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## HOW TO GET ALONG WITH CITY HALL

By Peter MacDonald

When you set out to build a new school, here are some practical ideas on how to make City Hall a collaborator and resource in the process.

February 25, 1997

*Peter MacDonald is a former city attorney and urban planner. Mr. MacDonald works primarily with school districts on land use and real estate issues, including school mitigation issues.*

## INTRODUCTION

If a school district is like a corporation, a city is more like a conglomerate. A school district tends to operate as an education factory with a more unified purpose. In contrast, city departments tend to operate as relatively independent and sometimes competing fiefdoms, reflecting the great diversity in the services which different departments provide. Consider the great difference in services provided between the following typical city departments: planning department; police department; park and recreation department, public works department, fire department. This diversity creates challenges and opportunities in communicating effectively with cities.

**This outline focuses on city relations when planning to develop a new school.**

However, many of the ideas also apply to two other common areas of interaction between cities and school districts:

- ✎ Disposition of surplus school property which must be zoned for profitable sale; and
- ✎ Obtaining city cooperation to require new development to mitigate for school impacts.

THE FOLLOWING IDEAS WILL HELP THE SCHOOL DISTRICT ACHIEVE A SUCCESSFUL NEW SCHOOL PROJECT:

### △ **Maintain parallel communications**

It is folly to assume that information provided to a city council member is known to the planning director. Before any new school project is planned, there should already be systematic communication to keep the city informed of school district issues and plans through parallel channels and liaison committees:

#### Parallel School/City Departments

Board of Trustees	◀	▶	City Council
Superintendent	◀	▶	City Manager
Facilities Planner	◀	▶	Planning Director
(Project Architect)	◀	▶	(Project Planner)
Facilities Planner	◀	▶	Fire Chief
Director of Maintenance	◀	▶	Public Works Director

. . . and so on.

### △ **Design a great project**

Anticipate the concerns of affected parties in advance. You can avoid expensive compromises later (or even redesign later) by sensitive design in the first place. For example, on the side of the new school facing single family residences, work toward compatible designs such as buildings with sloped roofs, natural screening or set backs.

### ⏏ **Control your consultants**

The necessity of regular communication with affected parties should be part of the consultant's budget. Consultants occasionally reject reasonable proposals from city staff, neighbors or district employees on the assumption that the school district administration has no need to satisfy those groups.

### ⏏ **Know Your Rights**

This time is not the place for a detailed review of the law. But here are three important laws often overlooked by school districts:

*Government Code Section 53094: The governing board of a school district, by a vote of 2/3 of its members, may render a city or county zoning ordinance inapplicable to a proposed use of property by a school district except when the proposed use of the property by such school district is for nonclassroom facilities.*

*Government Code Section 65402 (c): A school district must submit a proposed acquisition of property or proposed public building or structure to the city or county for a report as to conformity with its general plan. If the city determines the proposed acquisition or public building or structure is not in conformity with its general plan, the disapproval may be overruled by the school district.*

*Title 14, Section 15302 California Code of Regulations (CEQA Guidelines): There is a categorical exemption under CEQA for the replacement and reconstruction of existing schools on the same site. If earthquake resistant features are being added, the capacity may be increased by up to 50 percent.*

These laws can be applied creatively. For example, where a school district's corporation yard was being used extensively for vo-tech classes, the author drafted appropriate findings which qualified the corporation yard for exemption from city zoning because the educational function qualified the corporation yard as "classroom facilities" under the case law.

### ⏏ **Exempt your project from city zoning and general plans early in the planning process**

You should inform city officials in advance that you plan to use those exemptions as a necessary procedural step. Moreover, the exemption resolution should include direction to staff to maintain continuing consultation with the city staff.

You may think your new school is consistent with the city's general plan because it is on a parcel designated for "public and institutional" land uses. But most general plans contain a cacophony of vague dictates which can be dragged out by a hostile city or project opponents as a

basis to find a project inconsistent with the general plan: (E.g., “Avoid traffic increases on residential streets.”)

Early exemption liberates the city from the requirement of officially approving the project. Any city approval process opens the city council chambers as an alternate forum in which your project can be attacked by rabble rousers.

The general plan and zoning exemptions also liberate the city staff to become collaborators rather than dictators in creative design of your project. The planning and public works departments typically have a wealth of talented and experienced professionals who can foresee problems and suggest innovative solutions.

△ **Conduct your own neighbor relations program**

In this age of neighborhood empowerment, in which most neighborhood groups can muster computing power and technical expertise equal to a mid size environmental consulting firm, your best approach is honesty, clear communication, and genuine mitigation. Pay particular attention to keep the front line (adjacent) neighbors well informed of your plans and make necessary compromises before they form the “Committee for Safe Streets”. Keep talking even after the “Committee for Safe Streets” is formed.

△ **Conduct your own environmental review**

It may seem easier to let the city do the negative declaration under the California Environmental Quality Act (CEQA) as part of a “simple” use permit procedure. But any controversial project will come down to hard choices involving tradeoffs between legal adequacy, further studies and expensive mitigation. When that time comes, you want the pen that writes the legally adequate findings in the hands of your consultant.

△ **Be cautious of multiparty negotiations**

When possible, meet separately with separate city department heads, neighborhood groups, and employee groups. You will hear requests for a steering committee of city officials, neighborhood activists and school officials to be formed to find solutions to the “parking problem” or whatever problem. In those committees, the majority of voters are put in charge of the minority’s (school district’s) checkbook. The terms of existence and composition of any such committees must be carefully controlled.

△ **Resist calls for delay**

A delay is a battle victory for the project opponents. Unless a delay serves a specific need of the school district, a well-planned project should proceed lock step through the CEQA hearings and formal approvals.

🏠 **Use parent power**

It is easy for an opportunistic city council member to side with project opponents against a developer at a public hearing. Vocal pro-school parents at the public hearing make the risks and costs of scapegoating a school project much higher for an opportunistic politician.

## CONCLUSION

In my experience, a unified school district with a well-planned project which is in harmony with its affected city will get the support and assistance from the city that it truly needs to achieve the school district's goals.☺

📧 *Please feel free to contact me with any further questions you may have.*

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## **Background**

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<b>College &amp; Graduate School</b>	B.A. Economics; M.S. Urban Planning University of Montana, Missoula, Montana; B.A., 1969, with honors. University of Arizona, Tucson, Arizona; M.S., 1972.
<b>Law School</b>	University of Arizona, J.D., 1975.
<b>Bar Memberships</b>	Arizona and California.
<b>Employment</b>	City of Salinas, 1977-1982; Planning Counsel, Deputy City Attorney. City of Pleasanton, 1982-1988, City Attorney. Sole Practice, 1988 - Present.
<b>Memberships</b>	Bay Area City Attorneys, President, 1984; Pleasanton Rotary, Boardmember, President-Elect; Pleasanton Chamber of Commerce, President, 1992; Eastern Alameda County Bar Association, President, 1997; Coalition for Adequate School Housing; National Association of Home Builders.

## **Philosophy**

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My style is to work creatively with the government officials; to know and anticipate the concerns of staff members, policy makers, neighbors, and environmentalists.

I maintain the technical competence necessary to deal with regulations involving scientific, demographic, mathematical, or economic issues.

I am a valuable team member, with a broad understanding of the other players' needs and the appropriate limitations upon the lawyer's role.

## **Areas of Practice**

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<b>School Mitigation Fees and Municipal Zoning Exemptions</b>	Implementation of school facility plans requires cooperation from cities, counties and the public. City cooperation can be achieved with a sensitive and systematic approach by the school district.
<b>Land Use and Real Estate Law</b>	Evaluation of development potential; Rezoning; Subdivision; Environmental Quality Act; Endangered Species; Wetlands; Exactions; Options.
<b>Hazardous Materials</b>	My background includes economics and science which enables me to deal with non-legal aspects of hazardous materials problems.