

Shores property controversy: Surprises all around

By Marsha Sutton

The controversy involving the Shores property has spiraled to new heights in the past two weeks, beginning with the Del Mar City Council's April 17 meeting when council members surprised the Del Mar Union School District and the community by making public their negotiations with the school district to acquire the property.

The DMUSD, not to be outdone, had a few surprises of its own. At the April 25 school board meeting, there were two items of interest. One was a closed session agenda item to discuss the potential sale of the property to an entity other than the city of Del Mar, an unnamed public benefit corporation. The second was school board approval to request proposals for architectural services to design a new district office facility on the site.

Owned by the DMUSD, the Shores was once the home of the original Del Mar Shores School which served the city of Del Mar's children until a few decades ago when the DMUSD built Del Mar Heights and Del Mar Hills schools just east of Del Mar.

The five-acre Shores property on Ninth Street in Del Mar has a lovely ocean view and is one of the last remaining pieces of open space in the city. It currently houses the school district's overcrowded, antiquated offices, the district's childcare facilities, a baseball field, and the old Shores school which is leased to The Winston School, a grades 4-12 college preparatory program founded in 1988 for students with learning differences.

Last year, the school board declared the property surplus, paving the way for a sale or disposition of part or all of the land. The city of Del Mar, meanwhile, has had its eye on the property for several years and has been negotiating with the school district since 2003 to buy it.

"This has been a difficult and lengthy process," said Del Mar Mayor Crystal Crawford, at the April 17 council meeting.

Having reached an impasse, the city council decided to make public its position and receive community feedback on how to proceed. The choices, as stated in a memo from Crawford to fellow council members, are threefold:

- to continue to negotiate for the property for a price in excess of its value as appraised by the city
- to withdraw from further negotiations
- to pursue legal means to acquire the property

Crawford presented a status report on negotiations between the city and school district at the meeting, revealing for the first time that the city's appraisal for the property came in at \$4.4 million. The city has offered \$6 million, but the school district is asking \$12 million.

Tom Bishop, DMUSD superintendent, would not confirm or deny the \$12 million figure, saying only that there are parents in the district who feel that even \$12 million is too low.

"We have been attempting to attach a dollar value for a couple of years," Bishop said. "This is a unique, once-in-a-lifetime sale. There are almost no comparables. Its uniqueness makes it very difficult to get appraisals."

Laura DeMarco, chair of the Friends of Del Mar Parks, compared the Shores to the Self-Realization Fellowship in Encinitas, an oceanfront piece of property zoned, like the Shores, as Public Facility. She said an expert appraised the Encinitas land for about \$1 million per acre at its current zoning – which would double if the zoning were residential.

"The DMUSD demand for \$12 million, more than twice the property's appraised value, is

incompatible with its current and historic Public Facility zoning," DeMarco told council members. "It seems the price of \$12 million assumes a zoning change."

The Friends of Del Mar Parks, a committee of the Del Mar Foundation, was formed to raise money for the city's acquisition of the property, in conjunction with The Winston School, which has entered into a memorandum of understanding with the city to participate in the purchase.

Council member Henry Abarbanel vowed he would never support a change in zoning and suggested that a measure be placed on the ballot to allow Del Mar residents to make the Public Facility zoning for the Shores permanent, as a barrier to any future zoning change. "If anyone wants to change it back, it would require another public vote," he said.

"The community will not support a re-zoning of this site," said Linda Castile, Del Mar resident and teacher at The Winston School. "I'm disappointed in the school district's position and secrecy."

Del Mar resident Joel Holliday told council members that donors would fall away if they thought the city was over-paying for the property.

"The price needs to be fair and reasonable," agreed community member John Graybill.

Former mayor Jan McMillan said the city "needs to pursue all legal means at your disposal."

Hershell Price also asked the council to consider legal action, including condemnation through eminent domain.

In all, 17 people spoke to the city council, and no one suggested abandoning attempts to acquire the property. Nearly all applauded the city for making its position public.

"I'm happy this process has finally been open," Price said. "It should have been open from the beginning. And I recommend that, now that it's open, you should keep it open."

"I'd like to ask the Del Mar Union School District to come forward publicly," Graybill said.

"We support both parties making public their appraisals and negotiations," DeMarco told the council.

Joe Sullivan praised the city for revealing its position. "It's very helpful," he said. "The school district should do the same."

But Bishop did not bow to pressure. "This is a complex conversation," he said. "I won't go public until I've had a chance to talk with my school board."

Many Del Mar residents were hoping the school district would place the item on its agenda for open session and public discussion at its April 25 board meeting. But that did not happen.

"I honor their right to go public," Bishop said, of the city of Del Mar. "But they don't control us or tell us what to do. That's not their call."

"We hope we'll receive some response from the school district, but it's not required of them," Crawford said. The city plans to place the item on its agenda again at its May 1 meeting, to hear more public comment.

Bishop disagreed that the Encinitas property and the Shores were comparable. "To suggest that it's only worth \$4 or \$5 million doesn't pass public scrutiny," he said. "There is an emotional attachment to the property that makes its value higher."

Bishop said he would not "hang the whole thing on an appraisal. We have rejected low-ball offers." He noted that small houses nearby have sold for \$3 million each.

Calling the sale of the Shores a topic of “high interest, high concern, and high stakes,” Bishop said he was “trying to analyze what happened at the city council” last week. “We were negotiating in good faith and then the other side went public,” he said.

Some Del Mar residents have accused the school district of not negotiating in good faith by not sharing its appraisals and by placing unreasonable conditions on the sale. But Crawford disagreed.

“Yes, I think they are negotiating in good faith,” said the mayor. “We just have different perspectives.”

Crawford and Deputy Mayor Carl Hilliard said they’d like evidence that the property is worth \$12 million. “Give us something to support your \$12 million number,” Crawford said in a phone interview. “We can’t pay that amount without backup. But we’re not getting anything [from them].”

“I completely understand that they would not want to sell the land for less than its fair market value,” Crawford added. “But they can’t rely on a number that’s not based on PF zoning. That’s not representative of what the value is.”

A Level of Frustration

There was clearly an unspoken sense of impatience and exasperation with the school district at last week’s city council meeting. Crawford sounded frustrated in her memo when she wrote that the city’s \$6 million offer was also accompanied by several suggestions and concessions, including:

- The city agreed to impose a 20-year deed restriction on the property under which the Shores would revert back to the school district if the city rezoned the property to a less restrictive use.
- Because a primary user of the land would be The Winston School, the city agreed to pay in full the cost of a Tier One Environmental Review of the buildings on the site, because the district declined to share in these costs.
- The city offered to allow the school district to continue to use the facilities rent-free for five years while school officials secured a new facility.
- The city offered to retain an appraiser to provide both parties with an updated, PF-zoned fair market value appraisal for the land.
- The city offered to submit the negotiations to mediation.

Crawford said the impasse is “not for lack of trying” on the city’s part. “We’ve conceded a lot of points,” she said. “We said we’ll accept your conditions.” But all overtures have been declined by the school district, Crawford noted. “I don’t understand what the school district is doing,” she said.

The community has made it clear that they want to save the ball field and the open space, Crawford said. And they also want The Winston School to remain. Bishop said he too wants to save the open space. “I want to reassure the community that under all circumstances there will be open space at the end of the day,” he said. “We are part of this community.” He called the open space and the ball park “important to the school board, the superintendent, and the community.”

Bishop said he and his board are asking themselves some tough questions: “Should we sell it? Should we sell a piece of it? What could development look like that fits the current zoning?”

“I would not be responsible if I didn’t explore all other options,” Bishop said. At the city council meeting, Joe Sullivan told council members that people mistakenly believe the school district’s trustees have an obligation to get the maximum amount of money for the land. “There’s nothing in the state law that requires them to get the highest possible dollar,”

he said. "The education code requires them clearly to consider the community's needs."

Sullivan is right that there's no requirement for trustees to sell their property to the city or any other public entity for top dollar. But there is significant political pressure to do so.

DMUSD parents, particularly those who live outside the city of Del Mar, don't want their school district's elected officials supporting the sale of valuable land for less than it's worth. Many have said they want the district to make as much as possible from the deal so money will be available for smaller classes, extra teachers, projects and activities, supplies, field trips, and other programs and experiences that could contribute to a fuller, deeper, more enriching education for their children.

The overwhelming majority of these DMUSD parents reside in Carmel Valley, few of whom have any attachment to the Shores. And they vote.

It's true that trustees have no legal requirement to sell the Shores for the highest price they can get, but they certainly have an ethical duty to be fiscally responsible to their constituents. At the same time, they are trying to be good neighbors, secure open space for a beautiful community, and have amicable relations unsullied by nasty lawsuits and negativity. This is, after all, a small community. We all shop at the same grocery stores.

The prospect of the DMUSD selling the Shores and moving its offices elsewhere distresses many parents and teachers. What would make it the "Del Mar" Union School District if the DMUSD relocates outside the city?

Can a way be found for the city and The Winston School to purchase a portion of the land, so the school district can use the profits to build a new district office on a corner of the property? This would preserve the open space and the ball fields for Del Mar residents, secure Winston at the site for decades to come, and give the DMUSD the updated facilities required to meet its growing needs while keeping them in Del Mar.

The best move so far has been the city's decision to make the process open. Let the school district do the same. Secrecy begets suspicion. It also eliminates any possibility of creative input from concerned third parties – many of whom are desperate to bring these two partners together.

It's important to make this marriage work, to everyone's mutual satisfaction. The stakes are too high to abandon the effort.

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