

7-11 Surplus Property Committee

March 8, 2022

Welcome & Roll Call

Richard Lowenthal, Committee Chair

Public Comment Guidelines

- Submit an online Comment Card via the link in Chat Box prior to the start of the item
- When Staff calls your name, raise your hand in Zoom
- When the Committee Chair calls your name and invites you to speak, Staff will enable your Zoom audio
- Unmute yourself and proceed with your comment

Public comments are limited to three (3) minutes per person unless there are too many people requesting to speak, in which case the Committee Chair may limit comments to less than three (3) minutes per person.

Approval of Agenda (Committee Member Motion & Second Roll Call Vote)

1. CALL TO ORDER [6:00 PM]
2. WELCOME & ROLL CALL [6:01 PM]
3. PUBLIC COMMENT GUIDELINES [6:05 PM]
4. APPROVAL OF AGENDA [6:10 PM]
5. APPROVAL OF MINUTES FEBRUARY 8, 2022 [6:12 PM]
6. NON-AGENDA PUBLIC COMMENT [6:15 PM]
7. SUMMARY OF PROGRESS [6:25 PM]
8. STAFF REPORT/DISCUSSION [6:45 PM]
9. COMMUNITY OUTREACH [7:45 PM]
10. ACTION ITEMS [7:50 PM]
 - a. Continue Electronic Meetings During a State of Emergency pursuant to Government Code Section 54953(E) for next 30 days.
 - b. Board Report
11. ADJOURNMENT [8:00 PM]
12. FUTURE MEETINGS
13. AFFIDAVIT OF POSTING

Approval of Minutes February 8, 2022

Committee Member Motion & Second
Roll Call Vote

Non-Agenda Public Comment

Summary of Progress

- 1. Mission of the Committee and the expectation from the Board of Education**
- 2. Review site details of each location**
- 3. Review enrollment data**
- 4. Review Definitions of Surplus Property & Highest/Best Use**
- 5. Review District Needs**
- 6. Determine any Encumbrances*
- 7. Review Zoning & Acceptable Uses*
8. Community Input
9. Board Recommendation

BOLD = Completed

Italics = Tonight's Meeting 3/8/22

Normal = Future Meeting

Staff Report/Discussion

Chris Jew - Chief Business Officer

Clarissa R. Canady, Attorney at Law – Dannis Woliver Kelley

Rachel K. Brilliant, Attorney at Law – Dannis Woliver Kelley

Table of Existing Encumbrances

REGNART

AGREEMENT	PARTIES	TERM	USAGE OF FACILITIES	CAPITAL IMPROVEMENTS / ZONING	TERMINATION PROVISION
<p>Maintenance and Improvement of Certain Open Space Areas within Certain School Sites</p>	<p>District / City of Cupertino</p>	<p>August 26, 2019 - June 30, 2032</p> <ul style="list-style-type: none"> City and District may mutually agree in writing to extend this Agreement one time for an additional 5 years. 	<ul style="list-style-type: none"> District priority use of all open space areas between the hours of 7:00 am and 4:00 pm on scheduled school days, through the regular academic school year. City will have priority use of the facilities at all open space areas after 4:00 pm on scheduled school days and at all other times, including weekends, holidays and summer vacation periods. 	<ul style="list-style-type: none"> District may make temporary or permanent capital improvements in those areas of the Facilities Site Plans without approval by City. District shall provide a minimum six (6) months' notice to City of all capital improvement. District may make temporary or permanent capital improvements in those areas of the Facilities not identified as Capital Improvement Zones only with approval by City. District shall provide a minimum six (6) months' notice to City of all capital improvement. 	<ul style="list-style-type: none"> This Agreement may be terminated by either party upon 365 days' notice. District shall notify City a minimum of 365 days in advance of any open space area that will be sold, conveyed or otherwise disposed.

MEYERHOLZ - NONE

MONTEBELLO - NONE

DISTRICT OFFICE

AGREEMENT	PARTIES	TERM	TERMINATION PROVISION
<p>Standard Multi-Tenant Office Lease – Gross</p>	<p>District / De Anza Office Center</p>	<p>April 15, 2013 - April 30, 2033</p>	<ul style="list-style-type: none"> · District has the right to terminate the lease on the end of each fifth year anniversary of the lease term. · To exercise that right, the District must give written notice to De Anza no later than twelve months prior to the end of the fifth lease year. <p>Terminating the lease outside of the above-referenced five year anniversary periods would likely be considered default/breach of the lease.</p> <p>In the event of such default in the lease, De Anza may be entitled to recover:</p> <ol style="list-style-type: none"> (1) the unpaid rent which would have been earned at the time of termination; (2) the worth at the time of award of the amount by which the District proves could have been reasonably avoided; (3) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the District proves could have been reasonably avoided; (4) any other amounts necessary to compensate De Anza for all the detriment proximately caused by the District's failure to perform its obligations under the lease

Staff Opinion - District Office



CUPERTINO UNION
SCHOOL DISTRICT

1309 S Mary Ave, Sunnyvale, CA 94087

GROUND FLOOR

Total: 10,050 square feet (67 ft x 150 ft)



Zoning & Acceptable Uses

Regnart - 1170 Yorkshire Drive, Cupertino Assessor's Parcel Number 362-08-001, the property is zoned BA – Public Building

Permitted Uses for BA - https://codelibrary.amlegal.com/codes/cupertino/latest/cupertino_ca/0-0-0-94741

Meyerholz - 6990 Melvin Drive, San Jose Assessor's Parcel Number 98448001, the property is zoned R-1-8 - Residential Housing

Permitted Uses for R-1-8 - https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.30REZODI

Montebello - Santa Clara County Unincorporated, Assessor's Parcel Number 351-24-011, the property is zoned HS-d1-sr

<https://stgenpln.blob.core.windows.net/document/ZonOrd.pdf>

https://stgenpln.blob.core.windows.net/document/zoning_atlas.pdf

Table 19.76.030 - Permitted, Conditional, and Excluded Uses in BA, BQ and T Zones:

https://codelibrary.amlegal.com/codes/cupertino/latest/cupertino_ca/0-0-0-94755#JD_Table19.76.030

Categories of Interested Tenants

Care Services

Enrichment Activities

Educational Business

Private Education Services

Realtor

Sample Board Recommendation(s)

7. Committee Findings and Recommendations

The Committee finds that:

- Despite renewed development in the east and south within the District boundaries, total District enrollment is expected to slightly decline.
- Residential development in the west portion of the District will not generate the need to use the 3rd Avenue Site for a school site.
- The location of the 3rd Avenue Site in downtown Chula Vista is not the ideal location for a school site.
- At approximately 2.59 acres, the 3rd Avenue Site is too small to house all central District functions.

The District Committee hereby recommends the following to the Board:

- That the 3rd Avenue Site be declared surplus to the District's needs; and
- To sell the 3rd Avenue Site to provide revenue.

After discussion of the relevant Education Code Section requirements and Board Policies, the Committee voted 7-0, 4 absences (Fernandez, Elefante-Leano, Arancibia, Silva) to make this recommendation and pursue the declaration of surplus by the Board. The committee recommends no conditions.

The Committee recommends the use of available funds for vocational training or construction trades including but not limited to plumbing, pipefitting, electrical, carpentry, roofing, and painting; and specifically to ensure the services are inclusive of students with special needs.



Unanswered Questions - Parking Lot

- Do we have a full list of properties that CUSD is leasing FROM external parties?
 - DeAnza Properties for the District Office on Mary is the only site leased in CUSD
- I noticed the list of committee members did not include what category each represents, <https://www.cusdk8.org/Page/9503> While according to Ed.Code § 17338 - 17389, a 7-11 committee should include representatives from a variety of occupations, demographic composition of the district, etc. So it would provide more transparency to the community if we publish what category each member represents.
 - Updated 2.9.22 <https://www.cusdk8.org/Page/9503>
- What is the protocol if one of us is contacted from a community member?
 - Refer them to the website, next meeting and public comment opportunities <https://www.cusdk8.org/Page/9560>
- Can the Nan Allen site accommodate the district office? - maybe answered when we discuss the requirements of the district office
- What entities have expressed interest in the Regnart or Meyerholz sites? Can the terms of any possible leases be shared?
- I was told that 7/11 should have jurisdiction over determination if a property could be sold. The attys said that this was not within purview. Can I get more clarification as to why this option cannot be considered by the 7-11 committee?
- Confirm that the fields where there is a joint agreement with the City of Cupertino and CUSD, CUSD owns the land and the only affected field is Regnart. From the agreement, CUSD pays City for water and then the City pays CUSD for the clean water and storm protection fee and when the field is used after 4:00 pm by outside organization managed by the city, there is a fee. Does CUS get a percentage of the fee? At the end of the day, does CUSD make a profit or breaks even or loses money on this joint agreement?
- Joint agreement indicated 365 days notification, has CUSD approached the city about the potential change - could affect an organization leasing the site if it wants to use the field but an agreement is still in place with the city (assume we decide the site is to be leased).

Community Outreach

Chair Lowenthal will lead a discussion around
Community Engagement and Outreach

Public Hearing - Board Meeting
May 12, 2022?

Action Items

Committee Member Motion & Second Roll Call Vote

1. Continue Electronic Meetings During a State of Emergency pursuant to Government Code Section 54953(E) for next 30 days.
2. Board Report for March 10, 2022
 - a. Summary of Progress - Slide 7

Adjournment

Next Meeting: April 5, 2022 6-8pm via Zoom