



## WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

7-11 Committee Meeting

February 28, 2023

6:00 PM

**Staff:** Luis Freese (Associate Superintendent, Operations) & Robert McEntire (Associate Superintendent, Chief Business Official)

**Agenda Documentation:** If available, backup documentation for items on the Agenda will be posted on the district website at the time the agenda is posted. [District Committees webpage](#) & [District 7-11 Committee webpage](#)

**Meeting Locations:** As authorized by the Governor's Emergency Executive Order issued on March 17, 2020, the West Contra Costa Unified School District will conduct the 7-11 Committee meetings in person and via video conference/teleconference until further notice.

**Physical Location:** 1400 Marina Way S, Richmond, CA 94804.

The meeting will be streamed via Zoom using the following link:

Please click the link below to join the webinar:

<https://wccusd.zoom.us/j/91992616214>

Or via Telephone: +1 669 444 9171  
webinar ID 919 9261 6214

### **Participating in Committee Meetings:**

Due to the ongoing COVID-19 crisis, the manner in which meetings are conducted has changed. Thank you in advance for your understanding and cooperation as we experiment with new ways to conduct the people's business while allowing for maximum participation and adhering to our values of respect and safety for the community.

This meeting will provide public comment opportunities through the Zoom app or by telephone. To indicate your desire to speak on an agenda item, "raise your hand" by clicking on the appropriate icon in the Zoom app or by pressing \*9 if accessing the meeting by phone. In order to be recognized to speak, your hand must be "raised" before public comment begins for the item.

Due to the Brown Act, Committee members cannot discuss items that are not on the agenda and do not usually respond to items presented in Public Comment.

**Order of Business:** ORDER OF BUSINESS MAY BE CHANGED WITHOUT NOTICE

### MEETING AGENDA

#### **A. OPENING PROCEDURES**

- A.1 Roll Call**
- A.2 Approval of Agenda**
- A.3 Anticipated Upcoming Meetings:**
  - March 2023 (Review of Final Draft Report),**
  - April 2023 (Present Report to Board of Education)**

#### **B. PUBLIC COMMENT**

##### **B.1 Public Comment**

Members of the public are invited to speak on any matter related to the 7-11 Committee at this time. Members of the public may speak on individual items of interest in the agenda as the items are discussed.

#### **D. DISCUSSION ITEMS**

##### **D.1 Discuss AB2295**

**Review of AB 2295: Local Educational Agencies and Housing Development Projects. Presented: Melissa Payne, WCCUSD**

Staff will present a brief summary of new legislation AB 2295 regarding Local Educational Agencies and Housing Development Projects.

**D.2 Discuss of Priority Uses for Properties**

**Review of Draft Report Format and Integration of Committee Recommendations. Presented: Scott Sheldon, Terra Realty**

Scott will present the draft report format and components. Scott will lead input gathering from the Committee on the Draft Report. The Committee will review the draft report provided, discuss the four sites, and discuss options and recommendations for each.

**E. ACTION ITEMS**

**E.1 Election of 7-11 Committee officers. Moderated: Staff**

**a. Nominations and vote for Chairperson**

**b. Nominations and vote for Vice Chairperson**

**c. Nominations and vote for Secretary**



## WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

7-11 Committee Meeting

October 20, 2022

6:00 PM

**Staff:** Luis Freese (Associate Superintendent, Operations) & Robert McEntire (Associate Superintendent, Chief Business Official)

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Due to the Brown Act, Committee members cannot discuss items that are not on the agenda and do not usually respond to items presented in Public Comment.

**Order of Business:** ORDER OF BUSINESS MAY BE CHANGED WITHOUT NOTICE

### MEETING MINUTES

<https://www.youtube.com/watch?v=lzBGnITDIWk>

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#### A. OPENING PROCEDURES

##### A.1 Roll Call

Staff: Luis Freese, Melissa Payne

Consultants: Scott Sheldon, Barry Schimmel, Nancy Taylor

Committee: Don Gosney, James Henry-Sanders, Samantha Ann Torres, Summer Sigler and Trey Holland

##### A.2 Approval of Agenda

Agenda was approved

##### A.3 Next Meeting:

#### B. PUBLIC COMMENT

##### B.1 Public Comment

Members of the public are invited to speak on any matter related to the 7-11 Committee at this time. Members of the public may speak on individual items of interest in the agenda as the items are discussed.

Public Comments:

Joanna Pace

#### **D. DISCUSSION ITEMS**

**D.1 Review of Disposition of Real Property by a School District. Presented: Nancy Taylor, Orbach, Huff & Henderson**  
Nancy will present the different options for the disposition of surplus property.

The presentation identified the different options for the disposition of surplus property. The presentation included an overview of the following:

Allowable Disposition Options under the ED Code.

7-11 Committee Report to the Board and what that includes.

Disposition of Surplus Property: Pre-Bid Statutory Requirements.

Disposition of Surplus Property: Naylor Act / Recreational Property.

Disposition of Surplus Property: Formal Bidding; Use of Proceeds.

Alternative (Exceptions) to Surplus Property Process

Alternatives to Surplus Property Process: Joint Use

Alternatives to Surplus Property Process Joint Occupancy

Overview of the Surplus Property Process Alternatives to Surplus

#### **D.2 Review of Properties and Options. Presented: Scott Sheldon & Barry Schimmel, Terra Realty**

Terra Realty lead a discussion on the four properties. The Committee discussed the site specific information including considerations and recommendations for each. The considerations included:

“As a retired teacher that worked at Seaview. I can tell you this is a very remote site. The school as it was built before was a bunch of round buildings. They didn’t work well as classrooms, just about unworkable because of the design of the school. Also because of the remote location, driving there was very inconvenient. Also if you built high density housing, the traffic impact would be considerable and probably unwelcomed.”

“What thoughts have been put into construction on one of these sites and moving one of the old schools that are falling apart and need to be rebuilt?”

“One amazing use could be some sort of outlay for a facility that could be leased out to charter schools and then when the term of that lease is up be used by the district, or some sort of shared school site if that’s a possibility.”

“What does the exchange process look like if we surplus and how do we get to that end point as this committee.”

“I would like to hear more about Workforce Housing. I know it was mentioned as a possibility earlier and would like to hear how that works.”

#### **E. ACTION ITEMS**

Postponed

#### **E.1 Election of 7-11 Committee officers. Moderated: Staff**

**a. Nominations and vote for Chairperson**

**b. Nominations and vote for Vice Chairperson**

**c. Nominations and vote for Secretary**



# **WCCUSD**

## **WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT**

**Report of the Facilities Advisory "7-11" Committee  
To the Board of Education**

Committee Adoption: TBD  
Board Consideration: TBD

## **BOARD OF TRUSTEES**

Jamela Smith-Folds, Clerk, *Trustee Area 1*  
Otheree Christian, *Trustee Area 2*  
Mister Phillips, *Trustee Area 3*  
Demetrio Gonzalez Hoy, President, *Trustee Area 4*  
Leslie Reckler, *Trustee Area 5*

## **7-11 COMMITTEE MEMBERS**

Don Gosney  
Doreen Chand  
James Henry-Sanders  
Samantha Ann Torres  
Summer Sigler  
Trey Holland  
Diana Perez Cruz  
Jivanta Wagli

## **ADVISORY SUPPORT and DISTRICT STAFF**

Dr. Kenneth Hurst Sr.  
Superintendent

Luis Freese  
Associate Superintendent, Facilities, Maintenance, and Bond

Robert McEntire, Ed.D.  
Associate Superintendent, Business Services

Melissa Payne,  
Executive Director Contracts Administration

### **CONSULTANTS**

Scott Sheldon  
Barry Schimmel  
Terra Realty Advisors, Inc.

Nancy Taylor  
Orbach Huff & Henderson LLP

Placer Title Company  
Preliminary Title Reports

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## I. Executive Summary

Before a school district can sell or lease real property, the Education Code requires that a specific process be followed. The first step requires that the governing board of the school district, prior to the sale, lease or rental exceeding 30 days appoint a district advisory committee (commonly known, and referred to from this point forward as the 7-11 Committee).

A 7-11 committee contains between seven and eleven members representing various geographic areas and communities within the District, and will provide recommendations to the Board considering their research and community outreach on each identified site.

The responsibilities of the 7-11 Committee are specified within the Education Code and include studying the properties physical characteristics and legal/title impacts, consider the District enrollment both current and projected for each site, receive public testimony, and, at the conclusion of its work, the 7-11 Committee is required to provide the district governing board a report recommending if the space and/or property should be considered as surplus, and not needed by the District for educational purposes. If the space or property is recommended for surplus, the 7-11 Committee will also provide a summary of the best uses. The governing board, taking into consideration the 7-11 Committee's recommendations, which are advisory and nonbinding, determines whether it will declare some or all of the properties surplus and determine the ultimate disposition of each of the properties.

On April , 2021, the West Contra Costa Unified School District ("District") Board of Education ("Board") elected to form a new 7-11 Committee consistent with the requirements of Education Code section 17387 et seq. On August , 2021, the Board appointed the following persons to the Committee to meet the categories of community members required by the Education Code: Celina Hernandez Perez, Daniel Mariah Scott, Diana Perez Cruz, Don Gosney, Doreen Chand, James Alexander Watt, James Henry-Sanders, Jivanta Wagli, Samantha Ann Torres, Summer Sigler, and Trey Holland. Due to a lapse in time to start the 7-11 process, there were three original members who could not be contacted or that were unable to participate. On September 7, 2022 the Board approved a change in the original 11 members to 8 participating members.

The 7-11 Committee held four public meetings to gather information on four District properties including Adams Middle School, Harmon Knolls, Portola, and Seaview. All meetings were held in accordance with the Brown Act.

After extensive study of pertinent documents, receipt of public comment, and thoughtful deliberations, the 7-11 Committee recommends that the Board make the following determinations.

### 1. **Adams Middle School**, 5000 Patterson Cir. Richmond, CA 94805-1599

Retain for District Purposes:

Surplus:

Identified Use:

**2. Harmon Knolls**, 2853 Groom Drive Richmond, CA 94806

Retain for District Purposes:                      Surplus:                      Identified Use:

**3. Portola**, 1021 Navellier St. El Cerrito CA, 94530

Retain for District Purposes:                      Surplus:                      Identified Use:

**4. Seaview**, 2000 Southwood Drive, San Pablo, CA

Retain for District Purposes:                      Surplus:                      Identified Use:

**II. Purpose of the 7-11 Committee**

The 7-11 Committee was directed to follow the legislative intent of Education Code §17387 and 17390 in their process and deliberations by engaging with the public and to determine the amount of surplus space and real property and establishing a priority list for uses of surplus space acceptable to the community.

**III. 7-11 Committee Membership**

The Board appointed the following persons to the 7-11 Committee to represent the categories indicated by each person's name:

<b>Committee Member</b>	<b>Trustee Area</b>	<b>Category Represented</b>
Don Gosney	District 4	Business Community, Landowner/Renter, Subject Matter Expert
Trey Holland	District 5	Business Community, Landowner /Renter, Parent of Student, Subject Matter Expert
Doreen Chand	District 4	Landowner /Renter & Parent of Student
James Henry-Sanders	District 5	Landowner/Renter, Teacher & Subject Matter Expert
Jivanta Wagli	District 4	Landowner/Renter & Parent of Student

Samantha Ann Torres	District 3	Business Community, Landowner/Renter, Parent of Student & Subject Matter Expert
Summer Sigler	Districted 5	Landowner/Renter & Administrator
Diana Perez Cruz	District 2	Landowner/Renter & Parent of Student

The Board reviewed the Education Code requirements concerning the composition of the 7-11 Committee and determined that the 7-11 Committee represented a cross section of the community and meets the requirements of Education Code section 17389.

#### **IV. Description of Legal Process for School District Surplus Property Disposition**

As part of the 7-11 Committee meetings, there were two separate presentations by Nancy Taylor, Orbach Huff and Henderson, the District's legal counsel, on the very specific process and findings necessary to for the Committee to consider. Before District property can be marketed for private use or development, with the exception of property exchanges or joint occupancy agreements, the Board must first determine that the property is surplus to the needs of the District based upon the recommendation of a community advisory committee, in this case the 7-11 Committee, with input from the greater school district community. If the Board determines that property is surplus and they wish to dispose of it, the District must offer it to other public agencies for use as open space, recreational or park use, for development of low- and moderate-income housing, or for other uses as specified by the Ed Code as reflected in the community recommendations. These offerings are a prerequisite to making the property available for sale, lease, or lease with option to purchase, through public bidding if the property is not conveyed to a public entity or non-profit corporation in response to the public offerings. Because the time within which to perform each step in this process is not limited by statute, the disposition process can vary.

#### **V. Charge to the 7-11 Committee**

Education Code section 17390 directs the 7-11 Committee to:

- A.** Review projected school enrollment and other data to determine whether the property(ies) under consideration are surplus to the educational needs of the District;
- B.** Circulate throughout the attendance area a priority list of surplus property and provide for a public hearing for community input to the Committee regarding acceptable uses for the surplus space and real property, including the sale or lease of the surplus real property;

- C. Establish a priority list of uses of the surplus property that will be acceptable to the community;
- D. Make a final determination for use of space and real property; and
- E. Make a report to the Board recommending uses of the surplus space and real property.

## **VI. Summary of the 7-11 Committee's Work**

The 7-11 Committee met a total of \_\_\_\_\_ times and considered extensive information, including real property matters impacting, the Districts current and future needs, District past, current and future enrollment, and District other real property opportunities and constraints for each site. Community input was solicited and a public hearing was conducted at each of the 7-11 Committee's meeting. In the service of their community and with the intention of making educated and informed decisions, 7-11 Committee members sought and received presentations from District staff, legal counsel and the real property advisor to the District.

Meeting agendas and minutes are included in Appendix A and, along with the presentations, are available on the West Contra Costa Unified School District website at: <https://www.wccusd.net/Page/15623>

### **Meeting 1: July 28, 2022**

- A presentation was made by District Legal Counsel on the duties and obligations of the 7-11 Committee Members
- A presentation was made by Terra Realty Advisors, Inc. on the properties subject to the 7-11 Committee's purview.
- At the end of the meeting there was not a quorum of Committee Members to conduct further business.

### **Meeting 2: August 25, 2022**

- At the beginning of the meeting it was determined there was not a quorum of Committee Members in attendance. The meeting was rescheduled.

### **Meeting 2A: September 13, 2022**

- The Board of Trustees amended the Committee Members to a total of 8 members. There was a quorum to conduct the Committee business.
- There was an in depth presentation on each site: Adams, Harmon Knolls, Portola & Seaview by Terra Realty Advisors., including opportunities, constraints and potential values based on specific land uses.
- There was only one public comment from East Bay Regional Parks Department on a request to include a portion of the County trail system through a portion of the Seaview site.

### **Meeting 3: September 27, 2022**

- At the beginning of the meeting it was determined there was not a quorum of Committee Members in attendance. The meeting was rescheduled.

### **Meeting 3A: October 20, 2022**

- District legal counsel provided an in depth summary of issues for the Board to consider in their analysis and assessment for each identified site.
- Terra Realty Advisors went through a review of each property, identifying constraints: physical, legal (zoning, etc.) that would assist the Committee in making an informed recommendation on the disposition for each site.

### **Meeting 4:**

- The Committee started their review of the Draft Report and Recommendations for submission to the Board of Trustees.

### **Meeting 5:**

- The Committee started their review of the Draft Report and Recommendations for submission to the Board of Trustees.

In summary, the 7-11 Committee met on July 28, 2022, September 13, 2022, September 27, 2022 and October 20, 2022, February 28, 2023 and \_\_\_\_\_.

At each meeting there was an opportunity for the public to comment. On \_\_\_\_\_, the Committee met to vote on finalizing and approving the Report to the Board of Trustees.

## **VII. Property Descriptions**

The following provides an overview of each of the four properties considered by the 7-11 Committee. Each description provides:

1. Location: the property's address
2. Assessor Parcel Number (APN): the number assigned to the parcel by the county assessor
3. Current use: current use of the site
4. Size: site acreage
5. Zoning: specifies how and for what purposes each parcel of land may be used
6. Property Description: brief description of the property

7. Committee Recommendations: 7-11 Committee's recommendation
8. Priority Uses: 7-11 Committee established priority uses, if any

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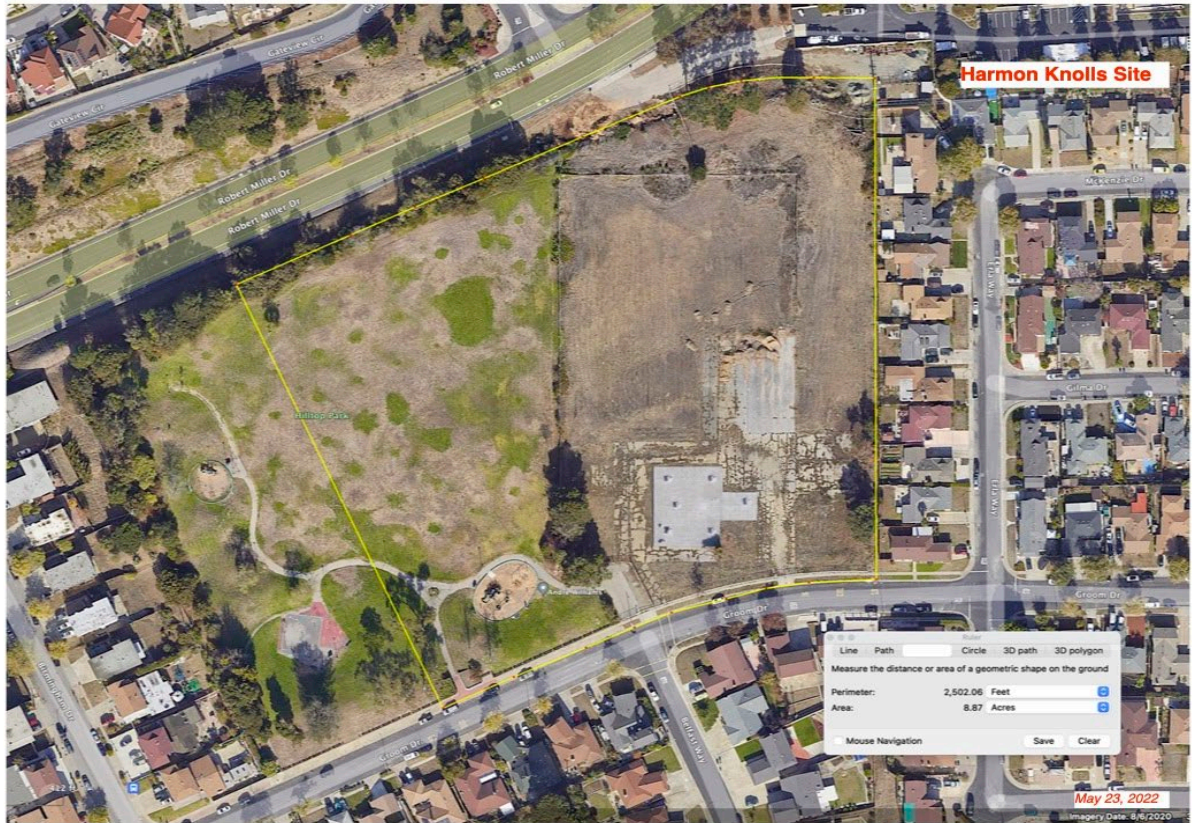
## Adams Middle School



<b>Location:</b> 5000 Patterson Cir. <b>Richmond</b> , CA 94805-1599	<b>Assessor Parcel Number (APN):</b> 520-032-002 520-042-013 520-050-001 520-062-001 520-092-004
<b>Current use:</b> School	<b>Size:</b> Approx. 5.97 Usable Acres
<b>Zoning:</b> R-6	<b>Property Description:</b> School site surrounded by residential development and a private school,
<b>Site Encumbrances:</b>	<b>Committee Recommendations:</b>
<b>Priority Uses:</b>	



## Harmon Knolls



<b>Location:</b> 2853 Groom Drive Richmond, CA 94806	<b>Assessor Parcel Number (APN):</b> 414-292-011
<b>Current use:</b> School & Park	<b>Size:</b> 8.87 Acres
<b>Zoning:</b> Government/ Public Use	<b>Property Description:</b> School site surrounded by residential development.
<b>Site Encumbrances:</b>	<b>Committee Recommendations:</b>
<b>Priority Uses:</b> 7-11	



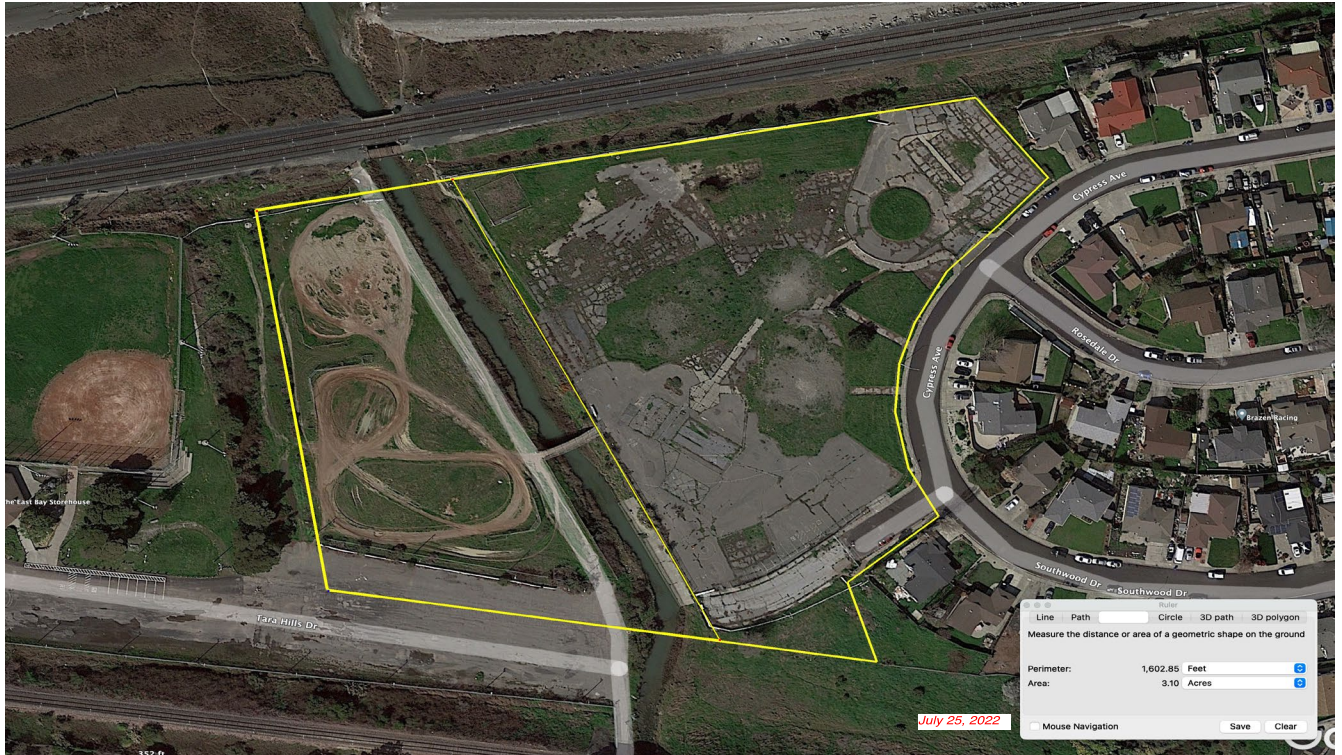
## Portola



<b>Location:</b> 1021 Navellier St. El Cerrito CA, 94530.	<b>Assessor Parcel Number (APN):</b> 503-181-001 503-190-001 503-203-019
<b>Current use:</b> Vacant	<b>Size:</b> 5.29 acres
<b>Zoning:</b> Government/Public Use.	<b>Property Description:</b> Vacant parcel with potentially significant slope and landslide issues. Surrounding properties include a PG&E substation, City park, residential and school uses.
<b>Site Encumbrances:</b>	<b>Committee Recommendations:</b>
<b>Priority Uses:</b>	



## Seaview



<b>Location:</b> 2000 Southwood Drive, San Pablo, CA	<b>Assessor Parcel Number (APN):</b> 403-020-009 403-482-043 403-482-044
<b>Current use:</b> Vacant	<b>Size:</b> 7.7 acres
<b>Zoning:</b> H-1& R-6	<b>Property Description:</b> Railroad tracks on both sides of the site. To the north are single family homes and to the south are baseball fields.
<b>Site Encumbrances:</b>	<b>Committee Recommendations:</b>
<b>Priority Uses:</b>	

## **I. Legal Definitions Informing the 7-11 Committee's Work**

### **Surplus Land**

Means land owned in fee simple by any local agency for which the local agency's government body takes formal action in a regular public meeting declaring that the land is surplus and not necessary for the agency's use. (Government Code § 54221(b)(1).)

### **Highest/Best Use**

The highest and best use is the most profitable legally permissible use for which the property is physically, geographically, and economically adaptable. (*County of San Diego v. Rancho Vista Del Mar, Inc.* (1993) 16 Cal. App. 4<sup>th</sup> 1289, 1288.)

The highest and best use is defined as that use, among possible alternative uses, that is physically practical, legally permissible, market supportable, and most economically feasible...The appraiser must make a determination of highest and best use as part of the appraisal process. (*San Diego Gas & Electric Co. v. Schmidt* (2014) 288 Cal. App. 4<sup>th</sup> 1046, 1058.)

## **II. Additional Considerations Guiding the 7-11 Committee's Work**

The West Contra Costa School District Board of Trustees has been seeking alternative sources of revenue to continue supporting the existing schools in the District, and utilizing real property assets not available for school needs to achieve that goal is important to the Board.

## **III. Method of Public Notification of the 7-11 Committee Hearing**

The 7-11 Committee held a public hearing for community input concerning its findings and recommendations on \_\_\_\_\_. The minutes of that hearing are included in Appendix A. The public was notified of that hearing by posting a notice of the hearing at the following locations at least 72 hours before the meeting.

The public was also notified by posting a notice to the District Website at: \_\_\_\_\_, by sending electronically at least 72 hours before the meeting to the following persons: 7-11 Committee Members, all District Board of Education members, all persons who have requested written notice of Board meetings, and by announcing the public hearing at the \_\_\_\_\_, District Board meeting.

At its meeting on \_\_\_\_\_, the 7-11 Committee considered whether to approve the draft Report with or without amendments and voted to approve the Report in the form provided to the Board.

#### **IV. Draft 7-11 Committee Findings and Recommendations to the West Contra Costa Unified School District Board of Education**

By definition in the Government Code: “Surplus land” means land owned in fee simple by any local agency for which the local agency’s governing body takes formal action in a regular public meeting declaring that the land is surplus **and is not necessary for the agency’s use.** In addition, “agency’s use” shall include, but not be limited to, land that is being used, or is planned to be used pursuant to a written plan adopted by the local agency’s governing board for, or is disposed to support pursuant to subparagraph (B) of paragraph (2) agency work or operations, including, but not limited to, utility sites, watershed property, land being used for conservation purposes, land for demonstration, exhibition, or educational purposes related to greenhouse gas emissions, and buffer sites near sensitive governmental uses, including, but not limited to, waste water treatment plants.

(2) (A) “Agency’s use” shall not include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development. Property disposed of for the sole purpose of investment or generation of revenue shall not be considered necessary for the agency’s use.”

Following these guideline, the Committee make the following recommendations to the Governing Board:

##### **A. Draft 7-11 Committee Findings**

1. The 7-11 Committee finds that the Adams, Portola and Seaview parcels have significant physical issues that would more than likely prevent their use for educational purposes because [insert reasons not used and cannot be used by District].

*There are significant issues that impact the Adams and Portola sites including topography, seismic and landslide geo-technical matters. The Seaview site has Conditions and Restrictions limiting development, as well as significant impacts from utility lines, access to a portion of the site and two major rail lines that border two sides of the property. The feasibility of constructing or re-opening a public school on these sites would be extremely difficult, if not impossible. In addition, any development of these sites for other uses would potentially require changes in the local agencies general plan and zoning classifications.*

Accordingly, these properties could be disposed of without significantly impacting District functions and the District can pursue (exchange, ground lease, sale or lease with option to purchase of these parcels for uses consistent with applicable zoning (current or proposed) without impacting District functions.

2. The 7-11 Committee finds that the Harmon Knolls parcels should not be disposed of at this time because [insert reasons property should not be disposed] (Alternate: “should be disposed of at this time”) and that the District should not dispose of the property (Alternate: “pursue the exchange, ground lease, sale or lease with

option to purchase of this parcel for uses consistent with applicable zoning (current or proposed) without impacting District functions.”)

*The Harmon Knolls site is vacant and does not pose development obstacles to either construction of a school or other private development. There are issues to resolve with the City of Richmond’s expired agreement for a portion of the site currently being used as a city park. There is also no current or projected need by the District to construct a new school on this site at this time.*

## **B. Draft Committee Recommendations**

The District Facilities Advisory “7-11” Committee hereby recommends the following to the District Board of Education:

1. Adams, property should (should not) be exchanged for the highest and best use (i.e.: another income producing property to benefit the District, teacher housing, etc.)
2. Portola property should (should not) be exchanged for the highest and best use (i.e.: another income producing property to benefit the District, teacher housing, etc.)
3. Harmon Knolls property should (should not) be exchanged for the highest and best use (i.e.: another income producing property to benefit the District, teacher housing, etc.)
4. Seaview property should (should not) be exchanged for the highest and best use (i.e.: another income producing property to benefit the District, teacher housing, etc.)

The members of the 7-11 Committee have appreciated the opportunity to serve the District and the greater West Contra Costa Unified School District Community in this important activity. At the forefront of the task was to develop a recommendation that would be in the best interest of the children in District for generations to come.

Respectfully submitted,

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District Surplus Facilities Advisory Committee

Appendix A: Meeting Agendas and Minutes  
Appendix B: Presentations to 7-11 Committee  
Appendix C: Current Enrollments

## **Appendix A – Meeting Agendas and Minutes**

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## **Appendix B – Current and Projected Enrollments**

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## **Appendix C – Documents Available to and Evaluated by the 7-11 Committee**

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**WEST CONTRA COSTA  
UNIFIED SCHOOL DISTRICT  
7-11 COMMITTEE  
OCTOBER 20, 2022  
DISPOSITION OF REAL PROPERTY  
BY A  
SCHOOL DISTRICT**

**MELISSA PAYNE**

So that's going to go ahead and lead us to our first discussion item tonight. And tonight we have with us Ms. Nancy Taylor from Orbach Huff & Henderson, and she's here tonight to really provide an educational piece to the committee. We heard at the previous meetings, it's really a desire to understand kind of what are the four corners of public property? What makes a property surplus? And what does the disposition process look like? And really, so that we could ensure that the committee really understands all of the options that are available.

And so, she's here tonight to really share with the committee the educational side of all things property. And so with that, we're going to turn it over to her. And Ms. Taylor, is it okay if I just do your slides for you?

**NANCY TAYLOR**

That'd be great. Thank you.

**MELISSA PAYNE**

Give me just one second to get set up. There we go. Okay. The floor is yours. Thank you.

**NANCY TAYLOR**

Perfect. Good evening.

So tonight I'm going to review the potential disposition options for the four sites that this committee's reviewing in order for you to have as much information as possible so that this committee can determine the best use of this property. My presentation will include information related to all the available options under the Education Code, and it's not going to be limited to options that may be best for these particular properties. For this reason, any questions regarding whether a

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particular option is suitable for these properties should be directed to Terra Realty when they review the properties and options later tonight.

But I do believe for this committee to have the full information of all potential disposition that we do need to go over briefly all of the allowable disposition options under the Ed Code. We previously discussed that the ultimate goal of this committee is to facilitate the District's governing Board making the best possible decision regarding the use of its excess property.

This is accomplished by the process that you're currently undertaking, and we'll conclude with the committee forwarding a report to the District's governing Board, which should include a determination of the highest and best use of the property based in part on the information that's being provided to the committee members by the District and its consultants. The report should also list acceptable uses. This should be an all-inclusive list so that it's not too restrictive.

And the reason why we say that is because as we're going to discuss tonight, while you issue the report, that doesn't mean the next day the District is selling or leasing the property. What that does is it really sets in process a series of events and obligations under the Education Code. That will take time and with time and trying to get rid of property, we have market influences that could make what was at one time the highest and best use, no longer the highest and best use and/or sometimes what we say is an acceptable use just doesn't work out.

So, for this reason, the report should include a list of acceptable uses and not just constrain it to just one use. And then some optional things that you may be presented and that may be included in that report will be information based on appraisals and information obtained from the title report that will affect the valuation of those properties, which can include restrictions on use and any reversionary clauses that affect the disposition itself.

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And the goal of that report is to educate the Board on the committee's work. Following recommendations from the committee, the Board will adopt a resolution regarding the intended disposition of that property, if any. And the Board's recommendation will take into consideration the report that you are preparing. In the report, the recommendations will say whether or not this committee has determined that the property is surplus, and that just means that the property is excess property, that the District doesn't need for its own educational purposes. So, we're first going to review the options for property should this committee determine that these properties or any one or two of these properties are surplus.

Again, I think one of the common misperceptions is that once you declare it surplus, then you can slap up a for sale sign. That isn't the case. It actually sets forth a series of public offerings and notices that must be accomplished in order to ultimately sell, lease or otherwise dispose of this property. And that includes public offerings and notices, optional offerings to childcare development agencies. If there's any vacant classroom space, there's offerings to the County Office of Education and SELPA. And then depending on the property, it could be subject to the Naylor Act.

So, with respect to the notice to public local planning agencies, the District has to provide notice to the local planning commission of its intent to sell or lease the property. The planning commission then has 40 days to report on the District's intention. Once that's accomplished, the District can then make its priority offerings, which as you see here, they can offer the property for sale or lease to a list of public agencies and entities. And those include the Director of General Services, the UC regions, the CSU, the city in which the property is located, the county in which the property is locating, and public housing authorities.

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Also, in a more general nature, the District has to publish a public notice that gets run in the newspaper of general circulation once a week for three successive weeks, that just basically notifies any public District, public authority, public agency, public corporation, or other political subdivision that the District has property that it's intending to get rid of.

So once those public entities and agencies are provided that notice, they have 60 days from that third publication to notify the District of its intent to purchase or lease the property. If any of those public agencies decide that they want to offer to purchase or sale, then they have to negotiate that with the District. If the District is unable to successfully negotiate a purchase or sale with one of those public agencies, then the District can proceed to public bidding.

Additionally, if for example, the District were to receive more than one offer from any of those public agencies that are entitled to a priority offering, then the District has discretion to negotiate with whatever public agency they would like. Did someone have a question?

**DON GOSNEY**

This is Don. I did have a question. What is SELPA?

**NANCY TAYLOR**

Oh, so SELPA is the Special Education Local Area Plan. All school Districts and county offices are mandated to have within their geographical region a consortium to provide special education services to the children that reside within their boundaries.

**DON GOSNEY**

Thank you.

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**JAMES HENRY-SANDERS**

May I ask a question, please? As I understand the difference between the 7-11 Committee process and the process that you just outlined, the 7-11 Committee process permits the District to go outside the normal progression of events in terms of public agencies. Is that correct?

**NANCY TAYLOR**

If I'm understanding your question correctly, it is not. The 7-11 Committee is a prerequisite for this process that I'm going through right now. So the District couldn't do... The District only has two or three options to avoid convening the 7-11 Committee, but it has to... Outside of those two or three exceptions, the District has to convene the 7-11 process first for this committee to determine whether or not in the first instance it's surplus. And then if it is, make recommendations to the Board regarding the disposition.

Before it could then dispose of it, how this committee determines is the highest and best use, it has to make all of these priority offerings. Does that answer your question?

**JAMES HENRY-SANDERS**

Yes, it does.

**NANCY TAYLOR**

Perfect. Okay. That's why I was saying it's not like we can go out and slap up a for sale sign tomorrow. We still a lot of people that we have to offer this to and it is time consuming.

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**JAMES HENRY-SANDERS**

Well, you may be aware that there was an attempt some years back to sell the Adams site for the equivalent of the price of a pickup truck, if you will. And it didn't happen, but it was attempted. Go ahead.

**NANCY TAYLOR**

Okay. So, if it's vacant classroom that the District intends to lease, then the District also has to pass a resolution of intent and that it intends to lease the vacant classroom and then offer it to the County Office of Education and the SELPA. And then those entities have 60 days to respond to the District's office.

Also, certain property is subject to the Naylor Act. So, the legislature is concerned that playgrounds, playfields and recreational property will be lost for those uses by the surrounding community when property that's been used for these purposes for many years is sold. Therefore, the intent of the legislature and the Naylor Act is to allow the school Districts to recover their investment in surplus property while making it possible for other agencies of the government to acquire their property and keep it available for recreational purposes, and that recreational property is subject to the Naylor Act if certain conditions are met.

And those conditions are that the property has to consist of land that has been used for playground, playing fields, recreational purposes for at least eight years, and is open space particularly suited for recreational purposes. If so, if the property falls within these categories, then the property is subject to the Naylor Act and has to be offered to the following entities, and it is offered in this order. First to the city, then to any park or recreation district, then to any regional park authority, and then to the county. And each of these agencies have 60 days to respond to the District's offer.



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Now, under the Naylor Act, the price is limited by the Ed Code. Again, this goes back to the preference for keeping property that is subject to the Act available for the public. The sales price is limited by the Ed Code and what the Ed Code says is that the sale price to any of these entities cannot exceed the price the District paid to acquire the site, which is pro-rated if the site is reduced so that only the space that is for recreational use is offered to these entities, and then it's adjusted from the data purchase by a standard cost of living adjustment. And the District can also recoup some of the improvements that they've made over the year.

In any event, when this calculation is made, the District cannot offer it for less than 25% of the fair market value. Now, if it's to be leased, then the annual lease rate cannot be more than one-20th of the sales price that's determined pursuant to the calculation that we just discussed. I see a couple of hands raised. Do we have questions?

**TREY HOLLAND**

Yes. I'm Trey, and I do. So, I'm just curious, on the Naylor Act. I'm assuming that these properties qualify under those pre-qualifying rules that you had up, otherwise I wouldn't think that we'd be spending too much time on it, is that correct?

**NANCY TAYLOR**

Well, as I started the presentation, I said that for you guys to have, for the committee to have the most information possible, I am going over things that may or may not apply to the particular properties at interest, but after my presentation, Terra Realty will go through each of the sites and talk about the particular disposition that's best suited for them. So, during that portion of it, they will discuss whether or not the property is subject to a Naylor Act.



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**TREY HOLLAND**

Okay, great.

**MELISSA PAYNE**

Ms. Torres?

**SAMANTHA ANN TORRES**

Hi, this is Samantha. I had a similar question. I guess my question, not exactly the same thing, but what initiates the Naylor Act? Is this by default, as soon as a property becomes identified as surplus, it triggers the Naylor Act? Or is this something that is by public demand? Or how does this process begin?

**NANCY TAYLOR**

So once the property is declared surplus, the evaluation that the consultants do to determine highest and best use is to determine whether or not that property is subject to the Naylor Act because that then sets in the process of who do you have to give notification to? And then additionally, you'll see on the slide, we haven't quite gotten it to yet, but now is a good time to talk about it, which is the District doesn't have to offer the entirety of the site, right? The District can say that you want to retain a portion of it that has buildings or doesn't have buildings, so that you could sell off the portion that isn't subject to the Naylor Act at a fair market value instead of at a decreased price.

So just declaring it surplus will then set in motion the requirement to evaluate whether or not the Naylor Act is applicable before it is either sold or leased.

**MELISSA PAYNE**

Mr. Gosney?

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**DON GOSNEY**

Thank you. Two of the sites, there are no buildings at all on, well, not recently at least. Portola had a building recently, and of course Adam still has a building, but when you start considering the part of the property that can be used for park purposes, for instance, do you have to consider what's there now or what was there when the buildings or the site was being used as a school? It says that Portola's building is gone, in Tara Hills, it's Sea View, the buildings are gone. Harmon Knowles, it's gone.

**JAMES HENRY-SANDERS**

Well, Don, Harmon Knowles has a park occupying part of the parcel, remember? And that park has been there for quite a while. So, it seems like that's the natural Naylor Act property.

**DON GOSNEY**

But when it was a school, a great deal more of the property was used for recreational. It's a school. Anything that's not in the classroom, the kids are playing. And so it seemed to limit, severely limit the footprint of the available space that could be used or considered to be surplus for commercial purposes. Am I incorrect?

**JAMES HENRY-SANDERS**

There's a named park there at Harmon Knowles and it's called Hilltop Park and that's been in use for some years and it occupies, if you will, trespasses on District property.

**NANCY TAYLOR**

I was just going to say, there is a look back period of eight years. So, it's not just that historically or from the genesis forward that there has been a use as school

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or recreation. There is a time limit associated with the look back. And I know that later this evening as Terra Realty goes through each of the site, that will be an opportunity to discuss those questions with them, and I think they're prepared to provide that analysis.

**JAMES HENRY-SANDERS**

Right.

**DON GOSNEY**

Sit back and wait.

**NANCY TAYLOR**

I'm almost done. I'm almost done. I'll talk fast. All right. So then that gets us past the Naylor Act and into what we do with recreational property. So recreational property, separate from the Naylor Act, is make a written offer for the purchase or sale for park or recreational purposes to any park or recreation District of the city or county in which the property is located, to regional park authorities with jurisdiction over the property. And then to any applicable state resource agency that might be interested in, that's the State Park system, the Fish and Game Coastal Commission, et cetera. There's a whole host of those state resource agencies.

If none of the public agencies that are entitled to that priority offering that we've just discussed, if no one wants it or the District is unsuccessful in negotiating either a purchase or sale, then that's the green light for the District to go forward with formal bidding. So when the District is going to either sell or lease the property, they actually have to bid it. And there are steps to the formal bidding that allows for a lot of opportunity for public notice and public input so that the District has the best option of receiving the highest price for the property.

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First, the District will adopt a resolution of intent that will include a description of the property, the minimum price, the terms and conditions of any seller lease, and the dates for which sealed bids will be considered. Additionally, in that process, the District has to provide notice to the previous owner of the property that they're intending to sell or lease it. This is an odd one that I get asked about all the time, and the reason for that is many times, the District obtains property from individuals with the intent that the property forevermore be used for school purposes. Sometimes that gets transferred into a deed, sometimes it does not. So, this is just intended to notify owners if you can find them, that the District is intending to sell it so that if there has been any constraints on the conveyance, that the parties can discuss that.

And then the District must post and publish a notice of receiving bids. Those bids are opened in a regular public meeting. And then the fun part of it is that similar to an auction, when those bids are opened and received by the Board, there's an opportunity for any bidder that is present to increase their bid if they're not the highest bid. And the statute says that the District can consider any bid that's at least 5% higher than the highest bid before oral auction. And so that can be exciting. I've been a part of some of those where the bidders come and there's a nice robust public auction that goes on as the bidders try to outbid each other, just an opportunity for the District to hopefully get the highest price.

So then if the District does decide to accept one of the offers of purchase or offers to lease, the Education Code does provide specific uses of those proceeds. I'm just going to go over this very generally because it can be very convoluted. If there are questions, they can be submitted to the District and we'll make sure that those questions are answered, but this is a topic that we could talk about for a really long time and we just don't have time to do that tonight.

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But essentially, the Education Code specifies that a school District can use the sale proceeds for capital outlay expenses or for cost of maintenance of school property that will not recur within a five year period. They also have the option of depositing the proceeds into a general fund if the governing Board and the state allocation Board determined that the school District has no anticipated needs for building construction for a 10 year period following the sale, and that the District has no major deferred maintenance requirements, and the District has an option to use the proceeds for one time expenditure, and then they're specifically prohibited from using the proceeds for ongoing expenditures such as salary and other operating expenses.

For lease proceeds, the District has greater flexibility with what they can do with the funds. It's not as expressly handled in the Education Code as the sale proceeds are. It is generally accepted that lease proceeds can be expended without the same limitations imposed. And the Office of Public School Construction has taken an approach that lease proceeds derive from a lease of one year or less can be used for general fund purposes, but that lease proceeds from leases of longer duration must be put in a capital fund for restricted use.

So next, we're going to talk about what happens if either property is not considered surplus or in many of these circumstances, the District doesn't convene a 7-11 Committee, these are the options that are available to it. The most typical one is joint use. There's also a joint occupancy, a property exchange. Workforce housing does not require that property be deemed surplus or go through a 7-11 process. Facilities that are not operated or constructed for school use. There's also a waiver process they'll briefly talk about as well as a fee generating facilities provision, and then the Community Recreation Act.

We'll go over these very briefly, but each of these are options that do not require the property to be deemed surplus and do not require the 7-11 process. So under

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the joint use statutes, the District can lease space in an operating school building to other school Districts, educational agencies, governmental agencies, non-profit institutions, businesses, et cetera. But the limitations of that particular statute is that the term of that use cannot exceed five years and the District has to charge fair market rent.

The only exception to those two limitations is if you have a public entity that's the party jointly using the site with the District that's making capital improvements, they don't have to then pay fair market rate and the five year term doesn't apply. The thought behind that is if people are making capital improvements, they're going to want to use it for longer than five years. Prior to entering into a joint use agreement though, the District's Board must make certain findings, and those findings generally are that the use will not interfere with the educational program or activities that are conducted on the site. It won't unduly disrupt the residents of the surrounding neighborhood, and the use does not jeopardize the safety of the children that attend that school.

Joint occupancy is probably one of the lesser used options that basically is used with larger capital program improvements. We see this a lot in public-private partnerships. Before advertising or issuing request for proposals for this, the Board again has to provide public notice by passing a resolution of intent. After that resolution of intent is adopted, then the Board has to publish that once a week for three weeks. The proposals are opened in a public meeting and then the Board would select a proposal that best meets the District. I think a common theme that you can see in each of these options is that the legislature has really written into the statutes, the ability of the public to participate and have notice in this process. That is because the property is definitely considered a public asset.

Exchange, I believe that Terra Realty probably will talk to you guys about exchange. It is the most flexible and popular option for property and the reason



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for that is that it allows the District to exchange any of its real property for real property of another entity. The ED Code allows a lot of flexibility for this option, and it says that the exchange can be on terms and the conditions, the parties agree, without complying with any of the other disposition requirements.

And what that means is if the District decides to exchange its property instead of selling it, instead of leasing it, then it doesn't have to offer the property to any of those prior public priority offerings that we talked about before. What the District could do is just simply negotiate and exchange a property for property and by two-thirds vote of a resolution declaring its intent, it can go ahead and move forward with exchanging property.

The next two, I'm not going to spend too much time on because I don't think that they will be discussed by Terra Realty, but both of these options do not require a 7-11 Committee or a finding of the property to be surplus. And those are instances in which the District decides to utilize its property to develop workforce housing or for property not operated or constructed for school use.

The next one is fee generating facility. This one, the District could solicit proposals and enter into agreements with private entities for the design, construction or reconstruction of certain types of fee producing infrastructure projects. A fee producing infrastructure project means that it will be paid for by the persons or entities that have benefited from, or utilizing that facility. That typically is more like municipal projects, water projects, that sort of thing. A private entity is selected by a competitive negotiation process and not by formal bidding, and the maximum term can be 35 years for that type of use.

And then lastly, another disposition that's potentially available that doesn't require a finding of it being surplus is under the community recreation. So, the District can lease its property, including buildings under this Ed Code provision to any

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public authority, and a public authority is a public corporation or District having authority to provide recreation. The term of that lease is not limited to five years like the joint use. So, this one offers a little more flexibility with regard to the term, and the District can continue to charge for the use of those facilities.

And this one is oftentimes used in instances where you have a public authority that wants to make some capital improvements and utilize the space for community recreation purposes. So that is the end of my presentation.

**MELISSA PAYNE**

Mr. Gosney?

**DON GOSNEY**

Thank you very much. That was a tremendous amount of information, very appreciative. I will pull up a transcript later on to be able to follow it all again. Unfortunately, the questions I had were from about 12 pages back and I just can't even remember what my questions were anymore. There was so much on my mind since then.

**NANCY TAYLOR**

Yeah, we felt like this is probably going to be a lot of information. That's why I had indicated that if you guys have questions, to please submit those and we'll get answers to you.

**SAMANTHA ANN TORRES**

I have a question quickly, Nancy, before we finish up with your section. Again, thank you again for this very... I think it was a very succinct summary. Yes, it was a lot but I think you really covered a lot of the high points. I did have a question



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about... I know you mentioned a couple of the alternatives to surplus were rare. What are some of the more common... When an alternative to surplus is selected by 7-11 Committees or by the Districts? What are the more common ones?

**NANCY TAYLOR**

So typically, the most common ones are to exchange the property. I think that that's usually the most attractive because it provides the most flexibility of all of the dispositions. Obviously, what constrains that is whether or not the District needs other property. Usually, we see that in a District that has the easiest example is growth in a certain area and it doesn't have property in that area, it can exchange property within that area to meet its needs for a new school. That's typically the most common, is the exchange. I would say lately, some sort of joint use or community rec has been very common, just simply because community members or community agencies want to partner with each other to provide recreational space and there's a common pooling of money.

And then I think lastly, probably teacher housing, workforce housing, that's a huge one right now with our Districts trying to provide affordable housing for their teachers. And so that's recognized by the legislature, is not requiring it to be surplus and not requiring it to have priority offerings. So that's another very common one right now. So it just depends.

I think that Scott and Barry probably will go over each of the sites and let you know what's the highest and best use and discuss all the potential so that you know more sites specific, which was what I was trying to avoid because my goal was to just let you know here are all the potential options.

**BARRY SCHEMMEL**

If I may, for Ms. Torres's question, one of the most practical ones now in the Bay Area of Alameda, Santa Clara, San Mateo Counties is declining enrollment. And

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with declining enrollment comes the lack of revenue for Districts to keep programs in place. So the exchange option gives the District the ability to exchange their property for another piece of property that might produce income. And then down the road, 25, 50 years, if the District needed another piece of property, they would have that property to exchange back for a potential school site.

So you have both benefits. One, keep programs in the District now because of declining enrollment, lack of revenue or a recession, and the advantage of you haven't sold a property and then it's gone. And once the money's gone, then you're done.

**SAMANTHA ANN TORRES**

So, piggybacking off of Barry here, if any of the alternates to surplus are selected, are the limitations on how any profits can be used by the District?

**JAMES HENRY-SANDERS**

Yes.

**NANCY TAYLOR**

Yeah. So if it's not sold and it's leased, then as we talked, the use of lease revenue has more flexibility for the District on what it's used for.

**BARRY SCHEMMEL**

Nancy, could you respond to the part where I think where Ms. Torres is coming up with. Let's say a property was exchanged for a commercial piece of property and produced some revenue, let's say a million dollars a year or half a million, that half a million dollars that came in, the District would own the exchanged piece of

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property and the revenue from that. What are the limitations on that revenue coming into the District? I think that's where you were going.

**SAMANTHA ANN TORRES**

Yes, that that's a perfect example. Thank you.

**NANCY TAYLOR**

But is the revenue being generated because you're receiving lease participation or because you're receiving revenue pursuant to a lease that you entered into for the...?

**BARRY SCHEMMEL**

Revenue from the lease.

**NANCY TAYLOR**

Yeah, so it's lease payment. So that can be put into the District's general fund. The only caveat with that is that OPSC has provided guidance that if the lease is for more than a year, it should really be put into a capital fund, a restricted fund. That isn't what the statute provides. So you'd have to proceed with caution there. We'd have to look at whatever the particular parameters of the lease agreement were to make it a legal opinion at that point, but there is greater flexibility for those lease payments. And in some circumstances, they can be put into the general fund.

**BARRY SCHEMMEL**

I think the state's concurring with, they want to look at long-term and not short-term. And so they're looking for more capital improvements rather than operating expenses, and I think Nancy would concur with that.

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**MELISSA PAYNE**

And just for the sake of the committee, OPSC is the Office of Public School Construction and SAB, which was shared a little bit earlier, also related to this topic, is the State Allocation Board. And we'll put together a little acronym guide for the committee to help you walk through this presentation.

Nancy, it doesn't look like we have any other hands at this time. We really want to thank you for taking the time to come tonight and really share with us this educational foundation and this crash course in public property. I imagine many of us might go back through the slides and this recording will also be available on YouTube. So, thank you so much for joining us tonight.

# 7-11 Committee Meeting

## October 20, 2022



# Disposition of Real Property by a School District

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# Disposition of Surplus Property:

## 7-11 Committee Report

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- ❑ **Committee Report should include:**
  - A determination regarding the highest and best use of property based, in part, on consultation with local zoning authorities to determine potential permissible uses
  - Listing of acceptable uses
  - (*Optional*) Information based on a District-obtained appraisal of the property to assist in determination of the most profitable use and fair market value; and
  - (*Optional*) Information based on a District-obtained title report to evaluate the effect of any restrictions, covenants or reversionary clauses.
- ❑ Report educates the Board on Committee's work
- ❑ Following recommendations from Committee, Board adopts a resolution regarding intended disposition of the property, if any.



# Disposition of Surplus Property: Pre-Bid Statutory Requirements

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- ❑ Now the District's Board can sell to the high bidder, right? (not quite yet . . . )
  - Public Offerings and Notice
  - (*Optional*) Offer to Child Care Development Agency
  - Vacant Classrooms to COE / SELPA
  - Naylor Act / Recreational Property

# Disposition of Surplus Property: Public Offerings

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- ❑ Notice to Local Planning Agency
  - District must provide notice to the local planning commission of its intent to sell or lease property. The planning commission has 40 days to “report” on the District’s intention.
- ❑ Make offer for sale or lease with option to purchase at fair market value:
  - In writing to the following:
    - ❑ Director of General Services State of California
    - ❑ UC Regents
    - ❑ Trustees of the CSU
    - ❑ City in which property is located
    - ❑ County in which property is located
    - ❑ Public housing authority in the county where property is located
- ❑ By ***public notice*** addressed to any public district, public authority, public agency, public corporation, or any other political subdivision in the state, federal government, and to nonprofit charitable corporations by publication of notice of intent to sell or lease the property in a newspaper of general circulation in the District once a week for 3 successive weeks.



# Disposition of Surplus Property:

## Public Offerings

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- ❑ Any public entity has 60 days from the date of the third publication to notify the District of its intent to purchase or lease the property.
- ❑ If the parties do not agree on mutually satisfactory terms, the District may proceed to public bidding of the property.
- ❑ If the District receives offers from more than one public agency, the Board may exercise its discretion to determine which offer to accept and may negotiate the terms of acceptance.

# Disposition of Surplus Property: Vacant Classrooms to COE / SELPA

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- ❑ If the District intends to *lease vacant classrooms*, Board must first adopt Resolution of Intention and offer the classrooms to special education programs provided by other districts within its SELPA or by the County Office of Education
- ❑ The COE and the SELPA have 60 days to respond to the District's offer.

# Disposition of Surplus Property: Naylor Act / Recreational Property

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- ❑ If all or a portion of the property consists of land that has been used:
  - for at least 8 years
  - for playground, playing fields, or other outdoor recreational purposes and
  - is open space particularly suited for recreational purposes, the sale or lease must be treated in accordance with the Naylor Act.
- ❑ The District must offer the property to:
  - (a) the City where the property is located
  - (b) any park or recreation district
  - (c) any regional park authority
  - (d) the county in which the property is located
- ❑ These agencies have 60 days to respond to the District's offer.



# **Disposition of Surplus Property: Naylor Act / Recreational Property**

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- ❑ Sale and Lease Price is limited by Education Code 17491
  
- ❑ The District may retain any portion of the school site containing structures or buildings, together with adjacent land necessary to avoid reducing the value of the land containing the buildings to less than 50% of fair market value.



# Disposition of Surplus Property: Naylor Act / Recreational Property

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*(Separate from the Naylor Act)*

- ❑ Make written offer for sale or lease with option to purchase for park, recreational or open space purposes (if the property is suited for such purposes):
  - To any park or recreation department of the city and county in which the property is situated;
  - To any regional park authority with jurisdiction over the property; and
  - To any applicable State Resource Agency



# Disposition of Surplus Property: Formal Bidding

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- ❑ If no offers are received by public entities or no agreement is reached with a public entity, then move to public bidding. (Ed. Code § 17464)
- ❑ **Formal Bidding.** Steps for formal bidding for highest price.
  - Board adopts resolution of intent to lease or sell which must include property description, minimum price, terms and conditions of sale or lease, and date bids will be considered. (Ed. Code § 17466)
  - District must provide notice to previous owner (Ed. Code § 17470)
  - District must post and publish notice of bid (Ed. Code § 17469)
  - Bid opening – Occurs on day and time set forth in the resolution (Ed. Code § 17473)
  - Open session bid opening
  - Oral bids also considered



# Disposition of Surplus Property: Formal Bidding: Use of Proceeds

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- ❑ Sale Proceeds Must be Used in Specific Ways.
- ❑ Lease Proceeds May be Used in Any Way the Board Directs.

# Alternative (Exceptions) to Surplus Property Process

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- ❑ Joint Use (Ed. Code § 17527, et seq.)
- ❑ Joint Occupancy (Ed. Code § 17515, et seq.)
- ❑ Property Exchange (Ed. Code § 17536, et seq.)
- ❑ Workforce Housing (Ed. Code § 17391(b))
- ❑ Facilities Not Operated/Constructed for School Use (Ed. Code § 17391(c))
- ❑ Waiver Process (Ed. Code § 33050)
- ❑ Fee Generating Facilities (Gov. Code § 5956, et seq.)
- ❑ Community Recreation Act (Ed. Code § 10910, et seq.)

# Alternatives to Surplus Property Process: Joint Use


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- ❑ Ed. Code section 17527, et seq.
- ❑ District can lease vacant space in operating school buildings to other school districts, education agencies, government agencies, nonprofit institutions, private agencies, businesses, and individuals, under certain conditions.
  - 5-year term limit
    - ❑ Exception → 5-year terms does not apply to agreements in which capital outlay improvements are made on school property for park and recreation purposes by public entities and nonprofit corporations.
    - ❑ Fair Market Rent (Public entity exception)
- ❑ Prior to entering into a Joint Use Lease Agreement, the Board must make the following findings – that the proposed use will not:
  - Interfere with the educational program or activities of any school or class;
  - Unduly disrupt the residents of the neighborhood; and
  - Jeopardize the safety of children in the school.

# Alternatives to Surplus Property Process: Joint Occupancy

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- ❑ Ed. Code section 17515, et seq.
- ❑ Joint occupancy lease agreements for up to 99 years allow the District to lease to any private person, firm or corporation. The District maintains a presence on the site.
- ❑ **Board Adopts Resolution of Intention (ROI).** Before advertising and issuing proposals, the Board must adopt an ROI to consider proposals.
- ❑ **Publish the ROI and Issue Proposals.** After the Board adopts the ROI, the District must publish the ROI once a week for three (3) weeks.
- ❑ **Hold the Public Meeting Advertised in the ROI.** This meeting must be not less than 90 days after adoption of the ROI.
- ❑ Board to select the proposal that “best meets the needs of the District”.



# Overview of the Surplus Property Process

## Alternatives to Surplus - Exchange

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- ❑ Ed Code section 17536, et seq.
- ❑ The District may exchange any of its real property for real property of another entity.
- ❑ Any exchange shall be upon terms the parties may agree and may be entered into without complying with other disposition requirements.
- ❑ Board shall adopt, by a 2/3 vote, a resolution declaring its intention to exchange the property.
- ❑ Obtain appraisals, conduct due diligence, consider local zoning impacts

# Overview of the Surplus Property Process

## Alternatives to Surplus

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- ❑ Ed Code § 17391(b) – Workforce Housing
  - Board may elect not to appoint a 7/11 committee for the sale, lease, or rental of property to be used for teacher or school district employee housing.
- ❑ Ed. Code § 17391(c) – Not Operated/Constructed for School Use
  - Board may elect not to appoint a 7/11 committee for property that has not previously operated or was not constructed as an early childhood education facility or K-12 facility.





# Overview of the Surplus Property Process

## Alternatives to Surplus

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- ❑ Gov. Code § 5956, et seq. – Fee-Generating Facility
- ❑ District may solicit proposals and enter into agreements with private entities for the design, construction, or reconstruction of certain types of fee-producing infrastructure projects.
  - “Fee-producing infrastructure project” means that it will be paid for by the persons or entities benefited by or utilizing that facility.
  - Private entity selected by competitive negotiation process, not by formal bidding.
  - Maximum Term of 35 Years.

# Overview of the Surplus Property Process

## Alternatives to Surplus

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- ❑ Ed. Code § 10910, et seq. – Community Recreation Act
  - District can lease buildings, grounds and equipment to any other “public authority” for community recreational purposes. (Ed. Code §10910.)
  - “Public authority” is a “public corporation or district having authority to provide recreation.” (Ed. Code § 10901)
  - Term of lease not limited to 5 years.
  - District can charge for use of fields.



# Nancy Taylor



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