

CITY COUNCIL CLOSED SESSION

TUESDAY, NOVEMBER 14, 2017

Documents Received After Published Agenda

-----Original Message-----

From: Sherman Lewis [REDACTED]
Sent: Sunday, November 12, 2017 11:10 AM
To: List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>
Cc: Stuart Flashman [REDACTED]
Subject: Closed session Nov. 14 item 1

Pending Litigation:

City of Hayward v. Board of Trustees, California State University, et al., Alameda County Superior Court No. RG09481095, consolidated with No. RG09480852

I hope Council will consider HAPA's issues in discussing mitigation for city services with the CSU.

HAPA has proposed research on improving the shuttle between the campus and downtown. The current shuttle is more frequent than in the past but takes 16 minutes for a trip that would take 8 minutes by rapid bus.

The CSU has five parking structures in the Master Plan with no intent at this time to build them and with incorrect ideas about their affordability, efficiency, and sustainability. The Master Plan is now inconsistent with more recent CSU access policies

The City can let the CSU know that we would like to talk to their access planners.

At this time our inability to talk to anyone at the CSU means that we are waiting for a Trustees decision next March to then litigate on several grounds laid out in the attached.

We hope the City agrees with us that promotion of transit access to campus should have priority over more subsidized parking and more traffic, that Pioneer Way and student housing should not be delayed by litigation, and that it is desirable to secure the mitigations evidently now being negotiated.

--

Sherman Lewis
Academic Senator for Emeriti
Professor Emeritus, CSU Hayward
President, Hayward Area Planning Association
[REDACTED]

Decision to not build structure is itself a changed circumstance.

New issue not subject to res adjudicata: Environmental impacts of subsidizing car trips. How pkng subsidized causing GHG as new issue?

HAPA is concerned about building a parking structure on the Hayward campus. We do not know who is making decisions within the CSU system or what the process is. Who makes the decision to initiate the process to build the structure? The decision may have already been made by the people who decided to recirculate the DEIR.

We believe that the decision to pursue construction of the parking structure is discretionary and requires review under CEQA.

The old EIR was approved Sept 2009, 8 years ago.

Changes in CSU policy from 2012 and 2014:

May 2014: California State University Sustainability Policy Proposal (RJEP/CPBG 05-14-01) :

"The CSU will pursue sustainable practices in all areas of the university, including:

...b. self-funded entities such as ... parking..."

"3. The CSU will encourage and promote the use of alternative transportation and/or alternative fuels to reduce GHG emissions related to university associated transportation, including commuter and business travel."

"FO 1.3 Promote the use of alternative transportation and/or alternative fuels"

The CSU TDM policy: California State University, TRANSPORTATION DEMAND MANAGEMENT MANUAL, Final Report, November 2012

See attached.

from previous docs:

Nov. 2016: "The Harder Structure issue is now moot because CSU East Bay has increased the number of spaces by more than the 877 spaces proposed for the upper levels of the Harder structure (see document with photos of new parking). There are about 670 new permanent spaces on the west side of the West Loop Road and about another 400 new spaces in overflow parking west of that. On a typical Friday the overflow lot is closed and most of the permanent parking is unoccupied."

"HAPA believes that substantial changes in circumstances have occurred since the EIR was approved in 2009, seven years ago: Current enrollment of about 15,000 students in 2016-17 is well below the estimate of 20,000 used in the Master Plan. The need for parking has been affected by the growth of off-campus classes, remote learning, and more students coming only Mondays and Wednesdays or Tuesdays and Thursdays. No new instructional buildings are being funded so parking is not being displaced. The shuttle is carrying more and more riders. There are more students living on campus. These factors combine to reduce the number of cars that need to be parked on the campus at any one time."

Update to Report of October 24, 2016, to the Academic Senate on HAPA v CSU

Summary.

I've been trying to promote improved shuttle access to campus, but the administration has been told that it can't talk to the Hayward Area Planning Association, of which I am president, because of "pending litigation." No litigation, however, is pending; it ended on Oct. 20, 2016, with the entering of Judgment and Writ of Mandamus against the CSU. The matter is still in the courts, however, because the Writ requires the CSU to report to the Court on its carrying out of the Writ. Two actions are underway to obey the Writ: one is a "DEIR Recirc" and the other is an "Initial Return" (both explained below).

While our CSUEB is not allowed to talk to me, I am allowed to talk to it and I have been, an interesting exercise. On April 12, 2017, Chris Wade, the CSU attorney, told HAPA's attorney, Stuart Flashman, that she would "coordinate" with the CSU and get back to him. As of May 6, we are awaiting for her reply.

On March 29 this year, I was at an ASI Board meeting explaining how the administration was working to build five parking structures on campus. Martin Castillo, a member of the Board and the AVP for Campus Life, objected, saying that they were not doing so, an opinion confirmed by Derek Lobo, Director of Parking & Transport Services. However, the Master Plan on the CSUEB website has the parking structures, and the DEIR Recirc and Initial Return have the intent of building them. If the administration has made a decision to not build parking structures, it has not announced it.

If the administration really does not want to build parking structures and instead to follow current CSU policy of using TDM (Transportation Demand Management) for access, it should say so and remove the structures from the Master Plan.

Details.

As explained in the October 24, 2016, report and above, I thought there was no litigation pending. In October, I asked to talk to Debbie Chaw, VP Administration and Finance, and she asked for a written proposal. I sent her 24 documents on Oct. 28. She sent it to the CSU attorneys and on Nov. 7 told me "we are not interested in your proposal." No reason was given.

I emailed many faculty looking for someone interested in improved access and reducing auto dependency for environmental reasons, to reduce traffic, and to speed up access to campus. No one has yet expressed an interest.

On March 28, Jim Zavagno, AVP Facilities Development and Operations, distributed a "Notice of Completion and Availability of a Partial Recirculated Draft Environmental Impact Report" (DEIR Recirc) for the Campus Master Plan and Pioneer Heights Student Housing. The Master Plan has CEQA clearance as a program EIR for 4,400 parking spaces in five parking structures. The housing has clearance as a project EIR. The Harder parking structure has clearance as a project EIR as far as my attorney and I can figure out. I asked Zavagno to inform me as to where the parking structure stood and got no answer.

Since no one in the administration or faculty showed any interest in serious access reform, I asked the ASI Board to consider a resolution, shown below. On March 29, 2017, the ASI Board discussed the issues for 10 minutes. I explained how the administration was working to build five parking structures on campus and Martin Castillo, a member of the Board and the AVP for Campus Life, objected, saying that they were not doing so, an opinion confirmed by Derek Lobo,

Director of Parking & Transport Services. Their understanding was that Jillian Buckholz, the Sustainability Director, was opposed; there was a new commitment to sustainability; and no one was planning to build the Harder structure.

I followed up with Castillo and Zavagno. Castillo replied to my email ambiguously and Zavagno did not answer, evidently leading to Chaw's email of 3/30: "Professor Lewis, The status of future capital projects on campus remains the subject of pending litigation. Consequently, we must respectfully decline to answer. However, HAPA's counsel is free to reach out to the University's counsel on this or any matter covered by the CEQA litigation." This email finally explained that the administration is under orders not to talk to me. My counsel has, in fact, reached out and the CSU counsel has not reached back.

On April 10, Chris Wade informed Stuart Flashman about an "Initial Return to Peremptory Writ of Mandamus" (Initial Return) that CSU filed with Superior Court, with a final return coming after the Board of Trustees considers it on September 19-20. The Return describes the steps being taken to implement the Writ of Mandamus, including "Reconsider the Project and the FEIR...", which is what the DEIR Recirc is doing.

There is, evidently, a conflict between the local operational level and the policy level: **the administration supports a policy for five parking structures which it is not actually planning to build.**

Why is this such a serious matter? CSUEB, Academic Year 2013/2014 Greenhouse Gas Inventory, December 15, 2015: **58 percent of campus GHG is from drive alone commuting.** Our auto-dependency is the elephant in the room. Litigation does not prevent CSUEB from doing more to deal with it. Incremental upgrades to the TransMetro shuttle are a good thing, but do not have the scale of thinking needed. The administration can use a consultant like Nelson Nygaard for more incrementalism, or it can pay attention to the deeper analyses that I have been doing over several years. I hope that at least someday a serious study will be done.

Draft resolution for ASI:

Whereas climate change threatens the habitability of the earth for human beings,
The major cause of greenhouse gases by CSUEB is auto access to campus,
The TransMetro shuttle provides valuable service to reduce such gases,
A significant upgrade of shuttle service could do more to reduce emissions, and
Research is needed to see if there is some feasible, cost-effective way to upgrade the service,

Resolved, that the ASI supports engaging in such research and involving students in the process of planning how to reduce greenhouse gas emissions caused by auto access to the campus.

Sherman Lewis, 4/20/2017

Emeriti Representative, Academic Senate

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