

Donala Water and Sanitation District, June 21

Board adopts public comment policy

By John Heiser

Attorney Gene Thornton, who in the May election lost his bid to become a member of the Donala Water and Sanitation District Board of Directors, contends that district residents should have an opportunity to be heard before the Donala board makes decisions. While Thornton's view may be consistent with state law for homeowners associations governed by the Colorado Common Interest Ownership Act, special districts, such as the Donala district, are governed by Article 32, a different part of the Colorado Revised Statutes.

Donala's attorney, James Petrock, in an opinion letter, said, in part, "Members of the public are free to comment in scheduled public hearings, such as budget hearings and annexation approvals. They also have a right to attend open public meetings. In neither case does a member of the public have a First Amendment right to participate in debate or deliberation by elected Board members. The President of the Board, in his discretion, may recognize an audience member who wishes to speak on a matter before the Board, but he is under no obligation to do so. There is no absolute right on the part of the public to speak at any point of their choosing during a formal meeting of elected government officials."

The board unanimously approved a rule that comments from members of the public will be taken at one point during the agenda.

The agenda for the June 21 board meeting had an item titled "Public Comment" at the end of the public portion of the meeting. Thornton had objected to the way that item was added to the agenda, claiming it was done by the board behind closed doors. In his opinion letter, Petrock responded, "The district manager is charged with day to day district operations including the preparation of meeting agendas."

During the public comment portion, Thornton said he felt the issue was one of due process. He said a much better process would be to allow public comments before the board makes important decisions so the board can have the benefit of the views of members of the public. He said the way the public comment policy was adopted was improper and illegal. He characterized Petrock's letter as "advocacy" rather than pure legal opinion. Thornton said he will look more closely at the applicable law and may file a lawsuit.

Questions about bond issue raised

Also during the public comment portion of the meeting, Scott Peterson, a resident of Colorado Springs who said he is a retired

municipal bond underwriter and has been involved in municipal bond issuance since 1975, commented on some aspects of the district's December 2011 bond issue. The \$7.3 million in bonds was issued to cover the cost of infrastructure improvements to handle renewable water.

In particular, Peterson said it was excessive that the bond issue involved five law firms, four in Denver and one in New York, and two financial advisers, one representing Donala and one representing the Colorado Water Resources and Power Development Authority (CWRPDA), which backed the bond issue. He noted that the district put up over \$750,000 for the cost of issuance and for a reserve fund. He said that for this size bond issue "that

is very inefficient."

He also objected to what he characterized as the lack of information in the official bond issue statement regarding the intended use of the funds and how much money the authority made in initial and ongoing fees for sponsoring the bond issue.

Finally, Peterson asked how the Donala district is related to the Gleneagle Water District cited in some historical documents.

Dana Duthie, Donala district general manager, replied that the district was founded in 1972 and has always been known as the Donala Water

and Sanitation District, although for a while when the developer owned the whole development it did business as the Gleneagle Water District.

Peterson also noted that he is concerned about the projected

cost of water service in Colorado Springs since the city has committed to build the Southern Delivery System and now does not have sufficient growth to cover the costs.



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