

Background on Councilman Knight's Question About Colorado Revised Statutes Special District Criteria CRS- 32-1-203

Request from Mr. Knight:

“I am looking for what the State considered inadequate when they wrote the ordinance. Did they have any examples”?

City Council must disapprove a district service plan unless evidence satisfactory to Council is provided for criteria including:

“b) The existing service in the area to be served by the proposed special district is inadequate for present and projected needs”.

Short Answer

I cannot answer definitively, as someone would need to go into the legislative history, which could date back as far as 1949, and certainly no more recent than 1981 at which time Colorado Revised Statutes were substantially re-codified including the adoption of the “Special District Act”.

Historical Context

The Special District Act (CRS Title 32) was originally and primarily written with unincorporated situations in mind and for county commissioners and not city councils. The way the statute is/ was written in my view is that it allows municipalities to “step in the shoes” of county commissioners. The criteria in question continue to refer to a Board of County Commissioners making the findings, and one has to go to another reference to see where City Councils can fulfil this role. As the use of metropolitan districts has become routine inside of “full service” cities, and their use has evolved into a developer public improvement reimbursement tool (in many cases), the statute has not been fully reconciled – in my opinion.

Put even more simply, the Legislature was looking at non-full service counties when they originally created the Special District Act, but they now allow full service cities to use them. It comes down to the meaning and intent of the word “service” in this existing context.

My understanding is many of the core of elements special district law date from 1949. The current “Special District Act” apparently dates from 1981 during which time the Statutes were substantially re-codified. Special districts as originally contemplated were almost entirely an unincorporated area construct (because the basic need was there- Counties not being generally authorized to do structural fire protection, water, sewer etc.). So, if you wanted a governance structure in lieu of an unpaid volunteer fire department or private water company, districts provided an important option. The use of Title 32 special districts inside of municipal limits has largely been a post- Year 2000 phenomenon.

Discussion

In the otherwise “full service” context of Colorado Springs, there are situations where the “ongoing services” may be deemed inadequate without the metropolitan district because, for instance the general City does not want to take care of a median (like we used to) or even new neighborhood parks in places like Flying Horse Ranch. Or, a detention pond is required, but the city does not want to maintain it, and we agree that a metropolitan district is the best solution for sustainable maintenance. In places like Wolf Ranch and Oakwood/BLR districts are also used for “amenities” such as recreation centers. “Inadequacy” is relative, but in places like Memorial Park and Deerfield the City maintains these facilities as an important part of our community fabric, whereas in newer areas we rely on the private sector or districts for more of this function.

Use of districts entirely or primarily for reimbursement of basic/required infrastructure (e.g. streets, sidewalks, utilities, drainage facilities) requires a more nuanced case. Developers and district representatives maintain that vacant or redevelopment areas start with having no or limited “services” in the form of facilities and what are essentially connections to services that will ultimately be performed by the City or CSU. Ongoing services may not be inadequate, but the facilities and connections that will allow them to be provided, are. The requirements to provide this infrastructure fall on the developer or property owner, and mechanisms are available to make this all work, without districts. The district primarily allows the developer an opportunity for reimbursement of public facility development costs benefiting the future owners. Future owners may benefit from lower initial housing costs in exchange for higher tax obligations over time.