

Ben and Karen Pugh

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From: "E.M. Prather" <emp@yhti.net>
To: "Ben Pugh" <karben@yhti.net>
Sent: Sunday, May 28, 2006 9:57 PM
Subject: Fw: May 27 Meeting Summary

Order Exhibit No. 35
Case No(s) WC-2006-0088 ex 01
Date 2-28-07 Rptr 45

Missouri Public
Service Commission

For your update—Gene
— Original Message —

From: Phil and Tonie Hiley

To: Sheryl and Ron Adamson ; Mike and Susan Baechle ; Fred and Sharon Beaman ; Gary and Cathy Bieg ; Dennis and Sheryl Boos ; Leon and Pat Briley ; Bob and Chris Brinker ; Roy and Sandy Budz ; Bob & Faye Burchard ; Bill and Gay Burford ; Barbara Burr ; Mary Liberton & Phil Cadwell ; Lynn Cole ; Lynn and Judy Cole ; Evan and Janette Connell ; Bill and Pam Cottingham ; Scott and Tammy Davis ; Don and Carole Deckard ; John and Charlene Dunfee, Jr. ; Larry and Sherrie Fields ; Bill and Elaine Foley ; Ed and Vicki Foster ; Charles and Donna Gannaway ; Fred and Carol Goldman ; Brent & Mary Gooding ; Craig & Gwen Gooding ; Jim and Toni Grayum ; Greg and Colleen Gutierrez ; Galen and Leinda Haddock ; Bob and Grace Hermann ; Mark and Debbie Hesley ; Jeanne Hesse ; Pam and Jeff Holstead ; Howard and Ro Jacobson ; Bruce and Valerie Kasten ; Steve and Shirley Kleppe ; Curtis and Glenna Kling ; Jim and Linda Kwiatkowski ; Gary and Susan Lane ; Larry Lee ; Ken and Carol Lever ; Geary and Mary Mahr ; Cheryl Martin ; Laura McKean ; Jerome and Marsha Middleton ; Bill and Pat Mitchell ; Art and Sarah Nelson ; Donald and Karen Norman ; Gary and Vicki Potter ; Eugene and Joan Prather ; John and Marilyn Pro ; Laurie Rellihan ; Phil and Laurie Rellihan ; Milton and Donna RuBert ; Elmer and Nina Sebastian ; Larry and Mary Seibolt ; Jeff and Stacy Shore ; Robert and Sharon Smith ; Gail and Betsy Snyder ; Lee and Sharon Sowell ; Jim and Francine Sowers ; Tom and Chris Sowers ; Wayne and Lori Stenberg ; Jerry and Pam Toombs ; Larry and Rita Toombs ; John and Janna Vieth ; Jim and Jennifer Watson ; Don and Fran Weast ; Danny and Nancy White ; Keith and Doris Wicker ; Andy and Brenda Willoughby ; Brenda Willoughby ; Steve and Angie Zahn ; Stan Zeldin ; Stan and Joyce Zeldin

Sent: Sunday, May 28, 2006 6:57 PM

Subject: May 27 Meeting Summary

silent by choice -
initiative

Big Island Property Owners (Non-Complainants Only)

You were all invited to a pre-hearing meeting on 27 May at our home. Twelve property owners were represented, as follows: Sharon and Fred Beaman, Don Bracken, Barbara Burr, Lynn Cole, Donna and Chuck Gannaway, Jean Gruidel and Roger Simmer, Tonie and Phil Hiley, Howard Jacobson, Bill Mitchell, Eugene Prather, Betsy and Gail Snyder, and Larry Toombs. A meeting summary follows, along with some ideas for your hearing comments.

Objective of the meeting was to decide if the non-complainants (the silent majority up to now) have a common position on the water sewer situation, and if so, how do we weigh in at the hearing next Friday, June 2.

Two issues were discussed: (1) Past (possibly illegal) operation of the water/sewer HOA as a public utility, and (2) Future regulation/operation of the system.

Considering Issue (1), the general consensus was that PSC just needs to make a ruling. Fees were, in fact, charged to non-customers (have a tap but not hooked on) who are non-members of the HOA (did not ratify the by-laws). If this is illegal, then so be it. This issue has been a problem that probably should have been remedied by the developer long ago. If you are a non-customer/non-member, you may want to state in your Formal Comments whether or not you think it was a fair charge (most of us did not know that it may be illegal). Our input could possibly affect the final PSC ruling on the matter.

On the critical Issue (2), with one exception, attendees were not in favor of PSC control. That is probably the common denominator for the majority of the non-complainants. If you agree, so state in your Formal Comments.

Now, if most of us want a homeowner's association without PSC control, just what kind should it be? We talked long about this question. It boils down to whether or not we want FR involved in the future.. Two options were discussed.

- Not legitimate HOA would still hve. non-memb. ruling, serv.
- (a) FR Stays Involved — This would be to continue as we are now, with FR in control of the association (they would still have one vote per lot) and in charge of operating the system on a daily basis. This is known as Pam's approach (Pam Holstead). In her suggestion, there is one important exception to the current situation — if you are not hooked on, you are not a member and you do not owe fees. Please know that this will require that PSC amend their rules for an association. They have clearly stated that "management (of a water/sewer system) needs to be independent of the developer, even if the developers own the utility". PSC may have a strong objection here but let's be heard anyway. If you agree with this approach, so state in your Formal Comments (just describe it, don't call it "Pam's approach"). She is not representing you. In fact, Pam will not be at the hearing since she is on vacation.

Pam has written her Formal Comments with more detail on this choice. Folks at the meeting have a copy of her comments: if you want to read them, let Tonie or I know.

5/28/2006

- **(b) FR Not Involved** - This one would be similar to the 393 nonprofit utility that PSC has described for us (you have this description in the "Staff Report" we sent out last week). But the homeowner's must be in control, per the state's rules. This means that FR must **not** be involved in management or daily operation! Folsom would therefore need to control the new PUD development separately from our 393 association. Perhaps they would even need to separate the physical plants to the extent possible. There is also the question of transfer of the physical facilities to the 393 association. This would also be a question for Option (a), though it would likely occur further down the road. Does Option (b) sound hard to set up and initiate? Sure it is. We would need to discuss this possibility further with FR and PSC. But the idea of truly owning and controlling our own association (no PSC, no FR) may be attractive to some of you. If so, this is something you could suggest in your Formal Comments. *Still a membership Assn./Corp.*

You may have other ideas. The main thing is to be heard.

Next Friday is not far away. We still need to hear your voice, even if you were not one of the 12 property owners at the meeting on the 27th. Even if all 12 of these folks made Formal Comments, that hardly represents the majority. After all, there are 9 complainants. So please think carefully about it, and write your comments. If you cannot attend the hearing, send your comments to Tonie and I and we will submit them for you. If you can attend, we would appreciate seeing a copy of your comments beforehand, but it is not required. In any case, be sure to state if you are now hooked on and using the system, or just have a tap.

This will be our last written communication on the hearing.

Tonie and Phil Hiley
573 317 9305
tphiley@yahoo.com

The cost of printing and mailing this information was approximately \$70.00. As you know we have sent out many other mailings as well. Any donations to assist in the information sharing costs would be appreciated. If you have an e-mail address, please let us know what it is. It saves on costs. Thank you.

Phil and Tonie Hiley
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Roach, MO 65787
573-317-9305
tphiley@yahoo.com

Big Island Property Owners (Non-Customers of the Community Water/Sewer System):

You are receiving this message if you are a **non-customer** of the Big Island community water/sewer system built by Folsom Ridge (FR), and you have not made any of the nine Formal Complaints to the Missouri Public Service Commission (PSC). **Non-customers** are folks like me and you, who paid an initial tap fee and possibly subsequent monthly fees, but are not hooked on. An unofficial list of non-customer names is in the first attachment. There are about 35 non-customers, or "tap only" folks.

Because of the Formal Complaints, the PSC must now rule on how the water/sewer system is to be regulated and controlled in the future, including the amount of the fees you pay. PSC rulings will be made later this summer. Your voice can now be heard.

The complainants have alleged mainly (1) that FR has been illegally operating as a public utility in the past by charging fees to folks not hooked on to the system (tap only), and who have not ratified the HOA bylaws, and (2) that FR is not qualified to manage the system, therefore PSC should regulate it in the future. As **non-customers**, your concern should be mostly with the first issue, unless you plan to hook on at some time later. Of course, you could be a non-member but did ratify the by-laws, in which case it could be argued that you owed the monthly fees.

Folks that are hooked on are called **customers** and should be most concerned with the second issue. **Customers** will get a message from me similar to this one. There are about 50 **customers**.

You have seen the announcement from the PSC that describes a public hearing to be held on 2 June, 2006 (1:00 PM at the local fire station in Camdenton) for the purpose of hearing comments from interested Big Island residents on the formal complaints. Last week, you received an e-mail from Tonie and me which represented an informational summary of facts/issues surrounding the complaints, and the options available for operating the community water/sewer system in the future. This message also explained how you could be heard at the hearing by giving Formal Comments, or how you could send us Formal Comments for submission if you cannot attend.

There is one more message you should read, which is the second attachment. It is the *PSC Staff Report of Investigation*. It is PSC's summary view of the situation, written in February of this year after they had heard the Formal Complaints. It is quite good.

Please know that I will not represent any of the "non-complainants" at the hearing (whether **customers** or **non-customers**) because PSC advised me that I should not do so unless I am an attorney. Of course, I will present my own opinion in my comments.

So I am strongly urging you to give your opinion formally at the hearing. See my informational message of last week for more detail on how to submit Formal Comments.

The issues are reasonably straightforward but the resolution is not. So if you wish to join an informal discussion to share thoughts and get more clarity on these matters, I will host a meeting during Memorial week-end when many of you may be at the lake. It will be on Saturday, May 27 at 4:00 PM. It will be at our home, 3184 Big Island Dr .

Regards,
Phil Hiley 573 317 9305