

BERKELEY UNIFIED SCHOOL DISTRICT

SURPLUS FACILITIES COMMITTEE

REPORT ON 2031 SIXTH STREET

Final Draft

February 2008

Purpose of the Committee

On January 19, 2005, the Board of Education of the Berkeley Unified School District approved the formation of a Surplus Facilities Committee. On June 6, 2007, the Board directed that the Committee consider and make a recommendation as to whether 2031 Sixth Street should be declared surplus to the District's needs and, if so, to recommend to the Board a plan for the disposition of the property.

Committee Membership

The current members of the Committee, appointed by the Board, are:

Member	Representing
Stephanie Allan Appointed 6/6/07	Parents of students Landowners and renters
Carl Bridgers Appointed 11/16/05	Parent of students Persons with expertise Landowners or renters
Richard Carr Appointed 11/16/05	Landowners or renters
Ed Gold Appointed 6/6/07	Parent of Students Persons with expertise Landowners or renters
Rebecca Hayden Appointed 11/16/05	Parent of students Persons with expertise Landowners or renters
Robert Jackson Appointed 11/16/05	Landowners or renters
Anne Marx Appointed 6/6/07	Persons with expertise Landowners or renters

William Savidge Appointed 11/16/05	Parents of students Persons with expertise Landowners or renters
Elizabeth Shaughnessy Appointed 11/16/05	Landowners or renters Parents of students
Nancy Threatt Appointed 6/6/07	Landowners or renters Demographic Composition
James Wert Appointed 6/6/07	Parents of students Persons with expertise Landowners or renters

Robert Jackson served as chair of the Committee. Lew Jones served as staff to the Committee. Marilyn Cleveland, attorney with Miller Brown & Dannis, provided legal advice and counsel.

Charge to the Committee

Education Code section 17390 directs the Committee to:

1. Review projected school enrollment and other data to determine whether the property under consideration is surplus to the educational needs of the District;
2. Establish a priority list of uses of the surplus property that will be acceptable to the community;
3. Circulate throughout the attendance area a priority list of surplus property and provide for a public hearing for community input to the Committee regarding acceptable uses for the surplus space and real property, including the sale or lease of the surplus real property for child care development purposes pursuant to Section 17458 of the Education Code;
4. Make a final determination of limits of tolerance of use of space and real property;
5. Make a report to the Board recommending uses of the surplus space and real property.

Summary of the Committee's Work

The Committee met on the following dates: August 21, October 2, November 6, November 27, 2007, and January 8, 2008. A public hearing was held on March 4, 2008.

The Committee received information concerning the legal process for the determination and disposal of surplus real property as required by the Education Code.

The Committee reviewed District demographics and considered whether 2031 Sixth Street would ever constitute available classroom capacity. A chart of District-wide enrollment projections through the 2010/11 school year is attached as Exhibit A.

The Committee reviewed reports on the structural and seismic condition of 2031 Sixth Street in relation to state laws regarding permissible use of buildings for classroom purposes. (Exhibits B, C, and D)

The Committee received and considered a report by District staff regarding possible uses of 2031 Sixth Street by the District (Exhibit E).

Members of the Committee toured the facility at 2031 Sixth Street to gain knowledge of the facility, its condition, and improvements.

The Committee received and considered the lease and sublease currently in effect on 2031 Sixth Street (Exhibits F and G).

The Committee verified that 2031 Sixth Street is listed on the National Register of Historic Places (9/15/1977) and is a City of Berkeley Landmark (number 15, 2/22/1977).

The Committee received and considered informal evaluations of the highest and best use of 2031 Sixth Street (Exhibits H and I).

The Committee received and considered information regarding the deferred maintenance at the 2031 Sixth Street facility. In addition, information was provided by the current tenant at 2031 Sixth Street regarding substantial investments made by the tenant, Lifelong Medical Care, and current lease holder, the City of Berkeley (Exhibits J and K).

The Committee received and considered information regarding the current tenant of 2031 Sixth Street, Lifelong Medical Care. This information included both the importance to the local, surrounding community of the work of the current tenant and the significant level of services provided to the Berkeley Unified School District by the current tenant of 2031 Sixth Street (Exhibit L).

Committee Public Hearing

The Committee held a public hearing for community comment concerning its findings and recommendations on March 4, 2008 (Exhibit M). The public was notified of that hearing by the following means:

1. Announcements via e-mail to relevant lists of individuals, including every school site PTA, all District employees, city officials, community leaders, local churches, and citizens who have taken part in recent District construction community meetings.
2. An announcement posted on the home page of the District website, with a copy of the draft report.
3. Copies of the draft report made available for review in the office of the Superintendent.
4. A public notice posted in the 2031 Sixth Street neighborhood and at all District offices.

Committee Findings

1. The property owned by the Berkeley Unified School District at 2031 Sixth has never been used as a K-12 educational facility by the District.

2. The buildings at 2031 Sixth Street are not constructed in accordance with the Field Act and therefore are not usable for public K-12 educational purposes.
3. The buildings at 2031 Sixth Street are listed on the National Register of Historic Places and are a designated Landmark of the City of Berkeley.
4. For the foreseeable future, the enrollment patterns and existing school building capacity of the Berkeley Unified School District indicate that there is no need for the facility at 2031 Sixth Street to be used as a public school.
5. The facility at 2031 Sixth Street has been leased for many years to the City of Berkeley as part of a multiple building exchange between the District and City, which lease is set to expire in 2009.
6. The facility at 2031 Sixth Street has been subleased by the City to Lifelong Medical Care, a community health clinic that serves the west Berkeley community by providing quality low-cost medical services.
7. Lifelong Medical Care provides significant services to students and families of the Berkeley Unified School District, including school-site clinics and family services delivered at the District's sites.
8. The use of the facilities by Lifelong Medical Care is a permissible use and one that is compatible with the landmark status of the buildings.
9. The City and Lifelong Medical Care have evidenced a commitment to maintaining the condition of the buildings and preserving their character and historic elements within the neighborhood fabric.
10. The current lease payments and the maintenance of the building have been subsidized by the City of Berkeley in recognition of the services provided to the community, especially low-income members of the community, and in consideration of the non-profit status of Lifelong Medical Care.
11. Adjustment of the current lease payments to "market-rate" levels, which would reflect the "highest and best use" of the property in real estate terms, would likely be incompatible with the continued operations of Lifelong Medical Care.
12. The continuation of the operations and services of Lifelong Medical Care is of paramount interest, jointly, to the Berkeley Unified School District and to the City of Berkeley.

Committee Recommendations

1. The Board of Education should declare the 2031 Sixth Street site to be surplus to the educational needs of the District.
2. The Board should initiate a process for disposition of the property at 2031 Sixth Street that ensures, to the greatest extent possible, that:
 - a. Lifelong Medical Care's community health center facilities be retained at the site.
 - b. The historic landmark status and the condition of the buildings be preserved and enhanced.
3. The Board, in support of the above findings, should initiate, even before the building is declared surplus, a joint effort between the Berkeley Unified School District and the City of Berkeley to develop a cooperative process and structure for disposition of the property and the maintenance of use and status noted above, which may include accepting less than "fair market value" for the property in a proposed sale or lease disposition.

EXHIBITS

- A. BUSD Multi-Year Student Projections, 2006-2011
- B. Advance Title Research Report, May 2006
- C. Report on West Berkeley Health Clinic, July 17, 1991
- D. City of Berkeley Parcel Conditions and Permit History, October 10, 2007
- E. Report: Possible BUSD direct uses for 2031 Sixth Street, 2007
- F. Lease agreement, dated June 29, 1979
- G. Sublease, dated April 1, 1996
- H. Letter from Kilpatrick & Company, November 9, 2007
- I. Letter from Korman & Ng, November 19, 2007
- J. Report: Deferred Maintenance at 2031 Sixth Street, 2007
- K. West Berkeley Health Center Capital Expenditures, 9/27/07
- L. Lifelong Medical Care, "Low Income Families Count on . . .," 2007
- M. Minutes of the public hearing, March 4, 2008.