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By: David Reyburn  
To: Sedona City Council  
Date: September 28, 2015  
Re: Comments for the PUBLIC RECORD, for inclusion in the Sedona Council Packet for October 13, 2015

A. TERMS

1. David Reyburn (“I”, “Me”, “My”)
2. City of Sedona (“City”)
3. Sedona City Council (“Council”, “City Council”)
4. Member of Sedona City Council (“Member”, “Council Member”, “Councilor”)
5. Sedona City Mayor, Sandy Moriarty (“Mayor”)
6. Sedona City Manager, Justin Clifton (“Manager”, “City Manager”)
7. Sedona City Attorney, Robert Pickels (“Attorney”, “City Attorney”)
8. Sedona City Manager AND Sedona City Staff (“Staff”, “City Staff”)
9. Sedona City Council Packet (“Packet”, “Council Packet”)
10. Sedona City Council Action Minutes (“Minutes”)
11. Keep Sedona Beautiful (“KSB”)
  - a. A local, non-profit, 501(c)(3), “environmental” organization.
12. The Sedona Verde Valley Red Rock National Monument (“Monument”, “National Monument”)
13. The Antiquities Act of 1906 (“Act”, “The Act”)
14. The Keep Sedona Beautiful (KSB) National Monument Proposal (“Proposal”)
  - a. A list of 31 “recommendations” that KSB has written and intends to SUBMIT to the Administration, sometime in November 2015, ADVOCATING for the designation of 160,000 acres, in and around the City, to be proclaimed a NATIONAL MONUMENT, by President Obama.
15. Residents and Citizens of the United States of America (“People”, “Governed”, “Citizens”)
16. The State of Arizona (“State”)
17. United States Constitution (“Constitution”)
18. United States Federal Government: President AND Congress, in Washington D.C. (“Federal”)
19. United States Congress: House of Representatives AND Senate (“Congress”)
20. Office of the United States President, Barack Obama, in the White House (“Administration”)
21. Proclamation, by the President of the United States, of a National Monument (“Proclamation”)

B. CONTEXT

1. My name is David Reyburn, I live in Oak Creek Canyon, Sedona, 86336. I live OUTSIDE the City limits yet INSIDE the boundaries of the Proposal.
2. I am NOT AN ATTORNEY, but I am entering this document into the PUBLIC RECORD, for inclusion in the Packet for the Council meeting on October 13, 2015, as a DETAILED source of INFORMATION.
3. MY COMMENTS are the result of my research and my beliefs that are based on my logical conclusions.
4. To the best of my ability, I’ve attempted to be OBJECTIVE AND ACCURATE in what I’m presenting.
5. In QUOTATIONS, I may have ADDED parenthetical comments and/or emphasis to the original.
6. MY INTENT is for this document to be put into the PUBLIC RECORD, with detailed FACTS and ISSUES, so that it might be used for any LEGAL ACTION, IF it is determined that willful, illegal, and/or unconstitutional activity has, IN FACT, occurred.

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7. I believe that illegal activity MAY have occurred during the process of KSB ADVOCATING its Proposal, getting SUPPORT of Council, and SUBMISSION of its Proposal to the Administration.
  8. I believe that my constitutionally guaranteed CIVIL RIGHTS have been repeatedly VIOLATED, and that my future FREEDOM is threatened by any ACTION Council takes to SUPPORT the Proposal.
  9. I believe that the CIVIL RIGHTS and freedom of ALL RESIDENTS in the area affected by the Proposal WILL be violated by an ACTION of Council, since it FAR exceeds Council's legal RANGE of authority, WITHOUT first obtaining the CONSENT of the Governed.
  10. I believe that KSB has violated its NON-PROFIT STATUS by aggressively promoting its Proposal, in a way that exceeds the restrictions on LOBBYING that are CONDITIONS of its 501(c)(3) status.
  11. I believe that the City and its Council have EXCEEDED their legal authority by violating the RIGHTS of ALL People WITHIN the boundaries (Amendment 12 boundaries, of 160,000 acres) of the Proposal.
    - a. The City has NO jurisdictional authority to pass judgement on property OUTSIDE City boundaries.
    - b. Councilors have NO justification to take their ELECTION to be a mandate for their SUPPORT of relinquishing private property WITHIN City limits, over to CONTROL by Federal regulations.
    - c. If the City is WITHIN the boundaries of the Monument, then Citizens lose their constitutional rights.
  12. I believe the Administration does not have Constitutional authority, under the Act, to seize People's land.
  13. City Council will have, as an AGENDA item, an opportunity to VOTE IN SUPPORT of the Proposal, at the Council meeting of October 13, 2015. I REQUEST that Council VOTE AGAINST the Proposal.

#### C. HISTORY

1. November 25, 2014
  - a. NEW Council Members, who are NOW Councilors, take their OATH OF OFFICE.
  - b. "I, \_\_\_\_\_, do solemnly swear, or affirm, that I will support the CONSTITUTION of the United States, and the Constitution and laws of the State of Arizona, that I will bear TRUE FAITH and allegiance to the same, and defend them against all enemies, foreign and domestic, and that I will faithfully and IMPARTIALLY discharge the duties of the office of (Mayor/Councilor) according to the best of my ability, so help me God, or so I do affirm." (11/25/2014 Council, from video)
2. December 5, 2014
  - a. NSA designation renamed to Scenic Area Protection.
  - b. "NSA designation – Ernie Strauch, Sedona, advised that KSB is moving forward with a scenic area protection committee to examine ideas. This item will remain as a Council priority and be RENAMED SCENIC AREA PROTECTION." (12/5/2014 Council Minutes )
3. January 2015
  - a. Council's 2015 PRIORITY SETTING meeting.
  - b. "During the 2015 Council priority setting process, the Council identified SCENIC AREA PROTECTION as a priority. This included supporting the efforts of Keep Sedona Beautiful (KSB) to pursue VARIOUS OPTIONS for national scenic area protection. (9/22/2015 Packet, page 163)
4. January 27, 2015
  - a. Councilor LeFevre and KSB
  - b. "She (Councilor LeFevre) also went to a Keep Sedona Beautiful board meeting, and they are very happy to have a Council liaison serving. They are pursuing signage in the City indicating the Dark-Sky designation. She is working with KSB on a Keep Sedona Clean program. KSB is pursuing some form of scenic protection for the area." (1/27/2015 Council Minutes)

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5. June 10, 2015
    - a. KSB's presentation, by Tom O'Halloran, of KSB's SOLE Proposal for environmental protection.
    - b. "KSB came back to (City) Council on June 10, 2015 recommending the creation of a National Monument and presented a draft resolution supporting the same. Council provided DIRECTION to KSB to engage in PUBLIC OUTREACH and come back to Council with an update. STAFF WAS DIRECTED TO ASSIST KSB IN DEVELOPING A THOROUGH PUBLIC OUTREACH PLAN and to conduct preliminary research on the pros and cons of national monuments." (9/22/2015 Packet, page 163).
  6. July 15, 2015
    - a. KSB's presentation, by Tom O'Halloran, of its SOLE Proposal for environmental protection.
  7. September 8, 2015
    - a. Councilor LeFevre publically announces she will NOT be attending the 9/22/2015 Council meeting.
    - b. "I just wanted to give my APOLOGIES, for NOT being able to be at the next meeting, at the Council on the 22<sup>nd</sup>, when discussing about national monuments and designation. And, I'm going to try and listen in from Italy, because that is where I'm going to be. And we'll see how that goes. ... But, anyway, it'll be like midnight, or 2:00 in the morning, so something, I don't know. But, I, obviously, you know, would like to listen in, so, if I can, I will. But, I just wanted to give my apologies, because I WAS INSTRUMENTAL in getting it ON the agenda, in the first place." (Councilor LEFEVRE, transcription of 9/8/2015 Council video, item 8c, at 10:53 in video clip)
    - c. "Are you (LeFevre) going to be GONE TOMORROW, as well? (LeFevre answers 'yes') Yea, right, THAT'S WHAT I THOUGHT. So, we'll be ... you'll be excused for that one too." (Mayor MORIARTY, transcription of 9/8/2015 Council video, item 8c, at 11:45 in video clip)
    - d. Therefore, AT the 9/8/2015 Council meeting, Mayor Moriarty PERSONALLY knew that Councilor LeFever would NOT be at the 9/22/2015 meeting. The 9/22/2015 agenda had NOT been published.
  8. September 16, 2015
    - a. My hour-long appointment with the City Manager, Justin Clifton.
  9. September 22, 2015
    - a. Possible VOTE to support Proposal, with presentations, with Member Angela LeFevre ABSENT.
    - b. No vote was taken, DESPITE large attendance by the Public, SO THAT Angela LeFevre could vote.
    - c. "I, actually, am interested in not only SLOWING the whole thing (Proposal) down, but I do think it's not really fair that one of our Council members (LeFevre) is not here, and to make a decision this major, without her. Especially, since SHE WAS ONE OF THE MAJOR PROPONENTS OF THE ISSUE. I just don't feel right about doing anything, when she's not here. Nor would I like to have a MAJOR DISCUSSION without her. So, in the interest of that I would like ... and, we had a REQUEST also, actually, FROM KSB, TO TABLE at this time, as you heard from Carolyn." (Mayor MORIARTY, transcription of 9/22/2015 Council video, item 8b, at 85:30 in 2/2 video clip)
    - d. "That being said, I'll be honest with you, I am very disappointed that we're (Council) not going to make a decision here tonight, one way or the other. I mean, I think WE KNEW that Councilor LeFever was NOT going to be here, that WE SHOULD HAVE POSTPONED THIS. Because all these people showed up, with a lot of energy, a lot of work, and to present their ideas and thoughts. To postpone it, are we going to go through this whole thing again, spending three hours on the same thing? I think it's a waste of time. ... I PREFER THAT WE MAKE THE VOTE RIGHT NOW. Obviously, I THINK I'M OUTVOTED in that. But if we are going to do that, then I think we should also put the RESOLUTION in there AGAINST ... you've got one "for" and you've got one "against", that we will NOT support anything to that effect. Anyway, I'm disappointed in ourselves, that we're not going to make the decision tonight." (Councilor MARTINEZ, transcription of 9/22/2015 Council video, item 8b, at 92:17 in 2/2 video clip)

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- e. “ ... And the reason I say that is that we had this ON THE AGENDA FOR A LONG TIME, and WE DIDN’T FIND OUT she was going to be gone UNTIL WAY AFTER it was put on the agenda. And so, this is JUST THE WAY IT WAS PLANNED, THAT’S THE WAY IT IS. I, it has nothing to say about my position, because my position has not changed. And I still feel the same way, MY QUESTIONS are not all answered. Frankly, I don’t know when they will be. ... So, yeah, I just don’t have all my questions answered and I don’t think I will anytime soon, very frankly. So, I would rather not vote at all, on anything. But, I understand that “you” want us to. I just don’t have my questions answered. I’m not in a position that I want to vote. Sorry. THAT’S THE WAY IT IS. So, is there a motion to table?” (Mayor MORIARTY, transcription of 9/22/2015 Council video, item 8b, at 93:45 in 2/2 video clip)
  - f. CORRECTION of Mayor’s comments that “we had this ON THE AGENDA for a long time”. I was AT the 9/8/2015 Council meeting, at which Councilor LeFever publically announced, at the Council table, that, specifically, she would NOT be able to attend the 9/22/2015. AT THAT TIME, the MAYOR KNEW of this, AND the 9/22/2015 agenda would NOT have yet been PUBLISHED.
  - g. THEREFORE, if the Mayor was SO INSISTENT, at that time, to have Councilor LeFevre vote, she should have REMOVED the KSB Proposal as an agenda item from the 9/22/2015 Council meeting.

10. September 23, 2015

- a. Council’s priority clarification process.
- b. Myself, and two others, turned in request cards to SPEAK at the 9/23/2015 Council meeting. I was told by Joanne Cook, Deputy City Clerk, that the MAYOR had decided that WE COULD NOT SPEAK ON THE AGENDA ITEM 3B, despite there being clear INSTRUCTIONS on the City’s 9/23/2015 agenda, as to the “Guidelines For Public Comment”. NONE of us spoke at that meeting.

11. October 13, 2015

- a. Possible VOTE to support Proposal, presentations (?), with Member Angela LeFevre PRESENT.

D. EXPERIENCE, RESEARCH, AND OPINION

1. NO national monument has EVER included an entire city or municipality WITHIN its boundaries.
2. I believe there will be a reduction or loss of People’s CIVIL RIGHTS, as a result of the ADVOCACY by KSB, the SUPPORT by Council, and a PROCLAMATION by the Administration.
3. THE ACT is alleged to be the “LEGAL” BASIS for a proclamation by the Administration, HOWEVER, there has been NO EFFORT BY KSB to adhere to the LIMITATIONS contained within the Act:
  - a. There has been NO INVENTORY of the OBJECTS of antiquity that KSB alleges it wants to protect.
  - b. With NO inventory, there can be no plan for HOW to preserve the OBJECTS of antiquity.
  - c. With NO inventory, a MINIMAL amount of land, for protection of antiquities, can’t be determined.
4. The REAL MOTIVATION for the Proposal being selected as the ONLY alternative to attain the ORIGINAL GOAL, preservation of scenic area, is POLITICAL in nature, not ENVIRONMENTAL.
  - a. Requires ONLY Administration Proclamation, NOT involving Congress, NO public input process.
    - 1) The reason that the Monument was KSB’s ONLY “environmental” alternative, is that it was the ONLY option that didn’t require congressional approval, ONLY requiring an Administration Proclamation. (according to the City Manager, during my appointment on 9/16/2015)
  - b. The Monument LOCKS IN Federal land, so that Congress would NOT turn it over to State control.
    - 1) “Most of the (congressional) bills introduced to CONVERT federal lands to the states EXCLUDE National Parks and National Monuments. IF this type of (congressional) bill were to pass and become law, and IF this 160,000 acres were a National Monument, it would be EXCLUDED from the POOL of lands that COULD be converted into state hands.” (9/22/2015 Packet, page 175; from a 9/14/2015 letter by Norris Peterson, V.P. of KSB)

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- 2) KSB is IRRATIONALLY OPPOSED to a possible FUTURE TRANSFER of Federal lands to State control, in which it is feared that the State will SELL those state lands to private citizens. (see 9/22/2015 Packet, page 175, of a 9/14/2015 letter by Norris Peterson, V.P. of KSB)
  5. The Monument designation will severely LIMIT and/or eliminate People's right to LOCAL CONTROL and PUBLIC PARTICIPATION in the legal process.
    - a. "From what STAFF has found, however, once a monument proposal is SUBMITTED to the President and any public input is received, there is NO OTHER FORMAL WAY in which local stake holds (sic) are assured of ANY PARTICIPATION." (City Manager's Memo, 9/22/2015 Packet, page 168)
    - b. BOB THORPE, State Representative for District #6, described the Proclamation PROCESS in Washington D.C., where a Proclamation is written by a Federal staff member, who DETERMINES the final WORDING of the Proclamation, in a "BLACK BOX" process, then, immediately after, it's proclaimed, with NO public debate. (Bob Thorpe speaking at a public meeting, on 9/21/2015)
  6. I'M CONCERNED that Citizens and residents within the Monument boundaries will become "WARDS OF THE STATE" (WARD: "a person deemed LEGALLY INCOMPETENT"), subject to all the REGULATIONS of the Monument, LOSING our inalienable RIGHT of LOCAL CONTROL.
  7. There has NOT been a THOROUGH PUBLIC OUTREACH PLAN for the KSB Proposal
    - a. The City Manager ADMITTED that KSB has NOT done a thorough public outreach, saying that IF HE would have done the public outreach, that it would include: (from my conversation with the City Manager, on 9/16/2015)
      - 1) Develop a PROCESS that would take a COUPLE OF YEARS.
      - 2) Engage ALL major stakeholders, including non-traditional partners (ranchers, businesses, etc.)
      - 3) Start with the PROBLEM (environmental protection)
      - 4) Offer different ALTERNATIVES, and NOT start with a SOLUTION (Monument designation)
    - b. City Staff, including the City Manager, were DIRECTED by Council, on 6/10/2015, to "ASSIST KSB in developing a thorough public outreach plan ..." (9/22/2015 Packet, page 163)
    - c. The PROBLEM is that this ASSISTANCE to KSB was NOT DONE, for whatever reason.
    - d. KSB has totally FAILED in its PUBLIC OUTREACH TO MAJOR STAKEHOLDERS.
      - 1) Yavapai County and Coconino COUNTY officials were NOT formally notified of the Proposal.
      - 2) CITY Councils of Cottonwood and Clarkdale were NOT formally involved.
      - 3) NON-TRADITIONAL PARTNERS (ranchers, businesses, etc.) were NOT formally involved.
      - 4) KSB had COMPUTER PROBLEMS such that public comments/questions entered on its website were DELETED, so that as of 9/10/2015 there were NO COMMENTS on the website.
      - 5) On KSB's WEBSITE, when a "comments" button was "clicked", the visitor was automatically COUNTED as having SUPPORTED the KSB Proposal, to the shock/surprise/fury of some visitors. (from comments and discussion at a 9/10/2015 KSB meeting)
      - 6) In an INFORMAL OPINION POLL, conducted on RedRockNews.com, responses to the question, "Should Sedona become a National Monument?" were 80% NO, and only 16% YES.
      - 7) "Perhaps the most significant change since the last meeting has been the emergence of a more vocal and organized opposition to a monument." (City Manager, 9/22/2015 Packet, page 167)
      - 8) KSB has FAILED to form a COALITION of support from OTHER local environmental groups.
  8. Despite the LACK of public outreach to major stakeholders:
    - a. KSB still has scheduled NOTIFICATION of Federal Agencies of their "informal" Proposal to occur in November 2015. (Realtors' Meeting, 9/21/2015)
    - b. Even an "informal" submission by KSB to the Administration, would "set the wheels in motion".

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- c. KSB, in my opinion, is seeking Council support as a means of IMPLYING a broad public support for KSB's Proposal, yet requesting support from ONLY SEVEN Council Members, AFTER KSB totally FAILED in its PUBLIC OUTREACH TO MAJOR STAKEHOLDERS. This is LAZY!

E. WHEREAS

1. PUBLIC INPUT on agenda item 8b, at the 9/23/2015 Council meeting, was DENIED by the Mayor for myself and two other members of the Public;
2. PUBLIC INPUT was unnecessarily REDUCED from the normal THREE minutes, to TWO minutes, at the 9/22/2015 Council meeting, for Agenda item 8b;
3. The VAST MAJORITY of the 160,000 acres affected by the Proposal are OUTSIDE the City limits, and therefore OUTSIDE Council's LEGAL JURISDICTION;
4. IF Council Members, who are also KSB members, fail to RECUSE themselves from voting on the KSB Proposal, they'll have a CONFLICT OF INTEREST, reflecting their LACK OF IMPARTIALITY;
5. The City, City Council, and KSB have FAILED to conduct a THOROUGH PUBLIC OUTREACH TO MAJOR STAKEHOLDERS, and have therefore NOT received the "consent of the Governed";
6. KSB has been the SOLE creator, advocate, data collector, decision-maker, and submitter of the Proposal;
7. The Act itself is unconstitutional, by giving the Administration the authority to ACQUIRE property, without DUE PROCESS of law, EXCEEDING the separation of powers enumerated in the Constitution;
8. The FAST PACE of the Monument approval process, threatens IRREVOKABLE HARM to the People;
9. The motivation for KSB selecting ONLY the Proposal was POLITICAL, not ENVIRONMENTAL;
10. There is a justifiable FEAR that Council will VOTE, on 10/13/2015, to SUPPORT the KSP Proposal.

F. THEREFORE

1. The Mayor has been unnecessarily RESTRICTIVE in following NORMAL public comment procedures;
2. Council Members are acting OUTSIDE their legal, representative authority, NOT conferred by election;
3. The City and City Council have NO LEGAL RIGHT to unilaterally PREJUDICE a public policy issue that AFFECTS LANDS OUTSIDE the City's jurisdictional boundaries;
4. Council does not have LEGAL authority to GIVE AWAY the land and rights of Citizens of the City;
5. KSB has engaged in aggressive LOBBYING, which is a violation of its RESTRICTIONS as a 501(c)(3);
6. Council Members, who are KSB members, must RECUSE themselves from voting on the KSB Proposal, otherwise they violate their OATH OF OFFICE, to IMPARTIALLY discharge their duties.
7. I REQUEST A LEGAL OPINION from the CITY ATTORNEY, to be entered into the Public Record, about the CONCERNS I have raised in this document.
8. For ALL these reasons, I REQUEST that this Council VOTE AGAINST supporting KSB's Proposal.