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HOME BUILDERS  
ASSOCIATION  
of  
METRO DENVER®

June 3, 2022

Town of Erie  
Mayor Justin Brooks  
Town Board of Trustees  
645 Holbrook Street  
P.O. Box 750  
Erie, CO 80516

Dear Mayor and Trustees:

I am writing to submit formal comments on the proposed amendments to the town's service plan governing metropolitan districts.

These comments are being provided on behalf of the Home Builders Association of Metro Denver.

The HBA of Metro Denver represents over 400 homebuilders, developers, remodelers, architects, mortgage lenders, title companies, subcontractors, suppliers, and service providers in the eight metro-area counties we serve.

In the Town of Erie, HBA Metro Denver represents numerous builders and developers that are currently active with over 270 registered permits just this year.

Based on the discussion and deliberations by the Town Board of Trustees at your April 22nd meeting discussing metro districts, we understand there is policy consideration for a number of changes to procedures governing metropolitan districts including numerous strategic priorities, financial assessments, notification requirements, governance conditions, mill levy caps and debt limitations.

After reviewing the draft of the Town's proposed model service plan, we feel compelled share our concerns below that should be addressed:

### **Strategic Priorities**

The "strategic priorities" set forth in the policy include priorities that metropolitan districts are unable to effectuate including, but not limited to, the elimination of existing or permitted oil and gas wells and related facilities, job growth, delivery of attainable housing, and delivery of affordable housing. Metropolitan districts do not have the authority to alter land use regulations or impose housing restrictions of the type set forth in the proposed model service plan.

## **Financial Assessments**

While we generally support robust third-party financial assessments of a proposed district under board consideration, we have concerns about proposed language requiring “proprietary and confidential business information.” Although the Town claims the requested documents will remain confidential “to the extent permitted by law”, this still does not resolve our concerns. While we appreciate the Mayor’s comments on April 22<sup>nd</sup> that the “Town Board is not attempting to cap developer or corporate profits”, we believe this provision appears to be an attempt to restrict developers from leveraging district funds for this purpose. However, it should be noted that developers are already prohibited from profiting off districts. Federal securities laws prohibit the use of district funds on anything except permitted public improvements and districts are rarely, if ever, able to afford to finance 100% of the public infrastructure needed for a project given limited mill levies and market conditions. And in those instances, the standard of practice is for those costs to be verified and certified by a third-party consultant, to ensure the district is not reimbursing for more than what it otherwise would have paid had it bid the project directly.

## **Governance & Notification Requirements**

It should be noted that last year, the Colorado General Assembly passed SB 21-262 that now requires the same governance and notification requirements in Erie’s proposed ordinance. While the Town can include these same requirements within its ordinance, it is unnecessary to do so. Furthermore, if the state statute ever changes, the town may create unnecessary inconsistencies between the statutory requirements and the local service plan which may need to be amended. Perhaps a more efficient and economical alternative could be to simply state that an applicant must comply with Colorado law.

## **Maximum Mill Levy**

The combined 45 mill levy cap for both debt service and operations is much lower than what we see in other municipalities in Colorado and will be difficult to comply with. This means debt can really be no more than 35 mills which greatly limits what public improvements can be financed by the district. Additionally, depending on what the type of infrastructure the district will be responsible for maintaining, 10 mills may also be significantly lower than what is required for this purpose and leaves the town with very little discretion or flexibility. Typically, what we see for a metro district mill levy cap is 50 mills with an additional 10 mills for operations or a combined aggregate of 60 mills. Ultimately, this will require developers to increase home prices to offset these additional costs, making the dream of homeownership simply out of reach for more Erie residents with moderate incomes.

## **Debt Term Limits**

A 30-year debt term will also significantly limit what a district can finance. In reality, this means a 20-25 year bond that discharges in 30 years which reduces the par amount of debt that the district can issue. The standard maturity term seen in other jurisdictions is 40 years and we would request the same here in order to allow districts the ability to finance more infrastructure as opposed to frontloading these costs in lot prices.

## **Notice of Meetings**

The Open Meetings Law requires a notice of 24 hours in advance. Extending this requirement to 14 days, could have unintended consequences such as needlessly delaying urgent business that may need to be addressed such as emergency landscape issues (water breaks and such), changes in market conditions necessitating a follow up meeting to authorize bonds under a new structure or different interest rate before the market changes. Furthermore, requiring quarterly meetings is not efficient or economical. If a district only has debt outstanding, they only need to meet two times per year (audit and budget). Needlessly requiring two additional meetings when there is no business that needs to be conducted will only cost the district money.

### **Total Debt Limitation**

Capping the total debt limitation at 100% of projected capacity does not leave a proposed district with any flexibility to account for potential market fluctuations. Normally total debt limits are capped at 120% of maximum capacity for this purpose.

The revenue generated through these financing tools is what pays for the necessary infrastructure and public improvements within a metropolitan district and is the best option available to support the quality of life – the valuable public services, amenities and open spaces – that residents appreciate and have come to expect in their communities.

By imposing the strict regulations and limitations above, public improvement costs for Erie residents can no longer be fully financed with preferable long-term property tax payments but instead through increased home prices – pricing many aspiring homeowners out of the market entirely. It would also significantly reduce the number of amenities a development could offer its residents.

In conclusion, we strongly encourage the Board of Trustees to consider the implications of the proposed changes to metropolitan districts and their impact on the future residential development within the Town. We also hope that the Board will consider offering an opportunity for stakeholder engagement on this important issue before any final decisions are made. We are available for additional consultation with the Town staff, as necessary.

Thank you for your time and consideration of our analyses.

Sincerely,



Ted Leighty  
Chief Executive Officer  
Home Builders Association of Metro Denver

Cc: Malcolm Fleming, Town Manager  
Sarah Nurmela, Planning and Development Director