



H A Y W A R D   A R E A   P L A N N I N G   A S S O C I A T I O N

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## *The HAPA News*

August 10, 2015

### *Supreme Court Victory in CSU Case*

The Supreme Court decision (see news clip on p. 3) may unfreeze progress on campus development that has been stalled by the courts for over three years. While the decision is specifically for San Diego, it will apply to Hayward (City plus HAPA) due to similarity between the two cases. The HAPA causes of action relate to a feasible alternative while the City causes relate to mitigation for city services. The case is likely to be remanded to the appellate court with instructions to reconsider and reverse. However, the HAPA aspects may get lost in the shuffle because the Court only considers one issue in oral argument. I attended the Court with HAPA's attorney Stuart Flashman, who is quoted in the article, and the judges seemed skeptical that the CSU could avoid CEQA. The unanimous ruling upheld what the City and HAPA have argued all along.

The need for the Pioneer Way access to the campus from Hayward Blvd. is great and long overdue, but so is the need for a rapid shuttle from the campus to the Hayward BART station. The campus administration has long promoted unsustainable auto-access to the campus while seeming recently to commit more to sustainability. The problem continues to be the unwillingness of the campus administration to study the rapid shuttle proposal seriously and in detail.

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### *I promise to pay you if I can get the money*

For months I have been frustrated by my inability to get real information out of the City of Hayward and Caltrans concerning their highly secret negotiations over all the land that Caltrans owns in the city. I got a number of confusing, vague, and inaccurate answers. I finally emailed the California Transportation Commission after receiving this in an email from a Caltrans official: "You are asking a question that has no answer."

Well, it did have an answer. I have been trying to figure out what "public purpose" means in the Caltrans right-of-way manual. The CTC told me that it means what I thought it meant all along: not public purpose broadly defined but only public use for park, public building, or other direct governmental use. Also, the right of way manual is not controlling, it is just an internal Caltrans document.

The only thing Caltrans must do is follow the statute, which requires that Caltrans sell the land at the appraised value. Furthermore, the CTC informed me that Caltrans and the City were considering a promissory note procedure explained in the letter below. Why has this been taking so long? It seems to have something to do with

lawyers. What should I do about it, complain to the lawyers? No, that would be useless, maybe you could urge the City and Caltrans to make their lawyers do what they're supposed to do. Hence, the letter below.

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August 11, 2015

Mr. Bijan Sartipi, District Director,  
Caltrans District 4  
Oakland, CA

Ms. Fran David, City Manager,  
City of Hayward  
Hayward, CA

BY EMAIL

Dear Mr. Sartipi and Ms. David:

I urge you to expedite your draft agreement to facilitate the sale of Caltrans excess land from the 238 Bypass Project to the City of Hayward, based on a promissory note for the appraised value. I understand that if the sale produces more than the appraisal, the surplus funds would be transferred to the Local Agency Transportation Improvement Program for the central area of Alameda County.

My impression is that the lawyers have been negotiating language for more than six months, which seems too long given the urgency of pursuing development. In the case of Bayview Village, there are application deadlines for the state Multifamily Housing Bond funds, Tax Credit funds, and Affordable Housing and Sustainable Communities funds. These deadlines come up once or twice a year, and missing a date delays the project and increases costs.

Sincerely yours,



Sherman Lewis, President, Hayward Area Planning Association

cc: Assemblymember Bill Quirk, State Senator Bob Wieckowski

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# CSU must cover costs linked to expansion, state high court rules

Aug. 4, 2015

By Bob Egelko

California State University can't require local communities to pay for traffic impacts and other costs associated with its planned expansion of student enrollment over the next decade, the state Supreme Court ruled Monday in a San Diego case that also affects CSU's East Bay campus in the Hayward hills.

The university, which now has 447,000 students at 23 campuses, plans to add 107,000 students by the 2024-25 school year. Full-time enrollment at the East Bay campus, now about 9,000, is projected to double within two decades. Campus plans include four new student dormitories and a five-story parking garage.

The issue before the court was whether CSU is responsible for the impacts of its expansion in surrounding communities, in increased vehicle traffic and, in Hayward, the potential costs of fire prevention in the hills.

In environmental reports for both San Diego and Hayward, the university acknowledged that increased enrollment would add to local traffic congestion but said the funding for expan-

Read the ruling: [www.courts.ca.gov/opinions/documents/S199557.PDF](http://www.courts.ca.gov/opinions/documents/S199557.PDF)

sion approved by the Legislature included only the cost of adding more students and didn't cover impacts on local governments. Defraying local costs would require the university to dip into educational funds, CSU lawyers argued in court papers in the San Diego case, describing it as a choice between "more classrooms or more traffic lights."

By contrast, the University of California and the California Community Colleges have policies of paying for the off-campus effects of campus construction and expansion. In Monday's unanimous ruling, the court said state environmental laws make the developer of any "project," including CSU enrollment expansion, responsible for all impacts, no matter where they occur.

The law defines the "environment" as physical conditions "which will be affected by a proposed project," and makes no distinctions between on-campus and off-campus impacts, Justice Kathryn Mickle Werdegar said in the 7-0 decision.

She said the most logical source of funding is the money the Legislature has appropriated for CSU expansion. Otherwise, Werdegar said, the costs "would fall upon local and regional governmental agencies," which would have to rely on taxpayer revenues. A contrary ruling might also allow other state agencies to shift some of their development costs to local governments, Werdegar said.

The ruling upheld an appellate decision in favor of local governments that challenged CSU's refusal to pay for traffic costs at San Diego State. An appellate court will have to reconsider its 2012 decision in the university's favor in the East Bay case.

The ruling means "CSU has got to take responsibility for the impact it creates," said Stuart Flashman, a lawyer for the nonprofit Hayward Area Planning Association, which joined the city of Hayward in contesting the university's plans.

The university said it was disappointed.

"Environmental mitigation is costly, and the CSU will be required to seek additional funding," Fram Virjee, the executive vice chancellor and general counsel, said in a statement. He did not specify an amount.

*The case is San Diego vs. Board of Trustees, S199557.*

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## *Downtown Strategic Plan*

On Wednesday, August 5 I attended a workshop on the Downtown Specific Plan, in the large meeting room of the Hayward Area Historical Society on Foothill Blvd. About 50 people were in attendance. City officials presented information about downtown but nothing on the Specific Plan as such. I left after an hour so I may have missed something.

One of the policemen on the downtown bicycle patrol talked about their many months of efforts to control crime. They have had a lot of success with drug dealing around the Green Shutter, loitering behind Buffalo Bill's, and smash-and-grab theft out of autos near Peet's and Starbucks. They have a number of closed circuit TVs that they can move to different places and operate from solar energy. The cameras are now in position to observe perps on the walkway between city hall and City Walk condos, and at the BART station exit. Evidently, some bad guys will travel on BART to Hayward to commit their crimes and then not come back for weeks or months while they go to other BART stations. The sharp resolution pictures of faces have been vital for controlling crime.

Other officials presented success stories of 80 new businesses coming to downtown over the last year and a half. They presented the concept of a business improvement district which would create a tax-deductible agency and use taxes from businesses within the district for improvements. Such districts have been very successful around the 19<sup>th</sup> Street BART station in Oakland.

I came away with the impression that nobody from the City wants to do anything about the Loop. Unless there is some political support for reforming the Loop, it does not seem promising to try to do much about it. Evidently, success of new businesses and the need to promote an improvement district will dominate the planning process.

Two important developments were mentioned. The City announced that a buyer is in the process of purchasing the Green Shutter Hotel for purposes of redevelopment. It is not clear if redevelopment means rehabilitation or demolition. The City also announced that Dolinger Development has purchased the Mervyn's property and is proposing a big development there, Lincoln Landing (see previous HAPA News).

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