

EAST BAY REGIONAL PARK DISTRICT

RESOLUTION No. 1984-3-78

March 20, 1984

APPROVAL OF REVISED LAND DISPOSITION POLICY

WHEREAS, by Board Resolution No. 1984-3-77 adopted this date, a Revised Land Dedication Policy for incorporation in the 1980 MASTER PLAN was approved as District Policy, following a meeting with the Board Operations Committee (Directors Leavitt, Jefferds and O'Donnell), members of the Park Advisory Committee, District Counsel and staff to resolve differing language proposals; and

WHEREAS, another amendment initially developed by the Master Plan Subcommittee of the PAC on a Land Disposition Policy was also reviewed at that same meeting where all issues were resolved and the proposed Revised Land Disposition Policy recommended for Board approval with the concurrence of all parties involved;

NOW, THEREFORE, BE IT RESOLVED that the Revised Land Disposition Policy, as presented to the Board this date and attached to this Resolution as "Attachment B", is hereby adopted as the Land Disposition Policy of this District and that this revision be incorporated into the Parkland Dedication Policies (page 36) of the 1980 Edition of the MASTER PLAN.

Moved by Director Ted Radke, seconded by Director Harlan Kessel, and adopted this 20th day of March, 1984, by the following vote:

FOR:	Directors Lynn Bowers, Walter H. Costa, Mary Lee Jefferds, Harlan Kessel, John J. Leavitt, John O'Donnell, and Ted Radke.
AGAINST:	Directors none.
ABSENT:	Directors none.

VI. PARKLAND DEDICATION POLICIES

F. Disposition

1. Dedicated Lands

- a. Public Resources Code, Section 5540, prohibits the conveying of land dedicated and used for park or open space purposes without the consent of a majority of the voters of the District voting at a special election called by the Board and held for that purpose, or approval by the State Legislature by a concurrent resolution following the adoption of a resolution of intent for such conveyance by at least two-thirds of the Board.

Notwithstanding Section 5540, Section 5540.5 of that Code authorizes the Board of Directors with the approval by a unanimous vote of the members of its Board of Directors to exchange up to ten acres of dedicated land per year without further reference to the voters or the Legislature, so long as the property received is of equal value and is adjacent to other real property owned by the District.

2. Criteria for Undedicated Lands That May Qualify for Disposition

- a. The District Board of Directors may adopt such rules and procedures as necessary to define the policy for disposing of undedicated lands.
- b. The following are circumstances whereby undedicated lands may be considered for disposition by the Board of Directors:
- (1) Where the acquisition of key parkland required the acquisition of adjacent land not intended for park purposes, and where such adjacent land was identified as not necessary at the time of acquisition.
 - (2) Where an unencumbered and unrestricted gift of property or donation of property was made to the District and such lands had, and continue to have no meaningful park purposes.
 - (3) Where lands were acquired to be assembled with other lands for the purpose of a regional parkland or trail and subsequently it is determined that such other assemblages did not occur and cannot be expected to occur, thus rendering the first acquisitions meaningless for park purposes.
 - (4) The successful condemnation of non-dedicated parkland by another agency for another purpose renders the remaining District-owned balance of such parkland meaningless for park purposes.
 - (5) Where it is more appropriate for another public agency to hold title to the property, provided that continued parkland use is assured.

- (6) Where undedicated lands are found to possess specific liability risks for the District from natural and other hazards either to adjacent private lands or parklands.

3. Procedures Policy - Undedicated Lands

a. General Procedure

- Step 1. Staff is authorized to accept and gather information relevant to possible disposition of District lands in the categories listed in Section 2.b. of this chapter.
- Step 2. When appropriate as a result of this information gathering, staff shall recommend to the Board of Directors disposition of District properties as described in the categories listed in Section 2.b. of this chapter.
- Step 3. The Board of Directors shall by resolution indicate its intention to consider such disposition and set a date and time for a hearing. Such public hearing date shall be not less than four weeks from the date of passage of such resolution of intent and notice of public hearing shall be published on at least two consecutive weeks in a newspaper of general circulation in the area of the affected land.
- Step 4. After the close of the public hearing the Board of Directors by the vote of at least five Directors shall make a finding that in fact the property is excess to the needs of the District and is not needed for park purposes. If the proposed disposition does not receive the necessary votes, the proceeding shall be automatically terminated. The following steps shall occur only if the required finding is made upon at least five affirmative votes.
- Step 5. Staff shall have the property appraised to determine its fair market value.
- Step 6. After appraisal, if required by law, the property shall be formally offered to other public agencies.
- Step 7. At the next Board meeting after completion of the Step 5 appraisal, staff shall recommend, and the Board shall determine to proceed, if at all, on the basis of one of the two alternate procedures described in subparagraphs (a) or (b) below. The relevant details of such determination shall be published in one or more newspapers of general circulation within the District, in order to give the public notice of the particulars of the intended land disposition.
- (a) Sealed Bids Procedure. The public notice shall call for sealed bids on the basis of all cash purchase price for the property, and require that each bid be accompanied by a 10% cash (or equivalent) deposit.

Such public notice shall also contain the procedure and deadline for submitted sealed bids, shall give the date and place such bids will be opened in public, and the date and place of the Board meeting at which the 10% overbid auction will take place.

After the bids are opened in public as specified in the notice, the Board shall, in accordance with the public notice, conduct a public overbid auction of the property in the manner required for the sale of real property under the California Probate Code (requiring generally oral cash bids of at least 10% in excess of the previous high bid, etc.). The Board shall have the right to accept the high bid at such auction, or to reject all bids and terminate the proceedings.

- (b) Alternative Negotiation Procedure. After completion of the first six procedures, the Board may determine, in the alternative, to direct the General Manager to proceed on the basis of a public notice inviting proposals for purchase of the property, for all cash, or for part cash and the balance by secured installments, and then to negotiate with one or more of such proposed purchasers a specific sales proposal to be submitted to the Board for its consideration.

Step 8. Whichever method of sale is used, in the event a high bid or a specific sales proposal is accepted by the Board, the transaction should be consummated at the earliest possible time.