

Date: 27 July 1997

To: Aileen K Loe
Senior Environmental Planner
California Department of Transportation

Subject: irregularities in public process for Broadway-Brommer project

Dear Ms Loe,

I am a Santa Cruz resident and a bicycle activist who has been involved in the public debate over the Broadway-Brommer bike/ped project. Recently your letter to Ted Lopez dated 9 May 1997 came to my attention. I would like to apprise you of some further irregularities in the public process. I would appreciate your feedback.

I have been a critic of the draft report by Brady & Associates since it was made public in March of this year. But until I read your letter, I had only an inkling of the depth of their incompetence.

My main objections til now have been (a) the unequal application of project criteria to the alternatives (which you noted); (b) the failure to fully consider the biotic impacts of the A/C/D alternatives which cut thru the greenbelt (which you noted); (c) what I consider to be the "sandbagging" of the B-like alternatives that do not cut thru the greenbelt; and (d) the improper design of all the alignments with respect to turning radii.

But now I feel there have been procedural irregularities even more serious than the technical deficiencies. I feel city staff has deliberately interfered with the public process, and has actively engaged in deceiving the public and the CTC (city transportation commission).

Here is a sketchy timeline.

March 12 -

CTC hearing at which the public savages the Brady & Assoc draft report, and urges that new options be considered.

April 1 -

Letter from the Coastal Commission to Ted Lopez, pointing out major flaws in the draft report.

May 9 -

Letter from Caltrans to Ted Lopez, caustically

Pointing out major flaws in the draft report.

June 11 -

Greenbelt Committee (including three city council members) directs staff to report back on the cost of studying new alternatives.

July 2 -

Letter from DPW to CTC, asking:

``That the City Transportation Commission schedule a public hearing at the September 10, 1997 meeting to accept the environmental work as completed for CEQA and to select a preferred alternative for the Broadway-Brommer Street Bicycle/ Pedestrian Path Connection Project."

What's wrong with this picture? several things.

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(*) Deceiving the CTC.

As you are probably aware, the CTC meets every month, and every month since March the commissioners have questioned city staff about "Why is Caltrans holding up the report". The answer has always been a vague mumbling about "formatting changes".

Certainly there was no hint of the seriousness of your objections.

As a member of the public, I received the impression that staff was still *waiting* for Caltrans to provide their written objections.

Your letter of May 9 was not made public until approximately

July 16, and then only due to the intervention of City Council member Celia Scott.

In particular, note that on July 9, the date of this month's CTC meeting, neither your letter nor the April 1 letter from the Coastal Commission had been made public. Thus city staff knew about of your objections, but the public did not. Yet they had placed on the July agenda an item asking the CTC to schedule their decision for the next available opportunity. (Which is September, because the CTC does not meet in the month of August.)

I could hardly believe this. Staff knew that both Caltrans and the Coastal Commission had serious objections, yet they went ahead and asked the CTC to "approve the environmental work as complete for CEQA", *without even informing the CTC of those objections*.

(*) Interference with the public process.

Had the staff recommendation been approved, it would have resulted in a serious shunting of the public input process. As you may be aware, a coalition of citizens, bicyclists and environmentalists, being dissatisfied with all the alternatives in the draft report, had proposed a new alternative alignment designed by Don Speck, a member of the public. We have been actively lobbying for its inclusion in the draft study. You can see some of Don's documents, representing a fraction of the work that was done, at <http://www.scruznet.com/~paul/BB/>

Had the staff recommendation been approved, of course our

new proposal could not have been included.

The staff rec was also an attempt to second-guess the City Council.

Note that on June 11, the Greenbelt Committee had already directed city staff to report back on the cost of adding our proposal to the draft study. They were directed to report back at the next Greenbelt Committee meeting, on July 23. Thus on July 2, city staff was asking the CTC to obviate the result of a pending decision by the Greenbelt Committee.

Now, the Greenbelt Committee is no ordinary city advisory body. It consists of three sitting City Council members, almost half of our top executive body. The decision of the Greenbelt Committee is bellwether of the Council as a whole, who will make the final decision on the Broadway-Brommer project. This it seems to me that the DPW request on July 2 --- asking the CTC to foreclose an option that the Greenbelt Committee was actively considering --- was highly irregular.

Without knowing of your letter, several members of the public pointed out that city staff seemed to be acting with undue haste. A member of the CTC asked them if there was any need for it. Ron Marquez replied "No, there are no deadlines to worry about, but we feel it's just time to get moving."

(*) Procedural blunders in the public process.

As you pointed out in your general comment #1, the draft study has many problems which should have been fixed before it was released to the public in the first place. Yet the DPW was essentially trying *terminate* public comment on it *before* we could even see a proper copy of the study!

In light of the Coastal Commission's comments, pointing out other major procedural blunders, it is even more shocking to have DPW asking the CTC to move forward.

They claimed that it was not improper because "the public could still 'comment', even after the CTC had made their selection". I admit I am not a legal expert, but it seems to me that this attitude is at least inconsistent with the spirit of CEQA and NEPA. Public input is not an idealistic nicety, it is a necessary safeguard against abuse.

I would like to know, when *is* the public supposed to be able to

suggest new alternatives? Before the draft study was made public,

we couldn't very well suggest them because we didn't know what

was already being studied. After it was made public, we are suddenly being told it is "too late".

We were given a bad menu from the start. There has got to be a way

to add more options. Otherwise we are faced with the choice between

a bad option and no-build. In my opinion, that is the dilemma that

staff have been trying to create. When a CTC member asked about

the unknown mitigations that might be needed by their preference

(alternative D-3), they advocated just approving it now and then

adding whatever mitigations as the need arises. But the mitigations

will dramatically alter the comparative advantages of the alternatives.

How can we decide upon the best alternative without knowing more

about the mitigations that will be required? Essentially staff

was

asking the CTC to buy a pig in a poke.

(*) False statements by city staff.

The DPW request (letter dated July 2) was on the CTC agenda on

July 9. Naturally, staff had to provide some justification for their

rec. The linchpin of their argument was that "Alternative D-3 meets

all five objectives originally stated by the City Council". They

made this assertion repeatedly throughout their presentation.

Yet if you look at Table 4 (page 32) of the report, you will see that *none* of the study alternatives satisfies all five objectives.

Now, in my opinion the five "objectives" are subjective enough that

there is a lot of room for interpretation. One could argue just about anything based on those criteria. Yet the very report for which staff was asking approval, directly contradicts staff's

assertion that D-3 met all the objectives. According to the chart,

D-3 is deficient in the area of "environmental impact", a serious

deficiency in my opinion.

Ted Lopez and Ron Marquez argued that "we have a feasible solution,

so there is no need to waste time considering any others". As I

said above, their premise is false. But I also object to their

fallacious reasoning that says a "feasible" solution is the endpoint

of the debate, and ignores the possibility of a *better* solution,

one that achieves the *lowest possible* environmental impact.

The draft study itself admits that none of the current study alternatives satisfies all five objectives. How, then, can city staff

justify ignoring a new idea which might well succeed in satisfying

them all? and which has broad public support. From what I've seen

at the public hearings, I feel that our new proposal has much more

public support than any of the official options.

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Here are the subsequent developments.

July 9 -

The CTC voted against the DPW's recommendation. They voted

instead to schedule their decision for October, and to ask

City Council for direction regarding whether new alternatives

should be studied.

July 23 -

The Greenbelt Committee voted not to ask city staff to

add our new proposal to the study. Needless to say, our

proposal faced a wall of opposition from DPW. Some of the

reasons they gave were based on false claims --- such as the

need to remove parking on Frederick St, when our proposed

alignment does not even use Frederick St. Some of the reasons

were reminiscent of your specific comment #9 --- selective

application of criteria in order to eliminate one option,
while ignoring the fact that the same criteria would equally
imply the elimination of other options that were not in fact
eliminated.

In conclusion, it is not my intention to vilify anyone. But I am
not

going to lie: I feel city staff have acted improperly. I'm signing

my name to these statements. These events occurred in public
and

were witnessed by many. I invite anyone else who was there to
dispute

my facts or my interpretation.

We are faced with a serious decision which will affect bicyclists
for

generations hence. It could result in an endangered species
going

extinct. I think it also has important symbolic dimensions. This
is

one project where public involvement should not be slighted. I
feel

the public process has gone seriously awry, and I hope Caltrans
will

be able to help put it back on track.

Sincerely,

Don Fong

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|Online resources:

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|Paul Franklin's Broadway-Brommer page

| <http://www.scruznet.com/~paul/BB/>

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|Archive of santa-cruz-bikes mailing list

| <http://www.dfong.com/bikes/>

|see year 1997, months 3-7 for email discussions of this

|project among bike activists. Actually, this is far too

|voluminous for you to bother with, but I used it as the

|basis for my timeline.
