

CIMARRON HILLS FIRE PROTECTION DISTRICT BOARD OF DIRECTORS



1835 Tuskegee Place

Colorado Springs, CO 80915

Office: (719) 591-0960

Fax: (719) 591-0996

CHFPD Information Update

October 19, 2011

Regarding TABOR Lawsuit

- a. The Plaintiffs asked the judge to postpone the trial until after the election, and the judge decided to proceed with the October trial. The parties provided closing arguments on Thursday, October 13, 2011 and the judge indicated that he might have a decision sometime this week, but it could be late November before he has his decision.
- b. The District has not changed its position that the current and former mill levies were authorized by District voters in 1996.
- c. We do not know what the judge will decide. The judge stated that this is not an open-and-shut case. In particular, he will consider the language in the 1996 Ballot Question and what it was intended to do. He also indicated that the election held last November, and the election held this coming November were essentially irrelevant to his decision.
- d. At trial, the District presented evidence that it had differing opinions from different attorneys regarding the 1996 Ballot Question - including several opinions in favor of the increase in the mill levy rate. The District presented a TABOR expert who testified in court that the Board had not violated TABOR.
- e. The District's former attorney (for 30 years) testified in court that the 1996 Ballot Question was expressly intended to allow future Boards to adjust the mill levy rate for inflation and growth. Dee Wisor, one of the top TABOR specialists in Colorado, and undisputed by the Plaintiffs and the District as a TABOR expert, testified that he agreed with the District's interpretation of its Board's authority to set the mill levy as it has done for the last 15 years without concern until the attorney for the Falcon FD raised the issue. That attorney now represents the Concerned Citizens and the Plaintiffs in the lawsuit. In addition, two leaders of the Concerned Citizens and Plaintiffs, Mr. Anderson and Ms. Jones, were on the District's Board and approved two of the mill levy increases themselves that they now say were improper.
- f. Board President Tracy Stuehm testified in court that the Board considered a variety of factors when it set its mill levy, including in particular the need to provide effective emergency services to the community.
- g. The judge decided that it was premature to consider in detail how the District and the community might be affected if he rules against the current mill levy. However, the judge recognized and stated that he understands the impact would be severe. If the judge finds a TABOR violation, he will then ask the parties to present their arguments regarding what impact this will have. However, the District's expert fire chief, Chief Qualman of South Metro Fire, believes there will be a very serious impact if the District loses and the ballot questions do not pass. Even the Plaintiffs' expert says without a higher mill levy the District cannot provide appropriate services.
- h. The District will update the community as soon as it has a decision from the judge. Again, this decision may not be available until after the November 1 election is over. (Further, this is a mail-ballot election and all ballots were mailed last week - so voting has already begun.)

A handwritten signature in cursive script that reads "Tracy Stuehm".

Tracy Stuehm

Board of Directors President

Cimarron Hills Fire Protection District