

Merritt, Allen

From: Yenter, Cindy (Hodges)
Sent: Friday, April 06, 2007 3:56 PM
To: Merritt, Allen
Subject: Mountain View Water Corp 37-21278

Allen-
I left this (protested) application file on your desk. I had an interesting conversation with the Mtn View Water Corp president, Dan Armstrong, who evidently did not know about this application until last month. Here are the issues as consisely as I can present them:

Duane Johnson, shown on this application and on the other Mtn View right, 37-7469, is deceased. His son Dave is his successor. Johnsons are developers with no actual ownership interest in Mtn View Water Corp, which is a state registered corporation owned by its homeowner members, OR the two wells which are the pods for the water system. Johnson does own the additional platted land represented under the applicaiton, with the exception of 3 lots which have already been built. A past president of the Corporation signed the application for permit, although possibly not with the knowledge of any of the homeowners. Mr. Armstrong and I speculate that Johnson's name and address got on these water rights only because he was the developer of the original 22 lots, plus 3 lots not covered on the first right, and was also to develop the additional 36 new lots proposed under the application. Consequently, the water corp, who is the valid owner of the right, is not getting duly notified of actions affecting these rights.

Armstrong and the homeowners learned of the application when Johnson's attorneys approached Mtn View homeowners earlier this year and indicated that Mtn View "had to" allow new homes to hook up to the existing water system, and that Johnson would sue if Mtn View did not cooperate. Mtn View doesn't really have a problem with additional homes on the system, but they feel the developer should pay for the water lines in the new phase, plus other infrastructure, and then deed the system back to the Corp. to operate. Johnson evidently feels he has no obligation to put in water lines, streets or curbs; he just wants to sell the lots and run, I think. This was how the 3 additional homes were added, and the homeowners assoc and/or the owners have had to deal with the mess and complete the roads, etc. Mtn. View has retained Craig Hobdey to deal with these issues, some of which involve Gooding P&Z.

The thing that bothers me about this is that Dave Johnson and his attorneys have been the parties of record responding to the protest of the application, and I don't believe they have any valid ownership interest. I also do not believe that the water corp has any obligation to allow additional hookups to its system under this application, since the developer does not own the pod. Hobdey has indicated the same. How does this affect the protest proceedings? Does it make all action up to this point bogus?

I have sent Dan Armstrong a change of address form, and recommended that he send it back asap to change the address and contact info on both the wr and the app. I then suggested that they have their attorney contact the protestant (CSF - Travis Thompson) and see if they can settle, prior to the conference that is scheduled May 1. My suggestion was that Mtn View offer to amend the application to cover just the 3 homesites not covered by the existing water right, and drop the balance of the development, if CSF will drop the protest. I think Travis could be convinced to go for that.

I wanted to fill you in on this since I'll be at the lab on Monday and Tuesday. Hobdey is supposed to call me later next week, but if someone else calls in the meantime you have this info.

See you Wed.
Cindy

Hobdey 934-4429

Joe James 934-8185