

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

COUNCIL POLICY AND VALUATION COMMITTEE: AUGUST 21, 2024

Purpose

- On May 6th, City Council received a staff presentation on Public Improvement Districts (PUDs) and Municipal Utility Districts (MUDs).
- Following the presentation, Council directed the City Manager to review the city's existing PID policy and discuss a possible MUD policy with the Policy and Valuation Committee.
- The purpose of this presentation is to:
 - i. Provide a brief recap of PIDs and MUDs;
 - ii. Review the City's current PID policy and receive direction regarding revising or eliminating the policy, or leaving as-is; and
 - iii. Receive direction on a MUD policy.

PIDs and MUDs

- Developers and other interested parties have an array of tools available to them under the Texas Local Government Code and Texas water Code.
- Chapter 372 of the Local Government Code serves as the enabling legislation for special districts such as PIDs. Chapter 54 of the Water Code serves as the enabling legislation for MUDs.
- 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.
- A PID can be used for a variety of public community improvements, including parks, fountains, landscaping, infrastructure and other non-utility enhancements.

WHAT TYPE OF PIDs ARE THERE?

- **Capital PID:** Construction of infrastructure to serve the development (entry features, fountains, signage, water features, etc.).
 - I. **Reimbursement PID:** Developer funds construction and is reimbursed over time by the PID assessments.
 - II. **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.

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 Policy Tax Cap

- The current PID policy has a tax cap. 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.*
- Staff recommends considering PIDS on a case-by-case basis to better gauge prospective improvements and long-term costs, or removal of the tax cap.

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.

How Are They Created?

- MUDs are created in two ways: by either bringing a bill to be approved by the state legislature, or petitioning the Texas Commission on Environmental Quality (TCEQ). The TCEQ regulates and supervises MUDs.
- If the property is located in the City's jurisdiction, to be included in a MUD, City consent is required (prior to creation) as part of the TCEQ process.
- If the City fails or refuses to grant consent within 90 days after receipt of a petition, the state statute provides for a 120 day period for negotiation of a contract for City water and sewer service to the proposed development. If a contract for service is not executed, the applicant is authorized to initiate proceedings with TCEQ to create a 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.

Recommendation

- Currently the City has a PID policy, but staff wants to discuss amending (i.e. removal of the tax cap) or eliminating the policy.
- The policy has been included for discussion.
- Does the Committee want further discussion or action on establishing a MUD policy?
- The City is in receipt of a MUD petition and interest from a different developer for a MUD development.

Questions/ Comments

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