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MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

RECEIVED
SEP 22 1998
MARIPOSA COUNTY

TO: GARRY R. PARKER, District IV Supervisor
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: Highway 140 Construction Improvement

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on September 1, 1998

ACTION AND VOTE:

Garry R. Parker, District IV Supervisor
Discussion and Possible Direction Relative to the Highway 140 Improvement
Construction and Impact on the Economy in Response to Concerns Expressed by the
Public

BOARD ACTION: Supervisor Parker advised that he scheduled this matter as a result
of the numerous letters received from business people in the community expressing
concerns over the Federal Government's change in the construction project from a three-
year to a two-year project without going through a public process to take comments on
the change.

The following persons asked questions and/or provided input:

A member of the audience asked how Small Business Assistance (SBA)
loans could help and what kind of assistance could be provided.

Jan Mennig/Chamber of Commerce Executive Director, advised of their
research into the SBA assistance and advised that they are working to have a
representative available at the Chamber office.

Kathleen Pfeffer asked why they were not told of the change from a three-
year construction project to a two-year construction project with changes in the access
schedule - the contract was awarded on June 1st without talking with the businesses and
the community.

Supervisor Reilly advised that she had prepared a chronology of events,
and she advised of the meeting she and Supervisor Parker attended with the Park Service
earlier in the year.

Elaine Seymour asked what the Board did after it found out about the
change in the schedule. She stated the businesses feel hurt and like no one is trying to help
them; she asked what is coming from the Board to help them; and she noted that SBA
loans have to be repaid.

A member of the audience stated he feels that this has all been decided for
some time. He feels there has not been enough done and everyone should rally together to
get some action taken as to why the Federal Government has this much power over the

citizens and that the matter should be taken to court and stopped, or find people in local government to assist.

Meriam Costello stated she purchased her Christmas inventory based on the three-year construction project, and she would have purchased differently if she knew the schedule was going to change.

Donald Weston, Mariposa Museum and History Center, advised that their visitation has dropped by 10,000 people over the last ten years, and they are concerned with the decrease in revenue. They have been working to encourage buses to stop at the Rest Area and visit the History Center, and they have been working with the motels to encourage visitors to come by the History Center.

Ron Iudice stated he feels there are two options: 1) let them do this to us; and 2) fight. He stated he feels we should fight and throw a monkey wrench in their plans as they did not give us much regard in making this decision.

Dave Martella, speaking as a citizen, stated he feels the Park is showing that they do not need us, that we need them. He stated he was surprised that the Park did not have a representative present for this discussion. He stated the businesses and interested parties need to be protected and fought for – if there is legal recourse, he feels it should be pursued. He stated there is a philosophy in town that we are dying – it is an emotional coffin, and he feels something should be done.

A member of the audience asked what the Board was going to do to help them on this matter and he stated he would like to see this situation in the newspapers so that the citizens would know what is happening.

Dan Elsom, owner of a local deli, commented on a meeting he attended with Senator Monteith's representative and when they asked if the Senator would be a little more public about the economic impacts on what is happening, they would told that it was not the Senator's style. He stated he would like to see the Board take a different position – what is politically correct does not matter in his business. He stated there are a lot of people who are concerned and he feels the elected officials should be more concerned and vocal. He further stated that there should be other alternatives to be explored to get this project done.

Jean Harris, Sugar Pine Restaurant, stated she agrees with Dan, and stated she is tired of being kicked around by the Feds.

A member of the audience stated he feels that people can fight back by watching what is put in the paper; and he stated that when CNN is saying that Yosemite is going to be closed for two years, someone needs to meet with them.

Ron Wiley, Pizza Factory, stated he feels a position should be taken to fight this; and he challenged everyone in the community to allow more businesses to come to the community and contribute. He stated he feels we should move forward for the long-term and not be so dependent on the Park. He further noted that he does not see anything positive on the Bay area news.

Jerry Fischer noted that a meeting was held with the Park Service and a commitment was made and the community supported a three-year project. He feels the Park Service should be challenged for not following their promise to share information and for not keeping their commitment with the three-year schedule. He stated he does not know the best way to do this, but we need to assert that we are a player in the process.

Herb Gloor commented on the meeting with the Park Service and their commitment, and he noted that the Park Service staff went back to Denver and ignored the commitment they made. He stated he feels the Park Service should be made to be accountable. He stated if the Highway could be left open until 9:00 a.m., it would make a big difference to the businesses, and the school schedule could be adjusted.

Marguerite Collins noted that some school schedules were adjusted.

Nancy Strathearn, The Vault, stated accountability is a big issue, and she feels other issues will be forthcoming, and she referred to the establishment of World Horizon zones around national parks in the country. She stated she feels the citizens'

freedom and ability to do things will be diminished. She stated she feels this matter needs to be challenged, perhaps legally. The new schedule will not help businesses as people will come and go through town during their closed hours – a lunch access schedule would help to alleviate the impact. She also noted that delaying implementation of the access schedule until October 15th and having the Highway open during Easter week and President's Day would help.

Supervisor Parker referred to the June 16, 1997, letter to Superintendent Albright relative to the Environmental Assessment as a result of the Board's meeting of June 10, 1997, and the August, 1998, letter relative to the proposed access schedule which is being discussed today. He advised that the Board has not received a reply to the letter and it has been doing a great deal on this issue. He further referred to the meeting he and Supervisor Reilly attended with the Park Service in February, 1998, at which time the Park Service advised that they were not sure that they could meet the original agreement for the access schedule. The Park Service advised that this information was not for public release and was confidential as they were still in contract negotiations with the potential contractor for the project. Between the time of that meeting and until recently, there was not further correspondence.

Justine Kirchner, Mariposa Townhouse Bed and Breakfast, noted that during the flood disaster their revenue was down, but as long as they were able to maintain payment of their bills, they were not eligible for assistance. She stated she does not feel that the government is caring for our little community, and stated she feels we should have the government in court.

Elaine Seymour stated she feels there is more that can be done. She stated she feels the question is ethics with regards to this matter – we need to ask ourselves if we want to step back and let this occur or do something about it.

Jim Dulcich, Coast-to-Coast, commented on the legal side and the possibility of losing the project; and he stated he feels the businesses will die if the Highway is closed.

Supervisor Reilly commented on the County's economic dependency on Yosemite, and referred to statistics relative to the transient occupancy tax.

Barry Brouillette, speaking as a private citizen, stated he feels the construction improvements will be done because the Park Service and we need it. The problem is the process that occurred and the breach of faith. He stated he feels it is time, based on principle, to stand up for our rights and to be treated on an equal basis – even if we lose in court.

Jim Dulcich noted that through his years of active work with the Chamber of Commerce that whenever they requested financial assistance, the County got behind them. With regards to the construction schedule, he stated he believes that a percentage of the work could be done in the summer during the night and that would have less of an impact. He was advised that the two-year schedule includes work during the night in the summer.

Elaine Seymour stated she feels that if this was the road to Tahoe, it would be fixed in no time, and she stated that she agrees with Barry Brouillette's comments.

A member of the audience stated he feels the legal staff in the County should be contacted to see what can be done. He stated he feels that Mariposa needs to become a destination and that the downtown area needs to be cleaned-up.

Dan Elsom stated that collectively a lot of people share these concerns and they want the Board of Supervisors to do something. He asked whether there will be concerted effort on the part of the Board to do something.

Jim Dulcich stated that we need to be the squeaky wheel.

Don Weston, speaking as a citizen, advised that he is involved in many civic activities and he agrees with the need to develop economic development. He stated he feels we need to start looking at this and pull the community together to allow for

development, and he noted that it does not have to be smokestack type development. He noted that there is a lot of volunteerism and giving in this community.

Dave Martella stated he does not feel that the Federal Government respects the Board and the citizens, and he feels that they have overplayed their hand. He stated he feels it is the Board's responsibility to find a loophole.

Nancy Strathearn commented that the legal challenge could be used to put the brakes on the project and to get some concessions in the schedule. She feels that legally, the Park Service has done the wrong thing. She further stated that she feels that Congressman Radanovich could be of assistance in obtaining legal counsel for the County.

A member of the audience asked about the environmental review process, and was advised of the environmental assessment process used for this project.

Supervisor Parker asked the audience if it was agreed that the major concern is the way the Park Service handled this project with the absence of the public process, and the majority of the audience responded affirmatively.

Herb Gloor stated he feels the Park Service is forcing this schedule down their throats.

Dave Martella stated he feels the road is important and it is okay for now. He stated the Park Service has the dollars to do the project and he feels it should be prolonged.

Supervisor Parker advised that if a legal course is pursued, there is a lot at risk – the schedule could be more restrictive. Jeff Green, County Counsel, advised that if action is taken forcing the Park Service to go through the environmental process, they will go through the process and there is no guarantee that the ultimate outcome of mitigation would be the same as what is on the table now. The Park Service could determine that there are environmental affects that cannot be mitigated.

Meriam Costello asked whether Yosemite Concession Services (YCS) has been contacted and what their feelings are. Supervisor Reilly advised that a representative of the YCS employees was in attendance at the meetings and is working on the issues.

Burney Stephens asked if there is any indication of what could be worse. Supervisor Parker advised that the project could be lost altogether, but he does not feel that this will happen due to the infrastructure and sewer lines that need to be improved; a different project could be approved that does not fit the long-term needs; or they could close the Highway to fix it.

Ron Iudice asked if the option of opening Foresta Road has been explored. Supervisor Reilly advised of the Board's tour of the Road and its condition.

Barry Brouillette commented on the negotiation process, and noted that this access schedule is a seven million-dollar issue. He advised that he heard it could cost two million dollars to demobilize the contractor.

Justine Kirchner stated the Board's negotiations have not worked and asked what can be done when no one listens.

Discussion was held by the Board relative to filing for injunctive relief.

Ron Iudice noted that time is of the essence.

Jim Dulcich asked if the Park Service gets away with this, where will it stop? He noted that the friendly manner has not worked.

Neil Stonum, Chamber of Commerce, noted that they and the Economic Development Corporation are supportive of the Board taking action to file for injunctive relief.

Following discussion, (M)Parker, (S)Balmain, Res. 98-344 adopted:

- 1) giving direction to County Counsel to seek outside legal assistance to file injunctive relief due to the Park Service's change in the Highway 140 improvement construction access schedule;
- 2) in the interim, direction was given for Supervisors Parker and Reilly, County Administrative Officer, and County Counsel to meet with the Park Service to request implementation of the original access schedule;

3) authorization was given for staff to solicit one or more private businesses to be named as plaintiff(s) in the lawsuit, if necessary; and

4) legal costs to be addressed during the Final Budget hearings/

Ayes: Balmain, Stewart, Parker; Noes: Reilly; Excused: Pickard.

(M)Parker, (S)Balmain, direction was given for a member of the Planning staff to be designated to work with the Board liaison committee on Park issues and report to the Board on any issues that are raised during committee meetings/Ayes: Reilly, Balmain, Stewart, Parker; Excused: Pickard.

3:58 p.m. Recess

4:15 p.m. Following discussion, Board concurred with the appointment of the County Administrative Officer as spokesperson for any press releases or requests for information.

cc: Janet Hogan, County Administrative Officer
Jeffrey G. Green, County Counsel
Patti A. Reilly, District I Supervisor
Ed Johnson, Planning/Building Director
Ken Hawkins, Auditor
File