

Brief Summary of Setting up a Metro District for Colorado's Timber Ridge Lot Owners

I have spent a considerable amount of time researching Metro Districts in Archuleta County and the State of Colorado to gather information in regards to how a Metro District can benefit the lot owners of Timber Ridge. CTRHOA has not spent any money at this point in regards to this Metro District project. As in the summary information below states there are some real benefits for the Timber Ridge lot owners to form a Metro District as other HOA's have done in Archuleta County. Also some definite differences between HOA and Metro District. So please read the following summary so as to gain knowledge in Metro Districts and how it might affect you as a lot owner in Timber Ridge.

This is the basically the handout I used at the January 9, 2012 Board Meeting, but with more details and information. I also got Special District attorney Bud Smith to review this summary for accuracy and completeness. He made some suggestions which have been added to this summary. It is important to get the facts correct. I wanted to get this out earlier after the Board meeting, but was out of town hiking at The WAVE in southwest Utah. It is a very cool place. I also wanted to make sure Bud Smith and the Board had a chance to approve sending this to the members.

Special Districts in Colorado are local governments, i.e., political subdivisions of the state, which make up a third level of government in the United States. (The federal and state governments are the other two levels.) Local governments include counties, municipalities (cities and towns), school districts, and other types of government entities such as special districts.

Districts are created to provide services residents may desire as a result of not residing within a municipality or within a municipality which doesn't either provide a desired service or provide such service at the level desired. While historically the majority of special districts draw their boundaries in unincorporated county land, increasingly, residents of a municipality may be included in one or more districts. These districts often provide a greater amount of service than a municipality or county is able or willing to provide.

While there are many types of special districts in Colorado providing municipal, natural resource, and agricultural services, this document focuses on districts organized under Title 32, Article 1 of the state statute. These districts provide to residents mostly municipal services such as ambulance, fire protection, water, sanitary sewer, health, road improvements and park and recreation services. In addition to these Single-purpose districts there are metropolitan districts, which may provide multiple services, including those provided by single-purpose districts, except health services, as well as street construction and improvements, mosquito control, television relay and translation, transportation, and traffic-related safety (We would set up a Street Maintenance and Improvements and a Parks and Recreation services in our Metro District. This would cover possible future trails and equestrian center)

To set up a Metro District it is a 3 step process.

1. Prepare a Service Plan (see attached file) and submit to County for County Commissioners approval, after notice and hearing. The County Commissioners must hold a public hearing on proposed Metro District Service Plan.
2. After approval of the service plan, the petitioners file a petition for organization signed by not less than thirty percent or two hundred (whichever is less) of the taxpaying eligible electors of the proposed district in district court
3. After notice and hearing hold an election of eligible electors. If a majority of voters approve the organization of the district, the court shall declare the district organized. (See qualifications for Eligible Electors under (7) below.)

If Metro District intends to levy property taxes (as we would) it must provide the appropriate information to Assessor's office and Board of County commissioners by July 1 preceding the year in which taxes will be assessed. So to have taxes assessed and collected for 2013 we must have Metro District finalized before July 1, 2012.

Here are some Pros and Cons and details of a Metro District for Timber Ridge.

1. Receive approximately \$26,000 annually of HUTF (Highway Use Tax Fund) funds from the County. This is based on the formula and agreement the other Metro Districts in Archuleta County are using to calculate their share of the Counties HUTF monies. The formula is Metro District miles divided into Archuleta counties total miles not counting federal or town miles. We have about 8.5 miles. Also the estimate is based on the \$1,815,000 Archuleta County collected in 2011. We would have to have an agreement with the county as part of our Service Plan on to receive our share of the HUTF monies. Unfortunately Archuleta County is already reporting CTRHOA miles on the CDOT mileage report used to collect the HUTF monies from the state treasurer's office. So they are collecting HUTF monies for our miles but we are not getting any benefit for our roads. We through CTRHOA assessment dues pays the cost to maintain our roads. We would have to have an agreement between our Metro District and Archuleta County on how to split the HUTF funds the county is receiving for our roads. The numbers above are based on the formula used for the other Metro Districts.
2. Receive approximately \$4,000 of specific ownership tax (car registration fees) from county as part of the assessed property tax for the Metro District.

2. The county would invoice and collect our property taxes instead of us having to invoice and collect our assessment dues.
3. The property taxes assessed for the Metro District would be tax deductible to each lot owner. HOA Assessment dues are not tax deductible.
4. The Metro District liability for law suits would be greatly reduced since we would be a political subdivision of the state (quasi municipality). Our liability insurance should be reduced.
5. Metro Districts are exempt from state and federal taxes such as sales, property and income tax. We would not pay any sales tax, property tax or income tax on our investment income as an HOA does. This is potentially a lot of money. In regards to Parcels 5, 6 & 7 of the 321 acres this could be a big windfall. When CTRHOA gains title of parcels 5, 6, & 7 CTRHOA can then convey property to the Metro District. When property is sold then no tax would be owed on the sale. This is a BIG savings of estimated \$175,000. If property stays in HOA and is sold the tax would be owed. We could also transfer our Reserve Funds to the Metro District, too.
6. We could also have an agreement with the HOA (CTRHOA) to have the Metro District enforce the covenants of the declaration. This would not eliminate the need for an HOA. This could possibly eliminate the need to have separate HOA dues for CTRHOA and separate administration. Our declaration and HOA would still be enforced and come under the CCIOA laws. The 67% approval of Lot Owners rule to amend or restate Declaration would still be in effect. Of course we could still keep the enforcement of HOA separate.

7. To be an Eligible Elector and vote in Metro District Elections you must be.

An eligible elector is a person who, at the designated time or event, is registered to vote in Colorado (In other word if you are not registered to vote in Colorado you can NOT vote in Metro District elections), and who is:

- a. a resident of the special district or the area to be included in the special district for not less than thirty days OR
- b. Who, or whose spouse, owns taxable real or personal property situated within the boundaries of the special district or the area to be included in the special district, whether said person resides within the district or not. (In other words both spouses of property ownerships get to vote)
- c. a partnership, corporation or trust is not a "person" and therefore a person owning property through such a legal entity is not eligible to vote. (In other words if you own your lot in a Partnership, Corporation or Trust you cannot vote in Metro District elections, unless you live within the Metro District. (In other words if you live in Timber Ridge and have your property in a Partnership, Corporation or Trust you can vote in Metro District elections.)

8. The Metro district would fund its services such as road maintenance thru an additional mill levy on the assessed property values. The \$600 HOA assessed dues would be eliminated. Since property tax is based on assessed value each property owner would pay different amounts instead of everyone paying \$600 assessment dues. Based on the 2011 assessed value to collect the same amount we are collecting in the HOA (\$121,800) the additional millage would be 13.121. Of course depending on how much we receive from the county in HUTF monies and specific ownership tax this would be adjusted. Based on 2011 assessed values each one mill is worth about \$9,300 annually in funds to the Metro District. So if we collect \$26,000 in extra HUTF revenue and \$ 4,000 in SOT we could possibly reduce mileage to 10.0. A majority vote by the Eligible Electors must approve any millage or increase in millage to the Metro District. The millage for the other Metro Districts in Archuleta County are as follows: Aspen Springs-14.638, Alpha-Rock Ridge – 10.014, Loma Linda – 10.000, San Juan River Village – 8.870.

For an example of Metro District mil levy tax you may pay is as follows:

Market Value per Tax Assessor Statement multiplied times 7.96% for Developed property and 29% for Undeveloped property. Multiply this times Mill levy divided by 1,000.

Example:

Developed Property Market Value \$500,000 x .0796 = \$39,800 Assessed Value x .01 (10.00 mill levy) = \$398 property tax to Metro District

Undeveloped Property Market Value \$150,000 x .29 = \$43,500 Assessed Value x .01 (10.00 mill levy) = \$435 property tax to Metro District

9. The Metro District would have to follow the rules of a political subdivision for financial, budgeting and legally. We would not have to file an income tax return.

10. If we have receipts greater than \$500,000 the Metro District might be required to have an audit. We collect about \$120,000 in our HOA now. So that should not be an issue. The District would be required to file annual Application for Exemption from Audit.

11. To be candidate for the Metro District Board you must be an Eligible Elector as defined above. The terms are 4 years, with a limit of 2 consecutive terms after which you must wait 4 years before you can be a candidate again. You can start some Board members at 2 years to stagger the terms. The District voters can approve an elimination of term limits.

12. As a local government the District is required to hold public meetings and all records are open to the public. This transparency will allow for participation by all interested parties including those who may not be eligible electors.

I have discussed this with Floyd "Bud" Smith the attorney for some of the other Metro Districts in Archuleta County and is very familiar with Metro Districts and dealing with Archuleta County. He gave me an estimate of his cost for services of \$12,000 to \$15,000 to get the Metro District set up.

Based on my research setting up a Metro District for Timber Ridge could be administratively and financially be a great benefit to the property owners of Timber Ridge.

Summary of some of the additional benefits of setting up a Metro District are:

1. \$26,000 in HUTF Funds annually. (Estimate)
2. \$4,000 Specific Ownership Tax Funds annually. (Estimate)
3. Tax savings from exempt status of income, property and sales tax.
4. Tax deductibility of property tax for lot owners instead of non deductibility of assessment dues
5. Archuleta County invoice and collecting Metro Districts levied property tax.
6. Reduced liabilities.
7. Financing for capital projects at lower interest rates.
8. Eligible to receive lottery proceeds for park and recreation expenditures.
9. Eligible for grants.

Summary of some of the differences between HOA and Metro District.

1. Must be a person who is registered to vote in Colorado (eligible elector) to participate in Metro District elections and be on the Board and must own property individually, not in partnership, corporation or trust, or live within the District.
2. Funded by additional mill levy instead of annual assessment dues.
3. Increase in mill levy must be approved by majority vote by eligible electors in an election. The HOA Board can now approve increase in annual assessment dues without a majority of membership votes.

Since it could be very advantageous financially to have the Metro District set up before July 1, 2012. If the Board decides to go forward on this we need to get going quickly to have it set up by July 1, 2012.

We would need to hire an attorney. I would recommend Bud Smith since he is has a lot of experience in these matters in Archuleta County.

At the January 9, 2012 Board Meeting the Board decided to proceed with the first and second things to do described in the next paragraph. Bud Smith will assist as needed. The next Board Meeting is scheduled for Monday, February 13, 2012. We will be discussing Metro Districts in length at that meeting.

The first thing to do is work out agreement with Archuleta County over the HUTF monies and make sure the County Commissioners are behind us setting up the Metro District before we spend the money to prepare the Service Plan. The second is to communicate to the Timber Ridge Lot Owners to make sure that they would be in favor of a Metro District. We do not want to spend all the money to set up a Metro District, then not have it be approved by County Commissioners or not pass the election of eligible electors of Timber Ridge. That would be no fun.

In order to accommodate all CTRHOA members we will communicate on this subject through emails, web postings, mailings, phone calls and meetings as more information is obtained.

Please check out our website at www.ctrhoa.org for this summary and publications on information I found on Special Districts.

If you have any questions or comments please email or give me a call. I have become pretty knowledgeable on the HUTF and Metro District subject. If I cannot answer the question I can contact Bud Smith. Your input is important and we need your feedback on if a Metro District is right for Timber Ridge.

Thanks

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