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# CAVE CREEK

HOW THE

MONEY

FLOWS

1986 TO 2012

BY

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The year 1986 a group of Cave Creek citizens decided to launch a cooperation drive motivated by what they said was "fear of suburban sprawl from Phoenix and Scottsdale". There ensued a lot of negotiation about perspective boundaries. Due to major opposition to incorporation by what was then known as the Norton Company, Spur Cross Ranch (SCR) and Cahava Ranch were excluded from the town. With this exclusion the incorporation vote succeeded.

At that time the new town was served by a private water utility known as the Cave Creek Water Company whose principle owner was Jay George. The company's franchise actually exceeded the town boundaries reaching into Care Free. A year after the foundation of the town (which was bound by law to keep to the county zoning) a lady by the name of Jackie Davis and her cohorts took over the town council.

Davis in cahoots with an official employed by the county health department imported a building moratorium apparently imposed by the county on all commercially zoned property in Cave Creek. The ostensible reason for the building moratorium was that the development of commercial property using septic tanks would corrupt the water table and hence the end of the moratorium would only come about with the construction of a viable sewer system. By refusing to act to build a sewer plant the town council thus effectively prevented all commercial development in Cave Creek.

In the course of time (1991) we find that the mayor of the town is Jim Threadgill although some of the ladies were still on the council. At about that same time there was considerable agitation by two commercial land owners to circumvent the "moratorium" by building their own pilot sewer plant to serve their properties. These two owners are identified as Pegler (Frontier Town) and Kite (28 acres on Cave Creek Road and School House Road). In order to stop this plan Mayor Threadgill and the town council undertook to build a sewer plant to cater for all commercial properties in the town.

A sewer district was founded by negative vote. Following an advertisement in the newspaper the owners of land in the affected district had 30 days to vote no other wise it was taken as a yes vote. So the district was approved and RFP's were put out for the construction of the sewer.

Strange to tell the published plan did not include a sewer plant. Merely pipes going to a point in middle of Cave Creek Wash. Concurrent with this it was necessary to collapse what was known as the Cave Creek Sewer Company. The company was a privately owned 25,000 gallon per day (gpd) sewer plant situated within atmospheric detection space to the Tonto Bar and Grill, located at the Rancho Mañana Gulf Course. The plant itself was a major environmental hazard, a *various condemnation* not acted upon by the county.

Complicating matters at that time also was the fact that the Ranch Mañana Gulf Course was in the process of being bought from the bankruptcy trustee by a Colorado group (who are the present owners). And so now the games continue.

Approximately the year 1994 in a transaction involving the owner of the foul sewer plant and the gulf course on one side and the town on the other side the entire cash reserves of the town comprising about ½ million dollars was transferred by the town to the owners of the condemned plant. In return the town got the existing pipes in the ground which subsequently proved to be broken (and to this day are still broken) along with the obligation to provide 100 years of free water supply to the gulf course for its irrigation purposes. The town did not get ownership of the plant but it did undertake the obligation to clean up the area of the plant once it was demolished.

At that point a group of *concerned assesses* (property owners assessed for the cost for the sewer) sought my (EBB) counsel due to concern with what was going on. Under the formation of the district all owners were assessed a charge calculated on the basis of the full development of their property. These amounts were then placed as liens against the titles of the respected properties and a bond was floated to raise the cash to begin the construction.

There were 137 defined properties in the district. The criteria for inclusion were that the property was zoned commercial and that the property residential or commercial was adjacent to the pipes. One property which was both zoned commercial and not only adjacent to the pipe but hosted the pipe on the property itself was excluded from the district without explanation. It could be that known to the town the owner of that property was a most troublesome attorney (EBB).



Without adequate brief I attended the hearing at the corporation commission. I immediately noticed irregularity in that the contract being presented in evidence by the town manager Carl Stephanie omitted several pages. As a result I entered an appearance and requested that the hearing be postponed which was granted. I should point out that at this time the town mayor, Richard Bartholomew, was a civil engineer who prior to joining the council had been professionally involved in the project. I went to town hall and insisted that a committee be formed to look into the entire sewer matter and possibly oversee further development. This gave birth to the Sewer Oversight Committee (SOC). The committee was comprised of three council people and three people from the outside chaired by Bob Kite.

One of the first anomalies discovered by the committee apart from the fact that there was no plant included in the plan was that the original RFP for construction brought in seven bids. Six were in the range in 1 to 1½ million dollars and the bid that won was for 675,000 dollars. The winning bid did not apparently take account of the fact that water flows downhill and where it encountered rock at many places at depths at less than five feet the pipes were placed above the rock. Thus necessitating several lift stations. The cost to be born according to definition by the assessee upon whose property the lift station was to be placed. Other anomalies that were discovered was that as an engineer Mr. Bartholomew was paid 120,000 dollars for a study that was almost an exact copy of a free study that had been given to the town two years earlier by a company wishing to be considered for construction for the sewer. Mr. Bartholomew also received a further 50,000 dollars for drawing two lines across Cave Creek Road where pipes were going to be placed across the road in case of further expansion.

It became apparent to me that there was only two ways to remedy this mess; sue the town and break up the district or take over the town council. The first choice was counterproductive as the town had no money and there still was no clarity on the building moratorium question, leaving only the second choice. The building moratorium question had received only one challenge up to the point that I sought a permit to expand my building. Initially I was refused on the basis of the moratorium so I went down to the county and asked to see the regulation prescribing the moratorium. Instead of being shown any regulation the official previously referred to came to the counter and told me I was looking at the regulation. I came home and started to build without a

permit. I advised the town manager Carl Stephanie that my motive was to be arrested so that I could pursue the question of the moratorium in the criminal area as that would be much quicker proceeding civilly. The result is I was given the permit.

Approximately 1993-4 Mr. Donald Sorchych moved to Cave Creek. He bought a property located in the north part of town (54<sup>th</sup> St.) from the RTC auction. His was the middle piece in a horse shoe configuration, either side of which was bought by another town character named Kent Myers.

In 1994 the council decided to down zone most of the residential properties mandating a minimum lot size of 5 acres per residence. News of this plan got out resulting in approximately 37 applications for lot splits prior to the ordinance coming into effect. Lot splits are a question of state law and a vested right if the property in question met the prescribed criteria. This effectively would grandfather smaller lot sizes than the five acres envisaged by the ordinance.

At the time and under subdivision there was a development known as Red Dog Ranch which had been approved by the council. Newly arrived resident Mr. Sorchych decided that this subdivision would negatively impact his views from 54<sup>th</sup> St. and sought to institute a referendum on the council's decision. He was denied referendum papers and subsequently sued the town and lost.

With the help of Jackie Davis and others he bought a defunct newspaper and renamed it the Sonoran News. The paper first published in 1995. He threw himself into the election that was taking place specifically against me and Peter Curé on the made up charge that we were tools for developers. Also running for his first council seat was a little known member of the Parks Committee and a self-proclaimed Buddhist (as is Mr. Sorchych) Vince Francia.

Vincient Francia aka Vincenze di Francia, had moved to Cave Creek in the seventies as a young man from Pennsylvania and got a job as a short order cook at the Silver Spur Salon. The Silver Spur Salon was the anchor tenant of a development known as Frontier Town. Frontier Town itself had been the dream child of a Chicago immigrant who had moved to Cave Creek in the 60's owing to lung disease. His dream was to build a western theme development to resemble an



old western town. Unfortunately for him he died before completion of the project. It was left to his daughter, Beverly King. She later became known as Beverly Pegler after marrying Julian Pegler. The Silver Spur Salon underwent an ownership change when a certain Dino took over the premises and the wife of the previous owner. Vince Francia kept his job under this change of management.

Dino increased the exposure of the restaurant in that he had a coming out party where the guest of honor was one Mr. Joe Bonanno, a retired Mafioso from Tucson. One of Dino's fallings was his antipathy to paying rent and in due course Mrs. King began proceedings to evict him. Prior to the conclusion of these proceedings the FBI appeared in the town and took Mrs. King into protective custody on the grounds that they had caught Dino in a wiretap operation negotiating with a mafia hit man for the life of Beverly King. At the time of taking her into custody the hit man was on a flight from Buffalo to Phoenix to perform his contract. Mrs. King's young son Marc, currently head of the Cave Creek Merchants Association, joined his mother in protective custody. Dino and the hit man were arrested and subsequently convicted and sent to prison. Upon inspection it was found that the building had been wired with dynamite for what purpose I will leave the reader to guess. Short order cook Francia, for motives best known to himself decided it was time to join the Peace Corps and emigrated to Peru. After a period of a few years peace in Peru he returned to the United States where he accepted a position as director of the Tucson Race Course prior to his return as Parks Commissioner in Cave Creek.

The mayor of Cave Creek in 1995 was still elected by the majority of council and served at will of council. I received the most votes by a factor of seven and after much opposition by Mr. Sorchych was nominated to be mayor. Mr. Sorchych then began a relentless campaign to influence the council to remove me but was never able to muster 4 votes at one time.

I will return now to Mr. George, the water company and the sewer. In mid- 1980s Mr. George applied for an allocation of Central Arizona Project (CAP) water to provide for the future needs of his water district. Mr. George then turned around and sold his allocation together with the maintenance obligation of 30 K. dollars per year to the Norton Land Company presumable for the future development of SCR. The town under Mayor Bartholomew gave permission to Norton to

run water lines from Black Mountain all the way up School House Road to SCR. At that time Norton began to sell outlets along the way. Norton had also presented an application for the development of a resort and approximately 800 homes in SCR which was pending before the county zoning commission. However, Norton then went bankrupt and the property was returned to the lender and to some private interests who continued with the application before the county zoning commission. It should be noted that the pipes and the original Cave Creek Sewer Plant ended in the middle of Cave Creek Wash. It is axiomatic that water going up to a development eventually comes down as sewage. And it may be accurately presumed that it would come down in pipes laid in the middle of the wash to the Cave Creek Sewer Plant that was eventually going to be located there until the interference run by yours truly. An interested reader could probably obtain more detailed information from Mr. Bartholomew whom the author presumes to have more information in this regard. Are you getting the picture?

Returning to 1995, I also undertook at this time, over considerable opposition, to build a sewer plant in an area just south west of the golf course where the physical pipes had been placed. In addition I persuaded the golf course to relinquish the 100 years supply of water and to use a much lesser amount of grey water that would be produced by the sewer plant. For reasons not known to me then, all this was achieved with considerable opposition in council and presumably with the assistance of Mr. Sorchych. In early 1996 the lender/owner of SCR applied for an amendment to their plans to include a golf course. Having got wind of a hearing called by county planning and zoning I attended the hearing personally and for the first time persuaded county planning and zoning to involve Cave Creek in its' deliberations. I did this by saying that I was going to institute a railroad at the top of School House Road. Since not to do so would overwhelm Cave Creek's infrastructure especially in regards to roads and traffic. This eventually led to an abandonment of the plan to develop SCR and the acquisition and incorporation of SCR by and into the town.

By the time that pieces began to fall into place for the acquisition of SCR and its incorporation into Cave Creek as open space I was already out of office. The recall was engineered by Mr. Sorchych and his newspaper with the cooperation of the Town Attorney Tom Irvin and a candidate to run against me by the name of David Phelps. To those who do not know, recall



elections are as simple as garnering signatures numbering 10% of the ballots cast in the last election and then a candidate to run as if in a normal election. In this case I believe the number of signatures was 70. It is axiomatic that at that time the mayor was chosen by the council and therefore the election was for a council seat even though the council had made no move to replace me as mayor. That notwithstanding I was replaced in the Mayor's seat by Tom Augherton who was also a darling of Mr. Sorchych. A propos the acquisition of SCR Mr. Augherton was informed by the governor's office that the state was prepared to pay 15 million dollars as its contribution for the acquisition. Great American Insurance agreed to sell the property for that amount and a closing was arranged. However, prior to the closing a private interest ownership informed that they would require an extra 6 million dollars and the legalities notwithstanding council agreed. A property tax was pushed through and 21 million dollars latter SCR was acquired by the town of Cave Creek.

In due course Mr.'s Augherton, Irvine and Phelps who at this point from general handy man was a paralegal in Irvine's office had fallen out of Mr. Sorchych's favor and were lambasted by his newspaper. Thus when the election came around Mr. Augherton not only did not run but to all intents and purposes has not been heard from again. This was also the first time that the mayor was elected directly by the voters and Mr. Francia ascended the throne. Sometime a little prior to this after a disastrous spell by a patsy planning department member as town manager, Mr. Usama Abujbarah also ascended his throne as town manager. Thus began the fiscal decline of the Town of Cave Creek.

From a small town with an annual operating budget of approximately 1 million dollars and a total bond exposure of about 750 thousand dollars in rapid succession the town moved to its current situation of yearly budget of 40 million dollars and a bond exposure of 67 million dollars. How did this happen? Firstly, it appears that the town council became a rubber stamp for Mr. Abujbarah who went on a spending spree. Do we smell smoke?

To start, the economic downslide, first view the water company. It is arguable that Jay George's Cave Creek Water Company was worthless. On the assets side were the users in the water district, on the liability side were broken pipes, dry wells, lack of inventory, and lack of storage



space. Mr. George had steadfastly refused to open his books to the town and continued in his refusal. In a somewhat strange deal he sold the water company to the Great American Water Company for a stated sum of 2.5 million dollars. Whether or not Mr. George participated on the other end of that transaction the amount of the sale had to be revealed to the corporation commission as a condition of the transfer of the franchise.

Failing to reach an agreement with Great American Water Company Mr. Abujbarah began condemnation proceedings. These proceedings had not reached the stage where the books were examined or were the other questions addressed such as broken pipes, nonfunctioning wells and lack of storage space. No problem for Mr. Abujbarah – he agreed and the council rubber stamped a settlement of the condemnation by paying Great American Water Company 20 million dollars. This amount is currently owed by the town under its bond obligation. Not content with this coup Mr. Abujbarah continued with his spending spree and bought the Desert Hills Water Company, also defunct at the time of its purchase for an additional 3 million dollars and erected water tanks for the sum in excess of 6 million dollars.

The water tank situated on Hidden Valley Road, the towns folks may be comforted, is earth quake proof and that is the reason why the price is what it was. The price also included compensation for encroachment of 3 feet onto the property to the south. Questions to be investigated on this particular improvement include but are not limited to: why would the specifications on the tank as designed be changed from a steel structure to concrete? Why were the locations of the new concrete tank footings not engineered to prevent encroachment onto the neighboring property? Why would the town manager increase the cost of a tank by more than 578% and last but not least why would the town council allow the town manager to purchase property at an extremely escalated value? Furthermore, steel tanks have a much longer life span and require much less monetary investment for upkeep. So, the question remains, why the change from the initially designed steel tank that fit on the site to the very expensive concrete tank that did not fit the site and will in the long run cost the town much more in maintenance fees.

In 1995-96 the highly contentious location of the sewer plant and the funding for it had been resolved. The site was selected at the point where the pipes ended. A design firm had been hired and construction had begun. The sewer plant was to have 3 parts to it. The first was a 250,000 gallons per day tank with mechanisms to handle 3 times that amount so that when expansion was required all that it involved was the addition of two extra 250,000 gallon tanks. The ink had not been dry on the recall when for some inexplicable reason (ask Mr. Bartholomew) the design was altered so that the plant would have only a 500,000 gallon capacity with no room for expansion. Set back waivers were sealed and signed by the neighboring properties. Shortly after the completion of this plant one of the neighboring properties owned by Mr. Flat sued for odor nuisance. The town evidently lost the agreement showing his waiver and Mr. Abujbarah compensated him handsomely in settlement of his suite. The town council rubberstamped the settlement decision made by Mr. Abujbarah.

Not being satisfied by his spending spree on the water company Mr. Abujbarah decided that the town might as well proceed to a new sewer plant. To date the capacity of the original plant has not been reached. **TWENTY THREE MILLION DOLLARS** latter (a bond liability on the Citizens of Cave Creek) we have a new sewer plant which according to the experts will not begin to pay for itself in the next 50 years. The sewer plant that was handling the capacity prior to the new plant construction has been dismantled. A few of the questions to be asked here include how is it that the utilities director imported from Buckeye manages to get a new plant built in Cave Creek utilizing the same firm that built the new plant in Buckeye with no apparent competitive bidding process. Part of the undisclosed agreements of the sewer plant is an agreement that the lakes at Rancho Mañana Gulf Course be rebuilt. How will the town pay for that additional hidden cost?

The net result to the people of Cave Creek has been a tripling of their water bills which monies appear to be going into the general fund for purposes unknown. Having thus and so easily got his way in expenditures for the Great American Water Company, the Desert Hills Water Company and the new sewer treatment plant (19 million dollars + 4 million dollars + 23 million dollars = 46 million dollars) it is clear as to who is running the town. Equally clear is that the town is not being run for the benefit of the citizens of the town.



A vignette may perhaps serve to illustrate this. A few years ago I became aware of a neighboring property sale on my northern boundary of a vacant piece of land and a few derelict buildings for a sum considerable in excess (1.6 million dollars). I became aware of this mostly because of the effect on my property taxes. Not less than a year later I noticed construction (water tank) on that vacant piece of land and I was told by the workers that the town had purchased that property. I contacted Councilman Esser the then vice mayor and on questioning him about what he knew about this purchase ascertained neither he nor the council had been told of it. Councilman Esser and I went to town hall and I asked Mr. Abujbarah in Councilman Essers' presence about the truth of what I had heard. Mr. Abujbarah told me that indeed the town had purchased the vacant piece, coincidently for 1.6 million dollars, the price being a little inflated because of encroachment (the 3' from the water tank construction i.e. change from steel to concrete). I asked Mr. Abujbarah to produce the sales contract (land contracts in AZ have to be in writing and notarized). Mr. Abujbarah told me that there was no written contract. It was a deal concluded between him and the seller in a hand shake. I asked Councilman Esser whether the council had given authority to the town manager to conclude such contracts. A question to which I received no response. Subsequently the town council rubber stamped the arrangement.

Another example to take is that in the beginning of 2012 the town received under deed of gift a small parcel of land from a certain Mr. Sorchych. Mr. Abujbarah placed the acceptance of this deed on the consent agenda and without comments it was approved by the council. What Mr. Abujbarah did not tell the council was that the small piece of land to which the deed referred was the subject of litigation regarding easement rights with Mr. Sorchych's neighbor. Also what was not told was that this piece was of no possible use to the town. When I brought this up the council moved to rescind the gift. Mr. Abujbarah response was initially to say that he did not know of the litigation and secondly to say that he did and the gift was rescinded. Not one of the council members expressed any concern about the behavior of the town manager including the fact that they were not concerned that he had lied to them both by commission and omission.

## Conclusion

I have merely touched on historical and current misgovernance and hints of corruption since the beginning of this town's incorporation and now on a much greater financial scale. What is not hinted at is the chorus of support that the mayor and town council in a chorus seemingly written by Mr. Sorchych has had for the town manager and his staff. This new town council has very little room to maneuver since the town is now encumbered to the hilt. This encumbrance will severely limit this and future councils from any major policy directives. In order to begin to redress the harm my advice is to initiate a full and complete discovery of all the activities of the outgoing council conducted under the auspices of the current town manager. If the town manager is not immediately fired his accumulated power needs to be immediately restricted and the council must assume responsibility for governance. In doing so they cannot expect any cooperation or support from the current mayor at who's feet the responsibility for the chaos must ultimately rest.

I together with noble help from my editor Jennie and others herby offer to assist where we can in achieving the above goals.

Yours truly,

Bernard Buffenstein

The above is presented to the incoming council of 2013 and will be available for general circulation 90 days after the new council is seated.