



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 11.1

Meeting Date: March 21, 2024

Subject: Surplus Property: Options and Overview of Process

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading (Action Anticipated: _____)
- Conference/Action
- Action
- Public Hearing

Division: Facility Support Services

Recommendation: Convene a new “7-11 Committee” to review and make recommendations on five District properties that are not operating as schools.

Background/Rationale: The Sacramento City Unified School District closed seven (7) elementary schools in 2013. In 2014, the District formed a 7-11 Committee to discuss the potential sale or lease of those properties, as mandated by law, and the Committee’s recommendation was to lease the properties in case they might be opened back up for educational purposes in the future. As such, two (2) of the seven (7) schools were subsequently leased out and still have tenants today. Four (4) of the seven (7) have since reopened to serve as schools in various forms and capacities, and one (1) remains closed and used as District storage.

District staff recommend convening a new 7-11 Committee to revisit the three (3) sites that do not currently operate as schools. Additionally, the District owns two (2) additional underutilized facilities that are also recommended for inclusion in the process.

It is recommended to reconvene a new 7-11 Committee due in part to legislative changes to the California Surplus Land Act.

Financial Considerations: NA

LCAP Goal(s): Family and Community Engagement; Operational Excellence

Documents Attached:

1. Executive Summary

Estimated Time of Presentation: 15 minutes

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Approved by: Lisa Allen, Interim Superintendent

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I. Overview/History of Department or Program:

In 2013, the District closed seven (7) elementary schools that included:

- Joseph Bonnheim (re-opened as a Charter)
- Maple
- Washington (re-opened as a District School)
- Fruitridge
- C.P. Huntington
- C.B. Wire (re-opened as a District School)
- Mark Hopkins (re-opened as a District School)

In 2014, the District formed a “7-11 Committee” to discuss the potential disposal of the sites listed above. That Committee’s recommendation was to lease the properties in case they were re-opened as schools in the future. Proposals were solicited and the District selected two for the operation of nonprofit hubs at Maple Elementary and Fruitridge Elementary. Initial agreements for those properties were signed in August 2015.

The Maple and Fruitridge still have occupants to this day. Both remain a District liability that require upkeep, maintenance, security, administrative oversight, and ongoing insurance coverage. Various parties have signaled an interested in the possible purchase of those properties as well. However, the District cannot sell property to any interested party without following the processes, notifications, and timelines of the Education Code and the Surplus Land Act, further outlined below.

The District also owns and maintains Perry Avenue field that is a vacant field adjacent to, but separate from, Fruitridge, and the old Florin Technology site. The Perry Avenue field is completely unused, and the Florin Technology site is underutilized. Both properties continue to cost the District money in ongoing upkeep, maintenance, security, administrative oversight, and ongoing insurance coverage with little return.

II. Driving Governance:

The ‘surplus property process’ is a statutory process found in the Education and Government Codes that districts must go through to sell or lease real property. At a minimum, the process takes about 6 months to complete, but it would not be unusual for a school district to take a year or more to navigate the process and ultimately sell or lease a particular property. Before the District begins the process, the District may want to explore getting appraisals of the properties in question as the value can be helpful information to guide decision making through the statutory steps.

Forming a 7-11 Committee:

The District must first appoint a committee of between 7 and 11 members (“7-11 Committee”) to advise the Board regarding use or disposition of school buildings or other space which is not needed for school purposes. The use of a 7-11 Committee varies widely and may be implemented not only for purposes of deciding whether to declare property surplus, but also to have discussion and analysis around the best use of District property. The recommendations from the 7-11 committee are advisory only. The 7-11

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committee is not statutorily required to hold a specific number of meetings, however, the District may adopt criteria for its 7-11 Committee such that it shapes the requisite number of meetings and determines the date upon which a final report, containing not only a recommendation on whether to surplus the property, but also guidance on the above preliminary steps, will be provided to the Board. The 7-11 Committee must provide for hearings of community input to the Board on acceptable uses of space and real property, including the sale or lease of surplus real property for childcare development purposes, and must forward to the District's Board of Trustees a report recommending uses of surplus space and real property. In certain circumstances, the property may be exempt from the 7-11 Committee requirements.

The District convened a 7-11 Committee in 2014 to discuss the potential disposal of surplus properties. That Committee recommended to the Board that the District lease the properties in case they might need to be opened back up for educational purposes in the future. Given the passage of time, changes in the law, and the importance of community input on these issues, staff is recommending that a new Committee be formed to review and recommend action regarding current surplus property. The Committee will work collaboratively for a set amount of time to bring back a recommendation to the Board regarding the property or properties being reviewed. Those recommendations are not binding on the District or Board.

Board Action – Declaring Property Exempt Surplus Land

Following the 7-11 Committee's review and recommendations, if the Board determines that one or more properties are indeed surplus, the Board should take formal action, through approving a resolution declaring the properties as "exempt surplus land" under the Surplus Land Act (Gov. Code, §§ 54220, *et seq.*). This initial resolution may also be used to trigger the offer of the properties to other public agencies, as discussed in the next section. Per Guidelines published by the California Department of Housing and Community Development ("HCD"), which is the state agency responsible for enforcing the Surplus Land Act, the District must provide a copy of the initial resolution to HCD at least 30 days prior to approving an agreement for sale or lease of property. HCD must then review the description and submit written findings to the local agency. If notified by HCD of a violation of the Act, and if the local agency fails to correct its violation within a certain period of time, then HCD may impose a penalty on the local agency of up to 30% of the final purchase price of surplus property sold, and up to 50% for repeat violations of the Act. Declaring the property as exempt surplus land will mean that the majority of the requirements in the Surplus Land Act will not apply. Nevertheless, the District must still comply with the process outlined in the Education Code, discussed below.

Statutory Notices and Offers

Once the decision is made by the Board to declare a property surplus, and the resolution is adopted, the District then sends offers to sell the property to specified entities.

First, it must offer the property under the Naylor Act, if applicable. The Naylor Act (Ed. Code, § 17485, *et seq.*) requires a school district to make a written offer to sell surplus property to specified entities. This applies when the property in question was used as playgrounds, playing fields or other recreational space. (Ed. Code, § 17486.) A noticed entity which proposes to purchase the property must notify the District in writing of its intention within sixty (60) days after receiving written notification from the

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District. (Ed. Code, § 17489(c).) Should a noticed entity desire to purchase the property, the price shall not exceed the school district's cost of acquisition adjusted by cost-of-living increases, and the price may not be less than twenty five percent (25%) of the fair market value. (Ed. Code, § 17491.) Any land purchased by a public agency pursuant to the Naylor Act offer must maintain the land for playground, playing field, or other outdoor recreational and open-space use.

Second, the District must provide "Tier 1" and "Tier 2" Notices. Following the Naylor Act offers, the property must be offered to two (2) groups consisting of various governmental and charitable entities. (Ed. Code, § 17464; Gov. Code, §§ 54222, *et seq.*) These groups must be allowed sixty (60) days after receiving notice to respond and are also entitled to a negotiation period of ninety (90) days after giving notice to the District of their interest in the Property. A school district may make the Tier 1 and 2 notices simultaneously. (Ed. Code § 17463.7 (e)(2).)

Third, the District must provide public notice, published once per week for three successive weeks (with at least five days between each publication, not counting the actual publication dates) in a newspaper of general circulation within the district, specifying that the property is being made available to any public district, public authority, public agency, and other political subdivision or public corporation in the state or of the federal government, and to other nonprofit charitable or nonprofit public benefit corporations. (Ed. Code § 17464(c)(2).)

Fourth, the District must make reasonable steps to ensure that the former owner of the Property is notified of the intent to sell the Property at least sixty (60) days prior to the meeting adopting the resolution of intent to sell.

If the local city or county planning agency has adopted a general plan which affects or includes the area where the property is located, the District must notify the agency in writing before the District may sell the property. The notification must identify the property's location, and the purpose and extent of the proposed sale. (Gov. Code § 65402(a), (c).) Even if the planning agency disapproves of the location, purpose or extent of the property sale, the District may overrule such disapproval. (Gov. Code § 65402(c).)

Board Action and Public Sale

If property remains unsold or unleased after the required offers have been sent out and the response period has lapsed, the Board must declare its intention in a regular meeting to sell or lease the property by putting the property up for competitive bid. To do so, the Board should adopt a resolution taking various actions as required by law and be adopted by a two-thirds (2/3) majority of the Board. (Ed. Code, § 17466.) The resolution declaring the District's intention to sell surplus real property should specify a date at least three (3) weeks out for an open meeting of the governing board at which bids will be revealed and considered. The District must give public notice of the adoption of the resolution by posting copies of the resolution in three (3) public places at least fifteen (15) days before the meeting at which bids are to be considered, and by publishing the notice at least once per week for three (3)

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successive weeks before the meeting in a newspaper of general circulation within the county in which the District is located. (Ed. Code, § 17469.)

After adopting a resolution of intent to sell, the District may sell the Property through a competitive bidding process. (Ed. Code, § 17466, *et seq.*) At the meeting identified in the resolution, the governing board must open, examine, and declare all sealed proposals that have been received; make a call for oral bids; and either accept the highest responsible bid that conforms to the terms and conditions specified in the resolution of intention to sell the Property, reject all bids or within ten (10) days, return to make the decision. (Ed. Code, § 17472, *et seq.*) If there are no competitive bids, and the Property remains available after all of these procedures have been satisfied, the District may engage in the private sale of the surplus property.

The District may also seek a waiver of the competitive bidding requirements from the State Board of Education, which would allow more flexibility in the process through use of a request for proposals where factors other than price can be considered and negotiated. (Ed. Code, §§ 33050, *et seq.*) Many districts utilize this process, and in our experience, the State has been routinely approving these waivers for more than a decade. Seeking a waiver involves its own separate process, including consulting with the appropriate committee or council and the District's bargaining units.

Exceptions and Alternatives

The above summary explains the general process applicable to the sale or lease of surplus real property by a school district. There are some exceptions that could apply to a particular property or intended buyer or lessee, which are not discussed above. For example, Education Code section 17458 allows a district to bypass the surplus property process when conveying property to entities performing "child care and development services" and where certain additional requirements are met.

III. Budget:

A minimal budget may be required to provide overtime support for possible 7-11 Committee meetings.

IV. Goals, Objectives and Measures:

To provide family and community engagement opportunities around the ongoing operational excellence of the District.

V. Major Initiatives:

N/A

VI. Results:

The desired result is to form a 7-11 Committee in order to provide the Board of Education with their recommendation as to next steps for the District properties listed above.

VII. Lessons Learned/Next Steps:

1. Obtain the Board's approval for creating a 7-11 Committee for the review of the above properties.

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2. Develop a communications plan and application process to solicit interest and have individuals apply to participate in the 7-11 Committee.
3. Review and score the applications received.
4. Request Board approval of 7-11 Committee Member Recommendations.
5. Convene the 7-11 Committee.