

19808 Frenchman's Court
North Fort Myers, FL 33903

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

OFFICE OF
ADMINISTRATION
2000 JUL -8 AM 10:01
FLORIDA
PUBLIC SERVICE COMMISSION

June 28, 2000

Docket 000277 W-S

Dear Mr. Van Leuven:

Tuesday morning's News Press (June 27, 2000) again headlined an article concerning the questionable activities of Mr. French, Mr. Garner and Mr. Sundstrom, in regard to the acquisition of Gulf Utility by the Lee County Commissioners. I am forwarding this article to the PSC's Director of Records and Reporting in order that it becomes part of Docket 000277, since I do not believe that Mr. Friedman will voluntarily have this article entered into the record. It does suggest that his boss, Mr. Jim Sundstrom, may be (or is) a liar and a thief!

The scenario that evolved around this Gulf Utility "scam" is reminiscent of more recent activities by the outrageous alliance of these "wheeler dealers" and the, ever so forgetful, Lee County Commissioners, vis-a-vis Windmill Village, Tamiami Village, Buccaneer and the upcoming "scams" regarding the so called "transfer of assets" at Pine Lakes Country Club and Lake Fairways. Perhaps, now, you can see how this 60 million dollar sale of NFMU assets to Lee County is designed to play out. Everybody gets rich while the public gets taxed (read as screwed).

Today's News Press article (June 28, 2000) gives further details of the misrepresentations of Mr. French and Mr. Sundstrom as well as a plethora of excuses and memory lapses by the Lee County Commissioners. A new name has entered the scene, a Mr Tony Reeves, a Client of Garner and Sundstrom. Never heard of him. Can you enlighten me? Your apparent support of Mr. Friedman (Sundstrom's minion) to my detriment, is now becoming more clear. I am not "a happy camper". Incidentally, do the independent investigations by the PSC's auditing and investigative branches tend to support any of the News Press allegations? Is there any support at all among the staff to grant me status as a "Party of Record", or have I been eliminated beforehand by Messers Friedman, Sundstrom, Garner, et al, ad nauseum? The PSC might excuse itself by calling this a "technicality knockout" and everyone can wash their hands of my attempted intervention, without guilt.

By the way, last week, Buccaneer Homeowners Association achieved an astounding victory in their mediation with NFMU and Manufactured Home Communities. Buccaneer homeowners will not be charged the \$462 one time capacity fee and will only pay a bulk rate of \$12.15 per month, with a \$6.07 credit from MHC. Net \$6.08 per month. In addition MHC agreed to cap rents in the park for the next five years. Sometimes the "David and Goliath" story comes true. Hurray for the real "public" and Mr. Devine. Mr. Friedman or Ms. Brubaker should be able to fill you in on the details, if they have recovered their composure. You should find it educational.

In closing, I need to again request, the ENCLOSURE you mentioned in your June 12, 2000 letter, but which was not enclosed. Was "enclosure" stated in error, or was it something left out, accidentally or deliberately, which may be critical to my achieving status as a "Party of Record"? I am very concerned. Thank you.

Very truly yours,

Alexander William Varga

Alexander William Varga

CC: Leon Beekman - President, Pine Lakes Estates Home Owners Association, Inc.
Jennifer Brubaker - Staff Attorney PSC
Charles H. Liedtke - Publisher, Lee County Examiner
Joe Fenton - Editor, The News Press
Lee Melsek - The News Press
nbcnews@nbc-2.com

APP
CAF
CMP
COM
CTR
ECR
LEG
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SER
OTH

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FPSC-RECORDS/REPORTING

winknews@winktv.com

Attachments Enclosed (2 of 2 pages each)

The News Press - June 27, 2000 "Fees ratcheted higher by misrepresentation".

"Lobbyist (**James Garner**), attorney (**Jim Sundstrom**) collected \$1 million in Lee County purchase of Gulf Utility" - (*italics mine*).

The News Press - June 28, 2000 "Utility buys mishandled, audit finds. Lee officials told deals questionable with little control".

Fees ratcheted higher by

NEWS PRESS 6/27/88
Lobbyist, attorney collected \$1 million in Lee County purchase of Gulf Utility

By LEE MELSER
The News-Press

A well-connected lobbyist and a lawyer reaped more than \$1 million in fees after persuading Lee County officials that a private utility company would sell only to them and not to the county. An investigation by The

News-Press found that wasn't the case.

As FBI agents and Lee County sheriff's investigators wind up their four-month investigation into county utility deals, new documents raise questions about the 1998 purchase of Gulf Utility. Fort Myers lobbyist James

Garner and Tallahassee attorney Bill Sundstrom bought the company in 1998 for \$43 million, promising to turn it over to the county.

In a letter to Gulf Utility executive Jim Moore dated Nov. 29, 1997, and marked



GARNER

"strictly confidential," Sundstrom said his nonprofit group, Gulf Environmental Services, wanted to buy the utility on behalf of the county.

But Assistant Lee County Attorney David Owen, who handles utility issues, said Monday that Sundstrom had no authority to tell Moore in 1997 his group represented the county.

Owen said commissioners didn't give their blessing to such a deal until March 31, 1998.

misrepresentation

NEWS PRESS 6/27/88

6/27/88

"They were exaggerating, let's use that word," Owen said. "At that point, they had no authority to say they were acting on behalf of the county. I just recently found out about that. You can say it was misrepresentation. I'll just say it was an exaggeration."

Owen said Garner told him in December 1997 the nonprofit group would buy Gulf Utility and turn it over to the county later because the utility wouldn't sell to the county.

"As I remember it, that's the way it sounded, that Gulf Utility wouldn't sell to the county," Owen said Monday. "Garner said they wouldn't sell to the county because the county couldn't do the deal."

Moore, questioned about Garner's claims two weeks ago, said his company never refused to sell to the county. Sundstrom also told bond lawyers that commissioners

See UTILITY / 8A

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had been briefed on the purchase. But records show commissioners weren't briefed until the deal was brought to the board four months later and they voted on the issue.

Garner and Sundstrom didn't return calls to their offices Monday.

Fort Myers attorney Wilbur Smith said Monday Garner recently hired him because of the criminal investigations into his roles in the county utility deals.

Smith said Garner is cooperating with law enforcement agencies.

Garner is a major fund-raiser and contributor to commissioners' re-election campaigns and once managed the re-election campaign of Commissioner Doug St. Cerny.

The newly obtained records also raise more questions about Lee County Public Works Director J.W. French, who was suspended from his \$111,000-per-year job with pay June 8 after



FRENCH

The News-Press revealed he knew Garner had a potential conflict of interest representing the county in another utility purchase but didn't tell anyone.

Lobbyist disclosure records show Garner either telephoned or went to French's office seven times between September and December of 1997 and discussed his group's attempts to buy Gulf Utility.

Those were months Owen said the county wasn't involved in the deal and Garner and Sundstrom weren't supposed to be claiming to be acting on behalf of the county.

French was the county's point man in its continuing efforts to buy utility companies and consolidate water and sewer service under its system.

French refused comment Monday on his meetings with Garner and Sundstrom.

On March 31, 1998, commissioners tentatively approved letting Garner and Sundstrom negotiate to buy Gulf Utility for \$43 million.

Garner's group agreed it would someday turn over the company to the county, but county officials don't know when that might happen.

Garner's group, created under the name Gulf Environmental Services, borrowed the money to buy the utility from the sale of bonds, which are being paid back from the water and sewer fees paid by the utility's 9,500 customers.

As a result of that arrangement, thousands of south Lee County water and sewer customers in the San Carlos Park, Estero and Three Oaks areas are paying off bonds that are inflated by huge finders fees and other payments Garner and his group reaped from the deal.

Lee County auditors tracking the Gulf Utility purchase and other utility deals are scheduled to address commissioners this morning when the board meets at 9:30 in commission chambers.

County Manager Don Stilwell asked auditors to look into county utility deals after The News-Press raised questions in March about French's role in doing utility deals with Garner. The FBI and Lee County sheriff's agents also are investigating some of the utility deals.

Auditors recently found that what Garner's group was paid in

the Gulf Utility purchase helped push the acquisition fees of the transaction to nearly four times the costs associated with the county's purchase last year of another utility, Florida Cities Water Company.

If the county bought Gulf Utility outright, financial advisers reported, the county could have paid less in acquisition fees, thereby reducing the \$114 million bond debt being paid by water and sewer customers.

Between them Garner, Sundstrom and their client, Severn Trent Environmental Services, collected \$1.4 million in fees for putting together the Gulf Utility purchase.

According to a schedule of fees supplied by Sundstrom to the county's financial advisers, Garner got \$532,000 and Sundstrom collected \$883,000 in finders fees and other fees.

Auditors are questioning why Garner collected \$350,000 in fees that were recorded merely as services rendered without anyone requiring documentation showing what Garner did for that money.

As chairman of the board for the corporation Garner's group created to operate the utility, Gulf Environmental Services, French approved Garner's fees without question. It is unclear when French was appointed to the board.

French is on the company's board as the county's representative to make sure the company is run efficiently.

A June 9, 1998, resolution by commissioners approving the Garner group's purchase of the utility said it was in the public's interest.

But the resolution does not explain why it is in the public interest to let Garner's group buy and operate the utility.

Sundstrom told bond lawyers in a letter dated Nov. 29, 1997, that all five commissioners were briefed on the purchase.

But lobbyist disclosure records — required by county ordinance and filed by each commissioner — don't reflect any such briefings prior to March 31, 1998.

Commissioners are fuzzy on what Garner and Sundstrom told them March 31, the day the two men visited each commissioner privately to discuss the deal only minutes before the board met in public and approved supporting the deal.

Commissioners said last week they believe they were given good reasons why Garner's group should buy and own the company for the county but they can't remember what those reasons were.

"I remember we were told the county couldn't get the company straight out but down the road we could. I can't remember exactly why there needed to be a middleman," Commissioner Andy Coy said Friday.

"I'm sure there were good reasons given to us, I just can't remember them. If someone lied then people need to be held accountable," said Commission Chairman John Albion.

Commissioner Ray Judah said he recalls being told Gulf Utility wouldn't sell to the county but doesn't remember who told him that.

"It well may have been in a conversation with J.W. French," Judah said.

— Contact Lee Melsek at lmelsek@news-press.com or 335-0386.

Utility buys mishandled, audit finds

THE NEWS-PRESS 6/28/00

Lee officials told deals questionable with little control

By **LEE MELSEK**
The News Press

Lee County auditors Tuesday presented commissioners with evidence of conflicts of interest, misrepresentations by a powerful lobbyist and poor management by county staff in the multimillion-dollar acquisitions of utilities.

Clerk of Courts Charlie Green and his auditors laid out a paper trail documenting questionable utility deals, the roles of Fort Myers lobbyist James Garner and Tallahassee attorney Bill Sundstrom and serious questions their roles in the acquisitions raise.

Audit Director Chuck Short told commissioners the documents gathered the past four months show "evidence of misrepresentation by deal makers and little control by county staff."

Auditors also released a document mailed to the utility's president, claiming the county would condemn his land if he didn't sell. That threat was made four months before the

county ever got involved in the deal.

Green refused to point fingers at which county officials should be held responsible for poor management, leaving that up to commissioners and County Manager Don Stilwell.

Commission Chairman John Albion — convinced of questionable activity on Garner's part — said he will not accept campaign money from Garner this year in his bid for a third term.

"You better believe we are going to be leery of doing business with them again," Albion said of any future business deals with Garner and his associates. "If we do, we better make sure they are not in a position to hurt us."

Garner did not attend Green's presentation. He is a major fund-raiser and contributor to commissioners at election time and was a frequent visitor to their private offices throughout much of the 1990s. He once co-managed Commissioner Doug St. Cerny's re-election campaign.

St. Cerny said he wants to wait until other investigations are finished before he comments on what action he thinks needs to be taken.

"If we need a change in

AUDIT: 2 of 3 utility deals questioned

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management style then that's what we'll do," he said.

FBI and Lee County sheriff's agents, who attended the presentation, are also looking into the utility deals and Garner's role in them.

Garner's attorney, Wilbur Smith of Fort Myers, told his client not to talk to reporters.

Virtually all of the material auditors presented Tuesday focused on the same findings and documents revealed during the past four months by The News-Press, records that raised questions about two of the county's utility deals — North Fort Myers Utility and Gulf Utility.

Green said he found no problems with the county's third utility deal, the purchase of Florida Cities Water Company last year. Garner was not involved in that purchase.

The 1998 purchase of Gulf Utility by a group headed by Garner and Sundstrom got lengthy review by auditors.

As early as October 1997, records show Garner and Sundstrom were negotiating to buy Gulf Utility and told its president, James Moore, they were acting on behalf of the county.

Assistant County Attorney David Owen said they had no authority to

KEY FINDINGS

- County utility deals were crippled by misrepresentations and conflicts of interest.
- A 1998 purchase of Gulf Utility would have been better done by the county instead of the powerful lobbyist who headed the deal.
- One attorney threatened county condemnation if a utility president didn't sell to him and his client.
- County staff handled two utility acquisitions poorly.

Source: Clerk of Courts Charlie Green's audit findings

do that. Green's auditors repeated that claim Tuesday.

Auditors also revealed Sundstrom told Moore in November 1997 that Garner could assure him commissioners were willing to condemn his business and property if he didn't sell to them. But there are no records to show Garner and Sundstrom had authority to make that claim.

Albion said the pair did not have the right to do that.

Garner's group created a nonprofit corporation, Gulf Environmental Services, and bought the utility for \$43 million in a deal to someday turn it over to the county.

County financial advisers said the purchase price was reasonable. But those same advisers told commissioners the acquisition fees and the

interest on the bonds could have been less if the county had bought the utility outright.

Green said the same thing Tuesday, and presented the board with evidence Garner misrepresented himself to the county when he told county officials Gulf Utility would not sell to the county.

Moore told Green he never refused to sell to the county and that Sundstrom and Garner told him they were buying the company on behalf of the county.

Albion said he wants the county attorney's office to look into the possibility of suing Garner's group for damages as a result of misrepresentations that drove up the total amount of the bond issue, \$114 million with cost and interest added on.

"There is evidence of misrepresentation by deal makers and little control by county staff."

— Lee County Audit Director
Chuck Short

"Did we get it the best way? No."

— Lee County Clerk of Courts
Charlie Green, reporting on the \$43 million purchase of Gulf Utility in 1998 by a group led by lobbyist James Garner, who collected a large fee in the deal.

"You better believe we are going to be leery of doing business with them again."

— Commission Chairman John
Albion, referring to a group led
by lobbyist James Garner.



FINDINGS PRESENTED:

Charlie Green, Lee County clerk of courts, gestures toward Assistant County Attorney David Owen on Tuesday as he presents findings to county commissioners of an audit on the county's management of utilities acquisitions. Behind them is Larry Johnson, Lee County environmental services director.

ANDREW WEST/
The News-Press

Fees collected from the utility's 9,500 customers in San Carlos Park, Three Oaks and Estero will be paying off those bonds for the next 28 years.

Commissioner Ray Judah, who also is seeking re-election this year, said he wants it clear the purchase price was reasonable and a good value to the customers.

Green agreed, but told commissioners they should keep a better eye on how the utility is being run by the nonprofit board because they will assume ownership of it someday.

Judah also said he was upset because Stilwell, who asked for the audit in March, didn't stay at the meeting to hear Green's report. He said he thought Stilwell might be able to answer some of the issues raised.

Stilwell's appointment book shows he had a meeting with someone named Robin.

County spokesman Pete Winton said Stilwell refused to say whether the meeting was business or personal. He said Stilwell heard the audit findings earlier in a private meeting with Green.

Green reported that a client of Garner and Sundstrom, Tony Reeves, got a \$175,000 consulting fee in the purchase and then was hired by the nonprofit Gulf Environmental Services board to manage the company.

Green questioned Reeves' management, saying records show Reeves was working there only 51 hours in January and 29 hours in February. He said employees report there is a lack of management presence at the utility, whose board of directors was appointed by commissioners.

"If you are not happy with that board you can remove the board," Green told commissioners.

One of the three members of the

nonprofit's board is J.W. French, county director of public works.

French voted with the others in 1998 to approve \$1.4 million in fees to Garner and Sundstrom for their work in buying the company.

Albion said he wants to know more about who may have known Garner and Sundstrom were misrepresenting themselves to the utility.

"I intend to find out who knew what and when," Albion said. "Did we have a staff member who might have intervened in this process? We need to get to the bottom of all of this."

At an earlier meeting with county administrators this month Green said county officials should be asking who represented the taxpayers in this purchase.

— Contact Lee Melsek at lmelsek@newspress.com or at 335-0386.