

County Attorney's Comment:

July 25, 2016

To: The Gila County Board of Supervisors

From: The Gila County Attorney's Office

Re: Board Meeting set for August 2, 2016; Agenda Item 3876;
Beaver Valley Governing Board Appointment.

The Gila County Attorney's Office cannot approve the appointment of the new Beaver Valley Board Member board member because:

1. The Beaver Valley Fire District lacked authority to make the appointment. The district minutes from the February 16, 2016 board meeting state that Kelley Urban was dismissed. The district had ninety days to appoint a replacement, until i.e. May 16, 2016. The district didn't fill the vacancy within that time period and, therefore, the power to do so shifted to the Gila County Board of Supervisors. The district's appointment made on June 20, 2016 is, therefore, void. A.R.S. § 48-803(B) provides:

If a vacancy occurs on the district board other than from expiration of a term, the remaining board members shall fill the vacancy by appointment of an interim member and ... the remaining board members shall fill the vacancy within ninety days after the date the vacancy occurs. ... if the remaining district board members do not appoint an

interim member within that ninety-day period, the board of supervisors shall appoint an interim member to the district board within sixty days after expiration of the ninety-day period”

2. The district board meeting minutes of February 16, 2016 state that Kelley Urban did not resign but was dismissed for missing three consecutive meetings. However, the Agenda Item Informational section uses the name of “Kelly Paulin” and not “Kelley Urban” and states that “Kelley Urban tendered her resignation”.
3. The bylaws of the district providing for dismissal for missing three consecutive meetings are not attached.
4. The Agenda Item Informational section refers to the appointment of “Oscar ‘Gene’ Jones.” The district’s agenda provides: “Appointment of New Board Member-Gene Jones.” The acceptance form uses the name of “Oscar G. Jones” and the district minutes refer simply to the appointment of “Gene.”