

Donala Water and Sanitation District, Sept. 17

New land, new plan, additional counsel

By Jennifer Kaylor

The Donala Water and Sanitation Board of Directors' Sept. 17 meeting included a public hearing regarding a water and wastewater services petition for a potential commercial/retail parcel. General Manager Jeff Hodge proposed a 10-year capital projects plan and discussed the advantages of engaging general legal counsel to support the district's forward movement.

The board was fully represented, with one director participating online.

District considers inclusion petition

Owners of a 6.57-acre tract of land situated on the southeast corner of Struthers Road and Spanish Bit Drive formally petitioned Donala to include their parcel in the district's jurisdictional boundaries to receive water and wastewater services. The property was outside the boundaries but capable of being served by Donala's water and wastewater system. Hodge opened the hearing and confirmed that, because the owners anticipated the district's need to define its boundaries in the 1041 permit application with Pueblo County (see <https://www.ocn.me/v19n9.htm#dwsd>), the property had been included in Donala's service area boundary.

Acknowledging the limitations of the parcel as private property, part-owner Doug Barber attended the hearing and expressed appreciation for Donala's consideration of the petition.

The property's potential buyer, Marvin Boyd, also attended the hearing and explained that he had engaged in preliminary conversations with El Paso County about developing the land for retail/commercial use. Boyd did not disclose any other details. Hodge later confirmed that Boyd's commercial plan also fit the service area specifics of Donala's Pueblo

County 1041 permit.

The board unanimously approved the petition.

Additional actions deliberated

Anticipating the district's evolving legal needs for the future, Hodge proposed that Donala engage the firm Collins, Cockrel, and Cole (CC&C) on a fee-for-service basis for general counsel legal services. Attorney Linda Glesne and paralegal Peggy Rupp—who are experienced in small- to large-scale water and wastewater agencies as well as special districts—would be Donala's primary general counsel representatives. Hodge enumerated his many positive engagements with CC&C in his various capacities working in Colorado in the past. He added that Glesne is well versed in water rights litigation should Donala's current water counsel request the support.

One director acknowledged the need for general counsel because of Donala's special district status, but voiced uncertainty about involving CC&C with water rights issues. Hodge confirmed that the district's counsel for water-related activities was strong and well established and Donala would not be likely to engage the CC&C's services often.

Addressing another action item, Hodge presented an updated 10-year capital improvements plan for the board's review. Continuation of the water main replacement enterprise was estimated to involve almost 27,000 linear feet of pipe and cost about \$11.5 million. Water rights purchases and upgrades to or abandonment of the Upper Monument Creek Regional Wastewater Treatment Facility were earmarked at \$5 million each, while water storage received an estimated \$2.5 million. The plan also included items such as hydrant and valve replacements, water tank and well repairs, and water system technology upgrades.

Directors voted unanimously to approve the two proposals.

Bond reissuance moves forward

At the district's August board meeting, directors approved a resolution to refinance Donala's outstanding debt obligations at lower interest rates, see <https://www.ocn.me/v20n9.htm#dwsd>. Nate Eckloff of underwriter Piper Sandler and Co. appeared to briefly report on the bond reissuance process and Piper Sandler's interactions with rating agencies and bond insurers. Eckloff expressed optimism that the district was in a good financial position and would register a minimum of an A, or possibly an AA, rating. All proceedings will likely close by mid-November.

At 2:36 p.m., directors moved into executive session §24-6-402(4)(a), C.R.S.—potential water right purchase(s) and interim wastewater conveyance and treatment agreement. Hodge confirmed later that directors did not move to vote or take actions following the executive session.

The next board meeting may be held in person or as an online video meeting depending on the status of coronavirus restrictions; call (719)488-3603 or access www.donalawater.org to receive up-to-date meeting information. In-person meetings are held in the district office conference room on the third Thursday of the month. The next board meeting is scheduled for 1:30 p.m. Oct. 15. The district office is located at 15850 Holbein Drive, Colorado Springs. See <https://www.donalawater.org/> to access prior meeting minutes and the 2020 meeting calendar.

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Black Forest Fire/Rescue Protection District, Sept. 3 and 9

Disability claim denied; future revenue in hands of voters

By Natalie Barszcz

The Black Forest Fire/Rescue Protection District (BFFRPD) Board of Trustees for the volunteer firefighters pension board met with the district's attorneys in executive session on Sept. 3 to discuss a disability claim for volunteer firefighter Tad McClurg; and at the regular meeting on Sept. 9, the board heard the treasurer's concerns regarding future revenue.

Pension board result

The board met in executive session to receive advice and discuss and review the records presented by the district's legal team, Linda Glesne and Ayshan Ibraim of Collins, Cockrel and Cole Law Firm, Denver. It was about an occupational claim for a long-term disability pension claim. See www.ocn.me/v20n3.htm#bffire.

When the board moved to an open public session, McClurg elected the board continue in open session for the remainder of the discussion. He gave additional information, all counter to the report presented by the district's counsel, and said, "the (medical) information provided by the district's legal team was inaccurate and a typical lawyer report."

McClurg said that his research indicated the following:

- The fire-retardant chemicals used in the 10-year-old bunker gear issued to him in 2013 at the beginning of his firefighter training were a direct link to his diagnosis of thyroid cancer.
- A study that began in the 1970s and ended in 1999 for firefighter thyroid cancer was inconclusive and began when fire-retardant chemicals were not used in bunker gear.
- In his previous seven-year employment as a nuclear propulsion electrician from 1987-1994, thyroid tumors were not evident, even after a lifetime working in the field, according to an Occupational Safety and Health Administration (OSHA) study.
- Other states are now recognizing fire retardant chemicals as a thyroid cancer link, and throughout the firefighting population there is an increase of thyroid cancers.

After hearing the additional information from McClurg, Vice Chairman Nate Dowden said that although everyone on the board is empathetic to McClurg's suffering, the challenge is establishing direct causation to the cancer and the board has a fiduciary responsibility to make a decision based on the information provided.

Director Jim Abendschan, a 31-year veteran firefighter, said he spent 22 years on the Hazmat Team and it is becoming clear that chemicals are causing cancers among firefighters, but it is unfortunate that the studies have not confirmed a thyroid cancer link yet.

Note: The University of Arizona is currently studying the effects of perfluorooctanoic acid (PFOA) and perfluoro octane sulfonic acid (PFOS) in firefighting foam and gear on firefighter health.

Treasurer Jack Hinton made a motion to deny McClurg's claim, and the trustees of the BFFRPD volunteer pension board voted 6-0-1 in the decision. McClurg was excused from voting as an existing pension board director, and he promptly offered his resignation as pension board director at the end of the meeting. The board accepted his resignation.

The board members and the legal team all said that the decision had been the most difficult to make for everyone involved.

Revenue concerns

Hinton said the following:

- If Amendment B on the upcoming November ballot passes, then the Gallagher Amendment

will go away.

- State Legislature economists have predicted that the Residential Assessment Rate (RAR) could drop further to 5.8% if the ballot measure does not pass, resulting in a 19% drop in revenue, which will hurt the district.
 - The district has very little commercial property, and a drop in the RAR could result in a loss of \$508,000 in revenue for BFFRPD.
 - If it does pass, the current assessment rates will be frozen at the current rate of 7.15% for the RAR and at 29% for the Commercial Assessment Rate.
- Hinton said that in the event of a rate drop, the board would need to utilize the full 14.5 mill levy, providing proof to the residents that the increase was needed. The current district mill levy is set at 12.5 mills, but the district needs to plan now for a potential drop that would affect the 2022 budget, so we are not blindsided in the future, he said.

If Colorado Springs annexes Flying Horse North and Sterling Ranch, and the state keeps dropping the RAR, we may end up shutting the district doors due to lack of funding, he said. For a short informational video explaining the Vote 2020—Gallagher Amendment, visit www.bffire.org.

Chief's report

Fire Chief PJ Langmaid gave the following updates:

- District Financial Director Frances Esty has resigned to pursue more real estate appraisals.
- The 2021 Budget book was available for staff to view and provide comments and recommendations.
- The Assistance to Firefighters Grants Program (AFG) for the radio upgrade is unlikely to be received. The reason for the continued denial of federal grants is unclear, and the rationale will be investigated. The grant denial does not affect the purchase of the Mobile Data Communication (MDC's). The district is currently using 15-year-old radios.
- The Colorado Springs Fire Department and the Security Fire Department are not collecting Impact Fees. See www.ocn.me/v20n9.htm#bffire.

Wildland and urban deployments

Langmaid said two personnel had deployed to the Grizzly Creek Fire to relieve the first two who had earned some well-deserved rest and recuperation, and all personnel had since returned.

The state requested urgent assistance from all fire



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