

Developer's Tools: Public Improvement Districts (PIDs) and Municipal Improvement Districts (MUDs)

CITY COUNCIL: MAY 6, 2024

Purpose

- Staff has held several discussions with developers regarding Public Improvement Districts (PIDs) and Municipal Utility Districts (MUDs).
- The purpose of this presentation is to:
 - Review the City's current PID policy and receive feedback from Council regarding revising or eliminating the policy, or leaving as-is.
 - Provide an overview of MUDs and receive general feedback from Council (e.g. consider on a case-by-case basis).

WHAT ARE PIDs and MUDs?

- A **Public Improvement District (PID)** is a defined geographical area established to provide specific types of improvements or maintenance which are financed by assessing property owners within the area. PIDs are authorized by Chapter 372 of the Texas Local Government Code.
- A **Municipal Utility District (MUD)** is a political subdivision created under Chapter 54 of the Texas Water Code and functions as independent, limited government. The purpose of a MUD is to provide a developer an alternate way to finance infrastructure, such as water, sewer, drainage, and road facilities.
- Both PIDs and MUDs enable developers unique funding opportunity to develop properties that might otherwise prove challenging due to lack of available infrastructure.

WHAT ARE PIDs and MUDs?

- PID taxes may be spread out over a 20 year or greater time period, ending once the fees levied against a property have been paid in full.
- MUD taxes may be eliminated once the associated bond has been paid off, which can take up to 30 years.
- Both PIDs and MUDs can leverage debt. A PID can leverage debt through local elected officials and a MUD can leverage debt independently.

PIDs and MUDs

- Though similar in some respects, a Public Improvement District (PID) is not the same as a Municipal Utility District or MUD. While both have local taxing authority under the Texas tax code, the primary difference between the two lies in the intended use of any collected taxes.
- A MUD is created to finance, build and maintain infrastructure and services related to water, sewer, and drainage in areas that are otherwise unmanaged by local governments.
- MUD taxes are generally earmarked for water and sewer, PID revenue can be used for a variety of public community improvements, including parks, fountains, landscaping, and other non-utility enhancements.

WHAT TYPE OF PIDs ARE THERE?

- **Capital PID:** Construction of infrastructure to serve the development
 - **Reimbursement PID:** Developer funds construction and is reimbursed over time by the PID assessments.
 - **Bonded PID:** PID issues bonds that the developer uses for the construction and the bonds are repaid through the PID assessments.
- **Operations and Maintenance (O&M) PID:** Ongoing maintenance of improvements, such as parks and open space, entry features or any other feature that would qualify for PID funding.

Projects may include both capital and O&M PIDs.

WHAT CAN PID FUNDS BE USED FOR?

- Public Improvement Projects that may include:
 - Landscaping
 - Fountains, lighting, signs, art, libraries
 - Sidewalks, pedestrian malls
 - Streets
 - Parking
 - Mass transportation facilities
 - Water, sewer, or drainage facilities
 - Parks
 - Public relations/promotion of the district
 - Administration or ancillary expenses

PIDs may only be used to fund improvements directly related to the development. They cannot be used to fund oversizing of infrastructure.



WHO IS INVOLVED IN THE DEVELOPMENT OF A PID?

All PIDs

- City Staff
- City Council
- Developer
- PID Administrator

Capital PIDs

- Real Estate Appraiser
- Bond Counsel
- Underwriter
- Underwriter's Counsel



TEAMWORK

Together Each Achieves More

BURLESON'S PID POLICY CONTENTS

Council approved a PID policy on November 12, 2018.

CONTENTS:

- Purpose and Intent
- PID Objectives
- Types of PIDs
- General Policies
- Steps in Establishing a PID
- Specifics for Capital PIDs
- Attachments
 - Process
 - Professional Services Agreement
 - PID Petition Requirements
 - Petition Template

POLICY OBJECTIVES

PID Consideration may be granted for projects that:

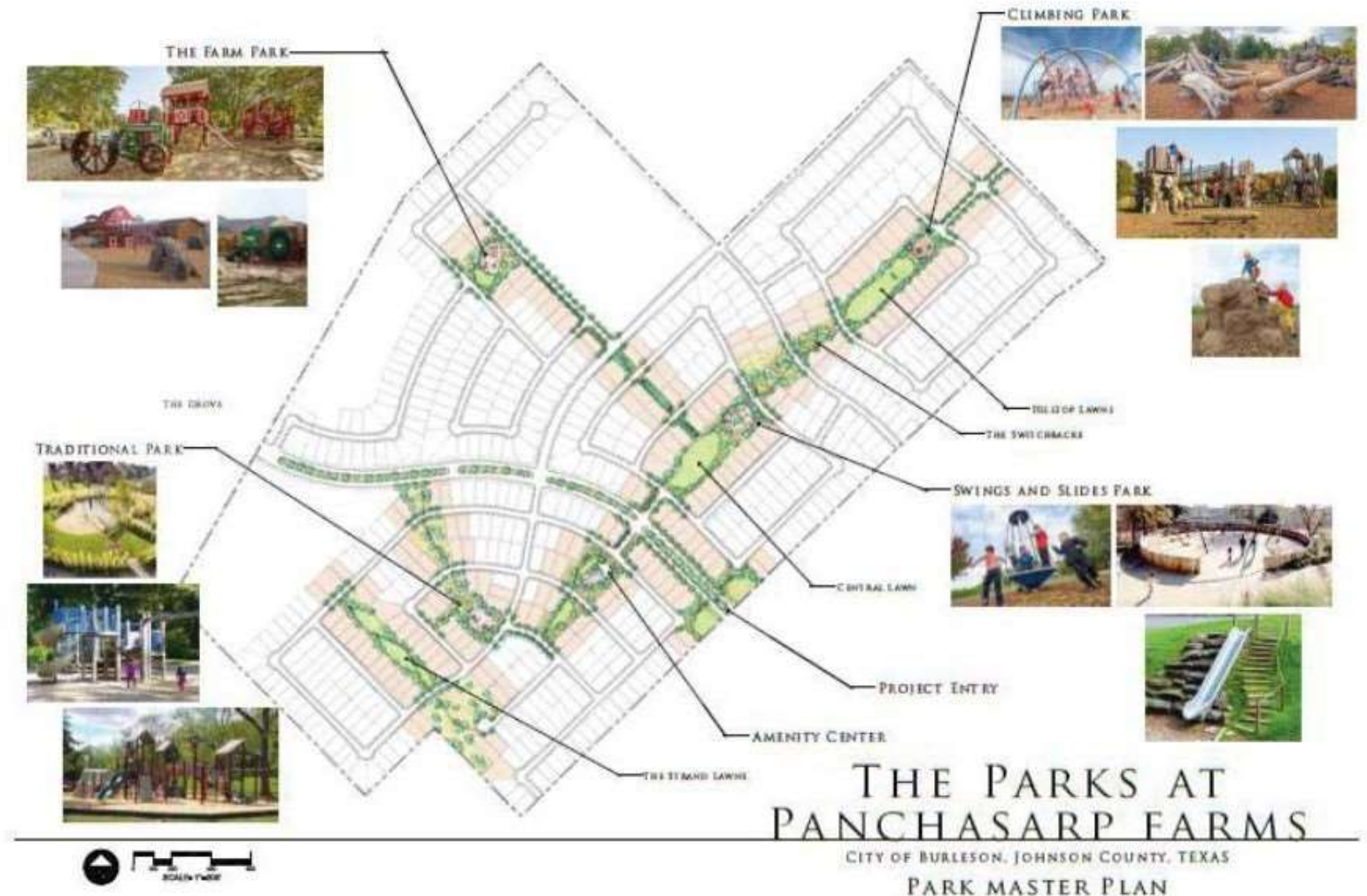
- Meet or preferably enhance the City's master plan, thoroughfare plan, water and wastewater plans.
- Advance the City's trail and park plans.
- Exceed the City's requirements for design, building standards, amenities and landscaping.
- Accomplish a particular housing objective or goal established by City Council.
- Are master-planned residential communities.
- Are within the ETJ that meet stated objective(s) provided the property owners agree to submit a petition for voluntary annexation into the City, if the City desires such annexation.
- Require public participation to materialize.

PID Limitations

- The current PID policy has a tax cap and requires a maintenance PID. The tax cap limits as follows: *the maximum assessment per \$100 valuation, when added to the total (City, County, School, etc.) tax rate, may not exceed the highest total tax rate in effect for any property in the City.*
- A maintenance PID does not fund capital costs for new projects.
- Once the special assessment is complete, the City will have to determine how to fund the ongoing maintenance costs [i.e. reassessment, city funded, or home owners association (HOA) funded].
- Due to these limitations, staff recommends considering PIDS on a case-by-case basis to better gauge prospective improvements and long-term costs.

THE PARKS AT PANCHASARP FARMS (PID JC - 1)

- Parkland dedication and plan exceeds the City's standards
- Capital and Maintenance PID
- Funds park improvements and maintenance
- Created February 2019



CHISHOLM SUMMIT

- Parkland dedication and plan exceeds the City's standards
- Capital and Maintenance PID
- Funds park improvements and maintenance



PIDs Pros and Cons

PROS

- PIDs are a useful funding mechanism for public improvements and infrastructure.
- PIDs provide parks and recreation facilities that can enhance the quality of life for residents.
- City has control of the PID and can require certain development standards.

CONS

- Property owners in PIDs pay special assessment for public improvements.
- Could potentially raise the purchasing price of properties within the PID as developer/builder can roll cost onto homebuyer.
- Requires on-going public/ private partnership with developer and subsequent homeowners.

Municipal Utility Districts (MUDs)

- MUDs have the authority to provide water, wastewater, drainage and other services to facilitate development within a city's corporate boundaries and extraterritorial jurisdiction.
- The funds used to construct a MUD's facilities are obtained through the public sale of tax-exempt municipal bonds. The MUD provides for the payment of the principal and interest on the bonds through its unlimited power to levy and collect ad valorem taxes on all taxable property in the MUD.
- Taxes are paid by homeowners and landowners in the MUD. Additionally, homeowners and other users pay monthly water and sewer fees to pay for the costs of operating and maintaining the system.

What Types of MUDs Are There?

- **General law MUDs:** A developer or a group of property owners petition the Texas Commission on Environmental Quality (TCEQ) for authorization to create a MUD for specified purposes. If any part of the MUD is located within a city's jurisdiction, the city council must also authorize the creation of the MUD.
- **Special law MUDs:** The Texas Legislature passes a bill to create a MUD. These MUDs do not require approval by the TCEQ.

How Are They Governed?

- TCEQ first appoints a five member board to govern the MUD.
- Residents of the District later vote in elections for the five positions, which is composed of residents within its boundaries.
- The Board makes decisions on all matters involved in owning, operating and maintaining the infrastructure within the MUD, providing services to its residents, and complying with state laws and TCEQ regulations.
- The Board may hire consultants to assist in the day-to-day operations of the MUD.

Can A MUD Be Annexed?

- A city can annex a MUD through a mutual agreement via a strategic partnership.
- Annexation cannot be a condition of approval of a MUD.
- A MUD can be annexed in its entirety; however, a partial annexation of a MUD territory is not allowed.
- A MUD can be part of a full purpose annexation.
- A MUD can be part of a limited purpose annexation.

Strategic Partnership Agreement

- Local Government Code Chapter 43 establishes the provisions for Strategic Partnership Agreements.
- It is essentially a written agreement between a city and a District. A Strategic Partnership Agreement can provide for annexation of a MUD into the city.
- In an annexation, the city would have to assume any outstanding MUD bonds and pay the debt back to the bond investors.
- The city and the MUD's governing bodies must provide proper notice to the public and conduct at least two joint public hearings prior to entering a Strategic Partnership Agreement. An Agreement may be extended for one 10-year period.

Full Purpose Annexation

- Territory would be incorporated in the city limits and will be provided full municipal services including emergency response, public facilities, and maintenance of roadways and stormwater/ drainage services. The city enforces all ordinances and assesses property taxes as well as sales taxes. Residents may vote in all city elections and hold office.
- A full-purpose annexation essentially dissolves the MUD by placing the district fully within the city boundaries and eliminating the need for a MUD governing board.
- This typically does not occur until the MUD debt is completely paid through the property owner assessments.

Limited Purpose Annexation

- Under limited-purpose annexation, the city may extend its planning, zoning, and health and safety ordinances within the territory. The property owners do not pay city property taxes, and do not receive municipal services. Residents can vote in City Council and charter elections, but not bond elections, and cannot run for office.
- In a limited-purpose annexation, the MUD continues to exist within the city's boundaries. A Strategic partnership agreement for this type of annexation must include the district's boundaries, functions, name, and, if the annexation will later become full-purpose, the procedure for ending the district. A municipality may also impose sales and use taxes within the district's boundaries.

MUDs Pros and Cons

PROS

- MUDs provide essential services like water, sewage, and drainage to communities that would not otherwise have access to them.
- MUDs provide parks and recreation facilities that can enhance the quality of life for residents.
- May lower development costs

CONS

- Living in a MUD can be more expensive than living in a municipality or county with a similar level of services.
- Property owners in MUDs typically pay higher taxes and fees to fund the operations of the district, and they may also be required to pay special assessments for specific projects or services.
- Assumes debt of MUD if annexed.

Recommendation

- Currently the City has a PID policy, but staff wants to discuss amending or eliminating the policy.
- Staff recommends this topic be delegated to the Council Policy and Valuation Committee for additional input/discussion.



Questions/ Comments

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