

Scott Kimbriel

From: Scott Kimbriel [skimbriel@airauto.com]
Sent: Friday, April 25, 2008 3:05 PM
To: 'acatallini@cfsd.k12.az.us'; 'mlricherson@cfsd.k12.az.us'; 'jjellison@cfsd.k12.az.us'; 'ssilverberg@cfsd.k12.az.us'; 'csiegler@cfsd.k12.az.us'
Cc: 'mkam@cfsd.k12.az.us'
Subject: The latest "Dear La Paloma Neighbor Letter"
Attachments: cfsd letter 2 to lp residents page 2.pdf; cfsd letter 2 to lp residents page 1.pdf

Dear Ms. Catallini,

First, I must disclose I am a member of the La Paloma Property Owners Association (LPPOA), and the Managing Member of Waldemere, LLC and in that regard have spent several hundred hours on this subject doing research, attending meetings, court hearings, legal briefings and the like. I have reviewed every document that has been produced and have copies of everything.

For purposes of this discussion, I represent only my own personal interests as a District 16 taxpayer, not those of LPPOA or Waldemere, LLC.

I am in receipt of the latest "Dear La Paloma Neighbor" letter signed by yourself and Dr. Kamerzell dated April 22, 2008.

If the letter was designed to incense people, congratulations, you achieved your mission. In fact, some people I have spoken to are beyond angry, they are mad.

The content and overall theme of this letter represents a rather one sided view of the situation. In fact, I'd have to say a completely irresponsible view of the situation, replete with missing relevant facts.

In case Dr. Kamerzell and others at CFSD have not briefed you completely, let me offer a few facts you might not be aware of as I respond to the letter as an informed resident and taxpayer:

- 1) First, I will tell you there was an agreement between Lisa Anne Smith of the DeConcini firm, also known as the lead CFSD attorney of record in the cases, to inform LPPOA if CFSD got approval to move forward with the "take" and begin construction. In speaking to both the LPPOA President Andy Genor and Larry Schubart, LPPOA lead counsel, they were both shocked when the above referenced letter arrived in the mailbox. This is very indicative of how CFSD has and continues to operate. From me to you: bad move. Whatever credibility CFSD had is now gone.
- 2) As part of the original Stipulated Judgment in 1994 for the acquisition of Block 24, CFSD specifically opted out of being a member of LPPOA. In fact, paid \$20,000 (twenty thousand dollars) to LPPOA to remove the previous member parcel status and has never paid association dues and assessments. CFSD has spent considerable legal fees in an attempt to "spin" this into something else. You can't just change agreed upon terms and conditions for convenience years later.
- 3) The traffic study provided and subsequently updated by CFSD is flawed at a minimum because it does not contemplate the total parcel usage for Block 24. The letters of support for using Campo Abierto from people like Ann Day, Chuck Huckleberry and the Pima County DOT were dated very early on in the process and part of an effort by CFSD to rally early support before all the stakeholders really knew what was going on. A well organized plan I would add, but one designed to mislead. How anyone could claim using Sunrise/Campo Abierto (with over 40,000 East-West cars per day) over Skyline (I don't know the numbers, but I am sure they are a small fraction of the Sunrise traffic) is "safer" is beyond me. In fact in the original Stipulated Judgment, part of the settlement by

Pima County was that ingress and egress for Block 24 was deemed to be safest at Skyline where ingress/egress exists today. In fact, now there is ingress off Sunrise, west of Campo Abierto as well.

- 4) Regarding “discussions” with LPPOA, I would not characterize the meeting held on November 6, 2006 between Andy Genor (LPPOA President), Terry Downey and Basil Callimanis as a good faith constructive meeting designed to air issues and come to a common ground. In fact, my understanding of the meeting follows and I met with Andy right after the meeting, so things were crystal clear. Here is the summary: Terry Downey states CFSD has access to Campo Abierto, we don’t care about any of your issues, here’s our lawyers legal opinion, oh, and have a nice day.

You state in the April 22 letter “We said we would consider any specific request to address changes to the current access that related to safety and good engineering practice.” I will bet that *very few of you if any* have actually stood at the point where a driver exiting Block 24 would be looking to the North to make sure all is clear before executing any turn. I would encourage you to do so. You will find a VERY UNSAFE CONDITION exists. At one point, CFSD’s answer to the problem was to put speed bumps in place North of the intersection in question. *It should be noted CFSD did not seek to condemn the location of the proposed speed bumps.*

- 5) The LPPOA response of filing a lawsuit. Your letter makes it sound like the big, bad LPPOA is trying to crunch the poor little “students”, their working moms and their underpaid teachers. By the way, the law suit LPPOA filed is an action for *Declaratory Relief* – that means the parties are asking the court to determine the rights of the respective parties based on the facts. And, in fact, CFSD conceded in the condemnation litigation (the lawsuit CFSD brought against LPPOA) its willingness to record a one-foot no-access easement along the east side of Block 24. This is still not done despite the fact that a well documented agreement outside of the original Stipulated Judgment in 1994 existed. Written documentation exists between CFSD’s then lawyer Spencer Smith of the DeConcini firm and three other well respected local attorneys and residents to support this. Those attorneys stand ready to, under oath, support these facts in a court of law. To be kind, Spencer Smith at least misspoke in a more recent written document saying there was *never any agreement* about a one foot no-access easement and *then had to recant after documentation was produced refuting his claim.*
- 6) “Left with no other options...” You make this sound like there is no other way to get in or out of Block 24. I think you would have to agree that is absolutely untrue. Ingress/Egress exists according to the Stipulated Judgment on Skyline and there is ingress on Sunrise. At best, this is absolutely misleading to any uninformed reader.
- 7) With regard to the proposed construction in May, Judge Miller stipulated that CFSD must get written permission from the owner of the parcel on the SE corner of Campo Abierto and Sunrise. That would be the State of Arizona. Has this been agreed to in writing and received by CFSD?
- 8) Your closing paragraph is laughable. There will be less traffic than the original planned development of Block 24?? How can you say that? There would *never* have been *any* traffic access to Block 24 south of the west gate at the CFSD planned location. All traffic in the original master plan would have flowed north of the west gate. As you probably know, La Paloma is a planned gated community and as such block 24 access would only occur within the gated areas. **CFSD has changed the original plan and that is why things don’t work. It’s just that simple.**

I believe the real reason CFSD wants the Campo Abierto access is for the future development of Block 24 and it’s not about the kids. Remember, it is a 10 acre parcel. Many things are possible and have been discussed according to Dr. Kamerzells testimony in the Condemnation case. I have heard things like moving the District offices to block 24, moving the busses there, and even trading a piece of block 24 in exchange for building the district offices there. That would add a commercial element to the parcel and guess what that brings? More traffic and more security and safety issues. How safe would that be for the little kids attending “school”, especially the special needs kids, without whom, none of this would have been possible.

Of course the plans cannot be discussed with the community (or even Pima County) because they have not been

approved by the School Board. There is a lot of mistrust going on in this community with CFSD and their arrogant actions of the past continue to haunt.

9) A few other facts:

a. CFSD will assume all legal liability issues on the condemned piece, and will maintain it as it has been maintained in the past, according to Dr. Kamerzells sworn testimony. Has this even been discussed or approved in budget? Has CFSD asked LPPOA about the required maintenance and the associated costs? I think not.

b. What about the \$453,000.00 (Four Hundred Fifty three thousand dollar) bond that must be posted for the “take”? Do you think you had any moral or legal obligation to disclose that in your letter? What about the fact that it is really not much more than a deposit? Assuming CFSD prevails the ultimate appeal (to be filed very shortly, I understand), there will be more to pay and that can easily amount to a lot more money out of the CFSD bank account -- ultimately repaid through the bond issue in the form of property taxes paid by taxpayers like me and everyone else in District 16. Do you think there is a legal or moral obligation to disclose that fact?

c. What happens if CFSD loses the appeal? Well, for one thing, CFSD will be stroking a check to LPPOA for all the legal fees incurred in the Condemnation case. Right now, that number is about \$200,000.00 (two hundred thousand dollars). Do you think there is a legal or moral obligation to disclose that fact?

d. And of course the safety issue. My office sits on the corner directly above the intersection in point. For the past six years, I have watched what happens at this intersection on an almost daily basis and despite what the “experts” might be telling you, I can tell you allowing a cut to Block 24 and access to and from Block 24 will create a very unsafe condition *“for the safety of our community’s children”* (to use your words). I will be installing a video surveillance system pointed directly at this intersection, so in the future, there will be no question about what happened there.

e. After all is said and done, this was supposed to be a \$3,900,000.00 (three million, nine hundred thousand dollar) project. Add up all the costs to date, the overrun costs, the legal fees, the “take” deposit, any other condemnation fees that will ultimately be assessed if CFSD prevails, and the additional LPPOA legal fee reimbursement if they prevail – what does that all add up to? As a District 16 taxpayer, *I’d like an answer to that question and I think you have a both a legal and a moral obligation to disclose that to the residents and tax payers as a whole to provide it.* My guess is there will be an overage in the amount of \$2,000,000.00 (two million dollars), maybe more after all is said and done.

So the headline is: ***“CFSD spends Two Million for driveway access”***. What is happening here in unconscionable, at a time when costs are escalating and budgets are already stretched way too thin (not to mention the constant requests by CFSD and the Foundation for donations from the same District 16 residents and taxpayers).

There is something really wrong here. It points to the School Board and the management of CFSD. As the board President, you have an obligation to insure the entire board understands what is going on and to make sure CFSD management not only properly informs you of the facts, but operates accordingly. From where I sit, that does not appear to be happening in at least the case in point and most likely in other areas as well.

Since day one, the process and behavior of CFSD in this matter has been absolutely astonishing and that is not a complement. This is not supposed to be about some power hungry large corporate executives utilizing arrogance and ruthlessness to achieve their own selfish goals, it is about providing a good education for our kids, and at the same time setting a good example of how to conduct the business of running the schools in harmony with the community. Do you honestly believe that is what is happening here?

And finally, in closing, I will leave you with something to think about: when one communicates to an audience and purposely leaves pertinent information and facts out of the content, it speaks in large volumes about the

person and/or the organization. This is indeed a very sad day for CFSD and the community and I would encourage you and the other board members to reflect on the mission objectives and figure out a better way to get there. I had a lot of other important things to do today, and I am appalled to have had to spend as much time as I have writing you this letter, but I feel very strongly that it is time to set the record straight. You now have an opportunity to do just that.

Sincerely,

D. Scott Kimbriel
District 16 Resident and Taxpayer