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Oral Comments for Hearing on I-40

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Glancing through Secretary Coleman's "Statement of National Transportation Policy," I was pleased to note his directive that more women be taken into the decision-making process. You know, if that advice had been heeded 20 years ago, we might not be here today!

My interest in this case goes far beyond preserving the park, for I am not a litigant--merely a longtime Memphian who doesn't have to be told to "believe in Memphis." My interest is in protecting the rights of all Memphians--specifically, the right of the people to know the facts about all important controversies, but especially those which affect the environment in which we work and play, and because of which we survive or perish. I am concerned with keeping alive not merely our finest urban park, but also those institutions upon which our city's political health is based. One of those institutions is the free press, whose duty it is to keep the electorate informed about all matters which in any way affect them.

It was the misinformation about the I-40 project foisted on the people of Memphis over an extended period which spurred my interest in the controversy. Too long our media forgot that the purpose of those First Amendment protections they enjoy are not only a right granted them by the people, but entail a responsibility to keep that sovereign people informed concerning the actions of their governors. For that historical intent of the First Amendment, I cite Justice Black in the Pentagon Papers Case.

But one of the most heartening facts of the past few months has been the change for the better in our local media's handling of this important controversy. Though much is still to be desired for balanced coverage, December 7, 1975 can be pinpointed as the date when a change became evident.

Needless to say, a few months cannot undo the biased news accounts of years duration, containing not merely one-sided editorial opinions, but distortions of fact, reaching one of many low points on Dec. 19, 1974, when a highly subjective news item--not an editorial, mind you!--stated, and I quote, Secretary "Volpe so confused the record [in 1973] that additional litigation and delays resulted." Quite to the contrary, the Appeals Court decision of some 8 months previous states: "We find that the Secretary properly construed his authority," and in a later paragraph, ". . . the Secretary's explanation of his action is not so vague as to frustrate judicial review. . . ." In short, from the Court's viewpoint the record was clear.

May I remind you that the appellants in that case were the Citizens to Preserve Overton Park and Secretary Brinegar (on one side), versus the appellee, the Tennessee Department of Transportation [called Highway Dept. for consistency with earlier briefs], on the other. On appeal was the decision of the lower court that Sect. Brinegar rather than the State was to designate an alternate route. "Not so," ruled the Sixth Circuit Court. That responsibility is the state's.

Thus, this current draft Environmental Impact Statement offers now the State's proposed alternatives. Most of it, I have now read. But I was surprised--upon first glancing through the document some weeks ago--to discover offered there as one alternative to the park route the so-called "Do Nothing" alternative, with little mention of even the term "No Build," and no discussion at all devoted to this bona fide alternate! After all, "Do Nothing" is what Memphis has had for years, isn't it? We can look around us and see the results of that!

Shortly after the EIS appeared, however, a local television commentary carried an apt summation of the situation--albeit inadvertently--in these words: "The so-called 'Do Nothing' alternative is really no alternative at all." Precisely. I agree!

I'm grateful to the station for reading parts of my own subsequent commentary, though the context was somewhat altered. But let me give here a few excerpts: "You have nailed the root of the problem when you state that 'the so-called do-nothing alternative is no alternative at all.' That is literally true! The legal term for the one remaining alternate to a tunnel under the park . . . is 'no build.' And the No-Build alternative involves several positive actions." Close quote. The source of those recommended positive actions is primarily Secretary Volpe's cover letter of January 1973, and secondarily, Secretary Brinegar's brief to the Appeals Court of October 1973. This brief cites Assistant Secretary Hirton's statement to Secretary Volpe, that "It would appear I-240 could be designated as I-240/I-40 and satisfactorily serve the Memphis area in combination with public transportation and arterial improvements." Those last 10 words are underlined in the brief.

Since that time, AAA has so designated I-240 South, and Memphis does not appear on AAA maps as a gap in I-40. Therefore, there is already an alternative route to I-40 through Overton Park.

Back now to my two chief criticisms of the current EIS. First, use of the term "Do Nothing," which precisely describes the policy Memphis now has, but is not a bona fide alternative. That term is No-Build. And secondly, its failure to take more than token notice of the use of mass transit as an important part of the solution to Memphis' traffic ills. Pages 54 and 55 of Chapter 4 of this document evidence the fact that Memphis' use of transit was still going down in 1973 and '74, though transit usage in the rest of the nation had taken a sharp upturn. I interpret these statistics quite differently from the authors of the report. For it seems clear to me, that with many persons already economically strapped by the '73 recession and trying to depend on bus service instead of on increasingly expensive private cars, it really took abominable transit service to keep so many potential riders off the buses! And we had it!

Fortunately, under new City Council leadership, transit in Memphis at last seems destined for a sharp turnaround in the foreseeable future.

From these facts, then, two conclusions may be drawn:

1. To serve Interstate and Defense purposes, the I-240 has already been designated I-240/I-40. Thus, a "prudent and feasible" alternative to the use of parkland already exists and is operative.

2. For local transportation purposes, the "NO-BUILD" alternative, combining various positive actions suggested by Secretaries Volpe and Brinegar including completion of I-240, upgrading of traffic-handling techniques, and implementation of a viable mass transit system--NO-BUILD remains the only environmentally, sociologically, economically, and legally sound way to go.

I rest my case.

Respectfully submitted,

(The following introductory material was added:)

I am Irma O. Sternberg. The "O" is for Ottenheimer, my grandfather's name, which appeared over a downtown store before the Civil War. My father also was a downtown executive for about 50 years. I hadn't planned to say that, but today, it somehow seems relevant!

As I recall, someone speaking for the defendants had accused the plaintiffs (Citizens to Preserve O.R. et al.) of being out-of-towners impeding progress. Sara Nail Hines' Grandfather had been a Mayor of South Memphis.

JES 5/7/2000