

Hello Neighbor,

Back from traveling. Hope to catch up on things over the next week or so.

1. Correction

- In the last email I had said that Mr. Pugel had retained Mr. Dale Davis as his attorney. I got the name incorrect. It should have been Mr. David Davis. I apologize for any confusion that may have caused.

2. District Files Condemnation Motion

- Apparently the district filed the condemnation on November 13<sup>th</sup>. It was filed with Gila County Superior Court under Case No. CV-20080375. We currently don't have a copy of that filing. We will work on obtaining that and posting to the website.

3. Brooke Withdraws ACC Encumbrance Action

- Brooke filed a motion with the ACC to request the withdrawal of the encumbrance action before the ACC. Brooke is withdrawing the action because it was originally required for the transferring the \$300,000 into the escrow account. Since this was waived by the prior board and the money was transferred, it is not required. The motion to withdraw the action can be found here:  
<http://www.waterforpinestrawberry.com/data%20pages/K2PSWIDDocs.htm>.

4. Status of District as a Domestic Water Improvement District

- As you may recall, back in the May/June time frame the board declared themselves a Domestic Water Improvement District (DWID) instead of the Water Improvement District (WID) that everyone in the community and the County had thought that it was for the last 12 years. The district has to be a DWID in order to own/operate a water system. The process to convert from a WID to a DWID requires either that 50% of the property owners sign a petition for the conversion or the County Board of Supervisors votes to convert after a public hearing. By declaring themselves a DWID the board is trying to skip the messy conversion process.
- ACC Commissioner Gleason asked the question as to whether the District was legally able to own/operate the water companies. The District replied yes. Brooke replied in some detail about why the District is not a DWID. Determining the actual status of the District will apparently be part of the litigation involved with the condemnation. Mrs. Pam Mason provided a lot of the material that we have collected to the ACC. All of that can be found on the website here:  
<http://www.waterforpinestrawberry.com/data%20pages/DistrictStatusDocs.htm>.
- The District has hung their hat on the inclusion of article 4 in the resolution on the formation and a 2007 letter from an attorney for the County about insurance coverage that refers to PSWID as a DWID.
- Brooke's response points out several aspects of the formation and other communication with the County that indicates that it is intended to be a WID.
  - In the original petition in 1995, the petition was unequivocal on two points. One, the District was not formed as a domestic water improvement district. Two, the District was not formed for the purpose of acquiring PWCo or SWCo or owning and operating a public utility.

- Special improvement districts are limited to the powers specifically granted and do not have the same powers as a municipal entity. The minutes from the formation of the District explicitly say that it doesn't have the power to purchase/operate a water system. The bylaws of the District also state that it is for the improvement of water resources.
- Gila County issued a letter in 2004 to citizens that specifically says that the District is a Water Improvement District and would require conversion to a Domestic Water Improvement District through an election.
- Comment: Part of the justification given for this change rests on letters regarding the status of the district from the point of view of the County's insurance provider. The insurance company indicates that PSWID is a "special district" and that since it is autonomous it does not fall under the County's coverage. Much is made of the fact that in the letter to the board the attorney for the County refers to the PSWID as a domestic water improvement district. One has to wonder when insurance companies trying to limit their liability exposure became the final word on the status of improvement districts in the state of Arizona. The attorney refers to PSWID as a domestic water improvement district, but why does this one letter have more weight than the many letters from the county that refer to it as a water improvement district? Mrs. Mason supplied the Commissioners with a 2004 letter from the county manager specifically stating that it is a water improvement district and not a domestic water improvement district.
- Comment: The people of the community signed a petition in 1996 that specifically states that a water improvement district is being formed and the petition referenced Title 48, Chapter 6, Article 1. At the time that the County approved the petition, County Supervisor Ron Christensen made clear that it was intended to be a water improvement district and not a domestic water improvement district. The resolution that the County Supervisor's approved had a reference to both Article 1 and Article 4. The claim of the board is that the inclusion of Article 4 opens the door to assuming the status of a domestic water improvement district. It is abundantly clear that the community's intention was to form a water improvement district and that that is what the entire community and the County believed it to be until the board recently announced otherwise. It is clear that the board has made this declaration in order to facilitate their efforts in purchasing the two water companies. The Arizona statutes lay out the process for converting a water improvement district to a domestic water improvement district. The board has chosen to circumvent the lawful steps required for that conversion.

This email is from the group Water For Pine Strawberry. We will be sending out an email after each of the PSWID meetings with a summary of what the board did, additional facts that are relevant to what went on, and some commentary. Please forward this email to friends and neighbors that are interested in the local water issues. If you would like to be added to or removed from the list for these emails, please reply to [WaterForPineStrawberry@hotmail.com](mailto:WaterForPineStrawberry@hotmail.com). Emails on earlier meetings are available on our website: [www.WaterForPineStrawberry.com](http://www.WaterForPineStrawberry.com) .

Water For Pine Strawberry is a group of residents who are concerned about the communities water issues and how they can best be resolved. Visit our web site, [www.WaterForPineStrawberry.com](http://www.WaterForPineStrawberry.com), for more information. The website for PSWID is [www.pswid.org](http://www.pswid.org) .

Clarifications can be submitted by anyone who is explicitly named, implicitly identifiable, or a board member to items in this email. Clarifications will be posted on our website. We reserve the right to post a response. Clarifications must deal with the topics discussed in the email that relate to the individual or the board. They must be in family friendly language and be non-abusive. When the clarification is accepted, it will be posted to the website and notice of that posting will be added to the next email.