

**LAKWOOD CITY COUNCIL
DEVELOPMENT DIALOGUE AD HOC COMMITTEE
MEETING
September 17, 2020**

MINUTES

Call to Order

Chairman Skilling called the meeting to order at 6:00 p.m.

Roll Call

Members present: Council members David Skilling, Charley Able, Mike Bieda, Dana Gutwein and Jacob LaBure

Absent: None

Others present: Council member Ramey Johnson, Director of Planning Travis Parker, Director of Public Works Jay Hutchison, and Business Specialist Laura Pemberton

Metro Districts

Council Member Skilling noted that the committee will determine recommendations for City Council to discuss further. He would like to see recommendations for disclosures. He believes that developers should not use Metro Districts to profit from the district. When districts are created their boards are generally 100% occupied and governed by the development company's employees. This is before residents buy homes within the Metro District. There should be a discussion about what decisions are reserved for when boards are run by community members instead of members employed by the development company.

Council Member Able stated he shares the same concerns as Council Member Skilling. He noted that the composition of the board is an important issue to address. He believes disclosures should occur before homebuyers close on their houses. He suggested imposing a maximum of one year following the sale of the first property in the district for the board to transition power to residents. Another idea is transitioning power following the sale of 2-10% of properties in the district. The board should not be able to increase the district's debt until it is controlled by the residents.

Council Member Bieda stated the committee should consider whether Metro Districts are necessary and their benefit to the City. The committee should first determine whether Metro Districts are beneficial before discussing recommendations and implementation steps. The committee should consider a Metro District moratorium or only permitting the use of Metro Districts for commercial development.

Council Member Skilling responded that it is important for the committee to prepare recommendations because City Council may vote to continue allowing Metro Districts in the City.

Council Member Bieda stated concern regarding whether the City has the resources to oversee Metro Districts and enforce potential recommendations.

Council Member Gutwein stated that the Indy Oak Metro District is a great example of potential benefits from districts and it is important to look at Metro Districts from a case by case basis. This Metro District was supported by the community and provided housing that was more affordable. This Metro District also supported transit-oriented development. She stated there should be notice requirements for election postings. She would also like for election or ballot information to be mailed to residents. She stated disclosures should include an estimate of future payments in the Metro District. She proposed having the board transition following 20-50% homeownership of residents in the Metro District.

Council Member LaBure stated he would like to learn more by studying other Metro Districts in Colorado and Texas. He sees a benefit in making positive recommendations for Metro Districts because future City Councils may want to utilize Metro Districts. He stated it is important to consider items that the committee can add, like affordable housing, to Metro Districts that benefits the community.

Council Member Skilling stated that large-scale Metro Districts in the City will likely be in Ward 4. He stated there might be a distinction between the large-scale districts in Ward 4 and smaller districts further inside the City.

Travis Parker stated the cost of the required infrastructure determines whether a district is required. Infrastructure is more likely to be needed in the Green Mountain area than in an infill development area further inside the City. Even though there are cases when infill developments require infrastructure and need districts. This is a case by case issue and the City requires upfront construction of infrastructure. Often the cost for infrastructure is unachievable without a funding source like a Metro District.

Council Member Skilling stated determining debt obligation and accepting projects under a set cost could be a tool to determine which type of projects are approved. One argument for Metro Districts is that developers need to pay for infrastructure themselves and not put that burden on the City or residents. He asked what exactly the City and residents are obligated to pay if Metro Districts are removed as an option? He stated there is the possibility of only allowing Metro Districts if developers include items like inclusionary zoning and affordable housing.

Public Comment

The below public comment was provided by Lakewood residents calling into the meeting. Written public comment for the meeting was also accepted on Lakewoodspeaks.org.

Sarah Gehringer, the Vice President of Sales and Operations for Cardel Homes, stated in her experience homebuyers are always informed about Metro District taxes and HOA fees. She always informs homebuyers of the Mil Levey breakdown and tries to provide homebuyers with tax estimates of future payments. She has never experienced homebuyers coming to her following the purchase of their home stating they can no longer afford their payments due to the tax rates. She trains her staff to be

transparent about the cost of Metro Districts when selling homes. She and her staff encourage homebuyers to become involved in the Metro District board as early as possible.

Leigh Gallo asked how other states manage development? She believes Metro Districts which are quasi-judicial government that enforce taxes are not the best way to pay for development.

Bruce Likehoff, a real estate attorney in Colorado, stated Colorado is not unique for requiring Metro Districts because California and Texas use these types of districts. He stated 40-50 years ago City and Counties financed infrastructure. Eventually, Metro Districts were utilized as a tool for developers to pay for infrastructure. He believes that prohibiting or crippling Metro Districts would have unfortunate circumstances. He stated consequences include higher home values and denser infill developments.

Alan Matlos stated that there are plenty examples of Metro Districts that work well. He believes it might be difficult to find citizens that want to serve on Metro District boards.

Rod Mickelberry, Cardel Homes Denver Regional President, stated that Cardel would be willing to submit a service plan for Indigo Homes as an example for the committee to review. He believes there should be protections in place for homeowners. He stated if Lakewood prohibits Metro Districts then development companies would not want to work in Lakewood. He stated most Metro Districts work well and have no issues, and he has never heard one complaint from homeowners living in Metro Districts. He believes well manage districts do not pose problems. He stated that smaller companies like his do not have the capital to pay for infrastructure and require the use of Metro Districts.

Council Member Skilling clarified for Mr. Mickelberry that his main financial concern is the interest on loans and high interest rates for residents.

Vince Harris stated Lakewood City Staff can review service plans when they are proposed or evaluate service plans on a regular basis, perhaps yearly. City Council could consider adding fees for developers in order to evaluate plans.

Committee Comment

Council Member Able stated that City Finance Staff have not previously provided comments on Metro District service plans. He stated that City Council has yet to see the service plan's yearly reports. He clarified that in Texas the districts are used to pay for utilities and taxes are not paid through the Municipal Utility Districts. He stated that the Fossil Ridge Metro District was designed to never be turned over to the residents. There is a need for the Committee to compile recommendations for Council and to consider prohibiting Metro Districts.

Council Member LaBure commented that Metro Districts became a useful tool for modern developments, but Cities should consider what other tools and methods to use for development. There are cases where Metro Districts might be the best tool and cases where other development tools would be better. He stated other methods to fund infrastructure include using bonds or taxing districts.

Council Member Bieda responded to a comment on Lakewood Speaks. He stated proposed legislation will likely have a limited effect on Solterra because legally legislation cannot be applied retroactively.

Council Member Skilling stated that questions regarding how City Council's decisions will impact current Metro Districts should be addressed later.

Overview of Proposed Metro District Recommendations

- ***Potential Recommendation 1:*** determining the type of disclosure requirements for the City to impose.
 - Ensuring that disclosures are included in the MLS. This can include a simple one-page standalone document that requires signatures. This document should have brief and simple language regarding what a Metro District is for the homebuyer.
 - The document should discuss the ultimate cost of that Metro District for the homebuyer. This can include real-life examples of Metro Districts and their costs. The homebuyers should understand their debt obligation.
 - The disclosure should include how the Metro District board works and ensures that homebuyers understand that the Metro District board has control to increase the homebuyer's monthly cost. The board election information should be included in disclosures as well.
 - It is important for City Council to consider the exact type of disclosures they want to enforce and what enforcement will ultimately look like.
- ***Potential Recommendation 2:*** determining how to transition the power of the board from the development company to the Metro District's residents.
 - There can be an established timeframe for when this transition occurs. The committee has previously discussed that this transition should occur after one year.
 - Another transition option is mandating the board shifts power to the residents after the district achieves a certain percentage of resident controlled homes
 - Possibility to mandate that the board must be 100% resident controlled within a certain timeframe.
- ***Potential Recommendation 3:*** ensuring Metro District board election information is effectively posted for the district's residents.
 - The districts residents should be mailed the election notice and possibly ballots.
 - Posting election information in the local newspaper is not effective.
- ***Potential Recommendation 4:*** determining Metro District standards for debt obligations.
 - Developers should not profit from the mere existence of a Metro District.
 - The interest applied on loans should be curtailed and monitored.
 - Interest on loans should not be a profit center for developers. It is important to address how interest is charged and passed to residents.
- ***Potential Recommendation 5:*** determining how Metro District debt will be issued to residents.
 - The district's residents should approve new debt.
 - What issues should be approved by the board when it is resident controlled?
- ***Potential Recommendation 6:*** determining how City Council provides Metro District oversight.
 - Currently, the City does not have resources to employ full time staff.

- Provide language allowing City Council to hold Metro Districts and their boards accountable.
- Possible resources for an independent financial advisor or consultant that assures the Metro Districts spend their money appropriately and evaluate service plans.
- At the time of application requiring the detailed proforma with comparison of market prices. Include a far more detailed presentation than what is currently required.
- **Potential Recommendation 7:** eminent domain requests are approved by City Council.
- **Potential Recommendation 8:** addressing whether multiple districts should be formed in one development project area.
 - One option is to eliminate multiple districts.
- **Potential Recommendation 9:** holding a vote on whether to prohibit Metro Districts in the City.
 - There can also be a vote for a monetary cap or to limit the size of districts.
- **Potential Recommendation 10:** further examining and deciding which recommendations to move forward from *Section C. Financial Recommendations* in Jay Hutchison's previous memorandum.
 - This includes recommendations C.1. – C.10.
- **Potential Recommendation 11:** further examining and deciding which recommendations to move forward from *Section H. City Council Authority to Review District Changes* in Jay Hutchison's previous memorandum.
 - This includes recommendations H.1. – H.12.
- **Potential Recommendation 12:** further examining preliminary recommendations E.2. and E.3. from *Section E. Breadth of Services Provided by a District* in Jay Hutchison's previous memorandum.

Approval of Minutes

- July 23, 2020
 - Consensus, 5 ayes

Adjournment

Chairman Skilling adjourned the meeting at 8:03 p.m.

Set Meeting Dates/Times

The committee will determine the next meeting date and time.

Next Steps

Council Member Skilling proposed at the next Development Dialogue Meeting the committee will discuss the proposed recommendations for Metro Districts. The committee will use Lakewood Speaks for public comment.