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On To Brooks Firestone

Our lengthy discussion with members of POLO (Preservation of Los Olivos) and POSY (Preservation of Santa Ynez) two issues ago (VJ # 4/6) dwelled upon the disappointment of members of both those groups towards Second District Supervisor Brooks Firestone's vote *not* to appeal the Chumash annexation of a 6.9-acre parcel on Highway 246 into tribal lands. Last issue, we carried a letter from Mr. Firestone questioning the validity of the claim that he had indeed voted not to appeal, and Kathryn Bowen's response to that begins on page 4 of this issue. In order to clarify his position, we had a conversation with Mr. Firestone via telephone, during which he stated, "Firstly, and unequivocally, I am opposed to the annexation of 6.9 acres, and then a second application of 5.8 acres. I think that would not be in the best interest of the county. I am totally against the expansion of tribal lands through annexation."

Which seems clear enough to us. He then explained how his vote not to appeal came about: "I tried to convince my fellow supervisors," Firestone says, "when the issue first came up and we had a window of opportunity to appeal that annexation or not." He says he spoke as convincingly as he could and finally made a motion to appeal the annexation. "Unfortunately," he recounts, "I could not get a second." Upon realizing there was very little chance the Board of Supervisors would appeal, he thought "the next best thing," in terms of the interest of the county, would be a contract or some kind of legal document that would ensure the tribe only used the land for that which they said they would, which was as a park, a cultural center, and for some offices. "They had claimed that was all they wanted to do," Brooks says, adding that, "the obvious answer to that was, 'Go ahead and do it.' Under normal circumstances," he continues, "they did not need to annex that land to do it. Well, they still wanted to annex the land."

Brooks and Joni Gray were appointed as sub-committee co-chairs to see if a deal could be worked out with the tribe. What the sub-committee came up with was a letter, signed by tribal leaders, that indicated they would only use the land for the aforementioned purposes and that they would agree to seek a more formal understanding after a vote was taken. Based upon the contents of that letter and with time running out, Brooks joined the now-unanimous majority and voted not to appeal the annexation.

"That's when I cast the vote," Brooks says, "so technically, it is correct. I voted not to appeal... Frankly, I had forgotten that it ever came up for a vote," he continues, "nevertheless, technically it can be said I voted against an appeal, although I was always in favor of an appeal."

POLO and POSY members say that letter carries no binding obligation on the part of the tribe, and his vote not to appeal will make it difficult for them to prevail in their appeal. Brooks agrees. "They are quite right," he admits. "As it transpired, the tribe then began to waffle on the terms of that letter. There was one more window of opportunity

when we could have joined the lawsuit against the annexation and the board came to realize that the tribe had not dealt straight with us and were putting in other conditions and clauses that would have allowed them to get out of their agreement. They had really *renege*d on their agreement, and finally I was able to get a unanimous vote to join in the lawsuit against the annexation.”

A judge, however, found that the Board of Supervisors did not have standing to join in the lawsuit because it had not appealed when it could have. Since then, Brooks says he has gone to Washington to the Department of the Interior and has made a case against the annexation.

Another 5.8-acre annexation in Santa Ynez is coming up and again, it is not clear what the Chumash plan to do with the property, but once it is annexed, it is outside any planning or zoning process. Brooks calls that “an unfair competitive advantage relative to the rest of the county.”

Will the Board of Supervisors vote differently this time? Brooks says he doesn’t know, but thinks he’ll “have a whole lot better shot than I had before.” He admits the tribe has “a lot of political clout” but doesn’t see how any supervisor “could possibly vote in favor of annexation,” that there is absolutely no benefit to the county in any further annexation.

“Anybody sophisticated about this whole debate,” Brooks sighs, “knows that I have done everything I possibly could to interfere with the annexation. POLO and POSY know that. I’m just getting frustrated that they’re not doing me any good and they’re not doing their cause any good.”

The supervisor could not point to any court victory, but underscores that communities are beginning to understand that annexation is not helping “a people,” but a “business enterprise,” and holds out the probability that “the Chumash are not going to prevail in this.”

Mr. Firestone is optimistic, he says, that the tide is turning against these tribal annexations. “One by one,” he says, “communities have woken up to what the implications of annexation are... From looking at the Indians as a people, I think the majority of the country now looks at them as a business proposition. And a business proposition that has unfair and extraordinary advantages, starting with the ability of gaming, which nobody else is allowed, and going right through zoning, taxing, work rules... They are laws unto themselves,” he concludes.