



Legislation Text

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Special Districts Overview- Session No. 7

Presenters:

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Summary:

- This is the seventh and final Work Session requested by Council as an overview of City special districts and policy. Today's areas of focus will include the following:
 - Follow-up from Session #6
 - District accountability and disclosure
 - District dissolution or conversion to resident boards

Background:

Please refer to the attached PowerPoint presentation. Other supporting materials are attached, including the following:

- Summary of district mill levies and authorized limits
- Colorado Springs metropolitan district annual report and disclosure excerpt from Model Service Plans
- Example of a State transparency notice to electors
- Staff overview of district dissolution or conversion of districts to resident boards
- Updated list of special districts, district maps and district contact information

Follow-up from Prior Sessions

Mill levy summary table

Attached is a table summarizing all current certified special district mill levies (2019 property taxes payable in 2020) as well as the Council-approved limits on those mill levies. It should be noted that, in the case of many residential metropolitan districts, the actual mill levies appear to exceed these caps because "Gallagher adjustments" are typically allowed retroactive back to 2006. Between this year and last year, a number of recently created districts certified mill levies for the first time and several residential metropolitan districts made minor upward Gallagher adjustments to both their debt service or operational mill levies.

Taxable Status of District-owned versus HOA- owned Properties

During Overview Session #6 (which occurred on January 13, 2020), members of Council asked for clarification regarding the taxable status of district versus HOA-owned properties and improvements. Based on a conversation with staff of the County Assessor's Office, both district and home owners association (HOA) or other property owners association-owned property is effectively assessed and treated as non-taxable exempt from property taxes. However, there are distinctions. With district-owned property, it is immediately classified as *tax exempt*. In the case of transfer of ownership to an HOA or other comparable owners association, there is a short period of pro-rating of taxes after which the property is classified as *non-taxable*. An important distinction here is that, in a common ownership model a proportion of value of the non-taxable common ownership property is allocated to the individual taxable properties.

Comparison of District-Only Compared with District/HOA Structures

Council members have asked for an overview outlining the advantages and disadvantages of these two different models including from the financial vantage point of homeowners. Financial implications and other considerations vary based on different situations. However, the following generalized factors and observations are provided.

- 1) A district-only model reduces initial creation and ongoing overhead costs and simplifies communication and administration
 - a. Only one entity to deal with
 - b. No duplication of professional management, audit and reporting needs
- 2) District taxes (and potentially fees) are more efficient to collect than HOA fees or assessments
- 3) District governmental immunity could provide a benefit to project owners
- 4) Opportunities for resident representation and recourse are similar. This includes ultimate access of resident and other property owner, to a seat on a decision-making board
 - a. There can be representational complexities with multiple district structures
- 5) District taxes typically deductible on income tax, if taxpayer qualifies for standard deduction
- 6) There is potential for access to tax-exempt financing for major public improvements
- 7) The assessed valuation of overall project may be reduced

Analysis of Long-term Financial to a Homeowner of Including Public Improvements Costs in the Costs of a Home Versus Financing Them Through a District

There are a variety of variables, assumptions and uncertainties associated with this kind of model, such that staff are not in a position to provide this analysis.

District Accountability and Reporting

Although Colorado Springs has some important district disclosure requirements and acts as a custodian for certain district- related documents and information, staff suggests that, for districts such as Metropolitan District and BIDs that operate as separate quasi-municipal government entities, the first point of contact and accountability should be with the districts themselves. For SIMDs, which do not function as separate governmental entities, the first point of contact should be the City Parks Department. For GIDs, for which City Council acts as their boards, the logical first point of contact for

accountably and records should logically be the City's Finance Department.

Many of the metropolitan districts in the City maintain active and robust web sites.

Many of the documents associated with districts are required to be submitted to the State. The Colorado Department of Local Affairs (DOLA) makes these documents available in a consistent and accessible format as part of its local government information system for the now upwards of 4,000 governmental entities that exist State-wide. Staff suggest that this system is a logical site to direct individuals to for contact information and documents associated with districts. In particular Title 32 districts (e.g. metropolitan districts are required to file a transparency notice with the State (C.R.S. §32-1-809). BIDs have a State-wide requirement to identify a "designated official". The following is a link to the DOLA Local Government Information System:

<https://dola.colorado.gov/lgis/lgActiveCounty.jsf>

The City Clerk maintains a robust official document management system that includes documents associated with districts that have been heard and in some cases acted upon by City Council or other City boards and commissions. The Clerk also maintains hard copy files for each district.

For any districts that certify a mill levy, the County Assessor identifies a telephone contact that appears as part of the property assessment record for that particular property.

Open Meetings, Records and Disclosure in General

As either independent or sponsored governmental entities, special districts are subject to Colorado Open Meetings and Open Records Laws. Colorado Revised Statutes also include a variety of other disclosure, posting and reporting requirements specific to districts.

The documents associated with creation of districts are ordinarily recorded against the applicable properties and will be identified in conjunction with title searches, and are therefore identifiable during the process of closing on property purchases. Some districts and/or developers with districts, go to the extent of creating separate acknowledgement or disclosure forms that are actively used in conjunction with property sale closings.

As part of the Model Service Plans for all metropolitan districts, there is required disclosure form (example attached). These are ordinarily recorded against the applicable properties. However, one disadvantage of the current format is that these forms can become dated, as there is no mechanism currently available to keep them updated.

Annual Reporting

City staff suggests that for BIDs (business improvement districts) the required annual approval of Operating Plans and Budgets, constitutes a significant form of accountability and reporting to Council and property owners. Although these documents are part of the City Council record and available to the public, it is not clear if they are posted and available at any fully convenient and accessible location. For example, copies of the BIDs budgets are available at the DOLA site, but not necessarily the full Operating Plans.

Limited annual reporting on general improvement districts (GIDs) occurs in conjunction with the annual City auditing functions and their annual budget adoption processes.

SIMD information is included as part of the City's budget.

Metropolitan districts have an annual report requirement which is integrated within the text of the Model Service Plans. Authority to require this report comes from C.R.S. § 32-1-207 (3) (d). and would also allow the City to periodically update and adapt this report requirement. One challenge with this approach is that it essentially fixed the content and format of this report as adopted in 2006. Based on experience during the last 14 years, along with the availability to make use of electronic links would suggest that electronic links to documents would now be a more efficient a useful approach. Essentially, if the information is already being digitally provided at an accessible and dependable location (e.g. the DOLA website) a simple electronic link could be provided. The City could then focus on asking for information considered important and not otherwise already available. Because service plans constitute the equivalent of contractual documents, it is legally problematic to make changes to service plans after-the fact. Therefore, if a determination were made to adopt a new format and approach to metropolitan district annual reports (and remove the detail of the requirement from the body of the service plan), this requirement would be limited to new and amended service plans.

Financial Reporting

As separate governmental entities (or entities sponsored by the City in the case of SIMDs), districts all have responsibilities for adopting budgets and making these publically available. Budgets and audits (if required) are all provided to the State.

Metropolitan districts, GIDs and BIDs ordinarily must complete annual audits. In the case of GIDs they are the responsibility of the City, and in the case of BIDs the audits are required of all BIDs pursuant to the Special District Policy and must be provided to the City, with relevant information incorporated into the City's Comprehensive Annual Financial Report (CAFR).

Metropolitan Districts must also provide annual audits, however a provision for local governments under C.R.S. § 29-1-604 allows metropolitan districts to file for an exemption if their annual revenues and expenses fall below certain thresholds (less than \$100,000 per year in most cases). Effectively, this means that metropolitan districts are typically not required to provide audits in the early years after their creation, and therefore it may be more difficult to obtain access about reimbursement agreements in particular.

Conversion of Metropolitan Districts to Resident or Multiple Owner Control

A separate City staff-generated overview of this topic is provided. Generally, districts are created with related party developer boards, and over time either will or may convert to more broadly representative property owner and/or resident boards.

In Colorado Springs, to the knowledge of City staff, of all the BIDs only the Downtown BID has a broadly representative board of property owners.

A number of Colorado Springs residential metropolitan districts already have or are in the process of converting partially or wholly from developer to resident owner boards of directors. However, staff are not aware of any examples where this has progressed to point where there is no further direct or indirect developer involvement.

There are examples in Colorado where multiple metropolitan district structures have transitioned entirely from developer to resident/property owner control. However, none have occurred yet in Colorado Springs. Scenarios for how this transition could occur in the future, are addressed in the attachment.

District Dissolution

A separate attachment is provided summarizing the key aspects of special district dissolution.

As described in prior overview sessions, City-created local improvement districts (LIDs) essentially cease to exist once their financial obligations are completed. There are affirmative processes required for dissolution of other types of districts. These are different for each type of district. Generally, the two most common scenarios for district dissolution are as follows:

- 1) The district never really became active and never progressed to a point where it was needed
-an example is the former Downtown Metropolitan District which at one time included the Downtown USOC building property
- 2) The district has completed its purposes and no longer has outstanding obligations
-examples include the former METEX Metropolitan District which issued debt to originally construct a segment of Powers Boulevard and the Cottonwood General Improvement District which as dissolved by the City a few years ago, following pay off of its debt.

While there are a several other “debt only” districts that will likely be dissolved in the next decade or thereafter, most existing districts are expected to remain in place for longer periods or in relative perpetuity. With a possible few exceptions, essentially all the districts created in Colorado Springs in the past five years, have been set up to have “perpetual” purposes and functions.

Overall Summary of Prior Session Topics

The following is a generalized summary of all seven overview sessions, including today’s anticipated session

Session 1- (September 23, 2019)- completed

- General district overview
- State and County-wide district context
- 2006 Special District Policy
- BIDs

- Review of future sessions, topics and proposed schedule

Session 2- (October 21, 2019) - completed

- Metropolitan Districts

Session 3- November 7, 2019- completed

- Metropolitan district follow-up- statutory findings
- Special district submittal, review and approval processes
- GIDs

Session 4- November 25, 2019- completed

- Limited follow-up on metropolitan district service adequacy finding
- LIDs and SIDs
- Mill levies and Gallagher adjustments

Session 5- December 9, 2019- completed

- SIMDs
- Special district financial obligations, debt authorizations and debt issuances

Session 6- January 13, 2019- completed

- Limited follow-up from Session 5
- District powers and functions in addition to debt issuance
- District boards and elections

Session 7- February 10, 2019- today's session

- Contacts, annual reports, audits, data and disclosure
- District dissolution, or conversion to resident boards
- Next Steps

Previous Council Action:

This is an overview and Council discussion item only.

Financial Implications:

N/A for this agenda item

Board/Commission Recommendation:

N/A

Stakeholder Process:

N/A for this agenda item

Alternatives:

N/A

Proposed Motion:

N/A

N/A