,000 feet of office space would be needed along with associated parking.

The concept of a joint development of new offices for the District and the City of Del Mar was described in public comments to the Committee as a possibility. Shared facilities could include meeting and conference room, audio-visual facilities, computer/communication space, public and employee restrooms, parking, etc.

Secondary Uses

The following uses are considered to be within the limits of tolerance but secondary to the above priority uses. These are not ranked in any order of preference.

➤ **Community Center**

This vision is for administrative and meeting space that could be shared by the many non-profit community service organizations in Del Mar. In addition, the facility could include a multi-purpose building to be used for large community meetings, lectures and concerts. It might include a small outdoor amphitheatre. The Committee does not have any information on the amount of space that may be required for these uses.

➤ **Limited Commercial Development**

Some years ago the District sold the lot on the northeast corner of the Shores Site for commercial development. The building now occupied by Del Mar Real Estate and Weatherly Asset Management is probably 5,000 square feet. The community might tolerate the development of similar commercial space on the Shores Site along Camino del Mar as a trade-off for preserving playing fields.

In addition, the District has the authority to build a joint use project that could house District offices and commercial space leased to third parties. The Committee believes the community might tolerate such a development as long as it is consistent with the Del Mar Community Plan and Design Review Ordinance and would include preserving playing fields and other open space.

➤ **Limited Residential Development**

The surrounding neighborhood is zoned R-2, with a mix of single-family and multi-family homes. The Committee believes the community might tolerate the development of some homes or small-scale condominiums as a trade-off for preserving playing fields and other open space.

Submitted,

August 8, 2005

Surplus Property Advisory Committee

Aye	Tim Malott, Chairperson	Absent	Luca Pacelli
Absent	Kamran Azimzaduh	Absent	Cinda Peck
Absent	Phil Kidd	Aye	Rodger Smith
Aye	Gail Moran	Aye	Joe Sullivan
Aye	Bill Morgan	Aye	Gary Wilson