



BUILDER REALTY COUNCIL OF METROPOLITAN DENVER GENERAL BOARD MEETING MINUTES

Date of Meeting: February 16, 2021
Location: Online Virtual Meeting-ZOOM
Report submitted By: C.J. Wells, Secretary
Attendance: Pre-Registered- 80; Attended- 36
Start & Adjourned: 9:03am to 10:30am

Troy Warrick, President, provided announcements and introduction of the Guest Speaker, Shannon Johnson. Susan Sechrist, Treasurer facilitator of meeting.

- A. Troy introduced the Guest Speaker, Shannon Smith Johnson, Juris Doctorate. Ms. Johnson is a shareholder with Icenogle Seaver Pogue, P.C. She provides legal services for Colorado special districts (SD), authorities, and other local governments. She provides a range of legal services; reviews and drafts contracts, helps conduct local government elections, ensures annual and ethical compliance, and assists with day-to-day legal issues. She prepares contract easements for all real estate.
 - B. Presentation title- **Special Districts: The Building Blocks of Development**. Why Special Districts (SDs) aid in development projects. Contact: Shannon Smith Johnson, Icenogle Seaver Pogue, P.C. SJohnson@isp-law.com 303-867-3062.
- Announcements
 - Working to make the BRC greater for realtors, builders.
 - Membership members to receive monthly, quarterly marketing data for use by businesses.
 - BRC is implementing a new private FaceBook (FB) page. The FB page provides members with a forum only to members. For example, on the page, see builders commission structure, ask questions of other members.
 - BRC is exploring holding our annual successful face-2-face gathering for a builder/realtor breakfast. At the breakfast we have Home builders and realtors meet together to better and faster find homes for clients. These relationships are important due to the competition. Today, the resale of old homes is high over the asking price. Therefore, more than ever, new homes are very important.
 - The breakfast will better ensure that realtors and developers have the necessary information to help clients buy a home.

Highlights of the Presentation:

- Guest Speaker, Shannon Johnson, JD
 - This foundational talk is to understand Special Districts (SD). Why are districts important? What are the tax consequences? When deal with legal issues?

- The top 10 States with the highest count of SD governments include Colorado. Colorado is in the top 5 of states using SD.
- SD are impacted by Title 32. The definition of a SD is an independent unity of govt. formed under the SD Act CRS 32-1-101 et seq. Districts are quasi-municipal corporation & political entity.
- Title 32 SD history- they were first authorized by the Gen. Assembly in 1949 to provide certain municipal types of services in rural and unincorporated areas.
- Colorado growth requires new expanded infrastructure; roads, water, sewer, parks. New public infrastructure requires money. Where do we get the money for infrastructure? Taxes.
- TABOR impacts money for population growth. Limits tax increases without voter permission-votes.
- Counties and municipalities pressured by their voters to keep taxes low. Therefore, growth and development must pay its own way by the new development. Hence SD.
- Financials-
 - New infrastructure funded by constituents with the district and benefits not all municipal residents. As a result, the SD can localize the vote, to reflect improvements of the SD. A local vote amongst local constituents provides benefits to the locals, from the improvements.
 - SD assists in public infrastructure SD through bonding; debt paid over 30-40 years and paid by tax revenue via bonds. Bond garner favorable and low tax interest rates.
 - Helps SD to allow for infrastructure initially for sustainability. SD help facilitate and enable new development. Here developers pay their own way
- Intersections of Development and SD—
 - In Colorado due to financial constraints, we look to SD to fill the money gap.
 - Developer need a conventional loan which increases the price of a new home. Conventional loan terms and rates force developers to put up their own money, so projects are smaller. So need SD bonding.
- What Can Districts Do?-
 - Public infrastructure financing; can help construction of public improvements and pay contractors. Districts must observe current laws and regulations.
 - City water facilities are assisted by SD. This enables longevity of the improvements. Taxpayers can avoid tort actions.
- Governance of the District-
 - SD are independent government entities, are separate and distinct from the municipality
 - SD are governed by an elected board of directors put there by the homeowner electors
 - A municipality is not liable for debt or other obligations of a district. Districts do not have police power or land use regulatory powers.
 - SD subject to Budget Law, Audit Law, Meeting LAWS, Election Code, Records Act, Bidding Req. and TABOR, and, the Colorado State Constitution.
- Formation and Organization of a SD-
 - Must submit a Service Plan, petition the district court for organization, conduct an election, and obtain court orders to organize the district.
- What is a District Service Plan?-
 - The Plan defines the district services and powers, facility ownership & operations, sets debt cap, & mill levy cap.
 - The Plan provides district infrastructure maps, boundary, legal descriptions, capital and O&M costs, and financial modeling.
- Questions-

- Where are SD plans filed for viewing? See resources, filed with local govt. Available are contacts for each district on the government website.
- If no fire protection who does protection? There is probably an entity providing protection by another SD, or by the city or county. See your property tax statement that tells of who protects
- Construction of Capital Improvements-
 - District completes a public bidding process, construct capital improvements with District funds, SD provide only a portion of the development costs. SD subsidized by the development.
 - Costs are 30K-40K per home to build and provide infrastructure for a new development. Just a \$1K increase of home price pushes many buyers out of the home buying market. SD help with making reasonably priced homes as the debt is extrapolated over a long time period- 30 to 40 years.
- District Operations-
 - Administration- daily operations, state and local compliance, contract admin., board meetings.
 - Facility construction & operations- construction of public infrastructure and facilities.
- Sources of Revenue-
 - Property tax mill levy- operations, debt, mill levy limitations; service plan, TABOR, 5.5% limitation of statutory rules., utility tap fees, use rates, system development fee, operation and maintenance fee, park and recreation fee.
- Transparency & Homebuyers-
 - The info is found here- purchase contract, title work/real property records, transparency notice, district websites, property tax records, District Of Local Affairs (DOLA) info around annual budgets, and audits.
 - Property taxes in general- collected in arrears, the mill levy is applied to the assessed valuation not the actual value or fair market value.
 - Property tax undertaken by multiplying the assessed value times the decimal equivalent of the total mill levy.
 - SD certify annually the mill levies to the county by Dec. 15th, operations & maintenance mill levy.
 - Galiegar Law was rescinded in 2020 to allow more funding of public infrastructure. Mill levy is 1/1000 of one dollar.
 - The review of current property tax statements, there are overlapping mill levies, there are mill levy caps, there are disclosure statements specific to the district, and the tax consequences.
 - Ms. Johnson then reviewed a sample Disclosure Statement from Loveland.
 - This info is found- Division Of Local Governments (DOLG) website. View Filings. See many horizontally listed tabs for drill down details on the District.
 - If tax burden of a new development looks too low on the DOLG then call and ask the Divisions attorneys for the most current data.
 - See map of Special Districts on the DOLG. The demography map shows new and old SDs.
 - Next the Transparency Notice website is found- SDACO.Org/cora/sda-transparency/search, website
 - Next the DOLA site provides Local Government Filings – Service Plan. 303-770-2700.
 - Special District Association website- sdaco.org.
 - County Assessor's website provides local the property of interest.
 - The Metro District of Education- metrodistricteducation.com
- Q&A Shannon Smith Johnson-
 - Many questions asked around the subject of developer advances, senior liens, junior liens, and the metro district. Just 7.15% can be raised per TABOR and requires a state wide vote. The rate can drop but not rise above 7.15%. Junior debt depends on what the market will bear. If more

development occurs, then need other funding with less attractive terms, rates, and repayment obligations.

- Junior liens are difficult to find info on leading to bad surprises in the future by new homeowners. Juniors can commence way in the future resulting in tax obligation surprises when homeowners receive updated assessed values reflecting the new improvements. Therefore, as a caution, if tax amount report shows it to be really low then call the division to discover the real tax amount.
 - A Title company will provide a title commitment based on the name of the district and any limitations of the district. The recording will come up for the property on the title commitment
 - Regarding Colorado HOA & Special District (SD) tort law and liability the Colorado Government Immunity Act addresses this. This Act addresses tort laws. A district decreases the liability. The Act protects tax payers dollars to prevent bankruptcy of a public facility.
 - Districts do pay off their SD debt.
 - A new developer is the proponent for the creation of a new district and building the houses & infrastructure. The property owners get the Plan for the new district.
 - Do developers add profit and overhead to improvement that becomes part of the District? Developers have a capital improvement agreement via independent valuation by an engineer. The independent valuation asks if the improvements have a reasonable cost? Overhead and profit are not added as part of the District.
 - A District can lower their debt due to lower interest rate loans. Bond structure more favorable so Distrusts can refinance. The Service Plan limits the timing of the debt. Unless the homeowners decide to change the time-payment of debt.
- Developers and Builders Debrief of the Current Market
 - Susan asked if any builders/developers on the call wanted to talk about their communities/developments. None responded.
 - If not receiving our emails go to BRCDenver.com and click on Meetings tab at top for upcoming months. Register here. You must be a member to view this Ms. Johnson's slide deck presentations.
 - Question from member- last year article in Denver Post on metro districts and your opinion?
 - The info not easy to find unless you already know what you are looking for. So our firm can help you find the info. There are some SD cases that do not have protections in place. SD must have protections in place for taxes. The SD must put the restrictions in place that the market will bear.
 - SD can stigmatize the district for homebuyers. When they attempt to sell their home the taxes are too high to make it a viable sale. This makes development difficult as taxes wrapped into current homes. Therefore allow the district to finance the district over time instead of wrapping the costs into the price of the new home.

Respectfully submitted,

C.J. Wells, Secretary