

LAKEWOOD CITY COUNCIL
DEVELOPMENT DIALOGUE AD HOC COMMITTEE
VIRTUAL MEETING
To watch the meeting live, please visit [Lakewoodspeaks.org](https://lakewoodspeaks.org)

February 23, 2021

6:00-8:00 PM

AGENDA

1. Roll Call
2. Call to Order
3. Approval of Minutes
 - December, 10 2020
4. Discussion of Accessory Dwelling Units and Group Homes
 - Public Comment
 - **Lakewood Speaks** - Please visit [Lakewoodspeaks.org](https://lakewoodspeaks.org) to provide public comment during this meeting. You may submit public comment for tonight's discussion in the **Tuesday 02/23/2021 Development Dialogue Committee Meeting**.
 - **Written Comment:** Go to **Discussion of Accessory Dwelling Units and Group Homes** and click on **Leave a Comment** to submit your written comment in the space provided.
 - **Phone-in Comment:** Please dial **720-706-9131** and enter **4975** to submit comment with your phone. Your call will be recorded as a voicemail and transcribed to text and both the audio recording and the text file will be submitted in the same way as leaving written comment.
 - Committee Discussion
5. Next Steps
6. Set Meeting Dates/Times
7. Adjournment

Due to COVID-19 and public health orders, the Committee Meeting will not be held in person. This meeting will be conducted using Zoom and the recording will be available after the meeting on the City of Lakewood YouTube account. The public is welcome to view the meeting live stream and provide comments online at lakewoodspeaks.org.

**LAKWOOD CITY COUNCIL
DEVELOPMENT DIALOGUE AD HOC COMMITTEE
MEETING
December 10, 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 Bieda proposed withholding the metro district discussion and recommendations until the City receives development applications that require metro districts. Then there can be a discussion of recommendations and the body can tailor recommendations for each proposal.

Council Member Able believes that the existing standards for metro districts need to be addressed. He stated there should be one set of standards and not address standards with a case by case basis. The committee's recommendations are important to have if City Council decides to permit future metro districts in the City. It is important to have Lakewood City Council approve changes that metro district governing bodies want to make. Lakewood City Council also needs to see the required service plan and financial plan every year. Currently, City Council is not provided with this information. City Council should determine if they want to hand over such power to developers, but if they do then City Council needs firm and strict regulations.

Council Member LaBure stated that many residents want to see metro districts further regulated or controlled. The residents want to make sure districts work for them. Future councils will face the impact of our decisions, so it is important to put in place small, meaningful reforms that benefits Lakewood and residents of metro districts.

Council Member Skilling stated that it is important to establish a framework and approve impactful changes to metro districts. City Council should also be more involved in future metro district oversight. Metro districts can potentially benefit Lakewood citizens by creating affordable housing. There is not likely a single solution for metro districts. For instance, metro districts in Ward 4 will look different than

other areas of the City. Despite the differences, it is important to establish common sense recommendations.

Council Member Bieda suggested to wait to see what decisions the state legislator makes for metro districts.

Public Comment

Written public comment was provided during the meeting on www.Lakewoodspeaks.org. To view the public comment provided at the meeting please view Appendix A.

Overview of Metro District Recommendations for a City Council Study Session

- ***Recommendation 1:*** Improve metropolitan district information disclosure to potential end-users including:
 - a. Require a one-page, standalone disclosure in simple language as part of real estate closings,
 - b. Include in the disclosure the following:
 - i. What a metro district is and its ability to control certain costs of the end-users
 - ii. How the board is elected
 - iii. Initial costs to the end-user of the metro district in dollars
 - iv. What the metro district cost (in dollars) could be in the future
 - c. Include disclosure as part of the Multiple Listing Service (MLS)
 - d. Consider how to enforce the disclosure requirement
 - e. **Consensus, 4 ayes, 1 nay**

- ***Recommendation 2:*** Require transition of metro district boards from developer-affiliate members to 100% end-user members prior to the potential deadlines of:
 - a. A defined time after creation of the district (e.g., within __ years) or
 - b. Upon a defined percentage of the district has end-user electors (e.g., __% of the lots have sold to end-users).
 - c. **Consensus, 4 ayes, 1 nay**

- ***Recommendation 3:*** Require metro district board selection information be effectively provided to district residents:
 - a. Send by U.S. Mail at least 90 days prior to an election or appointment of a board member
 - b. Notification to all electors of impending elections or appointments
 - c. Provide information for elections and the opportunities to seek board positions
 - d. Use only mail-in board election ballots with each elector receiving a ballot
 - e. **Consensus, 4 ayes, 1 nay**

Director of Public Works Jay Hutchison noted that there still needs to be a full legal review of the recommendations and the review will occur prior to the City Council study session.

- **Recommendation 4:** Prevent loan interest paid by a metro district from being a profit center for the developer by limiting interest paid to the developer. Metro districts are a public entity and serve the purpose of providing funding for items such as infrastructure
 - a. **Consensus, 4 ayes, 1 nay**

- **Recommendation 5:** Limit metro district debt issued by:
 - a. Establish in the Service Plan the maximum initial debt amount and
 - b. Prohibit additional debt until approved by an end-user-controlled metro district board and
 - c. Consider whether to prevent a metro district TABOR election until the board is end-user controlled.
 - d. **Consensus, 3 ayes, 2 nays**

- **Recommendation 6:** Determine how City Council provides oversight of metro districts including:
 - a. Require with the proposed Service Plan
 - i. A pro forma for the development delineating the proposed metro district's financial role
 - ii. An explanation of what will be accomplished that would not be accomplished if the metro district is not approved including numerical support
 - b. Consider whether the Budget and Audit Board could provide, perhaps with consultant support, an evaluation of the financial components of the proposed Service Plan
 - c. Require a periodic report by the metro district board to the City Council
 - d. **Consensus, 5 ayes**

- **Recommendation 7:** Require metro districts to obtain City Council approval before utilizing eminent domain.
 - a. **Consensus, 5 ayes**

- **Recommendation 8:** Prohibit any multi-district structure that could result in one of the districts being perpetually controlled by developer-affiliates and having authority to impose costs on or require revenue from any other district.
 - a. **Consensus, 5 ayes**

- **Recommendation 9:** Discuss whether to have a City Council vote on whether to prohibit additional metro districts.
 - a. **Consensus, 4 ayes, 1 nay**

- **Recommendation 10:** Consider Preliminary Recommendations C.1. through C.10 regarding Financial Considerations included in the June 11, 2020 Staff Memorandum (attached) from Jay N. Hutchison, Director of Public Works.
 - a. **Consensus, 4 ayes, 1 nay**

- **Recommendation 11:** Consider Preliminary Recommendations H.1. and H.2 included in the June 11, 2020 Staff Memorandum.

a. Consensus, 4 ayes, 1 nay

- **Recommendation 12:** Consider Preliminary Recommendations E.2. and E.3 included in the June 11, 2020 Staff Memorandum.

a. Consensus, 4 ayes, 1 nay

Director of Public Works Jay Hutchison noted that a distinction may exist between primarily residential metro districts and commercial metro districts for some of the recommendations. He noted that some recommendations and oversight may differ for districts that are controlled by the developer compared to end-user controlled districts.

Approval of Minutes

- September 17, 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

- ADUs
- Group Homes
- Discuss the ratio of parking spaces to open space for storage units
- Inclusionary Zoning
- Slot Homes
- Build-to Zone
- School Fees

Appendix A

Online commenting on www.Lakewoodspeaks.org

JD Lobue: I believe the idea is so that the residents can remove the metro district if they have it on a ballot.

JOHN HENDERSON: THERE IS NO PROVISION IN TITLE 32 FOR MULTI OR SUB DISTRICTS AND NO AUTHORITY FOR THE "MASTER/SERVANT" CONFIGURATION

JD Lobue: Thank you for this forum. It is extremely helpful, and I especially appreciate counsel presenting these recommendations to the larger body. Hope you all have a happy holiday season.

Deborah Romero Independent audit with substantial penalties for fraud

JD Lobue: I think it is important to ensure that the financial books be able to be opened up in order for the developer to justify their expenses. Without doing that, they can try to manipulate any oversight.

JD Lobue: "But for having the district, we wouldn't be able to make tons of money?"

Deborah Romero: I am not comfortable with Lakewood staff being involved with oversight. I don't think the City Council has enough time to thoroughly review the 30+ districts that currently exist, much less adding more districts that would be large such as in Rooney Valley. The citizens will not be protected, and they are your constituents - not the developers. So please do not add more special districts.

JOHN HENDERSON: UNDER TABOR NO DEBT MAY BE APPROVED WITHOUT A VOTE OF ALL THE RESIDENTS. THE DEVELOPER ELIMINATES THIS RIGHT TO VOTE IN THE FIRST BALLOT - ELIMINATING THIS RIGHT TO VOTE MUST BE PROHIBITED NEW DEBT SHOULD BE ANY DEBT THAT IS ISSUED BY THE DISTRICT. LOOK AT THE BALLOTS - THE DEBT AUTHORIZED BY THE DEVELOPER WHEN YOU APPROVED THE DISTRICT IN 2006 WAS \$4.9 BILLION

JD Lobue: The initial agreements establish an up to amount of debt and may be not be considered new. Up to 4,000,000,000 is common language in the original agreements.

Deborah Romero: Why is "new debt" even needed if the project has been built out? I thought the point of metro districts was to get the project built....

JD Lobue: Yes for the appointment process to follow the election process posting. Great point. Mr. Hutchinson

JD Lobue: Transitioning the board from the developer is a great thing to have happen. The part that is concerning is that the developer created board sets \$\$ amounts binding future residents that were not represented in the agreement. Changing the agreements will create developer lawsuits costing the newly created resident board money to remove the unenforceable agreement. Isn't that concerning?

Deborah Romero: The notice to prospective buyers MUST BE at initial point of contact in the sales process - closing is way too late. Closing is too late to back out of the deal. Buyers would lose their deposit. I like the ratio of mils. Solterra's mils are 74% higher than the neighborhood to the east.

Deborah Romero: Special districts, in theory, do serve a purpose. The City was supposed to have been monitoring the ones they had authorized, yet the Council didn't seem to know anything about it until John Henderson brought the abuses to their attention. Now metro district abuse statewide has been publicized. Over the years it has been proven to me through word and deed that Lakewood staff take the side of developers over citizens. That is why they cannot be counted on as watchdogs. (Solterra is the poster child for why special districts need firm oversight.) I would prefer there be NO MORE SPECIAL DISTRICTS if they will not be properly monitored and held accountable by staff and elected officials. It is very time and resource intensive to analyze the actions of special districts, and the City of Lakewood does not have those resources under these trying times and budget concerns. I really don't understand why this industry gets special treatment, when other industries have to procure their own financing for expansion. From what I've seen in Rooney Valley, the costs of development have been paid many times over by the residents of those special districts. That is an inefficient use of money and only serves to enrich a few. If a builder gets a loan or raises capital elsewhere, they repay the loan after the homes are sold and then the business is concluded. The residents are not endlessly taxed for the same expenses. To the elected officials who will be voting on this, put yourselves in the shoes of the citizens and think of family members and friends buying a house. Would you want them to be paying more than necessary for years and years? The elected officials' obligation is to the (1) existing residents first, (2) future citizens, and lastly (3) developers.

Rod Mickelberry: Dear Committee Members, Thank you for the opportunity to participate in the committee's discussions over the past several months. The process has been thoughtful and thorough and I am confident the committee's recommendations to Council will wisely guide the future use of metro districts within Lakewood. I trust your discussion will move toward mandating well-considered improvements in how districts are created and managed. Metro districts have been an important vehicle to support improvements within the city for many decades and, with rare exception, have been well managed and have served their residents well. It would be unfortunate if the use of metro districts were to be diminished to the point that developers were unable to use them as they were originally intended by state legislature. Their wise use benefits not only new communities, but, also, those areas that require redevelopment. My company supports the committee's goal to ensure that future metro districts serve the needs of future residents and the city at large. We support any reasonable changes that work to that end and would be pleased to assist the committee in any way we could.

Charles Oleson: METRO DISTRICTS RESULT IF LOWER PROPERTY TAX COLLECTION. When purchasing a home in a metro district most wise buyers realize the extra cost of being in a metro district. Therefore the offers will be less resulting in the assessed value being less. This will cause future property tax collect to be reduced by being in the metro district.

Michael Pietschmann: I am a Lakewood resident and support the formation and use of metropolitan districts. They are critical to the development of many communities across Colorado and within Lakewood. Please continue to support the formation and use of metropolitan districts.

Lynne Kinney: I oppose the establishment's proposals.