



OFFICE OF THE CITY AUDITOR COLORADO SPRINGS, COLORADO

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21-18 City of Colorado Springs Metropolitan Districts Policy Review

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Purpose

The purpose of this review was to evaluate the processes and controls in place over the activities of Metropolitan (Metro) Districts, which were separate jurisdictions within the boundaries of the City of Colorado Springs (City).

Highlights

We conclude that overall, processes and controls in place for Metro District activities complied with City policy. Metro Districts were separate jurisdictions subject to State Statute. City and City Council's role was limited to policy and approval to form these districts, rather than ongoing oversight. Opportunities exist to update policy and associated future model service plans to address topics that could include disclosure, representation, and debt structure for Metro Districts. Our review identified one recommendation and four opportunities for improvement.

Metro Districts Background

City Planning and Development's website indicates that Colorado Springs has well over 100 different special financing districts created under Colorado Revised Statutes or City Code. These districts provide financing for public improvements costs and/or are responsible for ongoing services or maintenance of improvements that are not provided by the City, Colorado Springs Utilities, or another entity such as a property owners association.

Metro Districts fall under the City's adopted Special District Policy. These statutorily-created districts are independent entities with potentially broad powers to issue bonds for public improvement costs and, in some cases, maintain and operate facilities. Most of Banning Lewis Ranch as well as many other major developments approved within the last 15-20 years are or will be included in Metro Districts.

These districts have independently elected boards of directors. In some cases, they are organized as multiple separate districts to coincide with phases of a project and/or differentiate between residential and commercial areas.

In some cases the multiple districts are managed by a small developer-controlled master district. Metro Districts are essentially chartered by a service plan which must be approved by City Council. The City uses a Model Service Plan approach to

Management Response

Management agrees to address issues. We will follow up on management's actions in future reports.

Recommendation

City Planning and City Council should update Metro District policy with input from the development community considering the Opportunities for Improvement noted below.

Opportunities for Improvement

City Planning and City Council should consider Metro District policy updates that:

1. Address transition of Metro District governance to resident control and encourage greater owner representation.
2. Review disclosure requirements for debt, advances and elections, as well as, district websites.
3. Include policy criteria that aligns with City strategic goals.
4. Specify allowable terms and rates for developer advances and subordinate debt.

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standardize the content of these plans and their limitations.

City Metro District policy and the associated model service plans had not been significantly updated since 2006. City Planning and Development and City Council were to undertake a review of City Special District policy upon completion of education sessions conducted for City Council from 2019 to 2020. Due to delays related to Covid-19 and changes in City Council representation, this policy review has not occurred.

Districts were legally independent jurisdictions with separate boards and authority to perform a range of functions including the issuance of debt, certification of mill levies, and collection of fees. Debt issued by districts was an obligation of the district, not of the City. As of June 2021, there were 89 Metro Districts within City limits. The following table shows El Paso County tax revenue collection data from 2019 which includes Metro Districts.

Special District, City, and Other District Revenue Comparison:

2019 Property Tax Revenues - El Paso County	
Entity	Tax Revenue
School Districts	\$442,497,908
El Paso County	\$65,697,493
Metro Districts-County*	\$18,529,432
Metro Districts-City*	\$21,377,900
Colorado Springs	\$26,875,894
Cities & Towns	\$5,584,558
Library Districts	\$30,767,499
Fire, Special, Water & Sanitation Districts	<u>\$51,937,949</u>
Total	\$663,268,633

Source: El Paso County Assessor Abstract, *Audit derived

More about Special Districts

The following Special District information can be found on the City of Colorado Springs Planning and Development website <https://coloradosprings.gov/planning-and-development/page/special-districts>.

- Eight educational training sessions provided to City Council
- District model service plans and City policy
- City Planning 2009 White paper- has not been updated since publication, but provides for example, a good overall explanation of the City's Special District types

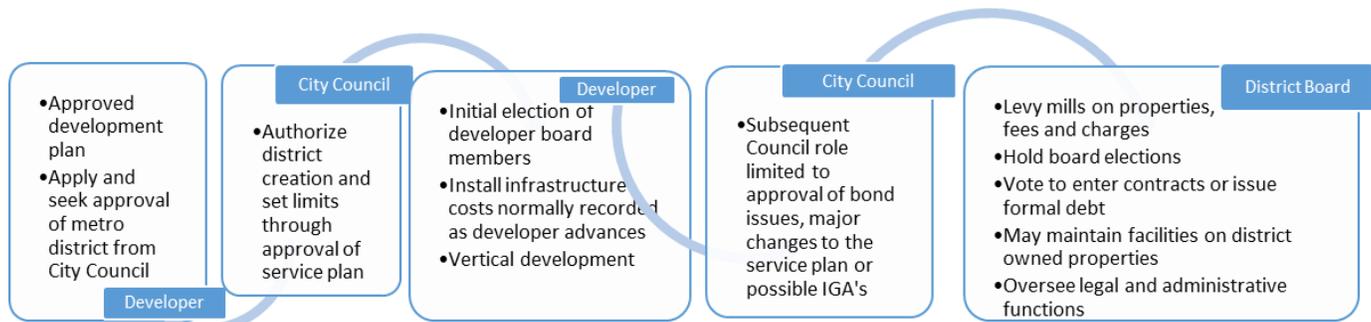
Timeline of District Development

Most Metro Districts were initiated by developer representatives elected to the district board. Development costs incurred prior to mill levy assessments on constructed properties were typically recorded as district liabilities in the form of developer advances. Advances typically accrue interest until such time as they were refinanced, repaid, or written off if no longer recoverable. If debt was privately placed as in cases in which the developer purchased the bonds, a financial advisor opinion as to the reasonableness of the interest rate was required. City policy required that material modifications to service plans such as authorized mill levies or debt limits be approved by City Council.

Please see the following district development timeline:

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District Development Timeline



City policy provided limitations for Gallagher-adjusted mill levies, unless City Council approval was obtained to levy additional mills. City policy allowed districts to charge fees and tolls to property owners within the district in addition to debt and operations mill levy assessments.

	Debt Service Mill Cap	Operation Mill Cap
Residential	30	10
Commercial	50	10

Note: debt service mill levy limited to no more than 40 years
 Note: Residential metros generally have Gallagher-adjusted debt and operational mill levies which increases the levy

Representative mill levies for residential property within a special district were as follows:

Sample Northeast Colorado Springs Property Tax statement - residential Metro District:

Property Tax Bill—\$543,000 Property Value & \$38,830 Assessed Value	Mills	Tax Amount
El Paso County	7.755	\$312.06
EPC Road & Bridge Share	.165	\$6.64
City of Colorado Springs	4.279	\$172.19
EPC-Colorado Springs Road & Bridge Share	.165	\$6.64
Academy School District 20	60.216	\$2,423.09
Pikes Peak Library	3.855	\$155.13
Southeastern Colo Water Conservancy	.942	\$37.91
Metro District (Max Mills with Operations Increase approved by City Council)	55.662	<u>\$2,239.84</u>
Total Tax Bill		\$5,353.50

Source: El Paso County Assessors Website—2021 tax statement
 Note: This example illustrates a property in a residential metropolitan district with Gallagher-adjusted metropolitan district mill levies. The service plan has been amended to allow 20 instead of 10 mills for operations, again prior to Gallagher adjustments.

Under City policy, sample mill levies and mill levy caps were to be disclosed as part of an exhibit to the service plan. Annual reports were required to be filed by districts with the City and Colorado Department of Local Affairs. Annual reports, budgets, and upcoming district election information was available to property owners on some Metro District websites, but this was not required under City policy. Effective 2022 Colorado Revised Statutes will require most Metro Districts to maintain a website. This statutory change has also updated and expanded other disclosure requirements adding additional transparency to district activity.

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Our audit included limited comparison to policies in place in El Paso County and Fort Collins.

Regional Policy Comparison

Attribute Reviewed	City of Colorado Springs	El Paso County	City of Fort Collins
Mill Levy Limits (Without Gallagher Adjustments)	30 mills residential, 50 mills commercial. Both 10 mills for operating expense. Residential 40 year time limit for debt service, commercial no time limit	50 mills debt service, 10 mills for operations, 60 mills maximum cap, 5 mills for covenant enforcement	50 mills max including 10 mills for operations and maintenance. 40 year term limit for debt service mills
Developer Advances	Nothing in policy	Simple interest, prime plus 2%, 20 year max	Nothing in policy
Debt	Market rate, no more than 18%	Nothing in policy	Market rate, no more than 12%
Board Representation	Nothing in policy	Provision to transition to conventional district with electoral representation. County may appoint citizen representative	Prefer to transition to residential control as soon as possible
Disclosure	Annual report required	Annual report on County website	Annual report on City website
Align to Strategic Goals	Nothing in policy	Nothing in policy	Align with City strategic goals

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Observation 1

- The Special District policy review by City Council and City Planning proposed for 2020 encountered scheduling delays.
- District policies had not been updated since 2006.

City Planning and City Council were to undertake a review of City Special District policy upon completion of education sessions conducted for City Council from 2019 to 2020. This review was to include all district types, including Metros.

The next step in the review process was that a committee would be formed to propose policy updates, which would include representatives from City Council, City Administration, and the local development community.

Due to delays related to Covid-19 and upcoming changes in City Council representation, timing did not allow for policy review or committee formation.

Management Response

A plan is being put into action by City Planning and Development to create and support a Special District Policy Working Group, which will review the Special District policy, model service plans, and BID Operating Plan and Budget templates and recommend updates to City Council by December 31, 2022. This group will include industry and Council liaison representation. The intent is to form and convene the Special District Policy Group by the end of 2021.

Recommendation

City Planning and City Council should update Metro District policy with input from the development community.

This review should consider the opportunities for improvement noted in this report.

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Opportunity 1

City policy did not address transition of Metro District governance from developer to residents and owners.

- City Special District policy and model service plans did not address transition of district governance to residents when development was complete.
- City Planning indicated that fewer than ten City Metro Districts have transitioned to resident owner representation.

District property owners ordinarily become subject to debt obligations for which they have not voted, as well as fees, charges and other requirements they essentially “buy into” when purchasing their properties.

Recommendation

City Planning and City Council should consider updating Metro District policies to:

- Address transition to resident governance
- Encourage greater resident representation.

In our limited review of Special District policies in the region, information below, we noted transition to property owners and representation were addressed.

El Paso County (EPC) Policy

- Preference for conventional districts that accord full electoral representation to residents and property owners.
- Master district arrangements shall accommodate a transition back to a conventional district.
- EPC Commission may appoint voting member of the District Controlling Board of Directors.

City of Fort Collins Policy

- Governance structures encourage owner/resident control of districts as early as feasible.
- Anticipated that over time, end users who are eligible electors will assume direct control of the District’s Board.

Management Response

This recommendation will be provided to the Special District Policy Working Group by City Planning. On-going implementation and oversight of these recommendations may be somewhat limited since the City does not participate in or audit the functions of the districts. That said, the topics will be vetted with the Working Group.

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Opportunity 2

City disclosure policy did not ensure district data was available and understandable to district residents.

- City policy did not require update of the disclosure form provided to buyers.
- City policy did not require annual disclosure of developer advances and indebtedness, or district websites.

Property owners and prospective buyers should have readily available, easily understood information on district finances and board composition and governance. District websites disclosing governance and financial information were not required by policy. However, we noted some districts currently provide websites.

In our comparison of regional jurisdictions, we noted El Paso County (EPC) required an annual report available on the EPC website that includes status of indebtedness, including developer advances. This requirement took the form of a separate resolution to allow update without revision of the Special District policy documents.

The 2009 Special Districts White Paper prepared by City Planning and Development stated the following regarding developer advances: “Not systematically disclosing all funding agreements has the effect of understating the total potential liabilities of the districts and does not fully and affirmatively inform the taxpayers.”

Effective January 1, 2022, Colorado Senate Bill 21-262 Concerning transparency for Special Districts will require improved notification of elections and disclosure of financial information including:

- Notification of elections by email or mail to all property owners
- District websites be maintained with annual report and financial statements
- Disclosure of estimated future taxes for new construction properties sold.

Management Response

This recommendation will be provided and evaluated with the Special District Policy Working Group. However, with existing Metropolitan District the City’s options may be more limited given the way annual reporting and disclosure requirements are embedded in the approved service plans. It should also be noted that State-wide disclosure and notice requirements have been updated and expanded to some extent under SB21-262.

Recommendation

City Planning and Development and City Council should review the requirements under SB21-262 to determine if the act sufficiently addresses disclosure requirements or if City Metro District disclosure policies should be updated.

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Opportunity 3

City Special District policies did not include criteria related to alignment with City strategic goals.

- The City Metro District model service plan states that a primary objective of the district was to finance construction of public improvements. A reference to City strategic goals was not included.

City policy and model service plans have not been updated significantly since 2006. City Council was able to encourage strategic alignment on a case by case basis through approval of specific service plans. However, policy was not in place that required or encouraged linkage to City strategy.

District development could potentially be aligned with City strategic goals to obtain enhanced improvements in exchange for approval of districts and/or allowable levies. The 2009 City Special District White Paper noted as a broad issue area "...adding an overall strategic component to the policy..." and "...specifically aligning the policy with Economic Development goals and objectives..."

We identified a reference to the Fort Collins, Colorado Special District policy and model service plan, which included the following policy objectives:

City of Fort Collins Special District Policy

- 1) Environmental sustainability outcomes
- 2) Critical public infrastructure
- 3) Smart growth management
- 4) Public improvements that deliver or facilitate strategic priorities...including affordable housing, workforce housing, infill/redevelopment, economic health outcomes, specific and measurable economic outcomes such as job growth.

The project is expected to deliver extraordinary benefits across two or more of objectives above. Specific examples of public benefits were also provided in policy.

Source: City of Fort Collins resolution 2018-079 Adopting a policy for reviewing service plans for metro districts

Recommendation

City Planning and Development and City Council should consider Metro District policy updates that provide criteria linked to City strategic goals.

Management Response

The creation of criteria for approval districts that are based on the City's strategic goals will be presented and evaluated by City Planning with the Special District Policy Working Group. That said, the use of criteria implies an increased level of discretion to approve/disapprove formation of a district, which is a departure from the current policy that allows formation of districts with limitations (e.g. mill levy caps), but not a requirement to meet specific criteria. Criteria that are narrow and too prescriptive may result in denial of districts that would otherwise be authorized under the current policy.

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Opportunity 4

Metro District policy did not address or provide limitations on certain debt provisions.

- District policy did not address developer advances or use of subordinate debt
- Per the Metro District model service plan, the allowable interest rate was expected to be market but only limited to 18%.

Overall, City Metro District policy provided limitations on debt recovery from residential homeowners through debt mill caps and term limits.

Districts utilized developer funding agreements and/or capitalized interest to compensate for delay in receipt of property tax in developing districts. City policy did not limit developer advance interest rates or compounding of interest.

We noted the following reference in our regional comparison that El Paso County limited developer advances to 20 years, and allowed simple interest only at prime plus two percent.

The 2009 Special District White Paper prepared by City Planning stated: “placing no limits on developer funding agreements creates the potential that taxpayers will end up paying primarily interest for a longer period.” “A policy could be adopted which would limit the time frame these agreements are allowed to remain in place and set a maximum interest rate.”

District property owners may not be able to clearly determine what was being charged through debt mills.

Management Response

For newly created Metropolitan Districts or those with future amended service plans, there will be an opportunity to address these recommendations as part of the Working Group process outlined above, with industry input. Options for existing Metropolitan Districts will be more limited.

Recommendation

City Planning and Development and City Council should consider updates to debt related provisions in Metro District policy that:

- Specify allowable terms for developer advances and subordinate debt
- Provide limitations on allowable debt interest rate for debt and developer advances.