

19808 Frenchman's Court
North Fort Myers, FL 33903

Mr. D. Tyler Van Leuven
Staff Attorney
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

2000 JUL 20 10 31 AM

ORIGINAL

July 19, 2000

Docket 000277 W-S

Dear Mr. Van Leuven:

Today's News Press as well as this weeks Lee County Examiner again reported on the general scandals regarding utilities, over the past few years. Prominently mentioned were NFMU, Mr. Garner, Mr. French, the apparently unconscious Lee County Commissioners and their beautifully coifed but incompetent Manager, Mr. Donald Stilwell. I won't bother to reiterate the, by now familiar, deals, omissions and memory lapses by "the usual suspects."

You will note that Mr Stilwell is volunteering to take over position of the recently resigned (under the threat of being fired) Mr. J.W. French. It must be extremely rewarding working with Mr. Garner, Sundstrom, et al. Mr. Stilwell does have "hutzpah" if nothing else. Hopefully, his contract will not be renewed. Hopefully, the county or the state will begin handing down some inditements, before the upcoming elections.

Should you have the time, you will be able to find independent corroboration of most of these charges at the Lee County website (leegov.com/minutes of previous meetings/06/27/00 BOCC Minutes). Also, see Lee County Clerk of Courts, Charlie Green. His website is not completed but his e-mail address is RWalter@Clerk-of-Courts.Co.Lee.FL.us .

I am forwarding these articles to the PSC's Director of Records and Reporting (Blanca Bayo) in order that they become part of Docket 000277 W-S. Be in touch with you again soon, I'm very sure. Please note that I have expanded my list of persons copied to include the Lee County Commissioners in an effort to jog their memories. Thank you.

Very truly yours,

Alexander William Varga
Alexander William Varga

CC: Leon Beekman - President, Pine Lakes Estates Home Owners Association, Inc.
Jennifer Brubaker - Staff Attorney PSC
Charles H. Liedtke - Publisher, Lee County Examiner
Joe Fenton - Editor, The News Press
Lee Melsek - The News Press
Mike Hoyem - The News Press
nbcnews@nbc-2.com
winknews@winktv.com
Lee County Commissioners - John Manning, Doug St. Cerny, Ray Judah, Andy Coy, and John E. Albion.

Attachments Enclosed (6 pages)

DOCUMENT NUMBER - DATE
08905 JUL 24 08
PSC RECORDS & REPORTING

- APP The News Press - July 19, 2000 - Stilwell warned his job on line.
- CAF _____
- CMP _____
- COM Lee County Examiner - July 19, 2000 - Sewer Woes Plague County
- CTR _____ - Excerpts From Adams Letter (Paul Adams Former Vice-President, Severn Trent)
- ECR _____ - Letters - Actions - H. R. Blanchette (Past President - F.A.S.T, etc.)
- LEG _____ - Letters - Coiffure More Important Than Audit - Jim Fleming
- OPC _____ - Letters - Is There a News Cover-up? - Alexander William Varga
- PAI _____ - Public Works Director Resigns
- REGO _____
- REC _____
- SER _____
- OTH _____

Lee County EXAMINER

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North Fort Myer's Community Newspaper

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JULY 19, 2000

SEWER WOES PLAGUE COUNTY

The Auditors from Lee County Clerk of the Courts released the second part of a four part review of Severn Trent -Avatar Utility Services, LLC (ST-Avatar). ST has had a contract with Lee County to run its utilities (water and wastewater) for five years, the contract expiring originally in may this has been extended to August.

During the bidding process this year, Paul Adams, an ex-employee of ST wrote a very critical letter of ST's job performance sending it to the Board of County Commissioners. One of his complaints was, "County staff is determined that this contract shall go to ST for the next five years."

Avatar Utility Services, Inc. was awarded the contract to operate the Florida Cities Water Co., Inc. plants the county purchased on April 15, 1999 as part of the sales agreement. In October of 1999, St and Avatar merged creating ST-Avatar.

The audit didn't include the recent purchase of Florida Cities Water, however, the Examiner has been informed a separate audit will focus on the condition of that system.

The audit found:

- 1) Water meters were not repaired or replaced.
- 2) Serious problems with meter readings.
- 3) Shortage of system operators.
- 4) The Malcolm Pirnie report was to provide a "snapshot to the prospective bidders on the current state of repair and condition of the facilities." It did not include the Florida Cities water purchase either.

The report was mixed, saying most of the utility is up to standard. It gives specific examples of mistakes, such as the water fields in south Lee County only working up to 75% of the design capacity.

According to records Internal Audit received

from Lee County Utilities the outstanding inventory of meters not repaired or replaced was 1,533, composed of 781 15 years or older and 752 meter change outs needing done.

In a letter from Bob Dick, of ST-Avatar to Glenn Greer of LCU dated June 23, 2000, 658 meters had been replaced of the 737 aged ones. The original expiration of the contract was May 31, 2000.

As far as problems with the meter readings, the report states, "Customer Service reports normally provided on meter reading and customer service, and included estimated readings, meter readings errors billed and Customer Complaint re-reads. However, these reports were not available, as they had not been completed for most of the Contract Year 5. Meter Reading Service reports were used to deter-

cont. pg.3

SEWER WOES

mine the number of estimated reads.

This leaves one to wonder who in LCU let this happen for a full year. With the black cloud of deceit now hanging over J. W. French and his department, does more investigations need to take place? Should there be a total housecleaning of the department?

The shortage of certified operators, there are conflicting reports. In a letter dated March 22, 2000, Jon Meyer writes to Kieth Kleinmann, of Department of Environmental Services explaining why the Waterway Estates plant experienced an effluent spill. In it he states, "as a result the plant did not have the required "B" operator on March 14-17."

In the response letter written by the law firm of Henderson Franklin for ST-Avatar, they state the permit only requires staffing 16 hours per day, seven days a week. Neither document states the time the spill occurred.

In Larry Johnson, Director of Lee County Environmental Services, response states, "We acknowledge that the present contractor has delayed required long term maintenance, particularly on the wastewater collection lift stations and water meter replacements."

Johnson goes on to say the solution to the problem, The expansion of Lee County's contract monitoring staff by four field personnel helped identify the lift station problems so that they could be corrected during the existing contract. These field personnel will monitor meter replacements better in the future."

The Examiner interviewed several business managers who use outside contracted labor. All of them said the burden of fulfilling the contract lays with the contractor. Any additional monitoring personnel should be on their (the contractors) payroll and they should be forced to produce more frequent reports. Adding staff to monitor an outside contractor defeats the purpose of out sourcing to begin with.

One must also remember, Mr. Johnson wrote the March 10 memo concerning J. W. French and

Mr. Garner's meeting and the possibility of a conflict of interest raised by the News Press. Three weeks before the News Press reported on the conflict.

As the investigations continue into allegations of misconduct inside Lee County Utilities and Lee County government, one should remember, J.W. French, was over this area until his resignation last week. He had control over this department and has documented ties to ST Environmental Services and Avatar in wastewater purchases in which they profited.

All of this may be connected in a larger conspiracy to defraud the tax payers of Lee County. No mention is made of new contracts signed by the county after Severn Trent Environmental Services and Avatar Utility Service merged last October.

ST was involved in the County's purchase of Gulf Utility in south Lee County. Avatar was the mother company of Florida Cities Water Co., Inc., which the County bought for \$134 million April 1999. The two companies which Lee County contracted to run their utilities, with separate contracts, then merges to form one.

And County Manager Don Stilwell claims he has no knowledge of any of this.

Excerpts From Adams Letter

Excerpts from the Paul Adams letter to Lee County Board of County Commissioners dated June 5, 2000, which resulted in the Internal Audit being done by the Clerk of the Courts Office:

You know me as the former Vice President of Florida Operations for Severn Trent (ST). Eight years ago I brought to this county the concept of contract operations for utility services. I presented to you as an effective tool and an alternative tool to be used in the efficient operation and maintenance of your utility system....

Contrary to popular rumors, i have absolutely no affiliation whatsoever with any of the proposers and aqua Source, my current employer, has no dog in this fight...

I can share with you that almost all of them (employees of ST) have been reluctant to talk publicly about the trials and tribulations of their current positions and operation, but they told me over the last several months some very alarming facts that i believe I have an obligation to pass along to you, my elected officials...

At the bid protest hearing your staff produced a report that addressed all of the system repairs which Malcolm Pirnie (MP) identified and which the staff stated had been completed. I personally contacted various persons in ST and your Utilities Division to determine if the report was accurate. I can tell you that many items which your staff identified as having been completed are in fact not completed. In some cases, parts needed to complete the repairs were ordered only within the last several weeks, even though the need for these repairs has been known since December...

Your most important department, your meter readers, has fallen into shambles.

I fear that ST has been paid to replace water meters which in fact have not been replaced. Your contract with ST requires the contract service provider to replace all meters over fifteen years old...the current contract calls for 900 meters to be replaced annually. In year 3, ST replaced only 633 and in year four completed only 438. This leaves them 669 short of the goal of 1,800 for the past two years. You should ask your staff to verify whether in fact adjustments have been made to ST's fees to reflect this failure of performance...

I was horrified to find out that when this list of over 500 replacements was presented to the meter superintendent the instruction back to the deliverer was, "Lose the list." As of last week it was suggested that perhaps the contractor would just give the County credit for those that have not been replaced or repaired as per the agreement...

Aside from the very disturbing implications of a report being ordered to be lost...Based on my industry experience, i would conservatively estimate the cost to lee county in lost revenues from these

LETTERS

Actions

Dear Editor,

Much is being said about Mr. Stilwell's actions, or lack thereof, as it pertains to North Fort Myers Utilities and other very questionable dealings with other utility companies here in Lee County. What most people are overlooking is the simple fact that Mr. Stilwell, in return for his generous salary and perks, is doing exactly what he was hired to do. You see, Mr. Stilwell, gets his orders from the majority of the County Commissioners. The siting commissioners, when all is said and done, are the ones who should and must be held accountable, along with Mr. Stilwell. I, for one, know that this commission was fully aware of the questionable dealings during their term. The Lee County Examiner has been reporting about the illegal acts for years. But this "team", as Andy Coy refers to the commission, refused to act. Commissioners Judah and Manning what happened to the desk plaques I presented to you back in '92?? Remember the one inscribed "THE BUCK STOPS HERE" ??

Back at the beginning of the 90's, the citizens of North Fort Myers were subjected to this same government mentality and were almost bankrupted by an overpriced sewer design. Fortunately, through the efforts of a group of business and private individuals known as F.A.S.T. (Fair Assessment of Sewer Taxes), we were able to bring forward the truth and put enough political pressure on that commission to halt the project. The utility director at that time was also fired. So was the county administrator. Unfortunately, thanks to the pro-utility Public Service Commission, North Fort Myers Utilities is still owned by the same individuals. You would think that after the blatant and illegal take over of the Bucaneer wastewater treatment, that changes would have occurred. But the same names, that were well know to us back in the early 90's, still keep coming up in the headlines.

I submit to you that two things should and must occur this year: 1) The voters of Lee County MUST hold their Commissioners accountable for the millions and millions of dollars they have cost

the taxpayers through their own mismanagement of our tax dollars. We can have 3 new faces in November representing US, instead of being pawns for utility companies and other special interests groups in this county. 2) The time has come for the Public (Utility) Service Commission to demand that North Fort Myers Utilities relinquish their franchise area. When NFMU was granted their franchise area back in the late '80's, NFMU stated that they were "ready, willing, AND able" to provide North Fort Myers with sewer service. They have not lived up to this agreement. NFMU refuses to install a gravity sewer system in our area. They expected the county to install one and maintain it! Since that did not happen, they have spent most of their time intimidating private manufactured home parks and forcing them, through questionable legal means, to hook up to their system. They have not sewered the rest of their area. Enough is enough!!

Are you listening, FBI???

Sincerely,

H. R. Blanchette

Paul Adams Letter Cont.

meters not being replaced or repaired on time is \$200,000 to \$500,000 per year...

It is clear to me that County Staff is determined that this contract shall go to ST for the next five years. At the hearing your staff presented a list of problems they identified in Azurix's operation of its Lee County facilities. In examining the list I was amazed that the staff could compare the almost trivial list of Azurix's problems with those identified on the MP report. Nevertheless, i investigated the matter out of professional curiosity and also a desire to make sure we are not trading one bad operator for another...

How your staff can justify sending a report to the Bid Protest Committee erroneously reporting as undone minor items which were in fact done already by Azurix, while simultaneously sending the Committee a report erroneously reporting as completed deficiencies identified in the MP report absolutely stuns me.

LETTERS

Coiffure More Important Than Audit

Dear Editor,

County "Manager," Don Stilwell, apparently doesn't care how he looks to the general public as long as every hair is in place.

The fact that Stilwell was at his hairdresser's while the Clerk of the Court presented Commissioners with evidence of county staff misrepresentation was an insult to everyone in Lee County.

Stilwell claims he was a "nobody" and "out of the loop" during the whole sordid mess. Where's the responsibility and accountability? Who sets the moral and ethical standards of the county staff? If Stilwell were a real world CEO, and the commissioners were the real world board of directors of a real world business, he would have been fired immediately.

Commissioners Doug St.Cerny and Ray Judah are absolutely right to call for a halt to Stilwell's automatic contract extension. After all, if Stilwell is implicated and then fired after the county extends his contract, the taxpayers will be liable for his severance pay. Lets see if the other commissioners, especially Stilwell's chief defenders, Albin and Manning, have the courage to protect the taxpayers. At the very least they should wait before they reward their out-of-the-loop manager with a new contract and a fat pay raise.

Otherwise Stilwell will still be sitting pretty

while the taxpayers continue to get clipped.

Sincerely,
Jim Fleming

July 19, 2000 Lee County EXAMINER Page 5

Is There a News Cover-up?

Gentlemen:

Everyone in the broadcast industry is aware that there are hundreds of thousands of dollars in political campaign funds waiting to be spent by the Democratic and Republican parties within the next few months. Can this be the reason that you are not reporting anything on the ongoing North Fort Myers Utility Inc. scandal, the resignation of J.W. French, the mismanagement by all the Lee County Commissioners, and the ludicrous incident of Don Stilwell's hair dresser appointment, while the Clerk of Court was presenting the results of his audit to the convened Commissioners.

You cannot claim that you have not heard about these events. The News Press and the Lee County Examiner (and copies of all my e-mails to the Florida Public Service Commission) have reported on this situation for the past several months.

I believe the television media has a responsibility to inform the public. What else has to happen before you recognize these event as "newsworthy"?

Very truly yours,
Alexander William Varga

7/19/00

PUBLIC WORKS DIRECTOR RESIGNS

Lee County Public Works Director J. W. French resigned last Tuesday after threats from County Manager Don Stilwell to fire him later that day.

French has been embroiled in controversy since November of 1998 when he admitted to condemning a package sewer plant at Windmill Village because an attorney friend asked him to, in a deposition given in a lawsuit between MHC and the residents of Windmill Village.



Recently, the State Attorney Office, the Lee County Sheriff and the FBI are investigating possible wrong doings dating back to the purchase of Gulf Utility by Lee County.

The same names keep popping up in most of the utility purchases Lee County has made. They are, James Graner, attorney; Bill Sundstrom, attorney; Antonio Reeves, consultant and Vice President of N. Ft. Myers

Utility; J.W. French and Larry Johnson, both employees of Lee County.

Lee County Commissioners have kept to their mantra that there has been nothing illegal in any of the utility deals.

Also at last Tuesday's Lee County Board of County Commission meeting, Commissioners Doug St. Cereny and ray Judah asked if County Manager Don Stilweel's automatic contract renewal should be stoped. Commissioners Andy Coy, John Albion and soon to retire John Manning didn't believe so.

Information*****

Stilwell warned his job on line

Manager vows to fix utilities 7/19/00

By MIKE HOYEM

The News-Press
NEWS PRESS

Lee County Manager Don Stilwell was put on notice Tuesday that he could be looking for a job if things don't shape up at county government — particularly in utilities.

Stilwell — who has been at Lee County's helm for nearly seven years — told county commissioners he plans to take over supervision of the utilities department and straighten out the problems quickly.

Within three months "that department is going to be humming," Stilwell vowed.

But with the clock ticking on an automatic extension of Stilwell's contract, commissioners said they needed to notify him his employment won't automatically be extended next year to keep their options open.



STILWELL

"All the options are open for both sides," Commissioner Doug St. Cerny said, adding the move was "the safest, most prudent way for the board to go forward."

Commissioner Ray Judah, who suggested the action, said it wasn't meant "in the context of County Manager Stilwell taking a bullet" for problems in utilities.

"I'm not talking about termination," Judah said, but he added a signal must be sent that the problems must be corrected.

Two of the five commissioners — Andy Coy and John Manning — were out of town and didn't attend the meeting.

St. Cerny and Judah favored giving Stilwell the notice.

Chairman John Albion went along with the vote, but only for procedural reasons.

See STILWELL / 10A

■ Commission action / 2B

French resigned July 11 after months of controversy over his role in county utilities purchases and his connections to attorney and lobbyist James Garner.

Garner helped the county broker a deal to buy North Fort Myers Utility Co., but commissioners pulled the plug on that after learning of a possible conflict of interest involving Garner.

The audits of the company that runs county utilities, Severn Trent-Avatar Utility Services, said county employees failed to adequately monitor the company's contract, costing the county up to \$250,000, largely because of equipment the company failed to maintain.

From Page 1A

Under the rules commissioners follow, if Albion objected he wouldn't be able to bring the issue up for reconsideration at a future meeting.

Stilwell said he's forming a task force to analyze the makeup and workings of the public works department, which includes utilities. He said he's enlisted the aid of Cape Coral City Manager Steve Daignault and his staff to address a major problem area — contract management.

There's been much turmoil in recent months surrounding county utilities and Stilwell has been feeling the heat. The problems resulted in

St. Cerny didn't elaborate on the other issues but said utilities is "just one of the things we need to talk about."

Stilwell was clearly disappointed but declined comment after the meeting.

"I've made my comments publicly. What else can I say?" Stilwell said.

Stilwell, 61, is paid \$149,173 a year and receives \$14,918 annually in retirement pay that goes into a deferred compensation plan.

If commissioners fired Stilwell without cause, they'd have to give him a year's severance pay. If they fired him for poor performance or breaking the law, he'd get no severance.

Prior to the discussion of his contract, Stilwell reminded commissioners of his achievements. He told commissioners the \$250,000 loss in utilities isn't good, but reminded them the county has saved \$10 million by hiring a private company to manage the department.

"If we're saving \$10 million and at the same time that costs us \$250,000, that's a pretty good ratio," Stilwell said.

Stilwell added that since he's been county manager the county has reduced its staff by 300 employees and kept its tax rate down while other local governments have raised taxes and hired more people.

He called that "a great endorsement of what we're trying to do" and

the resignation of former public works director J.W. French from his \$111,000 a year job and audits critical of county employees for failing to properly monitor the company that runs county utilities.

Under the terms of his contract, Stilwell would have received an automatic extension in 2001 — carrying his employment through July 2002 — if commissioners hadn't taken action by next week.

Commissioners won't meet next week, so they had to take action Tuesday or allow the renewal.

Commissioners agreed to meet in August to discuss Stilwell's contract, the situation with utilities and other issues mentioned by St. Cerny.

gave much of the credit to the commission.

Stilwell said Daignault and his staff will bring much expertise to the effort to improve contract management. He said his goal is to "set up standards and make sure we have a monitoring system that is second to none."

After the meeting, Albion defended the county's track record overall.

"We have a lot of departments doing a lot of good work for significant savings to county taxpayers," Albion said. "We have one area where we have been weak."

— Contact Mike Hoyem at mhoyem@news-press.com or 335-0391.