

Lawsuit filed against Valley School gym

by Robb Fulcher

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Neighbors of Hermosa Valley School have filed a lawsuit seeking to halt construction of a gymnasium on the campus. The lawsuit seeks a fuller review of alternative sites for the gym building – which also would include classrooms and teachers' offices, and possibly subject the project to a fresh public vote.

The lawsuit, filed Friday in Superior Court by the Committee for Responsible School Expansion, claims that the city school board did not take adequate measures to ease excess noise, traffic and parking congestion in the surrounding neighborhood.

Health District angle

Two elements of the lawsuit – a claim that the gym project would eat up too much of the campus' open space and a claim that the gym would be too tall – hinge upon a joint use agreement the city school district signed with the Beach Cities Health District. Under the agreement, the Health District would be allowed to use the gym after school hours for yoga classes and the like, and the school district would be able to seek about \$1 million in state funds that are set aside for joint-use projects.

School construction is generally exempt from city requirements for height and open space. But if the gym is used for "non-instructional purposes" by an agency such as the Health District, it would not be exempt from those requirements, said Douglas Carstens of Chatten-Brown and Associates, lead attorney for the citizens group.

If subject to city codes, the lawsuit claims, the 34-foot tall gym building on the Valley Drive campus would stand nine feet too tall, and the 26,000 square-foot building could not be erected without a vote of the public on the open space question.

Carstens said the city school board could "possibly" resolve the height and open space questions if it can back out of the joint agreement with the Health District. But, he said, questions of parking, noise and alternative gym sites would remain.

The neighbors

Carstens declined to say who had retained his legal services for the lawsuit, citing "freedom of association" of people seeking legal representation.

He said he did not know how many people belonged to the citizens group.

"We don't have a membership list," he said. "At the meetings I've attended there have sometimes been dozens of people."

Carstens said some members want the gym project halted entirely, but a "large contingent" of the membership simply wants the school board to make the project "less burdensome" on the neighbors.

School neighbor Douglas Robins said he believes an "overwhelming" majority of the neighbors want the gym project modified, not halted. He said the neighbors filed the lawsuit to make sure their concerns would be addressed, adding that the statute of limitations for such a lawsuit would have soon expired.

Robins, who also is an attorney, said he envisions an agreement in which the school district would be required to address noise and traffic concerns, and the neighbors would drop the lawsuit.

For the defense

The day before the lawsuit was formally filed, school district Superintendent Sharon McClain said she feared that further delays in construction could doom the project, as building costs continue to skyrocket. She said costs have tripled over the course of an overall school construction project – set to include the gym – that is funded mostly by a \$13.6 million school bond approved by Hermosa voters in November 2002.

She said she was saddened by what she sees as continued opposition to a construction project that voters long ago approved.

Ballot snafu

The 2002 citywide election also has been called into question. School board members last week acknowledged that the ballots in the polling places did not contain the full text of Measure J, which asked the public for the school bonds.

School district officials and the district's current bond counsel were trying to determine how that happened, McClain said.

Some critics of the gym project have claimed the election should be considered invalid, but the district's bond counsel – its legal representative in the matter – shrugged off that contention. Rob Anslow, a partner in the firm of Bowie, Arneson, Wiles and Giannone, said the statute of limitations to challenge such election results runs only days or weeks, and any challengers would be years too late.

Some critics have also said that because the ballot's official analysis and summary did not mention a gym, the building of the gym might not be legal. McClain said Anslow was looking into that, and Anslow declined to comment in detail, saying he would not share advice he might give his client in fighting a potential lawsuit.

Struggle continues

Some neighbors and other residents have long insisted that proper steps have not been taken to mitigate the effects of noise and traffic. In February residents put their comments in writing as the school board sought state approval for the gym project.

The district had predicted that noise from the gym would have a "less than significant" impact on neighbors, and that traffic congestion would not significantly worsen. A district report did predict that parking problems in the neighborhood would be significantly worsened, and stated that the school district can offer no relief from those problems.

Resident Jerry Compton, an architect whose home stands near the school, urged the school board to consider building the gym next to Valley Drive instead of on the Southwest corner of the campus.

Compton complained that the board's current plan would result in "catastrophic" parking congestion.

School neighbors Earl and Kristine Keegan wrote that "the noise and activity level in the surrounding residential neighborhood will be substantial" once the gym is in use...Currently there is no nighttime use of the school facility."

The Keegans urged that the gym doors remain closed whenever it is being used, to muffle excessive noise, and asked how the district plans to protect adjoining classrooms from gym noises such as bouncing basketballs and referees' whistles. The Keegans also urged the school board to study ways to ease traffic on an "overburdened" Valley Drive when after-school games are played from 3 p.m. to 6 p.m. ER

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