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LAW OFFICES
MOHR, HACKETT, PEDERSON, BLAKLEY & RANDOLPH, P.C.
2800 NORTH CENTRAL AVENUE, SUITE 1100
PHOENIX, ARIZONA 85004-1043
TELEPHONE (602) 240-3000
FACSIMILE (602) 240-6600
(AZ BAR FIRM NO. 0048600)

Thomas K. Chenal (AZ Bar No. 006070)
(tchenal@mhplaw.com)
David W. Garbarino (AZ Bar. No. 022452)
(dgarbarino@mhplaw.com)
Attorneys for the Town of Carefree

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AZ CORP COMMISSION
DOCUMENT CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE
APPLICATION OF BLACK
MOUNTAIN SEWER
CORPORATION, AN ARIZONA
CORPORATION, FOR A
DETERMINATION OF THE FAIR
VALUE OF ITS UTILITY PLANT
AND PROPERTY AND FOR
INCREASES IN ITS RATES AND
CHARGES FOR UTILITY SERVICES
BASED THEREON.

No. SW-02361A-05-0657

**THE TOWN OF CAREFREE'S NOTICE
OF FILING SURREBUTTAL
TESTIMONY**

The Town of Carefree ("Town") hereby submits this Notice of Filing Surrebuttal
Testimony in the above-referenced matter. Specifically, filed herewith in the Town's
surrebuttal filing are the following testimonies, along with supporting exhibits:

1. Surrebuttal testimony of Jonathan Pearson.
2. Surrebuttal testimony of Stan Francom.

///

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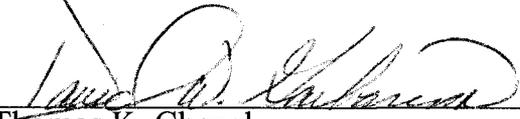
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RESPECTFULLY SUBMITTED May 4, 2006.

MOHR, HACKETT, PEDERSON, BLAKLEY
& RANDOLPH, P.C.

By 
Thomas K. Chenal
David. W. Garbarino
Suite 155
7047 East Greenway Parkway
Scottsdale, Arizona 85254
Attorneys for the Town of Carefree

ORIGINAL and 13 COPIES
of the foregoing filed May 4,
2006 with:

Arizona Corporation Commission
Docket Control
1200 Washington Street
Phoenix, AZ 85007

COPIES of the foregoing hand-delivered
May 4, 2006 to:

The Honorable Teena Wolfe
Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 Washington Street
Phoenix, AZ 85007

Keith Layton
Staff Counsel
Legal Division
Arizona Corporation Commission
1200 Washington Street
Phoenix, AZ 85007

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1 COPIES of the foregoing emailed
and mailed May 4, 2006 to:

2
3 Jay Shapiro
4 Patrick J. Black
5 FENNEMORE CRAIG
6 3003 North Central Avenue,
Suite 2600
7 Phoenix, AZ 85012
8 jshapiro@fclaw.com
9 Attorneys for Black Mountain Sewer Company

7 COPIES of the foregoing mailed
May 4, 2006 to:

8
9 Black Mountain Sewer Company
10 111 West Wigwam Blvd., Ste. B
Litchfield Park, AZ 85340

11 Robert E. Williams
12 Vice President
13 THE BOULDERS HOMEOWNERS ASSOCIATION
14 P.O. Box 2037
15 Carefree, AZ 85377

16 M.M. Shirtzinger
17 34773 N. Indian Camp Trail
18 Scottsdale, AZ 85262

19 Daniel W. Pozefsky
20 Residential Utility Consumer Office
21 1110 West Washington Street,
22 Suite 220
23 Phoenix, AZ 85007

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Pearson

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LAW OFFICES
MOHR, HACKETT, PEDERSON, BLAKLEY & RANDOLPH, P.C.
2800 NORTH CENTRAL AVENUE, SUITE 1100
PHOENIX, ARIZONA 85004-1043
TELEPHONE (602) 240-3000
FACSIMILE (602) 240-6600
(AZ BAR FIRM NO. 0046600)

Thomas K. Chenal (AZ Bar No. 006070)
(tchenal@mhplaw.com)
David W. Garbarino (AZ Bar No. 022452)
(dgarbarino@mhplaw.com)
Attorneys for the Town of Carefree

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE
APPLICATION OF BLACK
MOUNTAIN SEWER
CORPORATION, AN ARIZONA
CORPORATION, FOR A
DETERMINATION OF THE FAIR
VALUE OF ITS UTILITY PLANT
AND PROPERTY AND FOR
INCREASES IN ITS RATES AND
CHARGES FOR UTILITY SERVICES
BASED THEREON.

No. SW-02361A-05-0657

SURREBUTTAL TESTIMONY OF
JONATHAN PEARSON

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I. INTRODUCTION.....1
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I. INTRODUCTION.

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. Jonathan Pearson, P.O. Box 740, 100 Easy St., Carefree, Arizona 85377.

Q. ARE YOU THE SAME JONATHAN PEARSON THAT SUBMITTED AN AFFIDAVIT IN THIS MATTER AS DIRECT TESTIMONY?

A. Yes. The Town of Carefree (the "Town") intended that my Affidavit submitted in this matter be treated as direct testimony, and I incorporate it herein by reference.

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY IN THIS PROCEEDING?

A. To respond to the rebuttal testimony of Michael D. Weber ("Weber") and Joel L. Wade ("Wade"). I will address the issue of the operating agreement first. Then, I will address why the Town believes that odor problems continue to exist and the Town's offer to help resolve the odor problems.

Q. WHO IS YOUR EMPLOYER?

A. The Town.

Q. WHAT IS YOUR POSITION WITH THE TOWN?

A. I am the Town Administrator.

Q. HOW LONG HAVE YOU BEEN TOWN ADMINISTRATOR?

A. Since 1987.

Q. WHAT ARE YOUR OFFICIAL DUTIES AS TOWN ADMINISTRATOR?

A. My official duties include coordination and administration of day-to-day

1 activities of the employees of the Town.

2 Q. DO ANY OF YOUR OFFICIAL DUTIES INVOLVE DEALING WITH
3 BLACK MOUNTAIN SEWER CORPORATION ("BMSC")?
4

5 A. Yes, I actively participate in the Town's decisionmaking processes with respect
6 to Town decisions related to BMSC.

7 **II. THE OPERATING AGREEMENT.**

8 Q. DO YOU AGREE WITH THE REBUTTAL TESTIMONY OF WEBER THAT
9 THE TOWN MADE UNREASONABLE DEMANDS ON [BMSC] BEFORE IT
10 WOULD ENTER" INTO AN OPERATING AGREEMENT?
11

12 A. No.

13 Q. AS WEBER OBSERVES, THE OPERATING AGREEMENT WAS
14 APPROVED BY THE TOWN, CORRECT?
15

16 A. Yes. Exhibit 1, attached hereto consists of excerpts of a certified copy of the
17 minutes of the Town Council meeting held on March 7, 2006. The Town Council
18 approved the operating agreement at that meeting as noted in Agenda Item 14 of the
19 minutes. *See* Ex. 1, Agenda Item 14 (TOWN000003-4).
20

21 Q. WAS THE OPERATING AGREEMENT SET FOR DISCUSSION AND A
22 VOTE AT A PRIOR MEETING?
23

24 A. Yes, but the discussion and vote were tabled at the request of Town residents in
25 order for the residents to have an opportunity to fully understand the implications of the
26 operating agreement. *See* Ex. 2 (excerpts of a certified copy of the minutes of the Feb.
27 7, 2006 Town Council meeting), Agenda Item 9 (TOWN000008-11).
28

1 Q. DO YOU AGREE WITH THE REBUTTAL TESTIMONY OF WEBER, THAT
2 THE TOWN "ATTEMPTED TO EXTORT IMPROVEMENTS BY WITHHOLDING"
3 THE OPERATING AGREEMENT?
4

5 A. The use of the term "extort" is unwarranted. Weber appears to make a
6 distinction between ratepayers and residents of the Town, but from the Town's
7 perspective, ratepayers and residents are the same individuals; residents of the Town
8 receive sewer services from BMSC and pay BMSC for such services. The Town has
9 obligations to its residents that may conflict with the objectives of BMSC. When such a
10 conflict arises, however, BMSC cannot reasonably expect that the Town would ignore
11 its obligations to its residents. It would also be unreasonable for the Town to ignore
12 BMSC's concerns. Instead, a reasonable approach would be for the Town and BMSC
13 to work together to reach a mutually beneficial resolution of the complaints of residents,
14 which the Town has attempted to do in this case.
15

16
17 Q. IS THE TOWN WITHHOLDING A SYSTEM-WIDE OPERATING PERMIT
18 FROM BMSC BECAUSE OF ODORS, AND IF SO, WHY?
19

20 A. No.

21 **III. SEWER ODORS.**

22 Q. WHAT EVIDENCE DOES THE TOWN HAVE THAT ITS RESIDENTS
23 HAVE EXPERIENCED SEWER ODOR PROBLEMS IN THEIR
24 NEIGHBORHOODS?
25

26 A. BMSC has admitted, in response to a data request from the Town, attached
27 hereto as Exhibit 7 (BMSC Response 1.1 to the Town's First Set of Data Requests), that
28

1 it has received complaints from customers in recent years. Specifically, BMSC received
2 approximately 4-5 complaints per week in 2004, less than one per week in 2005, and 1-
3 2 per week in the first three months of 2006. *See* Ex. 7 (TOWN000047). Review of the
4 documents produced to the Town in response to its Third Set of Data Requests to
5 BMSC further demonstrates that BMSC continues to receive complaints about odors on
6 a regular basis. *See* Ex. 9 (BMSC Response 3.1 to the Town's Third Set of Data
7 Requests) (TOWN000049-81). BMSC also admits receiving complaints about odors
8 within the past six months. *See* Ex. 8 (BMSC Response 1.2 to the Town's First Set of
9 Data Requests) (TOWN000048).

12 Q. WHAT OTHER EVIDENCE DO YOU HAVE THAT TOWN RESIDENTS
13 CONTINUE TO EXPERIENCE SEWER ODOR PROBLEMS?

15 A. Yes, the Town has also received complaints from residents during public
16 meetings of the Town Council as recently as February 7, 2006 and also at earlier
17 meetings.

18 Q. ARE THESE COMPLAINTS REFLECTED IN THE OFFICIAL MINUTES OF
19 THOSE MEETINGS?

21 A. Yes. Exhibits 2-6 attached hereto are excerpts of certified copies of the official
22 minutes of the Town Council for June 1, Ex. 6 (TOWN000038-46), August 3, Ex. 5
23 (TOWN000030-37), September 8, Ex. 4 (TOWN000021-29), October 5, 2004, Ex. 3
24 (TOWN000014-20), February 7, 2006, Ex. 2 (TOWN000006-13), which include
25 discussions between and among Councilmembers and the public about the odors
26 stemming from BMSC's operations. At several of these meetings, residents of the
27
28

1 Town complained of odors being emitted from BMSC's operations. Even though some
2 of the complaints were made at meetings held in 2004, the consistency of the 2004
3 complaints with the more recent complaints at the February 7, 2006 meeting and those
4 contained in the documents produced by BMSC, Ex. 9, demonstrate that residents have
5 recently complained of the similar odor problems they experienced back in 2004.
6

7 **IV. WORKING WITH BMSC.**

8
9 Q. WEBER TESTIFIED THAT THE TOWN HAS IGNORED THE
10 SIGNIFICANCE OF THE AMOUNT OF MONEY THE TOWN SUGGESTS BMSC
11 SHOULD SPEND TO REDUCE ODORS AND ALSO IGNORED THE IMPACT
12 UPON RATES OF BMSC CUSTOMERS. IS THIS TRUE?

13
14 A. BMSC should do what it has to, to greatly reduce or eliminate odors being
15 emitted from the collection system.

16 Q. HAS THE TOWN ATTEMPTED TO WORK WITH BMSC TO REACH A
17 MUTUALLY BENEFICIAL SOLUTION TO REDUCE ODOR COMPLAINTS?

18
19 A. Yes.

20 Q. AS ADMITTED BY WADE IN HIS REBUTTAL TESTIMONY, BMSC
21 REJECTED THE TOWN'S OFFER. WHAT IS THE TOWN'S REACTION TO
22 BMSC'S REJECTION?

23
24 A. Disappointment.

25 Q. HAS THE BMSC'S APPROACH TO THE ODOR PROBLEMS CHANGED IN
26 ANY WAY SINCE ITS INITIAL REJECTION OF THE TOWN'S OFFER?

27
28 A. Yes. Charles Hernandez of BMSC is proposing to install a temporary piece of

1 equipment that may or may not resolve the odor problems.

2 **V. CONCLUSION.**

3 Q. WHAT IS THE TOWN'S POSITION IN THIS MATTER AS TO WHETHER
4 OR NOT BMSC SHOULD RECEIVE A RATE INCREASE?
5

6 A. The Town is not opposed to a rate increase for BMSC's services and would
7 support such an increase as long as BMSC takes further actions to reduce the complaints
8 from residents regarding sewer odors. As I noted in my Affidavit submitted in this
9 matter, the Town's position is that a rate increase for BMSC is only appropriate if
10 BMSC devises a plan to implement at least the most critical capital improvements as
11 suggested by Carter Burgess and LTS to reduce the odor problems and such capital
12 improvement costs are considered as a component of any rate increase sought by
13 BMSC. While the Town understands that it would be impossible for BMSC to
14 eliminate all odors 100% of the time, it is not impossible for BMSC to continue to work
15 toward reducing odors caused by inherent problems of its own sewer system that cause
16 such odor problems.
17
18
19

20 Q. DO YOU HAVE ANY OTHER INFORMATION YOU WOULD LIKE TO
21 ADD?

22 A. No.

23 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY IN THIS
24 MATTER?
25

26 A. Yes.
27
28

1

Exhibit 1



TOWN OF CAREFREE

100 EASY STREET
P.O. BOX 740
CAREFREE, ARIZONA 85377
(480) 488-3686 • FAX (480) 488-3845

STATE OF ARIZONA)

)

COUNTY OF MARICOPA)

I, Elizabeth Wise, the duly appointed, qualified and acting Town Clerk of the Town of Carefree, County of Maricopa, State of Arizona, do hereby certify and attest the attached to be a true and correct copy of The March 7, 2006 Town of Carefree Common Council Meeting Minutes

all as appears of record in the office of the Town Clerk.

IN WITNESS WHEREOF, I hereunto set my hand and caused the official seal for the Town of Carefree affixed hereunto this 21 day of April, 2006.

Elizabeth Wise

Elizabeth Wise, Town Clerk

(SEAL)

**TOWN OF CAREFREE
MINUTES OF THE REGULAR MEETING
OF THE TOWN OF CAREFREE COMMON COUNCIL
HELD ON MARCH 7, 2006 AT 5:00 P.M.**

A meeting of the Carefree Common Council was convened and called to order by Mayor Ed Morgan at 5:05 p.m., Tuesday, March 7, 2006, in Carefree Town Hall Council Chambers located at the 100 Easy Street in Carefree. Present at the meeting were the following members of the Town Council: Mayor Ed Morgan, Vice Mayor Wayne Fulcher and Councilmen, Bob Coady, Greg Gardner, Gary Hayward, Lloyd Meyer and David Schwan. Town Administrator, Jon Pearson, Town Attorney, Tom Chenal, and Town Clerk, Betsy Wise were also present.

The meeting began 5:05 p.m.

There was a pledge of allegiance.

CONSENT AGENDA

Councilman Coady made a **MOTION** to approve **ITEM #1-** Approval of February 7, 2006 executive session minutes and February 7, 2006 regular council meeting minutes, **ITEM #2-** Approval of February, 2006 paid bills, and **ITEM #3-** Approval of January, 2006 financial report, **SECOND** by Councilman Hayward and it **CARRIED** unanimously.

REGULAR AGENDA:

ITEM #4- CALL TO THE PUBLIC.

Steve Warsaw, 8001 E. Serene, recommended we negotiate an interim service contract with a cost per year until the station was built due to the wildfire season coming up. He felt there was an unwarranted rush to build a fire station. He said holding the Master Contract to do the fire house funding was not good and the contract should be our first priority.

Mayor Morgan said the contract was in the midst of deep negotiation.

Bob Berry, 6801 Stagecoach Pass, said we were overlooking what should have been done in the past. He said we should take care of the people at east Black Mountain because there were no fire hydrants and the water pipes weren't sufficient. He urged us to do first things first and install pipes and fire hydrants then buy a truck.

Mayor Morgan invited Mr. Berry to meet with Jon Pearson and Stan Francom regarding the water pipes and fire hydrants.

Mr. Berry said he would.

John Traynor, 8952 E. Cave Creek Road, said Rural Metro had served the community for many decades and their present statistics were alarming. He said subscriptions had gone from 78% to 48% or less since The Town had been negotiating a town-wide contract. He said those who had not renewed were now exposed to financial loss. Mr. Traynor asked why we were spending so much for a truck and station when Rural Metro could contribute to the construction.

Mr. Neiss said in the future we might need a four way stop.

Councilman Coady asked about the dirt pile planned to be retained on one of the lots.

Russ Conway of Classic Stellar Homes, discussed the volume. He said he wanted to minimize the disturbance to the site and surrounding properties. He said we were looking at some inconvenience. He said piling the construction dirt on a lot would save the wear and tear on the roads and they wanted to minimize the impact. He said the pile would be about 6 to 8 feet high and consist of about 8,000 yards of dirt. He said they would salvage the plants and keep them close to water on another lot.

Councilman Hayward said it was a nice development.

Councilman Coady asked if he would be developing all the homes.

Mr. Conway said that was his intent.

Ms. Hitchon said this was a nice project with respect for the land. She said she wished everyone would be as responsible. She said Mr. Neiss had given them lots of good advice.

Buel Wetmore, asked about the sewer and waste water plan.

Peter Vaseki said Black Mountain Sewer had given them alternatives but all alternatives would be pumped to the lift station in Mr. Wetmore's back yard to the northeast.

Mr. Vaseki said this might help with the odor because the more waste water the less odor. He said he was working with BMSC to see that there was no negative impact down stream.

Mayor Morgan asked if they could work with BMSC to make the lift station more effective.

Mr. Vaseki said he would see what they could do.

Vice Mayor Fulcher asked how we would find out how the progress was going.

Mr. Vaseki said he could provide waste water information which could be forwarded to the Town.

Mr. Conway said he would find out about the situation and agreed to do a study although he did not want to build a new sewer treatment plant.

Councilman Hayward made a MOTION to approve Resolutions 2006-03 and 2006-04, SECOND by Councilman Schwan and it CARRIED unanimously.

ITEM #13- DISCUSSION AND POSSIBLE ACTION REGARDING RESOLUTION 2006-04 REGARDING APPROVAL OF THE FINAL PLAT OF A RESIDENTIAL SUBDIVISION KNOWN AS THE RESERVE AT TRANQUIL TRAIL-UNIT I AND IMPOSING CONDITIONS UPON SUCH APPROVAL.

See Item 12.

ITEM #14- DISCUSSION AND POSSIBLE ACTION REGARDING OPERATING AGREEMENT WITH BLACK MOUNTAIN SEWER COMPANY FOR EXTENDED AREAS ONLY.

Mr. Chenal explained this agreement was to allow Black Mountain Sewer to pick up 7 areas on the west side of Black Mountain and to expand their CC&N to the seven areas only.

Mayor Morgan said this would not affect anything in the Boulders.

Mr. Chenal said this involved only gravity flow directly to Scottsdale.

Councilman Coady asked if this was the first time we had had an agreement with BMSC.

Mr. Chenal said it was and that the BMSC was under the authority of the Corporation Commissions.

Councilman Coady asked if this was a negotiating point for the Boulders problems.

Mayor Morgan said that shouldn't be a consideration. He said this agreement was isolated and set apart. He said progress was being made regarding the Boulders.

Mr. Pearson said he had received a letter from Paul Thorpe and the 10 acres to the east of Monterey Homes needed to be added making a total of 8 areas.

Councilman Hayward asked if BMSC had agreed.

Mr. Pearson said they had.

Councilman Coady asked if there had been any improvement in the last month.

Buel Wetmore said they had installed some new equipment which didn't make much difference. He said it was good for four days so he knew it could be done. He said it was a faulty hydraulic design.

Councilman Coady asked if the effluent went to the Boulders.

Mayor Morgan said it went to Scottsdale.

Vice Mayor Fulcher made a MOTION to approve the Operating Agreement with BMSC for 8 extended areas, SECOND by Councilman Hayward and it CARRIED unanimously.

ITEM #15- DISCUSSION AND POSSIBLE ACTION REGARDING CONTRACT FOR CLEAN UP AND TRIMMING OF TOWN MEDIANS.

Mr. Pearson said this was a contract for \$8,000 for Anozira Native to keep up the medians after the trimming and clean up they had performed last year.

Mayor Morgan said he was in favor of upgrading the medians and Scottsdale medians. He said when people crossed Carefree Highway they thought they were in Carefree and it looked bad. He asked staff to call someone to get Scottsdale's medians cleaned up.

Councilman Gardner said he had seen Scottsdale workers in the medians that morning.

Councilman Hayward made a MOTION to approve the contract for \$8,000 with Anozira Native for upkeep of the medians, SECOND by Councilman Meyer and it CARRIED unanimously.

Councilman Meyer said we could talk about it at the upcoming HOA with the Council meeting.

Mr. Happ said he did not recommend bollards.

Mayor Morgan said we needed to get away from APS and see how low we could go to get coverage.

ITEM #19- ANNOUNCEMENTS.

There were no announcements.

ITEM #20- ADJOURNMENT.

Councilman Coady made a **MOTION** to adjourn, **SECOND** by Councilman Hayward and it **CARRIED** unanimously.

The meeting adjourned at 9:51 p.m.

Dated this 20th day of March 2006.

By: Elizabeth Wise
Elizabeth Wise, Town Clerk

TOWN OF CAREFREE

Ed Morgan
Ed Morgan, Mayor

Attest:

Elizabeth Wise
Elizabeth Wise

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of the Town of Carefree held on the 7th day of March, 2006. I further certify that the meeting was duly called and held and that a quorum was present.

Elizabeth Wise
Elizabeth Wise, Town Clerk

Dated this 4th day of April, 2006.

2



Exhibit 2



TOWN OF CAREFREE

100 EASY STREET
P.O. BOX 740
CAREFREE, ARIZONA 85377
(480) 488-3686 • FAX (480) 488-3845

STATE OF ARIZONA)

)

COUNTY OF MARICOPA)

I, Elizabeth Wise, the duly appointed, qualified and acting Town Clerk of the Town of Carefree, County of Maricopa, State of Arizona, do hereby certify and attest the attached to be a true and correct copy of The February 9, 2006 Town of Carefree Common Council Meeting Minutes

all as appears of record in the office of the Town Clerk.

IN WITNESS WHEREOF, I hereunto set my hand and caused the official seal for the Town of Carefree affixed hereunto this 21 day of April, 2006

Elizabeth Wise

Elizabeth Wise, Town Clerk

(SEAL)

**TOWN OF CAREFREE
MINUTES OF THE REGULAR MEETING
OF THE TOWN OF CAREFREE COMMON COUNCIL
HELD ON FEBRUARY 7, 2006 AT 5:00 P.M.**

A meeting of the Carefree Common Council was convened and called to order by Mayor Ed Morgan at 5:05 p.m., Tuesday, February 7, 2006, in Carefree Town Hall Council Chambers located at the 100 Easy Street in Carefree. Present at the meeting were the following members of the Town Council: Mayor Ed Morgan, Vice Mayor Wayne Fulcher and Councilmen, Bob Coady, Greg Gardner, Gary Hayward, Lloyd Meyer and David Schwan. Town Administrator, Jon Pearson, Town Attorney, Tom Chenal, and Town Clerk, Betsy Wise were also present.

The meeting began 5:05 p.m.

There was a pledge of allegiance.

CONSENT AGENDA

Councilman Hayward made a **MOTION** to approve **ITEM #1**-Approval of January 3, 2006 minutes, **ITEM #4**- Approval of street closure of Easy Street from Nonchalant to Carefree Drive on March 11, 2006 from 6 a.m. to 4 p.m. for the Annual Household Hazardous Waste Day, **ITEM #5**-Discussion and possible action regarding closure of north lane of westbound Cave Creek Road from Tranquil Trail to west Town limits for Foothills 10K on Saturday, February 18 from 7-11 a.m., **SECOND** by Councilman Coady and it **CARRIED** unanimously.

ITEM #2- APPROVAL OF JANUARY, 2006 PAID BILLS.

Councilman Hayward asked about two checks. Ms. Wise answered his questions.

ITEM #3- APPROVAL OF DECEMBER, 2005 FINANCIAL REPORT.

Councilman Hayward asked how the Public Safety Fund was doing.

Mr. Pearson said we were on budget. He said the \$3.5 million listed on the financial report represented the intent to borrow money which we had since decided not to do.

Councilman Hayward made a **MOTION** to approve Items 2 and 3, **SECOND** by Vice Mayor Fulcher and they **CARRIED** unanimously.

REGULAR AGENDA:

ITEM #6- CALL TO THE PUBLIC

Mary Beth Cherskov, P.O. Box 2735, Carefree, said it was time for universal service with Rural Metro because since the announcement the Town would pick up the coverage subscriptions had dropped to 48% and the price per square foot for subscriptions had more than doubled. She

Mr. Traynor said he was aware of the lag but comparing to the last year we were down 9.6% in actual revenues collected.

Mr. Keen said he had not figured those numbers at this point.

Mr. Traynor said if the two quarters were compared, we were down 25% and when we were planning on paying for the fire house we had projected a 5% per year increase. He asked if there were any anomalies we should think about.

Mr. Keen said we were at our projection. He said this covered a 5 year span and there would be fluctuations. He said we were within \$10,000 of what was projected.

Mr. Traynor asked if there was no reason to be concerned.

Mr. Keen said there was no reason to be concerned yet.

Vice Mayor Fulcher made a **MOTION** to accept the 2004-2005 FY Financial Statement, **SECOND** by Councilman Hayward and it **CARRIED** unanimously.

ITEM #9- DISCUSSION AND POSSIBLE ACTION REGARDING OPERATING AGREEMENT WITH BLACK MOUNTAIN SEWER COMPANY.

Mr. Pearson explained the reason for the Operating Agreement and that it was important to have one in order to proceed with construction in Town. He said the sewer company needed to expand in order to eliminate septic systems due to percolation problems on the south and east sides of Black Mountain.

Mr. Chenal said there had been previous applications from Black Mountain Sewer Company (BMSC) some years ago and the Corporation Commission had approved them. He said BMSC had extended its service area and wanted to make sure the operation agreement covered those areas and two other areas making it seven added areas.

Mayor Morgan asked if the commercial area where CVS Drugs was located was one of the areas.

Mr. Chenal said it was.

Mayor Morgan asked if this would allow an anchor to move to that commercial area and have sewer service.

Mr. Chenal said it did.

Councilman Coady asked if the subdivision on Black Mountain had said they would put in self contained septic systems.

Mr. Neiss said the County had not advised it.

Councilman Coady asked why.

Mr. Neiss said there would be too much disturbance to the Mountain.

Councilman Coady said the BMSC had been a problem in the past and asked if they would hold to their promises.

Mayor Morgan said they met the state and county standards. He asked if this would protect the streets so when they were dug up they would be returned to MAG standards.

Mr. Pearson said they would put the streets back to MAG standards with the correct permits.

Vice Mayor Fulcher said this sewage would go directly to the treatment plant in Scottsdale.

Mr. Pearson said that was correct, the sewage would be gravity fed to south of Scottsdale Road and Carefree Highway.

Mayor Morgan said the Town was sensitive regarding BMSC and the Boulders. He said we wanted to make sure that this agreement would have no effect on other residential areas. He said we as a Town had no agreements with BMSC.

Councilman Hayward asked if BMSC was in compliance with the state order for expansion.

Mr. Chenal said he understood they were but had no agreement yet.

Councilman Hayward asked when BMSC put sewer lines in and then replaced the road, who owned the infrastructure.

Mr. Chenal said we owned the streets and they owned the pipes. He said the Town was indemnified for problems in construction.

Councilman Hayward asked if we abandoned the sewer company if the pipes would become the Town's property.

Mr. Chenal said in condemnation the pipes would become the Town's.

Marilyn Courier, 1043 Boulder Drive, said she had gone through the agreement and saw nothing holding the company's feet to the fire to make repairs such as at the Carefree Resort lift station. She said problems at the Resort have been going on for a long time. She said Bob Williams had done a good job getting communication going but there was little trust in the company and Mr. Williams was in Spain. Ms. Courier said there had been a flurry of action and the odor had decreased. She asked if the agreement would be approved for signature tonight.

Mayor Morgan said we had been working on this agreement for three months.

Ms. Courier asked what leverage the homeowners would have to get their problems solved if the agreement were signed.

Mayor Morgan said a lot of progress had been made and asked if the BMSC had shown up at the Spa as agreed.

Ms. Courier said that BMSC never showed up at the Spa. She said that was the problem; they said they would do things and never showed up. She said the fear was that once there was an agreement things would go back to the same old thing and they were tired of it. She asked what the recourse was.

Mayor Morgan said they had the Town behind them.

Ms. Courier said the day before the odor inspectors come the BMSC scrubs and takes care of the odor so the inspectors never smell the problem.

Mayor Morgan said he had confidence in Bob Williams and his negotiating skills.

Ms. Courier said no one could negotiate with them.

Mark Hirst, 1045 Boulder Drive, said he agreed with Ms. Courier and they had been through Hell with BMSC. He requested a continuance of this item until next month. He said the Mayor had promised to get feed back from them before signing an agreement. He said they had just found out about this agreement a few hours before and asked that it be continued so they could find out what was going on.

Mayor Morgan asked if they expected contingencies in the agreement.

Mr. Hirst said they just wanted time to review the agreement. He said we were not near where we should be. He said there was no accountability included in the agreement. He said they needed to look at this.

Mayor Morgan said he had given a copy of the agreement to Bob Williams a week ago with the thought that Bob would share it. He said the agreement did not give BMSC carte blanc but only extended service to four developments on the west side of Black Mountain and two other developers. He said we wanted to make sure progress had been made and he was upset to hear no one showed up at the Spa.

Mr. Hirst said no one came to the Spa.

Mayor Morgan said he was at a loss to explain why they had not followed up on it.

Bob Kroyer, 3072 Ironwood, said he felt like they were beating a dead horse. He said these people agreed and made promises and delivered very few. He said the HOA had raised the question of the stink at a HOA meeting in December 2000 and still had the problem. He said we

must condemn the BMSC. He asked for help getting the BMSC to do something. He asked that we not sign the operating agreement and to get the Boulders out of the mess.

Robert Rothschild, 3207 Arroyo Seco, said he was here because he had found out at ten minutes to five about this item and felt it was important to be here. He said the odor problem was not a problem for him but he was supporting the Boulders residents to which this was a problem.

Mayor Morgan said he apologized that the majority had not been informed earlier. He said the Council and the Boulders were in this together and no one wanted to move on until everyone was ready.

Councilman Gardner asked if Williams had met with Weber and Wade. He said Terry Denton was there and Browning Yellington was on the Board. He asked what had been accomplished.

Browning Yellington said they had told the BMSC what they wanted and given them a time table. He said they were now waiting for performance to correct the problems. He said the men at the BMSC were not trustworthy and this problem goes on and on.

Mayor Morgan asked to table the issue until we could sit down with the Boulders.

Vice Mayor Fulcher made a MOTION to table this item, SECOND by Councilman Gardner and it CARRIED unanimously.

ITEM #10- DISCUSSION AND POSSIBLE ACTION TO RETAIN MORRISON-MALIERE TO PROVIDE A TRAFFIC CALMING ANALYSIS ON CAVE CREEK ROAD AND TREE LINED TRAIL.

Councilman Schwan explained this item and said we would be authorizing no more than \$13,000 for a traffic study on Cave Creek Road and Tree Lined Trail to be taken from contingency.

Councilman Coady asked how we would meet with the citizens with the problem.

Councilman Schwan said we had not yet discussed that. He said we would identify the problem, meet to discuss it and take proposals for solutions.

Vice Mayor Fulcher asked if this spot was on Cave Creek Road right before the Scottsdale border.

Councilman Schwan said there were two issues, one was a vision problem and the other was a speed problem.

Vice Mayor Fulcher said the solution was not self evident so it needed a study.

Councilman Schwan said it was appropriate to seek advice from a traffic engineer before adjustments were made.

Judy Bailey from the Desert Foothills Library explained the agreement.

Councilman Meyer made a MOTION to approve the agreement, SECOND by Councilman Hayward and it CARRIED unanimously.

ITEM # 20- DISCUSSION AND POSSIBLE ACTION REGARDING A MEMORANDUM OF UNDERSTANDING FOR A CAREFREE HIGHWAY CORRIDOR STUDY.

Mr. Neiss explained that Maricopa County wanted to gather those municipalities around Carefree Highway together for a planning exercise regarding this road of regional significance.

Vice Mayor Fulcher asked the time frame for improvements on Carefree Highway from Cave Creek Road to Scottsdale Road. He said this part of the Highway was falling apart and dangerous.

Aaron Grenley, 34801 While Away, said he was a 20 year resident and suggested making Carefree Highway four lanes between Cave Creek Road and Scottsdale Road be discouraged because it would bring commercial development and construction traffic use. He also suggested we put up "No Parking" signs on Stagecoach Pass because it was very steep and dangerous. He suggested that construction trucks on that road should park in the driveways of the homes under construction rather than on the road.

Councilman Schwan made a MOTION to approve the memorandum of understanding, SECOND by Councilman Hayward and it CARRIED unanimously.

ITEM #21- ANNOUNCEMENTS.

Councilman Schwan announced that Carefree was a part of the Coalition Against Methamphetamines and he would represent the Town at a two day conference in Phoenix.

ITEM #22- ADJOURNMENT.

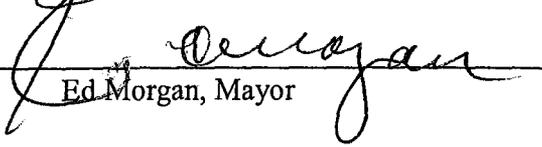
Councilman Coady made a MOTION to adjourn, SECOND by Councilman Gardner and it CARRIED unanimously.

The meeting adjourned at 9:10 p.m.

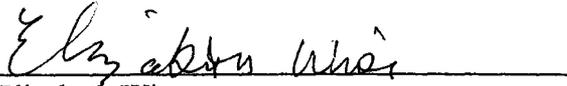
Dated this 22nd day of February 2006.

By: Elizabeth Wise
Elizabeth Wise, Town Clerk

TOWN OF CAREFREE

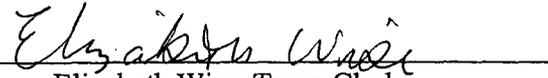

Ed Morgan, Mayor

Attest:


Elizabeth Wise

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of the Town of Carefree held on the 7th day of February, 2006. I further certify that the meeting was duly called and held and that a quorum was present.


Elizabeth Wise, Town Clerk

Dated this 7th day of March, 2006.

3



Exhibit 3



TOWN OF CAREFREE

100 EASY STREET
P.O. BOX 740
CAREFREE, ARIZONA 85377
(480) 488-3686 • FAX (480) 488-3845

STATE OF ARIZONA)

)

COUNTY OF MARICOPA)

I, Elizabeth Wise, the duly appointed, qualified and acting Town Clerk of the Town of Carefree, County of Maricopa, State of Arizona, do hereby certify and attest the attached to be a true and correct copy of The October 5, 2004 Town of Carefree Common Council Meeting Minutes

all as appears of record in the office of the Town Clerk.

IN WITNESS WHEREOF, I hereunto set my hand and caused the official seal for the Town of Carefree affixed hereunto this 21 day of April, 2006

Elizabeth Wise

Elizabeth Wise, Town Clerk

(SEAL)

**TOWN OF CAREFREE
MINUTES OF THE REGULAR MEETING
OF THE TOWN OF CAREFREE COMMON COUNCIL
HELD ON OCTOBER 5, 2004 AT 5:10 P.M.**

A meeting of the Carefree Common Council was convened and called to order by Mayor Ed Morgan at 5:10 p.m., Tuesday, October 5, 2004, in the Council Chambers at Carefree Town Hall located at 100 Easy Street in Carefree. Present at the meeting were the following members of the Town Council: Mayor Ed Morgan, Vice Mayor Mike Eicher and Councilmen Bob Coady, Wayne Fulcher, Greg Gardner, Lloyd Meyer and Patsy Miller. Town Administrator, Jon Pearson, Town Attorney, Tom Chenal and Town Clerk, Betsy Wise were also present.

The meeting began at 5:00 p.m.

CONSENT AGENDA

Councilman Coady made a **MOTION** to approve **ITEM #1-** Approval of September 8, 2004 Regular Town Council meeting minutes, **ITEM #2-** Approval of September, 2004 paid bills, **ITEM #3-** Approval of August, 2004 financial report, **ITEM #4-** Approval of Proclamation declaring October 18-24 as Arizona Cities and Towns Week in the Town of Carefree, **ITEM #5-** Approval of Proclamation declaring the month of October as Domestic Violence Awareness Month in the Town of Carefree, **ITEM #6-** Approval of Proclamation declaring October 10-16 as Arizona Archives Week in the Town of Carefree, **ITEM #7-** Approval of use of Council Chambers for Musicfest on October 20, November 3 and December 1, 2004 and January 5, February 2, March 2 and April 6, 2005 from 9:00 a.m. to 10:30 a.m., **ITEM #8-** Approval of a road closure of Easy Street from Ho Hum to the Sundial on Saturday, November 13, 2004 from 5:30 to 10:30 p.m. for a dinner and Jazz benefit for Susan Clancy Medical Fund, **SECOND** by Councilwoman Miller and it **CARRIED** unanimously.

REGULAR AGENDA:

ITEM #9- CALL TO THE PUBLIC:

Kim Pham a business owner in Carefree said they had opened their business six weeks ago and had joined the Chamber of Commerce. She said they did advertising everywhere to get people into their business. She said the little tent sign they had on the street had brought many people to their business and if it was no longer allowed they wanted our help on how to get people to their business since they could no longer use a tent sign.

Mayor Morgan welcomed Ms. Pham to Carefree.

Ms. Pham's brother said in the area of their business no one was open during the day and they had advertised through an e-mail list and advertising and they wanted to stay in Carefree. He said people saw the tent sign, which was no longer allowed, and he asked if they could keep the sign until business improved.

Councilman Coady asked who would maintain the units.

Lt. Trombi said MCSO would maintain them.

Councilman Coady asked if the old radar units were on single bands.

Mr. Merlis said it was on a K band and now they use a KA band which radar detectors can't pick up.

Councilman Meyer asked if radiation exposure was as high as in the old radar guns.

Mr. Merlis said there was more radiation from the old ones than the new ones but all units emitted radiation. He said it was best to leave the unit off and they all had a hold switch.

Councilman Meyer asked if there was no unusual risk of exposure.

Mr. Merlis said he was not qualified to answer but the manufacturer said it was safe.

Councilman Gardner asked if it was used in other cars.

Mr. Merlis said he had ridden in a car with this radar and it was amazing because it had direction sensing radar to tell if the car was coming toward you or going away from you.

Councilman Coady asked which radar he was recommending.

Mr. Merlis said the DSR.

Councilman Fulcher asked where we would get the funds.

Vice Mayor Eicher said from contingency as discussed at the budget meeting. He asked the total amount.

Lt. Trombi said it would be \$6,463.00 for both units.

Councilman Coady made a **MOTION** to purchase the two units for the deputies for \$6,463.00 to make their jobs easier and more efficient, **SECOND** by Councilwoman Miller and it **CARRIED** unanimously.

ITEM #13- DISCUSSION AND POSSIBLE ACTION REGARDING REPORT FROM CARTER AND BURGESS, INC. REGARDING BLACK MOUNTAIN SEWER SYSTEM ODORS.

Mayor Morgan said Carter and Burgess had been asked to do a study at the last Town Council meeting regarding odor control at BMSC.

Councilman Coady asked who would maintain the units.

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ITEM #13- DISCUSSION AND POSSIBLE ACTION REGARDING REPORT FROM CARTER AND BURGESS, INC. REGARDING BLACK MOUNTAIN SEWER SYSTEM ODORS.

Mayor Morgan said Carter and Burgess had been asked to do a study at the last Town Council meeting regarding odor control at BMSC.

Jason Bethke of Carter and Burgess gave a presentation regarding their findings regarding hydrogen sulfide concentrations and the Lamb Technology Study (LTS). He said the LTS recommendations would help but not solve the problems.

He said the LTS focused on nuisance level for hydrogen sulfide, LTS focused on the symptoms of the hydrogen sulfide gas and not the reasons, and the BMSC's offer to complete projects was not consistent with the levels recommended. Mr. Bethke said they had looked for the root causes for the odor, how to handle it and prepared a list of projects, both short term and long term, to complete until the odor complaints stopped. He said it would cost \$600,000 for the short term projects and \$2.4 million for the long term program and could cost up to \$3 million.

Councilman Fulcher asked if the long term projects were listed in order of financial magnitude.

Mr. Bethke said they were and also listed in order of effectiveness.

Councilman Coady asked if unclean grease traps caused odor.

Mr. Bethke said they did.

Councilman Coady asked if we had a program to check grease traps.

Mr. Pearson said we had initiated a program to inspect grease traps and then the owners were asked to clean them out. He said this was a program that BMSC should be doing.

Councilman Coady asked if we should start an inspection program.

Vice Mayor Eicher said the sewer company should do this.

Mr. Pearson said BMSC could do it but they wanted an ordinance we would enforce.

Mayor Morgan asked if there was a representative from BMSC.

There was none.

Mayor Morgan thanked Mr. Bethke and his peers for the report and said it would give everyone a better look at what needed to be done. He said we would digest the report and begin a letter to BMSC and Algonquin to make clear our position as the Town. Mayor Morgan said we intended to continue to look for an engineering firm to complete an appraisal of the sewer company. He said we would send a letter to BMSC where we would put forth our position asking to put into action items so we could put this behind us and get assurances in two weeks. He said we would ask Mr. Chenal to prepare an unofficial complaint would go to the Corporation Commission regarding the odor because this had gone on too long. He said that two weeks was fair to give Algonquin time to respond and express their position. He said we knew the direction we were going and we were anxious to see the direction that BMSC would go.

Vice Mayor Eicher made a MOTION to accept the Carter and Burgess recommendations as put forth, SECOND by Councilman Gardner and it CARRIED unanimously.

ITEM #14- DISCUSSION AND POSSIBLE ACTION TO AWARD THE CONTRACT FOR STREET PROJECT NUMBER 2004-101. (PROJECT NAME: RUBBERIZED ASPHALT OVERLAY; RUBBERIZED CHIP SEAL; SURFACE TREATMENT AT VARIOUS LOCATIONS THROUGHOUT CAREFREE.)

Patrick Neal said that Thursday, September 30 we had opened the three submitted bids which ranged from \$377,000 to \$328,000. He asked that the low bid from Cactus Transport be considered for approval as it was the low bid for construction.

Councilman Gardner asked how much the price of oil had added as compared to a year ago.

Mr. Neal said most expenses for rubberized asphalt were coming in the same as the rest of the Valley and we had done well.

Councilman Fulcher made a MOTION to approve the low bid from Cactus Transport, Inc. for \$328,390.00, SECOND by Councilman Coady and it CARRIED unanimously.

ITEM #15- DISCUSSION AND POSSIBLE ACTION REGARDING A CHANGE ORDER TO CURRIER CONSTRUCTION, INC. FOR THE PLACEMENT OF ASPHALT OVERLAY ON THE RANCHITOS DEL RAY STREETS.

Mr. Neal said this change order was proposed by Currier and was for double chip seal for two inch paving grade asphalt and concrete which was better than previously planned.

Vice Mayor Eicher asked if the money was in the budget.

Mr. Pearson said monies in HURF and LTAF would provide for the change order.

Mr. Neal said this was almost too good to be true and that Currier had become creative and structured a good bid.

Councilman Meyer made a MOTION to approve the change order for an additional cost of \$70,000, SECOND by Councilwoman Miller and it CARRIED unanimously.

ITEM #16- DISCUSSION AND POSSIBLE ACTION TO AWARD THE CONTRACT FOR STREET PROJECT NUMBER 2004-102. (PROJECT NAME: PERMANENT PAVEMENT MARKINGS.)

Mr. Neal said in the past we had combined marking and striping with the street maintenance project and they would come behind and stripe. He said we had received three bids and recommended we accept the low bid from Pavement Marking, Inc. for \$24,515.71. Mr. Neal said they were well known in the Valley and were a good company.

Councilman Coady made a MOTION to remove use tax from the agenda and not revisit it again, SECOND by Councilwoman Miller and it CARRIED unanimously.

ITEM #19- DISCUSSION AND POSSIBLE ACTION REGARDING ORDINANCE 2004-11 RELATING TO THE PRIVILEGE LICENSE TAX; ADOPTING THE "TOWN OF CAREFREE USE TAX," PROVIDING PENALTIES FOR THE VIOLATION THEREOF; PROVIDING SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

See above.

ITEM #20- DISCUSSION AND POSSIBLE ACTION TO GO INTO EXECUTIVE SESSION ACCORDING TO A.R.S. SECTION 38-431.03 (A) (3) TO DISCUSS AND CONSULT WITH THE TOWN ATTORNEY FOR LEGAL ADVICE.

Councilman Fulcher made a MOTION to go into Executive Session, SECOND by Councilwoman Miller and it CARRIED unanimously.

The meeting adjourned to Executive Session at 6:02 p.m.

The meeting resumed at 6:36 p.m.

ITEM #21- CALL TO THE PUBLIC:

No one wished to speak.

ITEM #22- ANNOUNCEMENTS.

There were no announcements.

ITEM #23- ADJOURNMENT.

Vice Mayor Eicher made a MOTION to adjourn, SECOND by Councilwoman Miller and it CARRIED unanimously.

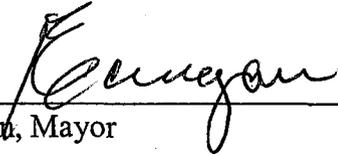
The meeting adjourned at 6:37 p.m.

Dated this 12th day of October 2004.

By:

E. Wise
Elizabeth Wise, Town Clerk

TOWN OF CAREFREE



Ed Morgan, Mayor

Attest:



Elizabeth Wise

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of the Town of Carefree held on the 5th day of October, 2004. I further certify that the meeting was duly called and held and that a quorum was present.



Elizabeth Wise, Town Clerk

Dated this 4th day of November 2004.

4



Exhibit 4

**TOWN OF CAREFREE
MINUTES OF THE REGULAR MEETING
OF THE TOWN OF CAREFREE COMMON COUNCIL
HELD ON SEPTEMBER 8, 2004 AT 5:10 P.M.**

A meeting of the Carefree Common Council was convened and called to order by Mayor Ed Morgan at 5:10 p.m., Wednesday, September 8, 2004, in the Council Chambers at Carefree Town Hall located at 100 Easy Street in Carefree. Present at the meeting were the following members of the Town Council: Mayor Ed Morgan, Vice Mayor Mike Eicher and Councilmen Bob Coady, Wayne Fulcher, Greg Gardner, Lloyd Meyer and Patsy Miller. Town Administrator, Jon Pearson, Town Attorney, Tom Chenal and Town Clerk, Betsy Wise were also present.

The meeting began at 5:10 p.m.

CONSENT AGENDA

Councilman Coady made a **MOTION** to approve **ITEM #1-** Approval of August 3, 2004 Special and Regular Town Council meeting minutes, **ITEM #2-** Approval of August, 2004 paid bills, and **ITEM #3-** Approval of July, 2004 financial report, **SECOND** by Councilwoman Miller and it **CARRIED** unanimously.

REGULAR AGENDA:

ITEM #4- CALL TO THE PUBLIC

Mayor Morgan introduced Paul Dale, Interim President of PVCC, Dean of Living Support Services and Judy Anderson, Carefree resident and Director of Continuing Education at PVCC.

Mr. Dale gave a Power Point presentation on the future campus site at 56th Street and Carefree Highway.

Ms. Anderson said what PVCC had done the last, next and future semesters with CCUSD at Cactus Shadows High School and said they wanted to know what classes the public would like to take.

Mr. Dale said they were taking a blank campus approach and would have public FOCUS groups to find out what the area was interested in. He said they had signed a non binding letter of agreement with the YMCA to sell the 5 acres for a Center and they would lease space back from them for classes. He said the funding would come through Proposition 401 in the November General Election.

Councilman Coady asked what Town the facility would be in.

Mr. Dale said it would be in Scottsdale.

ITEM #9- REPORT FROM HEART OF CAREFREE MERCHANTS ASSOCIATION REGARDING PRE-CONCERT WINE TASTING.

George Mowry of Amano said with the limited budgets of the Heart of Carefree Merchants they had decided to do a brochure for racks throughout the state to go to hotels and restaurants. He said this was also the second year of the merchants' pre-concert wine tasting and thanked the Town for the advertising we had done.

Mayor Morgan complimented Mr. Mowry on his leadership in the Association and thanked them for having the wine tasting and doing advertising without coming to the Town for money to do that.

Mr. Mowry said that last year was the best season they had had and the brochure was well received.

Mayor Morgan said there had been a long running ad in the Scottsdale Republic of Cave Creek and Carefree merchants and Carefree's absence was noticeable. He said he had talked with the Marketing Manager of the Republic and asked if it was the cost that kept Carefree merchants from advertising.

Mr. Mowry said they had managed to get Carefree listed on the map and next month they would be advertising.

ITEM # 10- DISCUSSION AND POSSIBLE ACTION TO RETAIN CARTER AND BURGESS, INC. TO REVIEW VARIOUS REPORTS, STUDIES AND TECHNOLOGIES AND PROVIDE A REPORT REGARDING BLACK MOUNTAIN SEWER SYSTEM ODORS.

Mayor Morgan said we had asked BMSC to give us a response to the suggestions made by Lamb Technology and our citizens. He said they had gotten back to us with what they were ready and willing to do. He said it had been analyzed by Carter Burgess and Mr. Francom and they found what they were willing to do was not what we felt needed to be done. Mayor Morgan said two or three months ago we had thought about hiring a company to look into this and it was felt that the Town should not take on this expense. Mayor Morgan said that now it seemed prudent for the Council to have another engineering firm do a study regarding recommended solutions.

Councilman Fulcher asked what we planned to do with the study once it came out. He said we already had a set of recommendations we had made and the Lamb report. He asked what we hoped to get from the study and how we would use it to our advantage.

Vice Mayor Eicher said that until the Town entered into a franchise agreement with BMSC they would not invest in correcting the problems because it would cost a substantial amount of money.

Councilman Fulcher said he hoped this study would dovetail with the former recommendations. He said this might help reinforce and add engineering credence to the former recommendations.

Mayor Morgan said Item 11 might be a follow up to that.

Councilman Gardner said we must wait until we got the report.

Councilman Fulcher said we would want good hard structural changes to be made.

Councilman Gardner said he had asked the BHOA to help fund the report but it was decided to wait for the Lamb report.

Councilman Gardner made a MOTION to contract with Carter Burgess to give this review to the Council.

Vice Mayor Eicher SECONDED the motion and said we were looking for confirmation of the Lamb report and which recommendations should be done.

Councilman Coady asked if this report would give us the strength to force BMSC to provide the recommendations.

Mayor Morgan said we were trying to convince ourselves of what was good for our citizens. He said BMSC was hard to convince and they had to take steps toward solutions.

Councilwoman Miller recommended that this report include a ranking and costs to eliminate the problems and what we should address first.

Mayor Morgan said we could not take lightly the agreement through the Corporation Commission. He said we were still researching the consequence of not having a signed agreement.

Councilman Meyer asked if we had rejected the Vice Mayor's suggestion of posting a bond.

Vice Mayor Eicher said we neither confirmed nor rejected it.

Councilman Fulcher said we were at a Catch 22 position. He said this report would give us the investment and what it would be. He asked if it would satisfy the homeowners.

Vice Mayor Eicher said there was nothing in the Arizona Revised Statutes that said there must be a franchise agreement between a public company and a municipality in order for them to do business in the community.

Councilman Fulcher said the issue was if they were serious about a program and what the costs were attached to it. He said we could suggest that we would give them an agreement if they posted a bond to do the improvements.

Vice Mayor Eicher said there was no franchise agreement between us.

Councilman Fulcher said if there were bond money, we could do the job.

Aaron Grenley said he wanted to understand what this was. He said this was to have Carter Burgess review the reports of various technicians. He asked why Carter Burgess. He said we had no allegiance to any engineering company and the Town of Carefree should be approached as a business not a charity. He said Carter Burgess had underbid the Arsenic Compliance Project and it had cost us \$500,000. He said this should be competitively bid and we should see any report. Mr. Grenley said if there were any change orders the company should eat it.

Vice Mayor Eicher said that the bid from Carter Burgess was extremely fair due to the relationship Carter Burgess and the Town had. He said he doubted another firm reviewing these documents in a timely manner and with knowledge could do it for \$5,700.

Mr. Grenley asked if the cost were off, then what.

Mayor Morgan said we would not find that in this study and making recommendations.

Councilman Coady asked Carter Burgess if the \$5,700 was just to review the other report or would they do inspections.

Jason Bethke of Carter Burgess said they would be looking at areas and using available information. He said they might not have all the information that BMSC had.

Councilman Coady asked if they would be reviewing and reporting on things that had already been reviewed and reported on.

Mr. Bethke said they would provide the Town with what could be done to solve the odor problems.

Councilman Coady asked if they would be relying on someone else's report. He suggested that the Carter Burgess report should take the same steps for what Lamb did and didn't do.

Mr. Bethke said they felt the report was done well but pieces of the report did not address the odor problems. He said BMSC was not willing to do what should be done and Lamb did not rank the solutions. He said they would accept the report on good faith.

Councilman Coady asked what qualifications Carter Burgess had in the water business.

Mr. Bethke said they were experienced and worked with water.

Vice Mayor Eicher asked if they would bring their report to the Council in 30 days. He said we were anxious to find out if the Lamb report was reasonable and put BMSC's feet to the fire.

Councilman Coady asked how much the same type of reports would cost from another company.

Mr. Bethke said ten times as much.

TOWN000025

Councilwoman Miller asked if they would look at optional solutions and priorities.

Mr. Bethke said they would.

Mayor Morgan said we must have a third party study done so we would be in a position to have BMSC's cooperation with Carefree citizens.

Mr. Pearson said the tank project estimate was off for several reasons including the higher cost of steel and concrete. He said all projects received public bids which determined the actual cost. Mr. Pearson said Carter Burgess did not cost the Town any additional money.

The motion CARRIED unanimously.

ITEM #11- DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE STAFF TO OBTAIN PROPOSALS FROM ENGINEERING FIRMS TO APPRAISE THE BLACK MOUNTAIN SEWER SYSTEM.

Mayor Morgan said at the last meeting Vice Mayor Eicher and he had disagreed regarding solutions to the BMSC problems. He said he felt we would be remiss not to go ahead with an appraisal of BMSC to see what it was worth if they did not follow reasonable solutions to their problems. Mayor Morgan said condemnation of the property would be worth more than the purchase of it. He said the total intent was to solve the problem. Mayor Morgan said if we could only solve the problem by being in the sewer business then we would have to.

Councilman Fulcher asked if this might not give the wrong message that if they did not move ahead, the Town would take over BMSC. He said we must send the message that it was their responsibility and they must make the company perform to the standards expected.

Councilman Gardner said that maybe down the road we could look at this. He said the question was the cooperation we would get from BMSC if we asked for an evaluation. He said we knew the cash flow which gave us an idea of what the company would sell for. He said they had a contract with the Boulders Golf Club to provide 100 Acre Feet of effluent. He asked what would happen to that contract obligation and what the legal ramifications would be. He asked if we should postpone this until after the Carter Burgess evaluation.

Vice Mayor Eicher said he felt we should move forward. He said we were authorizing the staff to obtain proposals from engineering firms to appraise the BMSC system. Vice Mayor Eicher said if we sent an appraiser BMSC should be cooperative due to the comments made last month. He said we could not condemn or buy BMSC without the citizens' vote. Vice Mayor Eicher said if we got an appraisal and had discussions and put this before the voters, the earliest election would be in May. He said if we approached the problem from many directions the faster the problem would be permanently solved. He said three years was long enough to have waited.

Vice Mayor Eicher made a MOTION to ask the staff to find a qualified appraiser to come before us with an appraisal.

Councilman Gardner asked if we should have an engineering study to back up the purchase price.

Vice Mayor Eicher said that was in this agenda item.

Councilman Coady asked Mr. Chenal if after Carter Burgess made a report and recommendations, we could legally get the sewer company to perform.

Mr. Chenal said he was researching that issue now. He said he was looking into what the Arizona Corporation Commission could do to a utility to get it to perform.

Councilman Coady asked if we should wait to get an appraisal until we had the answer.

Mr. Chenal said he didn't know how long the investigation with the Arizona Corporation would take.

Councilman Meyer said this was to get proposals for an appraisal and we should get a solid appraisal. He said time was an issue and when we knew the answers, we could approve an appraisal.

Councilwoman Miller said as we went forward we should spell out what a proposal from an engineering firm should be.

Mayor Morgan said the staff would determine that.

Councilman Meyer **SECONDED** the motion.

Mr. Chenal said that an appraiser would be interested in the Carter Burgess report regarding the cost estimate of recommendations and repairs.

Mr. Grenley said he had no problem with getting the costs for engineering companies to appraise the BMSC. He said he still felt Carter Burgess had charged a lot of money.

The motion **CARRIED** with six in favor and Councilman Gardner voting against.

ITEM #12- DISCUSSION AND POSSIBLE ACTION REGARDING RESOLUTION 2004-20 DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "TOWN OF CAREFREE USE TAX."

Mayor Morgan said that Items 12 and 13 would be carried over to the next meeting due to confusion and the unavailability of the Town's sales tax auditor.

ITEM #13- DISCUSSION AND POSSIBLE ACTION REGARDING ORDINANCE 2004-11 RELATING TO THE PRIVILEGE LICENSE TAX; ADOPTING THE "TOWN OF CAREFREE USE TAX," PROVIDING PENALTIES FOR THE VIOLATION

ITEM #17- DISCUSSION AND POSSIBLE ACTION TO GO INTO EXECUTIVE SESSION ACCORDING TO A.S.R.S. SECTION 38-431.03 (A) (3) TO DISCUSS AND CONSULT WITH THE TOWN ATTORNEY FOR LEGAL ADVICE.

Councilman Meyer made a **MOTION** to go into Executive Session, **SECOND** by Councilwoman Miller and it **CARRIED** unanimously.

The Council went into Executive Session at 6:50 p.m.

The meeting resumed at 7:21 p.m.

ITEM #18- CALL TO THE PUBLIC:

No one wished to speak.

ITEM #19- ANNOUNCEMENTS.

See the first Call to the Public.

ITEM #20- ADJOURNMENT.

Councilman Fulcher made a **MOTION** to adjourn, **SECOND** by Councilwoman Miller and it **CARRIED** unanimously.

The meeting adjourned at 7:23 p.m.

Dated this 22nd day of September 2004.

By: Elizabeth Wise
Elizabeth Wise, Town Clerk

TOWN OF CAREFREE

Ed Morgan
Ed Morgan, Mayor

Attest:

Elizabeth Wise
Elizabeth Wise

TOWN000028

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of the Town of Carefree held on the 8th day of September, 2004. I further certify that the meeting was duly called and held and that a quorum was present.


Elizabeth Wise, Town Clerk

Dated this 5th day of October 2004.

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Exhibit 5

**TOWN OF CAREFREE
MINUTES OF THE REGULAR MEETING
OF THE TOWN OF CAREFREE COMMON COUNCIL
HELD ON AUGUST 3, 2004 AT 5:07 P.M.**

A meeting of the Carefree Common Council was convened and called to order by Mayor Ed Morgan at 5:07 p.m., Tuesday, August 3, 2004, in the Council Chambers at Carefree Town Hall located at 100 Easy Street in Carefree. Present at the meeting were the following members of the Town Council: Mayor Ed Morgan, Vice Mayor Mike Eicher and Councilmen Bob Coady, Wayne Fulcher, Greg Gardner, Lloyd Meyer and Patsy Miller. Town Administrator, Jon Pearson, Town Attorney, Tom Chenal and Town Clerk, Betsy Wise were also present.

The meeting began at 5:07 p.m.

CONSENT AGENDA

Vice Mayor Eicher made a **MOTION** to approve **ITEM #1-** Approval of July 6, 2004 Town Council meeting minutes, **ITEM #2-** Approval of July, 2004 paid bills, **ITEM #3-** Approval of June, 2004 financial report, **ITEM #4-** Approval of construction change order #1 for Boulders Water Line, and **ITEM #5-** Approval of construction change order procedure, **SECOND** by Councilwoman Miller and it **CARRIED** unanimously.

REGULAR AGENDA:

ITEM #6- CALL TO THE PUBLIC:

Ron Clarke, 36425 Up and Down Place, said his neighborhood had taken down 9 power poles which were ugly and dangerous and put the utilities underground. He said it cost them \$100,000 for the trenching and they would start on August 15 and be done by the end of September. He said that Qwest, Cox and APS would start their work and end the middle of November and he appreciated the help the Town had given them to get this project done.

Mayor Morgan gave the history of the project and said that the neighbors had organized and would pay for their bit of beautification of Carefree and increase their property values. He said they had organized and worked with the utilities and the Town staff had given their cooperation. He commended them and there was applause.

Mayor Morgan changed Items 11 and 12 to follow the Executive Session , Item #17.

ITEM #7- MONTHLY SHERIFF'S REPORT

- **RECAP OF ACTIVITY**
- **ADMINISTRATION RECAP**

Lt. Trombi was not available.

TOWN000031

ITEM #9- PRESENTATION BY A REPRESENTATIVE FROM MARICOPA COUNTY DEPARTMENT OF EMERGENCY MANAGEMENT COVERING THE HIGHLIGHTS OF THE NEW DISASTER MITIGATION PLAN FOR CAREFREE AND DISCUSSION AND POSSIBLE ACTION REGARDING RESOLUTION 2004-16 APPROVING THE TOWN OF CAREFREE MITIGATION PLAN.

John Pada from Maricopa County Emergency Management thanked Marshal Ecker, Ms. Dutcher, Mr. Francom and Mr. Neiss for their help and gave a power point presentation. He started with an overview of Emergency Management and the beginning of the Mitigation Plan which sets up a plan for the receipt of money from FEMA. Then he spoke about the Development of the Drainage Master Plan.

Councilman Coady made a **MOTION** to approve Resolution 2004-16, **SECOND** by Councilwoman Miller and it **CARRIED** unanimously.

ITEM #10- REPORT FROM BLACK MOUNTAIN SEWER COMPANY REGARDING NINE-POINT ODOR IMPROVEMENT SUGGESTIONS LETTER.

Mayor Morgan said he had met with Warren Stimpson of BHOA, Councilman Gardner, Mr. Francom, Mr. Weber, Mr. Hernandez, and Ed Lamb of Lamb Engineering on Friday, July 30 and they had done a good job of laying out the results of the engineering study for BMSC.

Mr. Gil Wade and Mr. Hernandez gave a presentation regarding the study of odor control and discussed the odor efforts and improvements so far.

Ed Lamb of Lamb Technical Services gave his background and gave a power point presentation on his report. It included the following:

- Typical Conditions of Sewers
- Current Regulatory Limits
- Project Highlights
- Sensor Technology Accuracy
- Data Collection Technology
- 21 Sensor Locations with a Map
- Data Collection and Logging (26 questionnaires were sent out with no reaction but some were sent back blank)
- Data Results

Future recommendations for improvement included:

- Reduction of Nuisance Odors
 - Grease Spills
 - Illicit Discharges
 - FOG Control Program
 - Completion of Gas Service Line Replacements
 - Removal of an Outhouse near the sewer infrastructure
 - Close and Secure Garbage Bins

TOWN000032

Collection Improvements

- Improve Boulder/Quartz Drive Sewer Alignments
- Add Chemical Feed Systems at Indian Rock Sewer Alignment
- Future Collection System Additions

Plant Improvements

- Complete Plant and Tank Sealing Project
- Upgrade Odor Scrubber (is undersized)
- Air Balance Odor Collection System
- Install Continuous Emissions Monitor

Retest/Reevaluate the System

Buell Wetmore, 7802 Carefree Estates Circle, said they should come spend a weekend in his back yard and assess the smell. He said he didn't fill out a questionnaire because he had made 35 phone calls previously and recommended that they check the former complaints. He said their customers were obligated to pay their bills and that was all. He said they might say there was nothing wrong but it stinks.

Browning Yelvington, a resident of the Boulders and on the BHOA Board, said they had shown a lot of numbers but the conclusion was that there was no problem or they were above average. He asked what was above average.

Mr. Lamb said they had to look at the whole package and they had monitored a small area and gotten the readings there. He said they wanted to redesign to minimize the turbulence. He said it would not eliminate the concentrations but minimizing turbulence would reduce concentrations for easier treatment.

Mr. Yelvington said there was a letter from Maricopa County stating they were overusing their lines.

Mr. Hernandez said they couldn't possibly use 1 million gallons per day and the letter was wrong. He said the numbers were corrected and resubmitted for review.

Mr. Yelvington shared his golfing experience where Holes #1 and #2 smelled sickening. He asked about the alignment problem causing the turbulence and if this would be a big job.

Mr. Lamb said that was a big job. He said they would have to dig the street, remove the sewer lines and rebuild them.

Joel Wade said they would have to do a study and a report and find solutions.

Mr. Yelvington asked if they would realign the sewer and get an odor scrubber.

Mike Weber, General Manager of Algonquin Water Services, said they must look at the study recommendations. He said Dr. Dodds said they must use money wisely and they wanted to get an operating agreement. He said the operating agreement was linked to this study and they must further review it and decide on the items they would do.

Councilman Fulcher said two types of recommendations had come from this study; aesthetic fixes and structural fixes. He said he was encouraged that they finally had structural design changes to solve the problems. Councilman Fulcher suggested they hurry with the evaluation and commit to structural changes. He said to listen to what the consultant had to say.

Mr. Weber said they would do the odor sealing, sound attenuation and installation of a separate chemical feed system solutions but must have an operating agreement before they would do the more expensive projects of restructure and upgrade of the odor scrubber.

Mayor Morgan said this would not happen. He said in each paid bill there was money set aside for infrastructure improvements.

Mr. Weber agreed, it was for capacity improvements.

Mayor Morgan said this was a significant amount and they needed to look at the suggestions Mr. Lamb had made and find the quickest solutions. He said no band aids would help. He said turbulence was the problem and 45degree pipes coming in were causing the odor problem.

Mr. Weber said they could make modifications that might or might not solve the problem. He said they had studied and made improvements from years past and other areas were normal.

Mayor Morgan asked if they were using the right amount of thioguard.

Mr. Wetmore said that alignment was a problem and the lift station needed to be included. He asked about their concerns about the agreement before they would spend money on improvements and what they would do if the agreement was not signed. He asked if they would sell the company and if so wouldn't they have to do the upgrades in order to sell it. He said eliminating the antique equipment would cost what they had paid in fees over three years.

Vice Mayor Eicher said this had been a long process which had gone on over two years and we were all aware of the frustration level. He said what it boiled down to was trust regarding the agreement and eradication of odor. He then gave a history of the problems and how long it had taken to get to this point. Vice Mayor Eicher said it was now August and suggested they come up with solutions, costs and timelines then post a bond then we would discuss an operating agreement. He said we would not sign an agreement until all the neighbors were satisfied with the eradication of the problems. Vice Mayor Eicher then made a MOTION that the staff of the Town of Carefree identify and present to council a qualified appraiser to determine the value of the Sewer Company that we might use to enter into friendly and amicable negotiations for the purchase of the Sewer Company or if necessary for the condemnation of the Sewer Company. He said he believed until Carefree had control of the Sewer Company, the development of Carefree was in serious jeopardy. There was NO SECOND.

Councilman Coady asked if we condemned the Sewer Company, how we would pay for it.

Vice Mayor Eicher said he was way ahead of the game.

TOWN000034

Councilman Coady said there was no money available.

Vice Mayor Eicher said we would find the money as we did for the Water Company.

Mayor Morgan said we were not here to buy, condemn or threaten the Sewer Company but to solve an odor problem. He said there had been valid suggestions from Lamb Technical Services and the BMSC had not had the opportunity to absorb them and get together an action plan. He said we did demand that they let us know how they would attack the problem for the best results. Mayor Morgan said we did not owe them anything but to pay our bills. He said it had been two years that they had tried to solve the problem and they now had good suggestions which should be put into effect. Mayor Morgan said there must be action and the suggestion of the Vice Mayor regarding condemnation was a matter of frustration. He said we would not sign an operations agreement without results.

Councilman Fulcher suggested a commitment for a date for final recommendations.

Councilwoman Miller suggested they set priorities for the major improvements and present a timeline.

Mayor Morgan asked when they would sit down and analyze the Lamb recommendations.

Mr. Weber said many of the recommendations were already underway but commitment for capital improvements would depend on an operations agreement. He said if we wanted to buy the BMSC they were willing to sit down and discuss it.

Mayor Morgan said we did not like threats. He said we needed to get the problem solved and we would not sign an agreement until the suggestions had been put into action.

Councilman Fulcher said we had finished this conversation and made our position clear.

Mayor Morgan thanked everyone.

Aaron Grenley said the study results were done in June while 1/3 of the Carefree population was not in residence. He asked what the effect on the study would be if everyone was here.

Mr. Lamb said the waste water temperatures drop and the hydrogen sulfide drops in half in cooler temperatures and becomes a blanket and runs down washes as an odor. He said with more flow the sulfide concentrations are reduced.

Mr. Grenley asked if the fixes would improve the situation.

Mr. Lamb said it depended on the equipment which was relatively expensive. He said air flow was another problem.

Mr. Grenley asked if the recommendations to BMSC would be those which offered the optimum solution. He asked if we could make it better.

Mr. Lamb said the best recommendations were made no matter what time of year. He said he personally had never smelled anything at the lift station in the six times ha had been there and the data supported that.

Mayor Morgan asked Mr. Weber when we would have an action plan.

Mr. Weber said they would have an action plan the next week.

Mayor Morgan said that was OK.

Marilyn Currier asked what if they were not finished by December 31.

Mayor Morgan said there was no answer at this time and we needed to see what would be put into effect. He said we would depend on Mr. Francom for help.

Ms. Currier asked when we would buy the sewer system. She said it had taken three years to get this far.

Bob Kroyer in the audience said this had been going on a long time and we paid the highest sewer bills in the Valley. He said if we all got together and decided to buy the Sewer Company we could. He said there had been no result from tonight's presentation.

Mayor Morgan said they were making suggestions, now BMSC must give us an action plan.

Darlene Wood said she had a solution to the problem. She said she had a machine that would get rid of odors, grease, etc. She said she had spoken to Joel about the machine which would eliminate the costs.

Mr. Weber said he would look at options.

Councilman Gardner asked Ms. Wood where she had her machinery now.

Ms. Wood said mostly in the Midwest but Phoenix would be using it.

Mayor Morgan said urged her to talk to BMSC. He said he would hear from BMSC in a week.

ITEM #13- DISCUSSION AND POSSIBLE ACTION REGARDING PURCHASE OF SAFETY FLASHER BOARDS AND WARNING LIGHTS.

Mr. Pearson gave a summary of the need and said \$10,597.92 had been budgeted from LTAF in the 2004-05 FY budget for this item.

The meeting adjourned at 7:47 p.m.

Dated this 11th day of August 2004.

By: Elizabeth Wise
Elizabeth Wise, Town Clerk

TOWN OF CAREFREE

Ed Morgan
Ed Morgan, Mayor

Attest:

Elizabeth Wise
Elizabeth Wise

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of the Town of Carefree held on the 3rd day of August, 2004. I further certify that the meeting was duly called and held and that a quorum was present.

Elizabeth Wise
Elizabeth Wise, Town Clerk

Dated this 8th day of September 2004.

TOWN000037

6



Exhibit 6



TOWN OF CAREFREE

100 EASY STREET
P.O. BOX 740
CAREFREE, ARIZONA 85377
(480) 488-3686 • FAX (480) 488-3845

STATE OF ARIZONA)

)

COUNTY OF MARICOPA)

I, Elizabeth Wise, the duly appointed, qualified and acting Town Clerk of the Town of Carefree, County of Maricopa, State of Arizona, do hereby certify and attest the attached to be a true and correct copy of the June 1, 2004 Carefree Common Council Minutes

all as appears of record in the office of the Town Clerk.

IN WITNESS WHEREOF, I hereunto set my hand and caused the official seal for the Town of Carefree affixed hereunto this 21 day of April, 2006.

Elizabeth Wise

Elizabeth Wise, Town Clerk

(SEAL)

**TOWN OF CAREFREE
MINUTES OF THE REGULAR MEETING
OF THE TOWN OF CAREFREE COMMON COUNCIL
HELD ON JUNE 1, 2004 AT 5:00 P.M.**

A meeting of the Carefree Common Council was convened and called to order by Mayor Ed Morgan at 5:00 p.m., Tuesday, June 1, 2004, in the Council Chambers at Carefree Town Hall located at 100 Easy Street in Carefree. Present at the meeting were the following members of the Town Council: Mayor Ed Morgan, Vice Mayor Mike Eicher and Councilmen, Robert Coady, Wayne Fulcher, Greg Gardner and Patsy Miller. Town Administrator, Jon Pearson, Town Attorney, Tom Chenal and Town Clerk, Betsy Wise were also present.

The meeting began at 5:00 p.m.

CONSENT AGENDA

Vice Mayor Eicher made a **MOTION** to approve **ITEM #1-** Approval of May 4, 2004 Town Council Meeting Minutes, **ITEM #2-** Approval of May, 2004 paid bills, **ITEM #3-** Approval of April, 2004 financial reports and **ITEM #4-** Approval of road closure of Easy Street to the Sundial and Ho Hum to Spanish Village on Hum Road for Thunderbird Artists Carefree Art and Wine Festivals to be held on November 5, 6 7, 2004; January 21,22, 23, 2005 and March 4,5 6, 2005 from 10 a.m. to 5 p.m. each day, **SECOND** by Councilwoman Miller and it **CARRIED** unanimously.

REGULAR AGENDA:

ITEM #5- CALL TO THE PUBLIC:

No one wished to speak.

ITEM #6 DISCUSSION AND POSSIBLE ACTION REGARDING APPOINTMENT TO TOWN COUNCIL AND ADMINISTRATION OF OATH OF OFFICE.

Mayor Morgan said that Councilman Zucker had submitted a letter of resignation on May 4 and that the Council and citizens would miss him. He said we owed Councilman Zucker a debt of gratitude for his expertise lent to all of us. Mayor Morgan said we would honor him by filling his unexpired term with someone as dedicated as he. Mayor Morgan placed the name of Lloyd Meyer for consideration to replace Councilman Zucker. He read a few excerpts from Mr. Meyer's resume' mentioning that Mr. Meyer and his wife Donna also began the Christmas program two years ago which had grown to an annual event. He said that their playing of the piano and organ at the event had benefited many in the community. Mayor Morgan said that Mr. Meyer had sat on the Planning and Zoning Commission and been involved in private sector committees in Chicago and New York City. He said he had asked for volunteers to apply for the position. Mayor Morgan said he wanted to acknowledge and thank all who had called, written and filled out applications to serve the Town. He said it took courage to place themselves on the line and desire to sit on the Council and have the opportunity to interact with the community. Mayor Morgan then read what Mr. Meyer had written regarding his goals for the Town. Mayor Morgan then proposed that the Council accept Mr. Meyer's name for consideration for appointment to serve Councilman Zucker's unexpired term.

TOWN000039

Aaron Grenley, a Carefree resident said he had visited the last Cave Creek council meeting regarding contributing to the Carefree/Cave Creek Chamber or the Cave Creek Merchants Chamber and suggested that the Carefree/Cave Creek Chamber of Commerce drop the Cave Creek from its name and exclusively represent Carefree.

Mayor Morgan commended Mr. Lewis and the President of the Chamber in the way they conducted themselves and handled the situation at the Cave Creek Council meeting. He said there were 300 members in the Chamber of Commerce with 1/3 or them from Cave Creek. Mayor Morgan said that Cave Creek had chosen to abandon their Chamber members but Carefree did not choose to abandon the Cave Creek members of this Chamber. He said there was a great deal of synergy to be gained by supporting each others' businesses. He said hopefully neighbors will soon support us all.

ITEM #14- REVIEW OF PROGRESS BY BLACK MOUNTAIN SEWER COMPANY REGARDING ODOR AND NOISE COMPLIANCE.

Mayor Morgan said this was on the agenda so that citizens could come tell us and the sewer company that the problems must be acted on. He said he had met with and worked with the Black Mountain Sewer Company (BMSC) for the last 18 months. He said he had met with Mike Weber, the President, Joel Wade and others. He said Bob Dodds, President of the Company, owned the BMSC and he had flown in from Canada to attend this meeting. Mayor Morgan said we were all anxious to hear the concerns and most anxious to solve the concerns. He said we realized this was a serious problem and the concern over the odor and noise in the neighborhood was shared by all of us. Mayor Morgan said we had asked for a delay in reserving the franchise for BMSC with the Corporation Commission until the problems were solved.

Warren Stimpson, said he lived on the Carefree side of the Boulders and was President of the HOA. He said some temporary measures had been taken to solve the sewer problems. Mr. Stimpson said they would like to see something done to update the technology for sewer treatment. He then read an e-mail from Terry Denton, a Boulders HOA member.

Dana Holde, Manager of the Golden Door Spa, said they were a AAA 5 Diamond rated facility and needed to uphold this. She said that January through March business had been good but they had had numerous complaints regarding odor. Ms. Holde said AAA rates on guest experience and the odor might interfere with their ratings. She asked for support and offered support for any resolution we came up with.

Buel Wetmore, Carefree Estates, said that not a single thing had happened in 18 months since the meeting regarding the odor problem. He said they had put tape on the manhole covers and done some plantings but there was a lift station problem. Mr. Wetmore said there would be 15% more people on 40 acres soon and the lift station could not manage the extra sewage. He said he did not trust the Sewer Company or Mr. Dodds and they should not be treated this way. Mr. Wetmore told a story about how his toilet had exploded due to sewer gas. He asked the Council for help.

Ti Lyon, Carefree Estates, President of the HOA, said they supported all involved with this problem and it should get solved. He asked the Council and the Sewer Company to step up and make sure help happened.

Mark Hirst, Boulders Board of Directors Member, said he lived four blocks east of the plant and it required immediate attention. He said he had founded the Carefree Environmental Group to work on

a permanent solution to this problem. Mr. Hirst said that Mike Weber and Charlie Hernandez had said it was unreasonable to expect the odor to go completely away but he wanted complete eradication of the odor and noise. He asked the officials to resolve this unhealthy situation.

Bob Marshall, citizen of the Boulders, said he was adjacent to the facility and it was potentially a health problem which would affect property values in the area. He said he was willing to help in any way to solve the problem.

Marilyn Courier, showed us a photo exhibit of the landscaping that had been done by the BMSC. She said the cost was estimated at \$3,000 but it was not the promised amount. She volunteered to buy a tree to improve the landscaping of the sewage plant. Ms. Courier said the Sewer Company did cheap, shoddy work and this was an example of how they were dealing with the citizens.

Browning Yelvinton, of the Boulders said the odor was not at his house but it was on the golf course. He said they had made attempts to solve the problem and they might not ever be able to solve the problem. He suggested that the sewer plant be moved out of the Boulders.

Dan Dixon, said he had bought property adjacent to the plant and the Council had the ability to solve the problem. He implored us to help them as a government body.

Mayor Morgan said this Council was interested in solving all Carefree citizens' problems.

Gary Hayward, asked how the Town could develop if it didn't have a sewer system.

Mayor Morgan said many of the new building was on septic.

Bob Krover, Boulders, said this problem stunk and nothing had been done. He asked the Council to put a cap of 12 months and if the problems were not fixed that the Sewer Company be shut down.

Mayor Morgan said Stan Francom, Jon Pearson, Vice Mayor Eicher, Dale Bodiya of Maricopa County Waste Management and he had met to discuss the Sewer Company. He said Mr. Francom had sewer experience and they had spent considerable time on evaluating BMSC and the problems we are experiencing. Mayor Morgan said we knew the problems could not be solved overnight but 18 months was a long time. Mayor Morgan said they had come up with 9 action items they advised the Sewer Company needed to be done. He said after the meeting they had called the Bob Dodds, President of Algonquin Power Systems who owns the BMSC. Mayor Morgan said that Mr. Dodds assured them that action would be taken. He said they had sent a letter to Algonquin outlining the areas that needed to be addressed.

Mr. Bob Dodds, Director of Operations, Algonquin Power, said they had 66 facilities with 6 in Arizona and California and 60 in Canada. He said they worked in 16 different jurisdictions and with all the laws in 2 countries. Mr. Dodds said that water and sewer were a regulated industry. He said they were attacking the problems but had to be prudent due to BMSC being a rate based system. He said if the plant were moved the cost involved must be shared. Mr. Dodds said they were working on this but must be sure the solution was right. He said it must be cost efficient and cost effective.

Joel Wade, engineer for BMSC, said the odor and noise had to be resolved but they needed to understand what they saw. He said they had done 22 improvements, some temporary, some permanent, but in order to resolve the problems, the causes must be understood. Mr. Wade said they

had sealed the manholes and outlined a program of addressing odors. He said it would take 9-10 months to complete the physical improvements to the facility. Mr. Wade said that the next day they were ordering a technological odor study. He said LTS Inc. was the company doing the study and they should get the report by June 30th. Mr. Wade said they had recently met with Greg Gardner and pointed out the improvements to date. He said they had contracted with Damon S. Williams to do a noise assessment of the facility after which they would make changes and reassess.

Vice Mayor Eicher said a letter received from Mr. Weber stated an urgency to enter into an agreement to renew their permit. He said we were reluctant to be a party to any agreement until the work was finished. Vice Mayor Eicher asked what would happen if the agreement did not come to be by July 12.

Mike Weber, General Manager of Infrastructure, said if the agreement was not signed, there would be various ramifications because the agreement gave them franchise rights.

Vice Mayor Eicher said condemnation was not part of the agreement and the Town had the right to condemn and if another sewer company wanted to come to town, the Town could give them the right. He asked BMSC to come up with solutions to the problems, dates they would be corrected and the costs. He suggested that the Sewer Company give the Town a bond and if the work was not done by the date, the Town would use the bond to get it done. Vice Mayor Eicher said we paid the highest rate in Arizona and temporary solutions were not acceptable. He said if we were told the smell could not be eradicated, then the Town must do something. Vice Mayor Eicher said the Town could not have an agreement in place until the problems were solved.

Mr. Weber said the agreement provided that lines could only be provided in certain areas and without an agreement, the Company would be reluctant to invest in the facility. He said service was contingent on getting the agreement signed.

Mayor Morgan said they had received nine suggested points of solution costing from \$100 to \$150,000 and asked how they had addressed those points.

Mr. Weber said they had made a good faith effort and some of the suggested solutions were not based on sound engineering.

Mayor Morgan asked when we could get an outline of suggested solutions.

Mr. Weber said Mr. Wade would look at the program and address the odor and noise.

Mr. Wade said he had seen the nine points and a few had implications and needed to be studied further.

Mayor Morgan went through the nine points suggested in the Town's letter.

Charlie Hernandez, Operations Manager, said they had flushed the lines.

Mr. Wade said they needed to get material to the restaurants regarding grease trap maintenance. He said they needed to clean their collection systems more often. Mr. Wade said they needed to install pumps that pumped daily. He said they wanted to correct these problems as soon as they identified

the baseline odor through the study, then they could act to improve this. Mr. Wade said they would install acoustical material to soften the sound.

Mayor Morgan asked the date when the third party study would be done.

Mr. Wade said it would be finished by June 30 and would be started June 2. He said the study would be done twice.

Councilman Gardner asked when the adjustments would be done.

Mr. Wade said it revolved around the studies and the ability to approve and construct projects. He said there would be improvements as early as September and the June 30th report would be available to the Council.

Councilman Fulcher said we must have this report and wanted them to take out of this meeting a sense of urgency. He said he did not sense their sense of urgency. Councilman Fulcher said we wanted to get a fixed date for the end of the research and find a date for solving the problems. He asked them to come back with solutions, the costs and the dates and in the interim there would be no action. Councilman Fulcher said we must have a commitment it would get done.

Vice Mayor Eicher said this was the first time the gentlemen had been before the Council and the Council had not had numerous meetings with them. He said the last meeting was with Mayor Morgan, Mr. Chenal and Mr. Pearson and himself.

Mr. Wade said that Mr. Weber had not been there and the Council had not met on a regular basis.

Councilman Coady asked if the smell sensors would be comparable to the human nose.

Mr. Wade said the instruments were the best in the business.

Councilman Coady asked if the Sewer Company had made the 22 improvements to the system before or after Mr. Wetmore's toilet exploded.

Mr. Wade said it was after.

Mr. Wetmore asked if this testing could be done on a regular basis when no one was told so they couldn't prepare.

Mr. Weber said that management visits had never been done.

Mr. Wetmore said that was not true.

Mr. Weber disagreed.

Mayor Morgan thanked the BMSC representatives and citizens for attending. He said we had been impressed by the plans but unimpressed by results. He said we needed to resolve the third party study to be brought to us so we could move forward with approval by the people involved and find a resolution. He said the only alternative we had was not good. Mayor Morgan asked the gentlemen

representing BMSC to give their word that they would come back with a firm plan and guarantee results.

Mr. Weber said they had already shown improvement.

Vice Mayor Eicher said we were looking for the eradication of the problem all along the line. He said there was overwhelming odor at different areas and the problem was moving up the line not going away.

Gary Hayward asked if this was the best time of year for the study during a low flow rather than when more people were here and the flow would be higher.

Mr. Wade said this was the best time of year to do the study and that contractors would keep an odor log.

Mr. Hernandez said people could call him at 602-768-5366.

Mr. Wade said we would see the test results by July.

Mayor Morgan asked about a plan of action for BMSC.

Mr. Wade said they couldn't schedule anything without the report.

Mayor Morgan said they should come back June 30 with a plan and asked Mr. Dodds if he had anything further to add.

Mr. Dodds said they would do the study and present the report.

ITEM #15- REQUEST: CONSIDERATION AND APPROVAL OF A FINAL PLAT FOR A COMPLEX OF ELEVEN (11) TOWN HOMES.

- i. **RESOLUTION 2004-15 ADOPTION OF FINAL PLAT**
- ii. **RESOLUTION 2004-14 APPROVAL AND AUTHORIZATION TO EXECUTE SUBDIVISION IMPROVEMENT AGREEMENT**

CASE NUMBER: S03-09 FP

APPLICANT: IRENE CATSIBRIS CLARY FOR ARIZONT INVESTMENTS
16621 N. 91ST STREET, SUITE 101
SCOTTSDALE, ARIZONA 85260

LOCATION: A 1.56 ACRE MULTIPLE-FAMILY (R-3) PARCEL LOCATED AT THE NORTHWEST CORNER OF RIDGEVIEW PLACE AND TOM DARLINGTON DRIVE.

Mr. Neiss explained the final plat request and explained the model.

Vice Mayor Eicher asked why the Carefree Water Company was not providing the water for the development.

Mr. Neiss said there was not adequate CAP water supply to provide water to them.

Vice Mayor Eicher asked if there was anyone from Ridgeview Estates to comment.

There was no one.

Councilman Fulcher said it was good that they were going with the safest way regarding the entrance to the development.

Mr. Neiss said he was satisfied it was the safest entrance.

Councilman Fulcher made a **MOTION** to approve Resolution 2004-15 to adopt the final plat for Clarendon Estates and Resolution 2004-14 approving the execution of a subdivision agreement, **SECOND** by Vice Mayor Eicher and it **CARRIED** unanimously.

ITEM #16- DISCUSSION AND POSSIBLE ACTION TO AWARD ARSENIC COMPLIANCE PROJECT WATERLINE CONTRACT OF \$891,236.45 TO PIERSON CONSTRUCTION COMPANY OF TEMPE.

Mr. Francom said he recommended accepting this low bid for the pipelines for the Arsenic Project.

Vice Mayor Eicher said in a May 27 memo, Mr. Francom had requested authorization to spend up to \$1,029,000 which included the low bid of \$891,236 and other items. He asked Mr. Francom when he would come and ask for approval of the money for the other items.

Mr. Francom said he would come back to request whatever amount may be needed later. He said \$38,500 plus contingency would come to the Town for payment of this amount also. He said he should have requested more on the agenda.

Mr. Pearson said we should consider a contingency of \$50,000 not \$100,000.

Mr. Francom said that would be alright.

Mayor Morgan said we needed to come up with a final figure.

Mr. Francom said \$980,000 would be enough.

Vice Mayor Eicher made a **MOTION** to approve the compliance Waterline Project not to exceed \$980,000 to Pierson Construction Company of Tempe, **SECOND** by Councilwoman Miller and it **CARRIED** unanimously.

ITEM #17- DISCUSSION AND POSSIBLE ACTION TO AWARD THE BOULDERS WATERLINE PROJECT CONTRACT OF \$416,062.05 TO WGC.

ITEM #20- CALL TO THE PUBLIC:

No one wished to speak.

ITEM #22- ADJOURNMENT.

Councilman Coady made a **MOTION** to adjourn, **SECOND** by Councilwoman Miller and it **CARRIED** unanimously.

The meeting adjourned at 8:44 p.m.

Dated this 16th day of June 2004.

By: Elizabeth Wise
Elizabeth Wise, Town Clerk

TOWN OF CAREFREE

Ed Morgan
Ed Morgan, Mayor

Attest:

Elizabeth Wise
Elizabeth Wise

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of the Town of Carefree held on the 1st day of June, 2004. I further certify that the meeting was duly called and held and that a quorum was present.

Elizabeth Wise
Elizabeth Wise, Town Clerk

Dated this 6th day of July 2004.

TOWN00046

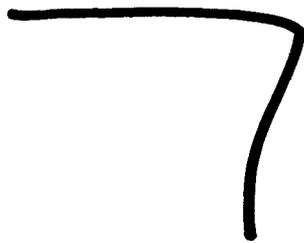




Exhibit 7

BLACK MOUNTAIN SEWER CORPORATION
2005 GENERAL RATE CASE
DOCKET NO. SW-02361A-05-0657
RESPONSE TO TOWN OF CAREFREE'S FIRST SET OF DATA REQUESTS

Response provided by: Charlie Hernandez
Title: Operations Manager
Company Name: Black Mountain Sewer Corporation
Address: 12725 W. Indian School Road, Suite D-101
Avondale, AZ 85323

Company Response Number: 1.1

- Q. How many customer complaints pertaining to odors has BMSC received in calendar years 2004, 2005, and 2006?
- A. Starting in 2004, BMSC received an average of four to five odor calls per week, totaling approximately 211 odor complaints for that year. Later, as odor improvement projects were completed, the number of calls decreased. By 2005, calls decreased to an average of less than one call per week. In 2005, BMSC received approximately 42 odor complaints, most of them at the end of the year. To date in 2006, the calls have increased to an average of one or two per week, totaling approximately 20 calls during the first three months of 2006. The increase of calls may be due to the pending rate proceedings.
-

8



Exhibit 8

**BLACK MOUNTAIN SEWER CORPORATION
2005 GENERAL RATE CASE
DOCKET NO. SW-02361A-05-0657
RESPONSE TO TOWN OF CAREFREE'S FIRST SET OF DATA REQUESTS**

Response provided by: Black Mountain Sewer Corporation

Title: N/A

Company Name: Black Mountain Sewer Corporation
Address: 12725 W. Indian School Road, Suite D-101
Avondale, AZ 85323

Company Response Number: 1.2

Q. Admit that BMSC has received customer complaints pertaining to odors in the past six months.

A. Admit.

9



Exhibit 9

BLACK MOUNTAIN SEWER CORPORATION
2005 GENERAL RATE CASE
DOCKET NO. SW-02361A-05-0657
RESPONSE TO TOWN OF CAREFREE'S THIRD SET OF DATA REQUESTS

Response provided by: Charlie Hernandez
Title: Operations Manager
Company Name: Black Mountain Sewer Corporation
Address: 12725 W. Indian School Road, Suite D-101
Avondale, AZ 85323

Company Response Number: 3.1

- Q. Identify documents related in any way to complaints regarding odors received by BMSC from customers of BMSC in 2004, 2005, and 2006 and provide copies of those documents with BMSC's response to this data request.
- A. Please see the following documents, attached hereto: a log of customer complaints taken by Dan Schanaman, the Lead Operator at Black Mountain; handwritten notes from Charlie Hernandez, Operations Manager, related to calls or e-mails received for odor complaints; and e-mails sent from/received by Charlie Hernandez, Operations Manager.

1787130.1

Dan's Log

Odor and Roach Complaints

Rec.	Name	Area	Complaint	Result	Remedy
16-Apr-04	Al Finch	Tumbleweed & Bldr. Pkwy		No odor found, windy	will replace charcoal and new inserts
18-Apr-04	Al Finch	Tumbleweed & Bldr. Pkwy		gas pressure from vents on house	checking with charlie and joel
20-Apr-04	Richard Vandenburg	34879 Indian Camp Trail		No odor found, small blockage	jetter truck this afternoon
23-Apr-04	Richard Vandenburg	34879 Indian Camp Trail		found cleanout in line and broken	jetted and fixed cleanout
1-May-04	Mark Hirst	1845 Bldr. Dr	foul odor	no odor found, windy	sealed manholes
2-May-04	Mark Hirst	1045 Bldr. Dr	foul odor	no odor found	
3-May-04	Mark Hirst	1045 Bldr. Dr	foul odor	no odor found	
4-May-04	Mark Hirst	1045 Bldr. Dr	foul odor	no odor found	
4-May-04	Mike Stornick	Golden door spa	foul odor	odor on street and spa	this pumps inop
4-May-04	Beryl	CIE L.S.	foul odor	no odor but the peacemaker found	
5-May-04	Melody Wetmore	CIE L.S.	foul odor	no odor but the peacemaker found	resealed manhole with silicone
7-May-04	suzann, Breed	1598 Quertz dr.	foul odor	found odor at manhole in front	77777
14-May-04	Mrl Breed said that he did not call in several weeks and that his wife is back east and his mother-in-law doesn't use the phone	Golden door spa	foul odor	no odor found,	will jet line in front of spa next week
14-May-04	Mike Stornick	Golden door spa	terrible, terrible odor	no odor found,	will jet line in front of spa next week
14-May-04	Al Finch	Tumbleweed & Bldr. Pkwy	number that was left and the caller said they had company for weekend		
14-May-04	phone 488-8247		bed odor	no odor found	
14-May-04	Mark Hirst 7:30 pm	1045 Bldr. Dr	shit odor	no odor found	
15-May-04	Mark Hirst 10:45 pm	1045 Bldr. Dr	smell	No odor found, windy	suggested, raise the vents on the roof
20-May-04	Richard Vandenburg	34879 Indian Camp Trail	odor from manholes	found slight odor	installed insert and peranticky
18-Jun-04	Joe Lloyd	Montecito Condos	odor on property		
2-Jul-04	Lori Scott	35050 Chino Ln.	roaches	roaches found	sprayed manholes on the circle 8/9/04
5-Aug-04	Hyatt-phone 437-9983	7828 E. Carefree Estates Circle	roaches	roaches found	
1-Nov-04	Brian Hickey	7810 Carefree Estates Circle	terrible odor	no plugs, small odor at house	schedule line cleaning
17-Nov-04	Dr. Zisk	7417 Tumbleweed,	terrible odor	No odor found, checked Sunset	jetter will be out 11/23/04
19-Nov-04	Dr. Zisk	7417 Tumbleweed,	odor		
20-May-05	Bill Boyce	Entrada HOA	odor	sealed manholes	
25-May-05	Mike Moran	6001 E. Leisure Lane	odor	Not enough roaches to spray(4)	informed customer that the problem is
	Margret Wiederrecht	7415 E High point, Boulders	roaches	manhole and lines are clean	service line and we do not spray that
	I gave Mrs. Wiederrecht the phone number of our contractor for roaches.....	Commercial Lift station	odor	no odor found	worked on pumps that lost prime
8-Oct-05	Anononimus	7241 Whitehorn circle	odor- laundry room	dry trap under washing machine	told owner to pour water weekly
6-Dec-05	Ann Kirk	1702 E. Stagehorn	stinch-every morning	irrigs and covers have been changed,	left unsealed by contractor
22-Dec-05	Harry Vardakis	30 easy street carefree	intermittent odor	called and informed him that the cleaning will take place next week	have plan in the works to correct
11-Jan-06	Craig Skinner	Golden door spa	odor this morning	called @ 1600 hrs. after odor was gone	sealed temp with silicone
17-Jan-06	Ed Sambuchi	Quartz and Boulder	odor	sealed mfn was not sealed after paving	
8-Feb-06	Dan Verbonitz	1301 Coyote pass	odor in powder room	made first contact	tightened belt and sealed mfn
14-Feb-06	Martyn Courter	107 Bldr. dr.	odor and noise	noise from blwr rm fan, odor from mfn	
15-Feb-06	Dick	2005 Smoke tree	odor in house	made first contact	
22-Feb-06	Dick	2005 Smoke tree	odor in house	went to his house, found no odor	
23-Feb-06	Dick	6028 E. Languid in.	odor in house	went to his house, found odor	bleech in drains checked rest of house
14-Mar-06	Bill Sholtz				

BMSC- odor log

12/30/03 - Boulder Dr. - sewer odor call on odor coming from Plt

01/04/04 - ① Odors on Boulder Dr. - Bill called in

② Another call for Boulder Dr. - ?

③ Woman (?) odor very bad on Boulder Dr.

④ Late call on odors - same location & I think same person

⑤ Late night call on odor @ Plt - Woman?

01/02/04 - CIE call on odors - upset man lives near by.

② second call on CIE - still stinks - man

③ Call on Plt. site odors - Rich

01/04/04 - Mark called in w/ odors @ Boulder Dr.

② - Mark again on Boulder Dr. - odor found & sealed manhole

1/10/04 - call on Sect. - odors on Boulder Dr. from Dan?

② Martin? called on odor coming from Plt. - lives on Boulder Dr.

1/12/04 - call on odors from Plt. - Bill? 7AM

② Another call @ 7:05 AM on odors

③ odor call @ 7:15 AM

Air odor @ Plt.

1/17/04 - Dan S. got 4 calls on odors
@ Boulder + Quartz - Sat.

1/19/04 - Dan S. got two follow up from Sat
- ① - Me - call from Denton's? on Boulder
Dr. - odors on weekend.

1/20/04 - Calls to Dan S. - 3 in 1 day for
C/E - sealed lid.

1/25/04 - Dan S. - 2 calls on Sun AM
for odors
1 call to me for same

1/26/04 - Dan S. - 2 more calls from Sun
on odors

1/31/04 - Charic - call from AME - odors/noise
on Staghorn from plt. - called
me 2 X's
② Another 3 calls on white noise from plt.
at night to Dan

2/2/04 - Charic calls - 3 to complain about odors
& noise from plt. over weekend
AME, ??

2/4/04 - Dan - 2 calls on odor from P.A.

2/7/04 - Odors on Friday night up & down
Boulder Dr - 4 calls on Sat. AM

2/8/04 - Still odors & noise from Sat night

2/15/04 - Odors - Boulder Dr. - 1111
4 calls during day -

2/17/04 - Caller said odor @ Spa
w/ us. - Sally? - 2 more times
- I think same person?

2/19/04 - Roach in mailbox Coreline Inn -
2 callers - will spray

2/21/04 - Harry called - odors at condos?
sent Pan to check -
@ call from Mark on odors - upset person
called 3 times & left V.M.

2/23/04 - Calls to Pan on odors -
1 - Spa, 1 - CIE, 3 pit

2/27/04 - More odor call to Dan - (111) 3
why? - Boulder Dr. area

2/29/04 - 2 more calls to Pan & (111) 4
2 to me - Some issues

3/1/06 - Cleaning lines in Boulder -
Dan got - 7 to 10 calls & I got
about 5 calls - calls stopped after cleaning

3/2/04 - More calls on cleaning lines
Odors - Dan & CH - 12 calls

3/6/04 - CIE - Boel? - Beyond
 full of odors - called 3 X's
 then lady called - 2 X's
 - Patty? called Dan on CIE also - 2 X's

3/7/04 - still CIE odor calls - 8 X's
 why? - women & men

3/8/04 - More odor calls on CIE - ???
 why - Dan recalled - 5 X's

3/9/04 - Call back - thanks for fixing
 from Patty

3/12/04 - Odors on Boulder Dr. - Mark called
 Dan - 2 X's + Mel X - early AM
 Bill - called Dan - odors also - AM

3/13/04 - Dr. Zirk - Tumbledown odors - 2 X's
 - CIE odors again - very bad - 3 calls

3/14/04 - More call on tumbleweed & CIE
 & Boulder - 6 X's - Zirk - Mark - lady

3/16/04 - Calls to complain about week long
 odors - Don - 3, CH - 2 - 5 X's

3/18 - Boulder Dr. - odors & noise from p/h
 only 2 calls -

3/19 - Clean my p/h - odors yes from US.
 3 calls

3/21/04 - on ... call ... 12 11 ...

3/27/04 - Calls to Don & CH from weekend odors on Boulder Dr. & CIE. Very Bad all weekend - MH/BW/MW/PP + others about 10X's

3/28/04 - 1 call - odors

3/26/04 - 3 calls odors - Boulder Dr.

3/28/04 - CIE again - ??? - 2X's
H&A Proj. - CIE -
3 calls on noise & odors - P.H.

3/29/04 - Calls about odors on weekend /
- 3 calls -

4/01/04 - Al Finch - Tombs - odors

4/03/04 - Bill - odors @ P.H.

Don - call from CIE - 2X's

4/5/04 - Calls from weekend P.H., Boulder Dr. & CIE - about 6X's

4/7/04 - Boulder Dr. - Don in person - Dog walker
- 2 more calls later

4/8/04 - Tombs odors - 2X's

Boulder Dr. - 2X's

4/21 - Weekend odors @ CIE - All OK??

4/16 - Al - tumbleweed - odors -
Dan - 2X's - AIF.

4/18/04 - Dan - AIF. again -
Call to CH. -
? Bud? - CIE - 2X's

4/20 - Rich Vi. IndimCamp - odors - 2X's

4/23/04 Rich Vi. " " - " - 2X's - Fixed

4/24/04 - CIE again - 2X's
Balden Dr. - 3X's } DANGEROUS

4/26/04 - More weed and calls - 5X's
CIE/P.H./Bidders

4/30/04 - Trade contact -
Biddn Dr 1045 MA.

5/1/04 - Mark H. - Very bad odors - 2X's
Terry - " " " - 1
?? - " " " - 2X's
Biddn Dr - all

5/2/04 Mark H. very bad odor - 2X's

5/3/04 - " " " - 2X's

5/4/04 " " " - 2X's
Mike S. Spa - odors - 2X's

5/1/84 - Melody W. - CIE odors - 2X's
Boulder Dr. - " " - 1X
Boulder Dr. - odors - 2X's

5/10/84 Sozamb B. Quartz - odors - 2X's
Fixed mesh
?? Bill odors on Quartz - 1X

5/10/84 - Odor calls on Boulder Dr. - 3X's

5/14/84 - Mike S. - Spa odors - 2X's
AIF, tumbleweed odors - 1X
Mark H. odors - PM - 2X's

5/15/84 Mark H. - late night odors -
?? Boulder Dr. odors + horse - 2X's

5/17/84 - Mark H. - more odors ??
Bed - CIE - " " - 2X's
over weekend

5/20/84 - Rich V. - Indian Camp - odors - 2X's

5/21/84 Rich V. again odors
5/23 - Boulder Dr. again odors - Mark H.
& other - a lot of calls - 8X's

5/24 - ^{Why?} Mark H. odors -

5/29 - Mark H. odors - 2X's
Bill - ?? - odors - 1X

- 4/4/04 - CIE again - 3 calls
 6/5/04 - Boulder Dr. - 2 calls
 - Mark H. - 1 X
 6/12/04 - CIE - Meldy? - 2 X's
 - Boulder Dr. - 1 X
 6/18/04 - Joe L. Condos - odors - 2 X's
 - Mike from pl. at Night. - 2 X's
 6/20/04 - Odors Boulder Dr. Mark H. up set
 w/ w others - 3 X's
 7/2/04 - Lori S. Chumlane odors -
 7/4/04 - Many odor calls over weekend
 7/5/04 - on Boulder Dr. + CIE
 around 12 calls
 7/16/04 - CIE odor call
 7/30/04 - Case free Tour Meetings -
 many odor complaints passed on.
 8/5/04 - Hyatt - CIE - Roaches - sprayed
 8/10/04 - Boulder Dr. - 2 X's - odors
 8/16/04 - CIE odors - lady & man (what were?)
 8/20/04 - Boulder Dr. - odors -

9/1/04 - Briant H. Carefree Estates - Poles sprayed - Muey CIE - odors again - Newfund - 2X's

9/4/04 - Noise from plt. - 2X's

9/25 - odors from plt. - 2X's

10/2/04 - CIE odors - very bad - 3 calls on Sat.

10/9 - Boulder Dr. - Mark? & others - 3X's

10/23 - 4 calls in 1 hour on plt. odors why? Dants check

11/1/04 - Briant H. again noise - noise

11/12 - Boulder Dr. odors - 2X's

11/17 Dr. Zirk - odors - 2X's

11/19 " " " - fixed

11/20 CIE - odors - Patty HBW - 3X's

11/25 - CIE - Very bad odors - 4 calls

11/26 - CIE again - 2X's
Boulder & Quartz - 3X's } odors

12/7/04 - Again odors at CIE & plt. site.

- 2/11 - Very Bad odors @ P.H. - 3 calls
- 2/12 - More calls on odors @ P.H. - 2 X's
- 2/24 - C.I.E. - odors are very bad - 3 X's
 P.H. also " " - 2 X's
 Boulder Dr. " " - 2 X's
- 2/25 - Bill - P.H. site odors
- 2/31 - Boulder Dr. odors - 2 X's
- 01/07/05 - odors at C.I.E. over holidays - 2 X's
 " " Boulder Dr. " " - 3 X's
- 01/08/05 - C.I.E. + P.H. - 2 X's
- 2/9/05 - Boulder Dr. odors - 2 X's
- 2/21/05 - C.I.E. again - ~~odor~~ odor - 3 X's
see why?
- 3/4 - Boulder Dr. odors - 1 X
 Staghorn " - 2 X's
- 3/8/05 - C.I.E. odor calls - 2 X's
- 3/6/05 - P.H. site - noise at night - 1 X
- 3/7 - More noise calls + 1 odor - 3 X's
- 3/28 - odor call sp a bel - 2 X's
 ? Sally?

4/11/05 - 3 calls on Comm. L.S. - Dan clean at
- 2 more during cleaning

4/13 - CIE orders ——— 2 X's

5/20 - B. & B. & Intrada H's A orders ——— 4 X's

5/20 - Mike M. Leisure Lane - orders - 2 X's
Magn. H. High point - Roads - fixed

6/7 - 2 calls on PH orders —

7/3 - CIE order calls ——— 2 X's

PH " " ——— 3 X's

Budd Dr. " " ——— 2 X's

all at Night ????

7/12 - 1 call on orders at Quiet Budd Dr.

8/12 - Call on orders Stearns —

9/4/05 - Many calls from Budd Dr.
on orders ——— 6 to 8 calls
Why?! Dan to check

10/8/05 - Comm L.S. — 2 X's

10/22/05 - CIE orders — 2 X's

11/24/05 - 4 calls from CIE + PH — very upset

- 12/26/05 Whitehorn - odor in home - 1X
- 1/22/06 - Anne K. Stegorn odor every morning
2 calls - aded M.H.
- 1/22/06 - CIE odors _____ 1X
P/H - odors _____ 3X's
- 1/11/06 - P/H odors very bad - 2X's
- 2/03/06 - Kay C. 1039 B. - odor -
- 2/04/06 - Ed H/A - 1041 " " " -
- 2/08 - 1041 odors B/H/A
- 2/13 - Resort area - odors
- 2/14 - Marilyn - odors - P/H
- 2/17 - Spa odors -
- 3/6 Bob W. - Tee 1 - odors -
- 3/4 Marilyn - odors - Buelal Pr.
- 3/3 odors - P/H - Marilyn
- ~~3/10 Kent~~
- 4/3/06 - Stegorn odors - 6 eve G.
Many days of odors

4/22 - Brett & Mark - many calls & emails — 4 X's

4/21 - Budder Dr. odors — 3 X's

4/21 Jenny Lind issue —

4/24 - River Market. odors — 2 X's

05-11-00 12:00 PM FROM

170 0 00/07 1 507 1

charlie hernandez

From: Marilyn H Courier [mhcourier@cox.net]
Sent: Friday, February 03, 2006 3:55 PM
To: Charlie Hernandez
Subject: Sewer Odor
Follow Up Flag: Follow up
Flag Status: Completed

Charlie,

There was odor this afternoon in front of Kay Creighton's house, 1039 Boulder Dr., at about 2:20 P.M. There was slight breeze coming from the NE. On a scale of 1 (so what) to 10 (it would gag a buzzard), I would say it was a 5.

Hope you had luck in reaching Mindy Cauvin in Medford, and were able to work something out with her.

Thanks,

Marilyn Courier

4/24/2006

UNOFFICIAL COPY

TOWN000064

charlie hernandez

From: Boulders Homeowners [BHOA_INFO@msn.com]
Sent: Saturday, February 04, 2006 6:27 PM
To: Stimpson, Warren & Jane; Williams, Bob & Sarah; Yelvington, Browning & K. Lynn; Christine; Denton, Terry; Dewey, Linda; Murphy, Charles & Donna; Russell, Richard & Rita; Vale, Marie
Cc: BMSC Charlie
Subject: Smell
Follow Up Flag: Follow up
Flag Status: Completed

I sent the following "smell -o-gram" to Charlie Hernandez.

At 3:30 on Saturday afternoon I drove my cart to the club past 1041 Boulder Drive and there was not smell. When I drove back at 5:30 there was a distinct smell. The winds were light and coming from the Northwest.

Ed

4/24/2006

110 0 00/113 602-1

-W0H7 10:21 90,-10-50

TOWN000065

charlie hernandez

From: BHOA [bhoa_info@msn.com]

Sent: Wednesday, February 08, 2008 7:44 PM

To: BMSC Dan Schanaman; BMSC Charlie Hernandez

Cc: Stimpson, Warren & Jane; Denton, Terry; spurgroup@cox.net; Courier, Marilyn & Ernest

Subject: SMELL-O-GRAM

Sorry I'm late with this report. At 3:30 today there was an intense smell between the manhole at Quartz Valley and 1041. The wind was calm and it was hard to pin point the source.

Ed

4/24/2006

1000 00/01 1 507 1

-0000 10:21 90,-10-90

TOWN000066

charlie hernandez

From: Bob Williams [spurgroup@cox.net]
Sent: Monday, March 06, 2006 3:30 PM
To: charlie hernandez
Subject: Re: Sewer Odor and Noise

Charlie:

Thanks for the comeback.

I played golf this morning, teeing off on the North Course about 10AM. As we passed from the first hole to the second hole, my playing partner said, "What is that smell?". It was the sewer plant. Wanted you to know that around 10:20, the odor was there today.

Thanks for all the follow up, Charlie.

Bob

----- Original Message -----

From: charlie hernandez
To: 'Bob Williams'
Cc: 'Mike Weber'; 'Marilyn H Courier'; Dan Schanaman; Joel Wade
Sent: Monday, March 06, 2006 8:10 AM
Subject: RE: Sewer Odor and Noise

Hi Bob,

I have a meeting with Dan today and will check the area with him again this afternoon but I can tell you that I have been at the plant weekly at all times of the day and night, even a few weekends lately and I have not heard any excessive noise or any increase in noise. After the sound reduction projects we completed at the plant it has never been quieter, well below any decimal requirements. Also, we never average more than 120,000 gallons per day max per our permit.

Charlie

From: Bob Williams [mailto:spurgroup@cox.net]
Sent: Saturday, March 04, 2006 1:19 PM
To: charlie hernandez
Cc: Mike Weber; Marilyn H Courier
Subject: Fw: Sewer Odor and Noise

Charlie:

I think Marilyn's concerns should be addressed as soon as possible. She is doing what we asked i.e. letting us know when the odor returns. Sounds like it is getting better, but not yet solved.

Bob

----- Original Message -----

From: Marilyn H Courier
To: Charlie Hernandez
Cc: Bob Williams; Bruce Hilsee
Sent: Saturday, March 04, 2006 11:43 AM

4/24/2006

Subject: Sewer Odor and Noise

Charlie,

Ernie and I were really getting excited, because there was no odor for days (nearly a week). Then, yesterday, here it came again. On Friday, March 3, at 7:00 AM, it was a 7 (10=awful). This morning, Sat. March 4, it was a 6. Both days the odor lasted about 30 minutes.

It is difficult to tell just where it is coming from. When we are in our carport, the odor seems to be coming from the street. But as we walk around the side of the house, and then to the back and into our patio, it seems to be coming from the plant.

Also, for the past several weeks, the motor has been roaring. You guys must be pushing 300,000 gals a day through that facility.

Has anyone talked to the management at the Carefree Inn and Resorts, yet, regarding the way their staff disposes of grease and cleaning rags?

Please remind Mr. Weber and Joel Wade that IT'S BEEN FIVE YEARS NOW.

Marilyn Courier

4/24/2006

11047 20:27 00 -10-00

TOWN000070

charlie hernandez

From: Dan Schanaman [dan.schanaman@algonquinpower.com]
Sent: Friday, February 17, 2006 4:07 PM
To: Charlie Hernandez
Subject: odor-gram

Follow Up Flag: Follow up
Flag Status: Red

This morning 2-17-06 @ 0730, I stopped and walked the premises of the Spa and found no odors. When returning to the front door I met John with maintenance and we talked out front and inside the courtyard, he stated that they had not had any odors reported and that he had not smelled anything. John asked about the activity around the manhole in the parking lot and I told him about the odor study and the cleaning of the main that runs in front of the Spa. I then went inside and spoke with the girl that works at the front desk about odors and if anyone had reported anything. She told me that they smell an odor off and on slightly, while we were talking a gentleman walked behind me and stated that "it stinks". I asked him where and he pointed to the front door and said there. I immediately went to the front door and then outside and smelt nothing except the fragrance that they use to mask the odor that the spa says they have, (which to me stinks!!), I went back to talk to the front desk and gave her some more of my cards and told her to call or send me an e-mail with reports from the cliental or if she smells anything. The odor that she and I both smelled while I was there is "sage". At the front door there is a gap between the doors and the fragrance comes thru the door and when mixed with the fresh air to me stinks, that is the only odor that I smelled.

Dan

charlie hernandez

From: Ken James - ENVX [KJames@mail.maricopa.gov]
Sent: Thursday, March 10, 2005 10:47 AM
To: charlie hernandez
Subject: FW: Odor/Noise Complaint
Follow Up Flag: Follow up
Flag Status: Completed

Charlie,

Here is another new complaint from a resident along Boulder Drive, near the treatment plant.

Ken James, P.E.
Maricopa County
Environmental Services Department
(602) 506-6414

=====

We experience odor at the manhole at Quartz Valley Rd. virtually nightly between 6:00-7:30pm. We have also smelled it at Century Way & Eagle Claw further up Boulder Drive. This has been the case for years. Why hasn't anything changed? I thought BMSC was supposed to be doing something about it. Also, the noise (from the WWTP) has returned and can be heard in the evenings again.

4/24/2006

1-209 144/05 0001

05-01-06 12:02 FROM-

TOWN000072

charlie hernandez

From: Dan Schanaman [dan.schanaman@algonquinpower.com]
Sent: Monday, May 23, 2005 8:20 AM
To: Charlie Hernandez
Subject: Odors

Good Morning Charlie,

On Friday May 20th I recieved a call from Bill Boyce who is the president of the HOA for the Entrada development which is next to our development which includes the sunset trail lift station stating that He had been out of town and when He got back he had several messages about sewer odors and wanted us to check it out. He understands that they are not on our system but believes that the Thio-gaurd may need to be adjusted. I sent Mike out to investigate and he found no ordors in Entrada or sunset trail lift station.

Saturday you called me.

Monday 8:00 am Bill called me again to see what we had found, I told him that sometimes something will sneak through that may cause odor but that everything is working fine. While I had him on the phone I asked him if he knew who it was that called in on Saturday and he said no also that there were no odors over the weekend.

Dan

charlie hernandez

From: BHOA [bhoa@cox.net]
Sent: Monday, April 03, 2006 4:09 PM
To: spurgroup@cox.net; BMSC Charlie Hemanadez
Subject: Fw: Sewer Odor
Follow Up Flag: Follow up
Flag Status: Completed

----- Original Message -----

From: George Gallinger
To: Ed Sambuchi
Sent: Monday, April 03, 2006 12:47 PM
Subject: Sewer Odor

As I understand it, Bob Williams wanted to be advised about sewer odor problems. This note is to let you know that the sewer odor at my place on Staghorn is very strong. A truck is at the corner of Staghorn and Boulder Drive pumping sewage.

George

George W. Gallinger, Ph.D.
Associate Professor of Finance
W. P. Carey School of Business
Arizona State University
Tempe, AZ 85287-3906
Phone: 480.965.4221 Fax: 480.966.8539
Email: george.gallinger@asu.edu
Web: www.public.asu.edu/~bac524

4/24/2006

----- ORIGINAL MESSAGE -----

TOWN000074

charlie hernandez

From: Bob Williams [spurgroup@cox.net]
Sent: Wednesday, April 05, 2006 2:43 PM
To: charlie hernandez
Subject: Fw: Sewer smell

----- Original Message -----

From: "Jenny Roberts" <azjen@hotmail.com>
To: <spurgroup@cox.net>
Sent: Wednesday, April 05, 2006 12:27 PM
Subject: Sewer smell

> Hi Bob,
> I am wondering if the problem I am experiencing from time to time at my
home
> is attributable to the BMSC issue we have or not, I am just up from
Boulder
> Dr on 1714 Staghorn.
> I have noticed sewer smells in my garage and kitchen on occassion, it
> started about Jan. last year. I hadn't experienced smells for a while
but
> noticed again on Monday.
> Unfortunately there is a very badly placed cover to my sewer pipe in my
> garage floor right by the door into my house (and into my kitchen).
However
> it appears at times the sewer smell is coming from the sink area of the
> kitchen. I do have p-traps on all drains and I do keep the garage
disposal
> clear. Any thoughts on whether this is related to the BMSC issues?
> Thanks for your help and all you are doing re this issue also
> Regards
> Jenny Roberts
>
>

charlie hernandez

From: Bob Williams [spurgroup@cox.net]
Sent: Sunday, April 23, 2006 5:13 PM
To: charlie hernandez
Subject: Re: Stench
Follow Up Flag: Follow up
Flag Status: Red

Thanks, Charlie. Sounds like they need inspecting!

Bob

----- Original Message -----

From: charlie hernandez
To: 'BHOA'; 'Stimpson, Warren & Jane'; spurgroup@cox.net; 'Denton, Terry'
Cc: 'Dan Schanaman'; 'Mike Weber'; 'Bob Dodds'
Sent: Sunday, April 23, 2006 11:19 AM
Subject: RE: Stench

Hello All, I'm on the way to the plant right now and will inspect the manhole seals on Boulder Drive myself.
Charlie

From: BHOA [mailto:bhoa@cox.net]
Sent: Sunday, April 23, 2006 7:11 AM
To: Stimpson, Warren & Jane; spurgroup@cox.net; BMSC Charlie Hernandez; Denton, Terry
Subject: Fw: Stench

For your information

----- Original Message -----

From: Brett Larsen
To: BHOA; Bob Williams
Sent: Saturday, April 22, 2006 9:15 PM
Subject: Stench

Gentlemen,

Has anything been arranged to close the damn manhole in front of our home? It stinks to high heaven in front of our place and has for the last two days (the odor is obvious even as we write this).

Furthermore, has any real progress occurred here with the sewer company or are we just their free monitoring service? We actually have better things to do with our time, but feel obligated to play this e-mail game so we can breathe fresh air.

We truly appreciate your help, but clearly the lack of cooperation and sense of urgency on the part of the sewer company demonstrates their lack of commitment in getting this problem resolved.

We implore you to help.

Brett & Mark

4/24/2006

170.0 00/07J 507-1

-1004 80:21 90.-10-90

charlie hernandez

From: Ken James - ENVX [KJames@mail.maricopa.gov]
Sent: Wednesday, March 09, 2005 3:29 PM
To: charlie hernandez
Cc: William Kenning - ENVX
Subject: Odor Complaints

Charlie,

I have received a complaint about odors coming from street manholes in the vicinity of 1065 Boulder Dr., primarily in the mornings and evenings.

Are these manholes sealed and do they have a carbon canister?

Does the Thiogard system have chemicals and is it operating properly?

Please investigate whether the morning and evening occurrence of odors corresponds with lift station pumping cycles.

Please respond ASAP.

Ken James, P.E.
Maricopa County
Environmental Services Department
(602) 506-6414

4/24/2006

110 0 00/071 507-1

-W044 00:21 00.-T0-00

TOWN000077

charlie hernandez

From: Brett Larsen [Agentlarsen@cox.net]
Sent: Friday, April 21, 2006 5:27 PM
To: charlie hernandez; BHOA; Bob Williams
Subject: Fw: ODOR AGAIN

We invite anyone who would like to verify that the stench on Boulder drive in front of our home still exists as we write this. Nobody has been by to fix the problem all day. At least last time it "only" took 5 hours to get someone to seal the manhole when we notified the Enviro Tec people who were dumping into the manhole.

**Brett & Mark
1045 Boulder Dr**

----- Original Message -----

From: Brett Larsen
To: charlie hernandez ; BHOA ; Bob Williams
Sent: Friday, April 21, 2006 7:05 AM
Subject: ODOR AGAIN

There is sewer odor again this morning. It sinks in the around our home as I write this.

Any idea when this will end????!

**Brett Larsen & Mark Hirst
1045 Boulder Dr.**

4/24/2006

110-0 00/001 007-1

05-01-06 12:03 FROM-

TOWN000078

charlie hernandez

From: Brett Larsen [Agentlarsen@cox.net]
Sent: Friday, April 07, 2006 7:37 PM
To: charlie hernandez
Cc: Bob Williams
Subject: Re: ODOR AGAIN
Follow Up Flag: Follow up
Flag Status: Red

Charlie,

We have odor again tonight since about 7:15pm.
I'm glad that you welcome our letting you know, but after all these years, it's getting very tiresome to still have to report on this problem.

Brett Larsen
1045 Boulder Dr.

----- Original Message -----

From: charlie hernandez
To: 'Brett Larsen'; 'Dan Schanaman'
Cc: 'BHOA'; 'Bob Williams'
Sent: Thursday, April 06, 2006 8:35 AM
Subject: RE: ODOR AGAIN

Dan, please recheck this section of manholes today, also increase the Thio-guard to see if it helps.

Hi Brett, we are checking the manhole seals and will adjust the Thio-guard feed to see if it helps. Please keep the emails coming, the more information the better.

Charlie

From: Brett Larsen [mailto:Agentlarsen@cox.net]
Sent: Thursday, April 06, 2006 7:00 AM
To: charlie.hernandez@algonquinwater.com
Cc: BHOA; Bob Williams
Subject: ODOR AGAIN
Importance: High

The sewer odor is back again this morning. The manhole across from our home seems not to have been completely sealed from the other day.

Brett Larsen
"The Agent You Can Trust"
1st USA Realty Professionals, Inc.
602-526-9470
www.1stusarealty.com

4/24/2006

1-759 131/33 0-01

05-01-06 12:03 FROM-

charlie hernandez

From: Jenny Roberts [azjen@hotmail.com]
Sent: Thursday, April 27, 2006 7:59 AM
To: dan.schanaman@algonquinpower.com
Cc: charlie.hernandez@algonquinwater.com
Subject: RE: Sewer smell

Dan - thanks for the update and also looking into this - Jenny

-----Original Message Follows-----

From: "Dan Schanaman" <dan.schanaman@algonquinpower.com>
To: "Jenny Roberts" <azjen@hotmail.com>
CC: "Charlie Hernandez" <charlie.hernandez@algonquinwater.com>
Subject: RE: Sewer smell
Date: Tue, 25 Apr 2006 12:57:34 -0700

Hello Jenny,

I'm sorry that it has taken me so long to get back to you and Charlie about what I found the day that you sent the e-mail. I found several of the manholes not sealed correctly and because of the low flow on Staghorn there was a large build up in the main, I had the main hydro-vacced the next day and the manholes sealed again properly.

Dan

-----Original Message-----

From: Jenny Roberts [mailto:azjen@hotmail.com]
Sent: Tuesday, April 25, 2006 8:50 AM
To: charlie.hernandez@algonquinwater.com;
Dan.Schanaman@algonquinwater.com
Cc: spurgroup@cox.net
Subject: RE: Sewer smell

Hi Charlie and Dan,
I am wondering if the lines were checked out and if anything was uncovered?
thanks
Jenny
p.s. I have not noticed the problem since writing this email

-----Original Message Follows-----

From: charlie hernandez <charlie.hernandez@algonquinwater.com>
To: 'Bob Williams' <spurgroup@cox.net>, 'Jenny Roberts' <azjen@hotmail.com>, 'Dan Schanaman' <Dan.Schanaman@algonquinwater.com>
Subject: RE: Sewer smell
Date: Thu, 06 Apr 2006 08:42:18 -0700

Hi Jenny,

I have been thinking this one over, it's an odd situation you have, I do not think it's a Black mountain problem but I'll have Dan check the lines in your area for restrictions in the sewer line.

Charlie

-----Original Message-----

From: Bob Williams [mailto:spurgroup@cox.net]
Sent: Wednesday, April 05, 2006 2:43 PM
To: Jenny Roberts
Cc: charlie hernandez
Subject: Re: Sewer smell

charlie hernandez

From: Brett Larsen [Agentlarsen@cox.net]
Sent: Monday, April 24, 2006 1:30 PM
To: BHOA; Bob Williams; charlie hernandez
Subject: Here we go again
Follow Up Flag: Follow up
Flag Status: Red

Marilyn Courier & I were just outside of my home speaking with a contractor when the sewer stench came by.

Last night was better than the two previous nights so I thought the manhole was covered by Charlie who said he was coming over himself to deal with it. However, Mark told me someone new from the sewer company was here earlier today. I've just come over from the manhole across the street and short of someone sticking a green plastic glove in one of the holes around the manhole, the thing appears not to be sealed.

As always everyone is invited to see & smell for themselves what's going on so once again we need this taken care of.

I wonder what the going rate is for sewer system monitoring services-they sure are getting us to do it for them for a great price.

**Brett & Mark
1045 Boulder Dr**

4/24/2006

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TOWN000081

Francom

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LAW OFFICES
MOHR, HACKETT, PEDERSON, BLAKLEY & RANDOLPH, P.C.
2800 NORTH CENTRAL AVENUE, SUITE 1100
PHOENIX, ARIZONA 85004-1043
TELEPHONE (602) 240-3000
FACSIMILE (602) 240-6600
(AZ BAR FIRM NO. 0046600)

Thomas K. Chenal (AZ Bar No. 006070)
(tchenal@mhplaw.com)

David W. Garbarino (AZ Bar. No. 022452)
(dgarbarino@mhplaw.com)

Attorneys for the Town of Carefree

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE
APPLICATION OF BLACK
MOUNTAIN SEWER
CORPORATION, AN ARIZONA
CORPORATION, FOR A
DETERMINATION OF THE FAIR
VALUE OF ITS UTILITY PLANT
AND PROPERTY AND FOR
INCREASES IN ITS RATES AND
CHARGES FOR UTILITY SERVICES
BASED THEREON.

No. SW-02361A-05-0657

SURREBUTTAL TESTIMONY OF

STAN FRANCOM

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1 **I. INTRODUCTION**

2 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

3
4 A. Stan Francom, 100 Easy St., Carefree, Arizona 85377.

5 Q. ARE YOU THE SAME STAN FRANCOM THAT SUBMITTED AN
6 AFFIDAVIT IN THIS MATTER AS DIRECT TESTIMONY?

7 A. Yes. The Town of Carefree (the "Town") intended that my Affidavit submitted
8 in this matter be treated as direct testimony, and is incorporated herein by reference.

9
10 Q. WHO IS YOUR EMPLOYER?

11 A. The Town of Carefree.

12 Q. WHAT IS YOUR POSITION WITH THE TOWN OF CAREFREE?

13 A. I am the Public Works Superintendent.

14
15 Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY IN
16 THIS PROCEEDING?

17 A. To respond to the rebuttal testimony of Michael D. Weber ("Weber") and Joel L.
18 Wade ("Wade"). Specifically, I will address why the Town believes that sewer odors
19 continue to exist in the Boulders and Carefree Inn Estates subdivisions and how the
20 Town has attempted to help resolve the odor problems.

21
22 Q. HOW LONG HAVE YOU HELD THE POSITION OF PUBLIC WORKS
23 SUPERINTENDENT?

24 A. I have held the Public Works Superintendent position with the Town since
25 February of 2005.

26
27 Q. WHAT ABOUT BEFORE FEBRUARY 2005?

28

1 A. I was the General Manager of the Carefree Water Company for approximately
2 five years and continue to hold that position.

3 Q. BEFORE JOINING THE CAREFREE WATER COMPANY WHERE DID
4 YOU WORK?
5

6 A. I was the general manager for Western Environmental Technology for
7 approximately five years.

8 Q. WOULD YOU CONSIDER YOURSELF AN EXPERT ON WATER AND
9 WASTEWATER ISSUES?
10

11 A. Yes, I have at least thirty-five years of experience in the water and wastewater
12 industry. I have been certified in both by the State of Arizona.

13 Q. WHAT ABOUT WITH RESPECT TO OPERATIONS OF BLACK
14 MOUNTAIN SEWER CORPORATION ("BMSC"), HOW ARE YOU QUALIFIED
15 TO TESTIFY REGARDING THE CURRENT OPERATIONS OF THE BMSC
16 SEWER SYSTEM?
17

18 A. For approximately five years, while I was with Western Environmental
19 Technology, I operated the wastewater collection and treatment system that BMSC
20 now operates in Carefree.
21

22 Q. HAVE YOU REVIEWED THE REBUTTAL TESTIMONY SUBMITTED IN
23 THIS MATTER BY WEBER AND WADE?
24

25 A. Yes.

26 Q. WADE TESTIFIED THAT YOU HAVE NO INDEPENDENT KNOWLEDGE
27 OF BMSC'S PLANT AND OPERATIONS, IS THIS TRUE?
28

1 A. I would say that I have independent knowledge of the BMSC system as I spent
2 approximately five years operating the same wastewater collection and treatment system
3 that BMSC is now operating.
4

5 **II. EXISTENCE AND SOURCES OF ODORS.**

6 Q. WADE TESTIFIED THAT "BMSC HAS ACHIEVED SUBSTANTIAL
7 IMPROVEMENT" WITH RESPECT TO ODOR PROBLEMS, DO YOU AGREE?
8

9 A. I agree that some improvement has occurred, but the continued customer
10 complaints indicate that there must still be unresolved odor problems.

11 Q. ARE THERE STILL ODORS AT THE CAREFREE INN ESTATES AND
12 BOULDERS SUBDIVISIONS FROM BMSC'S OPERATIONS, AND IF SO, HOW
13 ARE YOU AWARE OF THE EXISTENCE OF ODORS AND THE SOURCE OF THE
14 ODORS?
15

16 A. I visited the CIE Lift Station as late as April 20, 2006 to verify if customer odor
17 complaints were valid. I found that there were sewer odors in the area. The Odor was
18 obvious around the lift station and some 50 to 60 feet to the north of the lift station next
19 to the rear porch of the home that is located just north of the station. The odor was not
20 hydrogen sulfide but had a raw sewage smell. In addition, I am aware that BMSC
21 continues to receive complaints from customers regarding odors in the Boulders and
22 Carefree Inn Estates subdivisions, based on BMSC's responses to the Town's Data
23 Requests in this matter. *See Surrebuttal Testimony of Jonathan Pearson.*
24
25

26 Q. SO EVEN THOUGH WADE TESTIFIED THAT LTS "DOCUMENTS NO
27 AMBIENT ODOR DETECTION AND RECOMMENDS NO FURTHER ACTION"
28

1 AT THE CIE LIFT STATION, YOU HAVE RECENT EXPERIENCED ODORS AT
2 THAT SITE?

3
4 A. Yes.

5 Q. WHAT DOES THIS MEAN WITH RESPECT TO THE LTS REPORTS, IF
6 ANYTHING?

7 A. The reports demonstrate testing results for specific points in time, just as when I
8 encountered the odor at the CIE Lift Station. It would appear that the odors are not
9 being detected or smelled all the time.

10
11 Q. WADE ALSO RELIED ON THE LTS REPORT TO CONCLUDE THAT
12 THERE IS NO DATA TO SUPPORT "OVER PRESSURIZED OFF-GASSING OF
13 ODORS," DO YOU AGREE?

14
15 A. In my opinion, Wade's conclusion is incorrect, but I have no scientific evidence
16 to refute the result of the testing. Logically, if water is being pumped into a gravity
17 flow sewer line or sealed manhole faster than it can run out, the rising water will cause
18 the air to become pressurized. Perhaps the test results were obtained when the pumping
19 system was not pumping.

20
21 Q. PLEASE EXPLAIN WHY YOU AGREE OR DISAGREE WITH WADE'S
22 TESTIMONY REGARDING LONG RETENTION TIMES AS THE CAUSE OF
23 SEPTIC CONDITIONS THAT "THERE JUST DOES NOT APPEAR TO BE ANY
24 SCIENTIFIC DATA TO SUPPORT THE CONTENTION THAT 'SEPTIC'
25 CONDITIONS EXIST."

26
27 A. I do not think that Wade can dispute that long raw sewage retention times are
28

1 known in the industry to result in septic sewage. I believe that sewage in the pump back
2 system sits in the pressure lines a sufficient amount of time, especially at night when
3 little sewer flow occurs to cause the pumps to operate, that the sewage becomes septic.
4 BMSC has recognized this fact because they have a program of injecting chemicals to
5 change the ph so that hydrogen sulfide is not created in the septic sewage in the pressure
6 system.
7

8
9 Q. DO YOU BELIEVE THAT BMSC HAS TAKEN EVERY REASONABLE
10 STEP TO REDUCE ODOR COMPLAINTS?

11 A. I think that BMSC has spent a lot of money on studies and testing and, as a
12 result, BMSC has recognized that an odor problem exists and has taken certain steps to
13 reduce odor problems. From BMSC's point of view, those steps have been more than
14 reasonable. Based on the complaints from BMSC's customers in the Boulders and other
15 places in their collection and treatment system, however, it would appear that not all
16 agree with BMSC's conclusion.
17

18 **III. WORKING WITH BMSC TO RESOLVE ODOR PROBLEMS.**

19
20 Q. WHAT EXACTLY DID THE TOWN OFFER TO FUND AND INSTALL, ON
21 A TEST BASIS, IN AN EFFORT TO REDUCE ODORS?

22 A. The Town made an unprecedented offer to pay for the rental of a negative
23 pressure causing filter to be installed on the gravity flow sewer line. This offer was
24 made to test whether negative pressure in the gravity line would reduce or eliminate
25 odor complaints from the residents of the Town that live along the sewer line.
26

27 Q. DO YOU AGREE WITH WADE'S TESTIMONY THAT SUCH EFFORTS
28

1 WOULD NOT BE EFFECTIVE IN REDUCING ODORS?

2 A. Wade could be right or wrong, but until such a test run is made, it is impossible
3 to determine whether a negative pressure causing filter installed on the gravity flow
4 sewer line would reduce complaints. Interestingly, the same improvement was
5 suggested by BMSC's own odor consulting firm.
6

7 **IV. CONCLUSION**

8 Q. DOES THIS CONCLUDE YOUR SUBREBUTTAL TESTIMONY IN THIS
9 MATTER?
10

11 A. Yes.
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