

ORIGINAL

WS-02987A-08-0180

OPEN MEETING AGENDA ITEM



Johnson Utilities

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Consumer Services
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Arizona Corporation Commission
DOCKETED

December 13, 2010

DEC 15 2010

DOCKETED BY 

RECEIVED
2010 DEC 15 P 4:42
AZ CORP COMMISSION
DOCKET CONTROL

RE: Complaint No (2010-91913)
Dated: 12/14/2010
Stacy Deprey-Purper
769 West Gascon Road
Queen Creek, AZ 85143

This is in response to Complaint # 2010-91913, filed by Stacy Deprey-Purper with the Arizona Corporation Commission ("ACC") on December 14, 2010. Johnson Utilities ("JU") was made aware of this complaint on December 15, 2010 after a review of Docket No. WS-0298714-08-0180. A copy of the complaint filing has been attached to this response. We would note that this complaint was simultaneously sent not only to the ACC but to Craig Marks, an attorney that has openly disparaged JU, and a radio station that continuously supports the personal agenda of Supervisor Martyn and his willingness to malign the reputation and integrity of JU. If Mrs. Deprey-Purper was truly concerned for her personal safety and personal information it would seem to us to be hypocritical to copy these individuals with the information.

The complaint references a "recording" that we have not received or had the opportunity to review so it will not be addressed in this response. The only response at this time would be that JU and the JU customer service representatives do not have the answers to the questions posed in the flyer. Mrs. Deprey-Purper, Lynn Hurley and Supervisor Martyn have the answers to the questions.

In order to respond with some clarity to this complaint a little background on Mrs. Deprey-Purper should be helpful and informative. Stacy Deprey-Purper and her husband Brad Purper are the owners and publishers of the local paper know as "San Tan Valley Today Publications". The Purpers have a long standing relationship with Pinal County Supervisor Martyn and have openly supported his vision for the pro-incorporation effort of the San Tan Area. In our opinion Mrs. Deprey-Purper has also taken every opportunity to miss-represent Johnson Utilities in a bad light.

Mrs. Deprey-Purper has previously published her personal information and has even published pictures of her family in the above referenced newspaper. In response to the specific points in the complaint we would offer the following comments as well as the attached documents in "ATTACHMENT 1".

The flyer and customer service information attachment provided in the billing was an effort to keep the customers informed of local area questions and concerns. In our opinion there have been a number of public misrepresentations by Mrs. Deprey-Purper in

the newspaper to further the personal agenda of Supervisor Martyn and herself. Attached is an article dated Thursday July, 15, 2010 stating Mrs. Deprey's personal opinion and support of incorporation.

The local area public has the right to the answers to their questions. Interestingly enough is the attached article that was published in the newspaper yesterday December 14, 2010 and makes a poor attempt to answer some of the questions in the flyer.

Attached is a copy of the front page of the newspaper with a photograph of Lynn and John Hurley and openly identifies Lynn Hurley as part of the pro-incorporation committee on July 6, 2010. It appears that Mrs. Deprey-Purper has and will publicly identify members of the public when it suits her purpose. In coordination with Mrs. Hurley the newspaper published a slanderous article about JU and even published the location of the www.JohnsonWaterStinks.com website. Stacy Deprey-Purper claimed the "sites creator was very pleased" and the "story is far from over" but refused to name the creator. We now know, and Mrs. Deprey-Purper knew at the time of publication, that the creator was Lynn Hurley while working for Supervisor Martyn. A copy of the September 16, 2010 publication has been attached for your reference.

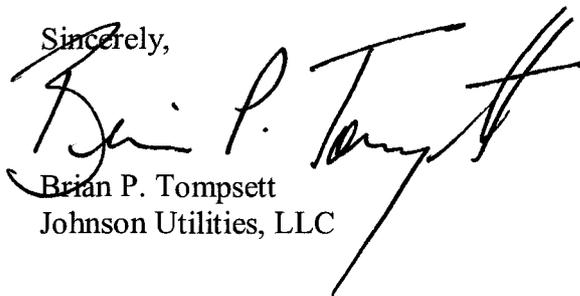
Stacy Deprey-Purper's personal information and history was not provided in the flyer, only her name. She is the publisher of the local paper and her name has been prominently displayed by her over many months. Stacy Deprey-Purper's personal information and opinions are openly published by her on a "facebook" account where she openly slanders Johnson Utilities and George Johnson personally on a regular basis.

With respect to Mrs. Deprey-Purper's statement regarding a "CAGR refund", there has been no decision by the ACC on this matter so the customer services representatives have no answer to the question. With respect to the statement made by Mrs. Deprey-Purper in her complaint regarding "the overcharging I read about in the San Tan Valley Today", as previously stated, Mrs. Deprey-Purper is the owner and publisher of that newspaper and the statement was made by her. She is not an uninformed concerned citizen.

Nothing in the informational "flyer" was an invasion of privacy or inappropriate customer contact with Stacy Deprey-Purper. The "flyer" addressed issues that were already available to the public through the public records request process.

The cost of the flyer is not included in the rates paid for by Johnson Utilities' customers. If there are any further questions, concerns or you require additional information please contact me at (480) 998-3300.

Sincerely,



Brian P. Tompsett
Johnson Utilities, LLC

ATTACHMENT 1

Thursday, 15 July 2010 12:04

[PRINT](#)

Letter from the Publisher

By Stacy Deprey*Today Publications*

Our responsibility to you & my personal opinion on incorporation

When my husband and I decided to open this paper in San Tan Valley, we never imagined the blessings that would be bestowed upon us. And, we have met some of the most amazing people here!

Along with all of this “good stuff” comes hard work, sacrifice and dedication, and a big, giant bulls-eye on our backs! We now serve 55,000 homes and businesses as well as 10,000 online viewers and growing.

Our reporting to you is based on three elements:

1. We report and investigate facts and specifics of issues.
2. We organize information and ensure our paper has value for you and the community. This is our responsibility as publishers.
3. We have a duty to inform our community of our opinion as we see it. This is our editorial responsibility.

I need to stress, however, Today Publications has not and will not taint the integrity of our team’s reporting on any issue, especially one so important as our recent incorporation.

We have been asked recently by anti-incorporation readers to give you information that has no merit and no facts regarding the costs and revenue associated with the incorporation. In fact, after continued requests over the last year for facts and information to refute the county’s proposed San Tan Valley budget, Today Publications has received nothing specific.

To date, NO other media outlet has printed any facts disputing the budget except to compare San Tan Valley to cities like Surprise and Glendale who have over-inflated numbers due to large city hall expenses and stadium expenses, NONE of which we have here in San Tan Valley. Shouldn’t that tell us something? The anti-incorporation folks have not done their homework and they are using fear-based tactics that in this climate and in this economy have unfortunately worked on some of us!

Despite recent events, we will continue to do what we think is right for our community. Bullying and threats will not stop us. We hope that our neighbors and friends will continue to fight the good fight with us. We are nearly 80,000 people strong. We deserve a voice. We deserve to vote. We deserve the truth. It’s that simple.
So, here it is.

My personal opinion on incorporation is that forming the City of San Tan Valley is much like having a baby. Is there ever really a good time to get fat and nauseous for nine months and incur that expense? To me, the answer is always “no”. However, the rewards are amazing and fruitful in the long run. If we women couldn’t see the big picture and the long-term benefits of having children and allowed short-term expense and discomfort to take over our thoughts, our population would cease to exist!

There has been much secrecy and bullying tactics surrounding this issue of incorporation – more than I've seen in my 20+ years in the corporate world and it concerns me.

Recent events with some surrounding cities have appalled me and disappointed me. That they don't want San Tan Valley to incorporate doesn't bother me as much as that they cannot seem to grasp the bigger picture of regionalism, cooperation, increased jobs, the right to vote for ourselves and more if we all work together. Recently, there has been no cooperation on either side of the issue.

Some might say this was forced. I say we are all responsible for coming to the table as grownups in this childish environment called "politics" and find a solution to the problem.

A response to the JU utility bill insert from District 2 Supervisor Bryan Martyn

Questions for Supervisor Martyn (from JU utility insert):

When and why did your association with S** D*****-P***** begin, before the paper started?** I have known the owner of the local newspaper for three or four years. I think we first met at a Gold Canyon Business Association meeting.

Why did the County create and fund the creation of the "Superstition Area Networking & Development" Association more commonly known as "Sand"? The county has never had a role in the creation or funding of S.A.N.D.

Why does L* H***** work within your San Tan office while attacking local businesses?** I support the actions of local citizens, including county volunteers, standing up for their rights.

Wasn't L* H***** a member of the extremely vocal team in your attempt to incorporate San Tan Valley?** Over 3,500 citizens signed a petition in an attempt to bring the issue of incorporation to a vote of the people. I appreciate vocal citizens who stand up for what they believe. In fact, some citizens will go so far as to hire an airplane with a banner to send their message.

Why was L* H*****'s husband hired by you to develop a General Plan for San Tan Valley?** I applaud the efforts of our citizens to develop a general Plan for San Tan Valley. However, neither the county nor I have funds to put towards the effort.

Has the "Bryan Martyn" radio show been licensed by the Federal Communications Commission (FCC)? Why does the FCC have no record of KQCKlive being registered and licensed? The Bryan Martyn show does not require a license from the FCC. I am not an expert, but I believe Internet-based stations do not require a license from the FCC.

Why did Pinal County employees remove the public information signs provided by the Pinal County Taxpayers Association? What happened to the signs? Do the signs not support your personal agendas? Pinal County employees remove all signs that are illegally placed in the county right of way. The legally placed "informational" signs are authorized for 30 days. The county will begin to remove the signs this week as the 30 days has passed.

The PCTA.org signs DO support my personal agenda. I am a supporter of the Pinal County Taxpayer Association's goal to educate citizens. We must get a handle on the cost of government. I applaud those who choose to step up and take a role.

How much does your vacant San Tan Valley office cost taxpayers every month? The San Tan Valley/Copper Basin Office is home to Pinal County Adult Probation, Juvenile Probation, Code Enforcement and myself. I'm not sure of the negotiated rent. I'm pleased that the county had a need and we were able to support the public and fill a once-vacant office space.

Why are you fighting the gift of a library from a private party? Have you been trying to procure another library site outside of the normal Pinal County procurement processes? Why has this not been disclosed to the public as part of your campaign promises to remain transparent? How is the mobile library working? Pinal County welcome gifts to the County's communities. During these tough economic times, every little bit helps. Unfortunately, the county is not in a legal position to waive impact fees. I have heard that a library will soon open on Hunt Highway as impact fees are going to be paid. As far as the rest of San Tan Valley, the Library District is exploring their options to bring library services to area. My guidance to the Director of Pinal County Libraries is to explore cost-effective measures to bring services to the area. Nothing has been procured that I am aware of. The mobile library remains an option to be explored.

Why are you having unpublished meetings with employees of KQCKlive and the San Tan Valley Today? We understand a recent example of this occurred at your San Tan office on October 29, 2010. The only meetings I have that are published are those that might include two or more County Supervisors. For the record, I have never attended a meeting with employees of the local newspaper and the local web-based radio station. I was not in San Tan Valley at anytime on October 29. I had appointments at my Apache Junction office and I was at the Gold Canyon Lion's Club Halloween party that evening.

Are you a one term Supervisor? Have you announced to County employees that you are planning on running for Congress and expect their support? I don't know how many terms I will have the privilege to serve as a Pinal County Supervisor. My job is to serve as the Supervisor until I am no longer the Supervisor. As of right now, I am running for re-election as the District 2 County Supervisor. The decision to support me rests completely with the individual.

Are any law firms or public relation firms involved in all of this and why? Who pays for their time? I am not sure what this question entails. There are a number of law firms and PR firms that work in Pinal County. The county pays outside counsel at the request of the County Attorney. I don't believe the county has ever hired a PR firm. I have personally never hired an attorney. I have used the services of a PR firm when running for office.

Summertime
Pet Safety
Tips
Pg 34



TEEN DANCE AT
COPPER BASIN YMCA
JULY 30
SEE PG B19

The future of San Tan Valley

By Daniel Lecavalier
San Tan Valley Today

A concerted effort by San Tan Valley (STV) residents to make Pinal County's most densely populated community into a city failed on July 6, 2010 when Florence's Town Council voted in unanimous disapproval of Resolution 1257-10.

The resolution, a measure that would have fulfilled a state law requiring neighboring municipalities to submit approval of STV's proposed boundaries, failed to pass due to councilmembers' concerns over how incorporation would affect over one million dollars (approximately two percent of the town's total budget) of their allotment of state shared revenue.

The evening's audience was populated by activists from the Citizens for San Tan Valley Incorporation (CSI), the political action committee responsible for the incorporation effort as well as members of the opposition. Some of the CSI members made their presence known by holding protest signs throughout the meeting and periodically interrupting speakers during



CSI member Lynn Hurley makes her opinion known during the July 6, 2010 Florence Town Council meeting.

public comment.

Tensions between the Florence Council and the CSI reached a breaking point when CSI Chairman Randall Lockner addressed the council in what he believed to be a formal agenda presentation. Florence Mayor Vicki Kilvinger allowed Lockner to speak for three minutes in support of incorporation but dismissed his request for a formal presentation.

(continued on pg 4)

No cost solar programs for businesses

By Daniel Lecavalier
San Tan Valley Today

Heavily discounted solar energy is headed to Pinal County as Pristine Sun LLC prepares to begin a lucrative commercial incentive program for businesses, non-profits, government agencies, schools and churches interested in going green.

Purchase Agreement with Pristine Sun, a twenty-year agreement that ensures users are sufficiently equipped with proper permitting, equipment and long-term maintenance.

"What we do is come in for installation, pull all the necessary permits, get everything in order with the city, design, install and maintain

energy bill. According to Galvan, offsetting reliance on current hookups with on-site solar could result in a cost reduction of at least 10 percent for businesses and 20 percent for non-profits on the amount of solar energy provided.

"We have signed contracts for standard businesses and they saved 16 percent. Within 10 years they

Thursday, 16 September 2010 20:37 PRINT

ACC decision sheds light on Johnson Utilities

By Zach Richter *Today Publications*

For years, Johnson Utilities (JU) customers wondered if anyone, anywhere, cared that their prices seemed a little high, and that their water sometimes smelled a little off. Well it turns out there was, and now JU has to clean up its act.

On, March 31, 2008, Johnson Utilities (JU), filed a petition for a rate increase for both its water and wastewater rates with the Arizona Corporation Commission (ACC). Now, after years of legal dispute the ACC has issued their official final decision in the case.

Far from the proposed increase, ACC Decision 71854 dictates that the average residential water customer can expect to see their bill decrease approximately 30 percent and the average wastewater customer will see a decrease of approximately 14 percent. The decision defines average usage as 6,931 gallons per month.

The ACC's decision affects all of Johnson Utilities' nearly 18,000 residential water customers and all 21,500 wastewater customers. It also stripped JU of its ability to collect hook-up fees for both its water and wastewater divisions. What's more, the new rates are effective for all services rendered on and after June 1, 2010.

According to Rebecca Wilder, Media Relations for the ACC, they have given JU a maximum of two billing cycles from the Aug. 25, 2010 decision date to enact the new rates and deal with the retroactive nature of the ruling. "Everything should be taken care of by November at the latest," she said.

On Sept. 3, 2010, JU filed a Request for Correction to Decision 71854, the request states that service line and meter installation charges were not listed in the decision and asks that they be added. It also requests that the date to file new rate schedules be changed from Aug. 20 to Sept. 23, giving them 30 days from the decision date to send in their rates.

While the decrease will no doubt come as a great relief to customers, Decision 71854 addresses much more than rates. It elaborates in great detail numerous areas throughout the company where proper procedure is routinely ignored. These areas include record keeping, affiliate transactions and public health and safety. Multiple requests for information from Johnson Utilities were not returned.

According to Wilder, it is too early to speculate on what this change may mean for the decision if it is eventually enacted. "All we know right now is when they have to file their information," she explained. She went on to say that while this issue may take a while to resolve, it doesn't prevent the decision from going into affect. "They cannot put that [the decision] off. They have to comply with the order as written," she said.

As early as the fifth page of the 81 page decision, the ACC staff conducting the JU audit noted that the Company failed to provide complete and authentic information in regard to its physical plant, in accordance with Commission rules. It goes on to say that while JU provided "voluminous documents," Staff's analysis was not able to verify the company's claims based on what was available.

According to an ACC staff member familiar with the case, who wishes to remain nameless, staff members routinely deal with smaller utilities that have no trouble providing adequate proof of expenditures. "We [the ACC] are not used to a company this size being worse than or just as bad as the smallest mom and pop operation you can find," they said.

On page 28, the Decision goes on to state that staff were, "unable to conduct an audit on the Company's affiliate construction project bids to determine whether they were fair and protected ratepayers from being charged too much." While JU claims that it competitively bid its construction projects, none of the records for these bids were actually retained.

The Decision also voices concern in regards to the business conducted between JU and its affiliates. Page 28 also notes that "Staff was concerned by the fact that Mr. Brian Tompsett was both an executive of the Company and an owner of its affiliate Central Pinal Contracting, LLC while Central Pinal was building a water and wastewater plant for the Company."

Despite these concerns, the Decision goes on to note that while they were given a chance to do so, JU never presented evidence that its costs were determined by arm's length transactions. The Commission agreed with Staff who pointed out that a regulated utility has a duty to get the best price for services to its customers and that competitive bids protect ratepayers from overpaying for services.

Decision 71854 states that the Commission is requiring JU to prepare an action plan detailing how its day-to-day record keeping practices will allow it to show that all transactions are done at arm's length within 90 days of Aug. 25, 2010.

The Residential Utility Consumer Office (RUCO) was also involved in the process, and while many of their recommendations were ultimately not included in the final decision, they do raise some issues of note. On page 56, RUCO is quoted as saying, "that it is very concerned about the public's health and safety and the Company's attitude toward the subject, and believes it is necessary for the Commission to take action to assure the public's safety."

It is important to note that Today Publications commissioned Xenco Laboratories of Phoenix to independently test the residential water in San Tan Valley. Thus far, only the tests for bacteria are in and the sample tested "negative for bacteria", which is good news. Full results will be published in the coming weeks.

RUCO Public Utilities Analyst Bill Rigsby worked on the case and explained that recommendations such as these are not given out lightly. "Most of the cases I've been involved with, we don't make those recommendations," he noted before continuing. "Because of the company's history we felt it was appropriate."

That history is a list of Arizona Department of Environmental Quality Notice of Violation (NOVs) going back several years. JU currently has six outstanding NOVs including three that involve improper disposal of waste. The oldest of these is from March 2008. The Commission ruled that JU has 30 days as of Aug. 25, 2010, to file a list of outstanding NOVs and the steps being taken to resolve them.

Currently Johnson Utilities has the opportunity to submit a rehearing application. However, according to the ACC staff member who wishes to remain nameless, decisions are rarely reversed.

In recent weeks, community members have been more vocal regarding their dissatisfaction with

Johnson Utilities and have created JohnsonsWaterStinks.com. The members have requested to remain anonymous "In an effort to maintain an issue-driven mindset and provide a public forum to express their opinions."

The site's creator was very pleased with the ruling and stated "Today is a tremendous victory for anyone who must deal with Johnson Utilities; this story is far from over." The web site creator went on to state that there have been more than 3,500 visits to the site since its launch and 212 complaints received.

Additionally, the Better Business Bureau has received 32 complaints in the last 36 months. All complaints have been resolved, to date.

Customers who wish to lodge an official complaint can email the ACC directly at mailmaster@azcc.gov.

In an interview with Arizona Public Media on September 14, 2010, Kimberly Craft asked District 2 Supervisor Bryan Martyn why he hadn't contacted the ACC about all of the complaints the residents of San Tan Valley had made; he had this to say: "It's my job to ensure that our citizens' voices are heard and get those to the Corporation Commission.

It's also my job to look out for our business owners... Johnson Utilities is a taxpaying business owner in Pinal county, and it's not right for the County Supervisor to start to disparage one of these business owners based on the input of citizens... I don't like the relationship that he has with our citizens. I don't like it. I don't know that I have a way to get in the middle of it. And if I would get in the middle of it I think there might be a level of litigation involved, because that could be seen as libel."

When asked what Supervisor Martyn thought of the most recent water bill insert from JU stating they were lowering their rates due to "good budgeting" he responded with "There is a level of...I think there might be a little bit of disingenuousness, still, it's a brilliant marketing move."

For a link to the full decision, click [here](#) and check back in our October 1st, 2010 subscriber-only issue for more on this story as it develops.