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by James Buckley

Taking On The Chumash

The Santa Barbara County Board of Supervisors may have thrown in the towel, or in this case, the poker chips, after voting 5-0 not to appeal the annexation of a 6.9-acre parcel into the Chumash tribal trust, but a stalwart group of valley residents have vowed to push on. Among them are **Jon Bowen**, president of POSY (Preservation of Santa Ynez), **Kathryn Bowen**, spokesperson for POLO (Preservation of Los Olivos), **Cathy Cleary**, POLO Board member, **Doug Herthel**, POLO president, video producer, **Chris Rheinschild**, POLO Treasurer, and former 2nd District Supervisor candidate **Steve Pappas**, Administrative Director for POLO and POSY.

"We want people to know that POLO and POSY are pursuing this [decision to annex] in federal court," Jon Bowen says during a hastily arranged (for the benefit of this article) lunchtime meeting in Santa Ynez on Thursday, June 1st. "Our lawsuit challenges the denial of the appeal of the application of taking the 6.9-acre property into a Chumash tribal trust." He explains that both POLO and POSY, as representatives of hundreds of Santa Ynez Valley residents, "have been denied standing, and that is what we are appealing."

"The Bureau of Indian Affairs (BIA) is about eighty-five percent Indian," Doug Herthel adds, "so we never expected to win in that venue." He says the two groups had to exhaust all the administrative approaches before they could file in federal court, which they now have done. They are suing both the Interior Department and the BIA, contending they have the right to be involved in decisions that will affect their way of life for the foreseeable future.

"The bottom line is that it is the community's *right* to be heard," says Kathryn Bowen. "That's what we're fighting for, this community's right to be heard in this process. Right now, we really aren't allowed a voice... The end result [of a successful appeal] will be that community groups will have standing when properties are moved off the tax roles by federal authorities," she says.

The group does not contest the tribe's right to purchase property – the tribe, for example, has recently closed escrow on Federico's in Buellton, and have disclosed plans to turn it into a recruitment and training center. They do, however, fear that once the tribe puts land in a trust, "they can," Doug insists, "turn it into anything they want."

And, they fear that what the tribe may want is another casino; the Chumash are allowed two on their tribal lands.

"Across the country," Doug contends, "the gambling monopoly is destroying communities like ours with their *retail* monopoly. They're the only ones pumping gas, selling groceries, cigarettes, liquor – all with no taxes."

Jon adds too that “purchasing land in a ‘checkerboard’ pattern and turning it into tribal trust has a devastating effect on nearby areas.”

“What they do,” Herthel notes, “is make a deal with Home Depot or Wal-Mart, and those stores will put a store on [tribal] property, and there are no regulations.”

The group insists that the current “government-to-government” negotiations being promoted are “absolutely not the right way to go.” Although, they claim, the perception is that annexation seems inevitable, they don’t believe it is.

A Question Of Crime

There is also, the groups suggests, the question of crime: on the reservation, in and around the casino, and in the surrounding communities.

“You know how [Santa Barbara County Sheriff] **Jim Anderson** says crime is not up?” asks Doug. “In one year (from 2003 to 2004),” he answers, “there was an increase of 26%. Crimes like robbery, up 81%, aggravated assault up 54%, homicide up 75%, forcible rape up 13%, vehicle theft up 133%, larceny and theft up 25%, arson up 29%. Somehow this isn’t getting out,” he says. Kathryn adds that “Crime is a by-product of the casino. It’s not just here, it’s everywhere. It’s a national problem around casinos.”

There is a special distribution fund that says the State of California recognizes there is impact to a community when there is a casino, and mandates the tribes contribute a percentage of their revenue, based on the number of slot machines, to a special distribution fund. The tribe, however, controls the fund and gets to decide who – Sheriff, Fire, Schools – is going to get that money.

“There are two funds the tribe can contribute to,” Cathy Cleary observes. “One for Santa Barbara County and one for the State of California. If the tribe doesn’t have a good relationship with the county, they can have the money go to the state and Santa Barbara County might not see a penny of it,” she claims.

“So the community that is suffering the harm,” adds Kathryn, “has absolutely no way of guaranteeing that its tax dollars – that are having to pay for more fire, more police, along with the impact and harm – there is no way for sure to know that any of those funds will come back. So, the community needs to have a good relationship with the tribe to ensure that money comes back to the community.”

“And, even if we did get the money,” Doug interrupts, “it’s a pittance of what should be paid to cover the cost of extra fire, police, and school. We’re not only **experiencing** the harm, we’re also **subsidizing** them. To give you an idea, you’re talking about six hundred sheriff calls to this place. We’re paying for that. We can’t get the figure, but there may be that many fire calls. And, they average one emergency room visit a day that we subsidize.”

“Besides, how do you mitigate something that belongs in the middle of Las Vegas?” Kathryn continues. “It doesn’t matter if they pay ninety-nine percent of the extra costs. I really don’t want more sheriffs to catch more bad guys. I don’t want more bad guys. We’re mitigating harm and our quality of life decreases. We don’t want to see any more annexation, because they can build another casino and that’s what we’re fighting. Ninety-five percent of this valley wants no more annexation.”

It’s Not Just About Annexation

Kathryn says she doesn’t blame the tribe for taking advantage of current laws. “They’re just doing what the law is allowing them to do,” she notes, adding however, that “The

national landscape is changing.” She says the law is wrong, that “it is majorly flawed,” and that POLO and POSY and other community groups will work to see it changed. “The system is broken and has to be fixed,” says Jon. “And, we’re not alone out there fighting this thing,” he continues. “Communities all around the country are in an uproar over this. Congress **has** to do something.”

“They [may be] just taking advantage of the law,” adds Steve Pappas, “but do you think we’d be at the same point if the tribe said, ‘Gee guys, the community would like to exercise this right... If they came to the community and worked with it, with real, sincere, intentions, we wouldn’t be at this point. This has become based upon the way they’ve handled it.”

Pappas says the county is working on an intergovernmental agreement between it and the tribe, and says he is concerned for two reasons: the negotiations are not public, and perhaps more importantly, such agreements are ultimately not enforceable. “There is an immunity that is granted to the tribe by the federal government,” Steve explains. “And, as we all know, if we go into an agreement and it is breached, if you have no recourse to address the breach, then how good is the agreement? As of three weeks ago, the county was still pursuing this government-to-government agreement, even though County Counsel **Shane Stark** says it is not enforceable.”

The challenge POLO and POSY have is that the BIA and the federal process does not give community groups automatic standing. It does not recognize their right to be heard. “We have to show harm or potential harm in order to be heard,” Pappas says, noting that among those harms his group believe they will be able to show, are loss of property taxes, increased traffic, increased crime, increased prices due to a growing retail monopoly, and land-use abuses.

A Casino On The Gaviota Coast?

Steve fears that although the tribe says it plans to build a cultural center on the 6.9-acre annexation, it could decide a casino was a more appropriate use. After annexation, the community could not contest such a change in plans.

“The thing to remember here,” he says, “is that this annexation isn’t really about the 6.9-acre parcel; it’s the precedent that this annexation will set for future annexations.”

Doug says, for example, the tribe believes its aboriginal lands stretch from Monterey to Malibu and that “anything between there is fair game. If the tribes begin to claim a large part of California as aboriginal territory,” he adds, “it could cloud everyone’s title.” He says too that because of that potential, Governor Schwarzenegger has sided with groups like POLO and POSY.

One of the things the group wants Santa Barbara residents to understand is that their appeal is not just about the valley. Cathy notes, for example, that the coastal Chumash tribe “owns about a hundred acres on the Gaviota coast.” She warns that a small group of those coastal Indians is in the process of attempting to get federal recognition as a separate tribe. “If they do that,” she says, “they can then apply to put their land in trust and they can then have a casino on the Gaviota coast. One of the things we keep saying is that this is not about 6.9 acres. It’s about something that affects all of us across the country. If Santa Barbara wants a casino on the coast, then that is the community’s prerogative, their choice. But, if they don’t, the community ought to have a say.”

Kathryn observes that there are only 153 tribal members (all of which are now millionaires), but there are over 400,000 Santa Barbara County residents. “If the Board of

Supervisors were really representing its constituents,” she says, “they would not have voted 5-0 *not* to appeal the annexation. It doesn’t make any sense.”

“No, it doesn’t make any sense,” Pappas adds. “Especially when, just a month and a half [after the vote], they have another application for a 5.8-acre annexation. The county chimed in and wrote a strong letter against it, and the governor wrote a strong letter against it.

“This always happens in government,” Pappas continues. “What was well intended is transformed into something one can no longer recognize years later. That’s the real crime,” he concludes, “that the federal government has allowed it to evolve to where it actually pits tribes against other tribes and surrounding communities. We’re just the end product of what they’ve done. The federal government is the problem and it’s really the government’s help that the community needs to correct.”

POLO can be reached at: www.polosyv.org

PULL QUOTE:

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– Kathryn Bowen, POLO Representative