

## **Some Del Mar residents urge arbitration over Shores property**

By Suzanne Evans

Arbitration and a city specific plan for the Shores property on 9th St. were among the ideas residents offered at yet another packed public hearing held in the Del Mar City Council chambers May 1. The hearing addressed the acquisition and preservation of the 5.35-acre property housing the 1.8-acre Winston School and park site on the school district surplus property.

Arbitration was sought by some residents to resolve differences between the district's high \$12 million asking price, versus the \$6 million the city seeks to pay, based on a \$4.4 million appraisal in 2004 of the parcel, zoned as public facilities. So far, the district has declined the city's offer to designate an appraiser to determine a fair market price for the property.

School district superintendent Tom Bishop, commenting April 18 on a city council public hearing April 17, stated, "As all options are being explored, discussions with interested public and private entities are on-going, and the district fully respects and welcomes independent outreach efforts that will lead to more informed decisions."

A new wrinkle has surfaced, in that the November 2005 "tolling agreement" between the city and the school district (giving the city extra time to negotiate and raise funds), expired at midnight on May 1, after the meeting. This gives the city only until May 31 to take full legal action if necessary regarding what the city perceives to be a discrepancy in asking price. Both parties had hoped the tolling agreement would "stay the filing of any lawsuits pending further discussion between the parties."

"You must buy this property," said realtor and Community Connections board member, Chiquita Abbott, extolling Del Mar residents' passion to "put up their dollars" for vital community projects, such as the Powerhouse Community Center. "Please, be businesslike; we don't get a piece of property like this very often. It is the opportunity of a lifetime."

Some residents hoped to keep a discussion going. Former city facilities advisory committee chair Lou Terrell told council he prefers to "see the dialogue continue and find genuine value you can agree upon."

"Give diplomacy a chance to take its course, implored another Del Mar resident. The school district has financial needs and state funding is never guaranteed. Be patient in the next few weeks not to harm negotiations, and don't be too rigid on the price," he said.

Residents' abilities to come together in a fundraising cause were exemplified by success in raising money for the restoration of the Powerhouse, beginning with a Power run/walk, and offering creative ideas such as selling the center's terrace bricks for \$250 each, as well as picnics, dances and concerts.

Resident Barbara Harper, chair of the Powerhouse Committee since the debut of the \$1.8 million project in 1998, was "the only one who could have put together and managed a high-powered group, put together private donations with leadership, enthusiasm, and sheer will," said then Del Mar Mayor Richard Earnest.

Harper and Deborah Isaacson-Groban, president of the Del Mar Foundation and responsible for raising many of the funds through highly popular concerts and picnics, put in countless selfless hours of work, as well as Joe Sullivan, major gift chairman.

Currently, resident Laura DeMarco, with co-chair Joe Sullivan, former president, Del Mar Foundation, formed Save Open Space, a local fundraising committee for the acquisition and preservation of the Shores, zoned for public use, with the only playing fields available for teams such as Del Mar Powerhouse Baseball, family picnics and dog romps, thus reflecting the wishes of the community to avoid purchase by developers.

"Many of us are working to raise private funds," said Sullivan, drawing attention to their website, [www.delmarparks.org](http://www.delmarparks.org). Interested parties can email Friends at [DelMarParks@yahoo.com](mailto:DelMarParks@yahoo.com) or call (858) 876-3052.

John Kerridge, the first to speak Monday in the packed audience, referenced a rumor he felt was spreading about the Shores property. "It is possible if we really stick to our guns and refuse to downzone the Shores but leave it as a public facility, the school district could sell it to a (so far unidentified) developer who is prepared to wait. One way we could help our case is to look to see to what extent we can revise our campaign fundraising rules to minimize the damage wealthy developers could do to "buy" seats on the council and make it more difficult for them to do." He praised community efforts so far, saying, "I've never been more proud of our community. People's attitudes, ideas, are exemplary."

Planning Commission vice-chair Hershell Price recommended the city develop a specific plan to divide the Shores property to avoid it being lost to "privileged development" and advised council to plan for a "worst case scenario." Covered in the specific plan could be "every facet of development," including division of the parcel, as well as specifying design, scale, height, bulk and lot coverage of buildings. Price said he has drawn up and forwarded such a plan to council.

"All specific plans, whether prepared by a general law, city or county, must comply with Sections 65450-65457 of the Government Code . . . consistent with the adopted general plan of the jurisdiction within which it is located . . . and subjected to voter initiative and referenda," Price said.

Residents echoed previous public hearings showing residents favored the Shores acquisition. "At least preserve the open space as an attraction for families and organized sports such as soccer and baseball," a resident said Monday.

Joel Holliday hoped the property's price would be based on an updated appraisal. "Many of us feel it should be predicated on fair market value. It has to be in the right quadrant." Holliday said asking a court to decide the matter need not be "an onerous thing."

How the city would use the Shores property if it is acquired (one of frequently asked questions, city attorney Tamara Smith pointed out), is to preserve and enhance the park and open space areas of the city and to allow the 1.3-acre Winston School to remain, with the school district retaining its (20,000 sq. ft). administrative offices on site for five years. After that time, the city could replace those offices with additional park or open space areas. The city will not attempt to locate a civic center or fire station on the site, according to a staff report.

"An arbitrator is a good idea," said Laura DeMarco, chair of Friends of the Del Mar Shores Park, commending council for dealing with what she referred to as the school district's "double speak and games. We asked them to address their (\$12 million) appraisal of the property, but (instead) they ran a full-page ad for eventual disposition of the Shores.

John French, member of the board of directors of the Winston School, speaking in the board's behalf, said he appreciates the opportunity "to partner in this enterprise to find fair market value and to continue the education of children with learning difficulties."

Deputy mayor Carl Hilliard was emphatic that the city would obtain the Shores property. "We have said our position is that the city pay fair market value based on an appraisal and urge [school district superintendent] Tom Bishop to negotiate in good faith." Mediation is needed, Hilliard suggested.

"Peace" was on councilmember Jerry Finnell's mind, suggesting the city give it a "last chance. We have less than 30 days for peace to happen. We want to have some flexibility in arriving at fair market value; it takes two to tango."

Council member Henry Abarbanel also liked the idea of giving peace a chance and observed, "An appraisal is a guideline, not a rigid barrier."

Noting the November. "tolling agreement" between the city and the school district (giving the city extra time to negotiate and raise funds), would expire at midnight on May 1, Abarbanel was assured by city attorney Tamara Smith that the city would now have 30 additional days to file a lawsuit or lose the right to do so.

During several extended negotiations time periods, since the agreement's signing in November, Del Mar has sought an amicable resolution of the disagreement with the school district while continuing its fundraising efforts to purchase the Shores site.

If the city does not exercise its leeway to file a lawsuit within 30 days from the tolling agreement's expiration a lawsuit, if necessary, "seeking judicial determination of its claim concerning the applicability of the Naylor Act, it will forfeit its right to do so," according to city attorney Smith.

Del Mar and the school district disagree over the application of The Naylor Act, a California State law that requires school districts proposing to lease or sell open space land used for outdoor recreation and open space land suited for recreational purposes, "to offer to lease or sell a portion of the land at discount to the agency [the city of Del Mar] having jurisdiction."

Mayor Crystal Crawford has viewed the tolling agreement as "a constructive way for the district and city to continue discussions. The city does not want to enter into litigation while deciding what happens to the [Shores] property."

Crawford hoped the city would "let the school district know the door is open."

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