

Metropolitan Districts 101
Granby Board of Trustees
April 25, 2023

- What is a metropolitan district?
- How are metropolitan districts formed?
- How are they governed and funded?
- Why are they used?
- Recent legislative updates
- What districts are within the Town?

1 INTRODUCTION

- Special districts have been around for the better part of 100 years –
- CRWCD – 1937
- Lots of types of special districts:
- Art, Cemetery, Business Improvement, Fire, General Improvement, Library, Local Improvement, Metropolitan, Recreation, Sanitation, Soil and Conservation, Special Improvement, Transportation, Urban Drainage and Flood, Water and Sanitation, Water, Water Conservancy, Water Conservation...

2. METROPOLITAN (“METRO”) DISTRICTS

- Focus today is on metropolitan districts (“metro districts”) and its closely related cousin, General Improvement Districts (“GIDs”)
- What is a metro district?
- A quasi-municipal corporation and political subdivision of the State of Colorado formed to finance, design, acquire, install, construct, operate and/or maintain public improvements that are not otherwise being provided.
- It is essentially a tax-exempt financing mechanism used for the installation, operation and maintenance of public infrastructure.

What metro districts can do – from mosquitos to mega-structures

Metro districts must be authorized in their service plan to provide at least 2 of the following:

- Mosquito control
- Parks and recreation
- Fire protection
- Safety protection
- Water
- Sewer
- Solid waste disposal
- Street improvements
- Transportation
- Television relay and translation
- Covenant enforcement

3. HOW METRO DISTRICTS ARE FORMED OR CREATED: 3-STEP PROCESS

- Initiated by those who live in the district (desire to have central water for a group of homes outside town limits, for example)

OR

- Developer who wants to use the district as a financing mechanism to build infrastructure for the development

First step: Town approval of Service Plan

- Approval of Service Plan by by BOT/BOCC where District will be located
- Service Plan is like the charter of a town or city. It sets forth the powers the district as a governmental entity will have (i.e. the power to provide water, sanitary sewer, etc...)
- Primary elements of a Service Plan:
 - Proposed services and how to be provided
 - Boundary map
 - General description of facilities
 - Financial plan, including any proposed indebtedness

Any subsequent "material modification" of Service Plan after the original Service Plan is approved requires approval of the Town.

Material modification includes:

- Addition to the types of services provided
- Decrease in the level of services
- Decrease in the financial ability of the District to discharge indebtedness
- Decrease in the need for organized service in the area
- Inclusion of property into a new county or municipality

Second Step: Election

- Approval of Petition for Organization by the District Court, requesting the Court order an election regarding (1) formation of the district and (2) ability and authority of the district to incur debt
- Those who are registered Colorado electors and reside in the district or own property within the district can vote
- Two issues:
 - Approval of the district
 - Authorization to incur debt [issue bonds] [TABOR]

Step Three: Court Decree

- Court certifies the election results and enters an Order and Decree declaring the District has been duly organized
- District can then hold its initial, organizational meeting
- Once the District is set up, other than (1) approving amendments to the Service Plan when there is a "material modification," (2) quinquennial reviews every 5 years to make sure District can pay their authorized but unissued debt, and (3) making sure the District complies with any IGA it has with the Town, Towns generally have little involvement in the ongoing operation of the District.

4. HOW METRO DISTRICTS ARE GOVERNED

- Although the Town has some high level oversight metro districts, the Town does not govern the District.
- District is its own separate, quasi-municipal corporation and political subdivision of the State
- District is governed by a Board of Directors elected by the registered electors within the District. Anyone who is registered to vote in Colorado and resides in owns property in the District, is eligible to run for the Board
- Once elected, Directors owe fiduciary duties to the District and must exercise the utmost good faith, business sense, and astuteness on behalf of the District. A Director is prohibited from taking personal advantage of a situation to benefit himself or herself or prejudice the District.

5. HOW METRO DISTRICTS ARE FUNDED – THREE PRIMARY SOURCES: TAXES, BONDS AND FEES

- Levying of property tax
 - # of mills to repay bonds (bond service or debt service)
 - # of mills for operation and maintenance of the District (O&M)
 - Limitations on bonds and mills
 - Voter imposed limits
 - Service plan limits
 - Typically limits total amount of bonds, maximum mill levy, maximum period
- [Note: Property taxes are deductible, while HOA assessments are not – either mechanism can be used to pay for operation and maintenance]

• Issuance of debt (after approval by electors as required by TABOR)

- General obligation bonds
 - Secured by property taxes, through imposition of mill levy
- Revenue bonds
 - Generally paid through fees, charges or other non-tax revenues collected from district residents and customers

• Bond underwriting encourages an independent market-based review of the financial viability of the project and improvements

• Imposing fees and charges for services and facilities provided by the District

• Note: Districts may also be eligible for infrastructure improvement grants and/or very low interest loans under a variety of programs because they are a public entity.

6. BENEFITS OF USING A METRO DISTRICT (rather than HOA or private financing):

- District can raise funds for public infrastructure through municipal bonds and other governmental grant or loan programs with favorable rates and terms not available to private entities.
- District is exempt from sales, use and other taxes
- District enjoys the benefits and protections of governmental immunity
- District is more transparent than a private entity because it is subject to open record and sunshine laws, public budgeting and auditing laws, etc.
- District is not in the business of making a profit from the facilities and services provided.

7. WHY USE METRO DISTRICTS TO FINANCE INFRASTRUCTURE AND AMENITIES

- Reduce upfront costs of public improvements
- Example:
 - Purchased land for \$5 million and intend to develop into 100 lots (Land cost: \$50,000 per lot)
 - Improvements (infrastructure such as roads, water and sewer lines, etc.) plus any amenities (parks, recreation facilities, etc.) are estimated to be \$2 million (\$20,000 per lot)
 - If Developer pays all costs of improvements and amenities up front (either using its own funds or privately loaned funds) and rolls those costs into the price of the lot:
 - Price per lot: \$50,000 land plus \$20,000 improvements and amenities = \$70,000 total per lot
 - On the other hand, if Developer finances infrastructure and improvements through district bonds:
 - Price per lot: \$50,000 at time of purchase. Then the purchaser pays the \$20,000 for improvements and amenities that were funded through the bonds over a period of time in the form of property taxes to pay off the low interest rate bonds.

- Results:
 - From developer's perspective, it ties up less of its funds, results in lower interest rate on borrowed funds, and allows the sale of lots for a lower initial purchase price, making them more marketable.
 - From the purchaser's perspective, it results in a lower initial purchase price for the lot and allows them to pay off the cost of the improvements and amenities over an extended period of time at a low interest rate, using property taxes which are deductible.
- BUT: Importance of full disclosure – See recent legislation discussed below

8. LAWS GOVERNING METRO DISTRICTS

- Laws specific to metro districts – Mostly Title 32, C.R.S.
- Laws applicable to governmental entities generally
 - Colorado Open Records Act (CORA)
 - Colorado Open Meetings Laws (Sunshine Act)
 - Public meetings
 - Executive session
 - TABOR
 - Budget and audit requirements

9. SUMMARY OF SENATE BILL 21-262 –
CONCERNING TRANSPARENCY FOR SPECIAL
DISTRICTS

Specifies methods for providing notices:

- Mail
- Prominent part of newsletter
- Official website

Requires the District to establish an official website by 1/1/23 that contains:

- Names, terms, and contact information for current directors and manager
- Current fiscal year budget and prior year's audited financial statements
- Schedule of regular meetings for the year
- The current map of the District's boundaries
- The annual report of the district

Expands annual report requirements to include:

- Boundary changes made during the previous year
- IGA agreements entered into or terminated with other governmental entities
- Access information to obtain a copy of rules and regulations of the District
- Summary of litigation involving public improvements owned by the District
- Status of the construction of public improvements by the District
- List of facilities or improvements constructed by the District that were conveyed or dedicated to Town
- Final assessed valuation of the District
- Copy of the current year's budget

Notices of meetings must be posted on the official website at least 24 hours in advance

SB 21-262-Disclosures by developers to buyers of newly constructed homes: (1/1/22)

- Copy of Service Plan
- Authorized debt
- Maximum mill levy

10. Senate Bill 23-110

- Requires newly created districts to include maximum mill levy and maximum debt in their service plans
- Requires District boards organized after January 1, 2000, to hold annual meeting which includes a presentation of the public infrastructure projects within the district and outstanding bonds, review of financial year-to-date statement, and an opportunity for members of the public to ask questions about the district.
- Requires public comment at meeting at which board adopts annual budget.
- Requires District, prior to issuing debt to a director or related entity, to receive a statement of a registered municipal advisor certifying appropriate interest rate of debt
- Requires district website be included in residential sales disclosures

11. DEVELOPER INITIATED METRO DISTRICTS IN THE TOWN OF GRANBY

- Grand Elk General Improvement District
- Establishing Ordinance rather than Service Plan
- Governing board – Town Board, rather than owners within the District
- Governed by Title 31, rather than Title 32

- Granby Ranch Metro Districts (HMD, GRMD, GRMD Nos 2-8)
- Districts were authorized for broad range of purposes:
 - Streets, Roadways and Drainage
 - Traffic and Safety Protection
 - Parks and Recreation
 - Sanitation
 - Water
 - Transportation
 - Mosquito control

- Expansion of the Tax Districts – Granby Ranch Districts 2-8
- Original Idea:
 - If Granby Ranch Developer wanted to develop one piece of Granby Ranch, it could take one of the available Metro Districts and use it to pay for infrastructure or amenities related solely to that piece.
- OR
 - The Granby Ranch Developer could offer such available metro district to some other entity that came along and wanted to purchase and develop a particular part of Granby Ranch

- Granby West Metropolitan District
- Includes original Shorefox property, Town owned property excluded
- May be utilized for variety of purposes

- QUESTIONS?
- FUTURE DISCUSSIONS OF SPECIFIC ISSUES?
