

**LOCAL ISSUES**

# **Arena Rush: The Oak View Group's Hurry to Get Construction Started on Its 10,000-Seat Facility Has Rankled Palm Desert City Officials—and Led to a Lawsuit**



by **Kevin Fitzgerald**  
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The Supporters Alliance for Environmental Responsibility (SAFER) provided the Independent with this photo of grading machinery on the land being leased by the Oak View Group for the construction of a new 10,000 seat arena.

The Coachella Valley has been teased with the promise of a new, 10,000-seat arena since June 2019, when the Oak View Group announced it would be partnering with the Agua Caliente Band of Cahuilla Indians to build the sports and entertainment venue in downtown Palm Springs.

However, the pandemic changed those plans. The partnership with Agua Caliente dissolved, and the Oak View Group announced last September that the arena would instead be built just north of the Palm Desert city line near the intersection of Cook Street and Varner Road, right next to the Interstate 10 freeway, on land owned by the H.N. and Frances C. Berger Foundation.

Ever since that September 2020 announcement, the Oak View Group has waged an intense public-relations campaign in hopes of winning over support for the project. However, some stakeholders have alleged that the

Oak View Group is trying to ignore some safeguards built into the approval process by the state of California and Riverside County—and that claim is the subject of a lawsuit by the Supporters Alliance for Environmental Responsibility (SAFER), a nonprofit organization headquartered in El Monte.

SAFER's legal affairs are handled by Oakland-based Lozeau Drury LLP, which is "a boutique environmental law firm representing nonprofit environmental and recreational groups, labor organizations, neighborhood associations, and Indian tribes," according to the law firm's website. Brian Flynn is an associate attorney at the firm who is representing SAFER. During a recent interview, he said that the lawsuit was filed after SAFER received a tip and photographs from a Coachella Valley member.

"We found out that on April 15, the county issued mass grading permits for this arena site, and (workers have) commenced grading activity," said Flynn. "That came as a surprise to us, because the project has not been approved, and an environmental review hasn't been completed yet. So we actually submitted a lawsuit on Wednesday, April 28 ... alleging that the county has violated (the California Environmental Quality Act) and violated Riverside County code by issuing a grading permit prior to the approval of the project."

Flynn continued: "There is a Riverside County Planning Commission meeting scheduled on May 5 to (take up) this project again. We are going to be seeking a temporary restraining order to enjoin (the county and OVG) from further grading activity until resolution of the lawsuit and the completion of this project (approval) process. So, there's the planning commission, but on top of that, the Board of Supervisors has final approval over every element of the project, so the injunction would remain in effect until after the board's approval.

"I find it interesting, too, that there was a Planning Commission hearing on April 21, and there was no mention that this grading permit had been issued on April 15. We only found out around April 22 or 23 that equipment was moving on site."

The Oak View Group hopes to break ground in earnest on the arena project this month, despite unresolved concerns expressed by an assortment of Palm Desert administrators, activists and concerned residents who live in the vicinity of the proposed arena. The concerns involve potential increases in public-safety service demands associated with arena operations, increased traffic, overflow attendee parking and environmental problems.

Palm Desert Mayor Kathleen Kelly said the city is simply trying to make sure its concerns are addressed.

“I sincerely believe that all of these issues can be solved,” Kelly said. “Under other circumstances, these are the kinds of issues that get solved routinely with development proposals. So, I guess if (the Oak View Group) is not willing to do their part in solving them, that tells us something, too. But if they’re as committed to this project and as eager to do this project as they present themselves, then, absolutely, there’s no reason not to solve these issues.”

The *Independent* requested an interview with John Bolton, a senior vice president with the Oak View Group who is slated to become the general manager of the new arena. He declined, and said he’d only answer questions via Sam Threadgill, of Scoop Marketing in Los Angeles. We asked Bolton what “real-world” time pressures or constraints were challenging OVG’s development efforts, and he replied, simply, “Riverside County has added four weeks to the required review period.”

We asked Palm Desert City Manager Todd Hileman if he felt that OVG, Riverside County planning officials and county supervisors were committed to finding solutions to the city’s concerns.

“What I would say is that the county planning staff is having ongoing meetings with (the OVG team) and is trying to get them to answer these questions. There has not been direct contact (between OVG and the Palm Desert administration), other than OVG’s continuing efforts to try to drum up support for the project,” Hileman said. “That support is there if our questions get answered. I mean, it’s really sort of interesting.”



***To a person, every stakeholder interviewed for this story said they thought the project could be good for Coachella Valley in the long run—but only if the Oak View Group acts as a concerned and collaborative neighbor.***

Hileman elaborated on Palm Desert's concerns.

“Palm Desert, or the public, did not receive any detailed information until March 22, which was about two weeks before the first public hearing got under way. That’s when we received the packet of information with all the types of questions that you typically see in a CEQA analysis,” Hileman said. “There are a couple of significant concerns: Our Riverside County Sheriff’s Department representative has anticipated the need that, once the stadium went in, he would require at least three more full-time positions dealing with traffic, collisions and enforcement—that sort of thing. At the cost of at least \$300,000 to \$400,000 per employee, that’s a significant concern. So we’ve been probing (the developers about) the plans for traffic management and collision management, because that would have a direct impact on our budget.

“The other—and probably more concerning—issue has to do with the provision of fire and EMT services. We’ve been continually asking the question, ‘How is this arena going to get (these services provided)?’ Our area fire division chief filed a letter with the county stating his belief that there would need to be a rapid staff-up. You know, when you’re bringing in an arena of this size, and gatherings of this size, there’s an increased public-safety risk or threat. Our immediate concern was: Does this (force us to) contemplate that the fourth fire station in Palm Desert, which was to be located in the Frank Sinatra Drive-Cook Street area, needs to be built right now to handle

the arena? We are clearly not ready to kick in several million dollars (to build a station), along with several million dollars a year in operating costs for this station, quite yet. So are we essentially being pulled along into ... \$1 million to \$2 million of cost on the police side, plus another few million dollars in costs on the fire side. These are all brand-new costs to us, and the revenue will not be there ... to offset those expenses. Our main question is, 'What is the plan?'"

Hileman said conversations are ongoing.

"I'm thankful that the (Riverside County) planning staff and local county officials are listening to us and trying to address our concerns," he said. "There are more meetings where we'll try again to get our questions answered. I think if we can get those issues solved, and feel more comfortable that residents' service levels and our budget are maintained in a neutral fashion, we're behind this project. But, again, those questions need to be answered."

Hileman raised his concerns in detail during a special April 19 Town Hall meeting, held by the city, regarding the arena. **OVG CEO Tim Leiweke told *The Desert Sun* after that meeting that he disagreed with the city's numbers**, adding that Palm Desert "just wants a handout, and we're not going to do that."

We asked Bolton if the Oak View Group still stands behind the view expressed by Leiweke. In response, Bolton did not address Leiweke's comment, and instead sent a list of data-based assertions regarding potential public-safety costs to Palm Desert. No specific sources for the facts and figures the Oak View Group presented were identified, but OVG indicated that using their cost-side data points, and assuming that Palm Desert would receive transient occupancy tax revenue in excess of \$750,000 per year from extra hotel or short-term rental stays, the city would realize a net annual revenue increase of close to \$600,000.

Regarding Leiweke's remark, Mayor Kelly called the comment "unhelpful," but said she would give him the benefit of the doubt.

“I’ll suppose that maybe he was having a bad day, because the questions we’ve raised have been raised in complete good faith,” Kelly said. “We’re not making up any numbers. We’re taking guidance from peer jurisdictions that have comparable facilities and who have shared their experiences with us ... like in Ontario. What they told us also matches common sense, which gives it the ring of truth.”

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One reason why a lot of questions remain may involve the fact that Oak View Group has not done a new environmental impact study of the associated pollution risks.

In 2007, the Berger Foundation conducted a standard CEQA-required environmental impact report. However, it was based on a different type of construction project that did not include an arena of this size. Rather than complete a new EIR, OVG instead submitted to Riverside County an addendum to the 2007 report.

“The key difference in using the addendum process is that they didn’t have to give notice, and (hold) public hearings and solicit input,” Kelly said. “So that’s why Palm Desert raised their hand and said, ‘Wait a minute!’ Because there was no public input, there are some questions that just haven’t been answered. Personally, I believe that in the end, (all these questions) can be resolved if the arena developers come to the table and deal with these questions. They certainly say all the right things about their commitments to be neutral in their impact (on the environment), so they just need to back that up. They’re investing a whole lot of effort in a PR campaign. To my way of thinking, if all that effort and funding got redirected to just answering people’s questions, we could get to a good outcome faster.”

Flynn, SAFER’s attorney, said that OVG officials—and, to some extent, Riverside County officials—have not shown much willingness to collaborate with all the stakeholders.

“We first submitted a lengthy comment around April 7, and we have not received any response to that from the county,” Flynn said. “The Planning Commission has released a staff report for their upcoming May 5 meeting, and even in that staff report, it just says that they intend to get us detailed responses before that date. So, no, we have not been involved.”

Does SAFER believe that a new environmental impact report needs to be performed before any approval is granted by Riverside County?

“Absolutely; they need to do a full EIR,” Flynn said. “That would make them fully disclose, analyze and mitigate the impacts of this project (and allow) the most public input into the public process.”

Flynn also criticized the apparent failure, to date, on OVG’s part to properly explain how traffic management and overflow parking would be handled.

“One of the issues we have is that (OVG) is putting off the preparation of an actual transportation management plan,” Flynn said. “In the addendum, they talk about the traffic impacts, but then they say that the transportation management plan, which is to be proposed at a later time, will (resolve) any traffic issues. We do believe that deferring that decision until later in the process is not acceptable. I know that at the April 7 Planning Commission hearing, there were at least one or two commissioners who were pretty concerned that there were no details on that transportation management plan as of yet.”

Hileman, Palm Desert’s city manager, weighed in on this area of concern as well.

“Obviously, when the Cook Street interchange was constructed (several years ago), the arena project wasn’t in the picture, so the question we’ve been asking is, ‘If the arena and the new housing start overwhelming that interchange, then what’s the plan?’ Now, we’ve asked our contact at (the Coachella Valley Association of Governments) to get involved in this discussion, because if the arena developers aren’t required to upgrade Varner

Road and the Cook Street interchange ... then that means that CVAG will have to step in and do it, and that will take away dollars from other projects in the Coachella Valley.”

Riverside County District 4 Supervisor V. Manuel Perez did not return requests for an interview as of this publication.

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On April 30, the National Hockey League officially welcomed the Seattle Kraken as the new, 32nd team. The Kraken’s affiliated developmental team is slated to begin American Hockey League play in October 2022—in the arena that Oak View Group is trying to build at Varner and Cook.

That deadline, of sorts, is the apparent reason that Oak View Group is trying to get construction going in earnest as quickly as possible. However, that rush may be the culprit of most of the disagreements over the arena to date: To a person, every stakeholder interviewed for this story said they thought the project could be good for Coachella Valley in the long run—but only if the Oak View Group acts as a concerned and collaborative neighbor.

“I’m not stridently for the arena, or against the arena,” Kelly said. “I just want to be sure that we all take a thoughtful approach before approval. This is the time for governments to ask for mitigation, if that’s appropriate, because you can’t ask for it two years later. So this is the appropriate time to be thoughtful.”

Hileman said he hoped everyone involved can finalize a plan that makes all stakeholders comfortable.

“I will say that, in the last week or two, John Hildebrand of the Riverside County planning department, and Russell Brady, have worked on this, and they’ve done a good job in terms of understanding our issues,” Hileman said. “They know we’re serious—that we’ve filed the CEQA objection, and we want these issues to be dealt with. I mean, if this was a city project, it would be

happening in a much different manner. But it's not, so we're playing by the county's rules and hoping that they can help us resolve these issues. We're putting a lot of faith in their ability to portray our concerns and work out some reasonable middle grounds."

Flynn, SAFER's attorney, said the organization is not trying to stop the project.

"SAFER is trying to ensure that the project is planned, built and operated as sustainably as possible," Flynn said. "That's what our main concern has been. We've seen comments about air quality concerns, and traffic concerns and wildlife (impact) concerns that haven't been properly addressed."

## **KEVIN FITZGERALD**

Kevin Fitzgerald is the staff writer for the Coachella Valley Independent. He started as a freelance writer for the Independent in June 2013, more than a year after he and his wife moved from Los Angeles... **More by Kevin Fitzgerald**