MEMO

CITY MANAGER'S OFFICE

To: City Council

From: Jim Tolbert, Assistant City Manager

Subject: Metro District Policy Comparisons

Date: July 2, 2024

Executive Summary

Commerce City has been reliant on metro districts for growth. This model is typical for the region. Cities with significant amounts of greenfield development similar to Commerce City's northern range (such as Aurora and Colorado Springs), have made extensive use of metro districts in order to finance new infrastructure and continue to do so. As cities grow closer to full buildout, they tend to use metro districts less. Fort Collins, for example, does not have many metro districts and has not had any recent applications as their growth is now focused on redevelopment and infill. Other communities, such as Boulder, have never used metro districts and do not intend to do so. Although the regulations adopted by Council in 2023 are some of the most stringent in the region and Commerce City is not yet near full buildout, there are alternate models to funding new infrastructure. Special improvement districts (SIDs) represent a viable alternative to metro districts. They offer more direct control and oversight to the city while still lowering and localizing the costs of new infrastructure.

Summary

Background

Council and residents have raised a number of concerns about metro districts, including tax burdens, lack of transparency, and difficulty of resident control. In response, staff has spent the past five years developing regulations in conjunction with Council to allay these concerns. Council has also imposed a moratorium on the formation of new residential metro districts while Staff conducts additional research and analysis, including a regional comparison of metro district policies.

Regional Outlook

Several Front Range cities have recently imposed stricter regulations on metro districts. Many of these communities, however, are no longer as reliant on metro districts as they have been due to the slowing pace of their greenfield development. Fort Collins is an example of this; the regulations passed by the city in 2021 significantly limit the ability of developers to form metro districts, and no metro districts have formed since the passage of those regulations.

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However, that is also in part due to the lack of significant greenfield development in Fort Collins and not necessarily entirely attributable to the regulations.

Some other communities that use metro districts to facilitate greenfield development have recently updated their regulations. Brighton, Castle Rock, and Colorado Springs have all imposed stricter regulations on metro districts since 2020. These regulations are not as extensive as those adopted in Commerce City, and these communities continue to leverage metro districts to facilitate new development.

Alternatives
General improvement districts (GIDs) and SIDs are both alternatives to metro districts. They allow for additional oversight over district operations from the city while still providing a way to shift the cost of new infrastructure the residents who benefit most from it.

Recommendations
Based on this analysis, it appears that continued development without metro districts is feasible. However, doing so may slow the rate of growth in greenfield development. Most communities that still have large potential for greenfield development (Aurora, Castle Rock, Colorado Springs) continue to rely on metro districts. Those communities that have moved away from metro districts (Boulder, Fort Collins) largely lack undeveloped land requiring new infrastructure.

SIDs may offer a balanced approach moving forward. They allow for cheaper financing of greenfield development and prevent costs for growth from being borne by the whole community. At the same time, they offer more opportunities for oversight and control of the district by the city and may allay concerns of residents and Council.

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Background

Commerce City has historically relied on metro districts to finance growth in its northern range. A majority of new developments in the area north of 88th Avenue have occurred within metro districts. These districts are attractive to developers as most developments within the north range are greenfield developments requiring extensive infrastructure improvements with considerable costs. Metro districts allow developers to finance these improvements at more favorable terms than private bonds, and alleviate the need to have extensive cash investments up front.

For these reasons, the City has allowed the formation of metro districts, approving the creation of 67 districts within the City from approximately 1999-2022. The proliferation of metro districts has allowed for significant growth in Commerce City during that time, but has also raised taxes considerably on residents in the area. Although Commerce City levies a very low property tax rate compared to other communities, metro districts add to that burden, adding on average around 60 mills.

Context

Metro districts are a topic of ongoing concern for City Council. On December 19, 2022, Council passed Ordinance 2453, which placed a moratorium on the creation of new residential metro districts. The intent of the moratorium was to allow time for staff to provide answers to questions from Council and develop additional regulations. On November 27, 2023, Council passed Ordinance 2549, which enacted new regulations governing metro districts, as well as Resolution 2023-136, which adopted a new model service plan based on those regulations.

These regulations were the culmination of a multi-year process that included extensive public and stakeholder outreach and significant input from Council. The regulations were based on best practices gleaned from other cities and reviewed by third-party consultants to ensure they met Council's intent. Ordinance 2555, which would have repealed the moratorium, failed on first reading at the November 27, 2023 meeting in a 4-4-1 vote. Council indicated they wished to see additional information on potential alternatives to metro districts before considering a repeal of the moratorium.

At the February 26, 2024 study session, staff presented alternatives to metro districts, focusing on other forms of special district financing, including SIDs and GIDs. The presentation was designed to answer Council's outstanding questions and provide them the information

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necessary to make a decision on repealing the moratorium. Council gave staff direction to bring back an ordinance that would repeal the moratorium. Council considered Ordinance 2573 on first reading at the March 18, 2024 Council meeting. The ordinance failed 3-5-1.

Council provided staff with additional direction to conduct a thorough review of the service plans and mill levy certifications for all metro districts within Commerce City. The facts ascertained by this investigation will serve as the base for a larger investigation and analysis of metro districts in Commerce City. The results of this initial review were received on July 1, 2024. Concurrently, Staff has been examining other Colorado municipalities to understand how they finance new developments.

Comparisons

In order to determine the outlook of Commerce City compared to other cities, staff conducted an investigation looking at how other cities view metro districts and the burden of cost for developing new public infrastructure. This investigation consisted of review of documents from these cities, as well as meetings and discussions with planning staff from the cities.

Aurora

Overview

Aurora is a city of approximately 393,000. The City has 90 developments facilitated by metro districts. In total, the City has 252 metro districts (many of the developments are in a multi-district structure, with some developments having up to 20 separate districts).

Districts

In the interest of space, a full list of districts is not included herein, but may be found here.

Policy

Aurora adopted a model service plan for districts in 2004. This service plan contains basic regulations, such as a mill levy cap, mill levy imposition term, and overall debt limit. Otherwise, the service plans tend to be more permissive and grant greater powers to metro districts than the current model service plan of Commerce City.

Outlook

Aurora has historically encouraged the proliferation of metro districts. Beginning in the 1980s, the City recognized that metro districts could offer a cost-effective method to engage in extensive greenfield development. In that way, Aurora is somewhat similar to Commerce City in that it has leveraged metro districts to allow for greenfield development and expansion of city infrastructure.

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Brighton

Overview

Brighton has a population of approximately 42,000. It has 40 metro districts divided among 10 development groupings.

Districts

- Adams Crossing (Districts 1-8, Adams East)
- Brighton Crossing (Districts 4-8)
- Brighton Ridge (Districts 1-2)
- Bromley Park (Districts 2-3, 5-6)
- Case Farms
- Lakes (Districts 1-6)
- Platte River Ranch
- Prairie Center (Districts 1-8, 10, Prairie Corner)
- Ridgeline Vista
- Village at SouthGate

Policy

Brighton adopted a new model service plan in 2021. This plan is similar to most other plans in the area. It includes a 50 mill levy cap (which allows for adjustment/Gallagherization) and a 40-year mill levy imposition limit, among other stipulations.

Outlook

Metro districts have been a major driver of growth in Brighton. Approximately 33% of land in the city is within the borders of a metro district. Brighton continues to process and approve new service plans as a method to finance greenfield development. The most recent service plans were approved on September 19, 2023.

Boulder

Overview

Boulder is a city of approximately 105,000. The City does not have any metro districts nor any formal policy pertaining to metro districts.

Districts

None

Policy

None

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Outlook

Boulder has not seen significant greenfield development in the past several decades. This lack of extensive growth means that most development does not require significant investments in infrastructure and is not well-suited to metro districts. For most developments, Boulder requires developers to 'pay their own way.' i.e. any upgrades to existing public infrastructure required by a project are paid for by the developer. This is true in nearly all cases, particularly if it is a private development project or if the developer is requesting annexation into the city. In a few one-off situations, the city has participated in some infill and redevelopment projects and provided funding for capital improvements, but this is the exception, not the rule. The requirement for developers to 'pay their own way' does increase the cost of development. Given Boulder's unique attributes (university town, known for a focus on sustainability and limiting growth), however, many developers are willing to pay those higher costs to access the Boulder market specifically.

Castle Rock

Overview

Castle Rock is a city of approximately 80,000. The City has 18 developments that have been facilitated by metro districts. In total, the City has 39 districts (some of the districts are multi-district structures).

Districts

In the interest of space, a full list of districts is not included herein, but may be found here.

Policy

In 2022, Castle Rock updated their model service plan. Otherwise, the city has no formal policy regarding metro districts. The model service plan includes elements common to many other service plans (including that of Commerce City), such as a 50 mill levy cap, 40-year mill levy imposition term, total debt cap at 95% of estimated costs of public improvements, and other elements. Generally, the plan is not as restrictive as Commerce City's plan.

Outlook

Since adoption of the new service plan, the City has approved 11 new service plans. Castle Rock continues to use metro districts as a tool to facilitate greenfield development as well as commercial development in certain areas.

Colorado Springs

Overview

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Colorado Springs has a population of approximately 486,000. The City has 53 developments that have been facilitated by metro districts. In total, the City has 111 districts (some of the districts are multi-district structures).

Districts

In the interest of space, a full list of districts is not included herein, but may be found here.

Policy

Colorado Springs adopted a new policy regarding metro districts in 2022. This revised policy included a new model service plan for metro districts. This policy was the result of a multi-year effort in cooperation with a Special District Working Group. The model service plan includes a 50 mill levy cap, 40-year mill levy imposition term, restrictions on finance-control district structures.

Outlook

Since passing the new metro district policy, the City has processed fewer applications for new service plans. However, the City does still process applications and has several that have been approved since the adoption of the new policy. The drop in pace, however, can in part be attributed to the growth patterns of Colorado Springs. Much of the area requiring greenfield development is already in metro districts. Therefore, the demand for metro districts has lessened in the past several years.

Fort Collins

Overview

Fort Collins has a population of approximately 169,000. The City has 12 developments that have been facilitated by metro districts. In total, the City has 33 districts (most of the developments are multi-district structures, with two of the developments having seven districts each and one with six districts). In 2021, Fort Collins adopted a new policy regarding metro districts and enhanced its regulations.

Districts

The following are the metro districts within Fort Collins:

- Foothills (established 2012)
- Gateway at Prospect (Districts 1-7, established 2018)
- Harmony I-25 (Districts 1-3, established 2016)
- Harmony Technology Park (established 2009)
- I-25 Prospect Interchange (established 2018)

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- Montava (established 2018)
- Mulberry (established 2019)
- Mulberry Frontage (not in city limits, but in growth management area, established 2017)
- Northfield (Districts 1-3, established 2019)
- Rudolph Farms (Districts 1-6, established 2018)
- SW Prospect I-25 (Districts 1-7, established 2018)
- Waters Edge (established 2018)

Policy
In 2021, Fort Collins adopted Resolution 2021-045 outlining the City's policy for service plan review. The previous policy was approved in 2019. The new policy lays out clear criteria for approval of a service plan. Notably, the policy requires that metro districts align with the City's policy objectives and confer an 'extraordinary public benefit' to the City. This policy seeks to limit the use of metro districts to very specific circumstances and ensure that any metro districts that are created are in alignment with the goals of the city.
Outlook
Since passing the new policy, the City has neither received nor approved applications for new service plans. In part, this is likely due to the stringent requirements for metro districts. It is also a function of the nature of growth in Fort Collins. The approved metro districts cover most of the area of the city that still require greenfield development. Development from 2021 and on has focused mainly on redeveloping existing areas and infill, which does not require the capital-intensive type of development that metro districts are suited to support.

Parker
Overview
Parker is a city of approximately 61,000
Districts
[waiting on response from Parker]
Policy
Parker updated their model service plan in 2019. It does not have a formal policy regarding metro districts, or a stated policy preference towards metro districts versus other forms of infrastructure funding. The main change to their model service plan made recently is the

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imposition of an additional mill levy by the City on districts. Districts must pay a certain millage to the City in order to fund maintenance within their boundaries.

Outlook

Parker continues to allow and processes and approves metro district applications. The City views metro districts as a cost-effective way to facilitate greenfield development. This policy is not without controversy. Residents voice concerns over limited control of their districts as well as higher tax rates. Recently, the town has required a portion of the mill levy collected by districts to go to the town in order to fund maintenance of improvements within the district. This is not dissimilar to the recent regional mill levy included in Commerce City's new model service plan, although Parker's policy has a more localized application. Finally, Parker has strong sales tax revenue that funds a large capital improvement program. This program is able to fund most of the repair and maintenance to existing infrastructure, as well as pay for new infrastructure. This is supplemented by excise taxes on development and electricity. As the town approaches full buildout in the next 10-15 years, this revenue stream will likely plateau and potentially decline. By the time the town reaches full buildout, however, it will not have significant greenfield development requiring metro districts.

Other Financing Districts

Overview

Metro districts are just one type of special district that allows for the financing of infrastructure. While metro districts are governed under Title 32, CRS, other types of districts such as GIDs and SIDs are governed under Title 31, CRS. These district types also allow for the levying of property taxes or special assessments on properties in order to secure debt for infrastructure, but typically afford more control to the city in which jurisdiction it is formed.

Council has expressed interest in examining alternatives to metro districts, including GIDs and SIDs. At the February 26, 2024 study session, staff provided Council with additional information on Title 31 districts. Council has expressed interest in adopting a policy preference towards Title 31 districts pending Staff's review of current metro districts in conjunction with outside counsel and Staff providing additional information on special districts.

General Improvement Districts

GIDs are special financing districts under Title 31, CRS. They are a legally a separate entity from the city, but the governing body serves *ex officio* as the board of directors. Commerce

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City currently has three GIDs: the Northern Infrastructure General Improvement District (NIGID), the E-470 Residential Area General Improvement District (ERAGID), and the E-470 Commercial Area General Improvement District (ECAGID). City Council forms the boards of these GIDs, but they are legally separate from the city. These GIDs are focused on providing for regional infrastructure within their boundaries.

Formation of a GID requires approval from all of the electors (residents and property owners) within the proposed boundaries of the GID. Once formed, the GID can issue bonds and impose taxes, but these actions require voter approval as well. The GID can build and operate any improvement a municipality may build or operate, such as roads, sewers, and other key infrastructure. Taxes levied by a GID are equal across all properties within the district; every property pays an equal millage.

GIDs offer more direct control and oversight over district operations than metro districts. This enhance oversight, however, comes at the cost of time to the city. As the Council forms the board of directors, they have the ability to control the terms of debt issuance, the timing of infrastructure development, and be able to oversee the entire process. The main drawback to this oversight, is that it requires Council and staff time to accomplish. Council agendas are already typically filled with existing city business. The addition of additional GID meetings and business will further contribute to the existing burden. Additionally, preparing agendas and minutes for these meetings, running district operations, and other similar activities will require additional staff time. Adding additional GIDs to finance development in new developments will only compound these demands.

Special Improvement Districts

An SID is a separate type of financing entity also governed under Title 31, CRS. It is formed and controlled by the city, metro district, or GID in which its boundaries exist, and may be formed inside another special district. Unlike GIDs, an SID is not a separate entity, but a geographic area within an existing entity. A SID may issue debt to finance infrastructure or other capital improvements, but this issuance requires voter approval. The measure is voted on by all property owners and renters within the boundaries of the SID. Issuing debt first requires the board of the SID to approve cost estimates developed by an engineer.

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In order to repay this debt, a SID may impose a special assessment. This assessment is not a tax and therefore does not require voter approval pursuant to TABOR. The amount of assessment imposed on a given property is based on the benefit to that property from the improvements as determined by the district and is laid out clearly in the financial plan. This amount may be paid either upfront or over time.

SIDs also afford the city more control and avoid taxation on residents through using a special assessment. Additionally, having the amount each property is liable for is tied directly to the improvement that property receives creates more equitable outcomes. However, residents cannot deduct those payments from their income tax the way they can for property taxes from a GID or metro district. Span of control remains a problem for SIDs as it does for GIDs. To mitigate this concern, Council could allow metro districts to form special districts while giving Council a seat on the board. This approach would reduce the burden on city resources to govern SIDs at the cost of some reduced oversight compared to GIDs.

The financial comparison spreadsheet included in the February 26th, 2024 material laid out the general organizational process for SIDs. Organization is initiated by the City or the Metropolitan District adopting a resolution of intent to create the district, either on tis own initiative or in response to a petition from property owners in the proposed district. After notice, a hearing is held on the creation of the district, after which the governing body may adopt an ordinance or resolution organizing the district. At or prior to this hearing, property owners in the proposed district may veto the district through a protest petition. After notice, another public hearing is held on the levy of the assessments, at which point the entity puts on evidence supporting the assessments. After the hearing, the entity adopts an ordinance or resolution imposing the assessments. It is important to demonstrate the special benefit to the assessed properties. Elections for SIDs are outlined in C.R.S 1-13.5-111, "regular special district elections must be held on the Tuesday succeeding the first Monday of May in every odd-numbered year".

With any new development process, financing and the larger financial implications are essential to keep at the forefront of the conversation. If a SID were created within an existing GID, it would be a separate debt payable from special assessments, not property tax revenue. The SID would be a smaller section of one of the GIDs and the assessment is imposed on the property benefitted. As mentioned earlier, debt would require voter approval. If the City were to expand the operative functions of the existing GIDs, what are the current limitations of

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bonding capacity and scope of improvements? The NIGID has no bonding capacity and is limited to street and water improvements. The ECAGID and ERAGID have $2 billion in voter authorization and each of them have issued nowhere near the full amount. The ECAGID and ERAGID designed for the improvements are street, P&R, water, sanitation, and transportation

Further research with the City's financial advisor will need to be done to understand fully the financial implications for the city if multiple SIDs were created what effect that would have on the City's credit rating.

Recommendation

SIDs represent the best alternative to metro districts for infrastructure financing. The special assessment is a transparent way to ensure that residents are distributing costs fairly and avoids the potential for voters to not approve tax to repay debt. A SID is able to finance and carry out the construction of all of the infrastructure necessary for new development, and the governance structure affords the city more oversight while still allowing enough flexibility to not become an undue burden on the city either.