

NEWPORT-MESA UNIFIED SCHOOL DISTRICT
SURPLUS PROPERTY “7-11” ADVISORY COMMITTEE
(Banning Ranch Property)

FINAL REPORT AND RECOMMENDATION

■■■■■ ■■■■, 2024

Submitted by: Laurie Horn
Lindsay Olson
Chase Rief
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Jacob Haley
Jose De La Jara
Adam C. Ereth (Chairperson)
Tyler Holst (Co-Chairperson)
Yocely Galindo
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District Liaisons: Jeffery S. Trader, Assistant Superintendent, Chief Business Officer
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Consultants: Andreas Chialtas, Atkinson, Andelson, Loya, Ruud & Romo

Background & Process

Introduction and Process

Pursuant to Education Code Section 17388, *et seq.* (the “**Code**”), before excess real property is sold or leased, the governing board of a school district must appoint a district advisory committee (“**Advisory Committee**”) to advise the governing board on the disposition of such property. The Advisory Committee must consist of not less than seven (7) and not more than eleven (11) members, and must be represented by each of the following: (a) the ethnic, age group, and socioeconomic composition of the District; (b) the business community, such as store owners, managers, or supervisors; (c) landowners or renters, with preference to be given to representatives of neighborhood associations; (d) teachers; (e) administrators; (f) parents of students; and (g) persons with expertise in environmental impact, legal contracts, building codes, and land use planning, including, but not limited to knowledge of the zoning and other land use restriction of the cities or cities and counties in which surplus space and real property is located. The Advisory Committee's task is to review data to determine the amount of surplus space and real property available, establish a priority list for its use, provide community input on acceptable uses, and forward its recommendations to the Governing Board.

On September 12, 2023, the Governing Board (“**Governing Board**”) of the Newport-Mesa Unified School District (“**District**”), by way of Board Resolution No. [REDACTED], took action to authorize the formation of an Advisory Committee. Such action included a delegation of authority to select seven to eleven community members to serve on the proposed committee. **Ratification of the final Advisory Committee members occurred on [REDACTED], 2023.**

Based upon Governing Board’s authorization, the following individuals (serving various statutory-required roles) comprise the Advisory Committee:

1. Laurie Horn 2. Lindsay Olson 3. Chase Rief	Member of the Business Community
4. Sean Levin	Landowner or Renter
5. Jane Hartley	Teacher
6. Jacob Haley	Administrator
7. Jose De La Jara	Parent of Student
8. Adam C. Ereth (environmental impact) 9. Tyler Holst (legal contracts, building codes, land use planning)	Person with expertise in environmental impact, legal contracts, building codes, and land use planning, including, but not limited to knowledge of the zoning and other land use restrictions in District boundaries
10. Yocely Galindo 11. David Martinez	Person with an ethnic, age group, and socioeconomic composition of the District

Therefore, the Advisory Committee consists of eleven (11) individuals who, collectively, meet all the required categories of representation.

Between November 13, 2023 and [REDACTED], 2024, the Advisory Committee held **five (5)** public meetings, including a formal public hearing, for the purpose of determining whether the Property (as defined below) should be declared “surplus,” and, if so, to establish a priority list of uses of the Property that would be acceptable to the community.

Summary of Potential Surplus Property Determination

Education Code section 17455 authorizes the governing board of school districts to sell or lease property deemed “surplus” which includes any property “which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession.” (Emphasis added.) Therefore, the District’s Board can declare any property surplus, and pursue a sell or lease, if it determines the property will not be needed by the District, even if the property is currently used by the District.

The Education Code establishes a detailed process that school districts must follow to declare a specific property surplus and pursue a sale or lease. In summary, this procedure begins with the appointment of a committee, such as this Advisory Committee, to assess the property needs of the District and provide a recommendation as found in this final report and recommendation (“Final Report and Recommendation”). The Board will then review the recommendation and decide whether to declare the Property surplus and, if declared surplus, if and when the District may pursue a sale or lease, or other action.

Property Reviewed and Background Information

The Governing Board appointed the Advisory Committee for the purpose of reviewing the following District owned property (the “**Property**”):

District property consisting of approximately 11.36 acres, located at 980 16th Street in Newport Beach, CA, APN’s: 114-170-63, 114-170-64, and 114-170-51, which property is known generally as the District’s Banning Ranch property.

The Property is depicted in **Exhibit A**, which is attached hereto.

The District does not currently use the Property. *[Please add details about history of any ownership and use by District, others, etc.]*.

The Advisory Committee also noted that the District’s total student population is [REDACTED] *[Please add details about decreasing population, trends, and projections, etc.]*.

Further, current District school sites have capacity if student population grows unexpectedly. Therefore, the District’s current and projected enrollment does not suggest that the District must acquire new property or maintain current real property to accommodate students now or in the foreseeable future. Also, even if the District needed additional space for student enrollment, the Property is not able to be used as a regular school site without a massive investment of funds necessary to construct a new school on the Property.

Before the Property, or any portion thereof, can be disposed of, the Governing Board must first decide whether the Property, or any portion thereof, is surplus property. In connection therewith, the Governing Board has appointed the Advisory Committed to seek the input of the community and make recommendations to the Governing Board based on such input.

Public Meetings

The Advisory Committee held public meetings on November 13, 2023, December 18, 2023, February 5, 2024, [REDACTED], 2024, and [REDACTED], 2024 to discuss whether the Property should be declared to be surplus property and, if so, to establish a priority list of uses of the Property that would be acceptable to the community. The public meetings were properly noticed public hearings, which took place at the District’s Boardroom, located at 2985 Bear Street, Costa Mesa, CA 92626.

During the public meetings, the Advisory Committee reviewed current and projected District-wide enrollment and capacity, discussed and received community input regarding potential uses for the Property. The District provided “meeting minutes” for each of the public meetings which summarize the items discussed and information reviewed by the Advisory Committee, which are attached hereto as **Exhibit B**. Below is a summary of each meeting.

1. October 26, 2023 Meeting

During the first meeting (1 hr. and 44 mins. in duration), ten of the eleven Committee Members were present.

One member of the community attended the first meeting to make comments, as summarized in the “Public Comments” section below.

Committee Member Adam C. Ereth was voted Advisory Committee Chairperson, and Committee Member Tyler Holst was voted Advisory Committee Co-Chairperson. District staff then provided an overview of the Property, including a map of the Property and a summary of the District’s lack of use of the Property. District staff also reviewed enrollment and capacity of existing school sites within the District. *[Please add details about decreasing population, trends, and projections, etc.]*. District Staff then provided an overview of the surplus property procedures and of the Advisory Committee’s duties and obligations, as well as summaries of public meeting requirements under the Brown Act, applicable conflicts of interest law, and of the Form 700 Statement of Economic Interests.

Finally, the Advisory Committee discussed the Property, possible future uses, and the topics and information to be discussed at the next meeting. *[Will augment with summary information as set forth in the meeting minutes, etc.]*

2. December 18, 2023

During the second meeting (1 hr. and 30 mins. in duration), six of the eleven Committee Members were present.

The Advisory Committee heard public comments from five (5) individuals. These comments and questions, along with the District’s responses, are summarized in the “Public Comments” section below.

District staff then provided an overview of the November 13, 2023 meeting topics, surplus property processes, and the Property, as well as the following requested information related to Property:

- USGS Map Newport Beach
- Banning Ranch Aerial View
- Newport Beach Zoning Map
- Costa Mesa Zoning Map
- NMUSD Projected Enrollment – Site
- NMUSD Projected Enrollment – District

District staff then presented information and reviewed enrollment and capacity of existing school sites within the District, and the Advisory Committee discussed predictive enrollment, trends and communications with the County related to growth and development.

Finally, District Staff provided a summary of possible future actions of the Advisory Committee. Specifically, that the Advisory Committee would agree upon a “Priority Use List” and a “Final Report and Recommendation” which will summarize the Advisory Committee’s recommendation to the Board which will then ultimately make a determination regarding the Property. District Staff also provided samples of such documents for the Advisory Committee to review.

The Advisory Committee then discussed options for the Priority Use List, and it was determined, unanimously, that the Advisory Committee would wait until the next meeting to determine one or more specific priority uses. The meeting concluded noting further revisions to the Draft Report and Recommendation would be made at future meetings.

3. February 5, 2024

During the third meeting (1 hr. and [REDACTED] mins. in duration), [REDACTED] of the eleven Committee Members were present.

The Advisory Committee heard public comments from [REDACTED] ([REDACTED]) individuals. These comments and questions, along with the District's responses, are summarized in the "Public Comments" section below.

District staff then provided a brief overview of the November 13, 2023 and December 18, 2023 meeting topics, surplus property processes, and the Property.

The Advisory Committee then discussed options and ultimately agreed on a Priority Use List which indicated as follows: [REDACTED].

Finally, the Advisory Committee discussed the Property, possible future uses, and the topics and information to be discussed at the next meeting. *[Please add summary information as set forth in the meeting minutes.]*

4. [REDACTED], 2024 Meeting

The Priority Use List that was circulated prior to the [REDACTED], 2024 meeting is attached hereto as **Exhibit C**.

During the public hearing, [REDACTED] ([REDACTED]) members of the community made comments to regarding the Property. These community members generally spoke in favor of [REDACTED]. The public comments are summarized in the "Public Comments" section below.

After the public hearing, the Advisory Committee continued the fourth meeting ([REDACTED] mins. in duration), at which [REDACTED] of the eleven Committee Members were present, and asked further questions to District Staff. In response, District staff indicated that [REDACTED].

District's Staff also discussed the Advisory Committee's report, which will include the Advisory Committee's recommendations to the Board. The Advisory Committee then reviewed the sections of the draft report, including the discussion of the legal definition of surplus property, the public comment summaries, and the Advisory Committee's recommendations regarding whether the Property should be declared surplus and sold, leased, exchanged, or kept by the District for some future use. The Advisory Committee was reminded that the final report could also include unlimited special considerations and recommendations based on public input and the thoughts of the Advisory Committee members. The Advisory Committee reviewed the draft report, decided to [REDACTED], and agreed to review the draft report further at the next meeting.

5. [REDACTED], 2024 Meeting

During the fifth meeting, [REDACTED] ([REDACTED]) members of the community made comments to regarding the Property. These community members generally spoke in favor of [REDACTED]. The public comments are summarized in the "Public Comments" section below.

After public comments, the Advisory Committee continued the fourth meeting ([REDACTED] mins. in duration), at which [REDACTED] of the eleven Committee Members were present, and asked further questions to District Staff. In response, District staff indicated that [REDACTED].

District Staff discussed further revisions to the Advisory Committee’s draft report based upon the Advisory Committee members’ comments at the _____, 2024 meeting. The Advisory Committee then reviewed the draft report, in particular, regarding whether the Property should be declared surplus and sold, leased, exchanged, or kept by the District for some future use. The Advisory Committee was reminded that the draft report could also include unlimited special considerations and recommendations based on public input and the thoughts of the Advisory Committee members. The Advisory Committee reviewed the draft report, and voted to make the final recommendations noted below in this Final Report and Recommendation.

5. Summary of Meetings

Based on the summary above of each of the five (5) Advisory Committee meetings, it is clear that information was provided to the Advisory Committee regarding the Property, potential uses, and the surplus property procedures. However, it is also clear that those from the community who chose to speak at these meetings felt, in general, that _____. Accordingly, this Final Report and Recommendation highlights the public comments received at each of the Advisory Committee meetings, below.

Public Comments

As noted above, the Advisory Committee invited and considered public comments during each public meeting. Below is a summary of the public comments during each meeting.

1. Public Comments during the November 13, 2023 Meeting

_____. *[Insert summary]*

2. Public Comments during the December 18, 2023 Meeting

_____. *[Insert summary]*

3. Public Comments during the February 5, 2024 Meeting

_____. *[Insert as necessary]*

4. Public Comments during the _____, 2024 Meeting

_____. *[Insert as necessary]*

5. Public Comments during the _____, 2024 Meeting

_____. *[Insert as necessary]*

Consideration and Impacts

As provided in the meetings discussed above, the Advisory Committee considered, and was influenced by, the following:

1. comments from the community;
2. information regarding the possible future use of the Property;
3. statistics regarding the District enrollment history and forecast; and
4. personal experience.

The Advisory Committee recognizes and sincerely appreciates the level of community involvement during this process, and, specifically, the myriad of speakers who provided invaluable public comments, as documented in the “Public Comments” section above. The Advisory Committee heard information and deliberated over five (5) public meetings, spanning over _____ () months, concerning the existing and possible future uses of the Property.

The Advisory Committee has considered the level of interest by the community for these Property and has also considered the District-wide programmatic impacts and financial benefits associated with declaring the Property surplus, and *[i.e., leasing or selling]* the Property may have on the District as a whole.

Final Determination & Recommendation

After careful consideration and deliberation, the Advisory Committee has determined that the District will have no educational, administrative, or operational need for the Property; therefore, the Property meets the statutorily-defined meaning of “surplus property.” Accordingly, on a _____ to _____ vote, the Advisory Committee makes the following recommendations regarding the Property:

[ALL SAMPLE IN NATURE AND IN NO ORDER OR PRIORITY/SUGGESTION]:

1. That the Governing Board declare the Property surplus.
2. That, should the Governing Board decide to pursue the surplus property procedures for the Property, the Governing Board should pursue a *[i.e., lease, sale, or long term ground lease]* pursuant to the process required by the Education Code.

If a sale... note that a sale will generate substantial one-time sale proceeds.

If a ground lease... note a ground lease will allow the Property to be developed while allowing the District to retain ownership of the Property in order to receive revenue in the form of rent payments. The Advisory Committee feels this ongoing revenue would be more beneficial to the District than receipt of a lump sum payment derived from the sale of the Property, which sale proceeds would be restricted pursuant to applicable law.

The Advisory Committee also discussed the option of seeking a waiver from the State Board of Education (“SBE”), which would allow for direct negotiations with interested entities for the sale or lease of the Property instead of requiring a public auction. The Advisory Committee considered the waiver and believes seeking a waiver is a prudent course of action should the Governing Board seek to *[i.e., lease or sale]* the Property, and that direct negotiations could be beneficial rather than, or in addition to, the District conducting a public auction. Therefore, the Advisory Committee agrees and consents to such waiver process, and agrees it does not need to re-convene in the future to make any other determinations related to such waiver process.

If a vote to retain... note that the Governing Board retain the Property for some future use.

If a vote to retain with other specifics... note that the Governing Board Preserve Property as public open space (with possible improvements and partnerships).

DRAFT/SAMPLE

EXHIBIT A

[Depiction of Banning Ranch Property]

DRAFT/SAMPLE

EXHIBIT B

[Meeting Minutes for Each Meeting]

DRAFT/SAMPLE

EXHIBIT C

[Copies of the notice of the Public Hearing with Priority Use List]

DRAFT/SAMPLE