



# Town of Johnstown

## TOWN COUNCIL AGENDA COMMUNICATIONS

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**AGENDA DATE:** September 20, 2021

**SUBJECT:** **Public Hearing** – Resolution Approving the Consolidated Service Plan for Riverbend Estates Metropolitan District Nos. 1-3

**ACTION PROPOSED:** Consider Resolution No. 2021-32

**ATTACHMENTS:**

1. Proposed Service Plan
2. Cover Letter from Counsel for Proponents of the Districts
3. Financial Consultant’s Memo regarding the Financial Plan
4. Resolution Approving the Service Plan for Riverbend Estates Metropolitan District Nos. 1-3

**PRESENTED BY:** Town Attorney, Avi Rocklin, Special Counsel, Carolyn Steffl of Dietze and Davis, P.C., and Financial Advisor, Stacey Berlinger of Stifel, Nicolaus & Company, Inc.

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### AGENDA ITEM DESCRIPTION:

An application for approval of a Consolidated Service Plan (“Service Plan”) was submitted for Riverbend Estates Metropolitan District Nos. 1-3 (“Districts”) by George L. Seward and Riverbend Development Company, a Colorado limited liability company, the owners of the property (collectively, the “Owner”), pursuant to the requirements of the Special District Control Act, Title 32, Article 1, Part 2, C.R.S. The Service Plan was submitted in connection with a development known as Riverbend Estates, generally located south of Weld County Road 46 and east of Weld County Road 17 (“Property”). The Property is subject to an annexation agreement. A preliminary plat was approved when the Property was annexed and zoned in 2005, but the preliminary plat no longer provides vested rights due to the length of time since approval and the fact that FEMA has adjusted the boundaries of the floodplain since approval in a manner that impacts the Property. The developer of the Property is currently working on an updated outline development plan with the Town’s planning department. Thus, this service plan is submitted in variance of the general requirement under the Town’s service plan procedural policy, providing that service plans will not be submitted until the preliminary development plat and plan has been approved by the Town. However, the applicants have asked that this application be presented to the Town Council to accommodate their development schedule and a November 2021 organizational / TABOR election.

To satisfy the statutory requirements, the Service Plan includes (1) a description of the proposed services, (2) a financial plan as to how the services are to be financed, (3) a preliminary engineering or architectural

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survey showing how the proposed services are to be provided, (4) a map of the proposed Districts boundaries, (5) an estimate of the population and valuation for assessment of the proposed Districts, (6) a description of the facilities to be constructed and the standards for construction, (7) a general description of the estimated cost of acquiring land, engineering services, legal services, administrative services, initial proposed indebtedness and estimated proposed maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the Districts, and (8) a proposed intergovernmental agreement.

The Districts' service area consists of approximately 167 acres. Future inclusions of property are subject to Town consent. The Districts are residential only. District No. 1 is the coordinating district and may provide covenant enforcement, manage the common areas and issue debt. The anticipated population of the Districts at full development is approximately 943 people.

The Service Plan is generally consistent with the Model Service Plan adopted by Town Council on February 22, 2017. The maximum debt mill levy for the residential districts is 40 mills and the maximum debt mill levy for the commercial districts, if any are created in the future, is 50 mills. The maximum operations and maintenance mill levy is 10 mills, except that, if the Districts construct enhanced amenities, including a pool and clubhouse that the Districts will operate and maintain, the maximum operations maintenance mill levy shall increase to 15 mills. Notwithstanding the maximum limitations, if a majority of the board of directors of a district is composed of end users (any owner, tenant or occupant of any taxable residential property property), the board of directors may eliminate the maximum operations and maintenance mill levy.

The maximum mill levies are subject to an assessed valuation adjustment, meaning, primarily, that if the residential assessment rate is changed (the ratio of assessed valuation to actual valuation), the mill levy may be increased above the cap so that the rate change is revenue neutral to the Districts.

The maximum term for imposition of a debt mill levy is twenty years for developer debt from the initial imposition of an ad valorem property tax by a particular district, unless the Town approves a longer term by intergovernmental agreement, and forty years for all debt, except that, if a majority of the board of directors of a district is composed of end users, the board may approve a longer term for a refinancing.

The capital plan, attached as Exhibit E to the Service Plan, estimates public improvement project costs of approximately \$25,956,406. The capital plan was reviewed by Greg Weeks, the Town's Engineer, who found that the total preliminary estimate of costs is probably reasonable, given the stage of the development approval. The capital costs are expected to be revised and refined throughout the development review process.

The financial plan, attached as Exhibit F to the Service Plan, provides that the Districts will have the ability to issue debt in the approximate par amount of \$20,757,000. To provide flexibility to allow the Districts to issue additional debt if the financial capacity increases, without having to seek a modification of the Service Plan, the maximum debt authorization under the Service Plan is \$25,075,000.

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Prior to the issuance of any debt, the Districts are required to submit the Districts' resolution approving the debt issuance, setting forth the parameters of the issuance, to the Town. Subsequent to issuance of the debt, the Districts are required to provide the Town with bond counsel's opinion letter, a certification from the Districts that the debt issuance complies with the terms of the Service Plan and a copy of the marketing documents associated with the debt. Consistent with the Model Service Plan, the Districts are entitled to impose a one-time development fee to fund the Districts' expenses.

Pursuant to state law, the Town Council must approve the Service Plan before the Districts are formed and entitled to operate. The Service Plan must be approved through a public hearing process. Upon approval, the Service Plan, along with a petition for organization of the Districts, must be submitted to the Weld County District Court, who will then hold a hearing on the petition and order an election regarding the organization of the Districts. Notice of this public hearing before the Town Council was published in *The Johnstown Breeze* and provided to interested persons by the proponents of the Districts.

**LEGAL ADVICE:**

The Town Attorney and the Town's special counsel have reviewed the proposed Service Plan.

**FINANCIAL ADVICE :**

The Town's financial advisor, Stacey Berlinger, has reviewed the financial plan.

**RECOMMENDED ACTION:** Approve Resolution No. 2021-32

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**SUGGESTED MOTIONS:**

**For Approval:** I move to approve Resolution No. 2021-32, a Resolution Approving the Service Plan for Riverbend Estates Metropolitan District Nos. 1-3.

**For Approval with Conditions:** I move to approve Resolution No. 2021-32, a Resolution Approving the Service Plan for Riverbend Estates Metropolitan District Nos. 1-3, with the following modifications to the proposed Service Plan, \_\_\_\_\_, and direct the Town Attorney to revise the Service Plan accordingly.

**For Denial:** I move to deny approval of Resolution No. 2021-32, a Resolution Approving the Service Plan for Riverbend Estates Metropolitan District Nos. 1-3.

*Reviewed and Approved for Presentation,*



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Town Manager

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